

HOUSE RESEARCH

Bill Summary

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Overview

This bill is the Ventura Administration's bill to update and revise regulation of the telecommunications industry. It is based on the Ventura Administration Telecommunications Strategic plan issued in January 2000, but has been revised from last session's legislative proposal (H.F. 2937 from the 2000 legislative session). The bill includes a new regulatory framework for both telephone companies and cable companies. This bill replaces existing law in chapter 237 and 238 and creates a new chapter of law, chapter 237A.

The bill contains the following articles:

- Article 1: General Telecommunications Service Regulation
- Article 2: Local Telephone Service Competition
- Article 3: Consumer Protection
- Article 4: Public Utilities Commission (PUC) Process and Procedures
- Article 5: Universal Service
- Article 6: Right-of-Way
- Article 7: Cable Regulation
- Article 8: Conforming Amendments
- Article 9: Technical Provisions

Article 1: Telecommunications Service General Regulation

1 **Definitions.** Defines terms used in the bill. Key definitions include:

Actual competition means a local service area in which at least two facilities-based local service providers are offering a telecommunications service.

Essential services mean voice-grade access to the public switched network; unlimited local usage for a flat rate; dual tone multifrequency signaling or its functional equivalent capability; single-party service or its functional equivalent; access to operator services; toll-free Internet

access; equal access; access to emergency services number capability, including 911 and E-911; statewide telecommunications relay service for the hearing impaired; access to directory services; and toll-blocking or toll-limitation services.

Facilities-based refers to accessing end-user telecommunications service customers through overbuilding or utilizing leased or purchased network elements.

Incumbent local service provider means any local service provider, that either itself or its predecessors in interest, on January 1, 1985, owned and operated a local public switched telecommunications network in Minnesota.

Local service means telecommunications service within an area in which calls originate and terminate without a toll charge for intrastate long-distance service.

Local service provider means a telecommunications service provider that provides local service.

Network element means a facility or equipment, capable of being disaggregated from other network elements, used alone or in combination for providing local service. The term also includes features, functions, and capabilities that are provided by means of such facility or equipment, including subscriber numbers, databases, signaling systems, and information sufficient for billing and collection, or used in the transmission, routing, or other provision of a telecommunications service.

Overbuilding refers to accessing end-user telecommunications service customers substantially through facilities redundant of an incumbent local service provider.

Wholesale service provider means any telecommunications provider required to provide wholesale telecommunications services under federal law.

Wholesale telecommunications service means the provision of interconnection, access, unbundled network elements, alone or in combination; or resale to other telecommunications service providers. Wholesale telecommunications service also includes any service, term, element or duty, including collocation, necessary to implement the provision of local service.

Technical drafting note: the definitions of cable service and multichannel video programming service are indistinguishable from one another, although the legislation seems to intend a difference between the two services.

- 2 **Commission authority.** Provides that the public utilities commission ("PUC") and the department of commerce ("department") have all the authority necessary over cable services, telecommunications services and "other multichannel video programming services" (for example, direct broadcast satellite) to implement the provisions of new chapter 237A.

Incorporates current law specifying telecommunications goals for the PUC to consider in executing its duties, including: supporting universal service, encouraging deployment of high speed telecommunications services, encouraging competition, maintaining or improving service quality, promoting customer choice, consumer protection, and discouraging litigation. Extends these goals to cable services.

- 3 **Local telephone service provider entry regulation.** Requires the PUC to issue a certificate of authority to provide local telephone service to any person that (1) possesses the operational and financial resources to provide local service; (2) is under no legal barrier to providing local service; and (3) will not jeopardize the public health, safety or welfare. Incorporates current application requirements.

Technical drafting note: the bill does not require a certificate of authority to provide local telephone service, but seems to intend to impose such a requirement. A certificate of authority is currently required under Minnesota law.

- 4 **Local government telecommunications service.** Authorizes a local unit of government to provide facilities-based telecommunications service on its own or as part of a joint venture where the PUC determines that (1) there is no actual competition for essential services for at least half of the customers within the local unit of government; and (2) the local service facilities will allow for the provision of wholesale service.

Authorizes a local government unit with a certificate of authority to provide local phone service to enter into joint ventures with telecommunications service providers for the provision of local service within the boundaries of the local government unit.

- 5 **Long-distance entry.** Provides that no person may provide instate long distance without first filing certain information with the PUC. A person may provide prepaid telecommunications services if the person is certified or registered and furnishes to the PUC a performance guarantee in an amount determined by the PUC.

Article 2: Local Competition

- 1 **Regulation of wholesale services.** Provides that the PUC may require wholesale service providers to furnish network elements approved by the Federal Communications Commission ("FCC"), or determined necessary by the PUC. Requires that wholesale service providers provide service at least as high quality as the provider extends to itself or to its affiliates. Requires the PUC to adopt rules within one year after the effective date of the bill establishing requirements for wholesale services offered in the state. Such rules shall be considered minimum standards--higher standards can be required if agreed to in an interconnection agreement, or if imposed on a provider by the PUC. Authorizes the PUC to order any equitable relief necessary to enforce wholesale service standards.

Incorporates current law specifying: (1) certain prohibited practices for wholesale service providers; and (2) that the price for wholesale services must be established based on forward looking economic cost methodology.

Technical drafting note: there appears to be a technical error in subdivision 2, referencing a requirement in subdivision 1 that does not appear in subdivision 1.

- 2 **Mergers and acquisitions.** Provides that no person may purchase, acquire, or assume control of the property of a telecommunications service provider without receiving the prior consent of the PUC. A transaction in which 75% of the affected customers would be subject to actual competition for essential services does not need to be approved by the commission, unless the transaction involves a wholesale service provider. Requires the commission to approve any transaction the commission finds is consistent with the public interest.

- 3 **Local service rate regulation.**

Subd. 1. Rate restructuring. Requires the PUC to establish deaveraged retail rates for essential services for all incumbent local service providers. Under current law, rates charged by an incumbent carrier must be averaged across all geographic areas served by that carrier. Specifies that, once deaveraged, retail rates for essential services may not be increased for a period of two years.

Subd. 2. Complaint-based rate regulation. Specifies that, the PUC, department or the attorney general shall only investigate the retail rates for telecommunications services of a local service provider upon complaint by consumers representing 5 percent or 500 of the provider's access lines.

Under current law, the PUC may, on its own initiative, or upon a complaint by consumers, the department or the attorney general, investigate the reasonableness of a provider's rates.

Requires the commission to dismiss the complaint without investigation if it finds that

75 percent of the provider's customers are subject to actual competition for the service in question.

Subd. 3. Rate investigations. Empowers the department and the attorney general to require a local service provider that is the subject of a complaint under subdivision 2 to provide information.

Subd. 4. Rate change suspension. Authorizes the PUC to suspend a rate that is the subject of a complaint under subdivision 2.

Technical drafting note: there is a reference in this subdivision to complaints raised by the department or the attorney general, but the legislation does not empower either entity to raise a complaint. Also, the subdivision references "a rate change noticed under subdivision 3," but subdivision 3 does not relate to notice of rate changes.

Subds. 5 to 13. Provides procedures and criteria for the PUC in establishing reasonable retail rates.

4 **Intrastate long distance service regulation.** Specifies the limited extent to which providers of intrastate long distance service is to be regulated, which is essentially consistent with current law.

5 **Extended area service.** This section establishes the process for establishing or extending a toll-free, basic flat-rate calling area. Requires the PUC to do a traffic study and make a determination on whether a community of interest exists between the areas to determine if the extended area service request should be granted. Provides that the standard for a community of interest is whether 50% of customers in the petitioning exchange makes 5 or more calls per month to the exchange to which toll-free service is requested. The standard under current PUC order is 3 or more calls per month.

If the PUC determines the requisite amount of traffic and a community interest exists, then the PUC shall issue an order granting the request for extended area service unless it finds that granting the request is not in the public interest. The PUC is required to determine the rate for the extended area service. The rates may not allow for the recovery of lost access charges and need not guarantee income neutrality.

6 **Establishment exempt from regulation.** Provides that hotel, motels, restaurants, lodging houses, boarding houses, resorts, and places of refreshment that provide telecommunications service to patrons on the premises of the establishment are not subject to the provisions of this bill except that such establishments shall provide notice of charges and service providers to patrons and is subject to the procedures of section 237A23 [Notice and Disclosure by Long Distance Providers].

7 **Private shared telecommunications service.** This section provides that persons who own or operate a building where private shared telecommunications service system is operated shall establish a single demarcation point for services and facilities provided by telecommunications service providers and allow access to providers selected by tenants. This section is virtually identical to section 237.68 in existing law.

8 **Cross subsidization.** Prohibits a local service provider from subsidizing its competitive telecommunications services from its noncompetitive telecommunications services, unless authorized by the commission.

9 **Predatory pricing.** Unless 50% or more of a local service provider's customers (statewide) are subject to actual competition, a competitor may complain to the commission if the competitor believes the provider is engaging in predatory pricing. If the provider is found to be engaging in predatory pricing, the commission may order any equitable relief it deems necessary, including rate reductions, rate freezes and administrative penalties up to \$10,000 per day per violation.

10 **Existing AFOR plans.** Specifies that "alternative form of regulation" (AFOR) plans approved by the PUC before the effective date of this act may remain in effect until their expiration date, but that providers operating under grandfathered AFOR plans are subject to the deaveraged rate cap provided in section 1, subdivision 1 of this article.

11 **Waiver of tariff requirements.** Authorizes the commission, upon finding that a competitive market exists with respect to any telecommunications service under its jurisdiction, to waive the requirements or applicability of certain regulatory provisions relating to the filing of prices and rates. Specifies that price lists filed after the waiver takes effect has no legal effect-thus, after a waiver is issued, the filed rate doctrine does not apply to prices filed after the issuance of the waiver.

Technical note: sections 10 and 11 are uncodified provisions, and not part of chapter 237A.

Article 3: Consumer Protection

1 **Retail rules.** Requires the PUC to adopt retail service quality rules applicable to telecommunications and cable service providers emergency service, slamming, tracing of calls, and local service quality.

2 **Denial of service.** Requires a provider of cable service or telecommunications service to provide to a customer denied service by the provider a written explanation for the denial.

3 **Billing.** Specifies that all bills for telecommunications and cable service must include a toll free number for customer service, and the telephone number of the attorney general's consumer complaint division.

4 **Disclosure of local service options.** Requires telecommunications service providers to provide information to customers requesting service on the terms and conditions of all service options. Includes provisions allowing a customer to require authorization from the customer before a local service provider may process a change in the customer's long distance service provider. Requires local telephone service providers to advise each residential customer of the availability of call blocking options. (Current law)

5 **Notice of rate increases.** Prohibits a cable or telecommunications service provider from increasing rates or changing terms and conditions of service without prior notice.

6 **Antislamming.** Includes provisions to preclude the change in a local telephone company or local long-distance company without the customer's consent including a verification process. Includes penalties for unauthorized changes. (Current law)

7 **Notice and disclosure by long-distance providers.** Requires local long distance providers to provide information about the prices of services being offering as well as any minimum volume requirements and special promotions when soliciting business or when contacted by a customer. Requires local long distance providers to give customers specific price, term, and restriction information about any local long distance services the customer has agreed to purchase. Provides that the filing of tariffs is not a defense to any action brought for failure to disclose intrastate prices. (Current law)

8 **Loading.** Prohibits telecommunications carriers from charging customers for services for which they did not contract except in limited circumstances with regard to per-use charges. This section is substantially similar to section 237.663 in existing law.

9 **Alarm transmission device.** Governs use of alarm transmission devices attached to telephones. This section is identical to section 237.47 of existing law.

10 **Tracer.** Requires the PUC to adopt or maintain rules to govern how telephone companies respond to requests for tracers by persons who allegedly have received harassing calls. This section is nearly identical to section 237.069 of existing law.

Article 4: Commission Process and Procedures

- 1 **Investigation.** Authorizes the PUC to investigate cable and telecommunications service providers for violations of statutes, rules, or other matters relating to telecommunications service, subject to the provisions of section 237.08 [local service rate regulation].
- 2 **Transcribed copy of record, expense.** Requires the PUC to keep a record of formal proceedings (current law)
- 3 **Appeal.** Authorizes any party to a proceeding or the attorney general to appeal from a PUC order in accordance with Minnesota Statutes, chapter 14. (current law)
- 4 **Order final and conclusive.** Provides that a final order is conclusive if not appealed. (current law)
- 5 **Compelling obedience.** Requires to PUC to file an action to compel obedience if a telecommunications service provider has failed to comply with a final PUC order or final court decision on a PUC order. (current law)
- 6 **Information subject to protective order.** Requires the PUC to take steps, including closing providing, to ensure information subject to a protective order is not revealed to unauthorized persons. (current law)
- 7 **Enforcement.** Authorizes enforcement the provisions of this bill and rules and orders adopted by the PUC pursuant to this bill with any one or a combination of enforcement mechanisms. Provides that a person who knowingly and intentionally violates a provision of this chapter, a rule, or order of the PUC shall pay a penalty in an amount determined by the court, between \$100 and \$5,000 per day per violation. For violations of the provisions of section 237.06 (wholesale service requirements and standards), the court-imposed penalty may be up to \$55,000 per day per violation.
- 8 **Competitive enforcement; administrative penalties.** Authorizes the PUC to issue administrative penalties for knowing and intentional violations of:
- wholesale service quality statutory requirements in statute, rule, or PUC orders;
 - an approved interconnection agreement; and
 - any duty or obligation of an incumbent local service provider imposed by section 251 of the federal Telecommunications Act of 1996 that relates to local service.
- Includes the factors that the PUC must consider in issuing a penalty and provides that the maximum penalty amount is \$10,000 per day per violation. Includes the process to be followed by the parties and the PUC in proceedings under this section. This section is substantially similar to section 237.462 in current law.
- This section also authorizes the commission to order the remedy of "structural separation." If the commission finds that an incumbent provider has engaged in a pattern and practice of conduct for which penalties might be imposed under this section, the commission may order the wholesale and retail operations of the incumbent provider to be structurally separated from one another.
- 9 **Assessment of regulatory expenses.** Provides that the PUC and the Department may assess parties for regulatory expenses of a proceeding and may assess telecommunications and cable providers for their general expenses relating to regulation of those entities.
- 10 **Telecommunications investigation fund.** Retains a \$25,000 revolving fund for use by the Department and the Attorney General's office for costs incurred in investigations relating to telecommunications services.
- 11 **Expedited proceeding.** Authorizes the PUC to conduct expedited proceedings and provides the process to be followed.

- 12 **Gross misdemeanor.** Provides that a telecommunications service provider who violates any provision of this chapter, with intent to defraud, is guilty of a gross misdemeanor.

Article 5: Universal Service

- 1 **Access charges.** Reduces and caps certain fees charged by local service providers to long distance providers for access to the local service facilities, to initiate, switch and terminate long distance calls.

- 2 **Calculating service costs for local service area.** Requires the PUC to complete a proceeding by December 31, 2002, to calculate the forward-looking deaveraged cost of service for each local service area of an eligible telecommunications carrier in the state. Authorizes the commission to deaverage costs within a local service area based on a town and rural distinction if technically feasible.

- 3 **Universal service fund.**

Subd. 1. Creation. Establishes the Minnesota universal service fund as a special fund in the state treasury. Provides that the fund is to be administered by the Commissioner of Commerce. Establishes four separate accounts within the fund: (1) the high-cost customer account; (2) the telecommunications access Minnesota account; (3) the telecommunications assistance program account; and (4) the advanced services account. Authorizes the Commissioner to transfer funds between the accounts as needed.

Subd. 2. Eligible telecommunications carriers. Provides that the PUC may designate telecommunications service providers as "eligible telecommunications carriers" (ETC) that are eligible to receive universal service fund support from the high cost customer account.

To be an ETC, a provider must: (1) be able and willing to provide essential services throughout the service area for which the designation is received; (2) advertise the availability of these services and their charges, using media of general distribution as eligible telecommunications carriers; (3) demonstrate that without universal service fund support the provider could not recover its embedded costs of providing service.

Subd. 3. Fund revenue. Imposes an excise tax of 5 percent on the retail price paid for telecommunications, cable and other multichannel video programming services by end users to support the fund.

- 4 **High cost customer account.** Requires the PUC to establish a statewide benchmark cost of service for universal telecommunications service, based on the average local service revenue per month per line. Provides that the PUC shall adjust the benchmark on an annual basis. Provides that eligible telecommunications carriers whose forward looking costs exceed the statewide benchmark may receive support from the high-cost account for the amount of the excess for support in providing essential services to residential and business customers in those high-cost areas.

- 5 **Unserved areas.** Authorizes the PUC to designate a local service provider to provide essential services in areas of the state where currently nobody is providing those services if a petition signed by 50% of the full-time residents and businesses within a three mile radius of the nearest connection point is filed with the PUC.

- 6 **Relinquishment of universal service.** Authorizes the PUC to allow an eligible telecommunications carrier (ETC) to relinquish its designation as an ETC if it finds that all customers will continue to receive essential services from another provider, without interruption of service.

- 12712 **Telecommunications assistance of Minnesota program.** Includes provisions governing eligibility and administration of this program to provide tele-relay services and equipment for communications impaired persons. These sections are substantially similar to the sections

governing the telecommunications access for communications impaired persons (TACIP) program included in current law, except that the funding comes from the universal service fund rather than a specific surcharge for the program.

- **Telecommunications assistance program.** Includes provisions governing eligibility and administration of this program to provide financial assistance to low income elderly and disabled people to assist with the cost of local telephone service. These sections are similar to the sections in current law governing this program, but substantial changes have been made with regard to the funding and the maximum level of financial assistance.

15 **Advanced services loan program.** Creates a revolving loan program administered by the commissioner of commerce for providing advanced telecommunications services. Provides \$100 million in fiscal year 2002 from the universal service fund to seed the revolving loan program.

Requires that, beginning in fiscal year 2003, up to 20 percent of the loan fund balance is appropriated to the department of trade and economic development for the purposes of issuing catalyst grants targeted at the deployment of advanced services. It is unclear whether the legislation intends that the commissioner of commerce determines the amount that is appropriated to the department of trade and economic development, or that the legislature should make that determination.

Creates an advanced services loan board, consisting of the commissioner of commerce and two other members appointed by the governor, to advise the commissioner on the implementation of this section, and to approve all loan applications.

Article 6: Right-of-way

-313 **Right-of-way.** Governs the use of public rights-of-way by telecommunications providers and other users of public rights-of-way. Sections 1 and 2 are substantially similar to sections 237.162 and 237.163, in existing law. Section 3 is substantially similar to section 237.81, in existing law.

4 **Wire crossing or parallel utility line.** Requires the department to adopt and enforce rules covering the maintenance, operation, nature, location, and construction where telecommunication, electric light, power, or other electric wires of any kind, or any natural gas pipelines, cross or parallel the lines of any railroad, interurban railway, or other similar public service corporation. This section is substantially similar to sections 237.04 and 237.05 of existing law.

Article 7: Cable

1 **Definitions.** Defines terms used in sections 237A.71 to 237A.94.

2 **State as cable franchisor.** Provides that the state is the cable franchisor for all cable franchises granted in the state and is substituted as the government-party franchisor in all existing cable franchises. Requires the Department to negotiate with cable companies to conform their existing franchises to the uniform rules. Provides that all franchises entered into after January 1, 2003 must comply with the rules.

3 **Authority to grant and enforce franchises.** Provides that the PUC has exclusive authority to grant cable franchises and cable franchises must be nonexclusive. Prohibits the PUC from granting a franchise for a term longer than 15 years and on terms that are more favorable than a franchise previously granted to a person within the franchise area. Provides that a franchise granted by the PUC supersedes all previous ordinances, amendments, or agreements granting a franchise to a cable service provider or any predecessor cable operator. Requires a cable operator to provide cable service to the entire franchise area designated by the PUC in a franchise. Authorizes the PUC to enforce franchises but allows the PUC to delegate its

enforcement authority to local units of government unless the local unit of government provides cable through its own facilities.

- 4 **Rate regulation.** Authorizes the PUC to regulate rates for the provision of cable service and related equipment to extent allowed under federal and state law. Requires cable service providers to keep on file with the PUC and the local government unit a list of current subscriber rates and charges.
- 5 **Customer service obligations.** Authorizes a local unit of government to investigate allegations of noncompliance with a franchise, this article, or any applicable PUC rule. Requires cable service providers to notify the PUC and subscribers in writing of any changes in rates, programming services, or channel positions 30 days prior to the changes becoming effective.
- 6 **Emergency alert.** Requires cable service providers to provider emergency alert override capabilities.
- 7 **Regional channel.** Establishes a Twin Cities regional channel to be carried uniformly on VHF channel 6 on cable communications systems operating in the metropolitan area in order to provide a broad range of informational, educational, and public service programs and materials to metropolitan area cable subscribers. Requires franchises for cable operations wholly or partially within the metropolitan area to contain a provision designating VHF channel 6 for inform regional channel usage. Allows the regional channel to be combined with the government access channel until the government access channel is heavily used. This section is substantially similar to section 238.43 in existing law.
- 8 **Public, educational and government (PEG) access.** Requires cable service providers to make at least one PEG access channel available in its basic service offering to subscribers. Provides that additional PEG access channels may be required in a franchise based upon a showing of community need. Provides that PEG access channels must be transmitted on the VHF spectrum.
- 9 **Franchise fee.** Requires a cable service provider to pay the local governing authority of the franchise area a franchise fee equal to five percent of its gross cable revenue from subscribers within the boundaries of the local government unit on monthly basis within 30 days of the end of the calendar month. Provides that interest is due on overdue payments and underpayments.
- 10 **Franchise revocation.** Provides that the if the PUC determines after a public hearing, that a cable service provider is in default of any material provision of this franchise, has attempted to evade any material provision of a franchise, or has practiced fraud or deceit upon a subscriber, the PUC may revoke the franchise or order any other appropriate relief.
- 11 **Mergers and acquisitions.** Requires PUC consent before a person may purchase, acquire, or assume control of (1) a franchise, (2) facilities used to provide cable service, (3) capital stock, bonds, securities, or other obligations, or (4) the rights, privileges, and immunities of a cable service provider. Requires prior notice to subscribers of intent to sell cable assets. Requires the PUC to approve a transfer if it finds that the transaction is in the public interest and that the transferee is qualified. Includes factors to be considered by the PUC in making its determination. Imposes a time period of 120 days for the commission to act.
- 12 **Franchise renewal.** Provides that all franchise renewal proceedings must be conducted in accordance with federal law.
- 13 **Amendment to franchise.** Authorizes the PUC to amend a franchise upon petition by the Department, the attorney general, a local governing authority, or the cable service provider holding the franchise and upon a determination by the PUC that the amendment will be in the public interest or is required due to changes in federal or state law.
- 14 **Required contents of franchise.** Requires that every franchise granted by the PUC address the following issues:

specifications of cable system necessary to meet the cable needs of the subscribers in a franchise area;

the schedule for any cable system upgrades or rebuilds required under a franchise;

the number of PEG channels, facilities, and financing arrangements for the channel capacity and facilities; and

provisions relating to the management of public rights-of-way by local units of government, if not already provided under state or local law.

- 15 **Other franchise terms and conditions.** Authorizes the PUC to include other terms and conditions in a franchise that it deems appropriate.
- 16 **Access required.** Requires property owners who own multiple dwelling complexes to provide access to any video programming or telecommunications service provider. Provides that residents have the freedom to choose among competing video programming and telecommunications service providers.
- 17 **Conditions for access.** Requires that installation of facilities for video programming or telecommunications services must conform to reasonable conditions necessary to protect the safety, functioning, and aesthetic appearance of the premises, and the convenience and well-being of the property owner and residents. Includes provisions giving property owner some rights over installation and relocation facilities on the property and compensation for access.
- 18 **Use of existing utility easement; restrictions.** Authorizes cable service providers to utilize any existing easement in accordance with this section to install, maintain, and remove equipment and facilities without the payment of additional compensation to the owners and occupants of the real estate subject to the easement, other than the owner of the easement. Provides that the cable service provider is subject to the duties and limitations specified in the easement. Requires the cable service provider to restore the easement property to its condition prior to use. This section is substantially similar to section 238.35, subdivisions 2-4, in existing law.
- 19 **Permit to attach to pole or conduit system.** Provides that every agreement between a cable service provider and a public utility regarding use of a public utility's poles or occupying any part of the public utility's conduit system must include a provision requiring the cable service provider to apply and receive a permit from the public utility for that purpose. In granting or denying a permit, the public utility has the right to determine whether a grant of a permit would adversely affect its public services, duties or obligations or have an adverse effect on the economy, safety, and future needs of the public utility. This section is nearly identical to section 238.38, in existing law.
- 20 **Liability; indemnification.** Requires every agreement regarding a cable service provider's use of a public utility's poles or conduits to include a provision that the cable service provider shall indemnify the public utility from and against any and all claims and demands for damages to property and injury or death to persons relating to the cable service provider's facilities or acts of the cable service provider in the areas of the poles or conduit system. Also requires cable service providers to indemnify the public utility from and against any and all claims and demands: (1) that arise directly or indirectly from the operation of the cable service providers facilities; (2) for claims for damages and losses for infringement of copyright, for libel and slander, for unauthorized use of television broadcast programs, and for unauthorized use of other program material; and (3) for infringement of patents with respect to the manufacture, use, and operation of the cable communications equipment in combination with the public utility company's poles, conduit system, or otherwise. Provides that nothing in the section relieves the public utility from liability for the negligence of the public utility. This section is substantially similar to that in section 238.40, in existing law.

- 21 **Insurance for parties to pole agreement.** Requires cable service providers to carry insurance to protect the parties to a pole attachment agreement from and against any claims that may arise by reason of loss, injury, claim or damage. This section is similar to section 238.41, in existing law.

Article 8: Conforming Amendments

Provides technical amendments to other sections of Minnesota Statutes to conform to the statutory changes in this act.

Article 9: Technical Provisions

- 1 **Competitive market share data.** Provides that for purposes of the government data practices act, competitive market share data of telecommunications service provider included in a petition for reclassification of a service under this act and marked "trade secret" are classified as nonpublic data.
- 2 **Study of cable and telecommunications regulation.** Requires the department of commerce to conduct a study on the regulation of cable and telecommunications services, comparing the federal, state and local regulatory structures applicable to various providers. Specifically requires the department to determine whether elimination of regulatory distinctions between providers using different platforms to deliver services is legally possible under federal law.
- 3 **Revisor's instructions.** Requires the revisor of statutes to correct cross-references and make the necessary conforming changes to existing law.
- 4 **Repealer.** Repeals sections in chapters 237 and 238 (along with associated rules) which are superceded by this bill.
- 5 **Effective date.** Provides that this bill becomes effective July 1, 2001.