

## CHAPTER 237

TELEPHONE, TELEGRAPH,  
TELECOMMUNICATIONS

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**237.066 STATE GOVERNMENT PRICING PLANS.**

*[For text of subd 1, see M.S.2004]*

**Subd. 2. Program participation.** A state government telecommunications pricing plan may be available to serve individually or collectively: state agencies; educational institutions, including public schools complying with section 120A.05, subdivision 9, 11, 13, or 17, and nonpublic schools complying with sections 120A.22, 120A.24, and 120A.41; private colleges; public corporations; and political subdivisions of the state. Plans shall be available to carry out the commissioner of administration's duties under sections 16E.17 and 16E.18 and shall also be available to those entities not using the commissioner for contracting for telecommunications services.

*[For text of subs 3 to 5, see M.S.2004]*

**History:** 2005 c 156 art 5 s 23

**237.11 INSPECTING RECORDS AND PROPERTY; REPORTS REQUIRED.**

Every telephone company subject to the provisions of this chapter, wherever organized, shall keep an office in this state, and make such reports to the department as it shall from time to time require. All books, records, and files, whether they relate to competitive or noncompetitive services, and all of its property shall be at all times subject to inspection by the commission and the department. It shall close its accounts and take therefrom a balance sheet on December 31 of each year, and on or before May 1 following, such balance sheet, together with such other information as the department shall require, verified by an officer of the telephone company, shall be filed with the commission and the department, except that a local exchange carrier or a competitive local exchange carrier, as defined in Minnesota Rules, chapter 7811, is only required to file an annual report that includes the company's name, contact person, annual revenue, and status of its 911 update plan.

In the event that any telephone company shall fail to file its annual report, as provided by this section, the department is authorized to make such an examination of the books, records, and vouchers of the company as is necessary to procure the necessary data for the annual report and cause the same to be prepared. The expense of procuring this data and preparing this report shall be paid by the telephone company failing to report, and the amount paid shall be credited by the commissioner of finance to funds appropriated for the expense of the department.

The department is authorized to force collection of such sum by an action at law in the name of the department.

**History:** 1Sp2005 c 1 art 4 s 54

**237.295 ASSESSMENT OF REGULATORY EXPENSES.**

**Subdivision 1. Filing fee for new authority.** An application for a new authority must be accompanied by a payment not to exceed \$2,000 as determined by the Public Utilities Commission. This fee will be reviewed annually and adjusted accordingly.

Subd. 2. **Assessment of costs.** The department and commission shall quarterly, at least 30 days before the start of each quarter, estimate the total of their expenditures in the performance of their duties relating to telephone companies, other than amounts chargeable to telephone companies under subdivision 1, 5, or 6. The remainder must be assessed by the department to the telephone companies operating in this state in proportion to their respective gross jurisdictional operating revenues during the last calendar year. The assessment must be paid into the state treasury within 30 days after the bill has been mailed to the telephone companies. The bill constitutes notice of the assessment and demand of payment. The total amount that may be assessed to the telephone companies under this subdivision may not exceed three-eighths of one percent of the total gross jurisdictional operating revenues during the calendar year. The assessment for the third quarter of each fiscal year must be adjusted to compensate for the amount by which actual expenditures by the commission and department for the preceding fiscal year were more or less than the estimated expenditures previously assessed. A telephone company with gross jurisdictional operating revenues of less than \$5,000 is exempt from assessments under this subdivision.

*[For text of subs 3 to 6, see M.S.2004]*

**History:** 1Sp2005 c 1 art 4 s 55,56

### COMBINED PER NUMBER FEE

#### 237.491 COMBINED PER NUMBER FEE.

Subdivision 1. **Definitions.** (a) The definitions in this subdivision apply to this section.

(b) "911 emergency and public safety communications program" means the program governed by chapter 403.

(c) "Minnesota telephone number" means a ten-digit telephone number being used to connect to the public switched telephone network and starting with area code 218, 320, 507, 612, 651, 763, or 952, or any subsequent area code assigned to this state.

(d) "Service provider" means a provider doing business in this state who provides real time, two-way voice service with a Minnesota telephone number.

(e) "Telecommunications access Minnesota program" means the program governed by sections 237.50 to 237.55.

(f) "Telephone assistance program" means the program governed by sections 237.69 to 237.711.

Subd. 2. **Per number fee.** (a) By January 15, 2006, the commissioner of commerce shall report to the legislature and to the senate Committee on Jobs, Energy and Community Development and the house Committee on Regulated Industries, recommendations for the amount of and method for assessing a fee that would apply to each service provider based upon the number of Minnesota telephone numbers in use by current customers of the service provider. The fee would be set at a level calculated to generate only the amount of revenue necessary to fund:

(1) the telephone assistance program and the telecommunications access Minnesota program at the levels established by the commission under sections 237.52, subdivision 2, and 237.70; and

(2) the 911 emergency and public safety communications program at the levels appropriated by law to the commissioner of public safety and the commissioner of finance for purposes of sections 403.11, 403.113, 403.27, 403.30, and 403.31 for each fiscal year.

(b) The recommendations must include any changes to Minnesota Statutes necessary to establish the procedures whereby each service provider, to the extent allowed under federal law, would collect and remit the fee proceeds to the commissioner of revenue. The commissioner of revenue would allocate the fee proceeds to the three funding areas in paragraph (a) and credit the allocations to the appropriate accounts.

(c) The recommendations must be designed to allow the combined per telephone number fee to be collected beginning July 1, 2006. The per access line fee used to collect revenues to support the TAP, TAM, and 911 programs remains in effect until the statutory changes necessary to implement the per telephone number fee have been enacted into law and taken effect.

(d) As part of the process of developing the recommendations and preparing the report to the legislature required under paragraph (a), the commissioner of commerce must, at a minimum, consult regularly with the Departments of Public Safety, Finance, and Administration, the Public Utilities Commission, service providers, the chairs and ranking minority members of the senate and house committees, subcommittees, and divisions having jurisdiction over telecommunications and public safety, and other affected parties.

**History:** 2005 c 136 art 10 s 1; 1Sp2005 c 1 art 4 s 57

### 237.52 TELECOMMUNICATIONS ACCESS MINNESOTA FUND.

*[For text of subd 1, see M.S.2004]*

**Subd. 2. Assessment.** (a) The commissioner of commerce, the commissioner of employment and economic development, and the commissioner of human services shall annually recommend to the commission an adequate and appropriate surcharge and budget to implement sections 237.50 to 237.56, 248.062, and 256C.30, respectively. The maximum annual budget for section 248.062 must not exceed \$100,000 and for section 256C.30 must not exceed \$300,000. The Public Utilities Commission shall review the budgets for reasonableness and may modify the budget to the extent it is unreasonable. The commission shall annually determine the funding mechanism to be used within 60 days of receipt of the recommendation of the departments and shall order the imposition of surcharges effective on the earliest practicable date. The commission shall establish a monthly charge no greater than 20 cents for each customer access line, including trunk equivalents as designated by the commission pursuant to section 403.11, subdivision 1.

(b) If the fund balance falls below a level capable of fully supporting all programs eligible under subdivision 5 and sections 248.062 and 256C.30, expenditures under sections 248.062 and 256C.30 shall be reduced on a pro rata basis and expenditures under sections 237.53 and 237.54 shall be fully funded. Expenditures under sections 248.062 and 256C.30 shall resume at fully-funded levels when the commissioner of commerce determines there is a sufficient fund balance to fully fund those expenditures.

*[For text of subd 3, see M.S.2004]*

**Subd. 4. Appropriation.** Money in the fund is appropriated to the commissioner of commerce to implement sections 237.51 to 237.56, to the commissioner of employment and economic development to implement section 248.062, and to the commissioner of human services to implement section 256C.30.

*[For text of subd 5, see M.S.2004]*

**History:** 2005 c 81 s 1,2

### 237.70 DEVELOPMENT OF TELEPHONE ASSISTANCE PLAN.

*[For text of subs 1 to 6, see M.S.2004]*

**Subd. 7. Application, notice, financial administration, complaint investigation.** The telephone assistance plan must be administered jointly by the commission, the Department of Commerce, and the local service providers in accordance with the following guidelines:

(a) The commission and the Department of Commerce shall develop an application form that must be completed by the subscriber for the purpose of certifying eligibility for telephone assistance plan credits to the local service provider. The

application must contain the applicant's Social Security number. Applicants who refuse to provide a Social Security number will be denied telephone assistance plan credits. The application form must also include a statement that the applicant household is currently eligible for one of the programs that confers eligibility for the federal Lifeline Program. The application must be signed by the applicant, certifying, under penalty of perjury, that the information provided by the applicant is true.

(b) Each local service provider shall annually mail a notice of the availability of the telephone assistance plan to each residential subscriber in a regular billing and shall mail the application form to customers when requested.

The notice must state the following:

**YOU MAY BE ELIGIBLE FOR ASSISTANCE IN PAYING YOUR TELEPHONE BILL IF YOU RECEIVE BENEFITS FROM CERTAIN LOW-INCOME ASSISTANCE PROGRAMS. FOR MORE INFORMATION OR AN APPLICATION FORM PLEASE CONTACT .....**

(c) An application may be made by the subscriber, the subscriber's spouse, or a person authorized by the subscriber to act on the subscriber's behalf. On completing the application certifying that the statutory criteria for eligibility are satisfied, the applicant must return the application to the subscriber's local service provider. On receiving a completed application from an applicant, the subscriber's local service provider shall provide telephone assistance plan credits against monthly charges in the earliest possible month following receipt of the application. The applicant must receive telephone assistance plan credits until the earliest possible month following the service provider's receipt of information that the applicant is ineligible.

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

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

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

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

(f) The Department of Commerce shall investigate complaints against local service providers with regard to the telephone assistance plan and shall report the results of its investigation to the commission.

**History:** 2005 c 136 art 10 s 2

### **237.701 TELEPHONE ASSISTANCE FUND; APPROPRIATION.**

Subdivision 1. **Fund created; authorized expenditures.** The telephone assistance fund is created as a separate account in the state treasury to consist of amounts received by the commissioner of public safety representing the surcharge authorized by section 237.70, subdivision 6, and amounts earned on the fund assets. Money in the fund may be used only for:

(1) reimbursement to local service providers for expenses and credits allowed in section 237.70, subdivision 7, paragraph (d), clause (5);

(2) reimbursement of the reasonable administrative expenses of the commission, a portion of which may be used for periodic promotional activities, including, but not limited to, radio or newspaper advertisements, to inform eligible households of the availability of the telephone assistance program; and

(3) reimbursement of the statewide indirect cost of the commission.

*[For text of subd 2, see M.S.2004]*

**History:** 1Sp2005 c 1 art 4 s 58

### **237.763 EXEMPTION FROM EARNINGS REGULATION AND INVESTIGATION.**

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

**History:** 2005 c 10 art 1 s 35

### **237.81 SCOPE.**

To the extent they regulate telecommunications right-of-way users, sections 237.04; 237.16, subdivision 1; 237.162; 237.163; and 237.74, subdivision 5, supersede section 222.37, and any ordinance, regulation, or rule to the contrary.

**History:** 2005 c 69 art 3 s 19

**NOTE:** The amendment to this section by Laws 2005, chapter 69, article 3, section 19, is effective August 1, 2006. Laws 2005, chapter 69, article 4, section 2.