

A bill for an act

1.1 relating to telecommunications; streamlining telecommunications regulations;
 1.2 modifying and updating civil penalties, rate regulation, regulatory requirements,
 1.3 and technical provisions; amending Minnesota Statutes 2010, sections 237.081;
 1.4 237.50, by adding subdivisions; 237.51, subdivision 1; 237.69, subdivision 17,
 1.5 by adding subdivisions; proposing coding for new law as Minnesota Statutes,
 1.6 chapter 237A; repealing Minnesota Statutes 2010, sections 237.01, subdivisions
 1.7 1, 3, 4, 6, 7, 8; 237.011; 237.012; 237.02; 237.03; 237.035; 237.036; 237.05;
 1.8 237.06; 237.065; 237.066; 237.067; 237.068; 237.069; 237.07; 237.071;
 1.9 237.072; 237.075, subdivisions 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11; 237.076;
 1.10 237.082; 237.09; 237.10; 237.101; 237.11; 237.115; 237.12; 237.121; 237.14;
 1.11 237.15; 237.155; 237.16, subdivisions 1, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13;
 1.12 237.164; 237.17; 237.18; 237.19; 237.20; 237.21; 237.22; 237.23; 237.231;
 1.13 237.24; 237.25; 237.26; 237.27; 237.28; 237.295; 237.30; 237.33; 237.34;
 1.14 237.35; 237.36; 237.37; 237.38; 237.39; 237.40; 237.411; 237.414; 237.435;
 1.15 237.44; 237.45; 237.46; 237.461, subdivisions 1, 2, 4; 237.47; 237.57; 237.59,
 1.16 subdivisions 1, 1a, 2, 3, 4, 5, 6, 8, 9, 10; 237.60, subdivisions 3, 4; 237.61;
 1.17 237.626; 237.64; 237.66, subdivisions 1, 1a, 1c, 1d, 2, 2a, 3; 237.661; 237.662;
 1.18 237.663; 237.665; 237.67; 237.681; 237.73; 237.74; 237.75; 237.76; 237.761;
 1.19 237.762; 237.763; 237.764; 237.765; 237.766; 237.767; 237.768; 237.769;
 1.20 237.770; 237.771; 237.772; 237.773, subdivisions 1, 2, 3, 4; 237.774; 237.775;
 1.21 237.79; 237.80; 237.81; 237.82; 237.83.

1.23 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MINNESOTA:

ARTICLE 1

TELEPHONE AND TELECOMMUNICATIONS

Section 1. [237A.01] DEFINITIONS.

1.27 Subdivision 1. Generally. For purposes of this chapter, the following terms have
 1.28 the meanings given.

1.29 Subd. 2. Advanced services. "Advanced services" means:

1.30 (1) "advanced services" as defined in Code of Federal Regulations, title 47, section
 1.31 51.5;

2.1 (2) "information services" as defined in United States Code, title 47, section 153(20);

2.2 (3) "Internet protocol-enabled services," including, without limitation, voice over
 2.3 Internet protocol, regardless of how the service is defined, classified, interpreted, or
 2.4 enforced by the Federal Communications Commission;

2.5 (4) "commercial mobile radio service" as defined in United States Code, title 47,
 2.6 section 332; or

2.7 (5) any telecommunications service not commercially available on the effective
 2.8 date of this chapter.

2.9 Subd. 3. **Advanced services provider.** "Advanced services provider" means a
 2.10 person or entity that provides any advanced services. An advanced services provider
 2.11 may also be a telecommunications provider.

2.12 Subd. 4. **Basic telecommunications service.** (a) "Basic telecommunications
 2.13 service" means retail, stand-alone residential telephone exchange service that is:

2.14 (1) the only telecommunications service provided to and purchased by a residential
 2.15 end user;

2.16 (2) not part of a package of features, services, or products;

2.17 (3) not part of a customer-specific contract; and

2.18 (4) not sold in a promotion or otherwise offered at a discounted price.

2.19 (b) Basic telecommunications service includes, at a minimum, each of the following:

2.20 (1) voice-grade access to the public switched telephone network;

2.21 (2) dual-tone multifrequency signaling and single-party telecommunications service;

2.22 (3) access to:

2.23 (i) emergency services, including 911 and enhanced 911 where available;

2.24 (ii) operator services;

2.25 (iii) local directory assistance;

2.26 (iv) telephone relay services; and

2.27 (v) interexchange service, regardless of the interexchange carrier selected; and

2.28 (4) toll limitation services for qualifying low-income end users.

2.29 (c) Basic telecommunications service does not include a telecommunications service
 2.30 provided by a person or entity that:

2.31 (1) transmits telecommunications through Internet Protocol-enabled retail services,
 2.32 including:

2.33 (i) voice;

2.34 (ii) data;

2.35 (iii) video; or

2.36 (iv) any combination of voice, data, or video communications; or

3.1 (2) provides the necessary software, hardware, transmission service, or
3.2 transmission path for voice, data, or video communications, or any combination of those
3.3 communications.

3.4 Subd. 5. **Commission.** "Commission" means the Public Utilities Commission.

3.5 Subd. 6. **Competitive local exchange carrier or CLEC.** "Competitive local
3.6 exchange carrier" or "CLEC" means a local exchange carrier who was granted a certificate
3.7 of authority to provide service after February 8, 1996.

3.8 Subd. 7. **End user.** "End user" means a retail customer of a telecommunications
3.9 provider.

3.10 Subd. 8. **Exchange access.** "Exchange access" means the offering of switched
3.11 access to telephone exchange services or facilities for the purpose of the origination or
3.12 termination of telephone toll services within the state.

3.13 Subd. 9. **Incumbent local exchange carrier or ILEC.** "Incumbent local exchange
3.14 carrier" or "ILEC" means a local exchange carrier who was granted a certificate of
3.15 authority to provide service prior to February 8, 1996, including any successors or assigns
3.16 of the carrier that provides wireline telephone exchange service.

3.17 Subd. 10. **Independent local exchange carrier.** "Independent local exchange
3.18 carrier" means an incumbent local exchange carrier organized and operating under chapter
3.19 301 or 302A or authorized to do business in Minnesota under chapter 303 as of January
3.20 1, 1983, and providing local exchange service to fewer than 50,000 subscribers within
3.21 the state.

3.22 Subd. 11. **Interexchange carrier.** "Interexchange carrier" means a provider of
3.23 interexchange services.

3.24 Subd. 12. **Interexchange service.** "Interexchange service" means the access and
3.25 transmission of communications between two or more local exchange areas, except
3.26 for two-way switched communications between local exchanges that are grouped for
3.27 extended area service.

3.28 Subd. 13. **InterLATA.** "InterLATA" means telecommunications between a point
3.29 located in a local access and transport area and a point located outside that area.

3.30 Subd. 14. **IntraLATA.** "IntraLATA" means telecommunications between a point
3.31 located in a local access and transport area and a point located inside that area.

3.32 Subd. 15. **Intrastate access service.** "Intrastate access service" means exchange
3.33 access services and special access services.

3.34 Subd. 16. **Local access and transport area or LATA.** "Local access and transport
3.35 area" or "LATA" has the meaning given it in United States Code, title 47, section 153(25).

4.1 Subd. 17. **Local exchange carrier or LEC.** "Local exchange carrier" or "LEC"
4.2 has the meaning given it in United States Code, title 47, section 153(26), and includes
4.3 competitive local exchange carriers, incumbent local exchange carriers, and independent
4.4 local exchange carriers.

4.5 Subd. 18. **Nonbasic telecommunications service.** (a) "Nonbasic
4.6 telecommunications service" means all retail telecommunications services that are
4.7 included in:

4.8 (1) customer-specific contracts;

4.9 (2) volume, term, and discount pricing options; or

4.10 (3) packages, bundles, and promotions, including, without limitation, offers designed
4.11 to obtain new end users, retain existing end users, or bring back former end users.

4.12 (b) Nonbasic telecommunications service does not include:

4.13 (1) basic telecommunications service, except that basic telecommunications
4.14 service shall be included in the term "nonbasic telecommunications service" when basic
4.15 telecommunications service is purchased by the end user (i) in conjunction with another
4.16 service; (ii) as part of a package of features, services, or products, or in connection
4.17 with a promotion; (iii) pursuant to a customer-specific contract; or (iv) at an otherwise
4.18 discounted price; or

4.19 (2) intrastate access service.

4.20 Subd. 19. **Person.** "Person" includes a natural person, individual, trustee,
4.21 partnership, joint venture, joint-stock company, trust, organization, municipality,
4.22 association, limited liability company, corporation, or other legal or commercial entity.

4.23 Subd. 20. **Retail rate transition period.** "Retail rate transition period" means the
4.24 period beginning on May ..., 2011, and ending on May ..., 2012.

4.25 Subd. 21. **Retail telecommunications service.** "Retail telecommunications service"
4.26 means basic telecommunications service and nonbasic telecommunications service offered
4.27 by a telecommunications provider to its end users.

4.28 Subd. 22. **Telecommunications.** "Telecommunications" has the meaning given it in
4.29 United States Code, title 47, section 153(43).

4.30 Subd. 23. **Telecommunications service.** "Telecommunications service" has
4.31 the meaning given it in United States Code, title 47, section 153(46). The term
4.32 telecommunications service shall not include any service that is an advanced service.

4.33 Subd. 24. **Telecommunications provider.** "Telecommunications provider" means
4.34 a person or entity that offers any telecommunications service as defined in this chapter,
4.35 including local exchange carriers and interexchange services. A telecommunications
4.36 provider may also be an advanced services provider.

5.1 Subd. 25. Telephone exchange service. "Telephone exchange service" has the
 5.2 meaning given it in United States Code, title 47, section 153(47).

5.3 Subd. 26. Wholesale telecommunications service. "Wholesale telecommunications
 5.4 service" means:

5.5 (1) any telecommunications service offered under an interconnection agreement
 5.6 between an ILEC and a CLEC pursuant to Sections 251 and 252 of the 1996 Act; or

5.7 (2) intrastate access service.

5.8 Subd. 27. 1996 Act. "1996 Act" means the federal Telecommunications Act of
 5.9 1996, Public Law 104-104, United States Code, title 47, section 151 et seq.

5.10 Sec. 2. [237A.02] JURISDICTION OF COMMISSION, DEPARTMENT OF
 5.11 COMMERCE, AND ATTORNEY GENERAL.

5.12 Subdivision 1. Commission jurisdiction under this chapter. (a) Notwithstanding
 5.13 any other provision of this chapter, the commission may exercise all authority expressly
 5.14 granted to it by Minnesota or federal law, and all authority expressly delegated to
 5.15 the commission by the Federal Communications Commission, with respect to any
 5.16 telecommunications provider concerning:

5.17 (1) wholesale telecommunications services in Minnesota, by means of the
 5.18 arbitration, approval, and enforcement of interconnection agreements in accordance with,
 5.19 and subject to, Sections 251 and 252 of the 1996 Act;

5.20 (2) the terms, conditions, rates, and charges applicable to intrastate access service
 5.21 within Minnesota;

5.22 (3) basic telecommunications services during the retail rate transition period;

5.23 (4) the telecommunications access Minnesota (TAM) program and Minnesota
 5.24 telephone assistance program (TAP);

5.25 (5) administration of dialing codes and numbering issues under Minnesota or federal
 5.26 law; and

5.27 (6) designation of eligible telecommunications carriers under United States Code,
 5.28 title 47, section 214, and administration of state or federal universal service or high-cost
 5.29 funds.

5.30 (b) The commission shall have no jurisdiction or authority over, including, but
 5.31 not limited to, rates and charges, terms and conditions of service, filing of schedules or
 5.32 tariffs, market entry or exit, depreciation requirements, quality of service, long-term
 5.33 financing arrangements or other obligations, asset sales, mergers or acquisitions, or any
 5.34 other matter that was within the jurisdiction of the commission before the effective date
 5.35 of this chapter with respect to:

- 6.1 (1) basic telecommunications services after the retail rate transition period;
 6.2 (2) nonbasic telecommunications services;
 6.3 (3) interexchange services; or
 6.4 (4) advanced services.

6.5 Subd. 2. **Department of Commerce.** Except for the authority expressly delegated
 6.6 to it in this chapter, the Department of Commerce shall have no oversight over, or
 6.7 authority with respect to, any of the matters governed by this chapter.

6.8 Subd. 3. **Attorney general.** The provision of telecommunications services shall
 6.9 be governed exclusively by the laws and obligations otherwise generally applicable to
 6.10 businesses operating within Minnesota, and shall be enforced by the attorney general
 6.11 or otherwise authorized and applicable federal, state, or local authorities. The attorney
 6.12 general shall have exclusive investigative and enforcement authority over all matters
 6.13 governed by this chapter except for those matters over which the commission is expressly
 6.14 granted authority by this chapter, as to which the commission shall have exclusive
 6.15 jurisdiction.

6.16 **Sec. 3. [237A.03] RETAIL RATE TRANSITION PERIOD FOR BASIC**
 6.17 **SERVICES; TERMINATION OF ALTERNATIVE REGULATION PLANS.**

6.18 Subdivision 1. **Retail rate transition period for basic services.** The retail rate
 6.19 transition period begins on May, 2011, and ends on May, 2012. During the retail
 6.20 rate transition period, a local exchange carrier may not increase its rates or charges for
 6.21 basic telecommunications service in any local exchange area in which the local exchange
 6.22 carrier offers basic telecommunications service, except as follows:

6.23 (1) the local exchange carrier may increase its rates and charges for basic
 6.24 telecommunications service once during the retail rate transition period, in an amount not
 6.25 to exceed \$1;

6.26 (2) the local exchange carrier shall provide the commission and all affected end
 6.27 users 30 days' advance notice of any rate increase under this section; and

6.28 (3) incumbent local exchange carriers, including any successors or assigns,
 6.29 shall continue to make available a flat monthly rate with unlimited local calling
 6.30 for basic telecommunications service in all local exchange areas in which it offers
 6.31 basic telecommunications service on the effective date of this chapter, regardless of
 6.32 whether the incumbent local exchange carrier increases the rates and charges for basic
 6.33 telecommunications service in any of those local exchange areas. Throughout the retail
 6.34 rate transition period, an extended area of service in which the incumbent local exchange
 6.35 carrier offers basic telecommunications service on the effective date of this chapter may

7.1 not be reduced in area or scope without the approval of the commission after notice and
 7.2 hearing.

7.3 Subd. 2. **Termination of alternative regulation plans.** On the effective date of
 7.4 this chapter, any alternative regulation plan entered into pursuant to Minnesota Statutes
 7.5 2010, chapter 237, shall automatically terminate in its entirety with respect to all
 7.6 services subject to the plan and shall have no force or effect. Immediately thereafter, all
 7.7 telecommunications providers, including those who previously had alternative regulation
 7.8 plans, will be subject to this chapter.

7.9 Sec. 4. **[237A.04] WHOLESALE TELECOMMUNICATIONS SERVICES.**

7.10 The commission has the following authority with respect to wholesale
 7.11 telecommunications services under this chapter:

7.12 (a) Interconnection between incumbent local exchange carriers and competitive
 7.13 local exchange carriers, as follows:

7.14 (1) in imposing any requirements on incumbent local exchange carriers, concerning
 7.15 interconnection with the facilities and equipment of other local exchange carriers, resale
 7.16 of telecommunications service, or unbundled access to network elements of an incumbent
 7.17 local exchange carrier for purposes of Section 251(c) of the 1996 Act, the commission
 7.18 shall act in accordance with, and shall not exceed the authority delegated to the
 7.19 commission under applicable federal laws and regulations including, without limitation,
 7.20 Sections 251 and 252 of the 1996 Act;

7.21 (2) subject to any regulations that may be adopted by the Federal Communications
 7.22 Commission, this chapter does not limit or otherwise affect the commission's authority
 7.23 (i) to mediate or arbitrate disputes involving local exchange carriers in accordance with
 7.24 Sections 251 and 252 of the 1996 Act, or (ii) to approve an interconnection agreement or
 7.25 an incumbent local exchange carriers statement of terms and conditions under Section
 7.26 252 of the 1996 Act; and

7.27 (3) any retail promotional offering lasting more than 90 days must be available to
 7.28 qualifying local exchange carriers for resale. For purposes of this clause, a qualifying
 7.29 local exchange carrier is a local exchange carrier that holds a certificate of authority from
 7.30 the commission and has an effective interconnection agreement with the incumbent local
 7.31 exchange carrier offering the retail promotion, the terms of which must include provisions
 7.32 governing the resale of services;

7.33 (b) Intrastate access service, as follows:

8.1 (1) the terms, conditions, rates, and charges for intrastate switched access service and
8.2 intrastate special access service shall be subject to the authority granted to the commission
8.3 by federal law and this chapter; and

8.4 (2) except as otherwise expressly provided by this chapter, a local exchange carrier
8.5 may increase the rate or price of any intrastate access service only upon 30 days' written
8.6 notice to all interexchange carriers.

8.7 (c) Switched network access services:

8.8 (1) each local exchange carrier, excluding independent local exchange carriers,
8.9 shall reduce and maintain its intrastate switched network access rate elements at a level
8.10 no higher than the interstate switched network access rate for each corresponding rate
8.11 element within 30 days of the effective date of this chapter;

8.12 (2) each independent local exchange carrier shall reduce and thereafter maintain its
8.13 intrastate switched network access rate elements at a level no higher than the interstate
8.14 switched network access rate for each corresponding rate element by December 31, 2016.
8.15 Each independent local exchange carrier shall develop an intrastate switched network
8.16 access plan and petition the commission for approval of its plan by July 1, 2012. Before
8.17 acting on a petition for approval of the plan, the commission shall conduct a proceeding
8.18 to decide whether to approve the plan and shall grant discovery as appropriate. The
8.19 commission shall issue its decision on the petition no later than July 1, 2013; and

8.20 (3) each local exchange carrier shall use the same switched network access rate
8.21 elements and terms and conditions for intrastate switched network access service that are
8.22 in effect for that local exchange carrier for the same interstate service. A local exchange
8.23 carrier may voluntarily reduce its intrastate switched network access element rates below
8.24 the interstate rate in effect for that local exchange carrier.

8.25 **Sec. 5. [237A.05] SCHEDULES, TARIFFS, AND INDIVIDUAL CONTRACTS.**

8.26 **Subdivision 1. Filing requirements.** Except as set forth in this section,
8.27 telecommunications providers are not required to maintain or file any schedule, tariff,
8.28 contract, or agreement with the commission.

8.29 **Subd. 2. General provisions applicable to all tariffs.** Any tariff filed with the
8.30 commission in accordance with this chapter shall include all terms, conditions, rates, and
8.31 charges that apply to the services specified in the tariff.

8.32 **Subd. 3. Required tariff.** (a) The telecommunications services described in
8.33 this subdivision require the filing of a tariff. Any tariff required to be filed under this
8.34 subdivision shall be referred to as a required tariff.

9.1 (b) Any local exchange carrier that offers intrastate access services shall maintain on
9.2 file with the commission a tariff containing the terms, conditions, rates, and charges that
9.3 the local exchange carrier has established for such intrastate access services.

9.4 (c) During the retail rate transition period, every local exchange carrier that provides
9.5 basic telecommunications service shall maintain on file with the commission a tariff
9.6 containing the terms, conditions, rates, and charges for that service.

9.7 (d) Subject to any applicable notice to end users required by this chapter, a required
9.8 tariff shall become effective 30 days after it is filed with the commission. Notwithstanding
9.9 the provisions of this subdivision, a new or revised intrastate access tariff shall not become
9.10 effective without an order of the commission.

9.11 (e) A person who objects to a required tariff shall file an objection within 20 days
9.12 of the filing of the required tariff. The person filing the required tariff may reply to the
9.13 objection within five days of the filing of the objection.

9.14 (f) The commission shall review the required tariff, the objection, and the reply,
9.15 within 60 days of the filing of the required tariff and shall issue an order approving the
9.16 required tariff or order that a contested case hearing be conducted under chapter 14.

9.17 Subd. 4. **Optional tariff.** (a) Unless otherwise prohibited by state or federal law,
9.18 a telecommunications provider may elect to file a tariff governing telecommunications
9.19 services provided in the state, whether or not a tariff is required by this chapter. Any tariff
9.20 filed under this subdivision shall be referred to as an optional tariff.

9.21 (b) Subject to any applicable notice to end users required by this chapter, an optional
9.22 tariff shall become effective one day after it is filed with the commission.

9.23 (c) A telecommunications provider may withdraw an optional tariff for any service
9.24 by providing written notice to the commission. The withdrawal shall be effective upon the
9.25 filing of the notice.

9.26 Subd. 5. **Individual contracts permitted; no filing requirement.** Notwithstanding
9.27 any other provision of this chapter, a telecommunications provider may enter into an
9.28 individual contract for provision of retail or wholesale telecommunications services,
9.29 including, without limitation, services that are subject to a tariff filed under this section,
9.30 that includes terms, conditions, rates, and charges that are different from those in the
9.31 telecommunications provider's tariff. Except as required by federal or state law, any
9.32 individual contract shall not be subject to any filing or notice requirement including,
9.33 without limitation, a requirement that the contract be filed with the commission.

9.34 Sec. 6. **[237A.06] CERTIFICATION, REGISTRATION, AND MAPPING**
9.35 **REQUIREMENTS.**

10.1 Subdivision 1. **Application for certificate of authority.** Before a
10.2 telecommunications provider may offer telecommunications service to end users in
10.3 Minnesota, the telecommunications provider must receive a certificate of authority from
10.4 the commission. The commission shall issue a certificate of authority within 30 days after
10.5 receipt of a completed application. A telecommunications provider seeking a certificate
10.6 of authority under this chapter shall submit an application on a form prescribed by the
10.7 commission. The form shall require the telecommunications provider to provide the
10.8 following information:

10.9 (1) the legal name of the telecommunications provider and any name under which
10.10 the telecommunications provider does or will do business in Minnesota, as authorized
10.11 by the secretary of state;

10.12 (2) a certification from the secretary of state authorizing the telecommunications
10.13 provider to do business in Minnesota;

10.14 (3) the address and telephone number of the telecommunications provider, along
10.15 with contact information for the person responsible for ongoing communications with
10.16 the commission;

10.17 (4) the legal name, address, and telephone number of the parent company of the
10.18 telecommunications provider, if any;

10.19 (5) a description of each service area in Minnesota in which the telecommunications
10.20 provider proposes to offer telecommunications service;

10.21 (6) a list of other states in which the telecommunications provider offers
10.22 telecommunications service, including the type of telecommunications service offered; and

10.23 (7) information demonstrating the financial, managerial, and technical ability of the
10.24 telecommunications provider to provide telecommunications service in Minnesota.

10.25 At the time of filing of an application under this section, the commission may collect
10.26 a filing fee from the applicant, not to exceed \$300.

10.27 Subd. 2. **Amended application for certificate of authority.** No telecommunications
10.28 provider authorized to provide telecommunications service shall provide service in any
10.29 area for which it has not been issued a certificate of authority without first obtaining
10.30 from the commission an amended certificate of authority. The commission shall issue
10.31 an amended certificate of authority within 30 days after receipt of an application. The
10.32 applicant for an amended certificate of authority shall file with the commission notice of
10.33 expansion, contraction, or acquisition, identifying the territory to be served.

10.34 At the time of filing an amended application under this section, the commission may
10.35 collect a filing fee from the applicant, not to exceed \$150.

11.1 Subd. 3. **Registration of advanced service providers.** (a) Advanced service
 11.2 providers shall register with the commission within 60 days after beginning operation by
 11.3 submitting a registration form as prescribed by the commission, along with an initial
 11.4 registration fee of \$50. The form shall require the advanced service provider to provide
 11.5 the following information:

11.6 (1) the legal name of the advanced service provider and any name under which the
 11.7 telecommunications provider does or will do business in Minnesota, as authorized by the
 11.8 secretary of state;

11.9 (2) a certification from the secretary of state authorizing the advanced service
 11.10 provider to do business in Minnesota;

11.11 (3) the address and telephone number of the advanced service provider, along with
 11.12 contact information for the person responsible for ongoing communications with the
 11.13 commission; and

11.14 (4) a description of the services being provided by the advanced service provider
 11.15 in Minnesota.

11.16 (b) The registration requirement in paragraph (a) shall not apply to any advanced
 11.17 service provider that:

11.18 (1) is also a telecommunications provider; and

11.19 (2) has received a certificate of authority from the commission under this chapter.

11.20 Subd. 4. **Map.** Every incumbent local exchange carrier authorized to provide
 11.21 telephone exchange service under this chapter shall file and maintain a territorial map.

11.22 **END USER CONSUMER PROTECTION**

11.23 **Sec. 7. [237A.07] END USER CONSUMER BILL OF RIGHTS.**

11.24 All telecommunications providers pursuant to this section shall:

11.25 (1) allow an end user to choose, either orally, electronically, or in writing, its local
 11.26 exchange and long-distance provider at initiation of service and anytime thereafter;

11.27 (2) advise each residential end user of the price of the service options available to
 11.28 that end user when service is initiated and annually thereafter;

11.29 (3) allow an end user to require the telecommunications provider serving the end user
 11.30 to receive authorization from the end user before processing a request to change the end
 11.31 user's current telecommunications provider to a different telecommunications provider;

11.32 (4) notify the end user within 30 days of any change on the end users
 11.33 account including, but not limited to, a change in telecommunications providers or
 11.34 telecommunications services. This provision does not apply to the disconnection of
 11.35 telecommunications service;

12.1 (5) provide at least five days' notice prior to the disconnection of an end user's
 12.2 telecommunications service for failure to comply with the terms and conditions of service
 12.3 of a telecommunications provider;

12.4 (6) advise each end user of the availability of all blocking options, including, but not
 12.5 limited to, call blocking and toll restriction options when service is initiated, annually, and
 12.6 upon complaint by the end user to the telecommunications provider;

12.7 (7) block the use of certain telecommunications services at the request of the end user
 12.8 until the end user requests that blocking of the services be discontinued. This provision is
 12.9 only applicable to the extent blocking for the telecommunications service is available;

12.10 (8) provide directory assistance to its end users, either directly or by contracting with
 12.11 a third party, and provide for a credit to an end user who informs the directory assistance
 12.12 provider that the provider has given the end user incorrect information for which the
 12.13 telecommunications provider charged the end user a fee;

12.14 (9) provide a periodic billing statement consistent with the federal truth-in-billing
 12.15 standards to each end user in paper format, unless the end user has elected to receive the
 12.16 billing statement in electronic format. A telecommunications provider whose billing
 12.17 system is not capable of providing an electronic billing statement is not required to provide
 12.18 billing in an electronic format;

12.19 (10) provide 30 days' advance notice to its end users of a rate increase for any
 12.20 telecommunications service;

12.21 (11) not charge an end user for a telecommunications service for which the end user
 12.22 did not explicitly contract or authorize the utilization of the service;

12.23 (12) not change an end user's telecommunications service without explicit
 12.24 authorization from the end user; and

12.25 (13) not include on an end user's bill a charge for goods or services on behalf of a
 12.26 third-party service provider unless the third-party service provider has obtained the end
 12.27 user's authorization to include the charges on the end user's bill.

12.28 **Sec. 8. [237A.08] UNAUTHORIZED CHANGE OF TELECOMMUNICATIONS**
 12.29 **PROVIDER.**

12.30 **Subdivision 1. End user must authorize change in telecommunications provider.**
 12.31 The telecommunications provider of any end user shall not be changed, in whole or in
 12.32 part, to another telecommunications provider without authorization from the end user. The
 12.33 end user's authorization must be evidenced either by written or electronic authorization
 12.34 signed by the subscriber or by the use of an independent third-party verification company.

13.1 Subd. 2. **Telecommunications provider freeze.** A telecommunications provider
13.2 freeze prevents a change in the end user's telecommunications provider unless the end
13.3 user gives the telecommunications provider that is providing the freeze express consent
13.4 for the change. All telecommunications providers capable of providing freezes shall
13.5 notify an end user of the end user's right to place a freeze on the end user's account. End
13.6 user notification required by this section shall utilize uniform, competitively neutral
13.7 language and the form, content, and style of the authorization shall be consistent with
13.8 state and federal law and regulation. An end user may change the end user's freeze at
13.9 any time by notifying the telecommunications provider of that decision. A separate
13.10 freeze authorization shall be obtained by the telecommunications provider for local
13.11 exchange service, intraLATA/intrastate toll service, interLATA/interstate toll service, and
13.12 international toll service.

13.13 Subd. 3. **Prior to change.** Prior to requesting a change in an end user's
13.14 telecommunications provider, the telecommunications provider must confirm:

13.15 (1) the end user's identity with information unique to the end user, unless the end
13.16 user refused to provide identifying information. If the end user refused to provide
13.17 identifying information, that fact should be noted;

13.18 (2) that the end user has been informed of the offering made by the
13.19 telecommunications provider;

13.20 (3) that the end user understands that the end user is being requested to change
13.21 telecommunications providers;

13.22 (4) that the end user has the authority to authorize the change; and

13.23 (5) that the end user agrees to the change.

13.24 Subd. 4. **Verification procedures.** (a) End user authorization for a change in the
13.25 end user's telecommunications provider may be verified using a third-party verification
13.26 procedure that complies with federal law or regulation. The requirement that the
13.27 telecommunications provider be able to produce evidence of end user authorization is
13.28 satisfied if the telecommunications provider uses a federally authorized verification
13.29 procedure. All verifications must be performed by an independent third-party verification
13.30 company. Notwithstanding this section, if federal law or regulation authorizes a
13.31 telecommunications provider to use a negative checkoff verification procedure, and the
13.32 provider does so, the provider must be able to produce a recording of the initial oral
13.33 authorization by the end user to change telecommunications providers as evidence of the
13.34 authorization. The initial oral authorization must include confirmation of the requirements
13.35 of subdivision 3.

13.36 (b) The independent third-party verification company must:

14.1 (1) be independent of the telecommunications provider that seeks to provide the
 14.2 end user's new service;

14.3 (2) not be managed, controlled, directed, or owned in whole or in part by the
 14.4 telecommunications provider that seeks to provide the end user's new service;

14.5 (3) operate from facilities physically separate from those of the telecommunications
 14.6 provider that seeks to provide the end user's new service; and

14.7 (4) not derive commissions or compensation based upon the number of sales
 14.8 confirmed.

14.9 (c) For purposes of this subdivision, "negative checkoff" means a verification
 14.10 procedure that consists of:

14.11 (1) an initial oral authorization by the end user to change telecommunications
 14.12 providers; and

14.13 (2) a mailing to the end user by the soliciting telecommunications provider regarding
 14.14 the change in telecommunications providers which informs the end user that if the end
 14.15 user fails to cancel the change in telecommunications providers, the change will be
 14.16 deemed authorized and verified.

14.17 Subd. 5. **Penalty for unauthorized changes.** If the telecommunications provider
 14.18 is not able to present, upon complaint by the end user, evidence that complies with this
 14.19 section, the change to the service of the telecommunications provider is deemed to be
 14.20 unauthorized from the date the telecommunications provider requested the change. In that
 14.21 event, the telecommunications provider must:

14.22 (1) bear all costs of immediately returning the end user to the original service
 14.23 provider of the end user; and

14.24 (2) bear all costs of serving that end user during the period of unauthorized service.

14.25 Sec. 9. **[237A.09] UNAUTHORIZED CHARGE FOR GOODS AND SERVICES.**

14.26 Subdivision 1. **Authorization required for charges for goods or services.** A
 14.27 telecommunications provider shall not add charges for goods or services to an end user's
 14.28 bill without the end user's authorization.

14.29 Subd. 2. **Billing for third-party goods and services.** (a) A telecommunications
 14.30 provider or a third-party provider shall not include on an end user's bill a charge for
 14.31 goods or services sold by the third party unless the third-party service provider or the
 14.32 telecommunications provider has:

14.33 (1) received authorization from the end user, as described in paragraphs (b) through
 14.34 (d), to include charges for third-party goods and services on the end user's bill;

15.1 (2) advised the end user of the expected charges for the third-party goods and
15.2 services; and

15.3 (3) provided the end user with a ready means to cancel the third-party goods and
15.4 services.

15.5 (b) Written authorization may be in the form of a letter of agency, which must be
15.6 a separate or easily separable document. The sole purpose of the letter of agency shall
15.7 be to authorize a charge for goods or services to appear on the end user's bill. The letter
15.8 of agency must be of sufficient size to be clearly legible and must contain clear and
15.9 unambiguous language that contains separate statements for each good or service for
15.10 which the end user is agreeing to be billed. The letter of agency must be signed and
15.11 dated by the end user.

15.12 (c) Oral authorizations must be verified by an independent third-party verifier. The
15.13 verification is valid only if:

15.14 (1) the independent third-party verifier confirms the end user's identity with
15.15 information unique to the end user, unless the end user refuses to provide the information.

15.16 If the end user refuses to provide the information, that fact must be noted; and

15.17 (2) the independent third-party verifier informs the end user that the end user is
15.18 agreeing to be billed for goods or services that will appear as a charge on the end user's bill.

15.19 (d) Electronic authorizations must be validated within 48 hours of receiving the
15.20 end user's authorization by sending the end user a notice of verification confirming the
15.21 authorization. The third-party service provider shall maintain a copy of the notice of
15.22 verification for the duration of the goods and services appearing as a charge on the end
15.23 user's bill.

15.24 Subd. 3. **Billing for telecommunications services.** A telecommunications provider
15.25 shall not include on an end user's bill a charge for telecommunications services unless the
15.26 telecommunications provider has:

15.27 (1) received authorization, as described in subdivision 2, paragraphs (b) through (d),
15.28 from the end user to include charges for telecommunications services on the end user's
15.29 bill; and

15.30 (2) advised the end user of the expected charges for the telecommunications services.

15.31 Subd. 4. **Penalty for unauthorized charges.** If the telecommunications provider
15.32 or third-party provider is not able to present, upon complaint by the end user, evidence
15.33 that complies with this section, the charge for the service of the telecommunications
15.34 provider or third-party provider is deemed to be unauthorized. In that event, the
15.35 telecommunications provider or third-party provider shall:

15.36 (1) remove the unauthorized charge from the end user's bill; and

16.1 (2) credit the end user any amounts paid for the unauthorized charges that were
 16.2 billed by the telecommunications provider or third-party provider during the six months
 16.3 prior to the end user's complaint, unless the telecommunications provider or third-party
 16.4 service provider can produce within 14 calendar days of the complaint evidence to the
 16.5 end user of authorization by the end user.

16.6 UNIVERSAL SERVICE FUND

16.7 Sec. 10. [237A.10] UNIVERSAL SERVICE FUND.

16.8 The commission may by rule establish and require contributions to a universal
 16.9 service fund, to be supported on an equitable, competitively neutral, and nondiscriminatory
 16.10 basis. Services that should be considered for inclusion as universal include, at a minimum,
 16.11 single-party voice service including access, usage, and touch tone capability; line quality
 16.12 capable of carrying facsimile and data transmissions; equal access; emergency services
 16.13 number capability; statewide telecommunications relay service for the hearing impaired;
 16.14 and blocking of long-distance toll services. The fund shall be administered and distributed
 16.15 in accordance with rules adopted by the commission and designed to preserve the
 16.16 availability of universal service throughout the state. Any state universal service fund
 16.17 must be coordinated with any federal universal service fund and be consistent with the
 16.18 requirements of Section 254(b)(1) to (5) of the 1996 Act.

16.19 MUNICIPAL TELEPHONE SERVICES

16.20 Sec. 11. [237A.11] MUNICIPAL TELECOMMUNICATIONS SERVICES.

16.21 Any municipality shall have the right to own and operate a telephone exchange
 16.22 within its own borders, subject to the provisions of this chapter. It may construct a plant,
 16.23 or purchase an existing plant by agreement with the owner, or where it cannot agree
 16.24 with the owner on price, it may acquire an existing plant by condemnation. In no case
 16.25 shall a municipality construct or purchase a plant or proceed to acquire an existing plant
 16.26 by condemnation until that action is authorized by a majority of the electors voting
 16.27 upon the proposition at a general election or a special election called for that purpose.
 16.28 If the proposal is to construct a new exchange where an exchange already exists, the
 16.29 municipality is not authorized to do so unless 65 percent of those voting vote in favor of
 16.30 the undertaking. A municipality that owns and operates a telephone exchange may enter
 16.31 into a joint venture as a partner or shareholder with a telecommunications organization to
 16.32 provide telecommunications services within its service area.

17.1 Sec. 12. **[237A.12] CONDEMNATION: NOTICE, COMPENSATION, APPEAL.**

17.2 When a municipality decides to acquire an existing plant by condemnation as
17.3 provided in section 237A.11, it shall give notice to the commission. The commission
17.4 shall determine the just compensation that the owner of the plant is entitled to receive
17.5 from the municipality. Before deciding upon the compensation, the commission shall, at
17.6 a public meeting that may be convened from time to time, hear all interested parties on
17.7 the question involved. The commission shall by order fix the compensation and furnish a
17.8 copy of its order to the municipality and to the telephone company concerned. A party
17.9 may appeal to the district court of the county in which the plant is situated the part of the
17.10 order fixing the compensation to be paid within 30 days. The appeal shall be tried the
17.11 same as other appeals under this chapter. If not appealed, the order of the commission
17.12 becomes final after 30 days.

17.13 **ASSESSMENTS**

17.14 Sec. 13. **[237A.13] ASSESSMENT OF REGULATORY EXPENSES.**

17.15 Subdivision 1. **Assessment of costs.** The commission shall quarterly, at least 30
17.16 days before the start of each quarter, estimate the total of the commission's expenditures
17.17 in the performance of the commission's duties relating to telecommunications providers,
17.18 other than amounts chargeable to telecommunications providers under subdivision 4.
17.19 This amount must be assessed by the commission to the telecommunications providers
17.20 operating in this state in proportion to their respective gross jurisdictional operating
17.21 revenues during the last calendar year. The assessment must be paid into the state treasury
17.22 within 30 days after the bill has been transmitted via mail, personal delivery, or electronic
17.23 service to the telecommunications providers. The bill constitutes notice of the assessment
17.24 and demand of payment. The total amount that may be assessed to the telecommunications
17.25 providers under this subdivision may not exceed 3/32 of one percent of the total gross
17.26 jurisdictional operating revenues during the calendar year. The assessment for the third
17.27 quarter of each fiscal year shall be adjusted to compensate for the amount by which actual
17.28 expenditures by the commission for the preceding fiscal year were less than the estimated
17.29 expenditures previously assessed. A telecommunications provider with gross jurisdictional
17.30 operating revenues of less than \$5,000 is exempt from assessments under this subdivision.

17.31 Subd. 2. **Objection.** Within 30 days after the date of the transmittal of any bill as
17.32 provided by subdivision 1 or 4, the parties to the proceeding, against which the bill has
17.33 been assessed, may file with the commission objections setting out the grounds upon
17.34 which it is claimed the bill is excessive, erroneous, unlawful, or invalid. The commission

18.1 shall within 60 days issue an order in accordance with its findings. The order is appealable
18.2 in the same manner as other final orders of the commission.

18.3 Subd. 3. **Interest imposed.** The amounts assessed against any telecommunications
18.4 provider or other party that is not paid after 30 days after the transmittal of a notice
18.5 advising the telecommunications provider or other party of the amount assessed against
18.6 it shall draw interest at the rate of six percent per annum. Upon failure to pay the
18.7 assessment, the attorney general shall proceed by action in the name of the state against
18.8 the telecommunications provider or other party to collect the amount due, accrued interest,
18.9 and reasonable attorney fees and costs.

18.10 Subd. 4. **Administrative hearing costs; appropriation.** Any amounts billed to
18.11 the commission by the Office of Administrative Hearings for contested case hearings
18.12 held pursuant to Minnesota Statutes 2010, section 237.25, shall be assessed by the
18.13 commissioner against the parties to the proceeding. The assessment shall be paid into the
18.14 state treasury within 30 days after a bill, which constitutes notice of the assessment and
18.15 demand for payment of it, has been transmitted to the parties. Money received shall be
18.16 credited to a special account and is appropriated to the commission for payment to the
18.17 Office of Administrative Hearings.

18.18 Sec. 14. **[237A.14] PROPRIETARY INFORMATION.**

18.19 Subdivision 1. **Proprietary information to be protected.** The commission shall
18.20 maintain the confidentiality of all proprietary information including trade secrets, business
18.21 plans, and other confidential information that becomes known to the commission or
18.22 comes into the commission's possession or control, and the commission shall not disclose
18.23 proprietary information without adequate protection of the information and reasonable
18.24 notice to the affected person.

18.25 Subd. 2. **Protective orders.** The commission shall have the authority to enter any
18.26 protective order necessary and appropriate to maintain the confidentiality of proprietary
18.27 information. The order may be entered only after giving the affected parties 30 days'
18.28 advance notice and the opportunity to be heard in connection with the proposed protective
18.29 order.

18.30 Subd. 3. **Public meetings of commission.** In any meeting of the commission during
18.31 which information that is subject to a protective order is discussed, the commission shall
18.32 close to all persons who are not authorized to obtain the information under the protective
18.33 order that portion of the meeting during which the information will be discussed. The
18.34 commission shall also take other appropriate measures to ensure that the data is not

19.1 disclosed to persons who are not authorized to obtain the information under the protective
19.2 order, to include sealing all or part of the hearing record.

19.3 Sec. 15. **[237A.15] COMMISSION ADMINISTRATIVE PROCEEDINGS,**
19.4 **APPEALS, REMEDIES.**

19.5 Subdivision 1. **Rules and regulations.** The commission shall adopt rules and
19.6 regulations consistent with this chapter to govern all matters over which the commission
19.7 has jurisdiction within 180 days of the effective date of this chapter.

19.8 Subd. 2. **Complaint investigation and procedure.** Upon a complaint made against
19.9 a telecommunications provider by any other provider of telecommunications service that
19.10 any of the rates, charges, schedules, tariffs, terms, and conditions, or any regulation,
19.11 practice, act, or omission affecting or relating to the production, transmission, delivery, or
19.12 furnishing of telecommunications service, the commission shall, within 30 days of the
19.13 filing of the complaint, review the complaint to determine whether it has jurisdiction over
19.14 the matter and whether there are reasonable grounds to investigate the allegations. Upon
19.15 concluding that it lacks jurisdiction or that there is no reasonable basis for the investigation,
19.16 the commission shall promptly dismiss the complaint. If the commission finds that it has
19.17 jurisdiction and that there is a reasonable basis for the investigation, the commission shall
19.18 determine whether a contested case hearing shall be conducted under chapter 14.

19.19 Subd. 3. **Service; notice.** A copy of an order issued under this chapter must be
19.20 served upon the person against whom it runs or the person's attorney. Notice of the order
19.21 must be given to the other parties to the proceedings or their attorneys.

19.22 Subd. 4. **Transcribed copy of record; expense.** (a) The commission shall keep
19.23 a full and complete record of all proceedings before it on any investigation or hearing,
19.24 and the commission shall furnish a transcribed copy of the record to any party to the
19.25 investigation upon request and payment of the expense of furnishing the transcribed copy.

19.26 (b) When an appeal is taken from any order of the commission under the provisions
19.27 of this chapter, the commission shall prepare a certified transcript of all proceedings,
19.28 pleadings and files, and testimony taken or offered before it upon which the order was
19.29 based, showing particularly what, if any, evidence offered was excluded. The commission
19.30 shall file the transcript with the court administrator of the district court where the appeal is
19.31 pending.

19.32 Subd. 5. **Appeal from decision of commission.** Any party to a proceeding before
19.33 the commission or the attorney general may make and perfect an appeal from the order
19.34 in accordance with chapter 14. If the court finds from an examination of the record that
19.35 the commission erroneously rejected evidence which should have been admitted, it shall

20.1 remand the proceedings to the commission with instructions to receive the evidence
 20.2 rejected and any rebutting evidence and make new findings and return them to the court
 20.3 for further review. In that case the commission, after notice to the parties in interest, shall
 20.4 proceed to rehear the matter in controversy, and receive the wrongfully rejected evidence
 20.5 and any rebutting evidence offered and make new findings, as upon the original hearing,
 20.6 and transmit it and the new record, properly certified, to the Court of Appeals, where the
 20.7 matter shall again be considered in the court in the same manner as in an original appeal.

20.8 Subd. 6. **Order final and conclusive.** If no appeal is taken from any order of the
 20.9 commission, as provided in subdivision 5, then in all future litigation arising between
 20.10 the state and any telecommunications provider or between private parties and any
 20.11 telecommunications provider, the order shall be deemed final and conclusive.

20.12 Subd. 7. **Attorney general to compel obedience.** When any telecommunications
 20.13 provider fails to comply with any law of the state or any order of the commission after it
 20.14 has become final, or any order or judgment of the district court, the Court of Appeals, or
 20.15 the Supreme Court in any cases taken to any of the courts on appeal, after the judgment or
 20.16 order has become final, the attorney general shall apply to the district court in the name of
 20.17 the state in any county in which the plant of the telecommunications provider, or any part
 20.18 of it, is situated, for a mandatory injunction or other appropriate writ to compel obedience
 20.19 to the law, order, or judgment. The district court shall punish any disobedience of its
 20.20 orders in the enforcement proceedings as for contempt of court.

20.21 **Sec. 16. [237A.16] VIOLATIONS; PENALTIES; ENFORCEMENT.**

20.22 Subdivision 1. **Actions.** This chapter and rules and orders of the commission
 20.23 adopted under this chapter may be enforced by any one or combination of criminal
 20.24 prosecution, action to recover civil penalties, injunction, action to compel performance,
 20.25 and other appropriate action.

20.26 Subd. 2. **Civil penalty.** A person who knowingly and intentionally violates a
 20.27 provision of this chapter or rule or order of the commission adopted under this chapter
 20.28 shall forfeit and pay to the state a penalty, in an amount to be determined by the court, of
 20.29 at least \$100 and not more than \$5,000 for each day of each violation.

20.30 Subd. 3. **Civil penalty proceeds deposited in treasury.** The civil penalties
 20.31 provided for in this section may be recovered by a civil action brought by the attorney
 20.32 general in the name of the state. Amounts recovered under this section must be paid
 20.33 into the state treasury.

20.34 **Sec. 17. [237A.17] OBTAINING SERVICE BY FRAUD; INJUNCTION.**

21.1 Subdivision 1. **Equitable relief.** Whenever it appears that a person is engaged in
21.2 an act that constitutes or will constitute a violation of section 609.893, a representative
21.3 of a telecommunications provider or a person harmed by an alleged violation of section
21.4 609.893 may begin a civil proceeding in a district court to enjoin the violation and may
21.5 petition the court to issue an order for the discontinuance of telecommunications service.

21.6 Subd. 2. **Venue.** An action under this section must be brought in the county in
21.7 which subject matter of the action, or some part of it, is located or found, and must be
21.8 commenced by the filing of a complaint that must be verified by affidavit.

21.9 Subd. 3. **Temporary restraining order.** If it is shown to the satisfaction of the
21.10 court, either by verified complaint or affidavit, that a person is engaged in an act that
21.11 constitutes a violation of section 609.893, the court shall issue a temporary restraining
21.12 order to abate and prevent the continuance or recurrence of the act. Notice of the
21.13 complaint shall be given and a hearing on the issuance of a temporary restraining order
21.14 shall be held under the Rules of Civil Procedure. The court shall direct the county sheriff
21.15 to seize and keep until further order of the court any device that is being used in violation
21.16 of section 609.893. The temporary restraining order expires after ten days.

21.17 Subd. 4. **Permanent injunction.** The court may issue a permanent injunction
21.18 to restrain, abate, or prevent the continuance or recurrence of the violation of section
21.19 609.893. The court may grant declaratory relief, mandatory orders, or any other relief
21.20 it judges necessary to accomplish the purposes of the injunction. The court may keep
21.21 jurisdiction of the case for the purpose of enforcing its orders.

21.22 Subd. 5. **Discontinuance of telecommunications service.** If it is shown to the
21.23 satisfaction of the court, by affidavit, that a person is engaged in an act that constitutes a
21.24 violation of section 609.893, the court may issue an order that shall be promptly served
21.25 upon the person in whose name the telecommunications device is listed, requiring the
21.26 party, within a reasonable time to be fixed by the court but not exceeding 48 hours from
21.27 the time of service of the petition on the party, to show cause before the judge why
21.28 telecommunications service should not promptly be discontinued. At the hearing, the
21.29 burden of proof is on the complainant.

21.30 Subd. 6. **Disconnect order.** Upon a finding by the court that the telecommunications
21.31 device is being used or has been used in violation of section 609.893, the court shall
21.32 issue an order requiring the telecommunications provider that is rendering service over
21.33 the device to disconnect the service. The order shall be served upon an officer of the
21.34 telecommunications provider by the sheriff of the county in which the telecommunications
21.35 device is installed or by a duly authorized deputy. Upon receipt of the order, the

22.1 telecommunications provider shall proceed promptly to disconnect and remove the service
22.2 and discontinue all telecommunications service until further order of the court.

22.3 Subd. 7. **Immunity.** No telecommunications provider is liable for any damages,
22.4 penalty, or forfeiture, whether civil or criminal, for an act performed in compliance with
22.5 an order issued by the court.

22.6 Sec. 18. **[237A.18] NO PRIVATE CAUSE OF ACTION.**

22.7 Nothing in this chapter shall be construed to create any private cause of action
22.8 or right to relief for any person or entity.

22.9 Sec. 19. **EFFECTIVE DATE.**

22.10 Sections 1 to 18 are effective

22.11 **ARTICLE 2**

22.12 **CONFORMING CHANGES**

22.13 Section 1. Minnesota Statutes 2010, section 237.081, is amended to read:

22.14 **237.081 INVESTIGATION.**

22.15 ~~Subdivision 1. **Commission investigation.** Whenever the commission believes~~
22.16 ~~that a service is inadequate or cannot be obtained or that an investigation of any matter~~
22.17 ~~relating to any telephone service should for any reason be made, it may on its own motion~~
22.18 ~~investigate the service or matter with or without notice, except that the commission shall~~
22.19 ~~give notice to a telephone company before it investigates the level of rates charged by~~
22.20 ~~the company.~~

22.21 Subd. 1a. **Complaint investigation.** Upon a complaint ~~made against a telephone~~
22.22 ~~company by any other provider of telephone service, by the governing body of a political~~
22.23 ~~subdivision, or by no fewer than five percent or 100, whichever is the lesser number, of~~
22.24 ~~the subscribers or spouses of subscribers of the particular telephone company, that any of~~
22.25 ~~the rates, tolls, tariffs, charges, or schedules, or any regulation, measurement, practice, act,~~
22.26 ~~or omission affecting or relating to the production, transmission, delivery, or furnishing of~~
22.27 ~~telephone service or any service in connection with telephone service is in any respect~~
22.28 ~~unreasonable, insufficient, or unjustly discriminatory, or that any service is inadequate or~~
22.29 ~~cannot be obtained, as provided for in section 237.56, that a violation of sections 237.50~~
22.30 ~~to 237.55 has occurred, the commission, after notice to the telephone company affected~~
22.31 ~~persons, shall investigate the matters raised by the complaint.~~

23.1 Subd. 2. **Procedure after investigation.** ~~(a) If, after making an investigation under~~
 23.2 ~~subdivision 1 or 1a, the commission finds that a significant factual issue raised has not~~
 23.3 ~~been resolved to its satisfaction, the commission shall follow the appropriate procedure~~
 23.4 ~~prescribed by this subdivision.~~

23.5 ~~(b) For an investigation concerning the reasonableness of the rates for noncompetitive~~
 23.6 ~~services of a telephone company whose general revenue requirement is determined under~~
 23.7 ~~section 237.075, the commission shall order the company to initiate a rate proceeding in~~
 23.8 ~~accordance with section 237.075. The commission shall allow the company at least 120~~
 23.9 ~~days after the date of the commission's order to initiate the proceeding.~~

23.10 ~~(c) For other investigations, the commission shall order that a contested case hearing~~
 23.11 ~~be conducted under chapter 14 unless the complainant, the telephone company, and the~~
 23.12 ~~commission agree that an expedited hearing under section 237.61 is appropriate.~~

23.13 Subd. 4. **Establishment of rate and price Order required.** Whenever the
 23.14 commission finds, after a proceeding under subdivision 2, that ~~(1) a service that can be~~
 23.15 ~~reasonably demanded cannot be obtained, (2) that any rate, toll, tariff, charge, or schedule,~~
 23.16 ~~or any regulation, measurement, practice, act, or omission affecting or relating to the~~
 23.17 ~~production, transmission, delivery, or furnishing of telephone service or any service in~~
 23.18 ~~connection with telephone service, is in any respect unreasonable, insufficient, or unjustly~~
 23.19 ~~discriminatory, or (3) that any service is inadequate~~ a violation of sections 237.50 to
 23.20 237.55 has occurred, the commission shall make issue an order respecting the tariff,
 23.21 regulation, act, omission, practice, or service that is just and reasonable and, if applicable,
 23.22 shall establish just and reasonable rates and prices with respect to the violation and order
 23.23 appropriate action to remedy the violation.

23.24 Subd. 5. **Service; notice.** A copy of an order issued under this section must be
 23.25 served upon the person against whom it runs or the person's attorney, and notice of the
 23.26 order must be given to the other parties to the proceedings or their attorneys.

23.27 Sec. 2. Minnesota Statutes 2010, section 237.50, is amended by adding a subdivision
 23.28 to read:

23.29 Subd. 10a. **Radio common carrier.** "Radio common carrier" means a person, firm,
 23.30 association, or corporation that owns, operates, or otherwise furnishes to the public any
 23.31 paging or other mobile telecommunications service by means of the use of radio signals
 23.32 and connection to a telephone network.

23.33 Sec. 3. Minnesota Statutes 2010, section 237.50, is amended by adding a subdivision
 23.34 to read:

24.1 Subd. 10b. Telecommunications carrier. (a) "Telecommunications carrier" means
 24.2 a person, firm, association, or corporation authorized to furnish one or more of the
 24.3 following telephone services to the public, but not otherwise authorized to furnish local
 24.4 exchange service:

24.5 (1) interexchange telephone service;

24.6 (2) local telephone service pursuant to a certificate granted under the authority of
 24.7 section 237.16, subdivision 4, before August 1, 1995; or

24.8 (3) local service pursuant to a certificate granted under section 237.16, for the first
 24.9 time after August 1, 1995, except if granted to a successor to a telephone company
 24.10 otherwise authorized to furnish local exchange service.

24.11 (b) Telecommunications carrier does not include entities that derive more than 50
 24.12 percent of their revenues from operator services provided to transient locations such
 24.13 as hotels, motels, and hospitals.

24.14 (c) Telecommunications carrier does not include entities that provide centralized
 24.15 equal access service.

24.16 Sec. 4. Minnesota Statutes 2010, section 237.50, is amended by adding a subdivision
 24.17 to read:

24.18 Subd. 12. Telephone company. (a) "Telephone company" means and applies to any
 24.19 person, firm, association, or any corporation, private or municipal, owning or operating
 24.20 any telephone line or telephone exchange for hire, in whole or in part, within the state, or
 24.21 furnishing any telephone service to the public.

24.22 (b) A telephone company does not include a radio common carrier. A telephone
 24.23 company which also conforms with the definition of a radio common carrier is subject to
 24.24 regulation as a telephone company. However, none of this chapter applies to telephone
 24.25 company activities which conform to the definition of a radio common carrier.

24.26 (c) A telephone company does not include a telecommunications carrier, except that
 24.27 a telecommunications carrier is a telephone company for the purposes of section 222.36.

24.28 Sec. 5. Minnesota Statutes 2010, section 237.51, subdivision 1, is amended to read:

24.29 Subdivision 1. **Creation.** The commissioner of commerce shall:

24.30 (1) administer through interagency agreement with the commissioner
 24.31 of human services a program to distribute communication devices to eligible
 24.32 communication-impaired persons; and

24.33 (2) contract with a qualified vendor that serves communication-impaired persons
 24.34 to create and maintain a telecommunication relay service.

25.1 For purposes of sections 237.51 to 237.56, the Department of Commerce and any
 25.2 organization with which it contracts pursuant to this section or section 237.54, subdivision
 25.3 2, are not telephone companies or telecommunications carriers ~~as defined in section~~
 25.4 ~~237.01.~~

25.5 Sec. 6. Minnesota Statutes 2010, section 237.69, is amended by adding a subdivision
 25.6 to read:

25.7 Subd. 15a. **Independent telephone company.** "Independent telephone company"
 25.8 means a telephone company organized and operating under chapter 301 or 302A or
 25.9 authorized to do business in Minnesota under chapter 303 as of January 1, 1983, and
 25.10 providing local exchange service to fewer than 30,000 subscribers within the state.

25.11 Sec. 7. Minnesota Statutes 2010, section 237.69, is amended by adding a subdivision
 25.12 to read:

25.13 Subd. 15b. **Radio common carrier.** "Radio common carrier" means a person, firm,
 25.14 association, or corporation which owns, operates, or otherwise furnishes to the public any
 25.15 paging or other mobile telecommunications service by means of the use of radio signals
 25.16 and connection to a telephone network.

25.17 Sec. 8. Minnesota Statutes 2010, section 237.69, subdivision 17, is amended to read:

25.18 Subd. 17. **Telephone company.** "Telephone company" ~~has the meanings given it in~~
 25.19 ~~section 237.01, subdivisions 3 and 7, that provides local exchange telephone service~~ means
 25.20 and applies to any person, firm, association, or any corporation, private or municipal,
 25.21 owning or operating any telephone line or telephone exchange for hire, in whole or in part
 25.22 within the state, or furnishing any telephone service to the public.

25.23 A telephone company does not include a radio common carrier. A telephone
 25.24 company that also conforms with the definition of a radio common carrier is subject to
 25.25 regulation as a telephone company; however, this chapter does not apply to telephone
 25.26 company activities that conform to the definition of a radio common carrier.

25.27 A telephone company does not include a telecommunications carrier, except that a
 25.28 telecommunications carrier is a telephone company for the purposes of section 222.36.

25.29 Sec. 9. **REPEALER.**

25.30 Minnesota Statutes 2010, sections 237.01, subdivisions 1, 3, 4, 6, 7, and 8; 237.011;
 25.31 237.012; 237.02; 237.03; 237.035; 237.036; 237.05; 237.06; 237.065; 237.066; 237.067;
 25.32 237.068; 237.069; 237.07; 237.071; 237.072; 237.075, subdivisions 1, 2, 3, 4, 5, 6, 7, 8,

26.1 9, 10, and 11; 237.076; 237.082; 237.09; 237.10; 237.101; 237.11; 237.115; 237.12;
 26.2 237.121; 237.14; 237.15; 237.155; 237.16, subdivisions 1, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, and
 26.3 13; 237.164; 237.17; 237.18; 237.19; 237.20; 237.21; 237.22; 237.23; 237.231; 237.24;
 26.4 237.25; 237.26; 237.27; 237.28; 237.295; 237.30; 237.33; 237.34; 237.35; 237.36; 237.37;
 26.5 237.38; 237.39; 237.40; 237.411; 237.414; 237.435; 237.44; 237.45; 237.46; 237.461,
 26.6 subdivisions 1, 2, and 4; 237.47; 237.57; 237.59, subdivisions 1, 1a, 2, 3, 4, 5, 6, 8, 9,
 26.7 and 10; 237.60, subdivisions 3 and 4; 237.61; 237.626; 237.64; 237.66, subdivisions 1,
 26.8 1a, 1c, 1d, 2, 2a, and 3; 237.661; 237.662; 237.663; 237.665; 237.67; 237.681; 237.73;
 26.9 237.74; 237.75; 237.76; 237.761; 237.762; 237.763; 237.764; 237.765; 237.766; 237.767;
 26.10 237.768; 237.769; 237.770; 237.771; 237.772; 237.773, subdivisions 1, 2, 3, and 4;
 26.11 237.774; 237.775; 237.79; 237.80; 237.81; 237.82; and 237.83, are repealed.

26.12 Sec. 10. **EFFECTIVE DATE.**

26.13 Sections 1 to 9 are effective

APPENDIX
Article locations in 11-1299

ARTICLE 1 TELEPHONE AND TELECOMMUNICATIONS Page.Ln 1.24
ARTICLE 2 CONFORMING CHANGES Page.Ln 22.11