

Minnesota Attorney General: Administrative Rules Proceedings

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August 20, 2018

STATE OF MINNESOTA
OFFICE OF HEARING EXAMINERS

FOR THE MINNESOTA PUBLIC SERVICE COMMISSION

IN THE MATTER OF THE PROPOSED AMENDMENT OF CERTAIN EXISTING RULES AND THE PROPOSED ADOPTION OF NEW RULES RELATING TO WEIGHTS AND MEASURES, ELECTRIC UTILITIES, GAS UTILITIES, TELEPHONE UTILITIES AND MOTOR VEHICLE TRANSPORTATION.

REPORT OF THE CHIEF HEARING EXAMINER

(Minn. Rules PSC 170-219 Telephone Utilities)

WHEREAS, a hearing was held on February 9, 1977, before Bernard Singer, a Hearing Examiner of the State Office of Hearing Examiners, on the above-entitled matter, in compliance with Minn. Stat. § 15.0412, Subd. 4; and

WHEREAS, the Report of Hearing Examiner made pursuant to Minn. Stat. § 15.052, Subd. 3, was issued to the Minnesota Public Service Commission on May 16, 1977; and

WHEREAS, the Minnesota Public Service Commission has now determined to adopt rules pursuant to Minn. Stat. § 15.0412, Subd. 4; and

WHEREAS, the Minnesota Public Service Commission submitted said rules to the Chief Hearing Examiner for review pursuant to Minn. Stat. § 15.052, Subd. 4, and Rule HE 107, on October 19, 1977; and

WHEREAS, the Chief Hearing Examiner, having reviewed the rules as proposed to be adopted, has found as follows:

1. Rule PSC 180A.1. As originally proposed, the rule would have required all bills to customers to be itemized. The bill as now proposed to be adopted deletes the requirement of itemization and replaces that requirement with the words "a clear listing". Such a change would not be substantial. However, the Commission proposes to add the following new language: "Customers shall be sent an itemized listing of all charges periodically, as determined by the Commission for each company." This language was not proposed prior to this time. Giving the Commission the discretion, without establishing criteria for such discretion in the rules, makes a major substantive change that was not raised by the original Notice of Hearing in such a way as to invite reaction at the hearing and results in a rule

fundamentally different from that contained in the Notice of Hearing and, as such, the sentence should be deleted.

2. Rule PSC 183A.5. This rule, although existing in a prior rule, was not proposed to be included in the new rule. The rule places an affirmative burden on the utilities. The utilities did not have an opportunity to react to this rule at the hearing and, therefore, this rule makes a major substantive change that was not raised by the original Notice of Hearing in such a way as to invite reaction at the hearing and thus should not be adopted.

3. Rule PSC 212G.1.b. While the Hearing Examiner recommended that this entire section on lobbying be deleted, the Commission seeks to adopt part of the rules which they have proposed. In the above-referenced section, the Commission proposes to add the following: "No person engaged in formal rate cases before a regulatory body is by reason of such engagement a lobbyist." This sentence was not proposed in the Notice of Hearing, and goes to a new subject matter of significant substantive effect, makes a major substantive change that was not raised by the original Notice of Hearing in such a way as to invite reaction at the hearing and results in a rule fundamentally different from that contained in the Notice of Hearing. In addition, the Chief Hearing Examiner finds that this proposed change would be directly contrary to Minn. Stat. § 10A.01, Subd. 2, which defines "Administrative Action" as follows: "'Administrative action' means an action by any official, board, commission, or agency of the executive branch to make rules. 'Administrative action' does not include the application or administration of those rules, except in cases of rate setting, power plant siting and others specified by the commission." Therefore, the additional language should not be adopted.

4. Rule PSC 212G.1.e. This is an entirely new section proposed to be adopted which was not proposed in the Notice of Hearing. While this definition of "public official" is identical to the definition contained in Minn. Stat. § 10A.01, Subd. 18, as it existed in Minnesota Statutes, 1976, the 1977 Legislature made changes to this definition which are not included in the Commission's proposed rule. Additionally, as this new proposal quotes statutory language, and as it is not crucial to the ability of a person affected by the rule to comprehend its meaning

and effect, the adoption of this newly-proposed language would be contrary to Minn. Stat. § 15.0412, Subd. 2, as amended by Laws of Minnesota, 1977, Chapter 443. The rule should not be adopted.

NOW, THEREFORE, upon receipt of this Report, the Minnesota Public Service Commission shall either withdraw the aforementioned sections of the rules or reconvene the rule hearing pursuant to Minn. Rule HE 108. The Commission has the responsibility of submitting the complete hearing record and the rules as proposed to be adopted to the Attorney General and to publish in the State Register, all pursuant to Minn. Stat. § 15.0412, Subd. 4.

Dated this 25th day
of October, 1977.

DUANE R. HARVES
Chief Hearing Examiner

383

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296-4692

PSC Rules 170-219

The above-captioned rules are returned herewith and have not been filed with the Secretary of State. Specifically, the following rules are not approved as to form and legality:

180A.1.: as the Chief Hearing Examiner found, this rule contains a substantial change. Moreover, the rule as adopted is impermissibly vague.

180B.2.1.: this rule repeats Minn. Stat. § 325.637(d) in violation of Minn. Stat. § 15.0412, subd. 1 (1977 Supp.).

MBM:mb

Enclosure

AMENDMENTS TO THE
MINNESOTA RULES AND REGULATIONS
RELATING TO THE PUBLIC SERVICE COMMISSION

CHAPTER SEVEN - PSC 170-219

TELEPHONE UTILITIES

Chapter Seven

PSC 170 - 178 Remain the same.

PSC 179 Business office procedures.

A. Information available to customer and public.

1. Business offices shall be staffed to provide customers and others with convenient access to qualified personnel, including supervisory personnel where warranted, to provide information relating to services and rates, accept and process applications for service, explain charges on customers' bills, adjust charges made in error and to generally act as representatives of the utility. If one business office serves several communities, toll-free calling from such communities to that office shall be provided.

2. Access to the following information shall be made available at the business office upon request:

a. Copies of all tariffs as described in these rules applicable to the area served by the business office;

b. Maps showing exchange, base rate area and zone boundaries (if applicable) in sufficient size and detail from which all customer locations can be determined and mileage or zone charges quoted;

c. Publicly announced information as to the present intended future availability of specific classes of service at an applicant's location;

d. Publicly announced information concerning plans for major service changes in the area served by the business office;

e. Information pertaining to services and rates as proposed in pending tariff or rate change filing.

B. Complaint procedures.

1. The utility shall establish such procedures whereby qualified personnel shall be available during regular business hours to receive and, if possible, resolve all customer inquiries, requests and complaints.

2. If any complaint cannot be promptly resolved, the utility shall contact the customer within five (5) business days and at least once every fourteen (14) calendar days thereafter, and advise the customer regarding the status of its investigation until:

a. the complaint is mutually resolved; or

b. the utility advises the customer of the results of its investigation and final disposition of the matter; or

c. the customer files a written complaint with the Public Service Commission or the courts.

3. When the Public Service Commission forwards a customer complaint to the utility, the utility shall notify the Commission within five (5) business days regarding the status or disposition of the complaint.

C. Record of complaint.

1. Each utility shall keep a record of all complaints received by it from its customers which shall be classified as directed by the Public Service Commission.

2. The record shall show the name and address of the customer, the date and nature of the complaint, and its disposition and date thereof.

3. The utility shall keep records of the customer complaints in such a manner as will enable it to review and analyze its procedures and actions.

D. Reporting requirement.

1. Each utility shall file an annual report on or before May 1 with the Utility Division of the Public Service Commission containing the following information:

a. The total number of resolved and unresolved complaints by class of service and type of complaint;

b. The total number of lines in each class of service and the total number of lines increased during the past year;

c. The names, addresses, and telephone numbers of personnel designated and authorized to receive and respond to the requests and directives of the Public Service Commission regarding customer inquiries, service requests and complaints. The utility shall keep this information current and if changes occur, the utility must inform the Commission immediately of these changes.

2. All information must be verifiable and available for inspection and investigation by Commission staff.

3. The utility must provide upon notice by the Commission, an up-to-date report of this type prior to any hearing before the Commission, or upon any official request of the Commission.

4. The Commission shall initially mail copies of the type of form to be used for this report to all utilities regulated hereunder.

5. Each utility shall initially file the prescribed Annual Report on or before May 1, 1979. This initial report will cover the utility's operations during the previous calendar year.

PSC 180 Customer billing; deposit and guarantee requirements.

A. Customer billing.

1. Bills to customers shall be typed or machine printed, rendered regularly, and shall contain an itemized listing of all charges and the period of time covered by the billing. Statements itemizing message toll charges shall be included in bills to customer.

2. In the event a customer's service is interrupted otherwise than by negligence or willful act of the customer and it remains out of order for 24 hours after being reported to the utility, adjustments shall be made to the customer, based upon the prorata part of the month's charge for the period of days and that portion of the service and facilities rendered useless or inoperative. The refund may be accomplished by a credit on a subsequent bill for telephone service. If in the case of such interruption, service is restored on or before the day after it is reported or found by the company, no allowance will be made.

3. Upon the request of any customer or applicant, the utility shall provide an explanation of the rates, charges and provisions applicable to the service furnished or available to such customer or applicant, and shall provide any information and assistance necessary to enable him to obtain the most economical communications service conforming to his stated needs. Applicants for telephone service shall be advised as to alternate services available to meet their stated communications requirements. This information may include printed explanations of alternate services and rates. Correspondingly, the utility shall notify its customers of any services and shall provide an estimate of the initial

billing for basic monthly service (including fractional monthly amounts) plus any other applicable charges.

B. Deposit and guarantee requirements.

1. The utility may require a deposit or guarantee of payment from any customer or applicant who has not established good credit with that utility. Deposit or guarantee of payment requirements as prescribed by the utility must be based upon standards which bear a reasonable relationship to the assurance of payment. The utility may determine whether a customer has established good credit with that utility, except as herein restricted:

a. A customer, who within the last twelve (12) months has not had his service disconnected for non-payment of a bill and has not been liable for disconnection of service for non-payment of a bill, and the bill is not in dispute, shall be deemed to have established good credit.

b. A utility shall not require a deposit or a guarantee of payment based upon income, home ownership, residential location, employment tenure, nature of occupation, race, color, creed, sex, marital status, age, national origin, or any other criteria which does not bear a reasonable relationship to the assurance of payment or which is not authorized by these rules.

c. No utility shall use any credit reports other than those reflecting the purchase of utility services to determine the adequacy of a customer's credit history without the permission in writing of the customer. Any credit history so used shall be mailed to the customer in order to provide the customer an opportunity to review the data. Refusal of a customer to permit use of a credit rating or credit service other than that of a utility shall not affect the determination by the utility as to that customer's credit history.

2. Deposit. When required, a customer may assure payment by submitting a deposit.

a. A deposit shall not exceed an estimated two-months' gross bill or existing two-months' bill where applicable.

b. All deposits shall be in addition to payment of an outstanding bill or a part of such bill as has been resolved to the satisfaction of the utility, except where such bill has been discharged in bankruptcy.

c. Interest shall be paid on deposits in excess of $20 at the rate of six (6%) per cent per year. Interest on deposits shall be payable from the date of deposit to the date of refund or disconnection. The utility may, at its option, pay the interest at intervals it chooses but at least annually, by direct payment, or as a credit on bills.

d. The deposit shall be refunded to the customer after twelve (12) consecutive months of prompt payment of all bills to that utility. The utility may, at its option, refund the deposit by direct payment or as a credit on the bill.

e. With notice any deposit of a customer shall be applied by the utility to a bill when the bill has been determined by the utility to be delinquent.

f. Upon termination of service, the deposit with accrued interest shall be credited to the final bill and the balance shall be returned within forty-five (45) days to the customer.

g. A utility shall not require a deposit or a guarantee of payment without explaining in writing why that deposit or guarantee is being required and under what conditions, if any, the deposit will be diminished upon return.

h. Each utility shall issue a written receipt of deposit to each customer from whom a deposit is received and shall provide a means whereby a depositor may establish a claim if the receipt is unavailable.

3. Guarantee of payment.

a. The utility may accept, in lieu of a deposit, a contract signed by a guarantor satisfactory to the utility whereby payment of a specified sum not exceeding the deposit requirement is guaranteed. The term of such contract shall be for no longer than twelve (12) months, but shall automatically terminate after the customer has closed and paid the account with the utility, or at the guarantor's request upon sixty (60) days' written notice to the utility.

b. Upon termination of a guarantee contract or whenever the utility deems same insufficient as to amount or surety, a cash deposit or a new or additional guarantee may be required for good cause upon reasonable written notice to the customer. The service of any customer who fails to comply with these requirements may be disconnected upon notice as prescribed in PSC 182.

c. The utility shall mail the guarantor copies of all disconnect notices sent to the customer whose account he has guaranteed unless the guarantor waives such notice in writing.

PSC 181 Disconnection of service.

A. Disconnection of service with notice-permissible reasons. With notice a utility may disconnect service to any customer for any reason stated below. Notice must comply with the requirements of PSC 182:

1. For failure of the customer to pay a bill for utility service when due.

2. For failure of the customer to meet the utility's deposit and credit requirements.

3. For failure of the customer to make proper application for service.

4. For customer's violation of any of the utility's rules on file with the Commission.

5. For failure of the customer to provide the utility reasonable access to its equipment and property.

6. For customer's breach of the contract for service between the utility and the customer.

7. For a failure of the customer to furnish such service, equipment and/or rights of way necessary to serve said customer as shall have been specified by the utility as a condition of obtaining service.

8. When necessary for the utility to comply with any order or request of any governmental authority having jurisdiction.

B. Disconnection of service without notice-permissible reasons. Without notice a utility may disconnect service to any customer for any reason stated below:

1. In the event of tampering with the utility's equipment.

2. In the event of a condition determined to be hazardous to the customer, to other customers of the utility, to the utility's equipment, the public, or to employees of the utility.

3. In the event of a customer's use of equipment in such a manner as to adversely affect the utility's equipment or the utility's service to others.

C. Non-permissible reasons to disconnect service. A utility may not disconnect service to any customer for any reason stated below:

1. Delinquency in payment for services rendered to a previous customer who occupied the premises unless said customer continues to occupy the premises.

2. Failure to pay for equipment or service not approved by the Commission as an integral part of the utility service.

3. Failure to pay for business service at a different location and a different telephone number shall not constitute sufficient cause for disconnection of residence service or vice versa.

4. Failure to pay for a bill to correct a previous underbilling due to an inaccurate meter or billing error if the customer agrees to payment over a reasonable period of time.

D. Manner of Disconnection. Service shall not be disconnected on any Friday, Saturday, Sunday or legal holiday, or at anytime when the utility's business offices are not open to the public, except where an emergency exists.

E. Reconnection of service. In the event service has been disconnected for valid cause by the utility, the utility may charge a reconnect fee based on the cost of reconnection as stated in the utility's tariff on file with

the Commission. Notwithstanding the above provision, the utility shall not charge a reconnect fee for disconnection of service pursuant to PSC 181 B. 2, except if the hazard is caused by customer provided equipment.

PSC 182 Notice: other time requirements.

A. Where required by these rules, notice of impending action by the utility shall be by first class mail. Notice shall be sent to the address where service is rendered or to the address where the bill is sent if different from the address where service is rendered.

B. All notices required by these rules must precede the action to be taken by at least five (5) days excluding Sundays and legal holidays. No notice may be given until the condition of which it informs, presently exists.

C. In lieu of mailing, notices may be delivered by a representative of the utility. Such notices must be in writing and receipt of them must be signed by the customer, if present, or some other member of the customer's family of responsible age, or the utility representative must make an affidavit under oath that he delivered the notice to the customer, his residence or his business.

D. A record of all notices and all affidavits required by these rules must be kept on file by the utility and must be made available to the Commission.

E. Disconnection notices shall contain the date on or after which disconnection will occur, reason for disconnection, and methods of avoiding disconnection in normal easy to understand language.

PSC 183 Disputes.

A. Whenever the customer advises the utility's designated representative prior to the disconnection of service that any part of the bill as rendered or any part of the service which affects the amount of the bill is in dispute, the utility shall:

1. Investigate the dispute promptly.

2. Advise customer of investigation and its result.

3. Attempt to resolve dispute.

4. Withhold disconnection of service until the investigation is completed and the customer is informed of the findings of fact.

5. Upon the findings of the utility, the customer must submit payment in full of any bill which is due.

6. If the dispute is not resolved to the satisfaction of the customer, he or she must submit the entire payment and may designate the disputed portion to be placed in escrow with the utility. Such payment shall be called an "escrow payment."

B. Escrow payments:

1. To submit a payment in escrow, the customer must make payment of the amount due as shown on the bill through an "escrow payment form" clearly marked and provided by the utility.

2. The "escrow payment form" must provide space for the customer to explain why the utility's resolution of the dispute is unsatisfactory to the customer. The form must be in three (3) copies, one of which will be retained by the customer.

PSC Appd 10/17/77
PSC Amended 11/7/77

3. A copy of the "escrow payment form" must be forwarded by the customer to the Public Service Commission.

4. Any escrow payment to the utility may be applied by the utility as any normal payment received by the utility.

5. After escrow payment has been made, the customer and the utility may still resolve the dispute to their mutual satisfaction.

6. By submitting the "escrow payment form" to the Commission, the customer shall be deemed to have filed an informal complaint against the utility, pursuant to the Commission's Rules of Practice PSC 500-521.

7. Upon settlement of the dispute, any sums found to be entitled to be refunded to the customer shall be supplemented by a six (6%) per cent per annum interest charge from the date of payment to the date of return by the utility.

C. A customer may apply to the utility to waive its rights to disconnect. If the utility refuses to waive its right to disconnect, the customer may apply to the Commission for emergency status. If the Commission determines a customer has a probable hardship which may result in the disconnection of service for non-payment, it may declare an emergency status to exist and order the utility to continue service for a period not to exceed thirty (30) days.

D. Notwithstanding anything herein to the contrary, the utility shall not be obligated to suspend discontinuance of service upon the filing for review with the Commission, unless the customer shall pay, when due, all current bills rendered during the pendency. If, following the first filing for review with the Commission, the same customer or any other person, files

for any subsequent review by the Commission pertaining to the same account, such subsequent filings shall not relieve the customer from the obligations to pay for service rendered after the first filing. If subsequent requests for review are filed during the pendency of the first review, all designated disputed payments or portions thereof made after the first filing shall be considered to be made into escrow.

PSC 184 - 211 Remain the same.

PSC 212 Telephone accounting rules. For purposes of accounting regulations the Commission has grouped all telephone companies into the following classes:

A. Classification.

1. Class A. Companies having average annual gross operating revenues of $250,000 or more.

2. Class B. Companies having average gross operating revenues of $100,000 but not more than $250,000.

3. Class C. Companies having average annual gross operating revenues exceeding $50,000 but not more than $100,000.

4. Class D. Compànies having average gross operating revenues not exceeding $50,000.

B. The class to which a telephone company belongs shall be determined by the average of its annual gross operating revenues for the three preceding years. If, at the end of any calendar year, this average is greater than the maximum or less than the minimum for the class in which the company has been grouped, it shall be automatically grouped in the higher or lower class in which it falls. A telephone company beginning a new operation or extending its existing operations shall be classified in accordance with a reasonable estimate of its prospective annual gross operating revenues.

C. A telephone company may, at its option, place itself in any group higher than the one in which it falls on the basis of its average annual gross operating revenues. Notice of such action shall be promptly filed with the Commission. A telephone company presently reporting as a Class B company but having annual gross operating revenues of less than $100,000 may continue reporting as a Class B company.

D. A telephone company shall maintain its records and accounts in accordance with the applicable uniform system of accounts, and shall file its annual report for the previous calendar year on or before May 1 of each year on the report forms furnished by the Commission. Applicable schedules of such report forms shall be completed in full.

E. Class A and Class B telephone companies shall maintain their accounts in accordance with the uniform systems of accounts for Class A and Class B telephone companies prescribed by the Federal Communications Commission. Class C telephone companies shall maintain their accounts in accordance with the uniform system of accounts for telephone companies prescribed by this Commission. Class D telephone companies shall maintain such records as will enable them to complete the annual report form prescribed and furnished by the Commission.

F. All telephone companies requesting a rate adjustment shall present exhibits including a detailed income statement and balance sheet for the latest calendar year as shown in regularly filed annual reports. Exhibits should also include the latest available data. An income statement for any period other than a calendar year must be for a full twelve-month period.

1. All telephone companies subject to reporting requirements of the Commission shall file with each annual report a copy of annual stockholders report if such a report is printed. Should a company furnish quarterly reports to stockholders a copy of each such report shall also be filed with the Commission.

2. All telephone companies who furnish quarterly reports to a federal regulatory commission shall regularly file a copy of such reports with the Commission.

G. Lobbying expenditures.

1. For the purpose of rule 212 G., the following definitions shall apply:

a. "Lobbying expenditure" means a purchase, payment, distribution, loan, advance, deposit or gift of money or anything of value made for the purpose of influencing legislation or administrative action or supporting the election of any candidate to office. Lobbying expenditures also include the pro rata portion of salaries of lobbyists which represents the portion of their duties related to lobbying.

b. "Lobbyist" means any individual or association engaged for pay or other consideration or authorized by a telephone utility to spend money who, during a calendar year, spends more than five hours in any month or more than $250, not including travel expenses and membership dues, in any year, for the purpose of attempting to influence legislative or administrative action by communicating or urging others to communicate with public officials. No person engaged in formal rate cases before a regulatory body is by reason of such engagement a lobbyist.

c. "Utility non-operating expense" means expenditures associated with activities other than those resulting from the regular activity of supplying service to the consumer.

d. "Utility operating expense" means expenditures associated with the direct or regular activity of supplying service to the consumer.

e. "Public official" means any:

(1) Member of the legislature;

(2) Person holding constitutional office in the executive branch and his chief administrative deputy;

(3) Member of a state board or commission which has rulemaking authority, as "rule" is defined by Minn. Stat. § 15.0411, subd. 3;

(4) Person employed by the legislature as secretary of the senate, legislative auditor, chief clerk of the house, revisor of statutes, or researcher or attorney in the office of legislative research;

(5) Person employed by the executive branch in any positions specified in Minn. Stat. § 15A.081; and

(6) Member of the metropolitan council, metropolitan transit commission, metropolitan sewer board, or metropolitan airports commission.

2. General Application.

a. Rule 212 G. applies to each telephone utility regulated under Minn. Stat. Ch. 237.

b. Each telephone utility shall maintain accounts and records relating to lobbying expenditures and make them available for inspection by the Commission upon request.

3. Accounting treatment, lobbying expenditures.

a. Each telephone utility shall cause sub-accounts to be established for the sole purpose of recording lobbying expenditures.

(1) lobbying expenditures for utility operating expense shall be charged to a sub-account of Other Expenses.

(2) Lobbying expenditures for utility non-operating expense shall be charged to a sub-account of Miscellaneous Deductions from Income.

b. The above accounts shall be effective the first day of January of the year following the year in which this regulation becomes effective for any lobbying expenditures subsequent to that date.

PSC 213-14 Remain the same.

DEPRECIATION CERTIFICATION FOR TELEPHONE REGULATION

Chapter Seven

PSC 215 Definitions: Depreciation certification.

A. "Accumulated provision for depreciation" or "Depreciation reserve" means the total charges for retirements, net salvage, and the annual provision for depreciation accrual(s) recorded by the utility under an approved method of depreciation accounting.

B. "Annual provision for depreciation accrual" means the annual amount of depreciation charged to expenses and/or clearing accounts.

C. "Amortization" means the gradual extinguishment of an amount in an account by distributing such amount over a fixed period, over the probable service life of an asset or liability to which it applies, or over a period during which it is anticipated the benefit will be realized.

D. "Cost of removal" means the cost of demolishing, dismantling, removing, tearing down or abandoning of physical assets, including the cost of transportation and handling incidental thereto.

E. "Depreciation," as applied to depreciable utility plant, means the loss in service value not restored by current maintenance, incurred in connection with the consumption of prospective retirement of utility plant in the course of service from causes which are known to be in current operation and against which the utility is not protected by insurance. Among the causes to be given consideration are wear and tear, decay, action of the elements, inadequacy, obsolescence, changes in the art, changes in demand and requirements of public authorities. (For purposes of these rules, references to depreciation will include amortization unless otherwise stated.)

F. "Depreciation accounting" means a system of accounting which aims to distribute cost or other basic value of tangible capital assets, less salvage (if any), over the estimated useful life of the unit (which may be a group of assets)in a systematic and rational manner. It is a process of allocation, not of valuation.

G. "Group plan." Under this plan, depreciation charges are accrued on the original cost of all property included in each depreciable plant account using a composite rate based on average service life of the components properly weighed. Upon retirement of any depreciable property, its full service value is charged to the depreciation reserve whether or not the particular item has attained the average service life.

H. "Net salvage" means salvage of property retired less the cost of removal.

I. "Original cost" means the cost of property to the person first devoting it to public service.

J. "Probable service life" of a unit means that period of time extending from the date of its installation to the forecasted date when it will probably be retired form service.

K. "Public utility" means any telephone utility as defined in Chapter 7, PSC 172 (36) operating within the State of Minnesota and under the jurisdiction of the Commission.

L. "Salvage" means the amount received for assets retired, less any expenses incurred in connection with the sale or in preparing the assets for sale; or if retained, the amount at which the materials recoverable is chargeable to materials and supplies, or other appropriate accounts.

M. "Straight-line method" means the plan under which the original cost of an asset adjusted for net salvage is charged to operating expenses and/or to clearing accounts and credited to the accumulated provision for depreciation through equal annual charges over its probable service life.

N. "Service value" means the difference between original cost and net salvage value of utility plant.

PSC 216 General provisions: depreciation certification.

A. All telephone utilities shall maintain, and have available for inspection by the Commission upon request, adequate accounts and records related to depreciation practices as defined herein.

B. Each utility has the prime responsibility for proposing the depreciation rates and methods that will be used. The Commission shall certify by order to the utility the depreciation rates and methods which it considers reasonable and proper.

C. Any allocation or adjustment of the depreciation reserve will require specific justification and certification by the Commission.

D. Class A and B utilities, as defined in Minn. Reg. PSC 212 A. shall maintain continuing property records.

E. Class A and B utilities, as defined in PSC 212 A., shall maintain accounts covering the classes of depreciable telephone plant in accordance with the uniform system of accounts for Class A and B telephone utilities as prescribed by the Federal Communications Commission.

F. Class C utilities, as defined in PSC 212 A., shall maintain accounts covering the classes of depreciable telephone plant in accordance with the uniform system of accounts for Class C telephone utilities as prescribed by the Federal Communications Commission.

G. Class D utilities, as defined in PSC 212 A., shall maintain accounts covering the classes of depreciable telephone plant in accordance with the uniform system of accounts for Class D telephone utilities as recommended by the Federal Communications Commission.

H. All telephone utilities shall retain data in sufficient detail to conduct depreciation certification studies for the purpose of determining depreciation accruals and reserves by depreciable telephone plant account. Depreciable plant accounts, are those specified by the Federal Communications Commission for the class to which a telephone company belongs.

I. All telephone utilities shall review their depreciation rates annually to determine if they are still generally appropriate. Depreciation certification studies shall be made so that all depreciable plant accounts shall have been analyzed at least every five (5) years. Depreciable plant accounts are those specified by the Federal Communications Commission's Uniform system of accounts for the class to which a telephone company belongs.

J. Any utility may at its option follow the depreciation rules prescribed herein for a larger class of utilities.

K. A petition for depreciation certification may be submitted by the utility or requested by the Commission because of unusual circumstances.

PSC 217 Filing requirements: depreciation certification studies.

A. Initially upon Commission notification, and at least every five (5) years thereafter, each public utility (Class A, B, C and D) shall file a petition for depreciation certification and the following depreciation schedules (for each year since the last certification) in the form prescribed by the Commission.

1. Plant in service (by each appropriate depreciable plant account applicable to its Class):

a. Beginning and ending plant balances.

b. Additions and retirements.

c. Adjustments and transfers.

2. Analysis of depreciation reserve (based on depreciation studies by each appropriate depreciable plant account applicable to its Class):

a. Beginning and ending reserve balances.

b. Depreciation accruals and plant retirements.

c. Cost of removal and gross salvage value.

d. Transfers, adjustments and other debits (credits).

3. Summary of annual depreciation accruals (based on depreciation studies by each appropriate depreciable plant account applicable to its Class):

a. Plant balance.

b. Estimated net salvage.

c. Depreciation reserve.

d. Probable service life.

e. Depreciation accrual and rate.

B. In addition, all utilities shall provide with the petition for depreciation certification:

1. A list of accounts upon which the utility has made studies of the estimates of service life and salvage, the dollar effects and the results of these studies, and the utility-recommended depreciation rates for the accounts.

2. A list of any major future additions or retirmeents to the plant accounts which the utility believes may have a material effect on the current certification results.

C. All utilities shall furnish any additional documentation necessary to support findings of the study.

PSC 218 Prescribed methods: depreciation certification studies.

A. The Commission prescribes the straight-line method for calculating depreciation accruals.

B. Any exceptions to these methods will require specific justification and and certification by the Commission.

C. No specific methods are prescribed by the Commission in estimating service lives and salvage values. The methods selected by each utility will be reviewed for appropriateness by the department staff as part of the utility's certification filing.

PSC 219 Petition for certification procedure.

A. Utilities shall petition the Commission for certification of depreciation rates and methods as prescribed by the Commission's rules of practice for petitions.

B. Prior to the initial certification of a utility's depreciation rates and methods, the depreciation rates and methods effective as of January 1, 1977 are to be used.

C. Depreciation rates and methods, once certified by order, are binding on all future rate proceedings and will remain in effect until the next certification

or until the Commission shall determine otherwise.

D. If a utility is unable to comply by January 1, 1978 with any of the provisions of PSC 215-219, the utility shall petition the Commission within three (3) months of the effective date of these rules for a temporary exception. The petition shall include the justification for non-compliance, the duration of the desired exception, and the plan for compliance.

APPROVED AS TO FORM AND LEGALITY

MAR 20 1978 19___

WARREN SPANNAUS, ATTORNEY GENERAL

BY /s/ Michael B. Miller

SPECIAL ASSISTANT ATTORNEY GENERAL

12:30 P.M.

STATE OF MINNESOTA
DEPARTMENT OF STATE
FILED
MAR 20 1978
Joan Anderson Growe
Secretary of State

STATE OF MINNESOTA
OFFICE OF HEARING EXAMINERS

FOR THE MINNESOTA PUBLIC SERVICE COMMISSION

IN THE MATTER OF THE PROPOSED)
ADOPTION OF NEW RULES RELATING)
TO ELECTRIC AND GAS UTILITIES)
(LOBBYING RULES))

REPORT OF THE
CHIEF HEARING EXAMINER

WHEREAS, a hearing was held on February 8, 1977, before Bernard Singer, a Hearing Examiner of the State Office of Hearing Examiners, on the above-entitled matter, in compliance with Minn. Stat. § 15.0412, Subd. 4; and

WHEREAS, the Report of Hearing Examiner made pursuant to Minn. Stat. § 15.052, Subd. 3, was issued to the Minnesota Public Service Commission on May 16, 1977; and

WHEREAS, the Minnesota Public Service Commission has now determined to adopt rules pursuant to Minn. Stat. § 15.0412, Subd. 4; and

WHEREAS, the Minnesota Public Service Commission submitted said rules to the Chief Hearing Examiner for review pursuant to Minn. Stat. § 15.052, Subd. 4, and Rule HE 107, on February 3, 1978; and

WHEREAS, the Chief Hearing Examiner, having reviewed the rules as proposed to be adopted, has found as follows:

1. Rule PSC 420 B. The Public Service Commission seeks to adopt the definition of "lobbying expenditure" identical to the rule as originally proposed with one exception. The last sentence in the rule: "Lobbying expenditures do not include any expense properly allowable under FPC Account 928, Regulatory commission expenses", is new language. In reviewing the Report and Order of the Commission submitted to the Chief Hearing Examiner, it is found that the Order fails to make an Findings or Conclusions with respect to this newly added language. As there are no Findings on this additional language, and as the Chief Hearing Examiner is without specific knowledge of what FPC Account 928 is, the Chief Hearing Examiner is unable to determine whether or not the addition of this language would be a substantial change under the criteria in Minn. Rule HE 108.

2. Rule PSC 420 C. The Commission seeks to adopt the rule as originally proposed with one exception. The Commission proposes to add the following: "Lobbyist does not include any person engaged in formal rate cases before a regulatory body." This sentence was not proposed in the Notice of Hearing and goes to a new subject matter of significant substantive effect, makes a major substantive change that was not raised by the original Notice of Hearing in such a way as to invite reaction at the hearing and results in a rule fundamentally different from that contained in the Notice of Hearing. Therefore, that sentence in the rule should either be withdrawn, or the Commission should not adopt the rule. The Commission should proceed to a new Notice of Hearing and hearing for purposes of receiving comment on this proposed amendment to the rule.

NOW, THEREFORE, upon receipt of this Report, the Minnesota Public Service Commission shall either withdraw the aforementioned sentences of the rules, reconvene the rule hearing pursuant to Minn. Rule HE 108, or resubmit Findings with respect to PSC 420 B (the added sentence). The Commission has the responsibility of submitting the complete hearing record and the rules as proposed to be adopted to the Attorney General and to publish in the State Register, all pursuant to Minn. Stat. § 15.0412, Subd. 4.

Dated this 6th day
of February, 1978.

DUANE R. HARVES
Chief Hearing Examiner

STATE OF MINNESOTA

COUNTY OF RAMSEY

MINNESOTA PUBLIC

SERVICE COMMISSION

In the Matter of the Proposed Amendment of Certain Existing Rules and the Proposed Adoption of New Rules Relating to Weights and Measures, Electric Utilities, and Motor Vehicle Transportation.

DOCKET NO. A-8117-16

BRIEF OF NORTHERN STATES POWER COMPANY
ON PROPOSED MINNESOTA RULES AND REGULATIONS
RELATIVE TO LOBBYING EXPENDITURES
FOR GAS AND ELECTRIC REGULATION
CHAPTER 11, PSC 420 - 423

Northern States Power Company (hereinafter called "NSP" or the "Company") opposes the adoption of the proposed rules relative to lobbying expenditures for four reasons. (1) First, neither the Common Cause Report on the Accountability (or lack thereof) of State Public Utility Commissions nor the record in this case no support the need for the proposed rules expressed by the PSC. Second, the proposed rules (2) duplicate the requirements of the Minnesota Ethics in Government Statute. Third, the proposed rules are not sufficiently clear (3) to enable a utility to comply with them. Fourth, the proposed rules (4) conflict with the Uniform System of Accounts. The following discussion is submitted in support of the Company's opposition to the proposed rules.

A. Neither the Common Cause Report nor the record in this case support the need for the proposed rules expressed by the PSC.

In the Statement of Need accompanying proposed PSC Rules 420 - 423, the Minnesota Public Service Commission (hereinafter called "PSC") states that the proposed rules were being "promulgated in order to meet the need for accountability of lobbying expenditures incurred by public utilities," and to enable the Commission "to determine the reasonableness and the propriety of the expense in relation to the revenue requirements of a public utility." This need is apparently based upon the finding of the Common Cause Report that the PSC, along with 30 other public utility commissions, had failed the Common Cause Accountability Test. The PSC did not offer any other facts or documents to support this need either in the Statement of Need or at the hearing on February 8, 1977.

At the outset, it is critically important to understand the difference between the meaning which the Common Cause Report attributes to the term "lobbying" and the meaning which the proposed rules give to that term.

In referring to "lobbying expenditures," the Common Cause Report used the term "lobbying" in the most commonly understood sense; that is, the attempt to exercise influence by personal, informal communications and constant access. Indeed, all of the "lobbying" examples (i.e., duck hunting and fishing trips) which

the Common Cause Report discussed involved informal contacts and extravagant attempts to purchase the goodwill of state public utility commissions or state executives who appoint commissioners. A statement made by the Indiana Public Interest Research Group and cited by the Common Cause Report clearly reflects the meaning which Common Cause attributes to "lobbying":

> "What can develop from such informal contacts is a 'community of interests' and an increasing sympathy for the plight of the utilities. In such informal settings, the PSCI [Public Service Commission of Indiana] personnel are continually exposed to the plight of the utilities."

It is clear from this quotation that the Common Cause Report does not consider formal communications with a public utility commission to be "lobbying." This meaning contrasts sharply with the meaning of "lobbying" in the proposed rules. The PSC has included all forms of communications and contacts, formal as well as informal, within the term "lobbying." This conclusion is supported by a statement made by Mr. Deppe at the hearing when, in response to the statement, "What you are saying then is that they [the proposed rules] don't apply to rate cases but they apply to every other administrative action whether it is an informal or a formal communication," he said:

> "Well, I guess I have to say yes to that." [Transcript at page 173]

The fact that the Statement of Need and the proposed rules have not used the term "lobbying" in the same sense as it is used in the Common Cause Report is significant because the term "lobbying" modifies the word "expenditure" and, therefore, plays a very meaningful part in the scheme of the proposed rules. The Common Cause Report considered a "lobbying" expenditure to be money spent in the course of "informal" communications and contacts -- the classic behind-the-scenes form of spending money to influence public utility commission officials in order to obtain favorable decisions. This is the meaning which should have been given to "lobbying" in the proposed rules if those rules were to reflect the meaning of the term as it was used in the Common Cause Report.

NSP maintains that the PSC has misunderstood the Common Cause Report's criticism of the PSC and that this misunderstanding is reflected in the proposed rules.

The Common Cause Report did not criticize the PSC for its failure to require a public utility to report and keep account of <u>all</u> expenditures made in the course of <u>all</u> agency proceedings in which it becomes involved. On the contrary, in its Summary, the Report states that the accountability test was designed in order to judge.

"... whether the decision-making processes of state PUC's are open and accessible to the citizens and whether adequate precautions are taken to guard against conflicts of interest and lobbying pressures, ..." [Emphasis added]

The point is reaffirmed by the language of question No. 17 in the Accountability Test. Question No. 17 reads as follows:

"(17) Are people who attempt to influence the Commission required to report their lobbying expenditures?"

One can clearly percieve from this question that the focus of the Report's concern was specifically upon those expenditures made by a public utility in the course of an informal contact to influence a public utility commission. The Common Cause Report did not concern itself with public utility expenditures made during the course of a proceeding before any other governmental body.

In addition to the fact that the Common Cause Report did not focus upon attempts by public utilities to win favorable treatment from other administrative agencies, there was no testimony adduced at the hearing which would support a finding that circumstances now exist which require the PSC to be concerned about public utilities making expenditures to obtain favorable treatment from the members or staffs of all of the administrative agencies which regulate public utilities.

Because there is no evidence in the record to substantiate the PSC's implied allegation that public utilities are, in fact, spending money improperly in order to obtain favorable treatment from the members of administrative agencies which regulate public utilities, NSP maintains that the Common Cause Report and the testimony in the record in support of the proposed rules do not support the broad need expressed by the PSC Statement of Need. At best, the Report and the record only establish a need to control and disclose expenditures mady by Minnesota public utilities in the course of informally communicating with or contacting members or staff of the PSC.

B. The proposed rules duplicate the requirements of the Ethics in Government Statute.

Without engaging in a detailed discussion of all of the relevant provisions of the Minnesota Ethics in Government Statute (M.S.A. Section 10A.01, et seq.), it is a fact that the proposed rules do essentially duplicate the requirements of the Minnesota Ethics in Government Law. Under the statute, any individual who is engaged for pay or other consideration by a public utility or is authorized by a public utility to spend money and who spends more than five hours in any month or more than $250 in any year attempting to influence legislation or administrative agencies in rulemaking, rate setting or power plant siting cases, must register with the State Ethical Practices Board and report the

same kinds of expenditures which are enumerated in proposed PSC 420 B.

There are two minor differences between the statutory requirements and the requirements of the proposed rules. First, under the proposed rules as amended at the hearing by Mr. Deppe, a public utility is required to record "lobbying expenditures" for all proceedings in which its representatives participate except rate cases. Under the statute, the public utility's representatives are only required to report lobbying expenditures related to rule-making proceedings, rate cases and power plant siting. Thus to the extent that the proposed rules apply to rulemaking and plant siting cases, they do, in fact, duplicate the requirements of the Ethics in Government Statute. To the extent that the proposed rules apply to all other administrative proceedings in addition to rulemaking and plant siting cases, they exceed the requirements of the Ethics in Government Statute. The fact is, however, that the majority of the proceedings in which public utilities become involved are rulemaking proceedings. Accordingly, the proposed rules do, in essence, duplicate the requirements of the statute.

The second difference between the proposed rules and the statute is their treatment of the salaries of public utility representatives who attempt to influence legislative or administrative

action. The statute does not currently require the reporting of salaries of such representatives, whereas the proposed rules would require the recording of salaries, at least that portion of a salary which reflects time spent attempting to influence legislative or administrative action. NSP notes, however, that a bill has been introduced in the current session of the Minnesota Legislature to amend the statute to require the reporting of a salary paid to a public utility representative for his lobbying activities.

C. The proposed rules are not sufficiently clear to enable a public utility to comply with them.

In order for a public utility to comply with the proposed rules, it must be able to understand their meaning. However, the proposed rules are not sufficiently clear to enable a public utility to comply with them. Numerous examples of questions which arise as to the meaning of the proposed rules, even as amended, can be cited. NSP will cite only a few:

1. What is meant by the term "administrative action" as it appears in the definition of the term "lobbyist." Does "administrative action" include all types of state administrative decision-making proceedings or only certain, specific proceedings (as in the Ethics in Government Statute)?*

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* For the purposes of this statement NSP has assumed that "administrative action" includes all types of administrative proceedings -- as indicated by Mr. Deppe's testimony at the hearing.

2. What activity on the part of a public utility representative must be included in determining whether he has met the "five hours" requirement in the definition of "lobbyist"? Does time spent writing testimony count towards the five hours or is it only time spent in direct communication?

3. If a public utility representative spends four hours in each of three months attempting to influence administrative action and then spends ten hours in the fourth month (thus becoming a "lobbyist" within the rules' definition) must he go back and ascertain his "lobbying expenditures" in the first three months so that the utility can record them?

4. In proposed PSC 420 B what is meant by the term "lobbying expenses"? Does it include the personal expenses of the lobbyist incurred while attempting to influence legislative or administrative action which are reimbursed by the public utility or does it refer back to the items enumerated in the definition of "Lobbying Expenditure"?

These are only a few of the many questions which arise with respect to the meaning of the proposed rules. NSP submits that if the rules are adopted as proposed, the PSC will be forced into an administrative quagmire. The history and experience of the administration of the Ethics in Government Statute provide substantial evidence to support this point. The Ethical Practices Board which administers that statute has spent two years promulgating

rules and issuing advisory opinions to interpret and clarify language which is virtually identical to that used in the definition section of the proposed rules. Is the PSC aware that it will be forced to provide the same kinds of interpretation and advice if it adopts the rules as proposed?

D. The proposed rules conflict with the uniform system of accounts.

In order to understand the conflict between the proposed rules and the Uniform System of Accounts (hereinafter called "U.S.A."), it is necessary to understand the U.S.A. treatment of expenses incurred by a public utility in its relations with various governmental bodies. The U.S.A. does not include within its definition of "lobbying expenditure" expenditures which are made in the course of formal proceedings before regulatory* or other administrative bodies. Account No. 426.4, entitled "Expenditures for Certain Civic, Political and Related Activities," states the U.S.A. definition of "lobbying expenditures" and reads as follows:

> "This account shall include expenditures for the purpose of influencing public opinion with respect to the election or appointment of public officials, referenda, legislation, or ordinances (either with respect to the possible adoption of new referenda, legislation or ordinances or repeal or modification

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* Public Utility Commission

> of existing referenda, legislation or ordinances) or approval, modification, or revocation of franchise; or for the purpose of influencing the decisions of public officials, but shall not include such expenditures which are directly related to appearances before regulatory or other governmental bodies in connection with the reporting utility's existing or proposed operations." [Emphasis added]

The foregoing underscored language clearly indicates that under the U.S.A., expenditures made by a public utility in the course of a proceeding before a regulatory* body or any other governmental body (i.e., any other administrative agency) are not "lobbying expenditures" at least to the extent that those expenditures are incurred in the course of appearances before those bodies in connection with existing or proposed operations.

Under the U.S.A., public utility expenditures incurred in the course of regulatory* or administrative proceedings are recorded in certain accounts located within the general classification "Administrative and General Expenses." Account No. 920, entitled "Administrative and General Salaries, and Account No. 923, entitled "Outside Services Employed" are the accounts in which expenses for non-regulatory administrative proceedings are recorded. Acount No. 928, entitled "Regulatory Commission Expenses" is the account in which expenses for regulatory* proceedings

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* Public Utility Commission

are recorded. None of these expenses is considered a "lobbying expenditure" by the U.S.A.

Under the PSC proposed rules, "lobbying expenditure" includes, among other things, expenditures made by a public utility in the course of participating in proceedings before all state administrative agancies, excluding the PSC. In addition, under the proposed PSC 422, a Minnesota public utility would be required to establish a separate sub-account under U.S.A. Account No. 930 (Miscellaneous General Expenses) and record the expenditures made in the course of an administrative proceeding in that account. Adoption of the PSC definition of "lobbying expenditure" and the requirement of recording "lobbying expenditures" in a sub-account of Account No. 930 will create a twofold conflict. First, the expenses recorded in that sub-account will be classified as "lobbying expenditures" which directly contravenes the current U.S.A. definition of such expenses. Secondly, recording those expenses under Account 930 will mean that they will not be recorded under Account Nos. 920 and 923, the accounts in which the U.S.A. currently directs public utilities to record these expenditures.

Conclusion

It is evident from the foregoing discussion that PSC 420 - 423 cannot be adopted in their present form. Clearly, they have been drafted and proposed without adequate consideration being given to: the underlying need they are intended to address;

their relationship to the Minnesota Ethics in Government Statute; their own innate lack of clarity; and their inconsistency with the currently existing definitions and classifications of the U.S.A. Accordingly, NSP vigorously opposes adoption of PSC 420 - 423.

Recommendation

NSP believes that the PSC should focus its attention upon the substantive evil addressed by the Common Cause Report -- extravagant informal attempts by public utilities to obtain the goodwill of public utility commissions. Therefore, NSP recommends that the PSC reject proposed PSC 420 - 423 and issue a new set of proposed rules which would, among other things, incorporate the following:

(a) A defnintion of the term "lobbying expenditure" which would include only those expenses made in the course of attempts to obtain the favor of the members and staff of the PSC (and no other state agency) through informal contacts and communications. Such a definition should specifically exclude expenditures made on those occasions when either a utility or the PSC requests an informal opportunity to obtain necessary information or to discuss or exchange viewpoints on issues relevant to the utility business.

(b) A definition of the term "lobbyist" which includes only those individuals who attempt to obtain PSC goodwill as described in (a).

(c) Establishment of one new sub-account under Account No. 426.4 in which public utilities would be required to record all "lobbying expenditures" as that term is defined in (a).

Respectfully submitted,

NORTHERN STATES POWER COMPANY

By John P. Moore, Jr.
John P. Moore, Jr.
Its attorney

Dated: February 28, 1977.

ADMIN 1000

STATE OF MINNESOTA

DEPARTMENT ATTORNEY GENERAL

Office Memorandum

TO : Michael B. Miller
Special Assistant
Attorney General

DATE: November 16, 1977

FROM : Karl W. Sonneman KWS
Special Assistant
Attorney General

PHONE: 296-0420

SUBJECT: Adoption of Amended Rules of the Minnesota Public Service Commission relating to Telephone Utilities, Docket No. A-8117-16, Minn. Rules PSC 170-219

Enclosed for review are amended rules adopted by the Public Service Commission relating to telephone utilities. Attached to this memo is Schedule A which lists the documents transmitted with this memo. As you will note, only one copy of the statement of need, mailing list and written statements are enclosed because of their great volume. If you need two more copies, please call me and we will arrange to have these documents picked up and copied.

In view of the Report of the Chief Hearing Examiner, served October 25, 1977 (copy attached hereto), the Public Service Commission believes it necessary to offer several comments regarding the attached rules. The Chief Hearing Examiner ordered that PSC 180.A.1, PSC 183.A.5, and PSC 212.G.1.b and .e be withdrawn or the rules hearing be reconvened pursuant to Minn. Rule HE 108. The Commission has withdrawn PSC 183.A.5. For the reasons set forth below, the Commission believes PSC 180.A.1 and PSC 212.G.1.b and .e were properly adopted and should be approved by the Attorney General.

PSC 180.A 1

The original proposed rule required that an itemized listing of all charges be included with each monthly billing. The proposed final rule requires that an itemized listing be provided at regular periods based upon the particular circumstances for individual companies. The Commission changed the original proposed rule in recognition of numerous comments offered by parties present at the hearing. The original proposed rule was offered because an itemization of charges would enable a customer to better understand what he was paying for and to make a rational decision regarding the service he needed. (Tr. 17). The Minnesota Telephone Association criticized the requirement of a monthly itemization and indicated that itemization on an annual basis might be a more practical approach. (Tr. 48). Itemization on a monthly basis would be expensive and might not provide a service to the customer commensurate with the expense. (Tr. 48, 56, 78, 87). The Countryside Council testified that itemization would be useful and that customers are often hesitant to request it. (Tr. 77). From this testimony, the Commission concluded that while itemization of charges was necessary, providing this extensive information on a monthly basis could be burdensome to the companies and that customers could react to the information if provided periodically rather than monthly. It therefore modified the monthly requirement to require the information be provided periodically, based upon the circumstances of individual telephone companies. It believes that the method finally adopted both accomplishes the goal sought by the proposed rule and meets the objections raised on the record at the hearing.

Representatives of persons affected by the rule as originally proposed and as modified and finally adopted were present at the hearing and their comments were directly responsible

for the Commission's action. The final rule does not represent a change of subject matter, but rather shifts the frequency with which itemized list of charges must be provided from a monthly basis to an annual or other basis as may be appropriate. The rule always required the itemized listing should be provided periodically, but has removed the stringent requirement that the frequency be monthly. The adopted rule lies within the four corners of the proposed rule and cannot be considered a substantive change as set forth in Minn. Stat. § 15.052, subd. 4. Thus, it is the position of the Commission that the hearing examiner improperly rejected PSC 180.A.1 and that such rule should be approved as finally adopted.

PSC 212.G.1.b and PSC 212.G.1.e

The Commission proposed these subsections as definitions supporting rules requiring telephone utilities to maintain subaccounts for lobbying expenditures. PSC 212.G.1.b. was part of the original proposed rule and is a definition of "lobbyist." The Commission offered the following addition to the proposed rule at the hearing. "No person engaged in formal rate cases before a regulatory body is by reason of such engagement a lobbyist." (Tr. 123). It was offered to clarify what was already implicit in the rule: The Commission did not intend that persons appearing as parties before the Commission in the course of a rate hearing became a lobbyist by such action; or that rate case expenses should be considered lobbying expenditures. Rate cases are governed by standards of conduct appropriate to quasi-judicial, adversary proceedings. In contested cases, communication with the Department of Public Service staff and the Commission is on the record and ex parte contacts are forbidden. Rate case expenses are reviewed as part of the rate case, and include the expenses of the Department pursuant to Minn. Stat. § 216B.62 (1976). Though the Commission has sought to be consistent with the rules and regulations of the Ethical Practices Board whenever possible, there is no legal impediment to its adoption of different rules where warranted by the circumstances.

PSC 212.G.1.e was first offered at the hearing and is the definition of "public official." It follows the definition contained in Minn. Stat. § 10A.01, subd. 18 (1976). This statute was not amended in the 1977 Legislature. The Commission could not presume the definitions of Minn. Stat. Ch. 10A were applicable to its rules. Minn. Stat. Ch. 10A is the enabling act of the Ethical Practices Board and not of the Public Service Commission. In order to apply the definition of "public official" to utilities under Commission regulation, the Commission had to adopted a rule. Minn. Stat. § 15.0412, as amended by Minn. Laws 1977, Ch. 443, § 2, allows the agency to adopt rules necessary to fully inform the public of the rule's meaning and effect. The definitions offered in PSC 212.G.1 inform the public what the Public Service Commission means by "public official". The public would not otherwise know the intended scope of this rule. PSC 212.G.1.e was offered for clarity and does not substantially change the impact of PSC 212 G.

The Chief Hearing Examiner incorrectly found that these amendments to PSC 212 G. were substantial changes. The amendments to PSC 212 G.1 were offered by staff at the public hearing. Persons attending the public hearing were afforded the opportunity to discuss the proposals of the Commission staff. Other amendments were offered and accepted without being found to be substantial changes. Staff amendments to PSC 179.D.5 and PSC 180.B. were offered at the hearing and accepted. Other changes offered by the telephone companies attending the hearing are found in PSC 181.B, PSC 181.E., and PSC 183.C. These changes were accepted by the Commission and approved by the Chief Hearing Examiner

in his October 25 report. Northwestern Bell Telephone filed these amendments March 7, 1977, after the close of the hearing. Persons attending the public hearing could not discuss these. The impact of these rules is at least as great as that of PSC 212.G. As with the other amendments, the changes to PSC 212.G. do not fundamentally change the nature of the rule and are consistent with the scope and purpose of that rule as originally proposed. The Chief Hearing Examiner's treatment of PSC 212.G. was improper under Minn. Stat. § 15.052, subd. 4.

Furthermore, the Chief Hearing Examiner has exceeded the bounds of his legal authority to review the agency's final rules. The Chief Hearing Examiner's assertions that the amendments to PSC 212.G. were contrary to Minn. Stat. § 10A.01, subd. 2 and Minn. Laws 1977, Ch. 443, respectively, are outside the scope of review of the Chief Hearing Examiner under Minn. Stat. § 15.052, subd. 4 (1976). The Chief Hearing Examiner's only statutory authority in reviewing the proposed final rule is to determine whether a new hearing is required because of substantial changes in the rule or because of the failure of the agency to meet the procedural requirements of rulemaking contained in Section 15.0412, subd. 4 (1976). The Chief Hearing Examiner is neither required nor permitted to review the proposed final rules for their substantive effect or their substantive compliance with the law. That duty is entrusted solely to the Attorney General by Minn. Stat. § 15.0412, subd. 4 (1976).

With the above comments, the Public Service Commission transmits the accompanying rules and supporting documents to the Office of the Attorney General for review as provided by Minn. Stat. § 15.0412, subd. 4. It is our understanding that all of the original documents transmitted with this memo will be returned after your review.

KWS/bm

cc: Duane Harves
Chief Hearing Examiner

Enclosure

A P P E N D I X "A"

1. Rules as Adopted (5 copies)

2. Rules as Proposed (3 copies)

3. Original Transcript with Exhibits #22 thru #35

4. a. Certificate of Commission's Authorizing Resolution (Original & 2 copies)
   b. Order for Hearing & Document of Authority (3 copies)
   c. Notice of Hearing (3 copies)
   d. Affidavit of Acquisition of Mailing List (3 copies)
   e. Secretary of State's Certificate (3 copies of certificate and one copy of mailing list)
   f. Affidavit of Mailing with Mailing List (3 copies of affidavit and one copy of mailing list)

5. a. Statement of Need (3 copies)
   b. Report of H.E. and Findings of Fact (3 copies)
   c. Certificate of Commission's Adoption of Rules Resolution (Original & 2 copies)
   d. Resolution Approving Rules (Original & 2 copies)
   e. Order Adopting Rules (Original & 2 copies)
   f. Report of Chief Hearing Examiner (Original & 2 copies)
   g. Statement of Compliance (Original & 2 copies)
   h. Written Comments (Originals only)

PROPOSED AMENDMENTS TO THE
MINNESOTA RULES AND REGULATIONS
RELATING TO THE PUBLIC SERVICE COMMISSION

CHAPTER SEVEN - PSC 170-219
TELEPHONE UTILITIES

PSC 170 - 178 Remain the same.

PSC 179 [Customer Billing] Business Office Procedures.

[(a) Bills to customers shall be rendered regularly and shall contain a clear listing of all charges.

(b) In the event the dispute is not reconciled, the company shall advise the customer that he may make application to the Commission for review and disposition of the matter.

(c) In the event the customer's service is interrupted otherwise than by negligence or willful act of the customer and it remains out of order for 24 hours after being reported to the company, adjustments shall be made to the customer, based upon the prorata part of the month's charge for the period of days and that portion of the service and facilities rendered useless or inoperative. The refund may be accomplished by a credit on a subsequent bill for telephone service. If in the case of such interruption, service is restored on or before the day after it is reported or found by the company, no allowance will be made.

(d) Upon the request of any customer or applicant, the telephone utility shall provide an explanation of the rates, charges and provisions applicable to the service furnished or available to such customer or applicant, and shall provide any information and assistance necessary to enable him to obtain the most economical communications service conforming to his stated needs. Applicants for residential telephone service shall be advised as to alternate services available to meet their stated communications

requirements. This information may include printed explanations of alternate services and rates. Correspondingly, the utility shall notify residential customers of any service and shall provide an estimate of the initial billing for basic monthly service (including fractional monthly amounts) plus any other applicable charges.

(e) The customer shall be provided with an estimate of the charges where special charges not specifically set forth in a utility's tariff are levied on the basis of actual cost for such items as extraordinary construction, maintenance, or replacement costs or expenses, overtime work at the customer's request and special installations, equipment and assemblies.]

A. Information available to Customer and Public.

1. Business offices shall be staffed to provide customers and others with convenient access to qualified personnel, including supervisory personnel where warranted, to provide information relating to services and rates, accept and process applications for service, explain charges on customers' bills, adjust charges made in error and to generally act as representatives of the utility. If one business office serves several communities, toll-free calling from such communities to that office shall be provided.

2. Access to the following information shall be made available at the business office upon request:

a. Copies of all tariffs as described in these rules applicable to the area served by the business office;

b. Maps showing exchange, base rate area and zone boundaries (if applicable) in sufficient size and detail from which all customer locations can be determined and mileage or zone charges quoted;

c. Publicly announced information as to the present intended future availability of specific classes of service at an applicant's location;

d. Publicly announced information concerning plans for major service changes in the area served by the business office;

e. Information pertaining to services and rates as proposed in pending tariff or rate change filing.

B. Complaint Procedures.

1. The utility shall establish such procedures whereby qualified personnel shall be available during regular business hours to receive and, if possible, resolve all customer inquiries, requests and complaints.

2. If any complaint cannot be promptly resolved, the utility shall contact the customer within five (5) business days and at least once every fourteen (14) calendar days thereafter, and advise the customer regarding the status of its investigation until:

a. the complaint is mutually resolved; or

b. the utility advises the customer of the results of its investigation and final disposition of the matter; or

c. the customer files a written complaint with the Public Service Commission or the courts.

3. When the Public Service Commission forwards a customer complaint to the utility, the utility shall notify the Commission within **five (5) business days regarding the status or disposition of the complaint.**

C. Record of Complaint.

1. Each utility shall keep a record of all complaints received by it from its customers which shall be classified as directed by the Public Service Commission.

2. The record shall show the name and address of the customer, the date and nature of the complaint, and its disposition and date thereof.

3. The utility shall keep records of the customer complaints in such a manner as will enable it to review and analyze its procedures and actions.

D. Reporting Requirement.

1. Each utility shall file an annual report on or before May 1 with the Utility Division of the Public Service Commission containing the following information:

   a. The total number of resolved and unresolved complaints by class of service and type of complaint;

   b. The total number of customers in each class of service and the total number of customers who initiated service during the past year;

   c. The names, addresses, and telephone numbers of personnel designated and authorized to receive and respond to the requests and directives of the Public Service Commission regarding customer inquiries, service requests and complaints. The utility shall keep this information current and if changes occur, the utility must inform the Commission immediately of these changes.

2. This report will be an official document and all information must be verifiable and available for inspection and investigation by Commission staff.

3. The utility must provide upon notice by the Commission, an up-to-date report of this type prior to any hearing before the Commission, or upon any official request of the Commission.

4. The Commission shall initially mail copies of the type of form to be used for this report to all utilities regulated hereunder.

PSC 180 [Business Office Operations.] Customer Billing; Deposit and Guarantee Requirements.

[(a) General

1. Business offices shall be staffed to provide customers and others with convenient access to qualified personnel, including supervisory personnel where warranted, to provide information relating to services and rates, accept and process applications for service, explain charges on customers' bills, adjust charges made in error and to generally act as representatives of the utility. If one business office serves several communities, toll-free calling from such communities to that office shall be provided.
2. Qualified personnel shall be instructed to be courteous, considerate, efficient and be available to promptly serve those who contact the business office.
3. Access to the following information shall be made available at the business office upon request:
   (aa) Copies of all tariffs as described in these rules applicable to the area served by the business office.
   (bb) Maps showing exchange, base rate area and zone (if applicable) boundaries in sufficient size and detail from which all customer locations can be determined and mileage or zone charges quoted.
   (cc) Publicly announced information as to the present intended future availability of specific classes of service at an applicant's location.

(dd) Publicly announced information concerning plans for major service changes in the area served by the business office.

(ee) Information pertaining to services and rates as proposed in pending tariff or rate change filing.

(b) Customer Deposits

1. A deposit may be required as a condition for establishment or continuance of service as provided for in the utility's rules and tariffs on file with the Commission.

2. When a deposit is required it shall not exceed the estimated two months' total telephone service billing.]

A. Customer Billing.

1. Bills to customers shall be typed or machine printed, rendered regularly, and shall contain an itemized listing of all charges and the period of time covered by the billing. Statements itemizing message toll charges, if applicable, shall be included in bills to customer.

2. In the event a customer's service is interrupted otherwise than by negligence or willful act of the customer and it remains out of order for 24 hours after being reported to the utility, adjustments shall be made to the customer, based upon the prorata part of the month's charge for the period of days and that portion of the service and facilities rendered useless or inoperative. The refund may be accomplished by a credit on a subsequent bill for telephone service. If in the case

of such interruption, service is restored on or before the day after it is reported or found by the company, no allowance will be made.

3. Upon the request of any customer or applicant, the utility shall provide an explanation of the rates, charges and provisions applicable to the service furnished or available to such customer or applicant, and shall provide any information and assistance necessary to enable him to obtain the most economical communications service conforming to his stated needs. Applicants for telephone service shall be advised as to alternate services available to meet their stated communications requirements. This information may include printed explanations of alternate services and rates. Correspondingly, the utility shall notify its customers of any services and shall provide an estimate of the initial billing for basic monthly service (including fractional monthly amounts) plus any other applicable charges.

B. Deposit and Guarantee Requirements.

1. The utility may require a deposit or guarantee of payment from any customer or applicant who has not established good credit with that utility. Deposit or guarantee of payment requirements as prescribed by the utility must be based upon standards which bear a reasonable

relationship to the assurance of payment. The utility may determine whether a customer has established good credit with that utility, except as herein restricted:

a. A customer, who within the last twelve (12) months has not had his service disconnected for nonpayment of a bill which is not in dispute, shall be deemed to have established good credit.

b. A utility shall not require a deposit or a guarantee of payment based upon income, home ownership, residential location, employment tenure, nature of occupation, race, color, creed, sex, marital status, age, national origin, or any other criteria which does not bear a reasonable relationship to the assurance of payment or which is not authorized by these rules.

c. No utility shall use any credit reports other than those reflecting the purchase of utility services to determine the adequacy of a customer's credit history without the permission in writing of the customer. Any credit history so used shall be mailed to the customer in order to provide the customer an opportunity to review the data. Refusal of a customer to permit use of a credit rating or credit service other than that of a utility shall not affect the determination by the utility as to that customer's credit history.

2. Deposit. When required, a customer may assure payment by submitting a deposit.

a. A deposit shall not exceed an estimated two-months' gross bill or existing two-months' bill where applicable.

b. All deposits shall be in addition to payment of an outstanding bill or a part of such bill as has been resolved to the satisfaction of the utility.

c. Interest shall be paid on deposits in excess of $20 at the rate of six (6%) per cent per year. Interest on deposits shall be payable from the date of deposit to the date of refund or disconnection. The utility may, at its option, pay the interest at intervals it chooses but at least annually, by direct payment, or as a credit on bills.

d. The deposit shall be refunded to the customer after twelve (12) consecutive months of prompt payment of all utility bills. The utility may, at its option, refund the deposit by direct payment or as a credit on the bill.

e. With notice any deposit of a customer may be applied by the utility to a bill when the bill has been determined by the utility to be delinquent.

f. Upon termination of service, the deposit with accrued interest shall be credited to the final bill and the balance shall be returned within forty-five (45) days to the customer.

g. A utility shall not require a deposit or a guarantee of payment without explaining in writing why that deposit or guarantee is being required and under what conditions, if any, the deposit will be diminished upon return.

h. Each utility shall issue a written receipt of deposit to each customer from whom a deposit is received and shall provide a means whereby a depositor may establish a claim if the receipt is unavailable.

3. Guarantee of Payment.

a. The utility may accept, in lieu of a deposit, a contract signed by a guarantor satisfactory to the utility whereby payment of a specified sum not exceeding the deposit requirement is guaranteed. The term of such contract shall be for no longer than twelve (12) months, but shall automatically terminate after the customer has closed and paid the account with the utility, or at the guarantor's request upon sixty (60) days' written notice to the utility.

b. Upon termination of a guarantee contract or whenever the utility deems same insufficient as to amount or surety, a cash deposit or a new or additional guarantee may be required for good cause upon reasonable written notice to the customer. The service of any customer who fails to comply with these requirements may be disconnected upon notice as prescribed in PSC 300.

c. The utility shall mail the guarantor copies of all disconnect notices sent to the customer whose account he has guaranteed unless the guarantor waives such notice in writing.

PSC 181 [Reasons for Denying Service.] Disconnection of Service.

[Service may be refused or discontinued for any of the reasons listed below. Unless otherwise stated, notified and allowed, the customer shall be allowed a reasonable time in which to comply with the rule before service is discontinued:

1. Without notice in the event of customer use of equipment in such a manner as to adversely affect the utility's equipment or the utility's service to others.

2. Without notice in the event of tampering with the equipment furnished and owned by the utility.

3. For violation of, or non-compliance with, the Commission's Regulations Governing Service supplied by Telephone Utilities, or for violation of, or non-compliance with, the utility's rules or tariffs on file with the Commission.

4. For failure to comply with municipal ordinances or other laws pertaining to telephone service.

5. For failure of customer to permit the utility reasonable access to its equipment.

6. For non-payment of bill as provided for in the utility's tariff.

7. Failure to establish credit on request for initial or additional service.]

A. Disconnection of Service with Notice-permissible reasons. With notice a utility may disconnect service to any customer for any reason stated below. Notice must comply with the requirements of PSC 182:

1. For failure of the customer to pay a bill for utility service when due.

2. For failure of the customer to meet the utility's deposit and credit requirements.

3. For failure of the customer to make proper application for service.

4. For customer's violation of any of the utility's rules on file with the Commission.

5. For failure of the customer to provide the utility reasonable access to its equipment and property.

6. For customer's breach of the contract for service between the utility and the customer.

7. For a failure of the customer to furnish such service, equipment and/or rights of way necessary to serve said customer as shall have been specified by the utility as a condition of obtaining service.

8. When necessary for the utility to comply with any order or request of any governmental authority having jurisdiction.

B. Disconnection of service without Notice-permissible reasons. Without notice a utility may disconnect service to any customer for any reason stated below:

1. In the event of tampering with the utility's equipment.

2. In the event of a condition determined to be hazardous to the customer, to other customers of the utility, to the utility's equipment, or to the public.

C. Temporary Disconnection of Service. A utility may temporarily disconnect service to a customer otherwise entitled to disconnect service, upon written request by said customer. Temporary disconnection of service for this reason does not require refund of deposit nor interruption of interest.

D. Non-Permissible Reasons to Disconnect Service. A utility may not disconnect service to any customer for any reason stated below:

1. Delinquency in payment for services rendered to a previous customer who occupied the premises unless said customer continues to occupy the premises.

2. Failure to pay for merchandise, appliances or services not approved by the Commission as an integral part of the utility service.

3. Failure to pay for business service at a different location and a different telephone number shall not constitute sufficient cause for disconnection of residence service or vice versa.

4. Failure to pay for a bill to correct a previous underbilling due to an inaccurate meter or billing error if the customer agrees to payment over a reasonable period of time.

E. Manner of Disconnection. Service shall not be disconnected on any Friday, Saturday, Sunday or legal holiday, or at anytime when the utility's business offices are not open to the public.

F. Reconnection of Service. In the event service has been disconnected for valid cause by the utility, the utility may charge a reconnect fee based on the cost of reconnection as stated in the utility's tariff on file with the Commission. Notwithstanding the above provision, the utility shall not charge a reconnect fee for disconnection of service pursuant to PSC 181 B. 2.

PSC 182 [Insufficient Reasons for Denying Service.] Notice: Other Time Requirements. [The following shall not constitute sufficient cause for refusal of service to a present or prospective customer:

1. Delinquency in payment for service by a previous occupant, other than a member of the same household, of the premises to be served.
2. Failure to pay directory advertising charges.
3. Failure to pay for business service at a different location and a different telephone number shall not constitute sufficient cause for refusal of residence service or vice versa.]

A. Where required by these rules, notice of impending action by the utility shall be by first class mail. Notice shall be sent to the address where service is rendered or to the address where the bill is sent if different from the address where service is rendered. A representative of the utility must make an affidavit under oath that he deposited in the mail the notice properly addressed to the customer.

B. All notices required by these rules must precede the action to be taken by at least five (5) days excluding Sundays and legal holidays. No notice may be given until the condition of which it informs, presently exists.

C. In lieu of mailing, notices may be delivered by a representative of the utility. Such notices must be in writing and receipt of them must be signed by the customer, if present, or some other member of the customer's family of responsible age, or the utility representative must make an affidavit under oath that he delivered the notice to the customer, his residence or his business.

D. A record of all notices and all affidavits required by these rules must be kept on file by the utility and must be made available to the Commission.

E. Disconnection notices shall contain the date on or after which disconnection will occur, reason for disconnection, and methods of avoiding disconnection in normal easy to understand language.

PSC 183 [Complaints and Appeals] Disputes

[(a) Each telephone utility shall make a full and prompt investigation of all types of complaints made by its customers or applicants, either directly to it or through the Commission.

(b) The utility shall direct its personnel engaged in initial contact with an applicant or customer in which dissatisfaction with the decision or

explanation of such personnel is expressed, to inform him of his right to have the problem considered and acted upon by supervisory personnel of the telephone utility. The utility shall further direct such supervisory personnel, in the event the decision or explanation is not acceptable to the applicant or customer, to advise him that he may appeal the matter to the Commission.

(c) If the use of service interferes unreasonably with the necessary service of other customers, a customer may be required to take service in sufficient quantity or of a different class or grade.]

A. Whenever the customer advises the utility's designated representative prior to the disconnection of service that any part of the bill as rendered or any part of the service which affects the amount of the bill is in dispute, the utility shall:

1. Investigate the dispute promptly.
2. Advise customer of investigation and its result.
3. Attempt to resolve dispute.
4. Withhold disconnection of service until the investigation is completed and the customer is informed of the findings of fact.
5. Upon the findings of the utility, the customer must submit payment in full of any bill which is due.
6. If the dispute is not resolved to the satisfaction of the customer, he or she must submit the entire payment and may designate the disputed portion to be placed in escrow to the utility. Such payment shall be called an "escrow payment."

B. Escrow payments:

1. To submit a payment in escrow, the customer must make payment of the amount due as shown on the bill through an "escrow payment form" clearly marked and provided by the utility.
2. The "escrow payment form" must provide space for the customer to explain why the utility's resolution of the dispute is unsatisfactory to the customer. The form must be in three (3) copies, one of which will be retained by the customer.
3. A copy of the "escrow payment form" must be forwarded by the customer to the Public Service Commission.
4. Any escrow payment to the utility may be applied by the utility as any normal payment received by the utility.
5. After escrow payment has been made, the customer and the utility may still resolve the dispute to their mutual satisfaction.
6. By submitting the "escrow payment form" to the Commission, the customer shall be deemed to have filed an informal complaint against the utility, pursuant to the Commission's Rules of Practice (Minn. Reg. PSC 500-521).
7. Upon settlement of the dispute, any sums found to be entitled to be refunded to the customer shall be supplemented by a six (6%) per cent per annum interest charge from the date of payment to the date of return by the utility.

C. A customer may apply to the utility to waive its right to disconnect. If the utility refuses to waive its right to disconnect, the customer may apply to the Commission for emergency status.

If the Commission determines the customer has a probable claim in the

dispute and that hardship may result in the event of discontinuation of service, it may declare an emergency status to exist and order the utility to continue service for a period not to exceed thirty (30) days.

D. Notwithstanding anything herein to the contrary, the utility shall not be obligated to suspend discontinuance of service upon the filing for review with the Commission, unless the customer shall pay, when due, all current bills rendered during the pendency. If, following the first filing for review with the Commission, the same customer or any other person, files for any subsequent review by the Commission pertaining to the same account, such subsequent filings shall not relieve the customer from the obligations to pay for service rendered after the first filing. If subsequent requests for review are filed during the pendency of the first review, all designated disputed payments or portions thereof made after the first filing shall be considered to be made into escrow.

PSC 184 - 211 Remain the same.

PSC 212 Telephone Accounting Rules. For purposes of accounting regulations the Commission has grouped all telephone companies into the following classes:

[(a)]A. Classification.

1. Class A. Companies having average annual gross operating revenues of $250,000 or more.
2. Class B. Companies having average annual gross operating revenues of $100,000 but not more than $250,000.
3. Class C. Companies [operating a telephone exchange but having average gross operating revenues of less than $100,000] having average annual gross operating revenues exceeding $50,000 but not more than $100,000.
4. Class D. [Township, rural line, or other switching companies which do not operate a telephone exchange.] Companies having average gross operating revenues not exceeding $50,000.

[(b)]B. The class to which a telephone company belongs shall be determined by the average of its annual gross operating revenues for the three preceding years. If, at the end of any calendar year, this average is greater than the maximum or less than the minimum for the class in which the company has been grouped, it shall be automatically grouped in the higher or lower class in which it falls. A telephone company beginning a new operation or extending its existing operations shall be classified in accordance with a reasonable estimate of its prospective annual gross operating revenues.

[(c)]C. A telephone company may, at its option, place itself in any group higher than the one in which it falls on the basis of its average annual gross operating revenues. Notice of such action shall be

promptly filed with the Commission. A telephone company presently reporting as a Class B company but having annual gross operating revenues of less than $100,000 may continue reporting as a Class B company.

[(d)]D. A telephone company shall maintain its records and accounts in accordance with the applicable uniform system of accounts, and shall file its annual report for the previous calendar year on or before May 1 of each year on the report forms furnished by the Commission. Applicable schedules of such report forms shall be completed in full.

[(e)]E. Class A and Class B telephone companies shall maintain their accounts in accordance with the uniform system of accounts for Class A and Class B telephone companies prescribed by the Federal Communications Commission. Class C telephone companies shall maintain their accounts in accordance with the uniform system of accounts for telephone companies prescribed by this Commission. Class D telephone companies shall maintain such records as will enable them to complete the annual report form prescribed and furnished by the Commission.

[(f)]F. All telephone companies requesting a rate adjustment shall present exhibits including a detailed income statement and balance sheet for the latest calendar year as shown in regularly filed annual reports. Exhibits should also include the latest available data. An income statement for any period other than a calendar year must be for a full twelve-month period.

All telephone companies subject to reporting requirements of the Commission shall file with each annual report a copy of annual stockholders report if such a report is printed. Should a company furnish quarterly reports to stockholders a copy of each such report shall also be filed with the Commission.

All telephone companies who furnish quarterly reports to a federal regulatory commission shall regularly file a copy of such reports with the Commission.

G. Lobbying Expenditures.

1. For the purpose of rule 212 G., the following definitions shall apply:

a. "Lobbying expenditure" means a purchase, payment, distribution, loan, advance, deposit or gift of money or anything of value made for the purpose of influencing legislation or administrative action or supporting the election of any candidate to office. Lobbying expenditures also include:

(1) the pro rata portion of salaries of lobbyists which represents the portion of their duties related to lobbying; and

(2) their lobbying expenditures.

b. "Lobbyist" means anyindividual or association engaged for pay or other consideration or authorized by a telephone utility to spend money who spends more than five hours in any month or more than $250, not including travel expenses and membership dues, in any year, for the purpose of attempting to influence legislative or administrative action by communicating or urging others to communicate with public officials.

c. "Utility non-operating expense" means expenditures associated with activities other than those resulting from the regular activity of supplying service to the consumer.

d. "Utility operating expense" means expenditures associated with the direct or regular activity of supplying service to the consumer.

2. General Application.

a. Rule 212 G. applies to each telephone utility regulated under Minn. Stat. Ch. 237.

b. Each telephone utility shall maintain accounts and records relating to lobbying expenditures and make them available for inspection by the Commission upon request.

c. Each telephone utility shall report lobbying expenditures in accordance with PSC Rule 212 G. 4., and on 30 days notice at such time as the Commission deems necessary to carry out its regulatory responsibilities.

3. Accounting Treatment - Lobbying Expenditures.

a. Each telephone utility shall cause sub-accounts to be established for the sole purpose of recording lobbying expenditures.

(1) Lobbying expenditures for utility operating expense shall be charged to a sub-account of Other Expenses.

(2) Lobbying expenditures for utility non-operating expense shall be charged to a sub-account of Miscellaneous Deductions from Income.

b. The above accounts shall be effective the first day of January of the year following the year in which this regulation becomes effective for any lobbying expenditures subsequent to that date.

4. Reporting Requirements.

a. Each telephone utility which has incurred lobbying expenditures shall file with the Commission by the first day of April each year a report of such lobbying expenditures for the prior calendar year. The report shall include the following information:

(1) Name and address of the utility.

(2) Officer responsible for the report.

(3) As to each lobbyist:

(a) Name and address.

(b) A general description of the subject or subjects in which the lobbyist was actively associated.

(4) Lobbying expenditures for the period classified by subject.

(5) Name and address of each utility sharing lobbying expenditure if joint venture.

b. Each telephone utility which has not incurred any lobbying expenditures during the previous calendar year, shall file with the Commission by the first day of April in the following year a statement by an officer attesting that it had no lobbying expenditures.

PSC 213 - 214 Remain the same.

PROPOSED MINNESOTA RULES AND REGULATIONS
RELATIVE TO DEPRECIATION CERTIFICATION
FOR TELEPHONE REGULATION

CHAPTER SEVEN - PSC 215-219

MINNESOTA PUBLIC SERVICE COMMISSION

DEPARTMENT OF PUBLIC SERVICE

PSC 215 Definitions: Depreciation Certification

A. "Accumulated Provision for Depreciation" or "Depreciation Reserve" means the total charges for retirements, net salvage, and the annual provision for depreciation accrual(s) recorded by the utility under an approved method of depreciation accounting.

B. "Annual Provision for Depreciation Accrual" means the annual amount of depreciation charged to expenses and/or clearing accounts.

C. "Amortization" means the gradual extinguishment of an amount in an account by distributing such amount over a fixed period, over the probable service life of an asset or liability to which it applies, or over a period during which it is anticipated the benefit will be realized.

D. "Cost of Removal" means the cost of demolishing, dismantling, removing, tearing down or abandoning of physical assets, including the cost of transportation and handling incidental thereto.

E. "Depreciation," as applied to depreciable utility plant, means the loss in service value not restored by current maintenance, incurred in connection with the consumption of prospective retirement of utility plant in the course of service from causes which are known to be in current operation and against which the utility is not protected by

insurance. Among the causes to be given consideration are wear and tear, decay, action of the elements, inadequacy, obsolescence, changes in the art, changes in demand and requirements of public authorities. (For purposes of these rules, references to depreciation will include amortization unless otherwise stated.)

F. "Depreciation Accounting" means a system of accounting which aims to distribute cost or other basic value of tangible capital assets, less salvage (if any), over the estimated useful life of the unit (which may be a group of assets) in a systematic and rational manner. It is a process of allocation, not of valuation.

G. "Group Plan." Under this plan, depreciation charges are accrued on the original cost of all property included in each depreciable plant account using a composite rate based on average service life of the components properly weighed. Upon retirement of any depreciable property, its full service value is charged to the depreciation reserve whether or not the particular item has attained the average service life.

H. "Net Salvage" means salvage of property retired less the cost of removal.

I. "Original Cost" means the cost of property to the person first devoting it to public service.

J. "Probable Service Life" of a unit means that period of time extending from the date of its installation to the forecasted date when it will probably be retired from service.

K. "Public Utility" means any telephone utility as defined in Chapter 7, Minn. Reg. PSC 172 (36) operating within the State of Minnesota and under the jurisdiction of the Commission.

L. "Salvage" means the amount received for assets retired, less any

expenses incurred in connection with the sale or in preparing the assets for sale; or if retained, the amount at which the materials recoverable is chargeable to materials and supplies, or other appropriate accounts.

M. "Straight-Line Method" means the plan under which the original cost of an asset adjusted for net salvage is charged to operating expenses and/or to clearing accounts and credited to the accumulated provision for depreciation through equal annual charges over its probable service life.

N. "Service Value" means the difference between original cost and net salvage value of utility plant.

PSC 216 General Provisions: Depreciation Certification

A. All telephone utilities shall maintain, and have available for inspection by the Commission upon request, adequate accounts and records related to depreciation practices as defined herein.

B. Each utility has the prime responsibility for proposing the depreciation rates and methods that will be used. The Commission shall certify by order to the utility the depreciation rates and methods which it considers reasonable and proper.

C. Any allocation or adjustment of the depreciation reserve will require specific justification and certification by the Commission.

D. Class A and B utilities, as defined in Minn. Reg. PSC 212 A. shall maintain continuing property records.

E. Class A and B utilities, as defined in Minn. Reg. PSC 212 A., shall maintain accounts covering the classes of depreciable telephone plant in accordance with the uniform system of accounts for Class A and B telephone utilities as prescribed by the Federal Communications Commission.

F. Class C utilities, as defined in Minn. Reg. PSC 212 A., shall maintain accounts covering the classes of depreciable telephone plant in accordance with the uniform system of accounts for Class C telephone utilities as prescribed by the Federal Communications Commission.

G. Class D utilities, as defined in Minn. Reg. PSC 212 A., shall maintain accounts covering the classes of depreciable telephone plant in accordance with the uniform system of accounts for Class D telephone utilities as recommended by the Federal Communications Commission.

H. All telephone utilities shall retain data in sufficient detail to conduct depreciation certification studies for the purpose of determining depreciation accruals and reserves by depreciable telephone plant account. Depreciable plant accounts, are those specified by the Federal Communications Commission for the class to which a telephone company belongs.

I. All telephone utilities shall review their depreciation rates annually to determine if they are still generally appropriate. Depreciation certification studies shall be made so that all depreciable plant accounts shall have been analyzed at least every five (5) years. Depreciable plant accounts are those specified by the Federal Communications Commission's Uniform system of accounts for the class to which a telephone company belongs.

J. Any utility may at its option follow the depreciation rules prescribed herein for a larger class of utilities.

K. A petition for depreciation certification may be submitted by the utility or requested by the Commission because of unusual circumstances.

PSC 217 Filing Requirements: Depreciation Certification Studies

A. Initially upon Commission notification, and at least every five (5) years thereafter, each public utility (Class A, B, C and D) shall file a petition for depreciation certification and the following depreciation schedules (for each year since the last certification) in the form prescribed by the Commission.

1. Plant in Service (by each appropriate depreciable plant account applicable to its Class):

a. Beginning and Ending Plant Balances.

b. Additions and Retirements.

c. Adjustments and Transfers.

2. Analysis of Depreciation Reserve (based on depreciation studies by each appropriate depreciable plant account applicable to its Class):

a. Beginning and Ending Reserve Balances.

b. Depreciation Accruals and Plant Retirements.

c. Cost of Removal and Gross Salvage Value.

d. Transfers, Adjustments and Other Debits (Credits).

3. Summary of Annual Depreciation Accruals (based on depreciation studies by each appropriate depreciable plant account applicable to its Class):

a. Plant Balance.

b. Estimated Net Salvage.

c. Depreciation Reserve.

d. Probable Service Life.

e. Depreciation Accrual and Rate.

B. In addition, all utilities shall provide with the petition for depreciation certification:

1. A list of accounts upon which the utility has made studies of the estimates of service life and salvage, the dollar effects and the results of these studies, and the utility-recommended depreciation rates for the accounts.

2. A list of any major future additions or retirements to the plant accounts which the utility believes may have a material effect on the current certification results.

C. All utilities shall furnish any additional documentation necessary to support findings of the study.

PSC 218 Prescribed Methods: Depreciation Certification Studies

A. The Commission prescribes the straight-line method for calculating depreciation accruals.

B. Any exceptions to these methods will require specific justification and certification by the Commission.

C. No specific methods are prescribed by the Commission in estimating service lives and salvage values. The methods selected by each utility will be reviewed for appropriateness by the department staff as part of the utility's certification filing.

PSC 219 Petition for Certification Procedure

A. Utilities shall petition the Commission for certification of depreciation

rates and methods as prescribed by the Commission's rules of practice for petitions.

B. Prior to the initial certification of a utility's depreciation rates and methods, the depreciation rates and methods effective as of January 1, 1977 are to be used.

C. Depreciation rates and methods, once certified by order, are binding on all future rate proceedings and will remain in effect until the next certification or until the Commission shall determine otherwise.

D. If a utility is unable to comply by January 1, 1978 with any of the provisions of PSC 215-219, the utility shall petition the Commission within three (3) months of the effective date of these rules for a temporary exception. The petition shall include the justification for non-compliance, the duration of the desired exception, and the plan for compliance.

STATE OF MINNESOTA)
) SS
COUNTY OF RAMSEY)

AFFIDAVIT

Sharon A. Schmidt, being first duly sworn, upon oath deposes and says:

1) That she is an employee of the Minnesota Public Service Commission of the State of Minnesota.

2) That on the 28th day of December, 1976, she went to the Secretary of State's office for the State of Minnesota and requested a current list of all representatives of associations or other interested groups or persons who have registered their names with the Secretary of State for the purpose of obtaining notices of public hearings relating to the promulgation of rules pursuant to Minn. Stat. 1971, Section 15.0412.

3) That on the 28th day of December, 1976, in response to the above request, the Secretary of State provided her with such a list, a copy of which is attached to the Certificate of the Secretary of State and incorporated herein by reference.

4) That on the 5th day of January, 1977, the State Register published a copy of the notice of hearing and proposed rules in Volume 1 pursuant to Minn. Stat. 1971, Section 15.0412.

Further affiant sayeth not.

Sharon A. Schmidt

Subscribed and sworn to before me
a notary public this 14th day of
January, 1977.

Mary E. Swanson

MARY E. SWANSON
NOTARY PUBLIC—MINNESOTA
RAMSEY COUNTY

PSC Exhibit No. 5
File No. PSC-77-011
Date 2/8/77

RECEIVED
JAN 14 1977
OFFICE OF HEARING EXAMINERS

STATE OF MINNESOTA)
) ss
COUNTY OF RAMSEY)

CERTIFICATION

In the Matter of the Proposed Amendment of Certain Existing Rules and the Proposed Adoption of New Rules Relating to Weights and Measures, Electric Utilities, Gas Utilities, Telephone Utilities, and Motor Vehicle Transportation.

Docket No. A-8117-16

H.E. No. PSC-77-011

I hereby certify that the attached 503 labels & one sheets constitute the complete list of persons, associations, and other interested groups who as of 7:45 o'clock, a.m. this 28th day of December, 1976, have requested pursuant to M.S. 1971, Section 15.0412, that their names be placed on file with the Secretary of State for the purpose of receiving notice of public hearing on proposed rules on the subject captioned above.

Joan Anderson Growe
JOAN A. GROWE
SECRETARY OF STATE

By: Ceil Dion

STATEMENT OF COMPLIANCE WITH
MANUAL OF RULE MAKING PROCEDURES

MINN. RULES PSC 170-219

I, Karl Sonneman, do hereby declare that I have examined the proposed rules relating to Telephone Utilities, Minn. Rules PSC 170-219, and all related documents and that, based on them and my personal familiarity with the applicable procedures, the Manual of Rule Making Procedures has been followed.

Karl Sonneman

KARL SONNEMAN
Special Assistant
Attorney General

MINNESOTA PUBLIC SERVICE COMMISSION

Dated: November 21, 1977

CERTIFICATE OF COMMISSION'S

ADOPTION OF RULES RESOLUTIONS

I, Sharon A. Schmidt, do hereby certify that I am acting secretary of the Public Service Commission, a Commission duly authorized under the laws of the State of Minnesota, and that the following is a true, complete, and correct copy of the resolutions adopted at two meetings of the Public Service Commission duly and properly called and held on the 17th day of October, 1977 and the 7th day of November, 1977; that a quorum was present at said meetings; that a majority of those present voted for the resolutions; that said resolutions are set forth in the minutes of said meetings and have not been rescinded or modified.

1535. A-8117-16 It was voted to adopt, pursuant to the authority vested in the Commission by Minn. Stat. Section 15.0412 (1974), Minn. Reg. PSC 170-219, otherwise identified as rules governing telephone utilities. The Commission Secretary was directed to transmit the aforesaid rules to the Attorney General for approval.

1685. A-8117-16 It was voted to amend Item 1535 on October 17, 1977 (q.v.) by deleting from the rules Minn. Reg. PSC 183A.5. The Commission Secretary was directed to transmit Minn. Reg. PSC 170-219, as amended, to the Attorney General for approval.

IN WITNESS WHEREOF, I have hereunto subscribed my name this 29th day of November, 1977.

Sharon A. Schmidt

Sharon A. Schmidt

RESOLUTIONS

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BEFORE THE MINNESOTA PUBLIC SERVICE COMMISSION

Approved of record
11/7/1977

Richard J. Parish	Chairman
Arlen I. Erdahl	Commissioner
Karl F. Polvaag	Commissioner
Katherine E. Sasseville	Commissioner
Juanita D. Satterlee	Commissioner

In the Matter of the Proposed Amendment of Certain Existing Rules and the Proposed Adoption of New Rules Relating to Weights and Measures, Electric Utilities, Gas Utilities, Telephone Utilities and Motor Transportation.

DOCKET NO. A-3117-16

MINN. RULES PSC 170-219
(TELEPHONE UTILITIES)

ORDER ADOPTING RULES

The above entitled matter came on for hearing before Hearing Examiner Bernard Singer on the 9th day of February, 1977, in the Large Hearing Room, American Center Building, 160 East Kellogg Boulevard, St. Paul, Minnesota 55101, after proper notice required by Minn. Stat. § 15.0412 (1976) was served upon all persons, associations and other interested groups registered with the Secretary of State for that purpose.

After affording interested persons an opportunity to present written and oral data, statements and arguments, having heard all of the testimony, having considered all of the evidence adduced and applicable statutory standards and having confirmed the need for the above captioned rules and the reasonableness thereof.

NOW, THEREFORE, IT IS ORDERED that the rules identified as Customer Service Standards for Public Gas and Electric Utilities, Minn. Rules PSC 170-219, are adopted this 7th day of November, 1977, pursuant to authority vested in me by Minn. Stat. § 15.0412 (1976).

BY ORDER OF THE COMMISSION

LEO J. AMBROSE
Secretyar

(SEAL)

BEFORE THE MINNESOTA PUBLIC SERVICE COMMISSION

Karl F. Rolvaag	Chairman
Ronald L. Anderson	Commissioner
Arlen I. Erdahl	Commissioner
Richard J. Parish	Commissioner
Katherine E. Sasseville	Commissioner

In the Matter of the Proposed Amendment of Certain Existing Rules and the Proposed Adoption of New Rules Relating to Weights and Measures, Electric Utilities, Gas Utilities, Telephone Utilities, Motor Vehicle Transportation and Rules of Practice.	DOCKET NO. A-8117-16 STATEMENT OF NEED FOR TELEPHONE DEPRECIATION CERTIFICATION RULES, MINN. RULES PSC 215-219 [NEW].

The above-captioned matter as it relates to the promulgation of new rules governing the telephone utilities under the jurisdiction of the Minnesota Public Service Commission (hereinafter the "Commission") involves the implementation of a depreciation certification program for telephone utilities.

The impetus for these rules stems from Minnesota Statutes, Chapter 237 (1974). Minn. Stat. § 237.22 provides that:

> The department may fix and from time to time change the annual depreciation charge which shall be made by each telephone company which charge shall be sufficient to provide the amounts required over and above the expense of current maintenance, to keep its property in a state of efficiency corresponding to the needs and progress of the industry. Such depreciation fund shall be carried in a separate account and moneys in this fund may be invested and the income thereof returned to such depreciation fund or said moneys may be expended in renewals or in new construction.

The authority of the Commission to promulgate these rules is found under Minn. Stat. § 216A.05, subd. 1 (1976) and under Minn. Stat. § 237.10 (1974). The later statute provides that it is the duty of the Commission to prescribe uniform rules pertaining to the conduct of intrastate telephone business.

There are several specific reasons supporting the adoption of the proposed rules governing depreciation certification. First is the fact that the Commission does not currently have a uniform procedure for reviewing depreciation rates. Pursuant to Minn. Stat. § 237.06 (1974), it is the duty of every telephone utility to furnish adequate and reliable service at a reasonable rate. The experience of this Commission in conducting major telephone rate cases during the

past four years has indicated that depreciation expenses constitute a significant proportion of a telephone utility's operating expense and have a large impact on the cost of service to the ratepayers. In addition, accepted regulatory theory dictates that the depreciation reserve of a telephone utility is deducted from the original cost of plant as a consideration in determining the rate base. The rate base, which represents the total investment in the facilities of a utility employed in providing its service, has a direct effect on the amount of allowable earnings for that utility. Since both depreciation expense and depreciation reserve have a direct effect upon the rates charged by a telephone utility, it is imperative that the Commission implement a depreciation certification program whereby depreciation rates used in determining depreciation expense and the depreciation reserve can be reviewed.

Second, it is necessary that the Commission implement a depreciation certification program so that it can review the annual depreciation charge used by a telephone utility. The annual depreciation charge should be apportioned over the useful life of the property so that the telephone utility will have recovered its investment when the property is no longer useful. By reviewing the annual depreciation charge, the Commission will insure that a telephone utility will have adequate facilities to serve both the present and the future ratepayers.

Third, the Commission currently has a depreciation certification program governing the electric and gas utilities under the jurisdiction of the Commission. See Minn. Rules PSC 360-364 (1976). It is the goal of the Commission that its regulatory protections be extended to ratepayers of all Minnesota utilities: electric, gas and telephone. The Commission's goal can only be met by the adoption of a depreciation certification program for the telephone utilities similar to the one in effect for the electric and gas utilities.

Fourth, these proposed rules for the regulation of depreciation are necessary to assist the Commission in meeting the following regulatory objectives:

1) To provide the means for determining the appropriateness of depreciation rates and methods.
2) To conduct frequent reviews of depreciation rates to avoid under or over accruals.
3) To fix the proper level of depreciation charges so that present ratepayers pay only for the current costs of telephone service.

4) To insure that the telephone utilities conduct periodic studies of service lives and salvage values in order to justify their depreciation rates.

5) To insure that the Commission has the means to order the depreciation rates and methods it considers reasonable and proper.

6) To fix depreciation rates and methods in a procedure separate from a hearing on a general change in rates.

7) To allow flexibility on the telephone utilities' procedures within the straight-line method of calculating depreciation accruals, and

8) To level the department staff workload.

Therefore, a depreciation certification program for the telephone utilities is necessary to insure that the telephone subscribers within this state receive adequate and reliable service at a reasonable rate, consistent with the economic and financial requirements of the telephone utilities.

Generally, the proposed new rules for implementation of a depreciation certification program will apply to all private, municipal, and cooperative telephone utilities. Initially, and at least every five years thereafter, each utility will be required to file upon Commission notification:

1) A petition for depreciation certification;

2) The results of their studies of service life and salvage; and

3) Utility recommended depreciation rates amd methods.

The Commission shall certify by order the depreciation rates and methods that it considers reasonable and proper. Certified rates and methods will be used in subsequent rate proceedings and will remain in effect until the next periodic certification, or until the Commission by order shall determine otherwise. The existing depreciation rates and methods used by each telephone utility on January 1, 1977 continue in effect prior to the initial Commission certification for that utility.

Minn. Rule PSC 215 provides definitions of the salient terms utilized to formulate the depreciation certification program. This rule is needed to clarify depreciation terminology and to insure precise, accurate rule interpretation. The definitions are based upon similar determinations as promulgated by

the Federal Power Commission, Rural Electrification Administration, Federal Communications Commission, National Association of Regulatory Utility Commissioners or as presented in standard reference works in the field.

Minn. Rule PSC 216 deals with the general provisions of the depreciation certification program. The rule is needed to define the respective roles and responsibilities of the utilities and the Commission so that compliance with the rules may be assured.

Subparagraph (a) provides that all telephone utilities shall maintain adequate accounts and records related to depreciation practices. These accounts and records shall be made available for inspection by the Commission upon request. This subparagraph is needed so that the Commission may review the data utilized by the utilities in determining their depreciation expenses. The Commission may certify depreciation rates and methods which are reasonable and proper only when presented with complete and adequate data relating to a utility's depreciation practices.

Subparagraph (b) states that each utility is to propose the depreciation rates and methods that will be used. The Commission is to certify by order to the utility those rates and methods which it determines to be reasonable and proper.

Subparagraph (c) provides that any allocation or adjustment of the depreciation reserve will require specific justification and certification by the Commission. Since the depreciation reserve constitutes one of the factors having a direct effect upon the rates charged by a telephone utility, it is imperative that the Commission be able to review any allocation or adjustment to the depreciation reserve.

Subparagraph (d) provides that Class A and B telephone utilities shall maintain continuing property records. This requirement is necessitated by the fact that complete and up-to-date property and plant accounts depend upon the maintenance of adequate property records and detailed work order systems. These records serve as primary sources of information in the identification of additions to plant in service accounts and retirements from such accounts. These records also provide data necessary to support ledger accounts.

Subparagraph (e) states that Class A and B telephone utilities, as defined in Minn. Rule PSC 212(a), shall maintain accounts covering the classes of depreciable telephone plant in accordance with the uniform systems of accounts for Class A and B telephone utilities as prescribed by the Federal Communications

Commission. Subparagraph (f) and (g) provide respectively that Class C and D telephone utilities also shall maintain accounts covering the classes of depreciable telephone plant in accordance with the uniform system of accounts for Class C and D telephone utilities as prescribed by the Federal Communications Commission. Subparagraphs (e), (f), and (g) are needed to insure that the various classes of telephone utilities maintain the same type of depreciable plant accounts under these rules as they maintain under FCC prescribed uniform system of accounts. The possibility of subjecting such utilities to a double reporting burden is thereby eliminated.

Subparagraph (h) states that all telephone utilities shall retain data in sufficient detail to conduct depreciation certification studies for the purpose of determining depreciation accruals and reserves by depreciable telephone plant account as specified by the FCC for the appropriate class. Depreciation studies estimate service life and salvage value so as to determine depreciation accruals in such a fashion that the costs of assets may be properly distributed over the useful lives of those assets in a systematic and rational manner. The estimates of service life and salvage value may be better determined by studying similar assets which form a standard for the industry. By following the Federal Communication Commission specified depreciable plant accounts system, the state's telephone utilities may advantageously utilize a great deal of information such as the results of NARUC, REA and FCC depreciation studies. It seems reasonable and appropriate to require that reserves and accruals be available by FCC defined depreciable telephone plant for depreciation studies.

Subparagraph (i) states that all telephone utilities shall review their depreciation rates annually. Depreciation certification studies shall be made so that all primary accounts shall have been analyzed at least every five years. Inasmuch as depreciation accruals are based on estimates, periodic review of rates is necessary to consider the current effect of the many causes of depreciation so as to keep those rates abreast of current conditions.

While any determination as to when such studies shall be conducted will necessarily be somewhat arbitrary, it is nevertheless important that such a determination be made to that regular, uniform treatment of all utilities may be insured. Five years is proposed as the review frequency for Minnesota. Any period longer than five years might result in depreciation rates which would not reflect the current operating conditions. Conversely, more frequently required

studies would unnecessarily increase the costs to both the utilities and the Commission while yielding few additional benefits.

Subparagraph (j) states that any telephone utility may at its option follow the depreciation rules prescribed herein for a larger class of utilities.

Subparagraph (k) states that either the utility may submit or the Commission may request a petition for depreciation certification because of unusual circumstances or unique situations.

Minn. Rule PSC 217 delineates the utility filing requirements with respect to the petition for depreciation certification.

Subparagraph (a) provides that initially upon Commission notification, and at least every five years thereafter, each public utility shall file a petition for depreciation certification along with depreciation schedules (for each year since the last certification) in the form prescribed by the Commission. By staggering these notification letters over the initial five year period, the Commission can distribute the department staff workload so that the annual staff time for depreciation certification is relatively uniform.

Subparagraph (a-1) is needed because the information provided by primary account must be utilized in analyzing the depreciation studies and will save the staff time used in preparing these schedules.

Subparagraph (a-2) states that the "Analysis of Depreciation Reserve" schedule is to be reported by each appropriate depreciable plant account applicable to its class by each telephone utility.

Subparagraph (a-3) states that the "Summary of Annual Depreciation Accruals" schedule is to be reported by each appropriate depreciable plant account applicable to its class by each telephone utility.

Subparagraph (b-1) states that all utilities shall provide a list of accounts upon which the utility has made studies of the estimates of service life and salvage, the dollar effect and the results of these studies, and the utility recommended depreciation rates for the accounts. This provision outlines the general requirements for the justification of the utility-recommended depreciation rates.

Subparagraph (b-2) states that the utilities shall provide a list of any future additions or retirements to the plant accounts that the utility believes may have a material effect on the current certification studies.

Subparagraph (c) states that all utilities shall furnish any additional documentation necessary to support the findings of the study.

Minn. Rule PSC 218 deals with the prescribed methods to be used in depreciation certification studies. Subparagraph (a) states that the Commission prescribes the straight-line method for calculating depreciation accruals.

Subparagraph (b) states that any exceptions to these methods will require specific justification and certification by the Commission if unique situations arise.

Subparagraph (c) states that no specific methods are prescribed by the Commission in estimating service lives and salvage values. The methods selected by each utility will be reviewed for appropriateness by the department staff as part of the utility's certification filing.

Minn. Rule PSC 219 deals with the procedures for petition for certification.

Subparagraph (a) states the rules of practice for petitions which are applied to depreciation certification since the rules of practice are adequate for matters of this kind and separate procedural rules are unnecessary.

Subparagraph (b) states that prior to the initial certification of a utility's rates and methods, the depreciation rates and methods effective as of January 1, 1977 are to be used.

Subparagraph (c) states that depreciation rates and methods, once certified by order, are binding on all future rate proceedings and will remain in effect until the next certification or until the Commission shall determine otherwise.

Subparagraph (d) provides a utility which is unable to comply with the provisions of PSC 215-219 with an opportunity to petition the Commission for a temporary exception. Also stated therein is the material required to be included in such a petition.

Dated: January 17, 1977

ORIGINAL

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COMMISSION
ORIGINAL
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Dept. of Public Service
MAY 16 1977
Commission Support

STATE OF MINNESOTA
OFFICE OF HEARING EXAMINERS
FOR THE PUBLIC SERVICE COMMISSION

In the Matter of the Proposed Adoption of Amendments of Certain Existing Rules, and the Proposed Adoption of new Rules Relating to Weights and Measures, Electric and Gas Utilities, Telephone Utilities, and Motor Vehicle Transportation.

REPORT OF HEARING EXAMINER

The above-entitled matter came on for hearing before Bernard Singer, duly appointed Hearing Examiner from the State Office of Hearing Examiners, on February 8, 9, 10, and 11, 1977, in the large hearing room, American Center Building, St. Paul, Minnesota.

This was a rules hearing held pursuant to Minn. Stat. Ch. 15 to determine whether the proposed amendments to certain existing rules and the proposed new rules should be adopted as follows:

I. WEIGHTS AND MEASURES DIVISION - Proposed amendments to Rules PSC 120 and 122, the proposed deletion of Rules PSC 106, 123 and 124; and proposed Rule PSC 128.

II. MOTOR VEHICLE TRANSPORTATION - Proposed amendments to Rules PSC 2 and 5.

III. TELEPHONE UTILITIES DIVISION - Proposed amendments to and new rules to Rules PSC 179 to 185; proposed rules PSC 215 to 219.

IV. ELECTRIC AND GAS UTILITIES - Proposed amendments to and new rules to Rules PSC 279 to 336; proposed rules PSC 410 to 418; proposed rules PSC 420 to 423.

The report of the Hearing Examiner herein is divided into four sections corresponding to the four divisions stated above. Each section will list the names of persons who appeared on behalf of the Public Service Commission and the witnesses who presented testimony relevant to the subject matter of that particular section of rules.

Pursuant to Minn. Stat. § 15.0412, subd. 4 (1976), this Report shall be available for review to all affected individuals

upon request for at least ten days.

The Commission shall, if it proposes to adopt the rules as originally proposed or amended, submit the complete hearing record, including its Findings and Order, to the Chief Hearing Examiner no earlier than ten days subsequent to the receipt of this Report. This submission shall also clearly indicate any changes made to the rules as originally proposed, preferably in the format that will be submitted to the State Register for publication. The Chief Hearing Examiner shall complete his review and submit his report to the Commission on the issues of substantial changes in the rule and compliance with Minn. Stat. § 15.0412 within ten calendar days. Thereafter, the Commission shall be responsible for filing the rules with the Attorney General.

Based upon all the records and proceedings herein, the Examiner makes the following:

FINDINGS OF FACT

PROCEDURAL REQUIREMENTS

1. On October 15, 1976, the Commission filed the following documents with the Chief Hearing Examiner:

(a) A copy of the proposed rules;
(b) A proposed Order for Hearing;
(c) A proposed Notice of Hearing; and
(d) A Statement of the estimated length and number of people attending the hearing.

2. On January 5, 1977, a Notice of Hearing and a copy of the proposed rules were published at 1 State Register 968.

3. On December 30, 1976, the Commission mailed the Notice of Hearing to all persons and associations who had registered their names with the Secretary of State for the purpose of receiving such notice.

4. On January 14, 1977, the Commission filed the following documents:

(a) The Order for Hearing;
(b) The Notice of Hearing as mailed;
(c) The Affidavit of Receipt of the Secretary of State's list;
(d) The Affidavit of Mailing;
(e) The Secretary of State's Certificate and list;
(f) The Statements of Need; and
(g) The Statements of Evidence;
(h) The names of Public Service Commission personnel who will represent the agency.

The documents were available for inspection at the Office of Hearing Examiners from the date of filing to the dates of the hearings.

5. At the hearing, the Commission presented a number of suggested revisions to the telephone, gas and electric rules as originally proposed. These revisions were read into the record at the hearing, but were not published in the State Register, nor were they mailed to the Secretary of State's list. On motion of counsel representing various parties, the Hearing Examiner agreed to continue the hearing until the date the transcripts of the record were made available to parties requesting same, and the 20-day period for submitting written statements commenced on that date. The telephone, gas and electric hearings terminated February 17, 1977, and the record remained open through March 9, 1977 for the receipt of written comments and statements. The Weights and Measures hearing record remained open through March 2, 1977. The Motor Vehicle Transportation hearing record remained open through March 3, 1977.

III. TELEPHONE UTILITIES DIVISION

Hearing - February 9, 1977

Jerome Getz, Assistant Attorney General; John Schneider, Attorney; Cliff Swedenburg, Engineer; and William Deppe, Chief of of Financial Evaluation Section, appeared on behalf of the Public Service Commission. The following persons appeared and made statements at the hearing: Judy Reinert, Charles Kanten and Nordis Olson, Countryside Council; Robert Johnson, Attorney, Minnesota Telephone Associations; Garfield E. Lovaas, Attorney for Northwestern Bell Telephone Company; Philip Ringgenberg, Northwestern Bell Telephone Company; John McNulty, Attorney, Continental Telephone Company; Conway Marvin, Zumbrota Telephone Company; and Reynold Thielen, Olson, Thielen & Company, Accountants.

FINDINGS OF FACT (Cont.)

Statutory authority

6. The authority of the Public Service Commission to promulgate these rules is found in Minn. Stat. §§ 216A.05, subd. 1 and 237.10 (1976). Minn. Stat. § 237.10 provides in part that it shall be the duty of the Department to prescribe uniform rules and classifications pertaining to the conduct of intrastate telephone business and a system of accounting to be used by telephone companies in transacting this business.

General Comments

7. In order to better understand later findings, a brief overview of the proposed rules is given here.

The first category is promulgation of amendments to existing rules Minn. Reg. 179 to 185 governing telephone utilities customer service standards. The changes are proposed to make telephone regulations governing customer standards more uniform with the existing customer service standard regulations for gas and electric utilities. The amendments to the existing rules governing telephone utilities are necessary so as to facilitate the fairness between the customers, utilities and the public while simultaneously providing specific provisions and procedures to be followed by telephone utilities which will guarantee

customers quality service provided at reasonable rates.

8. Proposed PSC 179 delineates the business office procedures which are to be followed by telephone utilities. Proposed PSC 180 deals with customer billing, deposit and guarantee requirements. Proposed PSC 181 governs disconnection of service amending ambiguous language contained in the existing rule. Proposed PSC 181(d) adopts the existing PSC 182. Proposed PSC 182 is a new rule pertaining to notice and other time requirements. Proposed PSC 183 provides the procedures to be followed by a telephone utility and its customers with regard to disputes.

9. The second set of rules the Commission proposes to amend are telephone accounting rules, Minn. Reg. PSC 212. The Commission proposes to add new language regarding the classification of telephone companies into Class C and Class D. This language is necessary so that the classifications, as proposed in the rule, duplicate the Federal Communications Commission classifications as promulgated in 47 C.F.R. 31.01-1(a) (1975).

10. Proposed new rules PSC 215-219 involve the implementation of a depreciation certification program for telephone utilities. The Commission presently does not have a uniform procedure for reviewing depreciation rates and it feels it is necessary to implement the depreciation certification program so it can review annual depreciation charges used by telephone utilities. The Commission has a depreciation certification program governing electric and gas utilities and feels that uniformity can be obtained by adoption of a depreciation certification program for telephone utilities. The Commission also feels that the proposed rules are necessary to meet their regulatory objectives and to insure that telephone subscribers receive adequate and reliable service at reasonable rates.

11. Proposed Rule PSC 212(g) is a new rule which is being promulgated in order to meet the need for accountability of lobbying expenditures incurred by telephone utilities. It provides for annual reports to the Commission as to the cost of lobbying by telephone utilities and a subdivision of accounts to record the cost of lobbying.

A number of written comments were submitted subsequent to the hearing, and these comments will be noted as the evidence for each proposed rule will be discussed hereinafter.

Proposed PSC 179

12. Because of the length of some sections of this proposal, each section of the original proposal will be treated separately below.

PSC 179A

13. The Commission proposes to amend PSC 179 to delineate the business office procedures which are to be followed by telephone utilities. PSC 179(a), (b), (c), (d) and (e) are to be deleted. PSC 179A deals with information which must be made available to the customer and the public. The information found in this Rule is currently found in Minn. Reg. PSC 180A(1) and A(3). This rule relates to information available to the customer and public at the business offices of the telephone utilities. This proposed rule drew no criticism or comment, and the Commission has demonstrated the need for and the reasonableness of the Rule.

PSC 179B

14. This rule is a new provision not found in the current rules and outlines complaint procedures. The proposed rule specifies the time in which a telephone utility must repond to the complaint. The Commission states that the rule is necessary to insure that prompt attention is given to all complaints and that these complaints are not lost in the utility's own procedures. According to the rule, the utility must respond back to a complainant periodically, at least once every 14 days, reporting the progress of the complaint. The correct procedures enable customers to keep informed as to the progress of the utility in resolving the complaint. The rule also provides that when the Commission becomes involved in a complaint, a utility shall notify the Commission within five business days regarding the status or disposition of the complaint. Proposed Rule 179B drew no criticism or public comments; it is reasonable and necessary.

PSC 179C

15. This rule provides that each utility must keep a record

of all complaints received by it from its customers. The rule does not envision the recording of all inquiries about rates or charges nor the recording of requests for new or additional service. The rule does require the recording of service complaints. These are currently being required pursuant to PSC 211(b), but the Commission envisions this rule as requiring utilities to keep records of billing complaints also. The Countryside Council proposed an additional section to this rule providing for a neutral policing body or group to keep track of these complaints. They questioned the validity of the number of complaints that the telephone companies say they receive, and the Council feels that a neutral body, not connected with the telephone company, would be of great value in making for accuracy in recording these complaints. The Council also proposed the possibility of a toll-free line or phone number which would be available to customers having complaints to assure accurate recording of complaints. The Commission Staff questioned who would bear the cost of said toll-free phone line, but the Council stated: "We won't worry about who is going to bear the cost." Northwestern Bell contends that the establishment of a neutral body or group to keep track of customer complaints would result in a dual system of reporting. Bell also stated that it would be unlikely that a neutral body would effectively or expediently be able to resolve these isolated problems. Bell contends that its past experience proves that in practically all cases, their method of recording and handling complaints is effective and is an acceptable, reliable way of dealing with customers.

16. The proposed rule section is needed and reasonable. The recording procedures established under the rule are not inefficient and inaccurate so as to justify the establishment of a neutral group or toll-free phone line to the Commission.

PSC 179D

17. PSC 179D is a regulation specifying the information to be reported by the utility in the complaints and service areas. The Commission has an obligation to review the quality of service

provided to Minnesota customers; therefore, this reporting requirement is essential. It will enable the Commission to check critical areas of poor service, curbing re-occurring problems, speed up complaint resolution times, make suggestions to utilities to update or upgrade service and generally keep the Commission aware of the conditions of the utilities' services. At the hearing, the Commission deleted the following words from subsection 2: "This report will be an official document and". These words were considered unnecessary and create an ambiguity where none should exist. Subsection 3 provides for an up-to-date report to be provided by the utility upon notice by the Commission prior to any hearing of the Commission or upon any official request of the Commission. Subdivision 4 provides for specific reporting forms to be mailed to the utilities by the Commission so as to insure that every utility will be filing the same information on the same format.

18. At the hearing, the Commission proposed a new subsection 5 to provide as follows:

> Each utility shall initially file the prescribed Annual Report on or before May 1, 1979. This initial report will cover the utility's operations during the previous calendar year.

The Examiner finds that the addition of section 5 does not substantially change the meaning of the rule, but merely proposes an effective date for initial compliance with the reporting requirements of PSC 179D.

19. The Minnesota Telephone Association accepts PSC 179 as quite adequate as proposed; however, it recommends that 179D(4) should be amended to read as follows:

> The Commission shall, on a timely basis, mail copies of the type of form to be used for this report to all utilities regulated hereunder.

They argue that this amended paragraph places the responsibility for the Commission to mail the report to be completed to the companies. This way, the companies will be alerted to the reporting requirements under this proposed rule. They state that this proposed amendment applies to many of the smaller companies which are not sufficiently staffed to accomplish the many duties

required by various government agencies or subdivisions of government. The purpose of section 4, as proposed by the Commission, is to provide all companies initially copies of the type of form to be used for these Report procedures. The Examiner feels that an amendment requiring the Commission to furnish said forms on a "timely" basis is ambiguous and does not accomplish the intent of the rule as proposed by the Commission. PSC 179D (4), as proposed by the Commission, is necessary and reasonable.

20. PSC 179D(1)(b)requires utilities to include in their annual reports the total number of customers in each class of service, and the total number of customers who initiated service during the past year. The Commission contends that this reporting requirement is essential to keep the Commission aware of the conditions of the utilities' services. Northwestern Bell stated that a real measurement of the true growth which each telephone company is experiencing, which will provide valuable information to the Commission, would be growth in facilities and services rather than growth in the number of customers. Bell proposed an amendment to PSC 179D(1)(b) which would change the reference from "customers" to "lines," which is generally consistent with the philosophy that the term "customer" is not necessarily synonymous with telephone growth. The proposed amendment by Bell would revise PSC 179D(1)(b) to read as follows:

> (b) The total number of lines in each class of service and the total number of lines increased during the past year;

Another telephone company joined with Bell's recommendation of the adoption of the language suggested by Bell.

21. The proposed rule section change by Northwestern Bell is preferable and would present to the Commission a more accurate accountability of a company's true growth. The Examiner finds the proposed rule section, including the new section 5, and the amended section PSC 179D(1)(b) is needed and reasonable.

Proposed PSC 180

22. Proposed PSC 180 includes two sections: A, the customer billing section, and B the deposit and guarantee requirements.

PSC 180A

23. PSC 180A(1) encompasses requirements currently found in PSC 179(a) with several modifications. The present rule does not require that billing statements be typed or machine-printed nor does it require an itemized listing of all charges. The Commission submits that both these changes are necessary so that the customer will be able to understand and calculate his bill. Under this rule, the telephone company will be required to give a breakdown of rates, especially for items such as touch-tone service, extension phones, or additional directory listings. The rule places the burden on the telephone utility of informing customers of the costs incurred by them. The present billing statements do not meet this burden. The Commission contends that every telephone subscriber should have an itemized listing of all charges so that he can know and appreciate exactly what he is paying for and what it is costing him. PSC 180A(2) and A(3) contain provisions that are currently found in PSC 179(c) and 179 (d).

24. PSC 180A(2) provides that in the event the customer service is interrupted, otherwise than by negligence or willful act of the customer, and remains out of order for 24 hours after being reported to the utility, an adjustment shall be made to the customer based upon the pro rata part of the month's charge for the period of days, and that portion of the service and facilities rendered useless or inoperative. Countryside Council proposed that the utility would offer faster repair service if the pro rata charge could be computed on the basis of three or four times the daily pro rata charge. Northwestern Bell stated that the application of a penalty for slow repair service in the form of a higher than pro rata adjustment does not constitute an appropriate solution. Because costs of providing service are ultimately reflected in its rates, all customers would, in effect, be required to subsidize slow service penalties. They also asserted that it would be inappropriate for a customer to receive a pro rata adjustment which could exceed the monthly charge of the service. Bell contended that such an amendment would be in conflict with Minn. Stat. § 237.09 and would provide for

discriminatory practices.

25. PSC 180A(2) as proposed by the Commission, is necessary and reasonable and would provide adequate relief to customers in the event of service interruption.

26. PSC 180A(1), which deals with itemized billings, drew comments from the Minnesota Telephone Association and the telephone companies. Northwestern Bell contends that providing customers with this type of billing will mean a substantial overhaul of its entire mechanized billing system. They stated that the additional processing time for these bills will add enough hours to the billing cycle to cause them to lease an additional computer at an annual rental of approximately $700,000. Bell argued that, based on the absence of more than an occasional demand from customers for itemized billings, there appeared to be no adequate foundation to justify the added substantial costs for producing 20,000,000 additional billing lines. They claim that the present method of customers calling the business office to receive answers to their equipment or billing questions is an acceptable and reliable way of dealing with customers and that the costs associated with the itemized billing would be unreasonably prohibitive and not in the overall public interest. Northwestern Bell recommends an amendment to 180A(1) to include itemization only of message toll charges. The Minnesota Telephone Association joins with Northwestern Bell in opposition to the proposed rule, indicating that most of the billing machines used by the smaller telephone companies could not possibly bill and itemize all services rendered by telephone companies. They proposed an amendment to 180A(1) to add a sentence as follows: "When requested in writing by a customer, telephone companies shall provide to said customer an itemized list of all charges made to that customer on the previous month's billing." Continental Telephone Company also joins with Bell and the Association and recommends the adoption of the language as proposed by Bell.

27. The Commission has statutory authority to adopt said rule and has demonstrated the need for and the reasonableness of its proposal. The proposed amendments, as suggested by the

telephone industry, are rejected as unreasonable and contrary to the intent of the rule which provides for full disclosure to telephone utility customers of all charges applicable to them on an itemized basis.

PSC 180B

28. PSC 180B.1. allows a utility to require deposit or guarantee of payment from any customer or applicant who has not established good credit with that utility. It provides further that the utility may determine whether a customer has established good credit with that utility except as restricted in subsections (a), (b) and (c) of the rule. At the hearing, the Commission proposed an amendment to PSC 180B(1)(a) to read as follows:

> Customer, who within the last twelve months, has not had his service disconnected for non-payment of a bill and has not been liable for disconnection of service for non-payment of a bill which is not in dispute, shall be deemed to have established good credit.

29. PSC 180B.1.(b) is a completely new provision. The need for this provision arises out of the deficiency in the current deposit rules. The present rules do not set forth any criterion for establishing if and when a deposit should be received. The purpose of a security deposit is to protect paying customers against losses incurred because of non-paying customers. The deposit rules of the Commission should be sufficiently flexible to meet existing and changing credit conditions. Existing rules do not contain an adequate definition as to what constitutes good credit. The rule enables a utility to judge whether or not an Applicant satisfies the requirements of established good credit; however, there is a need to regulate the deposits in order to avoid discriminatory charges. Under the proposed rule, the utility may determine, based upon objective criteria, whether customers have established good credit with that utility subject to the restrictions.

30. PSC 180B.1.a determines that a customer who has established that he is a prompt payer no longer presents a security risk to the utility or other rate-payers, thus, a deposit is no longer necessary and should be refunded. The second restriction

outlines criteria which has no relationship to the assurance of payment, and the third restriction governs the use of credit reports. Northwestern Bell argues that there are some characteristics which are unnecessary as part of a credit appraisal, and these characteristics are fair not only to the customer but to the company. Bell contends that employment tenure, nature of occupation and home ownership are characteristics upon which the ability and probability of receiving prompt payment can be assessed as reflected in an independent study taken for company use by the Fair-Isaac Company. To avoid potential discrimination, Bell does agree that these characteristics should not be the sole justification for determining the need for deposit. Therefore, Bell recommends the proposed amendment be revised as follows:

> A utility shall not require a deposit or a guarantee of payment based upon income, residential location, race, color, creed, sex, marital status, age, national origin, or solely upon home ownership, employment tenure, nature of occupation, or any other criteria which does not bear a reasonable relationship to the assurance of payment or which is not authorized by these rules.

31. Continental Telephone Company joins with Bell in its comments concerning PSC 180B.1(a) and PSC 180B.1(b); however, Continental proposed a suggested change in the language contained in Bell's amendment to the Rule. Because Continental believes that some of the items included in the Staff recommendations are necessary in determining credit arrangements, it is the belief of Continental that those items should be removed from the language and the proposed amendment should be revised as follows:

> A utility shall not require a deposit or a guarantee of payment based upon residential location, race, color, creed, sex, marital status, age, national origin, or any other criteria which does not bear a reasonable relationship to the assurance of payment or which is not authorized by these rules.

32. The Minnesota Telephone Association argues that the Rule should be worded in the manner in which the company should have some freedom in obtaining adequate credit history on a proposed customer. It claims that the federal law, which requires in writing, the source of credit information, should be the only requirement or limitation upon the source of credit information

used by a telephone company. Provisions for deposits, guarantees and careful credit checking by a telephone company are good consumer protection elements because if a company extends credit imprudently, the remaining consumers must pay the telephone services offered in the community.

33. The Countryside Council was impressed with the explicitness of the Rule guarding against discrimination in terms of deposits. The Council insisted that each category must be included in order to insure full protection for all classes of people.

34. The Examiner finds that the proposed PSC 180B.1(b), as amended by the wording of Northwestern Bell, is reasonable and is the more complete of the proposed Rules.

35. PSC 180B.1(c) states that no utility shall use any credit reports other than those reflecting the purchase of utility services to determine the adequacy of a customer's credit history without the permission in writing of the customer. Any credit history so used shall be mailed to the customer in order to provide the customer an opportunity to review the data. Refusal of a customer to permit use of a credit service other than that of a utility shall not affect the determination by the utility as to that customer's credit history.

36. Northwestern Bell states that the Fair Credit Reporting Act, passed in 1971, provides <u>resident</u> customers protection against undue invasion of the right of privacy. If a deposit is requested because of information received from a consumer reporting agency, the company must tell the customer the name and the address of the source of the information. Requesting written approval from customers to allow the use of a consumer reporting agency report can delay the installation of service. Where business customers are purchasing rather large PBX systems, with large investments, such credit information is of great value to the company in determining the customer's credit worth. Bell recommends said amendment be revised to read as follows:

> If the utility shall use any credit reports other than those reflecting the purchase of utility services to determine the adequacy of a customer's credit history and request for a deposit or other guarantee is caused by information obtained from a credit report, the util-

ity shall tell the customer the name and address of the source of information.

37. Continental Telephone Company joins with Bell in its comments concerning this rule; however, Continental believes the language contained in Bell's suggested amendment should be modified to conform with previous regulations by removing the word "tell" and replacing it with the word "inform".

38. The proposed PSC 180B.1(c) as amended by Northwestern Bell along with the proposed modification as suggested by Continental Telephone Company with the insertion of the word "inform" is reasonable and should be adopted by the Commission.

PSC 180B.2.

39. This subsection sets forth the deposit requirements. John H. Kraft, an attorney in Olivia, Minnesota, suggested that an ambiguity must be corrected in PSC 180B.2.b. He points out that utility companies can and have attempted to require an individual who has filed bankruptcy to not only pay a deposit but also to pay the unpaid balance of an existing bill which has been extinguished in bankruptcy proceedings and is no longer a valid legal debt. He proposes that the rule be amended to read:

> PSC 180B.2.b. All deposits shall be in addition to payment of an outstanding bill or a part of such bill as has been resolved to the satisfaction of the utility, except where such bill has been discharged in bankruptcy.

That the rule, as amended, is necessary and should be adopted. PSC 180B.2.a., .c, .d, .e, .f, drew no comments or criticism from the public or the telephone utilities; these sections are necessary and reasonable.

40. PSC 180B.2(g) requires a utility to provide customers with a written explanation why a deposit is being required, and why a deposit might be diminished upon return. The Commission contends that this written explanation is necessary in order to insure that the utility is not basing its decision on any criteria prohibited under the proposed rules. This rule also requires the utility to provide the customer with a written explanation detailing why the deposit will be diminished upon return. This requirement is based upon Minn. Stat. § 325.637(c). Central Telephone Company stated that this requirement will cause delay in providing service due to the time consumed in preparing a letter tailored to each subscriber's particular credit

background, mail time and response time. They argued that it would be more preferable, expedient and beneficial to the subscriber to allow a verbal advisement of the deposit requirement with a stipulation, if the customer insists, on a written explanation. The Company stated that the majority seem to accept the verbal advisement and only a small number of subscribers insist on written explanations.

41. Northwestern Bell also pointed out that it requests over 4,000 deposits annually. When they inform customers orally of the need for the deposit, the customers are also given the reasons for the request. Bell has determined through experience that, in practically all cases, this method is an acceptable and reliable way of dealing with customers. If customers request written explanations, Bell complies. Substituting written letters for oral information could delay the installation of service since installation dates cannot be agreed upon until receipt of the deposit. Northwestern Bell recommends a proposed amendment to subsection (g) to read as follows:

> A utility shall explain orally, or upon request of any customer or applicant explain in writing, why a deposit or guarantee is being requested.

42. Continental Telephone Company joins with Bell in its amendment to section (g); however, Continental suggests that the language in Bell's recommended amendment be amended in order to avoid any confusion as to the intent of the amendment. But Continental suggested the following proposed amendment:

> If requested, the utility shall inform the customer of its reason for requesting a deposit.

Continental believes that in almost all instances where a deposit is required, the customer has no need of further explanations since his financial condition is well-known to himself. However, the company should and must be obligated to provide such information to any customer who so requests. The Examiner finds that the PSC 180B.2(g) should be adopted with the following proposed wording:

> (g) The utility shall explain orally, or upon request of any customer or applicant, explain in writing, why a deposit or guarantee is being requested. Said rule, as amended, is reasonable and

necessary and will not cause undue delays in the installation of telephone service to the customers.

43. PSC 180B.2.(h) requires each utility shall issue a written receipt of deposit to each customer from whom a deposit is received and shall provide a means whereby a depositor may establish a claim if the receipt is unavailable. That proposed section drew no comments or criticism from the public or the companies; it is necessary and reasonable.

44. At the hearing, the Commission offered an additional amendment to Rule PSC 180B.2., which will be a new subsection titled PSC 180B.2.(i) and would read as follows:

> Advance payments or prepayments shall not be construed as being a deposit.

The Commission Staff maintains that the language for this proposed section is found in Minn. Stat. § 325.637(d). Northwestern Bell agrees with the proposed amendment since it recognizes that advance payments and deposits have different applications to a customer's bill. Continental Telephone Company also agrees with the adoption of this new amendment. The Examiner finds said amendment necessary and reasonable.

PSC 180B.3

45. Proposed PSC Rule 180B.3. includes provisions referring to guarantee of payment. Subsection (a) allows a utility to accept, in lieu of deposit, a contract signed by a guarantor satisfactory to the utility whereby payment of a specified sum not exceeding the deposit requirement is guaranteed. The term of such contract shall be for no longer than 12 months, but shall automatically terminate after the customer has closed and paid the account with the utility, or at the guarantor's request upon 60 days' written notice to the utility. Central Telephone Company disagrees with the 12-month limitation of the contract term contending that should a customer not establish a good credit status, processing of a new guarantee would be an unnecessary administering procedure and expense. They prefer the guarantee to remain in effect until the good credit is established and/or the guarantor desires to withdraw his guarantee. The proposed section is reasonable and necessary.

46. PSC 180B.3.(b) provides upon termination of a guarantee, contract or whenever the utility deems the same insufficient as to amount or surety, a new or additional guarantee may be required for good cause upon reasonable written notice to the customer. The service of any customer who fails to comply with these requirements may be disconnected upon notice as prescribed in PSC 300. At the hearing, the Commission amended the last sentence of subsection (b) to read:

> The service of any customer who fails to comply with these requirements may be disconnected upon notice as prescribed in PSC 182.

Bell asserts that the Commission presented no evidence to indicate that the present method of informing the customer by telephone is unacceptable or unreliable. Bell recommended that the utility should first request this change orally; if the customer asks that the request be put in writing, the company will comply. Bell therefore recommends the following proposed amendment:

> b. Upon termination of a guaranteed contract, or whenever the utility deems same insufficient as to amount of surety, a cash deposit or a new or additional guarantee may be required for good cause upon reasonable verbal notice or upon request, reasonable written notice to the customer.

Continental Telephone Company joins with Bell in its comments regarding this section, however, Continental recommends certain changes in the language of Bell's amendment in order to clarify its meaning as follows:

> Upon termination of a guaranteed contract or whenever the utility deems same insufficient as to amount of surety, a cash deposit or a new or additional guarantee may be required for good cause upon reasonable notice. Upon request, written confirmation of the notice shall be provided the customer.

That PSC 180B.3.(b), as proposed by the Commission, is reasonable and necessary.

47. PSC 180B.3.(c) provides that a utility shall mail the guarantor copies of all disconnect notices sent to the customer whose account he has guaranteed, unless the guarantor waives such notice in writing. It is intended that the basic contract law of suretyship govern these arrangements. Bell stated that, in most

cases, as the result of notices which they sent out, payment was made by the customer, and therefore, service was not disconnected. They argued that it would seem logical that the guarantor is not necessarily interested in receiving a notice of disconnect but would be very concerned if the service is actually going to be disconnected. Therefore, providing the guarantor with a denial notice, at additional expense to the utility, serves no useful purpose. Bell proposes that the amendment be revised as follows:

> The utility shall inform the guarantor prior to disconnection of the customer whose account he has guaranteed, unless the guarantor waives such notice.

Continental Telephone Company joins Northwestern Bell in recommendation of the proposed amendment as revised. That the wording of the PSC 180B.3.(c), as proposed by the Commission, is reasonable and necessary.

Proposed PSC 181

48. PSC 181 outlines the permissible and impermissible reasons for the disconnection of the service. The rule also delineates when notice prior to disconnection is required. The Commission submits that, in the absence of having a regulation covering the permissible and impermissible reasons for disconnecting service, a utility would be able to discriminate against certain customers through its discretionary decisions to provide or disconnect service. The proposed rules are based upon the Commission's current rules regarding reasons for denying service and are based upon the same type of protection applicable to electric or gas subscribers. The Commission states that the present rules are deficient in many respects and are in need of a major revision which is undertaken in the proposed rules.

49. Subdivision A lists 8 permissible reasons for disconnecting service. The utility must give notice as defined in PSC 182 prior to disconnecting service. That subsection drew no comments or criticism from the public; the Commission has proposed no changes from its original form; the proposed new section is needed and reasonable.

50. PSC 181(B) provides for disconnection of service without notice. A utility may disconnect service to any customer (1) in the event of tampering with the utility's equipment; or (2) in the event of a condition determined to be hazardous to the customer, to other customers of the utility, to the utility's equipment, or to the public. The Commission stated that subsection 1 is currently found in PSC 181B.2. and subsection 2 is necessary for clarification purposes. At the hearing, the Commission added subsection 3 to PSC 181(B) to read as follows:

> In the event of a customer's use of equipment in such a manner as to adversely affect the utility's equipment or the utility's service to others.

This provision is currently found in PSC 181B.1.. Bell recommends that the proposed amendment to PSC 181B.2. be subject to the provision that the hazard not endanger the safety of telephone company employees. This suggested revision reads as follows:

> 2. In the event of a condition determined to be hazardous to the customer, to other customers of the utility, to the utility's equipment, to the public or to the telephone company employees.

Bell indicated that this subsection should also include hazards which may be caused by customer-provided equipment. The Minnesota Telephone Association agreed with Bell's position and suggested language to read: "The employees of the utility" rather than the "telephone company employees". The request of Northwestern Bell and the Association is reasonable, and the proposed Rule section, PSC 181B.2. should include the words "employees of the utility".

The provisions of subsection (B), including the addition of subsection (3), as stated above, are necessary and reasonable.

51. Subsection C deals with temporary disconnection of service. It provides that a utility may temporarily disconnect service to a customer otherwise entitled to disconnect service, upon written request by said customer. This temporary disconnection does not require refund of deposit nor interruption of interest. At the hearing, the Commission suggested that this subdivision would be inapplicable to telephone utilities and withdrew the

proposal from consideration. There is no necessity for this subsection as provisions for temporary suspension of service are included in the utility's general exchange tariff.

52. Subsection D states non-permissible reasons to disconnect service. At the hearing, the Commission amended Subsection D(2) to read as follows:

> Failure to pay for equipment or service not approved by the Commission as an integral part of the utility's service.

The Commission proposed the deletion of the reference to merchandise and appliances, as stated in the proposed rule, because the terminology is inapplicable in the telephone industry.

53. Subsection D(4) prevents the utility from disconnecting a customer for an under-billing due to an inaccurate meter or billing error. If the customer agrees to payment over a reasonable period of time. This protects the customer from extraordinary high bills due to previous under-billing over which the customer had no direct control.

54. At the hearing, the Commission amended PSC 181E, Manner of Disconnection, to read as follows:

> Service shall not be disconnected for nonpayment of bill on any Friday, Saturday, Sunday or legal holiday, or at any time when the utility's business offices are not open to the public.

The additional words are "nonpayment of bill". The Commission felt that this provision was necessary to insure that a disconnected customer has access to the utility, banks, Commission, as well as any other appropriate body for assistance in having his service restored. Prohibiting disconnection of service on Friday will insure that a customer will not be disconnected at the start of a weekend and have access to his telephone service in the event of an emergency.

55. Northwestern Bell agreed with the Commission's revision, as stated above, but recommended the insertion of the words "except when undue loss is evident" after the word "Friday" in the rule. Bell's argument stated that there are select cases where disconnection of service is necessary on Fridays in order to prevent undue, uncollectible losses, where a customer's payments, for example, have been extended to a Friday, but not kept.

56. Continental Telephone Company joins in with Bell in its comments but believes that the condition will exist primarily where an extension has been granted by the utility to the customer with respect to payment on his account. Thus, Continental recommends that the exception for Friday should be based upon a condition where the extension was granted and the customer has failed to make payment. Continental's recommended language for the proposed amendment reads as follows:

> Service shall not be disconnected on any Friday, unless payment extension has been granted and payment has not been made pursuant to said extension, Saturday, Sunday, or legal holiday, or at any time when the utility's business offices are not open to the public.

The proposed amended language by Bell leaves an ambiguity as to what type of loss would constitute a "undue" loss and who makes a determination as to when said loss is evident. The language proposed by Continental Telephone Company is reasonable and is a justified addition to the Commission's proposed rule. The Examiner recommends said language, as proposed by Continental, be adopted for subsection E.

57. Subsection F provides for a utility to charge a reconnect fee based upon the cost of reconnection as stated in the utility's tariff on file with the Commission. The Commission emphasizes that the intent of the rule is not to penalize the customer but charges should be limited to the costs actually incurred in reconnecting the service. Bell agrees with the concept but maintains that it could also include situations where the hazard is actually caused by the customer through his <u>own</u> equipment, and if this results in a line being disconnected because of his equipment, they propose that it is only fair to the general telephone public that the customer be charged for restoring the service; if not, then the burden of that cost is going to be shared by all telephone users. Northwestern Bell proposed an amendment to subsection F so that the last sentence of the rule should read as follows:

> Notwithstanding the above provision, the utility shall not charge a reconnect fee for disconnection of service pursuant to PSC 181B.2. except if the hazard is caused by customer-provided equipment.

Continental Telephone Company agrees with Northwestern Bell's suggested modification or amendment to the rule. The proposed rule section, including the Northwestern Bell proposed amendment, is needed and reasonable.

Proposed PSC 182

58. PSC 182 outlines the notice and other time requirements needed prior to disconnect. The Commission maintains that the present rules are deficient in that they do not address themselves to what constitutes adequate notice prior to disconnection. Under the present rules, adequate notice of disconnection shall be by first class mail. It must go out five days prior to the date on or after which service will be disconnected and gives the utility the option to hand-deliver the notice. The present rules attempt to maintain a similarity between disconnect notices for telephone and gas and electric utilities.

59. Subsection A provides for notice of impending action to the customer shall be by first class mail. Countryside Council argued that notification of service cut-off should be by certified mail rather than first class mail. The Commission maintains that first class mail is adequate but has no objections that the rule be modified to include certified mail. Some of the arguments indicated that cut-off notices by some companies have been made as inserts in the billing envelope or actually put on the bill, itself.

60. Bell confirms that all denial notifications by that company are sent first class mail. They maintain that their experience with customers receiving notifications is satisfactory which reflects the reliability of first class mail. They further stated that the use of certified mail would only create an expense which is unwarranted. Bell mails approximately 300,000 denial notices annually at 60 cents per certified mail item; an additional expense in excess of $180,000 would be incurred if required to mail these notices by certified mail.

61. Continental Telephone Company also estimates additional costs of $40,000 per year if certified mail were required. Subsection A also requires a representative of the utility to

make an affidavit, under oath, that he deposited in the mail the notice properly addressed to the customer. Continental asserts that all its mailings are handled through its computer, and it would be difficult to determine how an affidavit under oath could be provided. Continental submits that the requirement for such an affidavit will cost the company at least $12,000 if it were by first class mail and in excess of $40,000 additional per year if certified mail were required. Bell further questions whether an affidavit is required for each individual notice mailed or each group of mailings which go out daily.

62. That subsection A, as proposed by the Commission, is reasonable with the exception that the last sentence of the rule which reads as follows should be deleted: "A representative of the utility must make an affidavit under oath that he deposited in the mail the notice properly addressed to the customer." The proposed rule section, including the above modifications, is necessary and reasonable.

Proposed PSC 183

63. This proposed rule outlines dispute procedures. Under subsection A, the utility has the affirmative obligation to investigate any disputes or complaints received by it. Subsection A(4) provides that the utility shall withhold disconnection of service until the investigation is completed, and the customer is informed of the findings of fact. Countryside Council suggests that these Findings of Fact be provided in writing to the customers. They contend that very often there are verbal agreements between the utility and the customer but that the agreement is not resolved on occasion. Bell insists that it is good business to conduct transactions by telephone, when possible, as this would be the least expensive way of dealing with the customer. They claim that past experience has demonstrated this method is an acceptable and reliable way of dealing with customers. If a customer desires the Findings of Fact in writing, the company complies with the request. They therefore contend that there is no justification for revision of the amendment to include the words "in writing". Continental Telephone Company agrees with Bell in

its argument regarding this subsection of the rule.

The proposed rule section, as stated, is needed and reasonable.

Proposed PSC 183C.

64. This rule outlines an emergency status provision. This provision provides that customers could request the Commission to declare an emergency status, and the utility would be forced to withhold disconnection of service for 30 days. Subsection C reads in part:

> If the Commission determines the customer has a probable claim in the dispute and that hardship may result in the event of discontinuation of service, it may declare an emergency status to exist and order the utility to continue service for a period not to exceed 30 days.

The Countryside Council commented rather than both conditions exist, to re-state the language to include an and/or situation. Bell agreed that the amendment would apply only in those cases where there is a dispute. It stated that the same opportunity should apply to all customers, even those who have a hardship situation but not a disputed bill. Bell recommends the proposed amendment be revised to read as follows:

> If the Commission determines a customer has a probable hardship which may result in the disconnection of service for non-payment, and may declare an emergency status to exist for a period not to exceed 30 days.

The proposed rule section, including the Northwestern Bell amendment, is reasonable and necessary.

PSC 183, including the changes, is necessary and reasonable.

Proposed PSC 215

65. The statutory authority for this rule is contained in Minn. Stat. §§ 216A.05, subd. 1 (1976) and 237.10 (1976). The impetus for these rules stems from Minn. Stat. § 237.22. The Commission proposed several specific reasons for the adoption of the proposed rules governing depreciation certification. The Commission presently does not have uniform procedures for reviewing depreciation rates. Since depreciation expense and depreciation reserve have a direct effect upon the rates charged by telephone utility, the Commission is determined that it must

implement a depreciation certification program whereby depreciation rates used in determining depreciation expenses and reserves can be reviewed. By reviewing the annual depreciation charge, the Commission will ensure that a telephone utility will have adequate facilities to serve both the present and the future rate payers. The Commission presently has a depreciation certification program governing gas and electric utilities and the Commission has a goal of maintaining uniformity in its regulatory protections for the rate-payers of all Minnesota types of utilities.

66. The Commission contends that these rules are necessary to assist the Commission in meeting its regulatory objectives, including providing means for determining the appropriateness of depreciation rates and methods; conducting frequent reviews of depreciation rates to avoid under or over accruals; to fix the proper level of depreciation charges; to insure that telephone utilities conduct periodic studies of service lines and salvage values in order to justify the depreciation rates; to insure that the Commission has the means to order the depreciation rates and methods it considers reasonable and proper; to fix depreciation rates and methods in a procedure separate from a hearing on a general change in rates; to allow flexibility of a telephone utility's procedures within the straight-line method of calculating depreciation accruals and to level the department staff workload. The rules apply to all private, municipal and cooperative telephone utilities. Initially, upon Commission notification and at least every five years thereafter, each utility will be required to file a petition for depreciation certification, the results of their studies of service life and salvage, the utilities recommended depreciation rates and methods. The Commission shall then certify by order the depreciation rates and methods that it considers reasonable and proper and certified rates and methods are binding on all future rate proceedings until the next certification or until the Commission determines otherwise. Existing depreciation rates and methods will be continued in effect prior to the initial Commission certification.

The Commission Staff, in order to meet these regulatory objectives, based their investigation upon methods used by the Federal Power Commission, the Rural Electrification Administration, Wisconsin Public Service Commission, Iowa State Commerce Commission, Arizona Corporation Commission, California Public Service Commission and Federal Communications Commission.

67. The format provided in PSC 215 to 219 is necessary to properly insure that telephone subscribers within the state receive adequate and reliable service at a reasonable rate, consistent with the economic and financial requirements of the telephone utilities. The proposed rules drew little comment from the telephone utilities and no criticism. The record amply supports the need for and the reasonableness of the proposed rules.

Proposed PSC 212

68. The Commission's first recommendation is a re-numbering of PSC 212 by changing Section (a) to A; (b) to B; (c) to C; (d) to D; (e) to E; and (f) to F. With reference to PSC 212, Section A, the classification of utilities into classes A, B, C and D has been changed in order to conform with the FCC uniform system of accounts. The proposed PSC 212A.3. classifies class C companies having average annual gross operating revenues exceeding $50,000 but not more than $100,000. Proposed PSC 212A.4. defines class D companies as companies having average gross operating revenues not exceeding $50,000. This language in these two sections is necessary so that the classifications as proposed in this rule duplicate the Federal Communication Commission's classifications as promulgated in Title 47, Code of Federal Regulations, § 31.01-1(a) (1975). The proposed rule section, conforming classifications to the Federal Code, is needed and reasonable.

Proposed PSC 212G.

69. This section is a new section of the rule which sets forth provisions for accounting for lobbying expenditures by telephone utilities. This one section drew considerable criticism and comment. The Commission pointed out that telephone rules and the system of accounts requires the telephone companies to keep their records in accord with the uniform system and allow

for subdivision of any account provided the integrity of the prescribed account is not impaired. The purpose of any accounting system is that the financial condition of the utility, as well as the components of the financial reporting, can be readily available and expressed in a consistent and meaningful manner. The Commission Staff has recognized a need for adjustments for subdivisions of the uniform system of accounts to readily identify certain expenses. The Commission's authority to adopt the uniform system of accounts is found in Minn. Stat. § 237.10 (1976). PSC 212 adopts the FCC Uniform System of Accounts as a system of accounts to be used by all telephone utilities operating within the state of Minnesota. 47 C.F.R., § 21.01-2(d)(1) (1975) provides that companies may subdivide any of the accounts provided which such subdivisions do not impair the integrity of the accounts prescribed. Under the proposed rules, the suggested subdivisions of the accounts do not impair or alter the integrity of the accounts in any manner.

70. The Commission contends that the subdivision of accounts to record their costs of lobbying is necessary to expedite the reporting process. Without separate and identified accounts, the reporting of lobbying expenditures would be a lengthy and economically undesirable task. The separate and identified accounts are necessary so that the telephone utilities operating in the state of Minnesota will be able to report annually or upon the Commission's request their lobbying expenditures. Proposed PSC 212G(1) sets out the definition of lobbying expenditure, lobbyists, utility non-operating expense, utility operating expense. PSC 212G(2) provides for general application of the rule. Subsection (a) provides that the rule applies to each telephone utility regulated under Minn. Stat. Ch. 237; subsection (b) provides that each utility shall maintain accounts and records relating to lobbying expenditures and make them available for inspection by the Commission upon request; and subsection (c) provides that each telephone utility shall report lobbying expenditures in accordance with PSC 212G(4). PSC 212G(3) provides that the telephone utility shall cause sub-accounts to be established

for the sole purpose of reporting lobbying expenditures. PSC 212G(4) provides for reporting requirements by the telephone utilities to the Public Service Commission.

71. The Public Service Commission indicated that they are aware that the State Ethical Practices Board has reporting requirements for all lobbyists. At the hearing, the Commission proposed changes in the definition of lobbying expenditures; a change in the definition of "lobbyist," and a new definition of "public official".

72. The Commission indicated that PSC 212G was precipitated as a result of the Common Cause Report on the Accountability (or lack thereof), of State Public Utility Commissions dated August, 1976. In that Report, the Commission asserts, there was criticism of the Minnesota Public Service Commission for its lack of a rule requiring telephone utilities to report lobbying expenditures and for its lack of a rule requiring telephone utilities to separate and identify those lobbying expenditures in the accounts. However, the Common Cause Report, filed herein as Exhibit 21, included six questions pertaining to lobbying which were posed to the subject commissions, including the Minnesota Public Service Commission. One of the questions is: "Are people who attempt to influence the Commission required to report their lobbying expenditures?" The Commission's response to that question in the questionnaire was: "No." However, that answer is erroneous in that, under the requirements of the Minnesota State Ethical Practices Board, these people would be required to report their lobbying expenditures <u>to the Minnesota State Ethical Practices Board</u>. A more relevant question posed was: "Are lobbying expenditures separately identified in accounts of utilities?" Minnesota was among 15 out of 39 states that had no rule or statute requiring lobbying expenditures to be separately identified in the utilities' accounts.

73. The State Ethical Practices Board filed written comments after the hearing asserting that the Board was charged in 1974, under the Ethics in Government Act, Minn. Stat. § 10A, to provide and administer the first permanent lobbyist registration

and reporting program in the history of the state. The Act, which was amended in 1976, provides for the registration and reporting of individuals who are paid or authorized to spend money by another individual or association and who spend over five hours in any month or more than $250 in a calendar year attempting to influence legislation or administrative action by communicating with or urging others to communicate with public officials. The law does not require the registration or reporting of associations or individuals retaining or employing a lobbyist. Also reportable are the names and addresses of public officials who have received gifts, loans, etc. in the value of $20, or more, the date and amount of each and a description of the item. The Ethical Practices Board argues that the proposed rule, PSC 212G, requiring reporting of lobbyists and utilities by the Public Service Commission duplicates responsibilities and duties already being performed by the Ethical Practices Board; poses problems with the absence of definitions; and mingles reporting of lobbying disbursements with campaign contributions and expenditures. The Board has spent two years promulgating rules, issuing advisory opinions, providing forms and monitoring the reports of lobbyists' disbursements. The Board suggests that if the Commission requires a report from a utility of the total amount of lobbying expenditures made by all of its lobbyists in a calendar year, that that amount might better be based upon the disbursements presently being filed by registered lobbyists of that utility with the State Ethical Practices Board rather than have the Commission attempt to duplicate the effort of the Board by setting up a parallel system for lobbyists' registration and reporting. In addition, the total amount spent lobbying by each utility might well be provided to the Commission by the Ethical Practices Board.

74. The Minnesota Telephone Association argues strongly that the regulation of lobbying should be limited to the Ethical Practices Board, which was created by the legislature after a long period of study on the subject of lobbying. The Public Service Commission asserts that the lobbyists' expenses do not

include salaries but the Association argues that it would be very difficult for people to determine the amount of salary that is dedicated to lobbying, for it would involve some real problems of allocations. The Association maintains that the concern of Common Cause and the right of the public to know has been covered adequately by the information that has been asked for of a lobbyist by the Minnesota Ethical Practices Board.

75. Northwestern Bell Telephone Company contends that the proposed rule of the Public Service Commission would be more stringent than the State Ethical Practices Board rules and would require two separate filings. They suggest that it would seem far more reasonable to have utilities file a duplicate original copy of any filings they make with the Ethics Commission with the Public Service Commission. Furthermore, the Commission could get this information without prescribing formal rules.

76. The Commission has demonstrated a need for prescribing accounting procedures under the FCC Uniform System of Accounts for telephone utilities to maintain accounts and records relating to lobbying expenditures. They have not demonstrated the need or the necessity for the reporting requirements relating to lobbying expenditures. A complete re-draft of PSC 212G would have to be accomplished to provide solely for the accounting treatment.

77. The State Ethical Practices Board has adequately prescribed rules and regulations for the registration and reporting of lobbyists in the state of Minnesota. Proposed PSC 212G would create a duplicate reporting requirement; the Rule is unnecessary and unreasonable, is not based on adequate statutory authority and is not recommended for adoption.

CONCLUSIONS

1. That the Commission gave due, timely and proper notice of the hearing herein. All other substantive and procedural requirements of the statute and applicable rules have been fulfilled.

2. The Public Service Commission has statutory authority to adopt the proposed rules.

3. With the exceptions noted in the Findings, the Commission has demonstrated the need for and the reasonableness of the proposed rules.

Based upon the foregoing Conclusions, the Hearing Examiner makes the following:

RECOMMENDATION

That the proposed rules be modified as suggested in the Findings, and that as modified, they be adopted.

Dated this 16th day of May, 1977.

BERNARD SINGER
Hearing Examiner

STATE OF MINNESOTA)
) ss.
COUNTY OF RAMSEY)

Bernard Singer, being first duly sworn, hereby deposes and says:

That at the City of St. Paul, county and state aforementioned, on the 16th day of May, 1977, he did serve the Report of Hearing Examiner, PSC-77-011-BS A-8117-16

upon the individuals listed in the attached paper by personally handing to and leaving with Sharon Schmidt, an employee of the Public Service Commission, said Report of Hearing Examiner.

Bernard Singer

Subscribed and sworn to before me this 16th day of May, 1977.

Eileen A. Gaiovnik

EILEEN A. GAIOVNIK
Notary Public, Ramsey Co. Mn.
MY COMMISION EXPIRES
December 14, 1980

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