

CHAPTER 247—S.F.No. 2616

An act relating to telecommunications; regulating private shared services; modifying regulatory provisions; amending Minnesota Statutes 2008, sections 237.411, subdivision 3; 237.74, subdivision 9; 238.08, subdivision 1; proposing coding for new law in Minnesota Statutes, chapter 237.

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

Section 1. Minnesota Statutes 2008, section 237.411, subdivision 3, is amended to read:

Subd. 3. **Reduced rate regulation.** The rates, prices, tariffs, or charges to a business customer in a competitive area by a telephone company or a telecommunications carrier offering local service are only subject to sections 237.07, subdivision 1; 237.66; and 237.663, and are not subject to any rules imposing rate or price restrictions beyond those sections or to other order or investigation of local rates under section 237.081. A telephone company or telecommunications carrier subject to this subdivision is not required to file specific price information. However, upon request of the department, the commission, or the Office of Attorney General, a telephone company or telecommunications carrier must demonstrate that its pricing complies with subdivision 4.

EFFECTIVE DATE. This section is effective retroactively from May 12, 2009.

Sec. 2. Minnesota Statutes 2008, section 237.74, subdivision 9, is amended to read:

Subd. 9. **Discontinuance.** If a physical connection exists between a telephone exchange system operated by a telephone company and the toll line or lines operated by a telecommunications carrier, neither of the companies shall have the connection severed or the service between the companies discontinued without first obtaining an order from the commission upon an application for permission to discontinue the physical connection. Upon the filing of an application for discontinuance of the connection, the department shall investigate and ascertain whether public convenience requires the continuance of the physical connection, and if the department so finds, the commission shall fix the compensation, terms, and conditions of the continuance of the physical connection and service between the telephone company and the telecommunications carrier. Prior commission approval is not required for severing connections where multiple local exchange companies are authorized to provide service. However, the commission may require the connections if it finds that the connections are in the public interest, but may not require connections with a telecommunications carrier certified to provide only interexchange service.

EFFECTIVE DATE. This section is effective the day following final enactment.

Sec. 3. **[237.681] PRIVATE SHARED SERVICES.**

Subdivision 1. **Definitions.** For the purposes of this section:

(1) "private shared services" means the provision of telephone services and equipment, the provision of video programming services, or the provision of broadband services within a user group located in discrete private premises, in building complexes, campuses, or high-rise buildings, by a commercial shared services provider or by a user association, through privately owned customer premises equipment and associated data processing and information management services and includes the provision of connections to the facilities of a local exchange and to long-distance telephone companies; and

(2) "property owner" means a person who owns or, under a contract with the owner, manages a building, property, complex, or other facility where private shared services are provided.

Subd. 2. **Requirements.** A property owner shall establish a single demarcation point for services and facilities provided by a telephone company providing local exchange service in the area that is mutually agreeable to the property owner, commercial shared services provider, and the telephone company. The obligation of a telephone company to provide service to a customer at a location where private shared services are operating is limited to providing telephone company service and facilities up to the demarcation point established for the property where the private shared services are operating. The property owner may not (1) impose unreasonable restrictions on access to the demarcation point on the premises by a telephone company or (2) discriminate against or in favor of an occupant in any manner, including charging the occupant higher or lower rental charges, because of the occupant's choice of telephone company.

Subd. 3. **Access to alternative provider.** A tenant of a building, property, complex, or other facility where private shared services are operating may establish a direct connection to and receive telephone service from a telephone company providing local exchange service in the area where the private shared services are operating. At the request of a tenant where a private shared system is operated, the property owner shall make its facilities or conduit space available to the tenant to allow the tenant to make separate connection to and to receive telephone service directly from the telephone company operating local exchange service in the area. The tenant has the choice of installing the tenant's own facilities or using the property owner's existing facilities. The property owner must provide its facilities or conduit space to the tenant at a reasonable rate and on reasonable terms and conditions. It is the obligation of the tenant to arrange for premises wire, cable, or other equipment necessary to connect the tenant's telephone equipment with the facilities of the telephone company operating local exchange service at the location of the demarcation point.

Subd. 4. **Enforcement.** If the commission finds that a property owner has failed to comply with a request under this section, the commission may order the property owner to make its facilities or conduit space available sufficient to allow the tenant to make separate connection with the telephone company, and provide the services at reasonable prices and on reasonable terms and conditions.

Subd. 5. **Exemption.** A commercial shared services provider is exempt from section 237.16 if the private shared services are only provided to tenants or for the provider's own use.

Subd. 6. **Service by local telephone company.** A telephone company providing local exchange service shall provide service to any person in a property served by a

commercial shared services provider at the demarcation point within a reasonable time upon request.

Subd. 7. **Obligation of property owners.** Nothing in this section requires a commercial shared services provider to share its wiring, cabling, or other facilities unless the commercial shared services provider is the property owner.

EFFECTIVE DATE. This section is effective the day following final enactment.

Sec. 4. Minnesota Statutes 2008, section 238.08, subdivision 1, is amended to read:

Subdivision 1. **Requirement; conditions.** (a) A municipality shall require a franchise or extension permit of any cable communications system providing service within the municipality.

(b) No municipality shall grant an additional franchise for cable service for an area included in an existing franchise on terms and conditions more favorable or less burdensome than those in the existing franchise pertaining to: (1) the area served; (2) public, educational, or governmental access requirements; or (3) franchise fees. The provisions of this paragraph shall not apply when the area in which the additional franchise is being sought is not actually being served by any existing cable communications system holding a franchise for the area. Nothing in this paragraph prevents a municipality from imposing additional terms and conditions on any additional franchises.

(c) An area for an additional cable franchise is not more favorable or less burdensome if the franchisee is a telephone company, as defined in section 237.01, subdivision 7, and the area of the franchise is no less than the area within the municipality in which the telephone company offers local exchange telephone service. This paragraph is in addition to and not a limit to the authority of a municipality to grant an additional franchise for cable service.

EFFECTIVE DATE. This section is effective August 1, 2010, and does not affect any litigation pending on that date.

Presented to the governor April 13, 2010

Signed by the governor April 15, 2010, 12:09 p.m.