

Minnesota Attorney General: Administrative Rules Proceedings

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Version 3
August 20, 2018

#480 Department of Commerce
Banking Division

RULES REVIEW CHECKLIST

DATE RULES RECEIVED 10/24 Temporary Rule —

Resubmitted and Received 11-15-78 ; Approved thereafter on 11-16-78

DUE DATE 10/13

a. Returned to Agency w/o filing w/Secy of State 11-9-78
b. Approved ✓ Date Sent Back to Agency 11-16-78

- -

1. Rules as Adopted ✓
2. Rules as Proposed ✓
3. Certificate of Board's Authorizing Resolution, where applicable n/a ? see #12 (below)
4. Order for Hearing ✓
5. Notice of Hearing ✓ No ¶ 8 re: notif to A-G's office; notice issued 5-20-78
   (i) Sufficiency ✓
6. Secretary of State's List ✓ + cert.
7. Certificate of Acquisition of Secretary of State's List ✓ Can't find altho this is referred to in Div Ex #16 by mistake apparently they intend 2 affid of mailing — see Exh #12 & 13 of June 6, 78 +
8. Affidavit of Mailing ✓
   (i) At least 30 days prior to hearing ✓
9. Statement of Need and Evidence ✓
10. Hearing Examiner's Report ✓ (issued >30 days after hrng / no parties)
11. Agency's Findings of Fact ✓
12. Certificate of Board's Resolution Adopting Rules, where applicable ✓ (Chm. of Commerce Comm)
13. Order Adopting ✓
14. Report of Chief Hearing Examiner ✓
    (i) Finding of No Substantial Change ✓
    (ii) Permission to Incorporate by Reference, where applicable ✓ (See Div Exh #18)
15. Certificate of Compliance with Rulemaking Procedures ✓
16. Copy of Notice of Intent to Solicit Outside Opinion, where applicable ✓
17. Petition by Public, where applicable _____.

ADMIN 1000 (Rev. 1/78)

STATE OF MINNESOTA

DEPARTMENT OF COMMERCE - BANKING

Office Memorandum

TO : JOANNE HINDERAKER
Special Assistant Attorney General

DATE: NOVEMBER 30, 1978

FROM : ROBERT A. MAMPEL
Commissioner of Banks

PHONE: 6-2715

SUBJECT: ADOPTION OF RULES REGARDING ELECTRONIC FUNDS TRANSFER

It was discovered in the proofing process in anticipation of publication of the adoption of rules that there was an inadvertent omission of adopted language in Section 4 MCAR § 1.0231.

That language is as follows and was contained in the rules as proposed and published in the State Register on June 12, 1978; it was before the public at the hearing on the matter; and was contained in the Proposed Findings of Fact, etc., of the Hearing Examiner and the Findings of Fact, etc., of the Commissioner of Banks:

"4 MCAR § 1.0231 Transaction Statement.

A. A financial institution shall provide each ~~account holder~~ customer with a periodic transaction statement ~~following each month in which a transaction occurs or~~ at least quarterly~~, whichever is more frequent~~. The statement shall ~~clearly indicate each transaction conducted at a terminal and shall~~ include, but need not be limited to, the following:"

This appears to have been an inadvertent omission and we ask that the attached adopted rules, with proper language included, be resubmitted to the Secretary of State for refiling in continuity with the adoption and publication.

RAM:pi

Attach.

Department of Commerce

Banking Division

4 MCAR § 1.0226 to 1.0231. Rules of the Minnesota Department of Commerce, Banking Division, Relating to Electronic Funds Transfer Terminals.

4 MCAR § 1.0226 Authority, Scope and Purpose. Minn. Stat. Sec. 47.71, authorizes the Commissioner of Banks to promulgate rules as are reasonably necessary to carry out and make effective the provisions and purposes of the Act. Rule 4 MCAR § 1.0226 to 1.0231 relate to the operation of electronic funds transfer terminals, the manner and information required in the submission of applications for authorization, establishes minimum technical operation standards, and requires disclosure of information to customers using such terminals. These rules establish an application procedure and guide to standards considered reasonable to accomplish the purposes of the Act. Further, the Act mandates the promulgation of rules to inform, guide and protect the consumer, retailers and financial institutions in the utilization of electronic financial terminal systems. These rules further set out specific requirements concerning the issuance of cards, disclosures of pertinent required information and reporting of data relating to financial transactions initiated at electronic financial terminals.

4 MCAR § 1.0227 Definitions. All terms in these rules which are defined in Minn. Stat. Sec. 47.61 through Sec. 47.74 shall have the meanings attributed to them therein. For the purpose of Minn. Stat. Sec. 47.61 through Sec. 47.74 and these rules, terms defined herein shall have the meanings given to them.

A. "Act" means Minn. Stat. Sec. 47.61 through Sec. 47.74 (Laws of 1978, Ch. 469), as enacted and subsequently amended.

B. "Card" means the device used to activate a terminal, including a credit card or debit card.

C. "Card Issuer" means a financial institution or a person authorized by a financial institution providing the use of a terminal to a customer to be activated by a card.

D. "Control" means:

1. The ownership of greater than 50 percent interest in the terminal or terminals; or
2. Any leasehold interest in the terminal or terminals; or
3. The power to act as agent or card issuer authorized by those persons having ownership or leasehold interests in the terminal or terminals for purposes of the Act and these rules.

E. "Customer" means any person who has established a contractual relationship with a financial institution whereby that person is authorized to initiate any of those functions permitted to be performed under the Act at a terminal.

F. "Operator" means any person who assists in the initiation of terminal transactions on behalf of a customer. Operator does not include an employee of a financial institution, financial institution holding company or subsidiary thereof of the customer. For purposes of 4 MCAR § 1.0228, C, operator does not include individual employees of a provider or retailer.

G. "Person" means any individual, body politic or corporate, partnerships or other unincorporated associations, including a financial institution.

H. "Personal Identification Code" is the confidential code provided to the customer which is necessary to the completion of a transaction at a terminal.

I. "Provider" means the person or persons having control over a terminal under the Act.

J. "Terminal" means an electronic financial terminal as defined in the Act.

K. "Transaction" means each separate, identifiable, financial function performed at a terminal as authorized under the Act.

4 MCAR § 1.0228 Electronic Financial Terminal Application for Authorization; Notification Requirements:

A. Any person, including a card issuer, seeking approval to act as a provider of a terminal or terminals at a specific retail location shall, not less than 45 days

before the establishment of the terminal or terminals, file with the Commissioner a written application on a form provided by the Commissioner entitled ELECTRONIC FINANCIAL TERMINAL AUTHORIZATION APPLICATION. Such application shall include the following information:

1. Name and principal address of the person filing the application, together with such person's financial statement for the most recently closed fiscal year.
2. The name and principal address of the person or persons having control thereof, if other than the applicant, together with such persons' financial statements for the most recently closed fiscal year.
3. Descriptive information including:
   a. The number of terminals applied for.
   b. The retail location of each terminal by street address or other designation, including city and county.
   c. The manufacturer, model number and type of the terminal.
4. Whether the terminal will be attended or unattended and, if attended, by whose employees or agents as operators.
5. The functions to be performed at the terminal.
6. Schedule of charges to be paid to the provider by those financial institutions sharing the terminal or terminals.
7. A complete description of the physical and technical operation standards pertaining to the terminal, including information and specifications necessary to enable a financial institution which is eligible to share the terminal to obtain interface with the terminal.
8. Operational information shall include:
   a. The manner in which the terminal is activated.
   b. Anticipated hours of use.

c. Anticipated date of first use of the terminal following approval by the Commissioner.

d. Name and principal address of any financial institution, other than the provider, which is permitted or is seeking permission from the provider to share the terminal.

9. All agreements used or intended to be used relating to the ownership, operation and control of the terminal, including agreements with and disclosures to customers required by the Act and 4 MCAR § 1.0230, A.

10. A description of the safeguards to be used to meet the terminal security requirements of Section 8 of the Act.

11. A description of the procedures to be used to meet the customer privacy requirements of Section 9, Subd. 1, of the Act.

12. A description of the procedures to be used to minimize losses due to unauthorized withdrawals from customer accounts by use of a terminal as required by Section 9, Subd. 3, of the Act.

13. Evidence of the bond or other means adopted to comply with the provisions of Section 4, Subd. 5, of the Act.

14. Certification under oath by the applicant that all requirements of the Act and of these rules shall be met and shall be observed.

B. The Commissioner shall be given written notice by the applicant within 30 days following the contracting by a provider with additional financial institutions which have been permitted to share the terminal or terminals.

C. The Commissioner shall be given written notice by the applicant not less than 30 days prior to the change of control or change of the operator of any terminal or terminals.

D. The Commissioner shall be given written notice by the applicant of the termination of terminal operations at the location authorized not more than 10 days after termination of all regulated activity.

4 MCAR § 1.0229 Technical Operation Standards:

A. For purposes of approval by the Commissioner of applications for the establishment and use of terminals, the following technical operation standards and requirements shall be deemed reasonable:

1. Physical specifications for cards are those established by the American National Standards Institute, Inc., ANSI X4.13-1971, corrected edition, as approved April 28, 1971, as to its paragraphs 2 through 5.3, inclusive.
2. Special physical characteristics applicable to magnetic stripped encoded cards are those characteristics established by the American National Standards Institute, Inc., ANSI X4.16-1976, as approved February 24, 1976, as to its paragraphs 2 through 5.6.5, inclusive.
3. The receipt or record provided to the customer for each transaction initiated at a terminal shall contain the following information:
   a. Date of the transaction;
   b. Amount of the transaction;
   c. Description of the transaction which may be in clear and understandable abbreviations or codes;
   d. Identity of any customer's financial institution with whom funds are electronically transferred.
4. All financial transactions performed at a terminal as authorized by Section 3 of the Act shall be processed as if the transactions were conducted at the principal office of the financial institution having due regard for the reasonable time necessary for the transportation or transmission of data or funds deposited or received at the terminal in cash or checks to the point of verification by the financial institution. There shall be no differential in such time delay, if any, between the various permitted transactions initiated at a terminal

unless acknowledged in writing by the customer. In the event cards meeting the requirements of the Act and these rules are outstanding under a pre-authorized agreement and in lieu of an acknowledgement in writing by the customer, such time differential shall be disclosed to the customer in writing before authorization for use of a terminal.

5. A personal identification code shall be utilized as a means of verification of the authenticity of transactions to be completed at a terminal. The personal identification code shall not be distributed until the financial institution issuing the card has received the customer's signed contract.

B. In lieu of compliance with Subdivisions A-1 and A-2 of this Section, an applicant seeking approval for the establishment and use of a terminal or terminals may adopt alternative physical specifications and physical characteristics for cards upon a showing that the proposed alternative specifications and characteristics meet or exceed the requirements set forth in Subdivisions A-1 and A-2 in providing the following:

1. Protection to the customer and sharing financial institutions against misuse or unauthorized use of cards;
2. Reliability of accurate processing of information regarding transactions performed through the use of the cards; and
3. Fair, equitable and non-discriminatory access to the terminal by other potential sharing financial institutions.

4 MCAR § 1.0230 Customer Disclosure Requirements:

A. Pursuant to Section 9 of the Act, the following information shall be disclosed in writing by the card issuer to its customer at the time the card is issued or in the event cards meeting the requirements of the Act and these rules are outstanding, this disclosure shall be made before the customer is allowed to use a terminal.

1. The types of financial transactions available through the use of the terminal.

2. The schedule of charges made by the financial institution for the customer's use of the terminal.

3. Any restrictions or limits on the number of transactions or dollar value limits which may be imposed upon the customer by the card issuer.

4. The frequency for sending periodic transaction statements to the customer.

5. The procedure to be used to give notice of error to the card issuer. Said disclosure shall include the manner in which notice of error is to be filed and with whom it is to be filed, and shall include the mailing address and telephone number of the person to whom notice may be given.

6. The specific manner in which the agreement under which a card was issued may be terminated, either by the card issuer or by the customer.

7. The customary time needed to complete terminal transactions with the financial institution clearly stating differential in time if any between the various permitted transactions initiated at a terminal.

8. Where payment for goods or services is made by a transfer of funds through a terminal:

   a. Whether the transaction may be reversed by the customer;

   b. The procedure by which the transaction may be reversed; and

   c. A statement that the payment for goods or services made in this manner shall not affect any of the rights, protections or liabilities in existing law concerning a cash or credit sale made by means other than through the use of a terminal.

9. A statement that the financial institution shall be liable for all unauthorized withdrawals unless the unauthorized withdrawal was:

a. Due to the negligent conduct or the intentional misconduct of the operator of an electronic financial terminal or his agent in which case the operator of an electronic financial terminal or his agent shall be liable.

b. Due to the loss or theft of the customer machine readable card in which case the customer shall be liable, subject to a maximum liability of $50, for those unauthorized withdrawals made prior to the time the financial institution is notified of the loss or theft. An unauthorized withdrawal is a withdrawal by a person other than the customer who does not have actual, implied or apparent authority for such withdrawal, and from which withdrawal the customer receives no benefit.

10. A statement that any customer may bring a civil action against any person violating the consumer privacy and unauthorized withdrawal provisions of the Act and may recover, in addition to actual damages, or $500, whichever is greater, punitive damages, together with the court costs and reasonable attorney's fees incurred.

11. A statement that to protect the privacy of customers using electronic financial terminals, including any supporting equipment, structures or systems, information received by or processed through such terminals, supporting equipment, structures or systems shall be treated and used only in accordance with applicable law relating to the dissemination and disclosure of such information. The person establishing and maintaining an electronic financial terminal, including any supporting equipment, structures or systems, shall take such steps as are reasonably necessary to restrict disclosure of information to that necessary to complete the transaction and to safeguard any information received or obtained about a customer or his account from misuse by

any person manning an electronic financial terminal, including any supporting equipment, structures or systems.

B. All information required to be disclosed by Subd. A of this Section shall be printed in not less than eight-point type, .075 inch computer type, or elite-size typewritten characters.

C. A directory listing as permitted under the Act shall be made available by the applicant at the retail location of the terminal identifying the financial institutions using its services.

4 MCAR § 1.0231 Transaction Statement.

A financial institution shall provide each customer with a periodic transaction statement at least quarterly. The statement shall include, but need not be limited to, the following:

A. Date of transaction.

B. Amount of each transaction.

C. Type of each transaction which may be in clear and understandable abbreviations or codes.

4 MCAR § 1.0232 - 1.0239 are reserved for future use.

STATE OF MINNESOTA
DEPARTMENT OF STATE
FILED
DEC - 1 1978
Joan Anderson Growe
Secretary of State
9:15 AM

APPROVED AS TO FORM AND LEGALITY
NOV 30 1978 19
WARREN SPANNAUS, ATTORNEY GENERAL
BY Joanne Hindeveldt
SPECIAL ASSISTANT ATTORNEY GENERAL

ADMIN 1003 (Rev. 1/78)

STATE OF MINNESOTA

DEPARTMENT OF COMMERCE - BANKING

Office Memorandum

TO : JOANNE HINDERAKER
Special Assistant Attorney General

DATE: NOVEMBER 30, 1978

FROM : ROBERT A. MAMPEL
Commissioner of Banks

PHONE: 6-2715

SUBJECT: ADOPTION OF RULES REGARDING ELECTRONIC FUNDS TRANSFER

It was discovered in the proofing process in anticipation of publication of the adoption of rules that there was an inadvertent omission of adopted language in Section 4 MCAR § 1.0231.

That language is as follows and was contained in the rules as proposed and published in the State Register on June 12, 1978; it was before the public at the hearing on the matter; and was contained in the Proposed Findings of Fact, etc., of the Hearing Examiner and the Findings of Fact, etc., of the Commissioner of Banks:

"4 MCAR § 1.0231 Transaction Statement.

A. A financial institution shall provide each ~~account holder~~ customer with a periodic transaction statement ~~following each month in which a transaction occurs or~~ at least quarterly~~, whichever is more frequent~~. The statement shall ~~clearly indicate each transaction conducted at a terminal and shall~~ include, but need not be limited to, the following:"

This appears to have been an inadvertent omission and we ask that the attached adopted rules, with proper language included, be resubmitted to the Secretary of State for refiling in continuity with the adoption and publication.

RAM:pi

Attach.

OUR FILE NO. 460

Attorney General

Jacqueline Taylor
Special Assistant
Attorney General

November 9, 1978

Joanne Hinderaker JH
Special Assistant
Attorney General

296-4692

In the Matter of the Proposed Rules of the Minnesota Department of Commerce, Banking Division, Relating to Electronic Funds Transfer Terminals

The above-captioned rules have not been approved by this office for the following reason:

Rule 4 MCAR § 1.0229(B) requires a showing that alternative physical specifications and characteristics provide "3. Fair and equitable access to the terminal by other potential sharing financial institutions". However the Act requires that access be made available on "a nondiscriminatory basis" (section 2) and on "a fair, equitable and nondiscriminatory basis" (section 4). The Agency cannot vary the statutory standard set out in the Act. Therefore, the Agency should incorporate the "nondiscriminatory basis" language of the Act into the above-cited rule.

Upon Agency consideration of this decision and after any action taken by the Agency in this regard please resubmit the amended rules to this office.

Because your office failed to provide us with the requisite number of copies of documents pursuant to Attorney General Rule 302, please contact me in regard to this matter before resubmitting the rules and rule file to this office.

JH:mb

Enclosure

cc: Duane Harves

ADMIN 1000 (Rev. 1/78)

STATE OF MINNESOTA

DEPARTMENT OF COMMERCE - BANKING

Office Memorandum

TO : JOANNE HINDERAKER
Special Assistant Attorney General

DATE: NOVEMBER 30, 1978

FROM : ROBERT A. MAMPEL
Commissioner of Banks

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SUBJECT: ADOPTION OF RULES REGARDING ELECTRONIC FUNDS TRANSFER

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A. A financial institution shall provide each ~~account holder~~ customer with a periodic transaction statement ~~following each month in which a transaction occurs or~~ at least quarterly~~, whichever is more frequent~~. The statement ~~shall clearly indicate each transaction conducted at a terminal and shall~~ include, but need not be limited to, the following:"

This appears to have been an inadvertent omission and we ask that the attached adopted rules, with proper language included, be resubmitted to the Secretary of State for refiling in continuity with the adoption and publication.

RAM:pi

Attach.

any person manning an electronic financial terminal, including any supporting equipment, structures or systems.

B. All information required to be disclosed by Subd. A of this Section shall be printed in not less than eight-point type, .075 inch computer type, or elite-size typewritten characters.

C. A directory listing as permitted under the Act shall be made available by the applicant at the retail location of the terminal identifying the financial institutions using its services.

4 MCAR § 1.0231 Transaction Statement.

A financial institution shall provide each customer with a periodic transaction statement at least quarterly. The statement shall include, but need not be limited to, the following:

A. Date of transaction.

B. Amount of each transaction.

C. Type of each transaction which may be in clear and understandable abbreviations or codes.

4 MCAR § 1.0232 - 1.0239 are reserved for future use.

STATE OF MINNESOTA

DEPARTMENT OF COMMERCE

BANKING DIVISION

IN THE MATTER OF THE PROPOSED RULES OF THE MINNESOTA DEPARTMENT OF COMMERCE, BANKING DIVISION, RELATING TO ELECTRONIC FUNDS TRANSFER TERMINALS.

FINDINGS OF FACT

The above-entitled matter came on for hearing before George A. Beck, duly appointed Hearing Examiner, on the 12th day of July, 1978, at 9:00 a.m. in Room 83 of the State Office Building, Capitol Complex, in the City of Saint Paul, County of Ramsey, State of Minnesota, after proper notice required by Minn. Stat. Section 15.0412, was served upon all persons, associations and other interested groups registered with the Secretary of State for that purpose.

Members of the agency panel appearing at the hearing included: Vernon E. Rude, Assistant Commissioner of Banks, James G. Miller, Supervisor of Credit Unions and Savings Associations, Banking Division; William R. Howard, Special Assistant Attorney General assigned to the Department of Commerce; Jacqueline Taylor, Special Assistant Attorney General assigned to the Department of Commerce; Reynaud Harp, Special Assistant Attorney General assigned to the Department of Commerce; and James W. White, Manager of Sales Support, Data Card Corporation.

Six public witnesses appeared and spoke at the hearing. The Banking Division submitted twenty-two written exhibits. Nineteen written comments were received from the public subsequent to the mailing of the Notice of Hearing through the end of the 20-day period for written comment following the hearing. An index of the exhibits is attached to the Report of Hearing Examiner.

Hearing Examiner Beck prepared the Report of Hearing Examiner (hereinafter "Report"), dated August 30, 1978, pursuant to Minn. Stat. Sec. 15.052, Subd. 3 and Minn. Rules H.E. 106.

After affording interested persons an opportunity to present written and oral data, statements and arguments, having considered all of the testimony, and all of the other evidence adduced, and upon the records, files and proceedings herein, the Commissioner makes the following:

FINDINGS OF FACT

1. He adopts Findings 1 through 86 of the Report of the Hearing Examiner as those findings relate to the procedural requirements, statutory authority and the determination of need for and the reasonableness of the proposed rules governing electronic funds transfer terminals. The following amendments to the proposed rules, as they appeared in the State Register, June 12, 1978 (2 S.F. 2229) are incorporated in this adoption as integral to the Report findings numbered:

13. Section 1.0227 C to read as follows: "Card" means the device used to activate ~~an electronic financial~~ a terminal, including a credit card or debit card.

14-16. Section 1.0227 D to read as follows: "Card Issuer" means a financial institution or a person ~~in conjunction with~~ authorized by a financial institution providing the use of a terminal ~~under a pre-authorized contractual agreement with~~ to a customer to be activated by a card.

17-19. Section 1.0227 E to read as follows: "Control" means:

1. ~~Person having~~ The ownership of greater than 50 percent ~~ownership~~ interest in the terminal or terminals ~~applied for~~; or
2. Any ~~lessee~~ leasehold interest in ~~of~~ the terminal or terminals; or
3. ~~Any managing~~ The power to act as agent or card issuer ~~appointed~~ authorized by those persons having ownership or leasehold interests in the terminal or terminals for purposes of the Act and these rules.

21-23. Section 1.0227 G to read as follows: "Operator" means any ~~provider or retailer~~ person who ~~initiates or~~ assists in the initiation of ~~electronic financial~~ terminal transactions on behalf of a customer. Operator does not include an employee of a financial institution, financial institution holding company or subsidiary thereof or the ~~account holder~~ customer. For purposes of 4 MCAR § 1.0228, C, operator does not include individual employees of a provider or retailer.

25. Section 1.0227 I to read as follows: "Personal Identification ~~Number~~ Code" is the confidential code provided to the ~~account~~

~~holder~~ customer which is necessary to the completion of a transaction at ~~an-electronic-financial~~ a terminal.

30-32. Section 1.0228 A to read as follows: Any person, including a card issuer, seeking approval to act as a provider of a terminal or terminals at a specific retail location shall, not less than 45 days before the establishment of the terminal or terminals, file with the Commissioner a written application on a form provided by the Commissioner entitled ELECTRONIC FINANCIAL TERMINAL AUTHORIZATION APPLICATION. Such application shall include~~,-but-need-not-be-limited-to,~~ the following ~~request-for~~ information:

37,38. Section 1.0228 A (9) to read as follows: All agreements used or intended to be used relating to the ownership, operation and control of the terminal, including agreements with and disclosures to ~~account-holders~~ customers required by the Act and 4 MCAR § 1.0230, A.

45,46. Section 1.0228 D to read as follows: The Commissioner shall be given written notice by the applicant of the termination of ~~the-use-of-a~~ terminal operations at the location authorized not more than 10 days after termination of all regulated activity.

50,51. Section 1.0229 A. 3. a. to read as follows: Date ~~and-time~~ of the transaction

53. Section 1.0229 A. 3. c. to read as follows: Description of the transaction which may be in clear and understandable abbreviations or codes.

54. Section 1.0229 A. 3. d. to read as follows: Identity of any customer's financial institution with whom funds are electronically transferred.

55-57. Section 1.0229 A. 4. to read as follows: All financial transactions performed at a terminal as authorized by Section 3 of the Act shall be processed as if the transactions were conducted at the principal office of the financial institution having due regard for the ~~banking-day-or-the-established hours-and-days-the-financial-institution-is-open-for-carrying on-substantially-all-of-the-functions~~ reasonable time necessary

for the transportation or transmission of data or funds deposited or received at the terminal in cash or checks to the point of verification by the financial institution. There shall be no differential in such time delay, if any, between the various permitted transactions initiated at a terminal unless acknowledged in writing by the customer. In the event cards meeting the requirements of the Act and these rules are outstanding under a pre-authorized agreement and in lieu of an acknowledgement in writing by the customer, such time differential shall be disclosed to the customer in writing before authorization for use of a terminal.

58. Section 1.0229 A. 5. to read as follows: A personal identification ~~number~~ code shall be utilized as a means of verification of the authenticity of transactions to be completed at a terminal. The personal identification ~~number~~ code shall not be distributed until the financial institution issuing the card has received the customer's signed contract.

62,63. Section 1.0230 A. to read as follows: Pursuant to Section 9 of the Act, the following information shall be disclosed in writing by the card issuer to its customer at the time the card is issued~~:~~ or in the event cards meeting the requirements of the Act and these rules are outstanding, this disclosure shall be made before the customer is allowed to use a terminal.

65. Section 1.0230 A. 2 to read as follows: The schedule of charges made by the financial institution for the customer's use of the terminal ~~and for each type of terminal connected activity for which charges are made~~.

66. Section 1.0230 A. 4. to read as follows: The ~~schedule~~ frequency for sending periodic transaction statements to the customer.

69. Section 1.0230 A. 7. to read as follows: The customary time needed to complete terminal transactions with the financial institution clearly stating differential in time if any between the various permitted transactions initiated at a terminal.

(The remaining subsections would be renumbered accordingly.)

70. Section 1.0230 A. 8. a. as renumbered to read as follows: ~~The customary time needed to complete the transaction with the financial institution;~~

72. Section 1.0230 A. to read as follows adding paragraph 11: 11. A statement that to protect the privacy of customers using electronic financial terminals, including any supporting equipment, structures or systems, information received by or processed through such terminals, supporting equipment, structures or systems shall be treated and used only in accordance with applicable law relating to the dissemination and disclosure of such information. The person establishing and maintaining an electronic financial terminal, including any supporting equipment, structures or systems, shall take such steps as are reasonably necessary to restrict disclosure of information to that necessary to complete the transaction and to safeguard any information received or obtained about a customer or his account from misuse by any persons manning an electronic financial terminal, including any supporting equipment, structures or systems.

74-76. Section 1.0230 C. to read as follows: A directory listing as permitted under the Act shall be made available by the applicant at the retail location of the terminal identifying the financial institutions using its services.

77-86. Section 1.0231 A to read as follows: 4 MCAR § 1.0231 A. Transaction Statement: A financial institution shall provide each ~~account holder~~ customer with a periodic transaction statement ~~following each month in which a transaction occurs or~~ at least quarterly, ~~whichever is more frequent~~. The statement shall ~~clearly indicate each transaction conducted at a terminal and shall~~ include, but need not be limited to, the following:

A. Date of transaction.

B. Amount of each transaction.

C. ~~Description~~ Type of each transaction ~~with sufficient specificity to permit verification by the account holder without supporting documentation.~~ which may be in clear and understandable abbreviations or codes.

~~4. Location at which each transaction occurred.~~

~~5. Identity of any financial institution with whom funds were electronically transferred.~~

2. In the adoption of the Report's finding 77 through 86 in connection with Section 1.0231, the Commissioner finds further there is evidence to support retention of the section as amended. This language is not a mere restatement of the Act's language (Minn. Stat. Sec. 47.69, Subd. 6) but responsive to the need for clearly permitting a competitive marketplace as it seeks to provide information in the transaction statement beyond what is enacted as minimum standards (finding 83; Ex. P., p. 2; Tr. pp. 96-99). This clarity is afforded by the added language "<u>,but need not be limited to</u>".

Further, within the Report's findings (83, 84 and 85) it is demonstrated that there is a need to communicate through the electronic data processing environment in machine compatable codes or abbreviated alphabetical units. The language added to Section 1.0231, "<u>which may be in clear and understandable abbreviations or codes</u>",provides a reasonable means to supply the required information, as well as additional information which may be necessary to meet consumer's needs as evidenced in Ex. 22, pp. 12-13 and Tr. pp. 96-99.

This rule, as amended, is found to be reasonable and needed.

3. As to those subsidiary recommendations of the Report relating to drafting and grammar, the Commissioner makes the following amendments to the proposed rules as they appeared in the State Register, June 12, 1978 (2S.R. 2229), to be incorporated in this adoption of Report findings numbered:

<u>8</u>,<u>9</u>. Section 1.0226 to read: Authority, Scope and Purpose. ~~Laws of 1978, Ch. 469,~~ <u>Minn. Stat. Sec. 47.71</u>, authorizes the Commissioner of Banks to promulgate rules as are reasonably necessary to carry out and make effective the provisions and purposes of the Act ~~relating to the establishment and operation of electronic financial terminals. The Act requires that rules be promulgated to govern application forms and require that technical standards be established.~~

<u>Rule 4 MCAR § 1.0226 to 1.0231 relate to the operation of electronic funds transfer terminals, the manner and information required in the submission of applications for authorization, establishes minimum technical operation standards, and requires disclosure of information to customers using such terminals.</u>

These rules establish an application procedure and guide to standards considered reasonable to accomplish the purposes of the Act. Further, the Act mandates the promulgation of rules to inform, guide and protect the consumer, retailers and financial institutions in the utilization of electronic financial terminal systems. These rules further set out specific requirements concerning the issuance of cards, disclosures of pertinent required information and reporting of data relating to financial transactions initiated at electronic financial terminals.

9,10. Section 1.0227 to read as follows: Definitions. All terms ~~herein~~ in these rules which are defined in ~~Laws of 1978, Ch. 469~~, Minn. Stat. Sec. 47.61 through Sec. 47.74 shall have the meanings attributed to them therein. For the purpose of ~~Laws of 1978, Ch. 469,~~ Minn. Stat. Sec. 47.61 through Sec. 47.74 and these rules, terms defined herein shall have the meanings given to them.

11. Section 1.0227 A. is deleted and the subsequent paragraphs renumbered accordingly: ~~A. "Account holder" means "customer".~~

12. Section 1.0227 B. to read as follows: "Act" means Minn. Stat. Sec. 47.61 through Sec. 47.74, (Laws of 1978, Ch. 469), as enacted and subsequently amended.

13,20. Section 1.0227 F. to read as follows: "Customer" means any person who has established a contractual relationship with a financial institution whereby that person is authorized to initiate any of those functions permitted to be performed under the Act at ~~an electronic financial~~ a terminal.

24. Section 1.0227 H. to read as follows: "Person" means any individual, bodies politic or corporate, partnerships or other unincorporated associations, including a financial institution, ~~as defined in the Act~~.

26,27. Section 1.0227 J. to read as follows: "Provider" means the person or persons having control over ~~an electronic financial~~ a terminal under the Act.

29. Section 1.0227 L. to read as follows: "Transaction" means each separate, identifiable, financial function performed at ~~an electronic financial~~ a terminal as authorized under the Act.

67. Section 1.0230 A. 5. to read as follows: ~~A statement notifying the customer of~~ The procedure to be used to give notice of error to the card issuer. Said disclosure shall include the manner in which notice of error is to be filed and with whom it is to be filed, and shall include the mailing address and telephone number of the person to whom notice may be given.

68. Section 1.0230 A. 6. to read as follows: The specific manner in which the agreement under which a card was issued may be terminated, either by the card issuer or by the ~~account holder~~ customer.

4. In the adoption of Report Finding No. 56, 60 and 61, the Commissioner finds further:

Section 1.0229 B can be tied directly to Section 1.0229 A, 1 and 2, which has been shown to be a needed and reasonable criteria to the orderly implementation of EFT through uniformity and availability of access technologically speaking. (Findings as adopted No. 47, 48, and 49). The areas of standards applicable to this point in the development are confined to the physical specifications for cards and the special characteristics applicable to magnetic striped encoded cards which is essentially the cards electronic communications capability. It has been shown that these mechanical and electronic characteristics are "operationally feasible, reasonably reliable and accessible to potential providers". (Ex. 15, p. 6, Tr. pp 40-66). These then are the sufficient criteria to apply to subsequently developed alternative means of providing electronic funds transfer services and are contained in Section 1.0229 B, 1, 2 and 3 of these rules.

Based on the foregoing Findings of Fact, the Commissioner makes the following:

CONCLUSIONS

1. That the Banking Division gave proper notice of the promulgation of the proposed rules.

2. That the Banking Division has the statutory authority to promulgate the proposed rules as amended.

3. That the Banking Division has fulfilled all relevant, substantive and procedural requirements of law or rule.

4. That the Banking Division has demonstrated the need for and the reasonableness of the proposed rules by an affirmative presentation of the facts in record as adopted.

5. That the Banking Division is not precluded from and has acted to prudently modify these proposed rules in its adoption of certain amended language which is not representative of substantial change and is based on the evidence contained in the hearing record.

Dated: October 5th, 1978

ROBERT A. MAMPEL
Commissioner of Banks

MEMORANDUM

In the text of the Hearing Examiner's Report in findings 16, 20, 27, 32, 35, 36, 39-43, 57, 58, 67 and 72 recommendations are present but deemed to be suggestive in nature only. They are not representative of facts necessary to the existent affirmative findings 1 through 76. However, these allegory comments were considered but, in the interest of timely forwarding of the proceedings already intact with sufficient fact to establish findings pertinent to the lawful requirements, these extraneous comments were not found to be fact to be adopted or rejected.

Further, in connection with Hearing Examiner Report finding 16, consideration has been given to the comments of the Northwestern Bank and the Minnesota Retail Federation. The broadest possible connotation has been given to the quality of card issuer once a financial institution engaged in offering terminal access is involved. Clearly, it is not the intent of the Division to exclude any person from becoming a card issuer when acting in conjunction with a financial institution regardless of the other terminal involvement which may attach to that "third party".

Department of Commerce

Banking Division

4 MCAR § 1.0226 to 1.0231. Rules of the Minnesota Department of Commerce, Banking Division, Relating to Electronic Funds Transfer Terminals.

4 MCAR § 1.0226 Authority, Scope and Purpose. Minn. Stat. Sec. 47.71, authorizes the Commissioner of Banks to promulgate rules as are reasonably necessary to carry out and make effective the provisions and purposes of the Act. Rule 4 MCAR § 1.0226 to 1.0231 relate to the operation of electronic funds transfer terminals, the manner and information required in the submission of applications for authorization, establishes minimum technical operation standards, and requires disclosure of information to customers using such terminals. These rules establish an application procedure and guide to standards considered reasonable to accomplish the purposes of the Act. Further, the Act mandates the promulgation of rules to inform, guide and protect the consumer, retailers and financial institutions in the utilization of electronic financial terminal systems. These rules further set out specific requirements concerning the issuance of cards, disclosures of pertinent required information and reporting of data relating to financial transactions initiated at electronic financial terminals.

4 MCAR § 1.0227 Definitions. All terms in these rules which are defined in Minn. Stat. Sec. 47.61 through Sec. 47.74 shall have the meanings attributed to them therein. For the purpose of Minn. Stat. Sec. 47.61 through Sec. 47.74 and these rules, terms defined herein shall have the meanings given to them.

A. "Act" means Minn. Stat. Sec. 47.61 through Sec. 47.74 (Laws of 1978, Ch. 469), as enacted and subsequently amended.

B. "Card" means the device used to activate a terminal, including a credit card or debit card.

C. "Card Issuer" means a financial institution or a person authorized by a financial institution providing the use of a terminal to a customer to be activated by a card.

D. "Control" means:

1. The ownership of greater than 50 percent interest in the terminal or terminals; or
2. Any leasehold interest in the terminal or terminals; or
3. The power to act as agent or card issuer authorized by those persons having ownership or leasehold interests in the terminal or terminals for purposes of the Act and these rules.

E. "Customer" means any person who has established a contractual relationship with a financial institution whereby that person is authorized to initiate any of those functions permitted to be performed under the Act at a terminal.

F. "Operator" means any person who assists in the initiation of terminal transactions on behalf of a customer. Operator does not include an employee of a financial institution, financial institution holding company or subsidiary thereof of the customer. For purposes of 4 MCAR § 1.0228, C, operator does not include individual employees of a provider or retailer.

G. "Person" means any individual, body politic or corporate, partnership or other unincorporated associations, including a financial institution.

H. "Personal Identification Code" is the confidential code provided to the customer which is necessary to the completion of a transaction at a terminal.

I. "Provider" means the person or persons having control over a terminal under the Act.

J. "Terminal" means an electronic financial terminal as defined in the Act.

K. "Transaction" means each separate, identifiable, financial function performed at a terminal as authorized under the Act.

4 MCAR § 1.0228 Electronic Financial Terminal Application for Authorization; Notification Requirements:

A. Any person, including a card issuer, seeking approval to act as a provider of a terminal or terminals at a specific retail location shall, not less than 45 days

before the establishment of the terminal or terminals, file with the Commissioner a written application on a form provided by the Commissioner entitled ELECTRONIC FINANCIAL TERMINAL AUTHORIZATION APPLICATION. Such application shall include the following information:

1. Name and principal address of the person filing the application, together with such person's financial statement for the most recently closed fiscal year.
2. The name and principal address of the person or persons having control thereof, if other than the applicant, together with such persons' financial statements for the most recently closed fiscal year.
3. Descriptive information including:
   a. The number of terminals applied for.
   b. The retail location of each terminal by street address or other designation, including city and county.
   c. The manufacturer; model number and type of the terminal.
4. Whether the terminal will be attended or unattended and, if attended, by whose employees or agents as operators.
5. The functions to be performed at the terminal.
6. Schedule of charges to be paid to the provider by those financial institutions sharing the terminal or terminals.
7. A complete description of the physical and technical operation standards pertaining to the terminal, including information and specifications necessary to enable a financial institution which is eligible to share the terminal to obtain interface with the terminal.
8. Operational information shall include:
   a. The manner in which the terminal is activated.
   b. Anticipated hours of use.

c. Anticipated date of first use of the terminal following approval by the Commissioner.

d. Name and principal address of any financial institution, other than the provider, which is permitted or is seeking permission from the provider to share the terminal.

9. All agreements used or intended to be used relating to the ownership, operation and control of the terminal, including agreements with and disclosures to customers required by the Act and 4 MCAR § 1.0230, A.

10. A description of the safeguards to be used to meet the terminal security requirements of Section 8 of the Act.

11. A description of the procedures to be used to meet the customer privacy requirements of Section 9, Subd. 1, of the Act.

12. A description of the procedures to be used to minimize losses due to unauthorized withdrawals from customer accounts by use of a terminal as required by Section 9, Subd. 3, of the Act.

13. Evidence of the bond or other means adopted to comply with the provisions of Section 4, Subd. 5, of the Act.

14. Certification under oath by the applicant that all requirements of the Act and of these rules shall be met and shall be observed.

B. The Commissioner shall be given written notice by the applicant within 30 days following the contracting by a provider with additional financial institutions which have been permitted to share the terminal or terminals.

C. The Commissioner shall be given written notice by the applicant not less than 30 days prior to the change of control or change of the operator of any terminal or terminals.

D. The Commissioner shall be given written notice by the applicant of the termination of terminal operations at the location authorized not more than 10 days after termination of all regulated activity.

4 MCAR § 1.0229 Technical Operation Standards:

A. For purposes of approval by the Commissioner of applications for the establishment and use of terminals, the following technical operation standards and requirements shall be deemed reasonable:

1. Physical specifications for cards are those established by the American National Standards Institute, Inc., ANSI X4.13-1971, corrected edition, as approved April 28, 1971, as to its paragraphs 2 through 5.3, inclusive.
2. Special physical characteristics applicable to magnetic stripped encoded cards are those characteristics established by the American National Standards Institute, Inc., ANSI X4.16-1976, as approved February 24, 1976, as to its paragraphs 2 through 5.6.5, inclusive.
3. The receipt or record provided to the customer for each transaction initiated at a terminal shall contain the following information:
   a. Date of the transaction.
   b. Amount of the transaction.
   c. Description of the transaction which may be in clear and understandable abbreviations or codes.
   d. Identity of any customer's financial institution with whom funds are electronically transferred.
4. All financial transactions performed at a terminal as authorized by Section 3 of the Act shall be processed as if the transactions were conducted at the principal office of the financial institution having due regard for the reasonable time necessary for the transportation or transmission of data or funds deposited or received at the terminal in cash or checks to the point of verification by the financial institution. There shall be no differential in such time delay, if any, between the various permitted transactions initiated at a terminal

unless acknowledged in writing by the customer. In the event cards meeting the requirements of the Act and these rules are outstanding under a pre-authorized agreement and in lieu of an acknowledgement in writing by the customer, such time differential shall be disclosed to the customer in writing before authorization for use of a terminal.

5. A personal identification code shall be utilized as a means of verification of the authenticity of transactions to be completed at a terminal. The personal identification code shall not be distributed until the financial institution issuing the card has received the customer's signed contract.

B. In lieu of compliance with Subdivisions A-1 and A-2 of this Section, an applicant seeking approval for the establishment and use of a terminal or terminals may adopt alternative physical specifications and physical characteristics for cards upon a showing that the proposed alternative specifications and characteristics meet or exceed the requirements set forth in Subdivisions A-1 and A-2 in providing the following:

1. Protection to the customer and sharing financial institutions against misuse or unauthorized use of cards;
2. Reliability of accurate processing of information regarding transactions performed through the use of the cards; and
3. Fair, equitable and non-discriminatory access to the terminal by other potential sharing financial institutions.

4 MCAR § 1.0230 Customer Disclosure Requirements:

A. Pursuant to Section 9 of the Act, the following information shall be disclosed in writing by the card issuer to its customer at the time the card is issued or in the event cards meeting the requirements of the Act and these rules are outstanding, this disclosure shall be made before the customer is allowed to use a terminal.

1. The types of financial transactions available through the use of the terminal.

2. The schedule of charges made by the financial institution for the customer's use of the terminal.
3. Any restrictions or limits on the number of transactions or dollar value limits which may be imposed upon the customer by the card issuer.
4. The frequency for sending periodic transaction statements to the customer.
5. The procedure to be used to give notice of error to the card issuer. Said disclosure shall include the manner in which notice of error is to be filed and with whom it is to be filed, and shall include the mailing address and telephone number of the person to whom notice may be given.
6. The specific manner in which the agreement under which a card was issued may be terminated, either by the card issuer or by the customer.
7. The customary time needed to complete terminal transactions with the financial institution clearly stating differential in time if any between the various permitted transactions initiated at a terminal.
8. Where payment for goods or services is made by a transfer of funds through a terminal:
   a. Whether the transaction may be reversed by the customer;
   b. The procedure by which the transaction may be reversed; and
   c. A statement that the payment for goods or services made in this manner shall not affect any of the rights, protections or liabilities in existing law concerning a cash or credit sale made by means other than through the use of a terminal.
9. A statement that the financial institution shall be liable for all unauthorized withdrawals unless the unauthorized withdrawal was:

a. Due to the negligent conduct or the intentional misconduct of the operator of an electronic financial terminal or his agent in which case the operator of an electronic financial terminal or his agent shall be liable.

b. Due to the loss or theft of the customer machine readable card in which case the customer shall be liable, subject to a maximum liability of $50, for those unauthorized withdrawals made prior to the time the financial institution is notified of the loss or theft. An unauthorized withdrawal is a withdrawal by a person other than the customer who does not have actual, implied or apparent authority for such withdrawal, and from which withdrawal the customer receives no benefit.

10. A statement that any customer may bring a civil action against any person violating the consumer privacy and unauthorized withdrawal provisions of the Act and may recover, in addition to actual damages, or $500, whichever is greater, punitive damages, together with the court costs and reasonable attorney's fees incurred.

11. A statement that to protect the privacy of customers using electronic financial terminals, including any supporting equipment, structures or systems, information received by or processed through such terminals, supporting equipment, structures or systems shall be treated and used only in accordance with applicable law relating to the dissemination and disclosure of such information. The person establishing and maintaining an electronic financial terminal, including any supporting equipment, structures or systems, shall take such steps as are reasonably necessary to restrict disclosure of information to that necessary to complete the transaction and to safeguard any information received or obtained about a customer or his account from misuse by

any person manning an electronic financial terminal, including any supporting equipment, structures or systems.

B. All information required to be disclosed by Subd. A of this Section shall be printed in not less than eight-point type, .075 inch computer type, or elite-size typewritten characters.

C. A directory listing as permitted under the Act shall be made available by the applicant at the retail location of the terminal identifying the financial institutions using its services.

4 MCAR § 1.0231 Transaction Statement:

A. Date of transaction.

B. Amount of each transaction.

C. Type of each transaction which may be in clear and understandable abbreviations or codes.

4 MCAR § 1.0232 - 1.0239 are reserved for future use.

STATE OF MINNESOTA
DEPARTMENT OF STATE
FILED
NOV 16 1978
Joan Anderson Growe
Secretary of State
9:15 AM

APPROVED AS TO FORM AND LEGALITY
NOV. 16 1978
_____ 19____
WARREN SPANNAUS, ATTORNEY GENERAL
BY Joanne E. Hinderaker
SPECIAL ASSISTANT ATTORNEY GENERAL

STATE OF MINNESOTA

DEPARTMENT OF COMMERCE

BANKING DIVISION

IN THE MATTER OF THE PROPOSED RULES OF THE MINNESOTA DEPARTMENT OF COMMERCE, BANKING DIVISION, RELATING TO ELECTRONIC FUNDS TRANSFER TERMINALS.	))))	ORDER ADOPTING RULES

The above entitled matter came on for hearing before the Commissioner of Banks of the State of Minnesota on the 12th day of July, 1978, at 9:00 a.m. in Room 83 of the State Office Building, Capitol Complex, in the City of Saint Paul, County of Ramsey, State of Minnesota, after proper notice required by Minn. Stat. Section 15.0412 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 upon the records, files and proceedings herein, and applicable statutory standards or criteria, and having confirmed the need for the above captioned rules and the reasonableness thereof,

NOW, THEREFORE, IT IS ORDERED that these rules identified as 4 MCAR Section 1.0226 through and including 4 MCAR, Section 1.0231 are adopted this 5th day of October, 1978, pursuant to authority vested in me by Minn. Stat. Section 47.71.

STATE OF MINNESOTA
BANKING DIVISION

ROBERT A. MAMPEL
Commissioner of Banks

ADMIN 1000 (Rev. 1/78)

STATE OF MINNESOTA

DEPARTMENT OF COMMERCE - BANKING

Office Memorandum

TO : JOANNE HINDERAKER
Special Assistant Attorney General

DATE: NOVEMBER 15, 1978

FROM : ROBERT A. MAMPEL
Commissioner of Banks

PHONE: 6-2715

SUBJECT: IN THE MATTER OF THE PROPOSED RULES OF THE MINNESOTA DEPARTMENT OF COMMERCE, BANKING DIVISION, RELATING TO ELECTRONIC FUNDS TRANSFER TERMINALS

In consideration of your review of Section 1.0229 (B) 3 of the adopted rules, I deem it proper to amend my Findings and Order as follows by inserting on page 4 after "58 Section 1.0229 A. 5. . . . . signed contract." A new paragraph:

59, 60, 61. Section 1.0229 B. 3. to read as follows: Fair, and equitable and non-discriminatory access to the terminal by other potential sharing financial institutions.

The rules in form for publication as amended on page 5 after "Section 1.0229 A. 5. . . . . signed contract." a new paragraph:

Section 1.0229 B. 3. to read as follows: Fair, equitable and non-discriminatory access to the terminal by other potential sharing financial institutions.

The enclosed adopted rules incorporate this amended language on their page 6.

Your perception of the need to conform to the statutory language in this instance is well taken and cited as reasonable and needed justification for the amended adoption.

Your assistance and direction is appreciated.

The proper copies in compliance with Attorney General Rule 302 are submitted at this time.

RAM:pi

Attach.

ADMIN 1000 (Rev. 1/78)

STATE OF MINNESOTA

DEPARTMENT OF COMMERCE - BANKING

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DATE: NOVEMBER 15, 1978

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RAM:pi

Attach.

RECEIVED
FOR FILING
IN THE REGISTER OF STATE AGENCIES

STATE OF MINNESOTA

DEPARTMENT OF COMMERCE

IN THE MATTER OF THE PROPOSED RULES OF THE MINNESOTA DEPARTMENT OF COMMERCE, BANKING DIVISION, RELATING TO ELECTRONIC FUNDS TRANSFER TERMINALS.	CERTIFICATE OF APPROVAL

I, John R. Larson, Chairman of the Commerce Commission of the State of Minnesota, pursuant to the authority granted by Minn. Stat. Section 45.021, hereby certify my approval of the above-entitled proposed rules of the State Banking Division governing electronic funds transfer terminal operations within the provisions of Minnesota Laws 1978, Ch. 469, as ordered adopted by Commissioner Robert A. Mampel on October 5, 1978.

STATE OF MINNESOTA
COMMERCE COMMISSION

John R. Larson

JOHN R. LARSON
Chairman

Dated: October 11, 1978

Division Exhibit No. 7
File No. BKG-78-512-03
Date 7/12/78

STATE OF MINNESOTA
DEPARTMENT OF COMMERCE
BANKING DIVISION

RECEIVED
JUN 16 1978
OFFICE OF HEARING
EXAMINERS

IN THE MATTER OF THE PROPOSED RULES OF THE MINNESOTA DEPARTMENT OF COMMERCE, BANKING DIVISION, RELATING TO ELECTRONIC FUNDS TRANSFER TERMINALS.

NOTICE OF HEARING

Notice is hereby given that a public hearing in the above entitled matter will be held in the State Office Building, Room 83, St. Paul, Minnesota 55155, on July 12, 1978, commencing at 9:00 a.m., and continuing until all representatives of associations or interested groups or persons have had an opportunity to be heard concerning the adoption of the proposed rules captioned above by submitting either oral or written data, statements or arguments. Statements may be made orally and written materials may be submitted at the hearing. In addition, written materials may be submitted by mail to Mr. George A. Beck, State Office of Hearings Examiner, 1745 University Avenue, St. Paul, Minnesota 55104, (612) 296-8108, the Hearing Examiner appointed to hear this matter, either before the hearing or within five (5) working days after the close of the hearing unless the Hearing Examiner orders a longer period of time which may not exceed twenty (20) days.

The proposed rules, if adopted, would establish procedures for the application, approval and use of electronic financial terminals as follows:

1. Rule 4 MCAR § 1.0226, authority, scope and purpose declaration.

2. Rule 4 MCAR § 1.0227 is proposed to provide definition of terms.

3. Rule 4 MCAR § 1.0228 is proposed to provide the manner in which applications for electronic financial terminal authorization shall be made as well as the information required from the applicant following authorization.

4. Rule 4 MCAR § 1.0229 is proposed to provide operation standards necessary to the approval of applications for electronic financial terminal authorizations and their subsequent use.

5. Rule 4 MCAR § 1.0230 is proposed to provide the information to be disclosed to customers using electronic financial terminals and the manner in which it shall be disclosed.

6. Rule 4 MCAR § 1.0231 is proposed to require that each customer using an electronic financial terminal be given a prescribed periodic record of transactions.

Copies of the proposed rules in their entirety are now available and one free copy may be obtained by writing to the Banking Division, Fifth Floor, Metro Square Building, Seventh and Robert Streets, St. Paul, Minnesota 55101. Additional copies of the rules will be available at the door on the day of the hearing.

These rules are proposed pursuant to the authority vested in the Banking Division by the provisions of Laws of 1978, Ch. 469, § 11. A "Statement of Need" explaining why the Commissioner feels the proposed rules are necessary and a "Statement of Evidence" outlining the testimony that will be introduced will be filed with the Hearing Examiner's Office at least 25 days prior to the hearing and will be available there for public inspection.

Minn. Stat. Ch. 10A requires each lobbyist to register with the Ethical Practices Board within five days after commencing lobbying. Lobbying includes attempting to influence rule making by communicating or urging others to communicate with public officials. A lobbyist is generally any individual who spends more than $250 per year for lobbying or any individual who is engaged for pay or authorized to spend money by another individual or association and who spends more than $250 per year or five hours per month at lobbying. The statute provides certain exceptions. Questions should be directed to the Ethical Practices Board, 41 State Office Building, St. Paul, Minnesota 55155, phone number (612) 296-5615.

Robert A. Mampel

ROBERT A. MAMPEL
Commissioner of Banks

Dated: May 26, 1978

Division Exhibit No. 8
File No. BKG-78-012-GB
Date 7/12/78

RECEIVED
JUN 16 1978
OFFICE OF HEARING EXAMINERS

STATE OF MINNESOTA

COUNTY OF RAMSEY

BEFORE ROBERT A. MAMPEL

COMMISSIONER OF BANKS

IN THE MATTER OF THE PROPOSED RULES OF THE MINNESOTA DEPARTMENT OF COMMERCE, BANKING DIVISION, RELATING TO ELECTRONIC FUNDS TRANSFER TERMINALS.

ORDER FOR HEARING

It is hereby ordered that a public hearing on the above captioned rules be held in the State Office Building, Room 83, St. Paul, Minnesota, on July 12, 1978, commencing at 9:00 a.m., and continuing until all persons have had an opportunity to be heard.

It is further ordered, that a Notice of Hearing be mailed to all persons or representatives of associations or other interested groups who registered their names with the Secretary of State for that purpose.

It is further ordered, that the Notice of Hearing be published in the State Register.

ROBERT A. MAMPEL
Commissioner of Banks

Dated: May 26, 1978

RECEIVED
JUN 1 1978
OFFICE OF HEARING EXAMINERS
Division Exhibit No. 11
File No. BK-78-CR-MB
Date 7/12/78

2 MCAR § 1.6704

Procurement in accordance with Minn. Stat. § 16.084, so that the Deputy Commissioner of Economic Development can assist the small business in attempting to remedy the causes of the inability to perform.

C. Failure to enter into the contract or to accept an offered award will not automatically disqualify a business from further bidding or negotiation.

D. The records of the Procurement Division shall show the reason(s) for such failure.

E. Failure to satisfactorily complete and meet the terms and conditions of a bid after an award has been made and accepted shall disqualify a business from further bidding or negotiation until assurance of ability to perform is provided, documenting the corrections made to assure performance of future contracts. Such assurances shall be given in writing to the Director, Procurement Division.

F. The Commissioner of Administration may divide bid invitations by dollar amounts, units of production, or duration of contract to facilitate awarding contracts to business in the set-aside program.

G. No contractor awarded a contract under the set-aside program shall subcontract fifty (50%) percent or more of the work under such contract. In construction contracts, the amount of specialty subcontracting shall be excluded in determining the total amount of permissible subcontracting.

2 MCAR § 1.6801 State-funded partial indemnification of small businesses and small businesses owned by economically and socially disadvantaged persons. Pursuant to Minn. Stat. § 574.262 (1977), 2 MCAR §§ 1.6801-1.6804 establish procedures relating to state funding of partial indemnification for certain state contractors which are small businesses and small businesses owned by economically and socially disadvantaged persons. Rules establishing eligibility standards are exempted from the provisions of Minn. Stat. ch. 15.

2 MCAR § 1.6802. Any person, corporation, or other legal entity wishing to apply for partial indemnification shall contact the Division of Procurement, State Administration Building, 50 Sherburne Avenue, St. Paul, Minnesota, 55155. The application for determination of eligibility shall include the following:

1. a current certified financial statement;

2. reasons for requesting partial indemnification;

3. a list of all bonding companies contacted;

4. copies of all denials of application(s) for bonding received from bonding companies or bonding agencies;

5. a summary of all other efforts undertaken to obtain bonding;

6. all other relevant information requested.

2 MCAR § 1.6803. Upon receipt of an application for determination of eligibility, the Commissioner shall make an eligibility determination and notify the applicant within a reasonable time. A determination shall be made based upon consideration of the following factors:

a. good faith effort of contractor to obtain bonding from private bonding agencies or bonding companies;

b. qualification of the contractor to do business in the State of Minnesota under the laws of the State of Minnesota and the rules of the procuring agency(ies).

2 MCAR § 1.6804. Participation in partial indemnification pursuant to these rules shall be restricted or limited as set forth in Minn. Stat. § 574.262, subd. 2.

Department of Commerce
Banking Division
Proposed Rules Relating to Electronic Funds Transfer Terminals

Order for Hearing

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Robert A. Mampel
Commissioner of Banks

May 26, 1978

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1. Rule 4 MCAR § 1.0226, authority, scope and purpose declaration.

2. Rule 4 MCAR § 1.0227 is proposed to provide definition of terms.

3. Rule 4 MCAR § 1.0228 is proposed to provide the manner in which applications for electronic financial terminal authorization shall be made as well as the information required from the applicant following authorization.

4. Rule 4 MCAR § 1.0229 is proposed to provide operation standards necessary to the approval of applications for electronic financial terminal authorizations and their subsequent use.

5. Rule 4 MCAR § 1.0230 is proposed to provide the information to be disclosed to customers using electronic financial terminals and the manner in which it shall be disclosed.

6. Rule 4 MCAR § 1.0231 is proposed to require that each customer using an electronic financial terminal be given a prescribed periodic record of transactions.

Copies of the proposed rules in their entirety are now available and one free copy may be obtained by writing to the Banking Division, Fifth Floor, Metro Square Building, Seventh and Robert Streets, St. Paul, Minnesota 55101. Additional copies of the rules will be available at the door on the day of the hearing.

These rules are proposed pursuant to the authority vested in the Banking Division by the provisions of Laws of 1978, ch. 469, § 11. A "Statement of Need" explaining why the Commissioner feels the proposed rules are necessary and a "Statement of Evidence" outlining the testimony that will be introduced will be filed with the Hearing Examiner's Office at least 25 days prior to the hearing and will be available there for public inspection.

Minn. Stat. ch. 10A requires each lobbyist to register with the Ethical Practices Board within five days after commencing lobbying. Lobbying includes attempting to influence rulemaking by communicating or urging others to communicate with public officials. A lobbyist is generally any individual who spend more than $250 per year for lobbying or any individual who is engaged for pay or authorized to spend money by another individual or association and who spends more than $250 per year or five hours per month at lobbying. The statute provides certain exceptions. Questions should be directed to the Ethical Practices Board, 41 State Office Building, St. Paul, Minnesota 55155, phone number (612) 296-5615.

Robert A. Mampel
Commissioner of Banks

May 26, 1978

Rules as Proposed

Proposed Rules 4 MCAR §§ 1.0226 to 1.0231 relate to the operation of electronic funds transfer terminals, the manner and information required in the submission of applications for authorization, establish minimum technical operation standards, and require disclosure of information to customers using such terminals. The following rules are proposed for adoption pursuant to the authority contained in Laws of 1978, ch. 469, § 11.

4 MCAR § 1.0226 Authority, scope and purpose. Laws of 1978, ch. 469, authorizes the Commissioner of Banks to promulgate rules as are reasonably necessary to carry out and make effective the provisions and purposes of the Act relating to the establishment and operation of electronic financial terminals. The Act requires that rules be promulgated to govern application forms and requires that technical standards be established. These rules establish an application procedure and guide to standards considered reasonable to accomplish the purposes of the Act. Further, the Act mandates the promulgation of rules to inform, guide and

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4 MCAR § 1.0226

protect the consumers, retailers and financial institutions in the utilization of electronic financial terminal systems. These rules further set out specific requirements concerning the issuance of cards, disclosure of pertinent required information and reporting of data relating to financial transactions initiated at electronic financial terminals.

4 MCAR § 1.0227 Definitions. All terms herein which are defined in Laws of 1978, ch. 469, shall have the meanings attributed to them therein. For the purpose of Laws of 1978, ch. 469, and these rules, terms defined herein shall have the meanings given to them.

A. "Account holder" means "customer."

B. "Act" means Laws of 1978, ch. 469, as enacted and subsequently amended.

C. "Card" means the device used to activate an electronic financial terminal, including a credit card or debit card.

D. "Card Issuer" means a financial institution or a person in conjunction with a financial institution providing the use of a terminal under a pre-authorized contractual agreement with a customer to be activated by a card.

E. "Control" means:

1. person having greater than 50 percent ownership interest in the terminal or terminals applied for;

2. any leasee of the terminal or terminals; or

3. any managing agent appointed by those persons having ownership or leasehold interests in the terminal or terminals.

F. "Customer" means any person who has established a contractual relationship with a financial institution whereby that person is authorized to initiate any of those functions permitted to be performed under the Act at an electronic financial terminal.

G. "Operator" means any provider or retailer who initiates or assists in the initiation of electronic financial terminal transactions on behalf of a customer. Operator does not include an employee of a financial institution, financial institution holding company or subsidiary thereof or the account holder. For purposes of 4 MCAR § 1.0228 C., operator does not include individual employees of a provider or retailer.

H. "Person" means any individual, bodies politic or corporate, partnerships or other unincorporated associations, including a financial institution as defined in the Act.

I. "Personal Identification Number" is the confidential code provided to the account holder which is necessary to the completion of a transaction at an electronic financial terminal.

J. "Provider" means the person or persons having control over an electronic financial terminal under the Act.

K. "Terminal" means an electronic financial terminal as defined in the Act.

L. "Transaction" means each separate, identifiable, financial function performed at an electronic financial terminal as authorized under the Act.

4 MCAR § 1.0228 Electronic financial terminal application for authorization; notification requirements.

A. Any person seeking approval to act as a provider of a terminal or terminals shall, not less than 45 days before the establishment of the terminal or terminals, file with the Commissioner a written application on a form provided by the Commissioner entitled Electronic Financial Terminal Authorization Application. Such application shall include, but need not be limited to, the following request for information:

1. name and principal address of the person filing the application, together with such person's financial statement for the most recently closed fiscal year;

2. the name and principal address of the person or persons having control thereof, if other than the applicant, together with such persons' financial statements for the most recently closed fiscal year;

3. descriptive information including:

a. the number of terminals applied for;

b. the retail location of each terminal by street address or other designation, including city and county;

c. the manufacturer, model number and type of the terminal;

4. whether the terminal will be attended or unattended and, if attended, by whose employees or agents as operators;

5. the functions to be performed at the terminal;

6. schedule of charges to be paid to the provider by those financial institutions sharing the terminal or terminals;

7. a complete description of the physical and technical operation standards pertaining to the terminal, including information and specifications necessary to enable a financial

institution which is eligible to share the terminal to obtain interface with the terminal.

8. Operational information shall include:

a. the manner in which the terminal is activated;

b. anticipated hours of use;

c. anticipated date of first use of the terminal following approval by the Commissioner;

d. name and principal address of any financial institution, other than the provider, which is permitted or is seeking permission from the provider to share the terminal;

9. all agreements used or intended to be used relating to the ownership, operation and control of the terminal, including agreements with and disclosures to account holders;

10. a description of the safeguards to be used to meet the terminal security requirements of Section 8 of the Act;

11. a description of the procedures to be used to meet the customer privacy requirements of Section 9, subd. 1, of the Act;

12. a description of the procedures to be used to minimize losses due to unauthorized withdrawals from customer accounts by use of a terminal as required by section 9, subd. 3, of the Act;

13. evidence of the bond or other means adopted to comply with the provisions of section 4, subd. 5, of the Act;

14. certification under oath by the applicant that all requirements of the Act and of these rules shall be met and shall be observed.

B. The Commissioner shall be given written notice by the applicant within 30 days following the contracting by a provider with additional financial institutions which have been permitted to share the terminal or terminals.

C. The Commissioner shall be given written notice by the applicant not less than 30 days prior to the change of control or change of the operator of any terminal or terminals.

D. The Commissioner shall be given written notice by the applicant of the termination of the use of a terminal not more than 10 days after termination.

4 MCAR § 1.0229 Technical operation standards.

A. For purposes of approval by the Commissioner of applications for the establishment and use of terminals, the following technical operation standards and requirements shall be deemed reasonable:

1. physical specifications for cards are those established by the American National Standards Institute, Inc., ANSI X4.13-1971, corrected edition, as approved April 28, 1971, as to its paragraphs 2 through 5.3, inclusive;

2. special physical characteristics applicable to magnetic stripped encoded cards are those characteristics established by the American National Standards Institute, Inc., ANSI X4. 16-1976, as approved February 24, 1976, as to its paragraphs 2 through 5.6.5, inclusive.

3. The receipt or record provided to the customer for each transaction initiated at a terminal shall contain the following information:

a. date and time of the transaction;

b. amount of the transaction;

c. description of the transaction which may be in clear and understandable abbreviations;

d. identity of any financial institution with whom funds are electronically transferred.

4. All financial transactions performed at a terminal as authorized by section 3 of the Act shall be processed as if the transactions were conducted at the principal office of the financial institution having due regard for the banking day or the established hours and days the financial institution is open for carrying on substantially all of its functions.

5. A personal identification number shall be utilized as a means of verification of the authenticity of transactions to be completed at a terminal. The personal identification number shall not be distributed until the financial institution issuing the card has received the customer's signed contract.

B. In lieu of compliance with subdivisions A.1. and A.2. of this section, an applicant seeking approval for the establishment and use of a terminal or terminals may adopt alternative physical specifications and physical characteristics for cards upon a showing that the proposed alternative speci-

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fications and characteristics meet or exceed the requirements set forth in subdivisions A.1. and A.2. in providing the following:

1. protection to the customer and sharing financial institutions against misuse or unauthorized use of cards;

2. reliability of accurate processing of information regarding transactions performed through the use of the cards; and

3. fair and equitable access to the terminal by other potential sharing financial institutions.

4 MCAR § 1.0230 Customer disclosure requirements.

A. Pursuant to section 9 of the Act, the following information shall be disclosed by the card issuer to its customer at the time the card is issued:

1. the types of financial transactions available through the use of the terminal;

2. the schedule of charges made by the financial institution for the customer's use of the terminal and for each type of terminal-connected activity for which charges are made;

3. any restrictions or limits on the number of transactions or dollar value limits which may be imposed upon the customer by the card issuer;

4. the schedule for sending periodic transaction statements to the customer;

5. a statement notifying the customer of the procedure to be used to give notice of error to the issuer; said disclosure shall include the manner in which notice of error is to be filed and with whom it is to be filed, and shall include the mailing address and telephone number of the person to whom notice may be given;

6. the specific manner in which the agreement under which a card was issued may be terminated, either by the issuer or by the account holder;

7. where payment for goods or services is made by a transfer of funds through a terminal:

a. the customary time needed to complete the transaction with the financial institution;

b. whether the transaction may be reversed by the customer;

c. the procedure by which the transaction may be reversed; and

d. a statement that the payment for goods or services made in this manner shall not affect any of the rights, protections or liabilities in existing law concerning a cash or credit sale made by means other than through the use of a terminal;

8. a statement that the financial institution shall be liable for all unauthorized withdrawals unless the unauthorized withdrawal was:

a. due to the negligent conduct or the intentional misconduct of the operator of an electronic financial terminal or his agent in which case the operator of an electronic financial terminal or his agent shall be liable;

b. due to the loss or theft of the customer machine readable card in which case the customer shall be liable, subject to a maximum liability of $50, for those unauthorized withdrawals made prior to the time the financial institution is notified of the loss or theft; an unauthorized withdrawal is a withdrawal by a person other than the customer who does not have actual, implied or apparent authority for such withdrawal, and from which withdrawal the customer receives no benefit;

9. a statement that any customer may bring a civil action against any person violating the consumer privacy and unauthorized withdrawal provisions of the Act and may recover, in addition to actual damages, or $500, whichever is greater, punitive damages, together with the court costs and reasonable attorney's fees incurred.

B. All information required to be disclosed by subd. A. of this Section shall be printed in not less than eight-point type, .075 inch computer type, or elite-size typewritten characters.

C. A directory listing as permitted under the Act shall be made available at the retail location of the terminal identifying the financial institutions using its services.

4 MCAR § 1.0231 Transaction statement.

A. A financial institution shall provide each account holder with a periodic transaction statement following each month in which a transaction occurs or quarterly, whichever is more frequent. The statement shall clearly indicate each transaction conducted at a terminal and shall include the following:

1. date of transaction;

2. amount of each transaction;

3. description of each transaction with sufficient specificity to permit verification by the account holder without supporting documentation;

4. location at which each transaction occurred;

5. identity of any financial institution with whom funds were electronically transferred.

4 MCAR §§ 1.0232-1.0239 Reserved for future use.

Peace Officer Standards and Training Board

Proposed Temporary Rules Governing the Selection, Training and Licensing of Peace Officers and Constables

Notice of Opportunity for Public Comment

The Minnesota Board of Peace Officer Standards and Training (POST Board) has proposed the following temporary rules pursuant to Minn. Stat. § 15.0412, subd. 5 (Supp. 1977). These temporary rules are proposed for the purpose of effectively implementing the provisions of Minn. Stat. §§ 626.843, subd. 1, and 626.846 (Supp. 1977), as amended by Laws of 1978, ch. 681, §§ 9, 10, 17, 18 and 23.

All interested parties are hereby afforded the opportunity to submit data and comments on these proposed temporary rules for 20 days after publication of this material in the *State Register* by writing to: Mark K. Shields, Executive Director, POST Board, 5th Floor, Metro Square Building, St. Paul, Minnesota 55101.

4 MCAR § 13.006

Any written material received by the POST Board shall become part of the hearing record in the final adoption of the temporary rules.

Rules as Proposed

The following amendment is proposed to the proposed temporary rules that were published at *State Register* Volume 2, Number 45, pp. 2026-2031, May 15, 1978 (2 S.R. 2026).

4 MCAR § 13.006 Licensing of peace officers.

N. A peace officer who prior to July 1, 1978, is employed by and receiving direct compensation from any state, county, municipality, or joint or contractual combination thereof with a population of more than 1,000 according to the last federal census, but who has not met the requirements of Minn. Stat. § 626.841 to 626.855 in effect on June 30, 1977, shall be licensed by the board provided that:

1. he successfully completes the licensing examination no later than January 1, 1981; and

2. complies with § 13.020 of these rules; and

3. qualifies in the use of firearms according to the board's guidelines; and

4. has obtained board approved first aid training.

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Division Exhibit No. 14
File No. PUC-78-612-GB
MPUB Date 7/12/78

RECEIVED
JUN 16 1978
OFFICE OF HEARING EXAMINERS

STATE OF MINNESOTA

COUNTY OF RAMSEY

IN THE MATTER OF THE PROPOSED RULES OF THE MINNESOTA DEPARTMENT OF COMMERCE, BANKING DIVISION, RELATING TO ELECTRONIC FUNDS TRANSFER TERMINALS, MINNESOTA LAWS 1978, CHAPTER 469.

CERTIFICATE

I hereby certify that the attached 485 labels, 3 Sheets constitute the complete list of persons, associations, and other interested groups who as of 10:00 o'clock AM, this 31st day of May, 1978, have requested pursuant to Minn. Stat. Sec. 15.0412, Subd. 4, 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.

Secretary of State

Joan Anderson Growe

By Cheri L. Mattson

ADDITIONAL NAMES FOR THE GENERAL LIST

Ash, George, 3040 Ottawa Street, St. Louis Park 55416
Anderson, Debra, 1115 East River Road, Mpls 55414

RECEIVED
JUN 16 1978
OFFICE OF HEARING
EXAMINERS

The Following Names on the General Mailing List can be sent through Interoffice Mail

Anti-Trust Div., Attorney General, 160 State Office Bldg.

Brubacher, Richard, Comm. Adm., 208 Adm. Bldg.

Christiansen, Fredrik, Rm 505, Capitol Square Bldg.

Coleman, Nicholas, 208 State Capitol

Consumer Services Dept. Comm., 5th Floor, Metro Square Bldg.

Develop Disabilities Programs, State Plan, 101 Capitol Square Bldg.

Dispatch Pioneer Press, Press Rm, State Capitol

Ethics Comm., Rm 410, State Office Bldg.

Farseth, Paul, Welfare Dept., 690 N Robert Street, St. Paul

Giel, David, Rm B-28, State Capitol

House Appropriations Comm., Rm 109 State Capitol

Human Rights, 200 Capitol Square Bldg.

Human Services 414 Lafayette Rd., 5th Floor

Leg. Ref. Lib-Z. Dewitt, Rm 111, State Capitol

Levey, Jess, Met. State Univ., Metro Square Bldg., Rm 121

McLellan, Larkin, 215 Adm. Bldg. St. Capitol

Malone, E.I., Comm. Labor & Industry, 444 Lafayette Rd., 5th Floor

Met. Waste Control Comm., 350 Metro Square Bldg.

Metropolitan Council Library, 300 Metro Square

Miller, Michael, Admin. Agencies Div., G19K State Admin. Bldg

Minn Comm for Handicapped, Metro Square

Minn Pollution Control Agency, 1935 W Co Rd B2, Roseville

Minn State Retirement System, 529 Jackson St

Minn Water Resources Bd, Rm 206, 555 Wabasha St.

Mpls Star Press Room, State Capitol

Office of the Governor, 130 State Capitol

St. Paul Bur Hlth Dr P Cox, 555 Cedar St.

Schmidt, H.W. Teachers Retirement, 302 Capitol Square Bldg.

Schutz, Linda, Rm 328 Capitol Bldg.

Senate Coun. Office, Room 480, State Office Bldg.

Senate Finance Comm., 121 State Capitol

Senate Gov. Op. Comm. Rm 303, State Capitol

Senator Robert J. Tennessen, 309 State Capitol

Vandervoort, T.J., Met. Waste, 350 Metro Square Bldg.

Whitlock, Marshall, Rm. 3, State Capitol

BANKING AND REAL ESTATE

Anderson, Chas. A., Am. Nat'l Insurance Co., PO Box 6182, Mpls 55424

Brandt, John E., 1400 Northern Federal Bldg., St Paul 55102

City and County Employees Credit Union, 144 East 11th St, St Paul 55101

Dorsey, Owen et al, Mr. W.F. Marquart, 2400 1st Nat'l Bank Bldg., Mpls 55402

Franke, Jerome E., 211 Roseville Prof. Center, 2233 North Hamline St, St Paul 55113

Gordon, Avron L., 304 Title Insurance Bldg, Mpls 55401

Haskvitz, Ronald L., 1250 Bldrs, Exchange Bldg., Mpls 55402

Institutional Tax Services Corp., Attn: Irwin Kiman, 236 5th Ave, New York, NY 10001

Keyes, Thomas R., Security Schools, 4940 Viking Drive, Room 264, Mpls 55435

Lerner, Alan B., 650 Madison Avenue, New York, NY

McCombs & Co., Inc., Box 47, Jenkintown, PA 19046

McCrady, Norbert A., Suite 705, 510 Marquette Avenue, Mpls 55402

Miller, Jerrold T., 1000 Currie Avenue, Mpls 55403

Minnesota League of Credit Unions, 575 University Avenue, St Paul 55103

Mullin, Weinberg & Daly, P.A., 2200 Dain Tower, Mpls 55402

Our Own Hardware Company, Attn: Gen.Mgr., 2300 W Hwy. 13, Burnsville 55337

Robert L. Smith Co., 422 Pioneer Bldg., St Paul 55101

Savings & Loan League of MN, 625 2nd Avenue South, Suite 303, Mpls 55402

State Capitol Credit Union, 95 Sherburne St, St Paul 55103

Strickland, R.M. Ford Mtr. Credit Co., The Am. Road, Dearborn, Michigan 48121

Suburban Credit Plan Inc., 1551 W. Larpenteur Avenue, St Paul 55113

Wagner, James R., 1880 Marshall Avenue, Apt. 306, St Paul 55104

AHOLA DEBRA
616 LINCOLN AVE APT 307
ST PAUL MN
55102

ALBERT,AA CALDER CORP
366 JACKSON ST
ST PAUL MN
55101

ALLIN M KARLS
2333 UNIV AVE SE
MPLS MN
55414

ALLENDORF MARSHALL
220 GRAIN EX 400 S 4TH
MPLS MN
55415

ALLERS JOHN
1501 W 80TH ST SUITE210
BLOOMINGTON MN
55431

AMER CAMPING ASSN
3639-21/2 ST N.E.
MPLS MN
55418

AM INST PROF GEOLOGISTS
2201 PRINCETON AVE
ST PAUL MN
55105

ANCHOR BLOCK COMPANY
PO BOX 3360
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ANDERSON HERBERT
418 8TH ST. SO.
VIRGINIA MN
55792

ANDERSON HAROLD
BOX 3047
MANKATO MN
56001

ANDERSON JAMES
7703 NORMANDALE RD
MPLS MN
55435

ANDERSON MARY
4425 RUTLEDGE AVE
EDINA MN
55436

ANDERSON STANFORD P
14600 MINNETONKA BLVD
MINNETONKA MN
55343

ANTHONY DICK WDSM RADIO
230 E SUPR ST
DULUTH MN
55102

ANTI-TRUST DIV.ATTY GEN.
160 STATE OFF BLDG
ST PAUL MN
55155

ARNOLD ROBERT MESPA
41 SHERBURNE
ST PAUL MN
55103

ARROWHEAD ECONOMIC OP AGENCY
CO S BRUSTUN BOX 1066
VIRGINIA MN
55792

ARROWHEAD REG. DEV COMM.
211 W 2ND ST
DULUTH MN
55802

ARROWHEAD REGIONAL DEV COMM
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ASSN OF MINN COUNTIES
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55075

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BEGAKA D REV

BEMIDJI STATE COLLEGE

BENDA GEORGE

BERGERUD ALF

[illegible]ALKA D REV
[illegible]12 N ELK ST
BELLE PLAINE MN
56011

BEMIDJI STATE COLLEGE
PLACEMENT BUR.J.C.BRADY
BEMIDJI MN
56601

BENDA GEORGE
RURAL ROUTE 1
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2200 SILVER LAKE RD
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351CITY HALL ANNEX
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GRAND RAPIDS MN
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1616 PIONEER BLDG
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55101

BREHL JAMES W
332 HAMM BLDG
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807 SELLWOOD BLDG
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MPLS MN
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BROWN D M GOODRIDGE PUB SCH
IND DIST #561
GOODRIDGE MN
56725

BROWN H D
4961 KINGSBERRY LANE
MINNETONKA MN
55343

BRUBACHER RICHARD COMM AD
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MPLS. MN
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INV GRV HTS MN
55075

BURGER ALBERT
600 DEGREE OF HONOR BLD
ST PAUL MN
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MPLS MN
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COTTAGE GROVE MN
55016

CARLSON VERNE E
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WILLMAR MN
56201

CARLSON DALE K

CHAMBER OF COMMERCE

CHAVARRIA ADAM

CHERCHES CHRIS CITY MGR

MANKATO STATE COLLEGE
MANKATO MN
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ELY MN
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CHRISTIANSEN FREDRIK
RM 505 CAPITOL SQ BLDG
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55155

CHRYSALIS CENTER FOR WOME
2104 STEVENS AVE S
MPLS MN
55404

CITY CLERK
386 CITY HALL
ST PAUL MN
55102

CITIZENS LEAGUE
530 SYNDICATE BLDG
MPLS MN
55402

CITY OF ROBBINSDALE
C LARSON 4221 LAKE RD
ROBBINSDALE MN
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CLARKSON J.B.
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CLAWSON CONNIE
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MPLS MN

COLEMAN NICHOLAS
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ST PAUL MN
55155

COLHAPP TED
1294 VALLEY VIEW ROAD
CHASKA MN
55318

COLLIN LAURENCE
RT 2
ISANTI MN
55040

COMMUNITY DESIGN CENTER
118 E 26TH ST
MPLS MN
55404

CONCORDIA COLLEGE
DEAN
MOORHEAD MN
56560

CONSUMER SERVICES DEPT CO
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ST PAUL MN
55101

COUNTY ATTYS COUNCIL
40 NO MILTON ST STE 106
ST PAUL MN
55104

CRAVEN NORMAN
10637 THOMAS AVE S
BLOOMINGTON MN
55431

CROW WING CO PLANNING & ADV
COURT HOUSE
BRAINERD MN
56401

CUSHMAN J S DAYTON HUDSON
700 NICOLLET MALL
MPLS MN
55402

DAHLKE LOIS M
118 S EAGLE ST
BELLE PLAINE MN
56011

DAILEY THOMAS ECONOMICS LAB
370 WABASHA ST
ST PAUL MN
55102

DANKERS, KENNETH
1200 WEST FOURTH STREET
RED WING MN
55066

DANIELSON RODNEY L
418 AUDITORIUM
ST PAUL MN
55102

DAYTON CHAS SIERRA CLUB
800 MIDLAND BANK BLDG
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55401

DEVELOP DISABILITIES PROGRAM
STATE PLAN 101 CAP SQ
ST PAUL MN
55155

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PRESS RM STATE CAPITOL
ST PAUL MN

DORSEY MARQUART
2400 1ST NATL BANK BLDG
MPLS MN

DOUGLAS BELL ET AL
2212 AM. NATL BK BLDG
ST PAUL MN

DIEHL JOHN
26 KENWOOD PKWY
ST PAUL MN
55105

DISPATCH PIONEER PRESS
PRESS RM STATE CAPITOL
ST PAUL MN
55101

DORSEY MARQUART
2400 1ST NATL BANK BLDG
MPLS MN
55402

DOUGLAS BELL ET AL
2212 AM.NATL BK BLDG
ST PAUL MN
55102

DOW CHEMICAL
47 BLDG
MIDLAND MI
48640

DUNN OLIVER PLUMBERS LOC 15
708 SO 10TH ST
MPLS MN
55404

DUPONT MIKE
5720 EXCELSIOR BLVD
MPLS MN
55416

DZUGAN KEN ST PAUL PLANNI
421 WABASHA ST
ST PAUL MN
55102

E CENTRAL REG. DEV. COMM
COURTHOUSE 18 N VINE ST
MORA MN
55051

EBELING EDWARD H.
161 W. MAIN
PERHAM MN
56573

ECKLUND WM EELLHABER-LARS
W 1080 1ST NATL BANK
ST PAUL MN
55101

EDEVOLD RUTH
PO BOX 248
BEMIDJI MN
56601

EICHTEN DANIEL
3794 HAZEL
WHITE BEAR LK MN
55110

ELDER DR JAMES B
11140 WASHBURN AVE SO
BLOOMINGTON MN
55431

ELDRED R W ARMOUR & CO
UNION STOCK YARDS
SO ST PAUL MN
55075

ELMER EDWIN W
2901 PLEASANT AVE
MPLS MN
55408

EMERICK RICHARD A
1908 IDS CENTER
MPLS MN
55402

ENNIS A F BOISE CASCADE
PO BOX 713
INTL FALLS MN
56649

ENV SERV-GEN RESOURCE COR
6340 INDUSTRIAL DR
HOPKINS MN
55343

ERDMAN ROGER TENNANT CO
701 N LILAC DR
MPLS MN
55441

ERNEST K LEHMANN & ASSOC.
1409 WILLOW ST.
MPLS MN
55403

ESSE KENNETH
4801 W 50TH ST
EDINA MN
55424

ETHICS COMM
RM 410 STATE OFF BLDG
ST PAUL MN
55155

EVANS CHAS.L. PRENTICE-HALL
ENGELWOOD CLIFFS
NEW JERSEY

EWING MRS WM
42 ASTAR RD
BABBITT MN
55706

FAEGRE & BENSON ATTN LIBR
1300 NW BANK BLDG
MPLS MN
55402

FARMERS ELEVATOR ASSN
852 GRAIN EXCH BLDG
MPLS MN
55415

FARRELL FRANK BUR NOR
RM 1180 176 E 5TH ST
ST PAUL MN
55101

FARSETH PAUL FOOD STAMPS PRO
WELFARE DEPT 690 N ROBT
ST PAUL MN

FELHABER R S
W 1ST NATL BANK BLDG
ST PAUL MN
55101

FILTER LOREN
BOX 36

FINLEY JAMES F

FINNEGAN J.R.

FITZGERALD DR BOB

FILTER LOREN
BOX 36
BRITT MN
55701

FINLEY JAMES F
920 MINN BLDG
ST PAUL MN
55101

FINNEGAN J.R.
55 E. 4TH
ST.PAUL MN
55101

FITZGERALD DR BOB
3007 LYNDALE AVE SO
MPLS MN
55408

FITZPATRICK LEO
8138 HENSLOWE AVE S
COTTAGE GROVE MN
55016

FLEMING FREDERICK A
1860 HIGHLAND PARKWAY
ST PAUL MN
55116

FLADLAND CLINT MN L&P BUR
795 RAYMOND AVE
ST PAUL MN
55114

FORBES GORDON MINN RRS AS
203 HANOVER 480 CEDAR
ST PAUL MN
55101

FORSBERG AGR SERV
518 SUMMIT AVE
NEW ULM MN
56073

FOX W.E. LINDQUIST & VENNUM
4200 IDSCTR 80 S.8TH ST
MINNEAPOLIS MN
55402

FRANKLIN ROBERT B MPLS TRIB
426 PORTLAND
MPLS MN
55415

FREDIN CONRAD M
811 FIRST NATL BK BLDG
DULUTH MN
55802

FREDLUND MRS PHYLLIS
RR 4 BOX 37
CANBY MN
56220

FREDRIKSON BYRON ET AL
47TH FLR IDS CENTER M
PLS MN
55402

FRIESEN MILLER A
RAHR BD 624 13TH ST S
VIRIGINIA MN
55792

FRISON FRANK NECA
RM 305 200 SO ROBERT
ST PAUL MN
55107

GALVIN M J JR
W2162 1ST NATL BK BLDG
ST PAUL MN
55101

GARDNER HDW - R A JOHNSON
515 WASHINGTON AVE N
MPLS MN
55401

GEBERT K L
220 GRAIN EXCH
MPLS MN
55415

GEO A HORMEL & CO LAW DEPT
PO BOX 800
AUSTIN MN
55912

GIEL DAVID
RM B-28 STATE CAPITOL
ST PAUL MN
55155

GLEESON MICHAEL
909 SOC SC BLDG U OF M
MPLS MN
55455

GLEN. HILLS HOSP.R.VAN HA
3901 GOLDEN VALLEY RD.
MPLS. MN
55422

GODIN RALPH J
7824 47TH AVE SO
MPLS MN
55406

GOLDBERG PROF MELVIN
WM MITCHELL COL OF LAW
ST PAUL MN
55105

GOODMAN DF TEL CABLE TV
302 E SUPERIOR
DULUTH MN
55802

GRAHAM THOS H
854 MIDLAND BK BLDG
MPLS MN
55401

GRANATH MARVIN -HONEYWELL
2701 4TH AVE SO
MPLS MN
55408

GREATER MET AREA HOSPITALITY
5152 CEDAR AVE S
MPLS MN
55417

GREEN DEL CITY MGR
BLOOMINGTON CITY HALL
BLOOMINGTON MN
55431

GREEN GARY J
41 SHERBURNE AVE
ST PAUL MN
55102

GREEN JANET
9773 N SHORE DR
DULUTH MN
55804

GRUMMERT REV DONALD
1435 ADAMS ST
MPLS MN
55413

GUSTAFSON DAN-LABOR TEMPLE
312 CENTRAL
MPLS MN
55414

GUSTAFSON WALLACE
BOX 567
WILLMAR MN
56201

H B FULLER CO
2400 KASOTA AVE
ST PAUL MN
55108

HALLBERG LEE & MCCABE
4927 34TH AVE S
MPLS MN
55417

HANFT PHILIP M
1200 ALWORTH BLDG
DULUTH MN
55802

HANSON WARREN A SKELGAS
PO BOX 1650
TULSA OK
74102

HAROLD J WESTIN CONSTRUCTORS
45 E 8TH ST
ST PAUL MN
55101

HARRY RICK
RT 1 BOX 138
KETTLE RIVER MN
55757

HAUN DR J W GEN MILLS
PO BOX 1113
MPLS MN
55440

HAYES, THOMAS W
700 SELLWOOD BLG
DULUTH MN
55812

HART PATRICK V
112 E LIBERTY BOX 3271
MANKATO MN
56001

HARTFELDT WILL
434 HAMM BLDG
ST PAUL MN
55102

HAVEN ROBT TWIN TN TREATM
1706 UNIV AVE
ST PAUL MN
55104

HEAD & TRUHN
1007 SOO LINE BLDG
MPLS MN
55402

HEADWATERS REG DEV. COMM
BOX 584 MENTAL HEALTH
BEMIDJI MN
56601

HEALTH MANPOWER C LARSON
717 DELAWARE ST SE
MPLS MN
55440

HEANEY BILL
30 W SUPERIOR ST
DULUTH MN
55802

HEARING EX.OFF. M GREENBERG
1745 UNIV AVE
ST PAUL MN
55104

HEIM PAUL M
3944 IDS CENTER 80 S 8
MPLS MN
55402

HEISENFELT WM
BOX 516
BEMIDJI MN
56601

HELTZER JAMES DAYTON HUDS
777 NICOLLET MALL
MPLS MN
55402

HENDRICKSON A WM
100 FREEMAN DRIVE
ST PETER MN
56082

HENDRICKSON MRS VIRGINIA
3324 COUNTRY WOOD DR
BURNSVILLE MN
55337

HINRICHSEN PATRICK
MANKATO FREE PRESS
MANKATO MN
56001

HOLEY GEORGE
1509 SW SIXTH STREET
FARIBAULT MN
55021

HOLMES EUSTIS ET AL
4610 IDS CENTER
MPLS MN
55402

HOPKINS WM.B. DIR.MISCCA
3915 GOLDEN VALLEY ROAD
GOLDEN VALLEY MN
55422

HORNER WALDORF - KAZIUKEWICZ
PO BOX 3260
ST PAUL MN
55165

HOLT JOHN
517 4TH ST NW
FARIBUALT MN
55021

HOULE MELVIN

HOUSE APPROPRIATIONS COMM

HOUSTRAND ANDERSON & LARSON

HUMAN RIGHTS

HOULE MELVIN
691 W HWY 96
SHOREVIEW MN
55112

HOUSE APPROPRIATIONS COMM
RM 109 STATE CAPITOL
ST PAUL MN
55101

HULSTRAND ANDERSON & LARSON
PO BOX 130
WILLMAR MN
56201

HUMAN RIGHTS
200 CAPITOL SQ BLDG
ST PAUL MN
55101

HUSEBYE, CRAIG J.
5036 FRANCE S.
EDINA MN
55410

HUTCHISON R.M. ANOKA CO.COMP
COURT HOUSE
ANOKA MN
55303

HYLAND DEAN
1501 W 50TH ST
MPLS MN
55419

IMAGE
BOX 3215
ST PAUL MN
55165

IMS PAUL

ECHO MN

INGEBRIGTSEN DR K H
23 SE 4TH ST
MPLS MN
55414

INGVALSON VERN MN.FARM BU
1976 WOODDALE BOX 43370
ST PAUL MN
55164

INS FED OF MINN
902 SOO LINE BLDG
MPLS MN
55402

INTERSTATE POWER RW STEELE
1000 MAIN ST
DUBUQUE IA
52001

IVERSON DR JOS DEPT ED
ST OLAF COLLEGE
NORTHFIELD MN
55057

IZAAK WALTON MN DIV
111 E FRANKLIN RM-210
MPLS MN
55404

JAIN NIRMAL ENIV PROCESS
1220 GLENWOOD AVE
MPLS MN
55405

JENOS INC
525 LAKE AVE SO
DULUTH MN
55801

JENSEN ARTHUR,CITY CLK
2215 W OLD SHAKOPEE RD
BLOOMINGTON MN
55431

JENSEN CARL A
127 E MAIN ST
SLEEPY EYE MN
56085

JENSEN MRS GAYNOLD
111 WEST 107TH ST
MPLS MN
55420

JOHANSEN BUS SERV INC
19 DAYTON RD
CHAMPLIN MN
55316

JOHNSON & SANDERSON
ST MARYS HOSPITAL
ROCHESTER MN
55901

JOHNSON CLARENCE IBEW LU 292
3615 37TH AVE S
MPLS MN
55406

JOHNSON G ROBERT
4344 IDS CENTER
MPLS MN
55402

JOHNSON LEROY
9939 BLUEBIRD ST NW
COON RAPIDS MN
55433

JOHNSON M.D. FRUNDT & FRUNDT

BLUE EARTH MN
56013

JOHNSON LANCE J
265 S LAFAYETTE RD
ST PAUL MN
55107

JONES C NORTHSIDE RES REDEV
1800 OLSON MEMORIAL HWY
MPLS MN
55411

KABLE RICHARD W

KAVANEY RICHARD

KEABLE MIKE

KEENAN RICHARD J

KABLE RICHARD W
BETHEL MN
55006

KAVANEY RICHARD
1220 NORTHERN FED BLDG
ST PAUL MN
55102

KEABLE MIKE
909 6TH AVE N
ST CLOUD MN
56301

KEENAN RICHARD J
4444 IDS BLDG
MPLS MN
55402

KJERVIK DIANE
4302 POWEL HALL U OF M
MPLS MN

KLOSTER MARION PEAVEY CO
730 2ND AVE S
MPLS MN
55402

KLUZ STEVEN J
1910 1ST NATL BK BLDG
MPLS MN
55402

KNOPP TIMOTHY
COLLEGE FORESTRY U OF M
ST PAUL MN
55108

KNUTSON DR KEITH, BIOLOGY DPT
ST CLOUD STATE
ST CLOUD MN
56301

KNUTSON R N GRANNIS ETAL
F J SCHULT BLDG
ST ST PAUL MN
55075

KOLLER MR & MRS ERWIN A
1568 DULUTH ST
ST PAUL MN
55108

KOPP MRS VERNON
2050 65TH ST E
INVER GR HGHT MN
55075

KRAMER ERNEST W
717 DELAWARE ST SE
MPLS MN
55440

KROEGER CHARLES
122 NW 7TH STREET
FARIBAULT MN
55021

KRONLOKKEN J E
10048 NORD RD
BLOOMINGTON MN
55437

KROON H CLIFTON
210 E WALNUT
MANKATO MN
56001

KUHL CARL
4421 4TH ST NE
COL HEIGHTS MN
55421

KVB ENGINEERING INC
600 S CO RD 18
MPLS MN
55426

LABELLE JUANITA MRS
5816 AQUILA AVE NO
NEW HOPE MN
55428

LAKE SUPERIOR INDUSTRIAL BUR
828 FIRST AM. BK. BLDG.
DULUTH MN
55802

LANAHAN E F - SIBLEY CO
184 E 6TH ST
ST PAUL MN
55101

LANGVIN DAVID
7500 80TH ST S
COTTAGE GROVE MN
55016

LAPP LAZAR LAURIE ET AL
1200 BUILDERS EXCHANGE
MINNEAPOLIS MN
55402

LARSON C L
3800 MINNEHAHA AVE SO
MPLS MN
55406

LARSON HANS P DIV HOSP SERV
717 DELAWARE ST SE
MPLS MN
55440

LEAGUE MN MUNIC
300 HANOVER 480 CEDAR
ST PAUL MN
55101

LEAGUE WOMEN VOTERS OF MI
555 WABASHA
ST PAUL MN
55102

LEC.REF.LIB-Z. DEWITT
RM 111 STATE CAPITOL
ST PAUL MN
55155

LEVEY JESS MET STATE UNIV
METRO SQ RM 121
ST PAUL MN
55101

LEAVEY THOS
829 22ND AVE SE
MPLS MN
55414

LEWIS DR.G.M JR.
ABBOTT 110 E 18TH ST
MPLS MN
55403

LIBBEY LEONARD

LINDALL & JONATHAN DEVELOP.

LOCKNER GARY

LONE DOOG

LIBBEY LEONARD
BOX 17011 NOKOMIS STA
MPLS MN
55417

LINDALL & JONATHAN DEVELOP.
VILLAGE ONE CENTER
CHASKA MN
55318

LOCKNER GARY
R R 1 BOX 23
BAUDETTE MN
56623

LOWE DOUG
2701 N LEXINGTON AVE
ROSEVILLE MN
55113

LUTH SOC SERVICE OF MN
2414 PARK AVE
MPLS MN
55404

LYNCH DONALD SIBLEY CO
184 E 6TH ST
ST PAUL MN
55102

MAHCF RICK CARTER
2850 METRO DR SUITE 431
BLOOMINGTON MN
55420

MALECKI JAMES
1 SO STATE ST
NEW ULM MN
56073

MALONE E I COMM LABOR & I
444 LAFAYETTE RD 5TH FL
ST PAUL MN
55101

MANKATO STAT STUDENT SENATE
CENTENNIAL STUDENT UN
MANKATO MN
56001

MANKATO STATE STUDENT ASSN
BOX 58 MANKATO COLLEGE
MANKATO MN
56001

MANTHEY T J PICKANDS MATHER
1100 SUPERIOR AVE
CLEVELAND OH
44114

MASTOR & MATTSON LTD
315 PEAVEY BLDG
MPLS MN
55402

MAUL WARREN E
320 S 4TH ST
MPLS MN
55415

MAYO FOUNDATION G ORWOLL
200 FIRST AVE NW
ROCHESTER MN
55901

MCCLURG EUNICE
1061 109TH AVE NE
BLAINE MN
55434

MCDONALD PHILIP M
2077 SELBY AVE
ST PAUL MN
55104

MCFADDEN G H DISPATCH-PRESS
55 E 4TH ST
ST PAUL MN
55101

MCKIBBON MRS SHIRLEY
11 EVERGREEN LN
BABBITT MN
55706

MCNEILLY GREG MNDSVIEW ED AS
41 SHERBURNE AVE
ST PAUL MN
55103

MET. WASTE CONTOL COMM.
350 METRO SQ BLG
ST PAUL MN
55101

MEIEROTTO, JOAN
1794 SO LEXINGTON
ST PAUL MN
55118

MET TFR MEN ASSN A ROSENTHAL
1821 UNIV AVE
ST PAUL MN
55104

METROPOLITAN COUNCIL LIBRARY
300 METRO SQUARE
ST PAUL MN
55155

MEYER HERBERT
10824 ZENITH AVE S
BLOOMINGTON MN
55431

MIDLAND GLASS-HD SPURLING
PO BOX 69
SHAKOPEE MN
55379

MILLER M ADMIN AGENCIES DIV
G19K STATE ADM BLDG
ST PAUL MN
55155

MILLER PAUL J PHARMACY SERV
ST MARYS HOSP
ROCHESTER MN
55901

MILLER RICHARD A
1020 PLYMOUTH BLDG
MPLS MN
55402

MILLER TOM
2311 PILLSBURY AVE S

MINN APT ASSN
GRIGGS-MIDWAY BLDG

MINN ASPHALT PAVEMENT ASSN

MINN ASSN COOPERATIVES

MILLER TOM
2311 PILLSBURY AVE S
MPLS MN
55404

MINN APT ASSN
GRIGGS-MIDWAY BLDG
ST PAUL MN
55104

MINN ASPHALT PAVEMENT ASSN
555 WABASHA RM 209
ST PAUL MN
55102

MINN ASSN COOPERATIVES
55 SHERBURNE AVE
ST PAUL MN
55103

MINN ASSN ELEC COOPERATIVES
4901 W 77TH ST
MPLS MN
55435

MINN. ASSN. PET RETAILERS
1115 2ND AVE. SO.
MINNEAPOLIS MN
55403

MINN ASSN VOL SOC SERVICE
1821 UNIV SUITE 389
ST PAUL MN
55114

MINN ASSN WATERSHED DIST
ADA MN
56510

MINN CHAP ASSOC BLDRS-CONTRS
7204 W 27TH ST
MPLS MN
55426

MINN COMM FOR HANDICAPPED
METRO SC 492 7TH & ROBT
ST PAUL MN
55101

MINN COMMUNITY DEVELOP SERV
512 ROSSMOR BLDG
ST PAUL MN
55101

MINN DEPT HEALTH J C MCKA
717 DELAWARE S E
MPLS MN
55440

MINNESOTA FARMERS UNION
1717 UNIVERSITY AVE
ST PAUL MN
55104

MINN FOOD RETAILERS ASSN
555 WABASHA
ST PAUL MN
55101

MINN GOV ENG COUNCIL
2400 SHERWOOD HILL RD
MINNETONKA MN
55343

MINN HEREFORD-LJ SCHAFER
BUFFALO LAKE MN
55314

MINN. HOTEL & MTR. ASSN
2001 UNIVERSITY AVE
ST PAUL MN

MINN HWYS MANAGEMENT SERVICE
407 HWY BLDG
ST PAUL MN
55101

MINN LAND USE COMMITTEE
4344 IDS CENTER
MPLS MN
55402

MINN LP GAS ASSN
7515 WAYZATA BLVD 106
MPLS MN
55426

MINN.MTR.TRANSP. .J.N.DENN
1821 UNIV.
ST.PAUL MN
55104

MINN PETROLEUM COUNCIL
1020 NORTHERN FED BLDG
ST PAUL MN
55102

MINN POLLUTION CONTROL AGCY
1935 W CO RD B2
ROSEVILLE MN
55113

MINN POULTRY & HATCHERY A
BOX 158
MADELIA MN
56062

MN REP STATE CENTRAL COMM
555 WABASHA AVE
ST PAUL MN
55102

MINN RESTAURANT ASSN
2001 UNIVERSITY AVE.
ST PAUL MN
55104

MINN RETAIL FED INS
131 METRO SP
ST PAUL MN
55101

MINN RETAIL HARDWARE ASSN
3033 EXCELSIOR BLVD 313
MPLS MN
55416

MINN STATE BAR ASSN
100 MINN FED BLDG
MPLS MN
55402

MINN STATE BD PHARMACY
717 DELAWARE ST SE #351
MPLS MN
55414

MINN STATE EMP UNION COUNC 6
236 E PLATO BLVD
ST PAUL MN
55107

MINN STATE MEDICAL ASSOC
STE 900 AM MAIL BK BLDG
STPAUL MN
55101

MINN STATE RETIREMENT SYSTEM
525 JACKSON ST

MINN TEAMSTERS CREDIT UNION

MINN TOY PRODUCERS ASSN

MINN STATE RETIREMENT SYSTEM
529 JACKSON ST
ST PAUL MN
55101

MINN TEAMSTERS CREDIT UNION
2021 HENN AVE E
MPLS MN
55413

MINN TBR PRODUCERS ASSN
200 CHRISTIE BLDG
DULUTH MN
55802

MINN. TURKEY GROWERS ASSN
2383 UNIV AVE
ST PAUL MN
55114

MINN VETERANS MED ASSN
2175 W HWY 36
ROSEVILLE MN
55113

MINN WATER RESOURCES BD
RM 206 555 WABASHA ST
ST PAUL MN
55102

MINN-WISC BOUNDARY AREA COMM
600 2ND ST
HUDSON WI
54016

MN AUTOMOBILE DEALERS ASS
277 UNIV AVE
ST PAUL MN
55103

MN. ASN.C&IND H.D.PETERSON
480 CEDAR ST.
ST.PAUL MN
55101

MN AFL-CIC L.O. LASHOMB
175 AURORA
ST PAUL MN
55103

MN.BD OF NURSING
717 DELAWARE ST SE
MPLS MN
55414

MN ELECTRICAL ASSN
3100 HUMBOLT SO
MPLS MN
55408

MN GRAPHIC DESIGNERS ASSO
PO BOX 24272
MPLS MN
55424

MN PUB INT RESEARCH GROUP
3036 UNIV AVE SE
MPLS MN
55414

MN SOC SERV ASS J HOOD
614 PORTLAND
ST PAUL MN
55102

MN ST PHARMACEUTICAL ASSN
2469 UNIVERSITY AVE
ST PAUL MN
55114

MN STATE SER BLIND-K NATARDY
1745 UNIVERSITY AVE
ST PAUL MN
55104

MIXA FRANK LK MNTKA CONS DIS
402 E LAKE ST
WAYZATA MN
55391

MOFFITT R C
RM 301 M MPLS CITYHALL
MPLS MN
55415

MOOD R BLOOMINGTON HLTH D
10200 PENN SO
BLOOMINGTON MN
55431

MORTON BUILDINGS INC
R #1
FOLEY MN
56329

MOSS DR JEROME
125 PEIK 159 PILLSBURY
MPLS MN
55455

MOTOR VEHICLE MFRS ASSN
411 MAIN ST (215)
ST PAUL MN
55102

MPIRG
BOX 45 ST MARYS COLLEGE
WINONA MN
55987

MPLS ASSN RETARDED CITIZENS
3100 W LAKE ST
MPLS MN
55416

MPLS CITY ATTORNEY
325M CITY HALL
MPLS MN
55415

MPLS STAR PRESS ROOM
STATE CAPITOL
ST PAUL MN
55101

MPLS TRIBUNE CITY DESK
425 PORTLAND AVE
MPLS MN
55415

MT OLIVET ROLLING ACRES
R 1 BOX 576
EXCELSIOR MN
55331

MURPHY DIANA E
4200 IDS-LINDQUIST VENN
MPLS MN
55402

MURPHY PATRICK SSR INC
BOX 986 COURTHOUSE STA
ARLINGTON VA
22216

MURPHY PATRICK DUFFY
1440 SUMMITT AVE
ST PAUL MN
55105

NASS GEO V HENN CO GEN HOSP
5TH AND PORTLAND AVE

NATL CAR RENTAL ATT D MITZEL
5101 GREEN VALLEY DR

NATL COUNCIL JEWISH WOMEN

NASS GEO V HENN CO GEN HOSP
5TH AND PORTLAND AVE
MPLS MN
55415

NATL CAR RENTAL ATT D MITZEL
5501 GREEN VALLEY DR
MPLS MN
55437

NATL COUNCIL JEWISH WOMEN
4330 CEDAR LK RD
MPLS MN
55416

NATL FAMILY INS CO
2147 UNIV AVE
ST PAUL MN
55114

NCEC INC C/O DR DAHLBERG
CONCORDIA COLLEGE
MOORHEAD MN
56560

NELSON HOWARD I

LINDSROM MN
55045

NELSON JOHN
4809 180TH ST N
HUGO MN
55038

NEREN MADONNA
376 NEAL AVE S
AFTON MN
55001

NEUMAN RALPH W
RT 2 BOX 125
EMBARRASS MN
55732

NO SUB MONTESSORI-S SADDLER
2487 HELEN COURT
NO ST PAUL MN
55109

NORTH CENTRAL ELEC ASSN
PO BOX 202
BATTLE LAKE MN
56515

NURSING HOME ADMRS BD EXAMRS
RM 340 717 DELAWARE SE
MPLS MN
55414

NURSING HOME RES ADV CO.
111 E FRANKLIN S210
MPLS MN
55404

NW BELL TEL CO LEGAL DEPT
224 S 5TH ST RM 2000
MPLS MN
55402

NW COUNTRY ELEVATOR ASSN
802 GRAIN EXCH BLDG
MPLS MN
55415

NW REG. DEV. COMM
425 WOODLAND AVE
CROOKSTON MN
56716

NYQUIST DEAN A
3707 53RD PL N
BROOKLYN CTR MN
55429

O'BRIEN J.DENNIS
1100 1ST NATL.BANK BLDG
MINNEAPOLIS MN
55402

O'CONNELL RAY
MN GAS CO 733 MARQ AVE
[illegible]LS MN
55402

OFFICE OF THE GOVERNOR
130 STATE CAPITOL
ST PAUL MN
55101

OLOFSON ARTHUR MBO & MAINC
927 SOO LINE BLDG
MPLS MN
55402

OLSON KATHLEEN
192 SEYMOUR AVE SE
MPLS MN
55414

OTTER TAIL POWER CO.
215 S. CASCADE ST.
FERGUS FALLS MN
56537

PARKER SANDY
7480 CHANHASSEN ROAD
EXCELSIOR MN
55331

PATTISON ORVIS
BOX 645
WILLMAR MN
56201

PAYNE COL ALVIN

DEGRAFF MN
56233

PAYNE WM B
2400 FIRST NATL BK BLDG
MPLS MN
55402

PETERSEN DOUG ESIDE NEIGHBOR
HOOD SERV 1929 2ND STNE
MPLS MN
55418

PETERSON MYRON D
ROUTE 2 BOX 99
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40 CENTRAL PARK S
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314 MINN BLDG
ST PAUL MN
55101

PORTER DAVID
3002 27 AVE S
MPLS MN
55406

PORTER LYLE O
TRACY MN
56175

PORT AUTH CITY OF ST PAUL
330 MINNESOTA BLDG
ST PAUL MN
55101

POSS DONALD G
6301 SHINGLE CREEK PKWY
BROOKLYN CTR MN
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POYZER ROBT
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FERGUS FALLS MN
56357

PRAUSE JOS.C.
2220 105TH AVE.N.W.
COON RAPIDS MN
55433

PROCTOR&GAMBLE L THEOHAR
IVORYDALE TECH CENTER
CINCINNATI OH
45217

PULSCHER RBT SPRINGSTED INC
813 OSBORN BLDG
ST PAUL MN
55102

RADMAN RICHARD-LABOR TEMP
418 AUDITORIUM
ST PAUL MN
55102

RALPH BURKE ASSOCIATES
5200 W 73RD ST
MPLS MN
55435

RAMSEY CO MEDICAL SOC
908 AM NATL BK BLDG
ST PAUL MN
55101

RAUENHORSTCORP-RONALD G KIRK
7900 XERXES S S-2200
MPLS MN
55431

REAGAN MICHAEL
% MINN LEARNING CTR
BRAINERD MN
56401

REARDON MRS HELEN
1125 S E 6TH ST
ELMAR MN
56201

REID DAVID H
6469 N GRAHAM RD
INDIANAPOLIS IN
46220

RED OWL STORES INC
215 E EXCELSIOR AVE
HOPKINS MN
55343

REGION FIVE REG. DEV. COM
102 6TH ST N
STAPLES MN
56479

REGION NINE DEV. COMM.
[illegible] N. FRONT ST
MANKATO MN
56001

REINO O LAINE 3M COMPANY
3M CENTER
ST PAUL MN
55101

RENNER R.H. ST PAUL AREA CC
300 OSBORN BLDG.
ST PAUL MN
55102

RENQUIST ARTHUR NSP CO
414 NICOLLET MALL
MPLS MN
55401

RICHARDSON THOS
7851 METRO PKWY S 103
MPLS MN
55420

RICHARDS MONTGOMERY ET AL
1430 RAND TOWER
MPLS MN
55402

RIEKE DAVID
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MPLS MN
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ROE DAVID
175 AURORA
ST PAUL MN
55103

ROBBIE JOSEPH

ROBERTS DR ALAN

ROBERTS DAVID E

ROSS ALFRED

ROBBIE JOSEPH
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MPLS MN
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ROBERTS DAVID E
1260 NW NATL BK BLDG
ST PAUL MN
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ROSS ALFRED
6356 WARE RD
LINO LAKES MN
55014

ROSS ROY J
CLK TREAS
LITCHFIELD MN
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SAN SIMEON DEVELOP CORP
OLD 1ST STATE BK BLDG
PAYNESVILLE MN

SANFORD S M
7000 PORTLAND AVE
RICHFIELD MN
55423

SAX DOVE & STENSON
310 ENDICOTT BLDG
ST PAUL MN
55101

SE MN REG DEV COMM
301 MARQ BK BLDG
ROCHESTER MN
55901

SPRAGUE CHARLOTTE B
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WINDOM MN
56101

ST PAUL BUR HLTH DR P CCX
555 CEDAR ST
ST PAUL MN
55101

ST PAUL FOOD RETAILERS ASSN
1220 ARCADE
ST PAUL MN
55106

SW REGIONAL DEV COMM
2911 BDWY
SLAYTON MN
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SCARBOROUGH WILLIAM
DIV.ED. U.M.
MORRIS MN
56267

SCHAEN ETHEL
1745 UNIVERSITY AVE
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55104

SCHLICHT REV ROBT
611 W MAIN ST
BELLE PLAINE MN
56011

SCHMIDT H W TCHRS RETIREMENT
302 CAPITOL SQ BLDG
ST PAUL MN
55101

SCHMIDT LARRY WCCO-TV NEWS
50 S 9TH ST
MPLS MN
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GARDEN CITY
MN
56034

SCHNEIDER MAHLON
GREEN GIANT
ESUEUR MN
56058

SCHUTZ LINDA
RM 328 CAPITOL BLDG
ST PAUL MN
55155

SCHWARTAU NEAL METH HOSP
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ROCHESTER MN
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SCHWERMAN EARL JR
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SCHWINN ROBT.P.
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SCHNEIDER & NEESER
706 1ST ST SO PO BX 876
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1 DAG HAMMARSKJOLD PL
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ST PAUL MN
55055

SENATE FINANCE COMMITTEE
ROOM 121 STATE CAPITOL
ST PAUL MN
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SENATE GOV OP COMM
RM 303 STATE CAPITOL
ST PAUL MN
55155

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2833 LAKE AVE SO
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SHAW ROBERT M

SIAS JACK W

SILVERMAN JUDITH

SITE ENGINEER INC

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616 MOBIL OIL BLDG
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WELCH MN
55089

SIX EAST REG. DEV. COMM.
311 W 6TH ST
WILLMAR MN
56201

SMERIKA WN.
BOISE CASCADE PAPERS
INTL FALLS MN
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RM 248C CLASS OFF BLDG.
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SODERBERG HAROLD J
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55912

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SULLIVAN JEANETTE
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FOREST LAKE MN
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SWANSON MORTIMER C
5624 FRANCE AVE S
EDINA MN
55410

TATE VERN 3M CO
3M CENTER 220/6W
ST PAUL MN
55101

TENNESSEN SEN ROBERT J
RM 309 STATE CAPITOL
ST PAUL MN
55165

THOMPSON HESSIAN ET AL
1500 MIDWEST PLAZA BLDG
MPLS MN
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TIMESAVERS INC ATT R S VOLD
5270 HANSON COURT
MPLS MN
55422

TWIN CITIES PIPING IND AS
2829 UNIV SE SUITE 304
MPLS MN
55414

UNION STOCK YARDS

UTLEY JOHN

UNION STOCK YARDS
ATTN PRES
SC ST PAUL MN
55075

UTLEY JOHN
4610 IDS CENTER
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VANDERVOORT T J MET WASTE
350 METRO SQUARE BLDG
ST PAUL MN
55101

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VAN EVERA MUNDT ET AL
700 TORREY BLDG
DULUTH MN
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VERRILL JCHN E
DEPT SECONDARY ED UOF M
DULUTH MN
55812

VIITALA, W.C. HONEYWELL
HONEYWELL PLAZA
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55408

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VOSS REV GORDON O
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BLAINE MN
55434

VOS LEROY
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55119

WALTERS THOS H
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WALZ SAM CO ADMINISTRATION
ANOKA CTY COURTHOUSE
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55303

WAMPLER LINUS DIR USW OF
609 PROVIDENCE BLDG
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WANQUIST ALLEN
RM 252 FEDERAL BLDG
ST PAUL MN
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WEST CENTRAL REG. DEV.
ADM BLDG,COMMUNITY COLL
FERGUS FALLS MN
56537

WHITLOCK A G
[illegible] LAB OSBORN BLDG
ST PAUL MN
55102

WHITLOCK MARSHALL
RM 3 CAPITOL BLDG
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55155

WHITING RALPH
7316 BAILEY ROAD
NEWPORT MN
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WILEY ENTERPRISES
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~~Windom~~, Minnesota ~~56101~~
St. Paul 55155

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The Honorable Richard Kostohryz
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The Honorable Gerald Knickerbocker
State Representative
5312 Rogers Drive
~~Minnesota 55343~~

State Representative
Princeton, Minnesota 56371

The Honorable Tom Osthoff
State Representative
~~766 W. Maryland~~ 247 St. Of. Bldg.
St. Paul, Minnesota ~~55117~~ 55155

The Honorable Tony Onnen
State Representative
~~RT 2~~ 376 St. Of. Bldg.
~~Cokato~~, Minnesota ~~55321~~
St. Paul 55155

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State Representative
~~747 Redwood Lane~~ 356 St. Of. Bldg.
~~New Brighton~~, Minnesota ~~55112~~
St. Paul 55155

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299B ~~232~~ State Office Bldg.
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The Honorable [illegible]
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~~Albert Lea~~, Minnesota ~~56007~~
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~~Minneapolis~~, Minnesota ~~55406~~
St. Paul 55155

The Honorable John Rose
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~~Roseville~~, Minnesota ~~55113~~
St. Paul 55155

The Honorable James I. Rice
State Representative
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The Honorable Leo Reding
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The Honorable Elton Redalen
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The Honorable Paul Petrafeso
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The Honorable Darrell Peterson
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St. Cloud, Minnesota 56301

The Honorable Al Patton
State Representative
Box 163
Sartell, Minnesota 56377

State Representative
P.O. Box 751
Beni[illegible], Minnesota 56601

The Honorable Tom Stoa
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The Honorable Wayne Simoneau
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The Honorable Michael R. Sieben
State Representative
1652 Cedar Lane
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The Honorable Harry Sieben
State Representative
90 Valley Lane
Hastings, Minnesota 55033

The Honorable Glen Sherwood
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The Honorable Buzz Anderson
State Representative
RR 3
Slayton, Minnesota 56172

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State Representative
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Bloomington, Minnesota 55431

Division Exhibit No. 12
File No. BKG-78-612-GB
GB Date 7/12/78

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STATE OF MINNESOTA

COUNTY OF RAMSEY

In the Matter of the Proposed Rules of the Minnesota Department of Commerce, Banking Division, relating to Electronic Funds Transfer Terminals.

AFFIDAVIT OF MAILING

Thomas G. Berosik, being first duly sworn, deposes and says:

That on the 9th day of June, 1978, at the City of St. Paul, County of Ramsey, State of Minnesota, he served the attached Notice of Hearing by delivering it to the Mail Room, Fifth Floor, Metro Square Building, City of St. Paul, a true and correct copy thereof, properly enveloped, to all persons and associations at the addresses listed on the attached Certificates of the Secretary of State, as well as all persons listed on the attached sheet as presently being members of the Minnesota Legislature.

Thomas G. Berosik
Thomas G. Berosik

Subscribed and sworn to before me this 9 day of June, 1978.

Joan M. Schaeppi

JOAN M. SCHAEPPI
NOTARY PUBLIC—MINNESOTA
WASHINGTON COUNTY
My Commission Expires April 5 1985

STATE OF MINNESOTA

DEPARTMENT OF COMMERCE

BANKING DIVISION

IN THE MATTER OF THE PROPOSED RULES OF THE MINNESOTA DEPARTMENT OF COMMERCE, BANKING DIVISION, RELATING TO ELECTRONIC FUNDS TRANSFER TERMINALS.

NOTICE OF HEARING

Notice is hereby given that a public hearing in the above entitled matter will be held in the State Office Building, Room 83, St. Paul, Minnesota 55155, on July 12, 1978, commencing at 9:00 a.m., and continuing until all representatives of associations or interested groups or persons have had an opportunity to be heard concerning the adoption of the proposed rules captioned above by submitting either oral or written data, statements or arguments. Statements may be made orally and written materials may be submitted at the hearing. In addition, written materials may be submitted by mail to Mr. George A. Beck, State Office of Hearings Examiner, 1745 University Avenue, St. Paul, Minnesota 55104, (612) 296-8108, the Hearing Examiner appointed to hear this matter, either before the hearing or within five (5) working days after the close of the hearing unless the Hearing Examiner orders a longer period of time which may not exceed twenty (20) days.

The proposed rules, if adopted, would establish procedures for the application, approval and use of electronic financial terminals as follows:

1. Rule 4 MCAR § 1.0226, authority, scope and purpose declaration.

2. Rule 4 MCAR § 1.0227 is proposed to provide definition of terms.

3. Rule 4 MCAR § 1.0228 is proposed to provide the manner in which applications for electronic financial terminal authorization shall be made as well as the information required from the applicant following authorization.

4. Rule 4 MCAR § 1.0229 is proposed to provide operation standards necessary to the approval of applications for electronic financial terminal authorizations and their subsequent use.

5. Rule 4 MCAR § 1.0230 is proposed to provide the information to be disclosed to customers using electronic financial terminals and the manner in which it shall be disclosed.

6. Rule 4 MCAR § 1.0231 is proposed to require that each customer using an electronic financial terminal be given a prescribed periodic record of transactions.

Copies of the proposed rules in their entirety are now available and one free copy may be obtained by writing to the Banking Division, Fifth Floor, Metro Square Building, Seventh and Robert Streets, St. Paul, Minnesota 55101. Additional copies of the rules will be available at the door on the day of the hearing.

These rules are proposed pursuant to the authority vested in the Banking Division by the provisions of Laws of 1978, Ch. 469, § 11. A "Statement of Need" explaining why the Commissioner feels the proposed rules are necessary and a "Statement of Evidence" outlining the testimony that will be introduced will be filed with the Hearing Examiner's Office at least 25 days prior to the hearing and will be available there for public inspection.

Minn. Stat. Ch. 10A requires each lobbyist to register with the Ethical Practices Board within five days after commencing lobbying. Lobbying includes attempting to influence rule making by communicating or urging others to communicate with public officials. A lobbyist is generally any individual who spends more than $250 per year for lobbying or any individual who is engaged for pay or authorized to spend money by another individual or association and who spends more than $250 per year or five hours per month at lobbying. The statute provides certain exceptions. Questions should be directed to the Ethical Practices Board, 41 State Office Building, St. Paul, Minnesota 55155, phone number (612) 296-5615.

Robert A. Mampel

ROBERT A. MAMPEL
Commissioner of Banks

Dated: May 26, 1978

Division Exhibit No. 15
File No. BKG-78-012-GAB
GAB Date 7/12/78

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STATE OF MINNESOTA

COUNTY OF RAMSEY

BEFORE THE MINNESOTA

COMMISSIONER OF BANKS

In the Matter of Proposed Rules relating to Electronic Funds Transfer Terminals.

STATEMENT OF NEED AND FACTS ESTABLISHING REASONABLENESS OF RULES.

Statement of Need and Authority

The above-captioned rules are newly proposed rules of the Commissioner of Banks (hereinafter "Commissioner"). The lawful authority of the Commissioner for promulgation of these rules is contained in Laws of 1978, Ch. 469, Section 11, which specifies: "The Commissioner may promulgate such rules as are reasonably necessary to carry out and make effective the provisions and purposes of this Act."

The Commissioner's decision to regulate this activity is further based in law in Laws of 1978, Ch. 469, Section 2, Subd. 3, which states: "Application for authorization shall be made in the manner prescribed by rule." And, in its Section 4, Subd. 1, which specifies in part: "Any person establishing and maintaining an electronic financial terminal for use by one type of financial institution shall, upon written request, make its services available to any requesting financial institution of similar type on a fair, equitable and non-discriminatory basis approved by the Commissioner. A financial institution requesting the use of an electronic financial terminal shall be permitted its use only if the financial institution conforms to reasonable, technical operation standards which have been established by the electronic financial terminal provider and approved by the Commissioner. For purposes of this Subdivision, the types of financial institutions are:

a) Commercial banks and mutual savings banks;

b) Credit unions; and

c) Savings and loan associations.

Services of an electronic financial terminal may be made available to any type of financial institution. After March 1, 1979, or earlier, if determined by the

Commissioner to be technically feasible, an electronic financial terminal which is used by or made available to one type of financial institution shall be made available, upon request, to other types of financial institutions on a fair, equitable and non-discriminatory basis as approved by the Commissioner." And, further, in its Section 9, Subd. 2, it provides: "The Commissioner shall have the authority, by rule, to require each person operating pursuant to this Act to supply information to customers using electronic financial terminals of the person's consumer protection policies, including the rights and liabilities of the consumer and protection against wrongful and unnecessary or accidental disclosure of confidential information."

The need to initiate the administrative process is clear when recognizing the fact that this type of remote access to financial institutions is in a development stage and represents a new concept to the consuming public. It is through proposing these rules and holding the public hearings thereon, that the public and all interested persons and affected persons are provided the opportunity to comment upon and thus participate in the shaping of procedures initiating and controlling this new and developing technology in the public interest.

The proposed rules are drafted with the purpose of satisfying the need to provide means for the establishment of approval procedures, standards to be applied in addressing such approval and subsequent provisions for consumer protection and awareness. The employment of these standards in the approval process and the enforcement of the procedural and disclosure requirements will make for an orderly introduction of this developing technology in a manner which is not detrimental to the integrity of the participating financial institutions and informs and protects the financial institution customer.

Facts Establishing Reasonableness of Rules

The Commissioner, under the above cited authority, hereby affirmatively presents facts establishing the reasonableness and justifying the adoption of the above-captioned rules. The need and authority for the proposed rules are set forth above. The terms used throughout this statement will have the meanings given to them in the proposed Rule 4 MCAR, Section 1.0227 Definitions.

Background - Consumer's business dealings with banks, savings associations and credit unions (hereinafter "financial institutions") have been historically conducted in the familiar offices and through the person or their officers and employees. In recent years, as marketing and customer convenience motivated means, telephone and automated machines have become optional mediums for the interchange between customer and the financial institutions. As it became apparent to lawmakers, regulators, consumer groups, financial institution industry associations, retailers and equipment manufacturers that computer and automated machines could develop into a widespread choice for remote access to financial services, studies and hearings were begun. The findings were to create a learned atmosphere in which to formulate policies and put in place the framework of law which, together, would foster that same safe, sound and fair customer-financial institution relationship found in historically familiar face-to-face dealings. The captioned rules are promulgated toward fruition of that aim.

Incorporated in the facts supporting the reasonableness of these needed and mandated rules are the following findings and compatible existing regulations of other jurisdictions, including:

1. Commissioner's Committee on Electronic Funds Transfer System, chaired by Minnesota Commissioner of Banks and comprised of representatives of consumers, banking, savings associations, credit unions, retailers, consumer finance, equipment manufacturers, and legislative leadership. The rosters of the Committee which developed the language which subsequently constituted Laws of 1978, Ch. 469, is included as Exhibit #1 . (Hereinafter "Commissioner's Committee").

2. The National Commission on Electronic Funds Transfer, chaired by William B. Windnall, established in October, 1974, by Act of Congress, through its final report issued October 28, 1977, is Exhibit #2 . (Hereinafter "National Commission").

3. The Committee on Banking, Finance and Urban Affairs, Subcommittee on Consumer Affairs, chaired by the Honorable Frank Annunzio, as it conducted hearings in St. Paul, March 30, 1978, on H.R. 8753, Amendments to the Consumer Credit Protection Act, by its hearing record is Exhibit #3 . (Hereinafter "Annunzio Committee").

4. The Federal Home Loan Bank Board final rules adopted to regulate remote service units coming under its jurisdiction effective July 1, 1978. Its rules, Title 12, Chapter V, Subchapter C, Federal Savings and Loan System, Part 545, Operations, is Exhibit #4 . (Hereinafter "Federal Home Loan Bank Board Rules").

5. The American National Standards Institute, Inc., New York, New York, in its concensus report establishing technical operations standards for plastic cards, physical and magnetic characteristics, used to activate electronic financial terminals. Their standards are Exhibits #5 and #6. (Hereinafter "ANSI X4.13-1971 and ANSI X4.16-1976").

Proposed Rules 4 MCAR, Section 1.0226 - 1.0231, in addition to responding affirmatively to the above recited lawful mandate, incorporate the witnessed results of the public and private, consumer and industry proceedings herein indexed.

4 MCAR, Section 1.0227, provides for useful and accurate definitions for terminology not otherwise set down in the Act. They are reasonable as concise equations for known terms with certain of them fundamental to the orderly identification of relationships within developing electronic financial terminal function as it is known today:

4 MCAR, Section 1.0227, C, "card" is a well-known term consistently used when describing a conveniently sized and durable means of identification capable of integrating physical characteristics which communicate visually, mechanically or electronically. The term is commonly used within this context throughout the above referenced exhibits. While frequently used as modified by the words "plastic", "credit" and "debit", this definition is to apply no such limiting factors.

4 MCAR, Section 1.0227, D, "card issuer" is to be consistently used to identify that principal person necessary to the creation of the mandated pre-authorized agreement between the signaled financial institution and the customer. It is not only reasonable, but necessary that such a relationship be clearly set out. The combinations of the term is found throughout the Act.

4 MCAR, Section 1.0227, E, "control" is a term necessary to consistently describe that complete and accurate quality within which the regulator and the law recognizes a party as having the authority and, therefore, the responsibility for carrying out the requirements of the law. This party exercising "control" has, as defined, a proprietary interest in the terminal by reason of proven ownership, leasehold or agency qualities. It is reasonable to require this quality of control for purposes of application for authorization and subsequent effective regulatory proceedings.

4 MCAR, Section 1.0227, F, "customer" is a well-known term for that person dealing with financial institutions, utilizing its services and is used in the Act in this context. It is not confined to the term consumer. It is consistent with the term "user" as found in the "Home Loan Bank Board Rule".

4 MCAR, Section 1.0227, G, "operator" is a well-known term for any person engaged in performing a manual service in a prescribed or trained manner so as to be clearly set apart from the customer. It is used in the "Act" in this context in its active sense.

4 MCAR, Section 1.0227, H, "person" is used throughout the "Act" in various context without limitation and is reasonable to be applied in its broadest sense so as not to technically preclude by method of organization or inter-relationship any entity capable of being clearly recognized.

4 MCAR, Section 1.0227, I, "personal identification number" is a well-known term consistently found and used to specifically refer to an identification system or code intrical to the control and integrity of remote financial transactions. The term is widely used and is found in the text of the "National Commissions" report, the American National Standards Institute proceedings and is comparable to the "Federal Home Loan Bank Board" term "personal security identifier".

4 MCAR, Section 1.0227, J, "provider" is a term frequently used in the "Act" to be that person making the terminal services available and is used so as to be clearly interchangeable with that person having control. It is reasonable to point out for clarity and to avoid confusion in this tandem usage in the "Act".

4 MCAR, Section 1.0227, K, "terminal" represents simply a reasonable abbreviation for the term electronic financial terminal used and defined in the "Act".

4 MCAR, Section 1.0227, L, "transaction" is a term used throughout the "Act" consistently referring to the singular financial entry affecting the books of account maintained under a pre-authorized agreement. It is reasonable to preclude an aggregate connotation which would effectively inhibit customer recognition.

4 MCAR, Section 1.0228, A, provides for the information to be required by the Commissioner in consideration of approval of terminal applications. Section 2, Subd. 3, of the "Act" stipulates that this procedure be set out for public view and its content be sufficient to permit addressing the factors of proper and safe management, financial soundness, fairness of charges for terminal services to sharing financial institutions, as well as competitive factors. Paragraphs 1 through 14 of the rule recite the information to be required pursuant to the direction of the "Act" in a reasonable, thorough and clear scope which will not unduly hamper or preclude potential providers from gaining access to the approval procedure. To further assist potential providers, a form containing direction and instruction will be available upon request from the Commissioner.

4 MCAR, Section 1.0228, B, sets out simple and reasonable instructions for providers to maintain a current record with the Commissioner as to the fundamental operational facts necessary to the continuing administration of the "Act". Written notice of the occurrence of three subsequent events is called for and required of the original approved applicant. This information is confined in scope for elimination of undue periodic reporting burden and is otherwise unavailable except through what could prove to be untimely and widely disbursed examination events. Due to the direction of the "Act" in its Section 2, it is reasonable to conclude that the conditions present for the original authorization must continue. Therefore, ample but non-burdensome monitoring by simple event-triggering written advise is suitable. It is the role of the Commissioner to examine such terminals for compliance with the provisions of the "Act" and its regulation as stated in its Section 6 of the "Act". Such reporting is reasonably within the scope of the examination province.

4 MCAR, Section 1.0229, A, is intended to fulfill the requirement of the "Act", in its Section 4, by setting out for public view that aspect of the approval procedure dealing with technical operating characteristics. These mechanical and electronic activities are the tools of the financial institution in creating its presence at remote locations. It has been determined that at this point, development of this technology and certain available standards can be used as are operationally feasible, reasonably reliable, and accessible to potential providers. This rule, in paragraphs 1 and 2, puts in place those standards for determining

the card dimensions and data content which are capable of implementation at this time as can be shown through the testimony of expert witness, records of the Commissioner's Committee through its Technical Standards Subcommittee, as well as the report of the National Commission.

4 MCAR, Section 1.0229, A, 3, addresses that aspect of terminal-customer relationship, which is required by the "Act" in its Section 9, Subd. 6, and spoken to by consumers in the record of the Annunzio Committee Hearings. There is a receipt format which adequately creates a record for the customer, including reasonable identifying elements. Elements which are capable, technologically speaking, to be made available either on-line or off-line, either manned or unmanned terminal operations. If retained by the customer, as intended, this information permits reconcilement with subsequent account statements, account balances, as well as readily available evidence of the substance of financial transactions when seeking remedies with financial institutions, merchants and others. Receipt requirements are found in the Federal Home Loan Bank Board final rules.

4 MCAR, Section 1.0229, A, 4, acknowledges the reasonable "extension of the main banking house" aspect of the offering of such remote services by a financial institution. There is an electronic-mechanical link created by the institution and its use should not be inferior as to its timely effectiveness. It is proper to conclude from the records of the National Commission and the Annunzio Committee Report that customers of these financial institutions are uncertain of the advantages of this technology and concerned, even fearful, of the consequences of its use, when compared to conventional "banking" practices. It must be concluded that commercial transactions, whether conducted at a branch of a savings association, detached facility of a bank, or an electronic financial terminal offered to the customer by the financial institution shall be equally effective within the conduct of the functions permitted.

4 MCAR, Section 1.0229, A, 5, is responsive to the widely accepted concept of a security measure possessed uniquely by the customer and, if used and safe-guarded properly, should prevent unwanted use of electronic terminals to the detriment or financial loss to the card holder. There is a general concensus as to its need and is shown in the National Commission Report, Commissioner's Committee recommendation and contained as a requirement in the Federal Home Loan

Bank final rules. Therefore, and equally as proper and reasonable within present technology as is its mandated use, is the prevention of such a confidential indentifier becoming available before an agreement has been consummated. Record of the Annunzio Committee sets out concern by consumers to the effect that unsolicited or unwanted use of a card capable of affecting their personal financial condition. Both the safety of the customer and the integrity of the financial institution are protected by this reasonable and responsible rule.

4 MCAR, Section 1.0229, B, Paragraphs 1 through 3, put in place a necessary alternative to the finite and specific methology and characteristics unique to the American National Standards Institute standards. While addressed as an alternative, it truly is an opportunity to permit reasonable access for providers who otherwise qualify for authority. These are the providers seeking to employ other technical or mechanical means that will produce results essentially as good as those produced by the standards specifically set down in Part A, paragraphs 1 and 2, and incorporated by reference. It can be shown, through a technical witness, as well as the results of the Commissioner's Committee, The National Commission Report, that no single technology can be characterized as the only conceivable one suited to the demands of the Act, nor can an effective monopoly be created by reason of the potential restraint of trade available with the incident of singular patent, franchise or ownership rights. Of equal significance in the reasonable justification for an alternative technology, granted it produces comparable results, is that the science is continually changing as is noted in the charting of standards known to be under development at this time, in the National Commissions Report, useful modifications and advanced techniques must not be frustrated. It is clear that a revision of rules such as found in Part A, paragraphs 1 and 2, would require considerable time. Therefore, these standards (ANSI X4.13 - 1971 and ANSI X4 - 1976) are to be recognized at this time as a basic foundation on which sterotypes and future advancements may be structured. Parts A and B tend to insure accessibility by providers and sharing financial institutions under the framework of the Act and its section 4.

4 MCAR, Section 1.0230, A, in its Paragraphs 1 through 9, are responsive to the "Act" in its Section 9 and within the authority expressed in Subd. 2. Throughout the proceedings of the Annunzio Committee and the Report of the National Commission, it is clear that the effectiveness of this developing technology is dependent upon the acceptance of the customer. The customer, therefore, is dependent upon the need for reliable information as their choices and selections are being considered. It is certainly reasonable to conclude that the information must be timely, complete and accurate as indentifying the actual operation of a terminal system, as well as the rights, duties, and protections provided to the customer. Those items set out in Paragraphs 1 through 9 of Part A of this rule are readily available for presentation to the customer by the card issuer. It should be noted that in prescribing presentation of the required information of itself does not create law or impose duties beyond the disclosure of pertinent portions of the law and the card issuers operations procedures. Similar disclosure requirements are found in the final rules adopted by the Federal Home Loan Bank Board.

4 MCAR, Section 1.0230, B, is felt to be necessary to producing the full effect intended by Part A of this rule. Through this requirement, it can be reasonably assured that the required disclosure and material will be ledgibly presented and, therefore, effectively communicated. In detail, the physical size of the print is commonly recognized or can be verified through any typewriter manufacturer, computer manufacturer or printer. There has been public concern expressed in testimony before the Annunzio Committee. Further, this readability quotient is now required in other financial institution's-customer relationships, such as conventional home loan mortgage documents which bears out its usefulness, suitability and reasonableness.

4 MCAR, Section 1.0230, C, is a reasonable extension of the "Act" as to its Section 7(a), which deems the presence of a directory at a terminal suitable and not in violation of the advertising guidelines. It is felt that it is reasonable to expect that a terminal which acts as a conduit to a financial institution and in that sense is an extension of the institution, should readily identifiable the sharing financial institution. Once again it should be recognized that customer acceptability is gained through familiarity and confidence. One such element of confidence can be gained by assuring familiarity surrounding

the terminal and if in practice, its employment will result in an effective and predictable result. It is also reasonalbe to presume that as limited to a "simple directory" its requirement will not become physically cumbersome, irrespective of the number of institutions sharing its services.

4 MCAR, Section 1.0231, A, paragraphs 1 through 5, are provided to carry out the requirements found in the "Act" Section 9, Subd. 6. Acknowledging this element in the financial institution-customer link as crutial to card user confidence and protection, the legislature detailed required information as is included in paragraphs 1 and 2 of this rule. Further, they directed that it was necessary to add further qualities in terms of transaction, type and timing of the statements. Looking to a successful implementation of this financial institution service technology, it is reasonable to conceive that there will be a proliferation of such terminal locations and the probability that the added convenience of their various geographical locations will spur frequency of their use. Therefore, it is reasonable to foresee the need for keeping pace with the velocity of such transactions to permit a comparative reaction capability at the hands of the customer. Further, information contained in the statement must also be tailored to the variations conceivable by creating a record fully capable of providing a reconcileable recall of the nature of the transaction, including its location. It should be noted that the Federal Home Loan Bank Board rules have adopted similar frequency of statement measures and information required to be included.

Dated: June 16, 1978

STATE OF MINNESOTA
COMMISSIONER OF BANKS

ROBERT A. MAMPEL
COMMISSIONER OF BANKS

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Division Exhibit No. 16
File No. BKG-78-012-GB
HMB Date 7/12/78

STATE OF MINNESOTA
COUNTY OF RAMSEY

BEFORE THE MINNESOTA
COMMISSIONER OF BANKS

In the Matter of Proposed Rules relating to Electronic Funds Transfer Terminals.

STATEMENT OF EVIDENCE

The Commissioner of Banks (hereinafter "Commissioner") will introduce the following evidence at the hearing in the above entitled matter scheduled for July 12, 1978, commencing at 9:00 a.m. in the State Office Building, Room 83, St. Paul, Minnesota;

1. Documents attached hereto and made a part hereof evidencing the Commissioner's compliance with the procedural requirements for rule making:

a) Order for Hearing;

b) Notice of Hearing as mailed;

c) Affidavit of Receipt of the Secretary of State's List;

d) Certificate of the Secretary of State;

e) Affidavit of Mailing of the Notice of Hearing;

f) "Notice of Intent to Propose Rules and Solicit Information from Outside Sources" as published March 27, 1978, in the State Register (2 S.R. 1785); and

g) Order of the Chief Hearings Examiner Approving Incorporation by Reference dated May 22, 1978.

2. Documents attached hereto and made a part hereof constituting the Commissioner's affirmative presentation of facts establishing the need for and reasonableness of the proposed rules and evidencing the Commissioner's compliance with the substantive requirements for rule making:

a) Statement of Need and Facts Establishing Reasonableness of Rules.

3. The following witnesses will represent the Commissioner at the hearing:

Vernon E. Rude
Assistant Commissioner of Banks

James G. Miller
Supervisor, Banking Division

Harry S. White, Jr.
Associate Director
Office of Automated Data Processing Standards
Institute for Computer Sciences & Technology
National Bureau of Standards
Washington, D. C.

Said witnesses will be available to answer questions as they might relate to the Commissioner's affirmative presentation of facts as set forth through the previously listed and attached documents.

4. The Statement of Need and Facts Establishing Reasonableness of Rules attached hereto contains the citation to the Commissioner's lawful authority to promulgate the proposed rules.

Dated: June 16, 1978

STATE OF MINNESOTA
COMMISSIONER OF BANKS

ROBERT A. MAMPEL
COMMISSIONER OF BANKS

RECEIVED
JUL 5 1978
OFFICE OF HEARING EXAMINERS

STATE OF MINNESOTA
DEPARTMENT OF COMMERCE
ST. PAUL, MINNESOTA 55101

June 30, 1978

TEL. NO. 296-2297

BKG-78-012-GB

George A. Beck
Hearing Examiner
State Office of Hearings Examiner
1745 University Ave.
St. Paul, Minnesota

Re: Proposed Rules Relating to Electronic Funds Transfer Terminals

Dear Mr. Beck:

Subsequent to our timely submission of the Statement Of Evidence in this matter the witness, Harry S. White, Jr., has disqualified himself for reasons not directly connected to the hearing.

Therefore we find it necessary to provide you with the identity of a witness to replace Mr. White, Jr.

The following person will address the technical standards as have been incorporated by reference:

Al Lewison, Assistant Vice President
Northwestern National Bank
Seventh & Marquette
Minneapolis, Minnesota

Additionally, I am enclosing a copy of the current language of a bill before the 95th Congress, H.R. 13007, as was the subject of the hearing record submitted to you as Exhibit #2 to the Statement of Need and Facts Establishing Reasonableness of Rules.

Sincerely yours,

Robert A. Mampel

Robert A. Mampel
Commissioner of Banks
By: James G. Miller
Supervisor

DIVISION Exhibit No. 17
File No. BK6-78-012-GB
Date 7/12/78
RECEIVED
JUN 15 1978
OFFICE OF HEARING EXAMINERS

Lowell E. Torseth
Executive Secretary
500 Metro Square
Seventh and Robert Streets
St. Paul, Minnesota 55101
(612) 296-2388

Any written material received by the agency shall become part of the hearing record in the event rules governing this subject are promulgated.

Department of Commerce Banking Division

Banking Division Bulletin No. 1874, Maximum Lawful Rate of Interest for Mortgages for the Month of April, 1978

Notice is hereby given that the Banking Division, Department of Commerce, State of Minnesota, pursuant to Minn. Stat. § 47.20, the Conventional Home Loan Assistance and Protection Act, as amended by Laws of 1977, ch. 350, hereby determines that the maximum lawful rate of interest for home mortgages for the month of April, 1978, is nine and one-half (9.50) percent.

Robert A. Mampel
Commissioner of Banks
March 15, 1978

Department of Commerce Banking Division

Notice of Intent to Propose Rules Pursuant to the Act (H.F. No. 1180) Permitting the Establishment and Operation of Electronic Funds Transfer Facilities Immediate Release, Banking Division Bulletin No. 1873

The Minnesota Commissioner of Banks hereby gives notice of his intent to propose rules pursuant to Laws of 1978, ch. 469, relating to the operation of electronic funds transfer facilities as to the manner and information required in the submission of applications for authorization; establishing minimum technical operating standards; and requiring disclosure of consumer protection information to customers using electronic financial terminals. All persons wishing to submit data or views concerning the session law and its implementation may submit this information either orally or in writing to the Commissioner of Banks at the following address:

Commissioner of Banks
Fifth Floor, Metro Square Bldg.
Seventh and Robert Streets
St. Paul, Minnesota 55101

Any written material received by the Commissioner shall become a part of the public record pertaining to the consideration of these proposed rules.

Robert A. Mampel
Commissioner of Banks
March 13, 1978

Ethical Practices Board

Notice of Intent to Solicit Outside Opinions on Emergency Rules Governing Campaign Financing, Public Financing and Economic Interest Disclosure

Notice is hereby given that the State Ethical Practices Board is drafting emergency rules clarifying the 1978 amendments to *Minn. Stat.* 10A regarding campaign and public financing and economic interest disclosure.

The department invites all interested persons or groups to provide information or comment on the above subject in writing to:

Ethical Practices Board
41 State Office Building
St. Paul, Minnesota 55155

All statements of information or comment must be received by April 10, 1978. Any written material received by the department on or before this date will become part of the hearing record.

Ethical Practices Board

Notice of Intent to Solicit Outside Opinion of Any Individual or Association Regarding the Following Request for an Advisory Opinion Prior to Review for Approval of an Advisory Opinion on March 24, 1978

March 20, 1978

STATE OF MINNESOTA
OFFICE OF HEARING EXAMINERS
ROOM 300 – 1745 UNIVERSITY AVENUE
ST. PAUL, MINNESOTA 55104
(612) 296-6910

October 19, 1978

Mr. Robert A. Mampel
Commissioner of Banks
Department of Commerce
500 Metro Square Building
St. Paul, Minnesota 55101

Re: BKG-78-012-GB
Rules Relating to Electronic Funds Transfer Terminals

Dear Commissioner Mampel:

Enclosed please find the documents which you submitted to us for review on the issue of substantial change together with the Report of the Chief Hearing Examiner, pursuant to Minn. Stat. § 15.052, Subd. 3.

The enclosures consist of the following:

1. Report of the Chief Hearing Examiner
2. Rules as Adopted
3. Order Adopting Rules
4. Findings of Fact
5. Statement of Compliance with Manual of Rulemaking Procedures
6. Certificate of Approval
7. Report of Hearing Examiner
8. Rules as Proposed

Yours very truly,

Duane R. Harves

DUANE R. HARVES
Chief Hearing Examiner

DRH:sh
Encs.

AN EQUAL OPPORTUNITY EMPLOYER

STATE OF MINNESOTA
OFFICE OF HEARING EXAMINERS

FOR THE DEPARTMENT OF COMMERCE - BANKING DIVISION

IN THE MATTER OF THE PROPOSED)
RULES OF THE MINNESOTA DEPART-)
MENT OF COMMERCE, BANKING)
DIVISION, RELATING TO ELECTRONIC)
FUNDS TRANSFER TERMINALS.)

REPORT OF THE
CHIEF HEARING EXAMINER

WHEREAS, a hearing was held on July 12, 1978, before George A. Beck, 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 Banking Division on August 30, 1978; and

WHEREAS, the Banking Division has now determined to adopt rules pursuant to Minn. Stat. § 15.0412, Subd. 4; and

WHEREAS, the Banking Division has submitted said rules to the Chief Hearing Examiner for review pursuant to Minn. Stat. § 15.052, Subd. 4, and Rule HE 107; and

WHEREAS, the Chief Hearing Examiner finds that the final proposed rules are not substantially different from those proposed at the public hearing and that the Banking Division has met all requirements of Minn. Stat. § 15.0412, Subd. 4.

NOW, THEREFORE, upon receipt of this Report, the Banking Division has the responsibility of submitting the complete hearing record and the rules as adopted by the Division to the Attorney General and to publish in the State Register, all pursuant to Minn. Stat. § 15.0412, Subd. 4.

Dated this 19th day
of October, 1978.

Duane R. Harves

DUANE R. HARVES
Chief Hearing Examiner

ADMIN 1000 (Rev. 1/78)

STATE OF MINNESOTA

DEPARTMENT ATTORNEY GENERAL - ~~Commerce~~

Office Memorandum

TO : Lee Sheehy
Special Assistant
Attorney General
G-25 Administration Bldg.

DATE: October 24, 1978

FROM : Jackie Taylor
Special Assistant
Attorney General

PHONE: 296-9412

SUBJECT: Electronic Fund Transfer Rules

Pursuant to Minn. Stat. §15.0412 Subd. 4 (Supp. 1977), I am attaching the official record in the above matter to the Attorney General for review under Atty. Gen. Rules No. 302, 303 and 305.

JT/rm

Enc.

STATEMENT OF COMPLIANCE WITH
MANUAL OF RULEMAKING PROCEDURES

I, Special Assistant Attorney General Jacqueline P. Taylor, do hereby declare that I have examined the proposed rules and all related documents and that based on them and my personal familiarity with the applicable procedures, the manual of rulemaking procedures has been followed.

Dated: October 24, 1978.

Jacqueline P. Taylor

JACQUELINE P. TAYLOR
Special Assistant Attorney General

BKG-78-012-GB

STATE OF MINNESOTA)
) ss.
COUNTY OF RAMSEY)

SUSAN WOJCIK, being first duly sworn, hereby deposes and says:

That at the City of Saint Paul, county and state aforementioned, on the 30th day of August, 1978, She did serve the Report of Hearing Examiner

upon The Commissioner of Banking, Department of Commerce

by personally handing to Mr.James Miller,

said original copy of the Report.

Susan Wojcik

Subscribed and sworn to before me this 30th day of August, 1978.

Sandra A. Haven

SANDRA A. HAVEN
NOTARY PUBLIC-MINNESOTA
RAMSEY COUNTY
My Comm. Expires July 29, 1983

STATE OF MINNESOTA
OFFICE OF HEARING EXAMINERS

FOR THE DEPARTMENT OF COMMERCE - BANKING DIVISION

In the Matter of the Proposed Rules of the Minnesota Department of Commerce, Banking Division, Relating to Electronic Funds Transfer Terminals.

REPORT OF HEARING EXAMINER

The above-entitled matter came on for hearing before George A. Beck, duly appointed as Hearing Examiner in this matter at 9:00 a.m. on Wednesday, July 12, 1978, in Room 83 of the State Office Building, Capitol Complex, in the City of Saint Paul, County of Ramsey, State of Minnesota.

This Report is a part of a rule hearing procedure held pursuant to Minn. Stat. Sec. 15.0411 to Sec. 15.0417, and Sec. 15.052, to determine whether the proposed rules should be adopted and given the force of law. Copies of this Report are available for review from the Banking Division of the Department of Commerce and from the Office of Hearing Examiners.

Members of the agency panel appearing at the hearing included: Vernon E. Rude, Assistant Commissioner of Banks; James G. Miller, Supervisor of Credit Unions and Saving Associations, Banking Division; William R. Howard, Special Assistant Attorney General assigned to the Department of Commerce; Jacqueline Taylor, Special Assistant Attorney General assigned to the Department of Commerce; Reynaud Harp, Special Assistant Attorney General assigned to the Department of Commerce; and James W. White, Manager of Sales Support, Data Card Corporation.

Six public witnesses appeared and spoke at the hearing. The Banking Division submitted twenty-two written exhibits. Nineteen written comments were received from the public subsequent to the mailing of the Notice of Hearing through the end of the 20-day period for written comment following the hearing. An index of the exhibits is attached to this Report.

Based upon all the testimony, exhibits and written comments, the Hearing Examiner makes the following:

FINDINGS OF FACT

1. On June 1, 1978, the Banking Division filed the following documents with the Chief Hearing Examiner:

(a) A copy of the proposed rules;
(b) An Order for Hearing; and
(c) A proposed Notice of Hearing.

2. On June 12, 1978, a Notice of Hearing and a copy of the proposed rules were published at 2 State Register 2228.

3. On June 9, 1978, the Banking Division mailed the Notice of Hearing to all persons and associations who had registered their name with the Secretary of State for the purpose of receiving such notice and to all members of the Minnesota Legislature and to a supplementary list of persons known to be interested in electronic funds transfer.

4. On April 19, 1978, the Banking Division filed with the Chief Hearing Examiner a request for approval of incorporation by reference in the proposed rules of the American National Standard Specifications for Credit Cards approved April 28, 1971, and the American National Standard Magnetic-Strip Encoding for Credit Cards approved February 24, 1976. Approval was granted by Order of the Chief Hearing Examiner dated May 22, 1978.

5. On June 16, 1978, the Banking Division filed the following documents with the Hearing Examiner:

(a) The Order for Hearing;
(b) The Notice of Hearing as mailed;
(c) The Notice of Hearing as it appeared in the State Register;
(d) The Affidavit of Mailing of the Secretary of State's list;
(e) The Affidavit of Mailing to interested persons and associations;
(f) The Affidavit of Receipt of the Secretary of State's list;
(g) The Certificate of the Secretary of State;
(h) The Statement of Need and Reasonableness of the proposed rules;
(i) The Statement of Evidence, including the names of agency personnel and other witnesses who will appear at the hearing on behalf of the agency;
(j) The Notice of Intent to propose rules and solicit information from outside sources as published in the State Register;
(k) The Order of the Chief Hearing Examiner authorizing incorporation of documents by reference;
(l) A copy of Minn. Laws 1978, Ch. 469; and
(m) The Statement of number of persons expected to attend and the length of the hearing.

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

6. The record remained open through August 1, 1978, for the receipt of written documents and statements.

7. The Banking Division cites as authority for the promulgation of these rules Minn. Laws 1978, Ch. 469, which is the legislative act permitting the establishment and operation of electronic funds transfer facilities.

Section 11 of the Act (Minn. Stat. Sec. 47.71) reads as follows:

> The commissioner may promulgate such rules as are reasonably necessary to carry out and make effective the provisions and purposes of this act.

Section 2, subd. 3 (Minn. Stat. Sec. 47.62, subd. 3) reads:

> Application for authorization shall be made in the manner prescribed by rule.

Section 9, subd. 2 (Minn. Stat. Sec. 47.69, subd. 2) provides:

> The commissioner shall have the authority by rule to require each person operating pursuant to this act to supply information to customers using the electronic financial terminals of the person's consumer protection policies including the rights and liabilities of the consumer and protection against wrongful and unnecessary or accidental disclosure of confidential information.

The Banking Division also cites Sec. 4, subd. 1 of the Act, (Minn. Stat. Sec. 47.64, subd. 1) which requires a terminal used by one type of financial institution to be made available to other types of financial institutions as approved by the Commissioner, as authority for promulgation of the rules.

4 MCAR Sec. 1.0226 - Introduction

8. 4 MCAR Sec. 1.0226 describes the authority, scope and purpose of this set of rules. The rule drew no comment and is reasonable and needed. (See, Tr. pp. 30-31) The Examiner would have the following suggestions, however. There are several cites throughout the rules to Minn. Laws 1978, Ch. 469. It is usually preferable to give the codified statutory cite, namely, Minn. Stat. Sec. 47.61 through Sec. 47.74, since access to the statutes is usually more readily available than is access to the Session Laws. In addition, should the statute later be amended, a person reading the rules would not be alerted to the change if he relied solely on the cite to the Session Law.

9. The Banking Division should also consider some redrafting of sec. 1.0226. Although the Examiner understands that the paragraph located prior to sec. 1.0226 in the rules as they were mailed is not in fact a part of the rules to be finally adopted, the language in that paragraph would appear to give a succinct summary of the contents of the rules which could perhaps be expanded somewhat by the information contained in the third, fourth and sixth sentences within section 1.0226. The Division should also consider whether any extensive reference to authority is necessary since the rules contain several cites to the authorizing legislation.

4 MCAR Sec. 1.0227 - Definitions

10. The Division testified generally that this rule provides for the description of terms to be used elsewhere in the rules and which are not defined in the statute. (Ex. 15, p. 4; Tr. p. 31) As a matter of drafting, the word "herein" in the first sentence might be replaced by the phrase "in these rules" for the sake of clarity.

11. Section 1.0227 A. defines "account holder". The Division stated that this definition provides that the terms "account holder" and "customer" will carry the same meaning. (Tr. p. 31) The Minnesota Bankers Association (MBA) suggested that since the term "account holder" is used only three times in the rules, it should be replaced by the word "customer" and the definition of "account holder" could then be deleted from section 1.0227. The definition is needed and reasonable as proposed; however, the Division may consider the MBA's suggestion as a matter of drafting. The Division has, in fact, apparently deleted the term at certain points in the rules as amended. If the term is no longer used, the definition should be deleted.

12. Section 1.0227 B. defines "Act" and permits a brief reference to the enabling legislation throughout the rules. (Tr. p. 31) The definition is needed and reasonable. The Division should consider whether a cite to the Session Law or the statute as codified, or both, is more appropriate.

13. Section 1.0227 C. defines the word "card". The definition is needed and reasonable. (Ex. 15, p. 4; Tr. pp. 31-32) The MBA suggested that since the rules also define the word "terminal", that word should be used in this definition instead of the full phrase "electronic financial terminal". (Tr. p. 146) The Division agreed with this suggestion and proposes to strike the words "an electronic financial" and to insert the word "a" in their place. (Ex. 22, p. A-2) So amended, the rule is needed and reasonable.

14. Section 1.0227 D. defines "card issuer". The Division testified that this definition is intended to be synonymous with the term "financial institution", while at the same time recognizing that the issuance of a card may be accomplished by a financial institution through a contractual arrangement with a third party acting for the financial institution. (Tr. pp. 32-33; Ex. 22, p. A-2) The MBA suggested that the language concerning contractual agreement and activation by a card be deleted from the definition because it is redundant and repeats a specific requirement of the act. (Ex. S, p. 2)

15. Several comments addressed the possibility that a retailer might be thought to be included within the proposed definition. The Minnesota Retail Federation (MRF) pointed out that the retailer could not comply with the customer disclosure requirements demanded of card issuers by section 1.0230. The MRF suggested that card issuer be defined as follows:

> D. "Card issuer" means a financial institution or a person authorized by the financial institution to issue a card in conjunction with a financial institution which provides the use of a terminal under a preauthorized contractual agreement with a customer to be activated by a card.

(Ex. R, p. 7) The Northwestern National Bank of Minneapolis (Northwestern Bank) agreed that the rule as proposed could be read to include a provider since a provider "provides the use of a terminal to a customer" and suggested that the definition be revised to read "'card issuer' means a financial institution or a person authorized by a financial institution which issues a card to a (sic) account holder". (Ex. Q, p. 31; see also, Ex. O, p. 1)

16. In its post-hearing submission, the Division addressed the MBA suggestion and a portion of the MRF suggestion by recommending that the rule be amended to read as follows:

> D. "Card issuer" means a financial institution or a person authorized by a financial institution providing the use of a terminal to a customer to be activated by a card.

(Ex. 22, p. A-2) As amended by the Banking Division, the definition is needed and cannot be said to be so unclear as to be unreasonable. However, the Banking Division has not addressed the concern of Northwestern Bank and the MRF which is essentially that the phrase "a person authorized by a financial institution" may be interpreted to refer to a retailer or a provider. The problem is that the definition as proposed is constructed with reference to who provides the use of a terminal rather than in terms of who issues a card, as are the definitions suggested by Northwestern Bank and the MRF. If it is, in fact, the intent of the Banking Division to clearly exclude retailers and providers from this definition and to merely include third parties acting as agents for financial institutions, then the Division should consider a further amendment along the lines suggested by Northwestern Bank or the MRF.

17. Section 1.0227 E. defines "control". The Division testified that a definition of this term is necessary for regulatory purposes in order to identify the person having authority and therefore responsibility in regard to a terminal. (Tr. pp. 33-34; Ex. 15, p. 4) The MRF expressed a

good deal of concern about this definition in that they fear that if this definition appeared to exclude a card issuer then the card issuer would likewise be excluded from the definition of "provider", and therefore, the card issuer would be unable to make an application for a terminal pursuant to section 1.0228. Presumably then the retailer would have to apply. The MRF states that the small merchant will not have the time nor will he have the information necessary to comply with the rules. (Ex. R, pp. 3-5) The MRF also stated that the concept of a card issuer or financial institution as the managing agent of a merchant's terminals would neither practically nor legally provide a merchant with any relief as to the need to file and ensure the accuracy of an application. The MRF points out that while the rules of other states require identification of the person in control of the terminal, that person has no responsibility for making the required application, paying fees or maintaining financial security. (Ex. M, pp. 1-9)

18. Northwestern Bank pointed out that there are some grammatical problems with this rule and suggested the rule be reworded as follows:

E. "Control" means:

1. The ownership of at least a 50 percent interest in a terminal;

2. A lessee's interest in a terminal; or

3. The power to act as agent of a person exercising control of a terminal.

19. In response to the concerns of the MRF, the Banking Division proposed that this definition be amended by including the word "or" after section 1.0227 E. 1., and by revising section 1.0227 E. 3., as follows:

3. Any agent or card issuer authorized by those persons having ownership or leasehold interests in the terminal or terminals for purposes of the Act and these rules.

(Ex. 21, p. 2) So amended, the proposed rule is needed and reasonable. The Division should consider the suggestions of Northwestern as a matter of drafting.

20. Section 1.0227 F. defines "customer". The Banking Division stated that this definition is needed and reasonable since it is a commonly used term and therefore may be reasonably used throughout the rules. (Ex. 15, p. 5; Tr. p. 34) Northwestern Bank noted (Ex. Q, pp. 31-32) that the definition failed to use the defined term "transaction" and suggested that the definition of "customer" could be revised as follows:

"Customer" means any person who has established a contractual relationship with a financial institution whereby that person is authorized to initiate any transaction.

The rule, as proposed, is needed and reasonable. The Division should consider Northwestern Bank's suggestion.

21. Section 1.0227 G. defines "operator". The Banking Division testified that this term is needed to provide a term for the person engaged in performing the manual task in connection with a terminal operation, and to distinguish that person from a customer. (Tr. p. 34; Ex. 15, p. 5) The Banking Division noted that the language of the second sentence parallels the

language in the statute at Minn. Stat. Sec. 47.64, subd. 4. The Division suggests that repeating the language of the rule is necessary to make it clear that financial institution employees and customers are not included within the definition. (Ex. 22, p. 15) The language appears to be crucial to the ability of a person affected by a rule to comprehend its meaning and effect as required by Minn. Stat. Sec. 15.0412, subd. 1.

22. The MBA pointed out that since a customer normally initiates the transaction and not the provider or retailer, the first sentence is somewhat misleading. The MBA also suggested that the word "provider" in the last sentence be replaced by "person who is established and maintains a terminal" since the MBA favors deleting the word "provider" from the rules. (Tr. pp. 146-147; Ex. S, pp. 2-3)

23. In response to the comments, the Banking Division proposed to amend the rule as follows:

> G. "Operator" means any person who assists in the initiation of terminal transactions on behalf of a customer. Operator does not include an employee of a financial institution, financial institution holding company or subsidiary thereof or the customer. For purposes of 4 MCAR Sec. 1.0228, C, operator does not include individual employees of a provider or retailer.

The Division notes that deletion of the words "electronic financial" eliminates unnecessary language. The word "customer" is substituted for account holder. (Ex. 22, p. A-3) Northwestern Bank supports the rule as amended by the Division. (Ex, Q, p. 32) The definition as proposed to be amended is needed and reasonable.

24. Section 1.0227 H. defines "person". The Banking Division suggests that since the word is used throughout the statute and the rules, a definition is needed and that a broad definition is reasonable. (Ex. 15, p. 5; Tr. p. 35) The Northwestern Bank suggested that the rule as phrased is not grammatical and suggests that the following language be substituted:

> H. "Person" means any individual, body politic or corporate, partnership or other unincorporated association, including a financial institution.

The Banking Division suggested amending the definition by deleting the last five words of the proposed definition and stated that this would serve to eliminate unnecessary language. (Ex. 22, p. A-4) The rule, as amended, is needed and reasonable. The Banking Division should consider the comments of the Northwestern Bank as a matter of drafting.

25. Section 1.0227 I. defines "personal identification number". The Division stated that this term is a well-known one which is widely used. (Tr. p. 35; Ex. 15, p. 5) The Otto Bremer Company pointed out that precluding the use of an alpha character for a personal identifier at a financial transaction terminal would considerably narrow the use of the code. (Tr. p. 156; Ex. E., p. 1) The Banking Division was amenable to the change and proposed that the definition be amended as follows:

> I. "Personal identification code" is the confidential code provided to the customer which is necessary to the completion of a transaction at a terminal.

Consistent with the changes in previous definitions, the word "account holder" is changed to "customer" and the words "an electronic financial" are deleted. (Ex. 22, p. A-4) So amended, the definition is needed and reasonable.

26. Section 1.0227 J. defines the term "provider". The Banking Division stated that this term is to be used in the rules to refer to that person establishing and maintaining an electronic financial terminal and is intended to be used as an interchangeable term with the person having "control" of the terminal. (Tr. p. 36; Ex. 15, p. 5) The MRF again expressed concern over this definition insofar as its use in section 1.0228 required retailers to make applications for the terminal. (Ex. M, p. 1; Tr. pp. 104-107) The MBA stated that the definition is confusing because it appears to emphasize ownership of the terminal hardware located at a retail establishment whereas the application for authorization requirements of the statute apply to "any person" seeking to establish and maintain a terminal. Such a "person" may be a retailer or a financial institution and the statute does not require the person having control to apply. The MBA therefore recommends that this definition be deleted. (Ex. S, pp. 3-4)

27. The Banking Division suggested that the phrase "an electronic financial" be replaced by the word "a" in this definition. (Ex. 22, p. A-4) Northwestern Bank supported the proposed rule as amended. (Ex. Q, p. 32) The rule as amended is needed and reasonable; however, the Banking Division should consider the MBA's comments and decide whether or not deleting this definition would provide a clearer rule. The changes desired by the MBA may have already been accomplished by changes to the definition of "control" and to section 1.0228 A., however there may remain a problem of clarity.

28. Section 1.0227 K. defines "Terminal" and is needed and reasonable in that it provides a simple abbreviation for a term used through the rules. (Ex. 15, p. 5; Tr. p. 36)

29. Section 1.0227 L. defines "transaction". The Division stated that this definition refers to that singular financial entry affecting the books of a financial institution under a preauthorized agreement. (Tr. p. 36; Ex. 15, p. 5) The Division proposed to amend the rule by deleting the phrase "an electronic financial" and substituting the word "a". (Ex. 21, p. 3) The rule as amended is needed and reasonable. It was supported by the Northwestern Bank as amended. (Ex. Q, p. 32).

4 MCAR Sec. 1.0228 - Electronic Financial Terminal Application for Authorization; Notification Requirements

30. Section 1.0228 sets out the information required in an application and establishes when notice must be given to the Commissioner. In regard to Section 1.0228 A., the Division testified that the items set forth are the data necessary to permit a judgment by the Commissioner on the application. Some of the data requested is required by statute. (Tr. pp. 37-39; Ex. 15, p. 6)

31. In regard to the initial paragraph of this rule, the MRF again expressed concern that the language might be interpreted to permit an application only

by a retailer. The MRF suggested that the phrase "or a card issuer" be inserted after the word "terminals" in the first clause of the first sentence of the rule. (Ex. M, pp. 1-9; Tr. pp. 104, 107) The Dayton Hudson Corporation (Dayton-Hudson)was also concerned about this interpretation and suggested that the phrase "a card issuer" be substitued for the first two words of the rule. (Ex. O, p. 2) The Northwestern Bank pointed out that the language of the first paragraph could be understood to require a separate application for each terminal at a specific retail location, and it could be interpreted to permit a single application for many terminals at several locations. Accordingly, Northwestern suggested that the phrase "at a specific retail location" be inserted after the word "terminals" in the first clause of the paragraph. (Ex. Q, p. 9; Tr. p. 131) Northwestern Bank also suggested that a sentence be added to this paragraph making clear that an applicant need not make a new application or give notice when information submitted with an application changes. (Ex. Q, pp. 9-10) Dayton-Hudson agreed with this suggestion. (Ex. O, p. 2) Consistent with their proposed deletion of the term "provider", the MBA has suggested that the following language be substituted for the first sentence of the rule as proposed:

> A. Any person seeking approval to establish and maintain a terminal or terminals shall, not less than 45 days before the establishment of the terminal or terminals, file with the Commissioner a written application on a form provided by the Commissioner entitled ELECTRONIC FINANCIAL TERMINAL AUTHORIZATION APPLICATION.

(Ex. S, p. 4)

32. In response to the comments, the Banking Division suggests amendment of the rule by inserting the phrase "including a card issuer" between the words "person" and "seeking" in the first sentence, and by inserting the phrase "at a specific retail location" between the words "terminals" and "shall" in the first sentence. The Division suggests that these amendments are consistent with the statute which, among other things, permits "any person" to make an application. (Ex. 22, p. A-5) So amended, the first paragraph of section 1.0228 is needed and reasonable. The Banking Division should consider as a matter of policy whether deletion of the concept of provider will permit a more understandable rule. The Examiner notes that the phrase "request for" in the final sentence of this paragraph appears to be superfluous. The Banking Division is also advised that the Attorney General may be critical of the phrase "but need not be limited to" in the same sentence since this appears to permit the Commissioner to include requirements in the application which are not spelled out in the rule.

33. Sections 1.0228 A. (1), (3), (4), (5), (6), (13) and (14) attracted no specific comment in the course of this rule hearing proceeding. The Agency has demonstrated the need for and reasonableness of these proposed provisions at Tr. pp. 37-39 and Ex. 15, p. 6.

34. Section 1.0228 A.(2) requests the name and address of the person or persons having control of the terminal together with their financial statements. The Northwestern Bank objected to this provision since it suggests that where two or more people will be in control of the terminals at a single retail location, each would be required to apply and supply

financial statements. Northwestern sees this as unreasonable and burdensome and not required by the statute. (Ex. Q, p. 132; Ex. I, p. 3) It is concluded that the proposed rule is not unreasonable or contrary to statute in requiring financial statements of all persons in control other than the applicant. (Ex. 15, p. 6; Tr. pp. 37-38)

35. Section 1.0228 A.(7) requires a description of the physical and technical operations standards pertaining to the terminal. The MBA questioned whether the term "interface" was properly used in the rule, and also suggested that the phrase "physical operations standards pertaining to the terminal" was unclear. The MBA suggested the following paragraph be adopted instead of the proposed rule:

> 7 A complete description of the physical characteristics and technical operations standards pertaining to the terminal, including information and specifications necessary to enable its use by eligible financial institutions.

(Ex. S, p. 4; Tr. pp. 147-148). Although the rule is needed and reasonable as proposed, the Banking Division may consider the MBA's comments.

36. Section 1.0228 A.(8) requires certain operational information to be provided including, at (8)(d), the name and address of any financial institution seeking permission to share the terminal. The Otto Bremer Company suggested that this language presented potential confusion between the definition of an affiliate and a sharing financial institution since established networks of affiliates are already in operation sharing automatic teller machines in off-line environments in several outstate markets in Minnesota. (Ex. E, p. 3; Tr. p. 158) The MBA suggested that the term "share" be deleted since it is used nowhere in the statute and suggested that the (8)(d) be reworded as follows:

> d. Name and principal address of any financial institution which is permitted or has requested the use of the terminal/terminals.

Although this rule subsection is needed and reasonable as proposed, the Banking Division may consider the above comments.

37. Section 1.0228 A.(9) requires the filing of certain agreements. Northwestern Bank suggested that the proposed rule was extraordinarily burdensome since read literally the rule would require that each agreement between any card issuer having access to the applicants' terminals and such card issuers' customers, to be included. (Ex. I, pp. 3-4; Ex. Q, p. 11; Tr. p. 132) Northwestern suggested that the rule be rewritten as follows:

> 9. All agreements used or intended to be used relating to the ownership, operation and control of the terminal, and disclosures to be made by the applicant to its customers pursuant to the act and section 1.0230 of these rules.

The Otter Bremer Company also supported clarification of the rule. (Tr. p. 158; Ex. E, p. 3) The MBA noted that the term "account holder" should be replaced with "customer" for consistency. (Tr. p. 148)

38. The Division supported amending the rule by adding the phrase "required by the Act and 4 MCAR Sec. 1.0230, A." onto the end of the proposed rule subsection. The Division noted that this addition would help clarify that the scope of these rules do not extend requirements placed upon the

applicant or its affiliated associations by other laws or regulations. (Ex. 22, p. A-5) So amended, the proposed rule is needed and reasonable. The Division should consider changing the term "account holders".

39. Section 1.0228 A.(10) requires a description of the safeguards to be used to meet terminal security requirements to be filed. The Marquette National Bank of Minneapolis (Marquette Bank) stated that it is unclear what is required by way of detail as to the safeguards to be used. Marquette noted that financial institutions would be reluctant to provide a detailed description of the safeguards if this information is to be part of public records since this would jeopardize terminal security. Marquette Bank suggested that should the Commissioner have the authority, perhaps part of the application could be designated as confidential. (Ex. N, pp. 1-2) Dayton-Hudson had the same objection and stated that the rule goes beyond the scope of what was intended at Minn. Stat. Sec. 47.68, since the statute only requires that safeguards be adopted and maintained to ensure the safety of funds, items and other information. Dayton-Hudson suggests that the rule be modified to require that a person or financial institution be required to certify the appropriate measures to protect the integrity of the system have been instituted. (Ex. O, pp. 2-3) It is concluded that the rule as proposed is needed and reasonable since a general description of the safeguards to be used should be possible without providing enough detail to jeopardize security (Ex. 15, p. 6) and within the Commissioner's statutory authority at Minn. Stat. Sec. 47.62, subd. 3. However, the Division should consider revising the rule to clarify what is required.

40. Section 1.0228 A.(11) requires a description of the customer privacy procedures. The Minnesota AFL-CIO (AFL-CIO) supported calling for greater detail in the description of the procedures to be provided by the applicant. (Ex. B, pp. 1-2) The Otto Bremer Company suggested that the language of this rule subsection was vague and general. (Ex. E, p. 1) The Marquette Bank also noted that the rule fails to describe adequately what information is to be supplied and suggested that the applicant cannot be certain that he has complied with the rule when submitting an application. (Ex. N, p. 2) Although this subsection is needed and reasonable as proposed, the Division may consider making the rule more definite.

41. Section 1.0228 A.(12) calls for a description of the procedures to be used to minimize losses due to unauthorized withdrawals. The Otto Bremer Company and the Marquette Bank voiced the same comments as they made in regard to the prior rule. Although the rule as proposed is needed and reasonable, the Division may consider their comments.

42. The Minnesota League of Credit Unions suggested that a Number 15 be added to Section 1.0228 A. dealing with the statutory requirement at Minn. Stat. Sec. 47.64, that the charges of the provider be fair, equitable and nondiscriminatory. The League suggests that the addition of the following language would permit the Commissioner to make a judgment in that regard:

> 15. Sufficient detail as to direct costs, development costs and capital expenditures of the provider so as to enable the commissioner to determine if the charges are fair and reasonable.

(Ex. H, pp. 5-6) The League pointed out that such data in the application would also permit a credit union to ascertain whether or not the charges made by a provider are fair and equitable. (Tr. p. 124) The Division may consider as a policy matter whether or not the addition of this language would be appropriate. This would not appear to be a substantial change since notice was fairly given that the items to be submitted in an application would be considered in this rule hearing procedure.

43. Section 1.0228 B. requires written notice to the Commissioner within 30 days when a provider contracts with additional financial institutions to share a terminal. The Division stated that this information is necessary so that the Commissioner is able to maintain current records and to permit continuing administration of the statute. (Ex. 15, p. 6; Tr. p. 39) The MBA found this section to be unclear and suggested the following language:

> B. The applicant shall give the commissioner written notice of all additional financial institutions which have contracted for the use of the applicant's authorized terminal/terminals within 30 days of the date such use is granted.

(Ex. S, p. 5; Tr. p. 149) Northwestern Bank suggested that this rule and the two following subsections were hindered by the lack of a definition of the term "applicant", and urged that a definition of this term be included. (Ex. Q, p. 12) The Otto Bremer Company noted that the rule included no response time for the Commissioner. (Ex. E, p. 1) Although the rule is needed and reasonable as proposed, the Division should consider the merits of these comments.

44. Section 1.0228 C. requires a written 30 day notice by the applicant prior to change of control or change of operator of the terminal. The Division stated this requirement will eliminate the need and expense of any examination process by the Division merely to update records. (Tr. p. 39) The Northwestern Bank again suggested that a definition of applicant would be useful in regard to this rule subsection. (Ex. Q, p. 12) The rule is needed and reasonable as proposed.

45. Section 1.0228 D. provides for written notice to the Commissioner of termination of the use of a terminal. The MRF wanted to be sure that notice would not be necessary should an electronic cash register be closed down for a limited period of time at a retail location. (Ex. R, p. 7; Tr. p. 108) The MBA noted some ambiguity in this rule in regard to whose termination would necessitate notice. (Ex. S, p. 6; Tr. p. 149) The Northwestern Bank again pointed out the lack of a definition of "applicant". (Ex. Q, p. 12)

46. Based upon these comments, the Banking Division suggested that the rule be amended as follows:

> D. The Commissioner shall be given written notice by the applicant of the termination of terminal operations at the location authorized not more than ten days after termination of all regulated activity.

The Division stated that this amendment would make it clear that where multiple terminal operations are involved the cessation of all regulated terminal activity under the Act at the authorized individual location triggers the notification requirement. So amended, the rule is needed and reasonable.

4 MCAR Sec. 1.0229 - Technical Operations Standards

47. Section 1.0229 A. sets out technical operations standards and requirements which are deemed reasonable. Section 1.0229 A. 1. and 2. sets out the physical specifications for cards and the special physical characteristics applicable to magnetic striped encoded cards by incorporating by reference standards of the American National Standards Institute. Incorporation by reference was approved by Order of the Chief Hearing Examiner dated May 22, 1978. (Ex. 18) The statute requires that a financial institution requesting use of a terminal must conform to the reasonable technical operations standards established by the provider as approved by the Commissioner. The reasonableness of these two standards was established by an expert witness on behalf of the Division. (Tr. pp. 40-66; Ex. 15, p. 6) The standards assure uniformity throughout the system and permits nondiscriminatory use of the terminal.

48. All of the public comments directed toward these two rule subsections surrounded the fact that the Division adopted two of the standards recommended by the Subcommittee on Standards of the Commissioner's Committee on Electronic Funds Transfer Systems. The report of that Subcommittee appears as Attachment A to Public Ex. E. The Otto Bremer Company saw the failure to adopt the other two standards as contrary to the intent of establishing the lowest common denominator for sharing. (Ex. E, p. 2; Tr. pp. 156-157) First Computer Corporation, a subsidiary of the First Banks System, (First Banks) also supported adoption of the other two standards. (Ex. C, p. 2) The Marquette Bank supported adoption of magnetic stripe encoding specifications of ANSI for track 3 (online and offline) and adoption of the National Bureau of Standards Algorithm to be used to check the personal identification number offline (Ex. N, p. 2), as did the MBA (Ex. S, pp. 6-7).

49. The Division pointed out at the hearing and in its post-hearing comments that the track 3 standards have not yet been adopted by the American Standard Institute, but are currently under review. (Tr. p. 42) In regard to the recommendations of the Subcommittee regarding the National Bureau of Standards Algorithm checking of the personal identification number offline, the Division states that this too deals with track 3 standards currently under development by ANSI. (Ex. 22, p. A-16) It is the Division's position, that given the dynamic nature of EFT technology that it should not consider adopting technological standards until they are formally adopted by ANSI. The Division announced its intention to proceed with the adoption of the standards following approval by ANSI and the Division also indicated they intend to request temporary rulemaking authority from the Legislature to enable rapid adoption of technical standards in the future. (Ex. 22, p. A-15) It is concluded that the standards adopted are needed and it cannot be said that the Division's approach is unreasonable.

50. Section 1.0229 A. 3. sets out the information to be contained on the customer receipt. Section 3. a. requires the date and time of the transaction. First Banks suggested that the time element be optional since it would be technologically difficult to report time on the customer receipt with any reasonable accuracy. (Ex. C, p. 2) Twin City Federal Savings and Loan Association (TCF) stated the time element would discriminate against the small

merchant since terminals that have time printing capability are sufficiently expensive to preclude their installation in low-volume sites. (Ex. L) The MBA supported deleting the time requirement. (Ex. S, p. 9)

51. In its post-hearing comments, the Division suggested that the words "and time" be deleted from Section 1.0229 A. 3. a. on the grounds that the deletion appears reasonable considering the present state of technology. (Ex. 22, pp. A5-6) So amended, the rule is needed and reasonable.

52. Section 1.0229 A. 3. b. requires the amount of the transaction and is needed and reasonable.

53. Section 1.0229 A. 3. c. requires a description of the transaction. First Banks recommended that the words "or codes" be added to permit use of an alpha-numeric character. (Ex. C, p. 2) This suggestion was supported by the MBA (Ex. S, p. 10), and by Northwestern Banks (Ex. Q, p. 13). Northwestern also stated that the rule should spell out what a description of the transaction means. Northwestern suggested that the receipt should show whether the transaction involved payment for goods and/or services, a deposit of funds, or a withdrawal of funds. (Ex. Q, p. 13) The Division proposed to amend the rule by adding the word "or codes" to the rule subsection. (Ex. 22, p. A6) So amended, the rule is needed and reasonable.

54. Section 1.0229 A. 3. d. requires the identity of any financial institution with whom funds are electronically transferred to be indicated on the receipt. The comments of the MBA (Tr. p. 150,; Ex. S, p. 10), First Banks (Ex. C, p. 3), the Northwestern Banks (Ex. Q, p. 13), and the MRF (Tr. p. 109; Ex. R, p. 8) all stated that the rule as proposed was ambiguous and supported inserting the word "customers" between the word "any" and "financial" in the proposed rule. The Banking Division was amenable to this suggestion and supported this amendment in its written comments. (Ex. 22, p. A-6) So amended, the proposed rule subsection is needed and reasonable.

55. Section 1.0229 A. 4. as originally proposed provided that all financial transactions performed at a terminal be processed as if they were conducted at the principal office of the financial institution having due regard for the established hours and days the financial institution is open. At the hearing, the Banking Division offered an amendment of this subsection which would result in the rule reading as follows:

> 4. All financial transactions performed at a terminal as authorized by Section 3 of the Act shall be processed as if the transactions were conducted at the principal office of the financial institution having due regard to the reasonable time necessary for the transportation or transmission of data or funds deposited or received at the terminal in cash or checks to the point of verification by the financial institution. There shall be no differential in such time delay, if any, between the various permitted transactions initiated at a terminal unless acknowledged in writing by the customer.

(Ex. 20) The Banking Division testified that the intent of the rule is to require that any transaction conducted at a terminal shall be processed with the same speed with respect to posting at the financial institution as though the transaction had been made face to face at the teller window of the main banking facility. The rule attempts to deal with the fact that because of the speed

of EFT technology, financial institutions will be having large amounts of additional funds for longer periods of time. (Tr. pp. 77-81; Ex. 15, p. 7)

56. The Northwestern Bank objected to the rule as originally proposed since they believed it would be an impossibility to credit a loan payment made in Thief River Falls at 2:30 p.m. to an account at the State Bank of Hibbing on the day of receipt. Northwestern stated that the transaction would involve a cash letter which would travel from Thief River Falls to Minneapolis to Hibbing and would require two or three days. (Tr. pp. 134-139; Ex. I, pp. 5-9; Ex. J) First Banks also pointed out that the merchants' hours often differ widely from those of financial institutions, and suggested that the rule allow a delay for final proof and validation before posting. (Ex. C, p. 3) The MRF supported the rule as amended by the Banking Division. (Ex. R, p. 9) The Marquette Bank suggested that the last sentence of the amendment be deleted since it was not necessary to require "presigned contracts". Marquette pointed out that a sign could be posted at the terminal advising customers that deposits after a certain time would be treated as having been received on the following banking day for purposes of provisional credit to the depositor's account. Marquette suggested that Section 1.0230 A. 7. adequately handles any consumer disclosure problem. (Ex. N, p. 4) Northwestern Bank also stated that a card issuer should only have to disclose differentials in time delays to its existing card holders and should not have to obtain written acknowledgments from them. Northwestern stated that obtaining a signed acknowledgment from each of its existing customers that credits and payments may take longer to process than debits would be a massive task. (Ex. Q, pp. 15-16)

57. The rule as amended at the hearing by the Banking Division is needed and reasonable. The Division should consider whether or not the customer's written acknowledgment is more effective than simple disclosure and the other comments made.

58. Section 1.0229 A. 5. requires that a personal identification number be used for EFT transactions. The Division stated that this is a security measure which should prevent unwanted use of electronic terminals to the detriment of a card holder. (Ex. 15, p. 7; Tr. pp. 81-83) The MRF (Tr. p. 111; Ex. R, p. 10), the First Banks (Ex. C, p. 4) and TCF (Ex. L) each suggested that a term other than number be used in this rule. The Banking Division was agreeable to this suggestion and changed the word "number" to "code" as a proposed amendment in its written submission. (Ex. 22, p. A-7) Northwestern Bank also suggested that the word "contract" in the rule be changed to application since as a practical matter, the card holder's signature is obtained on an application form. (Ex. Q, p. 16) The Marquette Bank objected to the requirement of a signed contract. Marquette has considered a marketing plan which would involve the mass mailing of cards to eligible customers with an invitation to apply in person for a personal identification number and a subsequent approval of the card holder agreement by the customer through use of his personal identification number rather than a signed contract. Marquette suggests that the statute does not require a signed contract and that the statute may not clearly give the Commissioner rulemaking authority

to so require. (Ex. N. p. 3) The rule as proposed is needed and reasonable and within statutory authority. The Division may consider the comments made.

59. Section 1.0229 B. provides an alternative to compliance with the standards set forth in section 1.0229 A. 1. and 2. if it can be shown that the alternative specifications meet or exceed those requirements and satisfy the three criteria listed in this rule. The Division stated that no single technology can be characterized as the only conceivable one in regard to EFT especially considering the changing nature of the technology. (Ex. 15, p. 8; Tr. pp. 67-71) The MRF supported the concept of this section in that it allows the accommodation of different technologies and provides flexibility for the EFT system. The MRF believes that this is essential to permit the rules to withstand attack under the antitrust laws. (Tr. p. 111; Ex. R, p. 9-10) The financial institutions, however, felt that the goal of nondiscriminatory access to terminals will not be able to become a reality if there can be exceptions to Section 1.0229 A. 1. and 2. (Ex. C, p. 4) They foresaw the disorderly development of EFT in Minnesota if alternatives to specifications and characteristics are allowed. (Ex E, p. 2) The Marquette Bank stated that those terminals and computer processing equipment designed to accept a card meeting the physical specifications and magnetic stripe encoding standards specified by ANSI will not accept cards with different physical specifications or different magnetic stripe encoding specifications for track 2 (online). Marquette suggests that to permit financial institutions to adopt entirely different specifications for cards and magnetic stripe encoding is to write out of the statute sections 4 and 5 of the act regarding sharing. (Ex. N, p. 2)

60. TCF requested that the rules define the words "protection", "reliability", and "fair and equitable access" which are used in this rule subsection. (Ex. L) The MRF suggested that the phrase "fair and equitable access" is different and may run afoul of the statutory requirement that retailers permit access on a "nondiscriminatory basis". They suggested that section 1.0229 B. 3. be amended to read as follows:

> 3. Access to the terminals by other potential sharing financial institutions as required by the act.

61. The question of whether or not an exception should be provided to the standards of section 1.0229 A. 1. and 2. is a policy matter to be properly considered by the Division in its decision as to how to implement the statute. If there is a conflict between the need for uniformity and the need for flexibility, the Division must exercise its expertise, weigh the factors involved, and set out its policy decision. The Division should consider whether or not the "fair and equitable access" language does vary the statutory standard or cause confusion concerning that standard. The rule as proposed is needed and cannot be said to be unreasonable. The Division should be aware that the Attorney General will scrutinize this rule subsection to ensure that there is sufficient criteria by which to judge a variance from the standard of section 1.0229 A. 1. and 2.

4 MCAR Sec. 1.0230 - Customer Disclosure Requirements

62. Section 1.0230 A. sets out the information which must be disclosed to

customers. The Division stated that the customer needs reliable information as to the choices available in an EFT system, as well as information about rights and protections provided to the customer. (Ex. 15, p. 9) The first paragraph of this rule subsection requires that the disclosure be made at the time the card is issued. The MBA saw the requirement of disclosure at the time the card is issued as inflexible, and suggested that the rule require disclosure "either at or before" the issuance of the card or that the following language be adopted:

> A. Pursuant to section 9 of the act, the following information shall be disclosed by the card issuer to its customer before use of a terminal/terminals is authorized.

(Tr. p. 151; Ex. S, pp. 7-8) Both the Otto Bremer Company and the First Banks requested language in the rule which would state when such disclosures would have to be made to existing card holders. (Tr. p. 158; Ex. E, p. 3; Ex. C, p. 4) The AFL-CIO stated stated that the disclosure should be in writing. (Ex. B, p. 2)

63. In response to the comments, the Banking Division proposed that the initial paragraph be amended to read as follows:

> A. Pursuant to section 9 of the act, the following information shall be disclosed in writing by the card issuer to its customer at the time the card is issued or in the event cards meeting the requirements of the act in these rules are outstanding, this disclosure shall be made before the customer is allowed to use a terminal.

The Division stated that they believe that the simultaneous receipt of the card and the required disclosure statement provides the best opportunity for meaningful consideration of the disclosure by the customer, but that a different procedure is necessary for outstanding card holders. (Ex. 22, p. A-10) So amended, this proposed rule subsection is needed and reasonable.

64. Section 1.0230 A. 1. and 3. provide for disclosures of the types of financial transaction and the restrictions on them. These provisions drew no comment and are needed and reasonable as was established at Ex. S, p. 9, and Tr. pp. 84-87.

65. Section 1.0230 A. 2. requires disclosure of the schedule of charges for use of the terminal. The Northwestern Bank (Ex. Q, p. 17) and the MBA (Ex. S, p. 8) both pointed out that the last clause of this proposed rule subsection could be interpreted to include charges outside the scope of these rules such as finance charges or overdraft charges. In its post-hearing comments, the Division proposed to delete this clause in order to avoid confusion since the intent of the rule was to require only disclosure of charges for the actual use of the terminal. (Ex. 22, pp. A-10-11) So amended, the proposed rule is needed and reasonable.

66. Section 1.0230 A. 4. requires disclosure of the schedule for sending transaction statements to the customer. Northwestern Bank pointed out that the rule as originally proposed could have been interpreted as requiring disclosure of the day of each month or quarter on which a statement will be sent to the customer. (Ex. Q, pp. 17-18) In its post-hearing comments, the Division suggested replacing the word "schedule" by the word "frequency" which would properly reflect the intent of the rule. (Ex. 22, p. A-11) Northwestern

Bank supported this amendment. (Ex. Q, p. 17) So amended, the proposed rule subsection is needed and reasonable.

67. Section 1.0230 A. 5. requires disclosure of the procedure to be used to give notice of error to the issuer. It should be noted that because the proposed rule subsection begins with "A statement . . ." it is not grammatically consistent with the other rule subsections. The "procedure" should be disclosed rather than the "statement". The Northwestern Banks proposed that the following language be added to this rule subsection:

> It shall be sufficient compliance with this paragraph if the notice required by Section 226.7(a)(9) of Regulation Z of the Board of Governors of the Federal Reserve System is given to the customer prior to the first transaction to the customer's account.

Northwestern stated that if, as Northwestern assumes, compliance with the federal regulation is sufficient then this rule ought to so state. (Ex. Q, p. 18) The rule is needed and reasonable as proposed. The Division should consider Northwestern's comment.

68. Section 1.0230 A. 6. requires disclosure of the manner in which use of a card may be terminated. The MBA noted that the term "account holder" contained in this subsection should again be replaced by the term "customer". (Ex. S, p. 8; Tr. p. 152) The Banking Division made this change in its post-hearing comments, and also clarified the rule by inserting the word "card" before the word "issuer". (Ex. 22, p. A-11) So amended, the subsection is needed and reasonable.

69. Prior to the hearing, the Banking Division proposed an amendment which removed the language of section 1.0230 A. 7. a. from that subsection and placed it in a separate subsection. As amended, the new section 1.0230 A. 7. was proposed to read as follows:

> 7. The customary time needed to complete terminal transactions with the financial institution clearly stating differential in time if any between the various permitted transactions initiated at a terminal.

(Ex. 20; Ex. 22, p. A-11) This rule is needed and reasonable. (Tr. p. 79)

70. Section 1.0230 A. 8. then incorporates the language which was proposed as No. 7, except that 7. a. is deleted and the remaining subsections relettered accordingly. (Ex. 20; Ex. 22, p. A-12) It is needed and reasonable.

71. Section 1.0230 A. 9. (originally proposed as A. 8.) requires disclosure of the financial institution's liability for unauthorized withdrawals. It should be noted that the subsection is grammatically inconsistent with the others because it begins with the phrase "a statement. . .". The Northwestern Bank stated that section 1.0230 A. 9. a. requires that the card issuer disclose to its customer the allocation of risk between the card issuer and the operator of the terminal, and suggests that this information is useless to the card holder and ought to be deleted. (Ex. Q, p. 19) The Division points out that this subsection as well as section 1.0230 A. 9. b. is a restatement of the statute at Minn. Stat. Sec. 47.69, subd. 3. The Division believes it is necessary to repeat the statutory language in order to make the customer fully aware of the applicable liability provisions. (Ex. 22, p. 15) It appears that the duplication of the language is crucial to the ability of a person affected by the rule to comprehend its meaning and affect, as required by Minn. Stat. Sec. 15.0412, subd. 1. The rule is needed and reasonable as proposed.

72. In its post-hearing comments, the Division proposes to insert a new paragraph in this section which would be numbered section 1.0230 A. 10., and would read as follows:

> 10. A statement that to protect the privacy of customers using electronic financial terminals, including any supporting equipment, structures or systems, information received by or processed through such terminals, supporting equipment, structures or systems shall be treated and used only in accordance with applicable law relating to the dissemination and disclosure of such information. The person establishing and maintaining an electronic financial terminal, including any supporting equipment, structures or systems, shall take such steps as are reasonably necessary to restrict disclosure of information to that necessary to complete the transaction and to safeguard any information received or obtained about a customer or his account from misuse by any person manning an electronic financial terminal, including any supporting equipment, structures or systems.

(Ex. 22, p. A-12) The new subsection is a restatement of statutory language found at Minn. Stat. Sec. 47.69, subd. 1. The inclusion of this subsection is in response to the concern of the AFL-CIO (Ex. B, p. 2) which requested that the complete language of the act pertaining to privacy be included in the rules. The Division states that for consumers to fully avail themselves of the remedies provided in the statute, full understanding of the remedies is necessary. (Ex. 22, p. A-12-13) The Division has established the need for and reasonableness of this proposed rule subsection. It would not appear to be a substantial change. The Division might well consider rewording the subsection so that the meaning of the statute is stated in clear, simple language. The disclosure is of little value if it cannot be plainly understood. The restatement of the statutory language in this rule subsection and in section 1.0230 A. 10. (originally proposed as section 1.0230 A. 9.) or a simpler paraphrase thereof, appears to be crucial to the ability of a person affected by the rule to comprehend its meaning and affect.

73. Section 1.0230 B. sets a minimum typesize for the disclosure required in subdivision A. The rule drew no comment and the need and reasonableness was shown at Ex. 15, p. 9. and Tr. pp. 92-94.

74. Section 1.0230 C. requires that a directory be available at the terminal identifying the financial institutions using its services. Minn. Stat. Sec. 47.67 (a) allows a simple directory at the site of a terminal identifying the financial institutions using its services. The Banking Division stated that this would be helpful to a customer and that a simple directory would not become cumbersome. (Ex. 15, pp. 9-10) Both the MBA (Ex. S, pp. 8-9) and Northwestern Bank (Ex. Q, p. 19) pointed out that the statute permits such a directory while the proposed rule requires it. Both suggested that the Commissioner lacks the statutory authority to make this rule mandatory. The MBA suggests that the rule be deleted and Northwestern suggests that the term "shall" in the rule should be changed to "may". The MBA also stated that it is unclear as to whether the rule applies to a "provider" or a "card issuer".

75. In its post-hearing comments, the Division proposed to amend this rule by inserting the phrase "by the applicant" after the word "available" in

the rule, in order to avoid confusion as to who was responsible for the directory. (Ex. 22, p. A-13) The Division also stated that it is important that customers be aware of the financial institutions sharing a terminal in order to avoid inadvertent use of a terminal which could result in the capture of a person's card. (Ex. 22, p. A-16) The Division believes that the lack of this knowledge on the part of a customer would frustrate the growth of EFTS and the purposes of the statute would not be realized. The Division relies on the specific rulemaking authority at Minn. Stat. Sec. 47.69, subd. 2, which reads as follows:

> Subd. 2. The commissioner shall have the authority by rule to require each person operating pursuant to this act to supply information to customers using electronic financial terminals of the person's consumer protection policies including the rights and liabilities of the consumer and protection against wrongful and unnecessary or accidental disclosure of confidential information.

The Division also relies upon the general rulemaking authority in the statute and suggests that this rule will promote the overall purpose of the act. (Ex. 22, p. 11)

76. It is concluded that a proposed rule as amended by the Banking Division is needed and reasonable. The permissive language of Minn. Stat. Sec. 47.67 (a) does not preclude the Banking Division from promulgating a mandatory rule. The Legislature has not stated a preference for making a directory optional. It is merely indicated that providing a directory is an exception to the legislative policy of restricting advertising. Requiring a directory appears to be within the rather broad grant of rulemaking authority contained in the statute cited above, and Minn. Stat. Sec. 47.71. The Division has established that the lack of a directory would hinder customer use of a terminal.

4 MCAR Sec. 1.0231 - Transaction Statement

77. This rule requires a periodic transaction statement and sets out the items necessary for the statement. This rule is adopted to implement Minn. Stat. Sec. 47.69, subd. 6, which states as follows:

> Subd. 6. Every financial institution using an electronic financial terminal shall provide its customers a receipt or record of each transaction initiated at the terminal, and shall provide its customers a transaction statement at least quarterly specifying types, dates, and amounts of all electronic financial terminal transactions for the previous statement period.

The Division states the details called for in the rule will permit a recall of the nature of the transaction including its location. (Ex. 15, p. 10) The Division stated that the National Commission on EFT (Ex. 2) recommended that the transaction statement possess the same potential record keeping, proof of payment and reconcilement ability as is generated with paper checks. This is attempted in A. 3. of the proposed rule. (Tr. p. 97) The Division stated that Federal Home Loan Bank Board rules require the location of each transaction (Tr. p. 97). The Division also testified that since debit and credit transactions may be conducted through a terminal between financial institutions by a card holder, it is necessary that the transaction statement identify the institutions between whom funds have been transferred. (Tr. p. 98)

78. The rule requires a monthly statement if activity occurred in the month, whereas the statute requires a statement "at least quarterly". The Division believes that the velocity and volume of transactions make a quarterly statement too infrequent. The Division points out that the national commission recommended a monthly statement, and that the Federal Home Loan Bank Board rules require a monthly statement. (Tr. pp. 99-100) The AFL-CIO generally supported requiring details on the transaction statement. (Ex. B, p. 2) It should be noted that the rule is constructed with a capital "A" and no capital "B".

79. One line of comments on the proposed rule dealt with the requirement of a monthly statement. The MBA stated that this requirement was beyond the scope of the statute, since the statute requires only that the transaction statements be "at least quarterly". (Ex. S, p. 10; Tr. p. 154) The Minnesota League of Credit Unions (League) also agreed that the requirement of a monthly statement is subject to attack on the grounds of no statutory authority. (Tr. p. 126) The Division stated that the "at least" language of the statute is discretionary and implies that anything more frequent would be permissible and perhaps even encouraged. The Division believes that the consumer must have a monthly statement in order to limit his liability for misappropriation of funds and to enable him to reconcile his account. The Division notes that many other statements such as credit card billings and checking account statements are currently done on a monthly basis. (Ex. 22, p. 12)

80. It is the Examiner's opinion that the Commissioner is without statutory authority to require that a transaction statement be issued more frequently than quarterly. Minn. Stat. Sec. 47.69, subd. 6, is very specific and deals with the issue of how often a transaction statement shall be provided to customers. There is no need for interpretation of this statute by the Commissioner. In providing that the financial institutions shall "provide its customers a transaction statement at least quarterly", the Legislature has made its policy decision as to how often these statements ought to be required. The Commissioner may not exercise his independent judgment on the matter in light of this very specific language.

81. Generally, state courts adhere to the principle that an administrative agency may not make a rule which alters or enlarges the terms of the legislative enactment. See, 1 Cooper, State Administrative Law, p. 256. Our court has stated that:

> It is well established that the Legislature may confer discretion in the commissioner in the execution or administration of the law. It may not give him authority to determine what the law shall be or to supply a substantive provision of the law which he thinks the Legislature should have included in the first place.

Wallace v. Commissioner of Taxation, 289 Minn. 220, 184 N.W. 2d 588, 594 (1971). The court has also observed on several occasions that it is axiomatic that an administrative body neither can make nor change substantive law. Bielke v. American Crystal Sugar Co., 206 Minn. 308, 288 N.W. 584, McGuire v. Viking Tool & Die Co., 258 Minn. 336, 104 N.W.2d 519 (1960). The Wisconsin court has held likewise. In Wisconsin Budge & Iron Co. v. Industrial Commission, 268 Wis. 314, 67 N.W.2d 378, 380 (1954), the court held a rule invalid as

imposing upon an employer a greater duty than imposed by statute to provide a place of employment free from danger. In Stone v. Harris, 6 Wis. 2d 634, 95 N.W.2d 764 (1959), the court invalidated a rule prohibiting advertising by optometrists and noted that it is not within the province of an agency to add to restrictions imposed by the Legislature.

82. A number of comments also disputed the Commissioner's authority to require items number 4 and 5 in the proposed rule. The League pointed out that Minn. Stat. Sec. 47.69, subd. 6, states that the financial institution "shall provide its customers a transaction statement at least quarterly specifying types, dates, and amounts of all electronic financial terminal transactions for the previous statement." (Emphasis added) The League also suggests that anything required in number 3 beyond the type of transaction also would be without authority. The League stated that the "type of transaction" means those functions of a terminal described in Minn. Stat. Sec. 47.63, such as a withdrawal, a deposit, a disbursement, etc. The League points out that the Legislature would not list the items to be included if it had meant for the regulator to add to the list of items. (Ex. H, pp. 3-4; Tr. pp. 116-121)

83. The League testified that it is beyond the present mechanical capability of the data processors that serve credit unions to set forth all the details of a transaction called for in the proposed rule. The League states that there are currently 95 credit unions in Minnesota using three different data processors with a total membership of approximately 220,000 members that do not have the present mechanical capability of complying with the proposed rule. (Ex. P, p. 2) The League believes that the market place should decide what details should be on the transaction statement beyond the statutory minimum. The League states that it could comply with the rule if number 4 and number 5 were deleted, and if number 3 read either that "the type of transaction as listed in Minn. Stat. Sec. 47.63" or "the identity of any third party to whom funds were transferred". (Ex. H, p. 5; Ex. P, p. 3)

84. The Marquette Bank also stated that it would have difficulty complying with this rule and agreed that any language beyond that of the statute is outside the Commissioner's authority. It suggested that number 3 should read "type of each transaction" and that number 4 and number 5 be deleted. (Ex. N, p. 5) Northwestern Bank noted that there was ambiguity in number 5 since several financial institutions can be involved in the transfer of funds in a single transaction. (Tr. p. 140; Ex. I, pp. 9-11; Ex. K) Northwestern noted that the information which is useful to the customer is the identity of the party receiving payment. Northwestern suggested that the rule should specify what is meant by location, should permit the location and the identity of the third party paid to be in code, and that number 5 should be deleted since it is superfluous in light of the "third party" amendment offered by the Banking Division. (Ex. Q, p. 20) The MBA also commented on the ambiguity of number 5, and suggested that it might read as follows: "identity of the card issuer from which funds were electronically transferred".

85. In response to these comments, the Banking Division suggested that number 3 be amended as follows:

3. Description of each transaction which may be in clear and understandable abbreviations or codes and the identity of any third party to whom funds were transferred.

The Division also suggested that the word "customers" be inserted before the word "financial" in number 5 of the rule. (Ex. 22, p. A13-14) The Division stated that it believes that the date, amount and type of transaction are the minimum requirements, and that it would be contrary to legislative intent to provide a consumer less information on an EFT transaction than he received when dealing with a traditional checking or savings account. (Ex. 22, pp. 12-13)

86. It must also be concluded that the Commissioner is without statutory authority to promulgate number 4 and number 5 of the rule for the reasons set out at Findings of Fact No. 80 and 81. He is also without authority to compel a description of the transaction as called for in number 3 beyond a reasonable reference to the type of transaction. The Commissioner may not expand upon the statutory requirement unless he is invited to do so within the statute himself. The Division has also failed to show reasonableness of number 4 and number 5 of Section 1.0231. The balance of the rule as amended was shown to be needed and reasonable by an affirmative presentation of facts in the record. The Division has shown that the information contained in number 4 and number 5 is needed in the sense that it is useful for the customer (see, e.g. Ex. 2, pp. 46-49), although there is ambiguity in the proposed language. (See, Finding of Fact No. 84) Number 4 and number 5 are, however, arbitrary or unreasonable in that the record indicates that a substantial segment of the financial community will be unable to comply with the rule as originally proposed. The Division did not sustain its burden to show that these rule subsections were reasonable in their effect on the regulated institutions.

Based upon the foregoing Findings of Fact, the Hearing Examiner makes the following:

CONCLUSIONS

1. That the Banking Division gave proper notice of the promulgation of the proposed rules.

2. That the Banking Division has statutory authority to take the action proposed, to wit, the promulgation of the proposed rules except as noted at Findings of Fact No. 80 and 86.

3. That the Banking Division has fulfilled all relevant, substantive and procedural requirements of law or rule.

4. That the Banking Division has demonstrated the need for and the reasonableness of the proposed rules by an affirmative presentation of facts in the record except as noted at Finding of Fact No. 86.

5. That the Banking Division is not precluded from and should not neglect to consider further modification of these proposed rules despite a finding of need and reasonableness by the Hearing Examiner, provided that the modification is not substantial and is based upon evidence contained in this rule hearing record.

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

RECOMMENDATION

It is recommended that the proposed rules as amended be adopted by the Commissioner of Banking except where otherwise stated in the Findings of Fact herein.

Dated: August 30, 1978.

GEORGE A. BECK
Hearing Examiner

N O T I C E

Pursuant to Minn. Stat. Sec. 15.0412, subd. 4, this Report shall be available for review to all affected individuals upon request for at least five days.

The Commissioner of Banking shall, if he 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 five days subsequent to the receipt of this Report. This submission shall 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 Commissioner on the issues of substantial changes in the rule and compliance with Minn. Stat. Sec. 15.0412 within ten calendar days. Thereafter, the Commissioner shall be responsible for filing the rules with the Attorney General and for notifying persons who have indicated that they wish to be notifed of such filing.

LIST OF EXHIBITS

Division Ex. 1	Members of Commissioner's Committee on Electronic Funds Transfer Systems
Division Ex. 2	The Final Report of the National Commission on Electronic Fund Transfers/EFT In The United States
Division Ex. 3	Transcript of Hearing on H. R. 8753, The Consumer Credit Protection Act Amendments of 1977-78/March 30, 1978/U.S. Congress
Division Ex. 4	Federal Home Loan Bank Board Rule on EFT
Division Ex. 5	Specifications for Credit Cards/American National Standards Institute, Inc.
Division Ex. 6	Magnetic-Stripe Encoding for Credit Cards/American National Standards Institute
Division Ex. 7	H. R. 13007/House of Representatives Bill Amending the Consumer Credit Protection Act/Introduced June 7, 1978
Division Ex. 8	Order for Hearing/May 26, 1978/Commissioner of Banks, Robert A. Mampel
Division Ex. 9	Notice of Hearing/May 26, 1978/Commissioner of Banks, Robert A. Mampel
Division Ex. 10	Statement of Number of Persons Expected to Attend and Length of Hearing/June 16, 1978/Commissioner of Banks, Robert A. Mampel
Division Ex. 11	Publication in State Register/2 S.R. 2228/June 12, 1978
Division Ex. 12	Affidavit of Mailing of Mailing of Secretary of State's List/June 9, 1978
Division Ex. 13	Affidavit of Supplemental Mailing/June 9, 1978
Division Ex. 14	Certificate of Receipt of Secretary of State's List/ May 31, 1978
Division Ex. 15	Statement of Need and Facts Establishing Reasonableness of Rules/June 16, 1978/Commissioner of Banks, Robert A. Mampel
Division Ex. 16	Statement of Evidence/June 16, 1978/Commissioner of Banks, Robert A. Mampel
Division Ex. 17	Publication in State Register/2 S.R. 1785/March 27, 1978
Division Ex. 18	Order of the Chief Hearing Examiner Allowing Incorporation by Reference
Division Ex. 19	H. F. 1180/Electronic Funds Transfer Act
Division Ex. 20	Amendments to Proposed Rules/July 12, 1978
Division Ex. 21	Banking Division Proposed Changes to Rules/July 28, 1978/ Jacqueline P. Taylor, Special Assistant Attorney General
Division Ex. 22	Memorandum of Banking Division/July 31, 1978
Public Ex. A	Letter/Virgil M. Dissmeyer/Northwestern National Bank
Public Ex. B	Testimony/David Roe/Minnesota AFL-CIO
Public Ex. C	Letter/Fred Squires/First Computer Corporation
Public Ex. D	Memo/J. G. Miller/Commerce, Banking Division/Additional Comments
Public Ex. E	Letter/Robert J. Reardon/Otto Bremer Company
Public Ex. F	Credit Union Rank as of December 31, 1976
Public Ex. G	The 1977 Annual Statistical Report/MN League of Credit Unions

Public Ex. H	Statement of the MN League of Credit Unions/C. Blaine Harstad, Attorney for League
Public Ex. I	Testimony/Virgil Dissmeyer/Northwestern National Bank of Minneapolis
Public Ex. J	Chart/Off-Line Electronic Financial Terminal/Northwestern National Bank
Public Ex. K	Chart/Northwestern National Bank of Minneapolis
Public Ex. L	Letter/Robert A. Holzinger/Twin City Federal Savings and Loan Association
Public Ex. M	Brief/Minnesota Retail Federatrion, Inc./President Wendy M. Borsheim
Public Ex. N	Letter/John Troyer, Esq./The Marquette National Bank of Minneapolis
Public Ex. O	Letter/Harry N. Jackson, Director of Corporate Credit/Dayton
Public Ex. P	Second Statement of the MN League of Credit Unions/C. Blaine Harstad, Attorney for League
Public Ex. Q	Letter/Michael H. Harper, Jr./Counsel to Northwestern National Bank of Minneapolis
Public Ex. R	Testimony/Wendy M. Borsheim/Minnesota Retail Federation
Public Ex. S	Statement/Minnesota Bankers Association/John S. Jackson, General Counsel

Late Filed Exhibit	Letter of July 31, 1978, from Manager of League Service Corporation forwarded by C. Blaine Harstad

M.R.F.
Minnesota Retail Federation • 180 Metro Square Building • St. Paul, Minnesota 55101 • (612) 227-6631

November 2, 1978

Lee Sheehy
Special Assistant
Attorney General
G-25 Administrative Bldg.
St. Paul, MN 55155

Re: EFTS Regulations

Dear Lee:

For your information, attached please find a copy of my letter to Warren Spannaus regarding the EFTS Regulations presently under your review.

I would appreciate hearing from you if we can be of assistance in this matter.

Best regards,

Wendy Borsheim

Wendy Borsheim
PRESIDENT

WB:jo
enclosure

RECEIVED
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ATTORNEY GENERAL
ADMINISTRATIVE AGENCIES

M.R.F. Minnesota Retail Federation • 180 Metro Square Building • St. Paul, Minnesota 55101 • (612) 227-6631

October 17, 1978

Mr. Warren Spannaus
Attorney General
Room 102 State Capitol
St. Paul, Minnesota 55155

Dear Warren,

It is my understanding that your staff is reviewing the proposed rules on EFTS as promulgated by the Banking Commission.

Minnesota Retail Federation has participated both during passage of the EFT legislation and more recently during the drafting and hearings governing the regulations now before you.

When you consider that the law requires EFT terminals to be installed in retail outlets, you undoubtedly can realize the concern our industry has with respect to the ultimate outcome and form of regulations which have the capability of impacting on our very method of doing business.

M.R.F. participated in both the Banking Commissioner's Advisory Committee and throughout the public hearing process. Although we brought forth many concerns and suggestions, most have been handled in a manner which will allow retail participation in EFT systems and development.

One portion of the regulations specifically highlighted by the hearings Examiner to be reviewed by your office however, is absolutely critical to our industry and I would like to reiterate our position for your consideration.

4 MCAR 1.0229A provides for a standard entry requirement which would allow any "standard" card to activate any EFT terminal operating in the state. Although this proposal was one submitted by the Commissioner's Advisory Committee, M.R.F. has always and continues to feel such an entry requirement alone would have a disastrous effect on the retail community's participation in EFT. While serving on the Commissioner's Advisory Committee and in later discussions, M.R.F. submitted written comments to the Commissioner regarding this proposal raising both legal and practical problems associated with promulgating a rule which would implement uniform entry requirements.

'Continued'

In response to the shared concerns of the Minnesota Retail Federation and the Banking Division, the rules contain an exception under 4 MCAR 1.0229B, which allow an EFT terminal to have entry requirements which deviate from the standard entry requirements if they meet certain criteria. This exception eliminates the problems which the retail community has with standard entry requirements as outlined below. Therefore, we feel it is essential that the exception promulgated by the Commissioner be retained in the rules.

In the first instance M.R.F. members are concerned that the establishment of a standard entry requirement will reduce the number of EFT systems that are established in Minnesota. The establishment of an EFT system requires major capital commitments and involves a substantial risk. If major bank holding companies and other financial institutions are able to participate in whatever initial system is established through use of a single standard card, they may well find it economically advantageous to use only this system rather than establish their own. We feel this would not be in the best interests of consumers and business in that it will preclude the investment of capital and personnel necessary in developing more efficient and less costly systems.

The Anti-Trust Division of the United States Department of Justice has expressed a strong concern that any state laws or rules which unnecessarily promote sharing of EFT systems in a manner producing an anti-competitive climate may violate the Federal Anti-Trust laws. Removal of the exception under 4MCAR 1.0229B which authorizes entry requirements which deviate from the standard under 4 MCAR 1.0229A will increase the likelihood that the Justice Department would challenge the rules as being anti-competitive.

Further, in addition to discouraging large financial institutions from becoming EFT providers, the removal of the exception would have the practical effect of precluding the possibility that several major retailers would establish or participate in EFT systems. This is because major retailers presently have, or soon will have computer terminals in their stores which are capable of acting as EFT terminals. These terminals however are incapable of reading the magnetic strips called for in the standard entry requirements, but, instead, optically read cards by use of an electric wand.

'Continued'

It is conceivable that an alternate, considerably less expensive system could be established by modifying the card to accomodate the optical requirements of the retailers point of sale terminals thereby allowing for utilization of existing equipment. The exception as provided under MCAR 1.0229B would allow this type of participation by retailers and banks and we feel any rule which would prevent several potential EFT providers from entering the market would almost certainly be considered a violation of the Federal Anti-Trust laws.

Due to the concerns we have as stated above, we would appreciate the opportunity to discuss with you and your staff any consideration your office may give to the elimination of 1.0229B.

Warren, thanks for your consideration and look forward to seeing you again soon.

Sincerely,

Wendy M. Borsheim
President

WMB:pa