

CHAPTER 237

TELEPHONE, TELEGRAPH,
TELECOMMUNICATIONS

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237.02 GENERAL AUTHORITY OF DEPARTMENT AND COMMISSION; DEFINITIONS.

The department of commerce and the public utilities commission are hereby vested with the same jurisdiction and supervisory power over telephone and telecommunications companies doing business in this state as the commission's predecessor, the railroad and warehouse commission, had over railroad and express companies. The definitions set forth in sections 216A.02 and 216B.02 also apply to this chapter.

History: *1Sp2001 c 4 art 6 s 53*

237.04 WIRE CROSSING OR PARALLELING UTILITY LINE; RULES.

(a) The department shall determine and promulgate reasonable rules covering the maintenance and operation, also the nature, location, and character of the construction to be used, where telephone, telegraph, electric light, power, or other electric wires of any kind, or any natural gas pipelines, cross, or more or less parallel the lines of any railroad, or any other similar public service corporation; and, to this end, shall formulate and from time to time, issue general rules covering each class of construction, maintenance, and operation of such telephone, telegraph, telecommunications, cable, fiber optic, electric wire, or natural gas pipeline crossing, or paralleling, under the various conditions existing; and the department, upon the complaint of any person, railroad, municipal utility, cooperative electric association, telephone company, telecommunications carrier, cable company, fiber optic carrier, or other public utility claiming to be injuriously affected or subjected to hazard by any such crossing or paralleling lines constructed or about to be constructed, shall, after a hearing, make such order and prescribe such terms and conditions for the construction, maintenance, and operation of the lines in question as may be just and reasonable.

(b) The department may, upon request of any municipal utility, electric cooperative association, public utility, telephone company, telecommunications carrier, cable company, or fiber optic carrier determine the just and reasonable charge which a railroad, or owner of an abandoned railroad right-of-way, other than the state or a regional railroad authority, can prescribe for a new or existing crossing of a railroad right-of-way by any telephone, telegraph, telecommunications, cable, fiber optic, electric, or gas line, or new or existing telephone, telegraph, telecommunications, cable, fiber optic, electric, or gas line more or less paralleling a railroad right-of-way, based on the diminution in value caused by the crossing or paralleling of the right-of-way by the telephone, telegraph, telecommunications, cable, fiber optic, electric, or gas line. This section shall not be construed to eliminate the right of a public utility, municipal utility, or electric cooperative association to have any of the foregoing issues determined pursuant to an eminent domain proceeding commenced under chapter 117. Unless the

railroad, or owner of an abandoned railroad right-of-way, other than the state or a regional railroad authority, asserts in writing that the proposed crossing or paralleling is a serious threat to the safe operations of the railroad or to the current use of the railroad right-of-way, a crossing can be constructed following filing of the requested action with the department, pending review of the requested action by the department.

(c) The department shall assess the cost of reviewing the requested action, and of determining a just and reasonable charge, equally among the parties.

(d) For the purposes of this section, "parallel" or "paralleling" means that the relevant utility facilities run adjacent to and alongside the lines of a railroad for no more than one mile, or another distance agreed to by the parties, before the utility facilities cross the railroad lines, terminate, or exit the railroad right-of-way.

History: 1Sp2001 c 8 art 2 s 61

237.065 RATE FOR SCHOOL OR PURCHASING COOPERATIVE.

Subdivision 1. **Basic service; flat rate.** Each telephone company that provides local telephone service in a service area that includes a school that has classes within the range from kindergarten to 12th grade shall provide, upon request, additional service to the school that is sufficient to ensure access to basic telephone service from each classroom and other areas within the school, as determined by the school board. Each company shall set a flat rate for this additional service that is less than the company's flat rate for an access line for a business and the same as or greater than the company's flat rate for an access line for a residence in the same local telephone service exchange. When a company's flat rates for businesses and residences are the same, the company shall use the residential rate for service to schools under this section. The rate required under this section is available only for a school that installs additional service that includes access to basic telephone service from each classroom and other areas within the school, as determined by the school board.

[For text of subd 2, see M.S.2000]

History: 2001 c 7 s 47

237.075 RATE CHANGE.

[For text of subd 1, see M.S.2000]

Subd. 2. **Suspension of proposed rate; hearing; final determination defined.** (a) Whenever there is filed with the commission as provided in subdivision 1 a schedule modifying or resulting in a change in any rate then in force, the commission may suspend the operation of the schedule by filing with the schedule of rates and delivering to the affected telephone company a statement in writing of its reasons for the suspension at any time before the rates become effective. The suspension shall not be for a longer period than ten months beyond the initial filing date except as provided in paragraph (b). During the suspension the commission shall determine whether all questions of the reasonableness of the rates requested raised by persons deemed interested or by the department can be resolved to the satisfaction of the commission. If the commission finds that all significant issues raised have not been resolved to its satisfaction, or upon petition by ten percent of the affected customers or 250 affected customers, whichever is less, it shall refer the matter to the office of administrative hearings with instructions for a public hearing as a contested case pursuant to chapter 14, except as otherwise provided in this section. The commission may order that the issues presented by the proposed rate changes be bifurcated into two separate hearings as follows: (1) determination of the telephone company's revenue requirements and (2) determination of the rate design. Upon issuance of both administrative law judge reports, the issues shall again be joined for consideration and final determination by the commission. All prehearing discovery activities of state agency intervenors shall be consolidated and conducted by the department of commerce. If the commission does not make a final determination concerning a schedule of rates within ten months after the initial filing date, the schedule shall be deemed to have been approved by the

commission; except if a settlement has been submitted to and rejected by the commission, the schedule is deemed to have been approved 12 months after the initial filing.

(b) If the commission finds that it has insufficient time during the suspension period to make a final determination of a case involving changes in general rates because of the need to make final determinations of other previously filed cases involving changes in general rates under this section or section 216B.16, the commission may extend the suspension period to the extent necessary to allow itself 20 working days to make the final determination after it has made final determinations in the previously filed cases. An extension of the suspension period under this paragraph does not alter the setting of interim rates under subdivision 3.

(c) For the purposes of this section, "final determination" means the initial decision of the commission and not any order which may be entered by the commission in response to a petition for rehearing or other further relief. The commission may further suspend rates until it determines all those petitions.

[For text of subs 3 to 8, see M.S.2000]

Subd. 9. Election on regulation; cooperative, municipal, independent. For the purposes of this section, "telephone company" shall not include a cooperative telephone association organized under the provisions of chapter 308A, an independent telephone company, or a municipal, unless the cooperative telephone association, independent telephone company, or municipal makes the election provided in this subdivision.

A cooperative telephone association may elect to become subject to rate regulation by the commission pursuant to this section. The election shall be (a) approved by the board of directors of the association in accordance with the procedures for amending the articles of incorporation contained in section 308A.135, excluding the filing requirements; or (b) approved by a majority of members or stockholders voting by mail ballot initiated by petition of no fewer than five percent of the members or stockholders of the association. The ballot to be used for the election shall be approved by the board of directors and the department. The department shall mail the ballots to the association's members who shall return the ballots to the department. The department will keep the ballots sealed until a date agreed upon by the department and the board of directors. On this date, representatives of the department and the association shall count the ballots. If a majority of the association's members who vote elect to become subject to rate regulation by the commission, the election shall be effective 30 days after the date the ballots are counted. For purposes of this section, the term "member or stockholder" shall mean either the member or stockholder of record or the spouse of the member or stockholder unless the association has been notified otherwise in writing.

A municipal may elect to become subject to rate regulation by the commission pursuant to this section. The election shall be (a) approved by resolution of the governing body of the municipality; or (b) approved by a majority of the customers of the municipal voting by mail ballot initiated by petition of no fewer than 20 percent of the customers of the municipal. The ballot to be used for the election shall be approved by the governing body of the municipality and the department. The department shall mail the ballots to the municipal's customers who shall return the ballots to the department. The department will keep the ballots sealed until a date agreed upon by the department and the governing body of the municipality. On this date, representatives of the department and the municipal shall count the ballots. If a majority of the customers of the municipal who vote elect to become subject to rate regulation by the commission, the election shall be effective 30 days after the date the ballots are counted. For purposes of this section, the term "customer" shall mean either the person in whose name the telephone service is registered or the spouse of the person unless the municipal utility has been notified otherwise in writing.

An independent telephone company may elect to become subject to rate regulation by the commission pursuant to this section. The election shall be (a) approved by

the board of directors of the company in accordance with the procedures for amending the articles of incorporation contained in sections 302A.133 to 302A.139, excluding the filing requirements; or (b) approved by a majority of subscribers voting by mail ballot initiated by petition of no fewer than five percent of the subscribers of the company. The ballot to be used for the election shall be approved by the board of directors and the department. The department shall mail the ballots to the company's subscribers who shall return the ballots to the department. The department will keep the ballots sealed until a date agreed upon by the department and the board of directors. On this date, representatives of the department and the company shall count the ballots. If a majority of the company's subscribers who vote elect to become subject to rate regulation by the commission, the election shall be effective 30 days after the date the ballots are counted. For purposes of this section the term "subscriber" shall mean either the person in whose name the telephone service is registered or the spouse of the person unless the independent telephone company has been notified otherwise in writing.

[For text of subds 10 and 11, see M.S.2000]

History: *1Sp2001 c 4 art 6 s 54,55*

237.082 TELECOMMUNICATION RATE AND SERVICE GOALS.

When setting rates, adopting rules, or issuing orders related to telecommunication matters that affect deployment of the infrastructure, the commission may apply the goals of:

- (1) achieving economically efficient investment in:
 - (i) higher speed telecommunication services; and
 - (ii) greater capacity for voice, video, and data transmission; and
- (2) just and reasonable rates.

The department may apply the same goals in its regulation of and recommendations regarding telecommunication services.

History: *1Sp2001 c 4 art 6 s 56*

237.21 VALUATION OF TELEPHONE PROPERTY.

In determining the value of any telephone property for rate making purposes, no valuation shall be allowed upon the value of any franchise granted by the state or any municipality where no payment was or is being made to the state or municipality on account thereof. The requirement as to reasonableness of rates shall apply to each exchange unit as well as to telephone plants as a whole. Provided, that in the case of a company operating a telephone system consisting of more than one exchange in the state, reasonableness of rates, as measured by earnings, shall be determined by a reasonable return from the total operations of the system within the state rather than by the return from individual exchanges or services. No telephone rates or charges shall be allowed or approved by the commission under any circumstances, which are inadequate and which are intended to or naturally tend to destroy competition or produce a monopoly in telephone service in the locality affected.

History: *1Sp2001 c 4 art 6 s 57*

237.295 ASSESSMENT OF REGULATORY EXPENSES.

Subdivision 1. Payment for investigation. (a) Whenever the department or commission, in a proceeding upon its own motion, on complaint, or upon an application to it, considers it necessary, in order to carry out the duties imposed on it, to investigate the books, accounts, practices, and activities of any company, parties to the proceeding shall pay the expenses reasonably attributable to the proceeding. The department and commission shall ascertain the expenses, and the department shall render a bill for those expenses to the parties, at the conclusion of the proceeding. The department is authorized to submit billings to parties at intervals selected by the department during the course of a proceeding.

(b) The allocation of costs may be adjusted for cause by the commission during the course of the proceeding, or upon the closing of the docket and issuance of an order. In addition to the rights granted in subdivision 3, parties to a proceeding may object to the allocation at any time during the proceeding. Withdrawal by a party to a proceeding does not absolve the party from paying allocated costs as determined by the commission. The commission may decide that a party should not pay any allocated costs of the proceeding.

(c) The bill constitutes notice of the assessment and a demand for payment. The amount of the bills assessed by the department under this subdivision must be paid by the parties into the state treasury within 30 days from the date of assessment. The total amount, in a calendar year, for which a telephone company may become liable, by reason of costs incurred by the department and commission within that calendar year, may not exceed two-fifths of one percent of the gross jurisdictional operating revenue of the telephone company in the last preceding calendar year. Direct charges may be assessed without regard to this limitation until the gross jurisdictional operating revenue of the telephone company for the preceding calendar year has been reported for the first time. Where, under this subdivision, costs are incurred within a calendar year that are in excess of two-fifths of one percent of the gross jurisdictional operating revenues, the excess costs are not chargeable as part of the remainder under subdivision 2.

(d) Except as otherwise provided in paragraph (e), for purposes of assessing the cost of a proceeding to a party, "party" means any entity or group subject to the laws and rules of this state, however organized, whether public or private, whether domestic or foreign, whether for profit or nonprofit, and whether natural, corporate, or political, such as a business or commercial enterprise organized as any type or combination of corporation, limited liability company, partnership, limited liability partnership, proprietorship, association, cooperative, joint venture, carrier, or utility, and any successor or assignee of any of them; a social or charitable organization; and any type or combination of political subdivision, which includes the executive, judicial, or legislative branch of the state, a local government unit, an agency of the state or a local government unit, or a combination of any of them.

(e) For assessment and billing purposes, "party" does not include the department of commerce or the residential utilities division of the office of attorney general; any entity or group instituted primarily for the purpose of mutual help and not conducted for profit; intervenors awarded compensation under section 237.075, subdivision 10; or any individual or group or counsel for the individual or group representing the interests of end users or classes of end users of services provided by telephone companies or telecommunications carriers, as determined by the commission.

[For text of subds 2 to 6, see M.S.2000]

History: *1Sp2001 c 4 art 6 s 77*

237.30 TELEPHONE INVESTIGATION FUND; APPROPRIATION.

The sum of \$25,000 is hereby appropriated out of any moneys in the state treasury not otherwise appropriated, to establish and provide a revolving fund to be known as the Minnesota Telephone Investigation Fund for the use of the department of commerce and of the attorney general in investigations, valuations, and revaluations under section 237.295. All sums paid by the telephone companies to reimburse the department for its expenses pursuant to section 237.295 shall be credited to the revolving fund and shall be deposited in a separate bank account and not commingled with any other state funds or moneys, but any balance in excess of \$25,000 in the revolving fund at the end of each fiscal year shall be paid into the state treasury and credited to the general fund. The sum of \$25,000 herein appropriated and all subsequent credits to said revolving fund shall be paid upon the warrant of the commissioner of finance upon application of the department or of the attorney general to an aggregate amount of not more than one-half of such sums to each of them, which

proportion shall be constantly maintained in all credits and withdrawals from the revolving fund.

History: *1Sp2001 c 4 art 6 s 58*

237.462 COMPETITIVE ENFORCEMENT; ADMINISTRATIVE PENALTY ORDERS.

[For text of subds 1 to 5, see M.S.2000]

Subd. 6. **Expedited proceeding.** (a) The commission may order an expedited proceeding under section 237.61 and this subdivision, in lieu of a contested case under chapter 14, to develop an evidentiary record in any proceeding that involves contested issues of material fact either upon request of a party or upon the commission's own motion if the complaint alleges a violation described in subdivision 1, clauses (1) to (4). The commission may order an expedited proceeding under this subdivision if the commission finds an expedited proceeding is in the public interest, regardless of whether all parties agree to the expedited proceeding. In determining whether to grant an expedited proceeding, the commission may consider any evidence of impairment of the provision of telecommunications service to subscribers in the state or impairment of the provision of any service or network element subject to the jurisdiction of the commission.

(b) Any request for an expedited proceeding under this subdivision must be noted in the title of the first filing by a party. The filing shall also state the specific circumstances that the party believes warrant an expedited proceeding under this subdivision.

(c) A complaint requesting an expedited proceeding, unless filed by the department or the attorney general, must set forth the actions and the dates of the actions taken by the party filing the complaint to attempt to resolve the alleged violations with the party against whom the complaint is filed, including any requests that the party against whom the complaint is filed correct the conduct giving rise to the violations alleged in the complaint. If no such actions were taken by the complainant, the complaint shall set forth the reasons why no such actions were taken. The commission may order an expedited proceeding even if the filing complaint fails to meet this requirement if the commission determines that it would be in the public interest to go forward with the expedited proceeding without information in the complaint on attempts to resolve the dispute.

(d) The complaining party shall serve the complaint along with any written discovery requests by hand delivery and facsimile on the party against whom the complaint is filed, the department, and the office of the attorney general on the same day the complaint is filed with the commission.

(e) The party responding to a complaint that includes a request for an expedited proceeding under this subdivision shall file an answer within 15 days after receiving the complaint. The responding party shall state in the answer the party's position on the request for an expedited proceeding. The responding party shall serve with the answer any objections to any written discovery requests as well as any written discovery requests the responding party wishes to serve on the complaining party. Except for stating any objections, the responding party is not required to answer any written discovery requests under this subdivision until a time established at a prehearing conference. The responding party shall serve a copy of the answer and any discovery requests and objections on the complaining party, the department, and office of the attorney general by hand delivery and facsimile on the same day as the answer is filed with the commission.

(f) Within 15 days of receiving the answer to a complaint in a proceeding in which a party has requested an expedited hearing, the commission shall determine whether the filing warrants an expedited proceeding. If the commission decides to grant a request by a party or if the commission orders an expedited proceeding on its own motion, the commission shall conduct within seven days of the decision a prehearing conference to schedule the evidentiary hearing. During the prehearing conference, the

commission shall establish a discovery schedule that requires all discovery to be completed no later than three days before the start of the hearing. An evidentiary hearing under this subdivision must commence no later than 45 days after the commission's decision to order an expedited proceeding. A quorum of the commission shall preside at any evidentiary hearing under this subdivision unless all the parties to the proceeding agree otherwise.

(g) All pleadings submitted under this subdivision must be verified and all oral statements of fact made in a hearing or deposition under this subdivision must be made under oath or affirmation.

(h) The commission shall issue a written decision and final order on the complaint within 15 days after the close of the evidentiary hearing under this subdivision. On the day of issuance, the commission shall notify the parties by facsimile that a final order has been issued and shall provide each party with a copy of the final order.

(i) The commission may extend any time periods under this subdivision if all parties to the proceeding agree to the extension or if the commission finds the extension is necessary to ensure a just resolution of the complaint.

(j) Except as otherwise provided in this subdivision, an expedited proceeding under this subdivision shall be governed by the following procedural rules:

(1) the parties shall have the discovery rights provided in Minnesota Rules, parts 1400.6700 to 1400.7000;

(2) the parties shall have the right to cross-examine witnesses as provided in section 14.60, subdivision 3;

(3) the admissibility of evidence and development of record for decision shall be governed by section 14.60 and Minnesota Rules, part 1400.7300; and

(4) the commission may apply other procedures or standards included in the rules of the office of administrative hearings, as necessary to ensure the fair and expeditious resolution of disputes under this section.

[For text of subds 7 to 12, see M.S.2000]

History: 1Sp2001 c 4 art 6 s 59

237.51 TACIP PROGRAM ADMINISTRATION.

Subdivision 1. **Creation.** The commissioner of commerce shall administer through interagency agreement with the commissioner of human services a program to distribute communication devices to eligible communication-impaired persons and contract with a local consumer group that serves communication-impaired persons to create and maintain a telecommunication relay service. For purposes of sections 237.51 to 237.56, the department of commerce and any organization with which it contracts pursuant to this section or section 237.54, subdivision 2, are not telephone companies or telecommunications carriers as defined in section 237.01.

Subd. 5. **Commissioner of commerce duties.** In addition to any duties specified elsewhere in sections 237.51 to 237.56, the commissioner of commerce shall:

(1) prepare the reports required by section 237.55;

(2) administer the fund created in section 237.52; and

(3) adopt rules under chapter 14 to implement the provisions of sections 237.50 to 237.56.

Subd. 5a. **Department of human services duties.** (a) In addition to any duties specified elsewhere in sections 237.51 to 237.56, the commissioner of human services shall:

(1) define economic hardship, special needs, and household criteria so as to determine the priority of eligible applicants for initial distribution of devices and to determine circumstances necessitating provision of more than one communication device per household;

(2) establish a method to verify eligibility requirements;

(3) establish specifications for communication devices to be purchased under section 237.53, subdivision 3; and

(4) inform the public and specifically the community of communication-impaired persons of the program.

(b) The commissioner may establish an advisory board to advise the department in carrying out the duties specified in this section and to advise the commissioner of commerce in carrying out duties under section 237.54. If so established, the advisory board must include, at a minimum, the following communication-impaired persons:

- (1) at least one member who is deaf;
- (2) at least one member who is speech impaired;
- (3) at least one member who is mobility impaired; and
- (4) at least one member who is hard-of-hearing.

The membership terms, compensation, and removal of members and the filling of membership vacancies are governed by section 15.059. Advisory board meetings shall be held at the discretion of the commissioner.

History: 1Sp2001 c 4 art 6 s 60-62

237.52 TACIP FUND.

[For text of subd 1, see M.S.2000]

Subd. 2. Assessment. The commissioner of commerce shall annually recommend to the commission an adequate and appropriate surcharge and budget to implement sections 237.50 to 237.56. The public utilities commission shall review the budget for reasonableness and may modify the budget to the extent it is unreasonable. The commission shall annually determine the funding mechanism to be used within 60 days of receipt of the recommendation of the department and shall order the imposition of surcharges effective on the earliest practicable date. The commission shall establish a monthly charge no greater than 20 cents for each customer access line, including trunk equivalents as designated by the commission pursuant to section 403.11, subdivision 1.

[For text of subd 3, see M.S.2000]

Subd. 4. Appropriation. Money in the fund is appropriated to the commissioner of commerce to implement sections 237.51 to 237.56.

Subd. 5. Expenditures. (a) Money in the fund may only be used for:

(1) expenses of the department of commerce, including personnel cost, public relations, advisory board members' expenses, preparation of reports, and other reasonable expenses not to exceed ten percent of total program expenditures;

(2) reimbursing the commissioner of human services for purchases made or services provided pursuant to section 237.53;

(3) reimbursing telephone companies for purchases made or services provided under section 237.53, subdivision 5; and

(4) contracting for establishment and operation of the telecommunication relay service required by section 237.54.

(b) All costs directly associated with the establishment of the program, the purchase and distribution of communication devices, and the establishment and operation of the telecommunication relay service are either reimbursable or directly payable from the fund after authorization by the commissioner of commerce. The commissioner of commerce shall contract with the message relay service operator to indemnify the local exchange carriers of the relay service for any fines imposed by the Federal Communications Commission related to the failure of the relay service to comply with federal service standards. Notwithstanding section 16A.41, the commissioner may advance money to the contractor of the telecommunication relay service if the contractor establishes to the commissioner's satisfaction that the advance payment is necessary for the operation of the service. The advance payment may be used only for working capital reserve for the operation of the service. The advance payment must

be offset or repaid by the end of the contract fiscal year together with interest accrued from the date of payment.

History: *1Sp2001 c 4 art 6 s 63-65*

237.54. TELECOMMUNICATION RELAY SERVICE.

Subd. 2. **Operation.** The commissioner of commerce shall contract with a local consumer organization that serves communication-impaired persons for operation and maintenance of the telecommunication relay system. The commissioner may contract with other than a local consumer organization if no local consumer organization is available to enter into or perform a reasonable contract or the only available consumer organization fails to comply with terms of a contract. The operator of the system shall keep all messages confidential, shall train personnel in the unique needs of communication-impaired people, and shall inform communication-impaired persons and the public of the availability and use of the system. The operator shall not relay a message unless it originates or terminates through a communication device for the deaf or a Braille device for use with a telephone.

History: *1Sp2001 c 4 art 6 s 66*

237.55. ANNUAL REPORT ON COMMUNICATION ACCESS.

The commissioner of commerce must prepare a report for presentation to the commission by January 31 of each year. Each report must review the accessibility of the telephone system to communication-impaired persons, review the ability of non-communication-impaired persons to communicate with communication-impaired persons via the telephone system, describe services provided, account for money received and disbursed annually for each aspect of the program to date, and include predicted future operation.

History: *1Sp2001 c 4 art 6 s 67*

237.59. CLASSIFICATION OF COMPETITIVE SERVICE; HEARING.

[For text of subds 1 and 1a, see M.S.2000]

Subd. 2. **Petition.** (a) A telephone company, or the commission on its own motion, may petition to have a service of that telephone company classified as subject to effective competition or emerging competition. The petition must be served on the commission, the department, the office of the attorney general, and any other person designated by the commission. The petition must contain at least:

(1) a list of the known alternative providers of the service available to the company's customers; and

(2) a description of affiliate relationships with any other provider of the service in the company's market.

(b) At the time the company first offers a service, it shall also file a petition with the commission for a determination as to how the service should be classified. In the event that no interested party or the commission objects to the company's proposed classification within 20 days of the filing of the petition, the company's proposed classification of the service is deemed approved. If an objection is filed, the commission shall determine the appropriate classification after a hearing conducted pursuant to section 237.61. In either event, the company may offer the new service to its customers ten days after the company files the price list and incremental cost study as provided in section 237.60, subdivision 2, paragraph (f).

(c) A new service may be classified as subject to effective competition or emerging competition pursuant to the criteria set forth in subdivision 5. A new service must be regulated under the emerging competition provisions if it is not integrally related to the provision of adequate local service or access to the telephone network or to the privacy, health, or safety of the company's customers, whether or not it meets the criteria set forth in subdivision 5.

[For text of subds 3 to 10, see M.S.2000]

History: 1Sp2001 c 4 art 6 s 68

237.662 NOTICE AND DISCLOSURE REQUIREMENTS OF LONG-DISTANCE PROVIDERS.

[For text of subds 1 and 2, see M.S.2000]

Subd. 3. **Filed tariff no defense.** That a telecommunications carrier has intrastate tariffs or price lists for the services listed in subdivisions 1 and 2 on file with the public utilities commission or department of commerce is not a defense to any action brought for failure to disclose intrastate prices for which disclosure is required under this section.

History: 1Sp2001 c 4 art 6 s 77

237.69 TELEPHONE ASSISTANCE PLAN; DEFINITIONS.

[For text of subds 1 and 2, see M.S.2000]

Subd. 3. [Repealed; 1Sp2001 c 4 art 6 s 76]

[For text of subds 4 to 10, see M.S.2000]

237.70 DEVELOPMENT OF TELEPHONE ASSISTANCE PLAN.

[For text of subds 1 to 6, see M.S.2000]

Subd. 7. **Administration.** The telephone assistance plan must be administered jointly by the commission, the department of human services, and the telephone companies in accordance with the following guidelines:

(a) The commission and the department of human services shall develop an application form that must be completed by the subscriber for the purpose of certifying eligibility for telephone assistance plan credits to the department of human services. The application must contain the applicant's social security number. Applicants who refuse to provide a social security number will be denied telephone assistance plan credits. The application form must include provisions for the applicant to show the name of the applicant's telephone company. The application must also advise the applicant to submit the required proof of age or disability, and income and must provide examples of acceptable proof. The application must state that failure to submit proof with the application will result in the applicant being found ineligible. Each telephone company shall annually mail a notice of the availability of the telephone assistance plan to each residential subscriber in a regular billing and shall mail the application form to customers when requested.

The notice must state the following:

YOU MAY BE ELIGIBLE FOR ASSISTANCE IN PAYING YOUR TELEPHONE BILL IF YOU ARE 65 YEARS OF AGE OR OLDER OR ARE DISABLED AND IF YOU MEET CERTAIN HOUSEHOLD INCOME LIMITS. FOR MORE INFORMATION OR AN APPLICATION FORM PLEASE CONTACT

(b) The department of human services shall determine the eligibility for telephone assistance plan credits at least annually according to the criteria contained in subdivision 4a.

(c) An application may be made by the subscriber, the subscriber's spouse, or a person authorized by the subscriber to act on the subscriber's behalf. On completing the application certifying that the statutory criteria for eligibility are satisfied, the applicant must return the application to an office of the department of human services specially designated to process telephone assistance plan applications. On receiving a completed application from an applicant, the department of human services shall determine the applicant's eligibility or ineligibility within 120 days. If the department fails to do so, it shall within three working days provide written notice to the applicant's telephone company that the company shall provide telephone assistance plan credits against monthly charges in the earliest possible month following receipt of the written

notice. The applicant must receive telephone assistance plan credits until the earliest possible month following the company's receipt of notice from the department that the applicant is ineligible.

If the department of human services determines that an applicant is not eligible to receive telephone assistance plan credits, it shall notify the applicant within ten working days of that determination.

Within ten working days of determining that an applicant is eligible to receive telephone assistance plan credits, the department of human services shall provide written notification to the telephone company that serves the applicant. The notice must include the applicant's name, address, and telephone number.

Each telephone company shall provide telephone assistance plan credits against monthly charges in the earliest possible month following receipt of notice from the department of human services.

By December 31 of each year, the department of human services shall redetermine eligibility of each person receiving telephone assistance plan credits, as required in paragraph (b). The department of human services shall submit an annual report to the commission by January 15 of each year showing that the department has determined the eligibility for telephone assistance plan credits of each person receiving the credits or explaining why the determination has not been made and showing how and when the determination will be completed.

If the department of human services determines that a current recipient of telephone assistance plan credits is not eligible to receive the credits, it shall notify, in writing, the recipient within ten working days and the telephone company serving the recipient within 20 working days of the determination. The notice must include the recipient's name, address, and telephone number.

Each telephone company shall remove telephone assistance plan credits against monthly charges in the earliest possible month following receipt of notice from the department of human services.

Each telephone company that disconnects a subscriber receiving the telephone assistance plan credit shall report the disconnection to the department of human services. The reports must be submitted monthly, identifying the subscribers disconnected. Telephone companies that do not disconnect a subscriber receiving the telephone assistance plan credit are not required to report.

If the telephone assistance plan credit is not itemized on the subscriber's monthly charges bill for local telephone service, the telephone company must notify the subscriber of the approval for the telephone assistance plan credit.

(d) The commission shall serve as the coordinator of the telephone assistance plan and be reimbursed for its administrative expenses from the surcharge revenue pool. As the coordinator, the commission shall:

- (1) establish a uniform statewide surcharge in accordance with subdivision 6;
- (2) establish a uniform statewide level of telephone assistance plan credit that each telephone company shall extend to each eligible household in its service area;
- (3) require each telephone company to account to the commission on a periodic basis for surcharge revenues collected by the company, expenses incurred by the company, not to include expenses of collecting surcharges, and credits extended by the company under the telephone assistance plan;
- (4) require each telephone company to remit surcharge revenues to the department of administration for deposit in the fund; and
- (5) remit to each telephone company from the surcharge revenue pool the amount necessary to compensate the company for expenses, not including expenses of collecting the surcharges, and telephone assistance plan credits. When it appears that the revenue generated by the maximum surcharge permitted under subdivision 6 will be inadequate to fund any particular established level of telephone assistance plan credits, the commission shall reduce the credits to a level that can be adequately funded by the maximum surcharge. Similarly, the commission may increase the level of the telephone assistance plan credit that is available or reduce the surcharge to a level and for a period of time that will prevent an unreasonable overcollection of surcharge revenues.

(e) Each telephone company shall maintain adequate records of surcharge revenues, expenses, and credits related to the telephone assistance plan and shall, as part of its annual report or separately, provide the commission and the department of commerce with a financial report of its experience under the telephone assistance plan for the previous year. That report must also be adequate to satisfy the reporting requirements of the federal matching plan.

(f) The department of commerce shall investigate complaints against telephone companies with regard to the telephone assistance plan and shall report the results of its investigation to the commission.

History: *1Sp2001 c 4 art 6 s 77*

237.763 EXEMPTION FROM EARNINGS REGULATION AND INVESTIGATION.

Except as provided in the plan and any subsequent plans, a company that has an alternative regulation plan approved under section 237.764, is not subject to the rate-of-return regulation or earnings investigations provisions of section 237.075 or 237.081 during the term of the plan. A company with an approved plan is not subject to the provisions of section 237.57; 237.59; 237.60, subdivisions 1, 2, 4, and 5; 237.63; or 237.65, during the term of the plan. Except as specifically provided in this section or in the approved plan, the commission retains all of its authority under section 237.081 to investigate other matters and to issue appropriate orders, and the department retains its authority under sections 216A.07 and 237.15 to investigate matters other than the earnings of the company.

History: *2001 c 7 s 48*

237.764 PLAN ADOPTION; EFFECT.

[For text of subs 1 and 2, see M.S.2000]

Subd. 3. **Effect on incentive plan.** The approval of a plan under this section automatically terminates any existing incentive plan previously approved under section 237.625, prior to its expiration on August 1, 1999, upon the effective date of the plan approved under this section. However, the company remains obligated to share earnings under the terms of the incentive plan through the date of the termination of that plan and also is required to complete the performance of any other unexecuted commitments under the incentive plan.

History: *2001 c 7 s 49*

237.768 PERIODIC FINANCIAL REPORT.

In addition to the reports required under section 237.766, an alternative regulation plan may require a telephone company to file with the department an annual report of financial matters for the previous calendar year on or before May 1 of each year on report forms furnished by the department in the same manner as is required of other telephone companies on August 1, 1995. In addition, any company subject to a plan shall file with the commission and department a copy of any filings it has made to the Federal Communications Commission regarding the provisions of video programming provided through a video dial tone facility in Minnesota. An alternative regulation plan may require a telephone company to maintain its accounts in accordance with the system of accounts prescribed for the company by the commission under section 237.10.

History: *1Sp2001 c 4 art 6 s 69*

237.773 ALTERNATIVE REGULATION FOR SMALL TELEPHONE COMPANY.

Subdivision 1. **Definition.** For purposes of this section, "small telephone company" means a local exchange telephone company with fewer than 50,000 subscribers that has made an election under subdivision 2 whether or not the company is subject to sections 237.59 and 237.60, subdivisions 1, 2, and 5.

[For text of subs 2 to 4, see M.S.2000]

History: *2001 c 7 s 50*