

Minnesota Attorney General: Administrative Rules Proceedings

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Version 3
August 20, 2018

SF-00006-03

STATE OF MINNESOTA

Office Memorandum

DEPARTMENT

ATTORNEY GENERAL

TO:

KARL SONNEMAN
Special Assistant
Attorney General

DATE:

2/24/87

FROM:

MARTHA J. CASSERLY
Assistant Attorney General

PHONE:

6-4692

SUBJECT:

In the Matter of the Proposed Adoption of Rules of the Minnesota Utilities Commission Relating to Ex Parte Communication.

The above-referenced rule has been approved as to its legality by the Attorney General on February 24, 1987.

Enclosed is the agency's copy of the approved rule. This office has already filed two copies with the Secretary of State, who will forward one copy to the Revisor of Statutes. The fourth is being retained by this division of the Attorney General's Office for its records.

Also enclosed are any petitions, requests, submission or comments received by the agency and any extra copies of documents which the agency submitted to the Attorney General.

In order for a permanent rule without a hearing to become effective, your agency must publish a notice of adoption in the State Register in accordance with Minn. Stat. § 14.27. An emergency rule becomes effective five working days after approval by the Attorney General; however, the agency must publish a notice in the State Register in accordance with Minn. Stat. § 14.34.

If you have any questions in this regard, please contact me.

:nah

Enclosures

cc: Maryanne Hruby
Executive Director
Legislative Commission to Review
Adminsitrative Rules

Duane Harves
Chief Administrative Law Judge
Office of Administrative Hearings

Public Utilities Commission

Adopted Permanent Rules Relating to Ex Parte Communication

Rules as Adopted

7845.7000 DEFINITIONS.

Subpart 1. **Scope.** The terms used in parts 7845.7000 to 7845.7600 have the meanings given them in this part.

Subp. 2. **Decision-making personnel.** "Decision-making personnel" means the commission's executive secretary and professional staff, and consultants to the commission.

Subp. 3. **Disputed formal petition.** A "disputed formal petition" refers to a formal petition (1) filed with the commission, (2) for which a hearing is not automatically required, (3) for which the commission has received a written statement disputing the action or relief sought in the petition, and (4) on which the commission has ordered comments, written responses to comments, oral argument, negotiations, settlement conferences, a formal hearing, or other procedures it considers necessary or helpful to enable it to decide the petition. A petition ceases to be a "disputed formal petition" when the notice of dispute is withdrawn in writing or when the commission resolves the dispute by written order.

Subp. 4. **Ex parte communication.** "Ex parte communication" means an oral or written, off-the-record communication made to or by commissioners or (commission decision-making personnel,) without notice to parties, that is directed to the merits or outcome of an on-the-record proceeding. This term does not include procedural, scheduling, and status inquiries or other inquiries or requests for information that have no bearing on the merits or the outcome of the proceeding.

Subp. 5. **Material issue.** "Material issue" means an issue that may affect the merits or outcome of an on-the-record proceeding.

Subp. 6. **Party.** "Party" means a person by or against whom

a proceeding before the commission is commenced or a person permitted to intervene in a proceeding before the commission. A party includes a petitioner, complainant, intervenor, applicant, and respondent, and their attorneys, agents, or representatives.

7845.7100 PERMISSIBLE EX PARTE COMMUNICATIONS.

An ex parte communication is permissible except as prohibited in part 7845.7200.

7845.7200 PROHIBITED EX PARTE COMMUNICATIONS.

Subpart 1. **Communications with commissioners.** An ex parte communication, either direct or indirect, must not be made or attempted to be made between a commissioner and a party concerning:

A. a material issue during a pending contested case proceeding, from the date the matter is referred to the Office of Administrative Hearings until the commission issues its final order and the time to petition for reconsideration expires, or until the commission issues a final order responding to the petition for reconsideration, whichever is later;

B. a material issue in a rulemaking proceeding after the beginning of commission deliberations, from the date the commission posts notice of its deliberations for adoption of rules on the open meeting calendar until the order adopting the rules is issued;

C. a material issue in a disputed formal petition; or

D. other communications prohibited by law such as:

(1) offers of employment to commissioners, as described in Minnesota Statutes, section 216A.036, and in parts 7845.0700 and 7845.0800;

(2) discussions with commissioners concerning past or future benefits or compensation, as described in Minnesota Statutes, section 216A.037, subdivision 2, and in parts 7845.0700 and 7845.0800; or

(3) offers to commissioners of compensation, gifts, gratuities, favors, entertainment, meals, beverages, loans, or other things of monetary value, as described in part

7845.0700.

Subp. 2. **Communications with staff.** Ex parte communications with decision-making personnnel are not prohibited under Minnesota Statutes, section 216A.037.

7845.7300 HANDLING PROHIBITED EX PARTE COMMUNICATIONS.

Subpart 1. **Written communication.** When possible, a commissioner who receives a prohibited written ex parte communication shall forward the communication, without reading it, to the commission's executive secretary.

A commissioner who receives and reads a prohibited written ex parte communication shall forward the commmunication to the commission's executive secretary within 48 hours, along with a signed statement of the source of and circumstances under which the communication was received and read.

Subp. 2. **Oral communication.** If a party makes or attempts to make a prohibited oral ex parte communication to a commissioner, the commissioner shall advise the party who makes or attempts to make the communication that the communication is prohibited and shall immediately terminate the communication. If a prohibited oral ex parte communication takes place, the commissioner who receives the communication shall forward to the commission's executive secretary, within 48 hours, a signed and dated statement that includes the following information:

A. the name and docket number of the proceeding;

B. to the extent known, the name and address of the person making the communication and the relationship, if any, to the parties to the proceeding;

C. the date and time of the communication, its duration, and the means by and circumstances under which it was made;

D. a summary of the matters discussed; and

E. whether the party making the prohibited communication persisted after being advised that the communication was prohibited.

Subp. 3. **Notice to parties.** The commission's executive

secretary shall place the statement in the commission's public file within 48 hours, but shall not make the statement part of the record of the pending proceeding. The executive secretary shall serve a copy of the statement on the parties on the commission's official service list. If the statement is voluminous, the executive secretary may serve notice to the parties on the official service list that the statement is available for public inspection at the commission's offices during regular business hours.

7845.7400 HANDLING PERMISSIBLE EX PARTE COMMUNICATIONS.

Subpart 1. **Documentation.** Documentation is not needed for permissible ex parte communications with commissioners and decision-making personnel except as provided in subparts 2 to 4.

Subp. 2. **Written communicatons with staff.** Decision-making personnel who receive or generate a permissible written ex parte communication that is prohibited for commissioners under part 7845.7200 shall file a copy of the communication in the commission's public file with a notation of the sender and recipient within 48 hours after the communication is received or generated.

Subp. 3. **Oral communications with staff.** Decision-making personnel who receive or generate a permissible oral ex parte communication that is prohibited for commissioners under part 7845.7200 shall ensure that the substance of the communication and the name of the maker or recipient of the communication is recorded in a signed memorandum to the commission's public file within 48 hours. If a proceeding has been assigned to an administrative law judge, a copy of the memorandum must be sent to the judge.

Subp. 4. **Interim rate proceedings; compliance filings.** Commissioners and decision-making personnel may receive or generate written or oral ex parte communications with a party in the setting of interim rates or the review of compliance filings following the issuance of a final order or order after reconsideration. Commissioners and decision-making personnnel

who receive or generate written or oral ex parte communications in these situations shall place a signed note in the commission's public file containing the name of the party, date, docket number of proceeding, and topic as soon as practicable, but no later than the issuance of the interim rate order or the compliance filing order.

Subp. 5. **Informing the public.** The commission shall make information regarding ex parte communications that occur in these situations available to the public upon reasonable request at its office during regular business hours.

7845.7500 SANCTIONS.

Subject to notice and hearing, a party who makes a prohibited ex parte communication to a commissioner or who encourages or solicits others to make a prohibited ex parte communication to a commissioner is subject to the following sanctions:

A. dismissal of the proceeding if the prohibited ex parte commmunication has so prejudiced the proceeding that the commission cannot consider it impartially;

B. an adverse ruling on a pending issue that is the subject of the prohibited ex parte communication, when other parties are prejudiced by the prohibited ex parte communication;

C. the striking of evidence or pleadings when the evidence or pleadings are tainted by the prohibited ex parte communication; or

D. a public statement of censure by the commission, when the prohibited ex parte communication is determined to be part of a continuing pattern of improper ex parte communication or when a single prohibited communication takes place and mitigating circumstances exist that:

(1) negate the need for a more severe sanction;

(2) do not prejudice the proceeding to the extent that the commission is unable to consider it impartially;

(3) do not prejudice other parties to the proceeding; and

(4) do not taint the evidence or pleadings.

7845.7600 VIOLATIONS BY COMMISSION AND STAFF.

A commissioner who intentionally violates parts 7845.7000 to 7845.7500 shall recuse himself or herself and shall not participate, offer advice, or vote in the commission's decision-making process in the pending on-the-record proceeding.

Decision-making personnel who intentionally violate parts 7845.7000 to 7845.7500 must be removed from participating in a staff support capacity or prohibited from offering advice on the affected case if the violation has substantially interfered with the process in the proceeding.

STATE OF MINNESOTA
DEPARTMENT OF STATE
FILED
FEB 24 1987
Joan Anderson Growe
Secretary of State
3:15 PM

APPROVED AS TO FORM AND LEGALITY
February 24 1987
HUBERT H. HUMPHREY, III
ATTORNEY GENERAL
BY M J Cassedy
SPECIAL ASSISTANT ATTORNEY GENERAL

RULE REVIEW CHECKLIST

File No. 1345 Docket No. 05.0009.1449

DATE RECEIVED 2/12/87
REVIEW DATE 2/21/87
DUE DATE 2/26/87

APPROVED 2-24-87 mjc
DISAPPROVED
WITHDRAWN

ADOPTED W/O HEARING ✓
EMERGENCY RULE

REVISOR APPROVED
REVISOR DISAPPROVED
FILED W/SEC. STATE
RETURNED TO AGENCY

✓ Rule as adopted (4 copies)

✓ Notice to Solicit Outside Information/Opinion
2/17/86 Date published in State Register
yes Comments

~~Petition for Adoption of a Rule~~

✓ Board's Authorizing Resolution

✓ Proposed rule
yes Revisor's Certificate

✓ Notice of Intent to Adopt Rule
216A.037 Statutory Authority
yes Small business statement
yes Expenditure of public money statement
yes Signature

✓ Statement of Need and Reasonableness

✓ Affidavit of Mailing Notice of Intent to Adopt Rule
9/19/86 Date (30)/25 days before adoption

✓ Publication in State Register
9/22/86 Date (30)/25 days before adoption

✓ Resolution Adopting

✓ Findings of Fact, Conclusions & Order Adopting
2/12/86 Date

✓ Written requests, submissions or comments

✓ Declaration of attorney
Karl Sonneman Name of SAAG representing agency

✓ Certificate ~~Notice of Submission to Attorney General~~

~~Affidavit of Mailing Notice to Attorney General~~

Public Utilities Commission

Draft of Rules Governing Practice and Procedures for Ex Parte Communications

[All new material]

7830.7000 DEFINITIONS.

A. **Ex parte contact.** An "ex parte contact" is any communication, oral or written, made to decision-making personnel, where the decision is to be made on the record, that is not part of the record and for which prior notice is not given to all parties.

B. **Decision-making personnel.** "Decision-making personnel" are all members of the Commission, its Executive Secretary, and members of its technical staff and consultants who are assigned to the proceeding.

C. **Interested person.** "Interested person" is any person having a direct or indirect interest or economic stake in the outcome of a proceeding, including the following:

1. Parties, and their attorneys, agents or representatives, to the proceeding;

2. Any other person, and their attorneys, agents, or representatives, who might be benefited, aggrieved, or adversely affected by the outcome of the proceeding.

7830.7100 EX PARTE CONTACTS PROHIBITED.

A. Except as allowed in subp. .7200, no interested person shall, either directly or indirectly, make or attempt to make any ex parte presentation to commission decision-making personnel.

B. No decision-making person shall request, entertain, or consider a prohibited ex parte communication.

7830.7200 PERMISSIBLE EX PARTE COMMUNICATIONS.

The following ex parte communications are allowed under this rule:

A. Communications authorized by statute. In particular, this includes:

1. Communications concerning interim rates between the commission staff and a public utility or telephone company;

2. Communications in rule making proceedings, except between the time that the commission gives notice on its open meeting calendar for deliberation and the issuance of its order adopting the rule;

B. Communications between the commission staff and a public utility or telephone company necessary to implement notices, compliance tariffs, or refund plans;

C. Requests by the commission staff for further evidence to be placed in the record;

D. Communications expressing general concerns common to the public at large from persons who are not parties.

E. Meetings for the purpose of discussing settlements or other resolution of the case that are held between the commission staff and all parties to a proceeding that are noticed and open to the public;

F. Communications concerning matters before the customer service unit, unless the matter is set for a contested case hearing;

G. Any request for information solely regarding the status of or appropriate procedures for a proceeding;

H. Communications related to field audits of the accounts, books, records and conservation materials of a public utility or telephone company or to construction and operational inspections of operating plant;

I. Communications related to matters pending before the state and federal courts and agencies of the federal government.

7830.7300 PROCEDURES FOR PERMISSIBLE EX PARTE CONTACTS.

A. A copy of any permissible written ex parte presentation shall be placed in the commission's public file by the decision-making person receiving the communication.

B. A decision-making person who receives or makes a permissible oral ex parte presentation shall insure that any significant data or arguments presented there are reflected in the public file by placing a written memorandum of the communication in the commission's public record within forty-eight hours of the presentation. Where the proceeding has been assigned to an administrative law judge, a copy of the memorandum shall be sent to him or her.

7830.7400 PROCEDURES FOR HANDLING UNAVOIDABLE PROHIBITED EX PARTE CONTACTS.

A. To the extent possible, unauthorized written ex parte communications will be forwarded to the executive secretary without being read. A decision-making person who receives and reads an unauthorized written ex parte communication shall forward the communication with a statement describing the circumstances to the executive secretary.

B. If an unauthorized oral ex parte presentation is made to a decision-making person, he or she shall advise the person making the presentation that it is prohibited and terminate the discussion of such matters. If an unauthorized ex parte presentation in fact occurs, the decision-making person receiving the presentation shall forward to the executive secretary within forty eight hours a statement containing as much of the following information as is known to him or her:

1. Name and docket number of the proceeding.

2. Name and address of the person making the presentation and his or her relationship (if any) to the parties to the proceeding;

3. The date and time of the presentation, its duration, and the means and circumstances under which it was made;

4. A summary of the matters discussed;

5. Whether the person making the presentation persisted in doing so after having been advised that the presentation is prohibited;

6. Date and sign the statement.

C. The executive secretary shall place the material or statement in a public file but shall not make the statement part of the record of the proceeding. The executive secretary shall serve a copy of the material or statement on all parties to the proceeding. If the material is voluminous, it shall be sufficient to serve notice that the material is available for public inspection at the commission's offices.

7830.7500 SANCTIONS.

A. Upon notice and hearing, including a contested case hearing when material facts are disputed, any party who makes any unauthorized ex parte presentation, who encourages or solicits others to make any such presentation, or who fails to advise the executive secretary of the facts and circumstances concerning such presentation may be disqualified from the affected proceeding.

B. A proceeding may be dismissed under paragraph A when the applicant, petitioner, or complainant is shown to be responsible for the violation of this rule and either:

1. The ex parte presentation has materially prejudiced the decision-making process; or

2. A repeated pattern of ex parte presentations in the current proceeding and other proceedings evidences disregard for this rule.

C. Appropriate lesser sanctions may be imposed upon a person who violates this rule when circumstances do not justify disqualification or dismissal.

7830.7600 VIOLATIONS BY COMMISSION PERSONNEL.

A. Intentional violation of this rule by commissioners or staff may be grounds for removal from office for cause or for other disciplinary action provided for by law.

B. Decision-making personnel who intentionally violate this rule shall not participate in, offer advice upon, or vote in the commission's decision-making process in the proceeding. The executive secretary shall reassign staff9to assist the commission as is necessary under this subpart.

Public Utilities Commission

Outside Opinion Sought Regarding a Draft of a Rule Governing Ethical Practices of Regulated Companies

Notice is hereby given that the Minnesota Public Utilities Commission (the Commission) is seeking information or opinions from sources outside the agency in preparing to promulgate new rules governing ethical practices of regulated companies. These rules will be promulgated under the authority of Minnesota Statutes § 14.06 (1984) which authorizes the Commission to adopt rules setting forth the procedures which affect the public and Minnesota Statutes § 216B.08 (1984) and § 237.10 (1984) which authorize the Commission to make rules to carry out its regulation of gas and electric utilities and telephone companies, respectively.

The Commission has prepared a draft of a rule concerning ethical practices of regulated companies. The Commission desires

MINNESOTA public UTILITIES COMMISSION

(1)

M E M O R A N D U M

February 14, 1986

TO: Interested Persons

FROM: Mary Ellen Hennen
Executive Secretary

SUBJECT: Ex Parte Communications Practice and Procedures Rules
Docket No. U-999/R-86-79

Attached is a copy of a notice soliciting outside opinion on the draft rules the Commission has prepared governing practice and procedures for ex parte communications. The draft is also attached.

The notice with the draft will be placed by the Commission in the February 17, 1986, State Register.

Please note that written comments are encouraged and may be filed through March 17, 1986.

MEH:RL:ac
Att.

AMERICAN CENTER building • kellogg and robert sts • saint paul, mn 55101

PUBLIC UTILITIES COMMISSION

OUTSIDE OPINION SOUGHT REGARDING A DRAFT OF RULES GOVERNING PRACTICE AND PROCEDURES FOR EX PARTE COMMUNICATIONS

Notice is hereby given that the Minnesota Public Utilities Commission (the Commission) is seeking information or opinions from sources outside the agency in preparing to promulgate new rules governing practice and procedures for ex parte communications between interested persons and decision-making personnel of the Commission. These rules will be promulgated under the authority of Minnesota Statutes § 14.06 (1984) which authorizes the Commission to adopt rules setting forth the procedures which affect the public and Minnesota Statutes § 216B.08 (1984) and § 237.10 (1984) which authorize the Commission to make rules to carry out its regulation of gas and electric utilities and telephone comanies, respectively.

The Commission has prepared a draft of rules concerning practices and procedures for ex parte communications. The Commission desires comments on this draft as well as on alternatives that might also address the matters being considered. Interested or affected persons or groups may submit statements of information or comment orally or in writing. Written statements should be addressed to:

Mary Ellen Hennen, Executive Secretary
Minnesota Public Utilities Commission
780 American Center Building
160 East Kellogg Boulevard
St. Paul, MN 55101

Oral statements will be received during regular business hours over the telephone by Richard Levine at (612) 296-6902 and in person at the above address.

All statements of information and comment shall be accepted until March 17, 1986. Any written material received by the Commission shall become part of the rulemaking record to be submitted to the attorney general or administrative law judge in the event that the rule is adopted.

THE MINNESOTA PUBLIC UTILITIES COMMISSION'S DRAFT OF

RULES GOVERNING PRACTICE AND PROCEDURES FOR

EX PARTE COMMUNICATIONS

[All new material.]

7830.7000 DEFINITIONS.

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B. Decision-making personnel. "Decision-making personnel" are all members of the Commission, its Executive Secretary, and members of its technical staff and consultants who are assigned to the proceeding.

C. Interested person. "Interested person" is any person having a direct or indirect interest or economic stake in the outcome of a proceeding, including the following:

1. Parties, and their attorneys, agents or representatives, to the proceeding;

2. Any other person, and their attorneys, agents, or representatives, who might be benefited, aggrieved, or adversely affected by the outcome of the proceeding.

7830.7100 EX PARTE CONTACTS PROHIBITED.

A. Except as allowed in subp. .7200, no interested person shall, either directly or indirectly, make or attempt to make any ex parte presentation to commission decision-making personnel.

B. No decision-making person shall request, entertain, or consider a prohibited ex parte communication.

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A. Communications authorized by statute. In particular, this includes:

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B. Communications between the commission staff and a public utility or telephone company necessary to implement notices, compliance tariffs, or refund plans;

C. Requests by the commission staff for further evidence to be placed in the record;

D. Communications expressing general concerns common to the public at large from persons who are not parties.

E. Meetings for the purpose of discussing settlements or other resolution of the case that are held between the commission staff and all parties to a proceeding that are noticed and open to the public;

F. Communications concerning matters before the customer service unit, unless the matter is set for a contested case hearing;

G. Any request for information solely regarding the status of or appropriate procedures for a proceeding;

H. Communications related to field audits of the accounts, books, records and conservation materials of a public utility or telephone company or to construction and operational inspections of operating plant;

I. Communications related to matters pending before the state and federal courts and agencies of the federal government.

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A. A copy of any permissible written ex parte presentation shall be placed in the commission's public file by the decision-making person receiving the communication.

B. A decision-making person who receives or makes a permissible oral ex parte presentation shall insure that any significant data or arguments presented there are reflected in the public file by placing a written memorandum of the communication in the commission's public record within forty-eight hours of the presentation. Where the proceeding has been assigned to an administrative law judge, a copy of the memorandum shall be sent to him or her.

7830.7400 PROCEDURES FOR HANDLING UNAVOIDABLE PROHIBITED EX PARTE CONTACTS.

A. To the extent possible, unauthorized written ex parte communications will be forwarded to the executive secretary without being read. A decision-making person who receives and reads an unauthorized written ex parte communication shall forward the communication with a statement describing the circumstances to the executive secretary.

B. If an unauthorized oral ex parte presentation is made to a decision-making person, he or she shall advise the person making the presentation that it is prohibited and terminate the discussion of such matters. If an unauthorized ex parte presentation in fact occurs, the decision-making person receiving the presentation shall forward to

the executive secretary within forty eight hours a statement containing as much of the following information as is known to him or her:

1. Name and docket number of the proceeding.

2. Name and address of the person making the presentation and his or her relationship (if any) to the parties to the proceeding;

3. The date and time of the presentation, its duration, and the means and circumstances under which it was made;

4. A summary of the matters discussed;

5. Whether the person making the presentation persisted in doing so after having been advised that the presentation is prohibited;

6. Date and sign the statement.

C. The executive secretary shall place the material or statement in a public file but shall not make the statement part of the record of the proceeding. The executive secretary shall serve a copy of the material or statement on all parties to the proceeding. If the material is voluminous, it shall be sufficient to serve notice that the material is available for public inspection at the commission's offices.

7830.7500 SANCTIONS.

A. Upon notice and hearing, including a contested case hearing when material facts are disputed, any party who makes any unauthorized ex parte presentation, who encourages or solicits others to make any such presentation, or who fails to advise the executive secretary of the facts and circumstances concerning such presentation may be disqualified from the affected proceeding.

B. A proceeding may be dismissed under paragraph A when the applicant, petitioner, or complainant is shown to be responsible for the violation of this rule and either:

1. The ex parte presentation has materially prejudiced the decision-making process; or

2. A repeated pattern of ex parte presentations in the current proceeding and other proceedings evidences disregard for this rule.

C. Appropriate lesser sanctions may be imposed upon a person who violates this rule when circumstances do not justify disqualification or dismissal.

7830.7600 VIOLATIONS BY COMMISSION PERSONNEL.

A. Intentional violation of this rule by commissioners or staff may be grounds for removal from office for cause or for other disciplinary action provided for by law.

B. Decision-making personnel who intentionally violate this rule shall not participate in, offer advice upon, or vote in the commission's decision-making process in the proceeding. The executive secretary shall reassign staff to assist the commission as is necessary under this subpart.

STATE OF MINNESOTA)
)SS
COUNTY OF RAMSEY)

AFFIDAVIT OF SERVICE

Kathy Briesemeister, being first duly sworn, deposes and says:

That on the 14th day of February 1986 (s)he served the attached NOTICE SOLICITING OUTSIDE OPINION ON THE DRAFT RULES THE COMMISSION HAS PREPARED GOVERNING PRACTICE AND PROCEDURES FOR EX PARTE COMMUNICATIONS

Docket No. U-999/R-86-79

XX By depositing in the United States Mail at the City of St. Paul, a true and correct copy thereof, properly enveloped with postage prepaid

XX By personal service

to all persons at the addresses indicated below or on the attached list:

Commissioners
Mary Ellen Hennen
Karl Sonneman
Richard Levine
Rosellen Condon

SEE ATTACHED SERVICE LIST

Kathy Briesemeister

Subscribed and sworn to before me, a notary public, this 14th day of FEBRUARY, 1986.

Deborah J. Smith
Notary Public

DEBORAH J. SMITH
NOTARY PUBLIC—MINNESOTA
WASHINGTON COUNTY
MY COMM. EXPIRES MAY 26, 1991

Master List

	ENTRY # 1	**ENTRY # 2**	**ENTRY # 3**	**ENTRY # 4**	**ENTRY # 5**
A	MARY WILLIAMS	COLIN P. MILNE	BARBARA WHIPPLE	STEVE CRAMER	MICHAEL COHEN
B	MAYOR FRASER'S OFFICE	RESOURCES CONSERVATION	PLAINVIEW MN 55964	URBAN COAL OF MPLS.	URBAN COAL. OF MPLS.
C	CITY HALL	P. O. BOX 71		89 SOUTH 10TH ST.	3737 THIRD AVE. SOUTH
D	MINNEAPOLIS MN 55415	GREENWICH CT 06836		MINNEAPOLIS MN 55403	MINNEAPOLIS MN 55409
E					
F					
G					
H					
I		PGA			
J	C		C	C	C

	ENTRY # 6	**ENTRY # 7**	**ENTRY # 8**	**ENTRY # 9**	**ENTRY # 10**
A	JAMES JUNG-PRESIDENT	BRUCE W. NIHART	JOHN DAROUX VP	ANDREW GIBAS	SUSAN L CARROLL
B	VALLEY TELEPHONE COMPANY	ECONO-CALL	ENHANCED TELEMANAGEMENT	BD. RES. UTIL. CONSUMERS	LEGAL AID SOCIETY
C	BROWNS VALLEY MN 56219	6625 5TH AVE. S.	105 CENTER SUITE 1044	9 WEST ROAD	2507 FREMONT AVE N
D		RICHFIELD MN 55423	MINNEAPOLIS MN 55402	CIRCLE PINES MN 55014	MINNEAPOLIS MN 55411
E					R
F					R
G	NP	NP	NP		R
H					ALL
I					PGA
J				C	

	ENTRY # 11	**ENTRY # 12**	**ENTRY # 13**	**ENTRY # 14**	**ENTRY # 15**
A	BERNICE HEROLD-PRESIDENT	GEORGE SUNDSTROM-SENIOR	WM. J. POPP PRES.	SUBURBAN RATE AUTHORITY	BILL GRANT
B	TWIN VALLEY-ULEN TELE CO	CITIZEN COAL OF NE MINN.	LDB CORPORATION	3601 PARK CENTER BLDG.	STATE LIEAP PROGRAM
L	204 MAIN AVE. W.	215 N. 3RD AVE. W.	620 MENDELSSOHN AVE N.	ST. LOUIS PARK MN 55416	690 AM CTR BLDG-160 KEL.
D	TWIN VALLEY MN 56584	DULUTH MN 55802	GOLDEN VALLEY MN 55427		ST. PAUL MN 55101
E					
F					
G	NP		NP		
H					
I					
J		C		C	C

	ENTRY # 16	**ENTRY # 17**	**ENTRY # 18**	**ENTRY # 19**	**ENTRY # 20**
A	KAREN SWENSON	NORTHERN SUN ALLIANCE	JAMES R. LEPORE PRES.	WM. G. MCGOWAN CHM	ELAINE WENZ-EXEC. DIR.
B	CITY COUNCIL RESEARCH	1519 EAST FRANKLIN	LDB OF ROCHESTER INC.	MCI TELECOMMUNICATIONS	MN CITIZEN'S ACTION
C	705 CITY HALL	MINNEAPOLIS MN 55404	305 1/2 S. BROADWAY	1133 19TH ST. NW	319 MEDICAL ARTS BLDG.
D	ST PAUL MN 55102		ROCHESTER MN 55904	WASHINGTON DC 20036	ALBERT LEA MN 56007
E	R				
F	R				
G	R		NP	NP	
H	ALL				
I	PGA				
J		C			C

A NAME B COMPANY C ADDRESS D CITY ST ZIP E GAS RUL&CO
F ELECTRIC " G PHONE " H RULES MISC I PGA J MISC LISTS

	ENTRY # 21	**ENTRY # 22**	**ENTRY # 23**	**ENTRY # 24**	**ENTRY # 25**
A	AGNES ENGELBRECHT	RICHARD O. JOHNSON	TOM SNELL-DIRECTOR	JOANN D. ANDERSON	JOHN MUSIK-MINN COACT
B	BD. RES. UTIL. CONSUMERS	BD. RES. UTIL. CONSUMERS	MN SENIOR FEDERATION	AT&T COMMUNICATIONS	N.E. SIDE COMMUNITY CTR.
C	R. R. 4 BOX 358	3521 E. LAKE ST.	301 FULLER AVE.	400 N. ROBERT-SUITE 950	1929 N.E. 2ND ST.
D	ALEXANDRIA MN 56308	MINNEAPOLIS MN 55406	ST. PAUL MN 55103	ST. PAUL MN 55101	MINNEAPOLIS MN 55418
E					
F					
G				RP	
H					
I					
J	C	C	C		C

	ENTRY # 26	**ENTRY # 27**	**ENTRY # 28**	**ENTRY # 29**	**ENTRY # 30**
A	TIMBERLAND COACT	CATHY LOEWENTHAL	HAROLD J. SODERBERG	CONCERNED CITIZENS OF	LINDA OJALA-EXEC. DIR.
B	BIG FORK MN 56628	MPIRG	HESSIAN MCKASY SODERBERG	MORRISON COUNTY	MPIRG
C		2412 UNIVERSITY AVE. SE	4700 IDS CENTER	123 1/2 E. BROADWAY	2412 UNIVERSITY AVE. SE
D		MINNEAPOIS MN 55414	MINNEAPOLIS MN 55402	LITTLE FALLS MN 56345	MINNEAPOLIS MN 55414
E			R		
F			R		
G			R		
H			ALL		
I					
J	C	C		C	C

	ENTRY # 31	**ENTRY # 32**	**ENTRY # 33**	**ENTRY # 34**	**ENTRY # 35**
A	DENISE ANDERSON	TOM TRIPLETT-PRESIDENT	WADE R. HENSEL-GEN. MGR.	BLUE EARTH COACT	GOVT AFFAIRS OFFICE
B	ST.PAUL CHAMBER OF COMM.	MINNESOTA PROJECT	FROST-BENCO ELECTRIC	P. O. BOX 3327	NORTHERN NATURAL GAS
C	701 NO. CENTRAL TOWER	618 E. 22ND ST.	P. O. BOX 8	MANKATO MN 56001	SUITE 1412 MIDWEST PL W
D	ST. PAUL MN 55101	MINNEAPOLIS MN 55404	MANKATO MN 56001		MINNEAPOLIS MN 55402
E	R				R
F	R		R		
G					
H					
I	PGA		PGA		PGA
J	C	C		C	

	ENTRY # 36	**ENTRY # 37**	**ENTRY # 38**	**ENTRY # 39**	**ENTRY # 40**
A	IRON ART COACT	WINONA COACT	WM. FLYNN A. BLEGEN	STEVE MOSES	PATTY PORTER
B	318 EAST 39TH ST.	511 HILBERT ST.	MN BUS UTILITY USERS	24 ABBOT AVE. S.W.	WILKIN CTY COMM. ORGAN.
C	HIBBING MN 55746	WINONA MN 55987	P.O. 20163	MADELIA MN 56062	631 NORTH FIFTH ST.
D			MINNEAPOLIS MN 55407		BRECKENRIDGE MN 56520
E			R	R	
F			R		
G			R		
H			ALL		
I			PGA	PGA	
J	C	C			C

A NAME B COMPANY C ADDRESS D CITY STZIP E GAS RUL&CO
F ELECTRIC " G PHONE " H RULES MISC I PGA J MISC LISTS

	ENTRY # 41	**ENTRY # 42**	**ENTRY # 43**	**ENTRY # 44**	**ENTRY # 45**
A	CLAY CTY. CITIZENS COMM.	RICHARD CARLUND	CRAIG R. RAPP	ANDREW C. GIBAS	FRANK SCHLEPPENBACH
B	116 SOUTH 12TH ST.	NEW YORK MILLS MUNI. GAS	CLERK-ADMINISTRATOR	9 WEST ROAD	DEPT. OF WATER AND GAS
C	MOORHEAD MN 56560	BOX H	9201 N. LEXINGTON AVE.	CIRCLE PINES MN 55014	414 WEST 1 ST.
D		NEW YORK MILLS MN 56567	CIRCLE PINES MN 55014		DULUTH MN 55802
E		R	R	R	R
F					
G					
H					
I		PGA	PGA	PGA	PGA
J	C				

	ENTRY # 46	**ENTRY # 47**	**ENTRY # 48**	**ENTRY # 49**	**ENTRY # 50**
A	MN ELECTRICAL ASSN. INC.	DAVID S. DOUGLAS	LEON BARNIER-GEN. MGR.	B. ZACH-ARVENSEN DONOHO	LEWIS BRADFORD
B	3100 HUMBOLDT AVE. SO.	OLSON'S POINT	MN RURAL ELECTRIC ASSN.	LUNDEEN HOFF SVINGEN ENG	215 HARRISON ST.
C	MINNEAPOLIS MN 55408	BUFFALO MN 55313	4901 WEST 77TH ST.	125 S. MILL ST.	ANOKA MN 55303
D			MINNEAPOLIS MN 55435	FERGUS FALLS MN 56537	
E					
F	R	R	R	R	R
G					
H					
I	PGA	PGA	PGA	PGA	PGA
J					

	ENTRY # 51	**ENTRY # 52**	**ENTRY # 53**	**ENTRY # 54**	**ENTRY # 55**
A	PAUL IMS	WAYNE LANCE-CLERK/TREAS.	MELVIN A. AHONEN-GEN MGR	RICHARD IHRIG	DAVE HARTLEY
B	RURAL ROUTE	CITY OF DETROIT LAKES	NORTH PINE ELECTRIC COOP	LINDQUIST & VENNUM	504 SECOND ST.
C	EXHO MN 56237	P. O. BOX 647	FINLAYSON MN 55735	4200 IDS CTR-80 S 8TH ST	JACKSON MN 56143
D		DETROIT LAKES MN 56501		MINNEAPOLIS MN 55402	
E					
F	R	R	R		R
G					
H					
I	PGA	PGA	PGA		PGA
J				G	

	ENTRY # 56	**ENTRY # 57**	**ENTRY # 58**	**ENTRY # 59**	**ENTRY # 60**
A	RICHARD A. VOLLER	JOHN T. ANDERSON	RUSSELL F. BERG	CLEARWATER-POLK	PUBLIC UTILITIES COMMIS.
B	886 PRENTICE	POWER & LIGHT DEPARTMENT	104 NORTH JEFFERSON	UTILITIES	117 NORTH MAINE
C	GRANITE FALLS MN 56241	BOX 528	WADENA MN 56482		BAGLEY MN 56621
D		THIEF RVR FALLS MN 56701		BAGLEY MN 56621	
E					
F	R	R	R	R	R
G					
H					
I	PGA	PGA	PGA	PGA	PGA
J					

A NAME B COMPANY C ADDRESS D CITY STZIP E GAS RUL&CO
F ELECTRIC " G PHONE " H RULES MISC I PGA J MISC LISTS

	ENTRY # 61	**ENTRY # 62**	**ENTRY # 63**	**ENTRY # 64**	**ENTRY # 65**
A	DANIEL R. DUKLET	PUBLIC UTILLITIES COMM.	DELANO PUBLIC UTILITIES	DALLAS E. NELSON	EARL LA MAACK
B	SUPERINTENDENT	120 FIRST ST. N.W.	11 WEST BRIDGE AVE.	BOX 521	P. O. BOX 609
C	HALSTAD MN 56548	AITKIN MN 56431	DELANO MN 55328	LITCHFIELD MN 55355	ALEXANDRIA MN 56308
D					
E					
F	R	R	R	R	R
G					
H					
I	PGA	PGA	PGA	PGA	PGA
J					

	ENTRY # 66	**ENTRY # 67**	**ENTRY # 68**	**ENTRY # 69**	**ENTRY # 70**
A	DWANE BRASE	LEONARD G. TAUER-SUPT.	ALLEN F. SCHRUPP	STEVEN R. WATSON	GENERAL MANAGER
B	SUPERINTENDENT	ALPHA ELECTRIC DEPT.	1604 7 1/2 ST. S.W.	MN CAP DIRECTORS' ASSN.	BROWN COUNTY RURAL
C	508 SOUTH ST.	P. O. BOX 97	WILLMAR MN 56201	1821 UNIVERSITY AVE.	ELECTRIC ASSOCIATION
D	WASECA MN 56093	ALPHA MN 56111		ST. PAUL MN 55104	SLEEPY EYE MN 56085
E					
F	R	R	R		R
G					
H					
I	PGA	PGA	PGA		PGA
J				C	

	ENTRY # 71	**ENTRY # 72**	**ENTRY # 73**	**ENTRY # 74**	**ENTRY # 75**
A	JAMES BIGGAR	LOUIS VAN HOUT	JOHN HINNENKAMP-UT.SUPT.	BLUE EARTH LIGHT & WATER	CITY OF WARROAD
B	UTILITY SUPERINTENDENT	1030 E. FOURTH AVE.	MELROSE MUNICIPAL UTIL.	DEPARTMENT	P. O. BOX 50
C	205 WEST CENTER	SHAKOPEE MN 55379	21 WEST MAIN ST.	118 EAST SIXTH ST.	WARROAD MN 56763
D	LAKE CITY MN 55041		MELROSE MN 56352	BLUE EARTH MN 56013	
E					
F	R	R	R	R	R
G					
H					
I	PGA	PGA	PGA	PGA	PGA
J					

	ENTRY # 76	**ENTRY # 77**	**ENTRY # 78**	**ENTRY # 79**	**ENTRY # 80**
A	ARROWHEAD ELECTRIC COOP.	WATER & LIGHT COMMISSION	BLOOMING PRAIRIE PUBLIC	RAY LITCHKE	EUGENE P. SULLIVAN
B	P. O. BOX 38	P. O. BOX 418	UTILITIES	P. O. BOX 658	900 EAST KRAFT DR.
C	LUTSEN MN 55612	MOOSE LAKE MN 55767	P. O. BOX 55	GRAND RAPIDS MN 55744	MELROSE MN 56352
D			BLOOMING PRAIRIE MN55917		
E					
F	R	R	R	R	R
G					
H					
I	PGA	PGA	PGA	PGA	PGA
J					

A NAME B COMPANY C ADDRESS D CITY STZIP E GAS RUL&CO
F ELECTRIC " G PHONE " H RULES MISC I PGA J MISC LISTS

	ENTRY # 81	**ENTRY # 82**	**ENTRY # 83**	**ENTRY # 84**	**ENTRY # 85**
A	RONALD J. STECKMAN	ELMER LALLI	DEAN AMO	J. W. REICHEL-CITY CLERK	RON SCHULER
B	FREEBORN-MOWER ELEC.COOP	WATER & LIGHT DEPARTMENT	BOX 230	CITY OF FAIRFAX	2526 SEVENTH AVE.
C	BOX 611	P. O. BOX 373	AITKIN MN 56430	112 S.E. FIRST ST.	NORTH ST. PAUL MN 55109
D	ALBERT LEA MN 56007	BRAINERD MN 56401		FAIRFAX MN 55332	
E					
F	R	R	R	R	R
G					
H					
I	PGA	PGA	PGA	PGA	PGA
J					

	ENTRY # 86	**ENTRY # 87**	**ENTRY # 88**	**ENTRY # 89**	**ENTRY # 90**
A	AGRALITE COOPERATIVE	TRAVERSE ELECTRIC COOP.	SOUTHWESTERN MINNESOTA	C. G. WEBER	KASOTA ELECTRIC DEPT.
B	EAST HIGHWAY 12	P. O. BOX 66	COOPERATIVE ELECTRIC	207 E. FOURTH ST.	P. O. BOX 218
C	BENSON MN 56215	WHEATON MN 56296	P. O. BOX 431	REDWOOD FALLS MN 56283	KASOTA MN 56050
D			PIPESTONE MN 56164		
E					
F	R	R	R	R	R
G					
H					
I	PGA	PGA	PGA	PGA	PGA
J					

	ENTRY # 91	**ENTRY # 92**	**ENTRY # 93**	**ENTRY # 94**	**ENTRY # 95**
A	GOODHUE COUNTY COOP	GERALD MOE	DON BRANDT	ST. PAUL TENANTS' UNION	MCLEOD COOP POWER ASSN.
B	ELECTRIC ASSOCIATION	ELECTRICAL SUPT.	PEOPLES COOP POWER	500 LAUREL	1231 FORD AVE.
C	224 MAIN ST.	212 CENTRAL AVE.	P. O. BOX 1039	ST. PAUL MN 55102	GLENCOE MN 55336
D	ZUMBROTA MN 55992	BUFFALO MN 55313	ROCHESTER MN 55901		
E				R	
F	R	R	R	R	R
G					
H					
I	PGA	PGA	PGA	PGA	PGA
J				C	

	ENTRY # 96	**ENTRY # 97**	**ENTRY # 98**	**ENTRY # 99**	**ENTRY # 100**
A	HENRY E. HOLM	HELEN ZUNG	WELLS ELECTRIC ASSN.	M. D. HENTGES	JAMES B. SANDEEN-SUPT.
B	CARLTON COUNTY COOP PWR	POTLATCH CORPORATION	P. O. BOX 156	LE SUEUR MUNICIPAL UTIL.	ST.PETER MUNICIPAL UTIL.
C	KETTLE RIVER MN 55757	P.O. BOX 7864	WELLS MN 56097	228 NORTH MAIN ST.	BOX 299
D		SAN FRANCISCO CA 94120		LE SUEUR MN 56058	ST. PETER MN 56082
E					
F	R		R	R	R
G					
H					
I	PGA		PGA	PGA	PGA
J		G			

A NAME B COMPANY C ADDRESS D CITY STZIP E GAS RUL&CO
F ELECTRIC " G PHONE " H RULES MISC I PGA J MISC LISTS

	ENTRY # 101	**ENTRY # 102**	**ENTRY # 103**	**ENTRY # 104**	**ENTRY # 105**
A	DAVID P. LARSON-GEN MGR	PUBLIC UTILITIES COMM.	CHESTER RINDELS	THOMAS MC CAULEY	MANAGER
B	WRIGHT-HENNEPIN COOP.ELE	CITY OF GRAND MARAIS	CITY SUPERVISOR	BOX 779	P.K.M. ELECTRIC COOP
C	MAPLE LAKE MN 55358	GRAND MARAIS MN 55604	PRESTON PUBLIC UTILITIES	MOORHEAD MN 56560	BOX 108
D			PRESTON MN 55965		WARREN MN 56762
E					
F	R	R	R	R	R
G					
H					
I	PGA	PGA	PGA	PGA	PGA
J					

	ENTRY # 106	**ENTRY # 107**	**ENTRY # 108**	**ENTRY # 109**	**ENTRY # 110**
A	EARL L. JOHNSON-GEN MGR	ANDREW E. ANDERSON	CITY OF BROWNTON	CROW WING COOP POWER	RON KENNEDY-MANAGER
B	TRI-COUNTY ELECTRIC COOP	OTTER TAIL POWER COMPANY		AND LIGHT	RED LAKE ELECTRIC COOP.
C	RUSHFORD MN 55971	215 SOUTH CASCADE ST.	BROWNTON MN 55312	P. O. BOX 507	RED LAKE FALLS MN 56750
D		FERGUS FALLS MN 56537		BRAINERD MN 56401	
E					
F	R	R	R	R	R
G					
H					
I	PGA	PGA	PGA	PGA	PGA
J					

	ENTRY # 111	**ENTRY # 112**	**ENTRY # 113**	**ENTRY # 114**	**ENTRY # 115**
A	L. H. BRAKEL-GEN MGR	RAY LARSEN	DOUGLAS E. WALLACE-MGR.	CITY OF WHALEN	DON ANDERSON
B	RED RVR VALLEY COOP PWR.	902 BEE ST.	NOBLES COOP ELECTRIC		BELTRAMI ELECTRIC COOP
C	HALSTAD MN 56548	PROCTOR MN 55810	P. O. BOX 70	WHALEN MN 55986	BOX 488
D			WORTHINGTON MN 56187		BEMIDJI MN 56601
E					
F	R	R	R	R	R
G					
H					
I	PGA	PGA	PGA	PGA	PGA
J					

	ENTRY # 116	**ENTRY # 117**	**ENTRY # 118**	**ENTRY # 119**	**ENTRY # 120**
A	C. W. PETERSON	DAWN SHERMAN O'NEILL	TOM JUNNILA	THOMAS J. STEARNS	EDWARD STARR-CTY ATTNY.
B	BOX W	SUTHERLAND ASBILL &	5248 ZENITH AVE.	ATTORNEY AT LAW	647 CITY HALL-COURTHOUSE
C	PELICAN RAPIDS MN 56572	1666 K ST. N.W.--BRENNAN	MINNEAPOLIS MN 55410	814 MANOMIN AVE.	15 W. KELLOGG BLVD.
D		WASHINGTON D.C. 20006		ST. PAUL MN 55107	ST. PAUL MN 55102
E				R	R
F	R	R	R	R	R
G				R	R
H				ALL	ALL
I	PGA	PGA	PGA	PGA	PGA
J					

A NAME B COMPANY C ADDRESS D CITY STZIP E GAS RUL&CO
F ELECTRIC " G PHONE " H RULES MISC I PGA J MISC LISTS

	ENTRY # 121	**ENTRY # 122**	**ENTRY # 123**	**ENTRY # 124**	**ENTRY # 125**
A	MARVIN J. JOHNSON	HUTCHINSON UTILITIES COM	CITY CLERK'S OFFICE	AL ROSS	LYON-LINCOLN ELECT COOP
B	718 N. HIGHWAY	225 MICHIGAN ST.	444 NINTH ST.	6356 WARE ROAD	BOX 639 W. HIGHWAY 14
C	JACKSON MN 56143	HUTCHINSON MN 55350	WINDOM MN 56101	LINO LAKES MN 55014	TYLER MN 56178
D					
E	R	R			
F	R	R	R	R	R
G	R			R	
H	ALL				
I	PGA	PGA	PGA	PGA	PGA
J					

	ENTRY # 126	**ENTRY # 127**	**ENTRY # 128**	**ENTRY # 129**	**ENTRY # 130**
A	MENNO MENNENGA	D. H. LOGUE	NORM SCHROEDER	BURLINGTON NORTHERN INC.	LOREN I. REID-SUPT.
B	14 NO. MARSHALL AVE.	SUPT. OF UTILITIES	CITY ADMINISTRATOR	LAW DEPARTMENT	LIGHT & POWER COM
C	SPRINGFIELD MN 56087	130 SECOND AVE. N.W.	611 IOWA AVE.	176 EAST FIFTH ST.	305 ELEVENTH ST. EAST
D		SLEEPY EYE MN 56085	STAPLES MN 56379	ST. PAUL MN 55101	GLENCOE MN 55336
E	R	R			R
F	R	R	R	R	R
G					
H					
I	PGA	PGA	PGA	PGA	PGA
J					

	ENTRY # 131	**ENTRY # 132**	**ENTRY # 133**	**ENTRY # 134**	**ENTRY # 135**
A	P. G. KIRKHAM-EXEC. DIR.	TED C. ODENWALD-GEN.MGR.	N.E. DIETRICH-SUPT.	VIRGIL C. ANDERSON	DOUGLAS SCHANTZ
B	MN MUNICIPAL UTIL. ASSN.	MUNICIPAL UTILITIES COMM	AUSTIN UTILITIES	MORA MUNICIPAL UTILITIES	ARCO OIL & GAS CO.
C	P. O. BOX B	P. O. BOX 937	P. O. BOX 368	16 NORTH LAKE ST.	P.O. BOX 2819
D	BUFFALO MN 55313	WILLMAR MN 56201	AUSTIN MN 55912	MORA MN 55051	DALLAS TX 75221
E	R	R	R	R	R
F	R	R	R	R	
G					
H					
I	PGA	PGA	PGA	PGA	
J					

	ENTRY # 136	**ENTRY # 137**	**ENTRY # 138**	**ENTRY # 139**	**ENTRY # 140**
A	MICHAEL D. CASPER	WENDY BORSHEIM	JOHN G. HORNER	GREATER VIRGINIA COACT	PHILIP W. GETTS-DAYTON
B	203 NO. FIFTH ST.	MN RETAIL MERCHANTS ASSN	MN MULTI HOUSING ASSN.	P. O. BOX 504	HERMAN GRAHAM & GETTS
C	BRECKENRIDGE MN 56520	180 METRO SQUARE BLDG.	4740 PARK GLEN ROAD	VIRGINIA MN 55792	TEN S. FIFTH ST-STE 930
D		ST. PAUL MN 55101	MINNEAPOLIS MN 55416		MINNEAPOLIS MN 55401
E	R	R	R		R
F	R	R	R		R
G		R			
H		ALL			
I	PGA	PGA	PGA		PGA
J				C	

A NAME B COMPANY C ADDRESS D CITY STZIP E GAS RUL&CO
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	ENTRY # 141	**ENTRY # 142**	**ENTRY # 143**	**ENTRY # 144**	**ENTRY # 145**
A	CLEMENT F. SPRINGER JR.	WESLEY C. HANSON-PRES.	MATILDA HOWARD	R. A. FORBES	JUDY KARON
B	DEFREES & FISKE #1500	SPRINGFIELD TELEPHONE CO	222 GRAIN EXCHANGE BLDG.	THE PRINDEN CORPORATION	RAMSEY COUNTY BOARD
C	72 W ADAMS	CLARA CITY MN 56222	323 FOURTH AVE.	301 E. 57TH ST.	316 COURT HOUSE
D	CHICAGO IL 60603-5163		MINNEAPOLIS MN 55415	NEW YORK NY 10022	ST. PAUL MN 55102
E	R		R	R	R
F	R		R	R	R
G		NP	R		
H			ALL		
I	PGA		PGA	PGA	PGA
J					

	ENTRY # 146	**ENTRY # 147**	**ENTRY # 148**	**ENTRY # 149**	**ENTRY # 150**
A	WES IJIMA	JOANN FORD-MSE	OTTERTAIL-WADENA COMM.	KEVIN C. JONES	WAKX AM-FM
B	SENIOR ADVOCATES	FAM. SRV. OF ST. CROIX	ACTION COUNCIL	GEO. A. HORMAL & COMPANY	419 W. MICHIGAN ST.
C	60 E. 4TH ST.	216 MYRTLE ST.	BOX L	P. O. BOX 800	DULUTH MN 55802
D	ST. PAUL MN 55101	STILLWATER MN 55082	NEW YORK MILLS MN 56567	AUSTIN MN 55912	
E		R	R	R	R
F		R	R	R	R
G		R			R
H		ALL			ALL
I		PGA	PGA	PGA	PGA
J	C				

	ENTRY # 151	**ENTRY # 152**	**ENTRY # 153**	**ENTRY # 154**	**ENTRY # 155**
A	RICHARD G. JOHNSON	GERALD L. MAHON-DIRECTOR	CITY OF ROSEMOUNT	CITY ADMINISTRATOR	KENNETH L. GEBERT
B	9457 COLUMBUS AVE. SO.	WATER UTILLITY	P. O. BOX 455	CITY OF MAPLE GROVE	300 PUBLIC HEALTH BLDG.
C	MINNEAPOLIS MN 55420	CITY HALL	ROSEMOUNT MN 55068	9401 FERNBROOK LANE	250 SO. FOURTH ST.
D		ST. CLOUD MN 56301		MAPLE GROVE MN 55369	MINNEAPOIS MN 55415
E	R	R	R		
F	R	R	R	R	R
G	R		R	R	R
H	ALL		ALL		
I	PGA	PGA	PGA	PGA	PGA
J					

	ENTRY # 156	**ENTRY # 157**	**ENTRY # 158**	**ENTRY # 159**	**ENTRY # 160**
A	W. C. VIITALA-DIR-PUB AF	W. JOHN LICKE-GEN COUNS.	UNITED WEST END COACT	JOSEPH A. VUMBACO-P.E.	PINE RIVER COACT
B	HONEYWELL INC.	BLANDIN PAPER COMPANY	2904 WEST THIRD ST.	19TH ST. & SIXTH AVE.	BOX 142
C	HONEYWELL PLAZA MN125215	114 FIRST ST. S.W.	DULUTH MN 55806	HIBBING MN 55746	PINE RIVER MN 56474
D	MINNEAPOLIS MN 55408	GRAND RAPIDS MN 55744			
E		R		R	
F	R	R		R	
G					
H					
I	PGA	PGA		PGA	
J			C		C

A NAME B COMPANY C ADDRESS D CITY STZIP E GAS RUL&CO
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	ENTRY # 161	**ENTRY # 162**	**ENTRY # 163**	**ENTRY # 164**	**ENTRY # 165**
A	MINNESOTA LP GAS ASSN.	BERDETTE BOYUM	DAVID J. THERKELSEN	LAWRENCE ACKER	ELIZABETH SCHMIDT
B	7515 WAYZATA BLVD	ROOM 300-PUBL HEALTH CTR	100 SOUTH ROBERT ST.	LEBOEUF LAMB LEIBY MCRAE	CITY CLERK
C	SUITE 101	250 SO. FOURTH ST.	ST. PAUL MN 55107	1333 NEW HAMPSHIRE AV NW	1015 SECOND AVE.
D	MINNEAPOLIS MN 55426	MINNEAPOIS MN 55415		WASHINGTON DC 20036	MOUNTAIN LAKE MN 56159
E		R	R	R	R
F	R	R	R	R	R
G				R	R
H				ALL	ALL
I	PGA	PGA	PGA		PGA
J					

	ENTRY # 166	**ENTRY # 167**	**ENTRY # 168**	**ENTRY # 169**	**ENTRY # 170**
A	WINFIELD FORDBERG	MICHAEL L. JOHNSON	NORTH COUNTRY COACT	JEAN NOVAK	DOUG MORTON-DIR. PUB.AF.
B	518 SUMMIT AVE.	117 WEST FIFTH ST.	421 BELTRAMI	TELEMARKETING COMM. TC	CONTINENTAL TELEPHONE CO
C	NEW ULM MN 56073	BLUE EARTH MN 56013	BEMIDJI MN 56601	400 MARQUETTE SUITE 430	3500 W. 80TH ST-STE. 500
D				MINNEAPOLIS MN 55403	MINNEAPOLIS MN 55431
E					
F					
G	R	R		NP	RP
H					
I	PGA	PGA			
J			C		

	ENTRY # 171	**ENTRY # 172**	**ENTRY # 173**	**ENTRY # 174**	**ENTRY # 175**
A	PETER RANUM-VICE PRES.	RAY BOHN-DIRECTOR	DAN RYERSON	ELLEN GAVIN	TOBEY LOPAKKO
B	MINNESOTA COACT OFFICE	MN DEPT.PUBLIC SERVICE	NATIONAL TELESERVICE	S MN REGIONAL LEGAL SERV	AFL-CIO
C	1216 SOUTH SIXTH ST.	790 AMERICAN CENTER BLDG	1040 IDS CENTER	300 MINNESOTA BUILDING	175 AURORA
D	BRAINERD MN 56401	ST. PAUL MN 55101	MINNEAPOLIS MN 55402	ST. PAUL MN 55101	ST. PAUL MN 55104
E		R			
F		R			
G		R	NP	R	
H					
I		PGA			
J	C				C

	ENTRY # 176	**ENTRY # 177**	**ENTRY # 178**	**ENTRY # 179**	**ENTRY # 180**
A	CONWAY MARVIN-SECY/TREAS	JOHN ELLEFSON-PRESIDENT	GORDON BRECZINSKI	MARLA KAHN	TOBEY LAPAKKO
B	ZUMBROTA TELEPHONE CO.	MN RETAIL MERCHANTS ASSN	ROUTE 1 BOX 162	INST. CORP./GOV. STRAT.	1671 S. VICTORIA RD.
C	ZUMBROTA MN 55992	METRO SQUARE BLDG.	MARSHALL MN 56258	73 TREMONT ST. SUITE 520	ST. PAUL MN 55118
D		ST. PAUL MN 55101		BOSTON MA 02108	
E			R		R
F			R		R
G	NP		R	R	R
H			ALL		ALL
I			PGA		PGA
J		C			

A NAME B COMPANY C ADDRESS D CITY STZIP E GAS RUL&CO
F ELECTRIC " G PHONE " H RULES MISC I PGA J MISC LISTS

	ENTRY # 181	**ENTRY # 182**	**ENTRY # 183**	**ENTRY # 184**	**ENTRY # 185**
A	BERNARD KNUTH-PRESIDENT	SUSAN SCHMIDT	WILLIAM BRUMMER-EXEC. DIR	ROCK COUNTY AUDITOR	JEFF MUEHLER-OFFICE MGR.
B	WOODSTOCK TELEPHONE CO.	THE MINNESOTA PROJECT	TRI-VALLEY OPPORTUNITY	P. O. BOX 100	P. O. BOX 410-203 N. 5TH
C	RUTHTON MN 56170	2222 S.E. ELM ST.	114 S. MAIN	LUVERNE MN 56156	BRECKENRIDGE MN 56520
D		MINNEAPOLIS MN 55414	CROOKSTON MN 56716		
E		R	R	R	R
F		R	R	R	R
G	NP	R	R	R	R
H		ALL	ALL	ALL	ALL
I		PGA	PGA	PGA	PGA
J					

	ENTRY # 186	**ENTRY # 187**	**ENTRY # 188**	**ENTRY # 189**	**ENTRY # 190**
A	FRED R. MCCOMB	JEAN DAWSON-EDITOR		MPLS ASSN OF BLDG OWNERS	ART SWANSON TRUCKING INC
B	327 W. MINNEHAHA PKWY.	MINNESOTA GOV'T REPORT		AND MANAGERS INC.	ROUTE 2 BOX 134
C	MINNEAPOLIS MN 55419	B-12 PRESS ROOM		927 SOO LINE BLDG.	MCINTOSH MN 56556
D		STATE CAPITOL BLDG.		MINNEAPOLIS MN 55402	
E	R	R		R	R
F	R	R		R	R
G	R	R		R	R
H	ALL	ALL		ALL	ALL
I	PGA	PGA		PGA	PGA
J					

	ENTRY # 191	**ENTRY # 192**	**ENTRY # 193**	**ENTRY # 194**	**ENTRY # 195**
A	JIM MCGILL	GREG MANGOLD	LEGISLATIVE REFERENCE	LEGISLATIVE REFERENCE	LEGISLATIVE REFERENCE
B	BI-COUNTY CAC	CARVER COUNTY COURTHOUSE	LIBRARY	LIBRARY	LIBRARY
C	BOX 553	CHASKA MN 55318	ROOM 111 STATE CAPITOL	ROOM 111 STATE CAPITOL	ROOM 111 CAPITOL BLDG.
D	BEMIDJI MN 56601		ST. PAUL MN 55155	ST. PAUL MN 55155	ST. PAUL MN 55155
E	R	R	R	R	R
F	R	R	R	R	R
G	R	R	R	R	R
H	ALL	ALL	ALL	ALL	ALL
I	PGA	PGA	PGA	PGA	PGA
J					

	ENTRY # 196	**ENTRY # 197**	**ENTRY # 198**	**ENTRY # 199**	**ENTRY # 200**
A	ROBERT LOCKYEAR	DAVID FADNESS	MICHAEL MOORE	HUGH COSGROVE	MILLARD JOHNSON-PRES.
B	14900-61ST ST. NORTH	R. R.	NW REG. DEVELOPMENT COMM	MN FOOD RETAILERS ASSN.	WOLVERTON TELEPHONE CO.
C	STILLWATER MN 55082	RUTHTON MN 56170	426 WOODLAND AVE.	555 WABASHA SUITE 215	BOX 326
D			CROOKSTON MN 56716	ST. PAUL MN 55102	WOLVERTON MN 56594
E	R	R	R	R	
F	R	R	R	R	
G	R	R	R	R	NP
H	ALL	ALL	ALL	ALL	
I	PGA	PGA	PGA	PGA	
J					

A NAME B COMPANY C ADDRESS D CITY STZIP E GAS RUL&CO
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	ENTRY # 201	**ENTRY # 202**	**ENTRY # 203**	**ENTRY # 204**	**ENTRY # 205**
A	COUNTY AUDITOR	VERN INGVALSON	ARCHIE WILCOX	CLARENCE SPRAGUE-ENGIN.	RICHARD RAMBERG-EXEC DIR
B	COURTHOUSE	MN FARM BUREAU FED.	MINNESOTA SENIOR FEDERA.	GREEN GIANT COMPANY	STATE COUN. HANDICAPPED
C	BAGLEY MN 56621	P. O. BOX 43370	836 N. 42ND AVE. W.	LESUEUR MN 56058	208 METRO SQUARE BLDG.
D		ST. PAUL MN 55164	DULUTH MN 55807		ST. PAUL MN 55101
E	R	R	R	R	R
F	R	R	R	R	R
G	R	R	R	R	R
H	ALL	ALL	ALL	ALL	ALL
I	PGA	PGA	PGA	PGA	PGA
J			C		

	ENTRY # 206	**ENTRY # 207**	**ENTRY # 208**	**ENTRY # 209**	**ENTRY # 210**
A	MRS. JUDY AREL	BLUE CARSTENSON	FRED E. ISHAM JR.	ROBERT F. STEPHENS	PAUL N. HECKT-SAAG
B	BOISE CASCADE CORP.	3548 HOLMES SO.	BOX 603	25 MAIN PLACE	1100 BREMER BLDG.
C	P. O. BOX 1310	MINNEAPOLIS MN 55408	NETT LAKE MN 55772	COUNCIL BLUFFS IA 51501	ST. PAUL MN 55101
D	INT'L FALLS MN 56649				
E	R	R	R	R	R
F	R	R	R	R	R
G	R	R	R	R	R
H	ALL	ALL	ALL	ALL	ALL
I	PGA	PGA	PGA	PGA	PGA
J					

	ENTRY # 211	**ENTRY # 212**	**ENTRY # 213**	**ENTRY # 214**	**ENTRY # 215**
A	GREG FERN	EARL H. TAYLOR-CLERK	JEREMY LANE-LEGAL AID	JUDSON KENYON-EXEC DIR	GARY PLOTZ
B	SETTER LEACH & LINDSTROM	CITY OF INDEPENDENT	222 GRAIN EXCHANGE BLDG.	SCOTT-CARVER ECON. COUNC	37 WASHINGTON AVE.
C	1011 NICOLLET MALL	1790 COUNTY ROAD 90	323 FOURTH AVE. SO.	6TH & OAK	HUTCHINSON MN 55350
D	MINNEAPOIS MN 55403	MAPLE PLAIN MN 55359	MINNEAPOLIS MN 55415	CARVER MN 55315	
E	R	R	R	R	R
F	R	R	R	R	R
G	R	R	R	R	R
H	ALL	ALL	ALL	ALL	ALL
I	PGA	PGA	PGA	PGA	PGA
J					

	ENTRY # 216	**ENTRY # 217**	**ENTRY # 218**	**ENTRY # 219**	**ENTRY # 220**
A	PHILIP J. CLAUSEN	EXECUTIVE DIRECTOR	WARREN SCHMIDT	JOHN H. ALLERS	GRAHAM R. UZLIK
B	2307 STANDISH ST.	ARROWHEAD REG DEV COMM.	INDEPENDENT DISTRICT #78	7501 2ND AVE. SO.	COUNTY AUDITOR
C	ST. PAUL MN 55108	330 S. FIRST AVE. E.	GARDEN CITY MN 56034	RICHFIELD MN 55423	COURT HOUSE
D		DULUTH MN 55802			AUSTIN MN 55912
E	R	R	R	R	R
F	R	R	R	R	R
G	R	R	R	R	R
H	ALL	ALL	ALL	ALL	ALL
I	PGA	PGA	PGA	PGA	PGA
J					

A NAME B COMPANY C ADDRESS D CITY STZIP E GAS RUL&CO
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	ENTRY # 221	**ENTRY # 222**	**ENTRY # 223**	**ENTRY # 224**	**ENTRY # 225**
A	WAYNE R. CARLSON	PAUL FARSETH-SYSTEMS	RICHARD HOLTAN	ROBERTO M. FEDERIGAN	CHARLES F. GOSEN
B	126 NO. MARSHALL AVE.	STATE WELFARE DEPT.	COUNTY AUDITOR	BUREAU OF NAT'L AFFAIRS	COUNTY AUDITOR
C	LITCHFIELD MN 55355	BOX 43170	MANTORVILLE MN 55955	1231-25TH ST. NW-RM 650	BOX 808
D		ST. PAUL MN 55164		WASHINGTON DC 20037	BAUDETTE MN 56623
E	R	R	R	R	R
F	R	R	R	R	R
G	R	R	R	R	R
H	ALL	ALL	ALL	ALL	ALL
I	PGA	PGA	PGA	PGA	PGA
J					

	ENTRY # 226	**ENTRY # 227**	**ENTRY # 228**	**ENTRY # 229**	**ENTRY # 230**
A	JAMES J. RYAN	JEANNE FREEBERG	G & T TRUCKING COMPANY	CATHERINE SHERWOOD	JOEL BENNETT
B	2208 CENTRAL TRUST TOWER	C/O CENTRAL COMM. INC.	RT. 1-CTY RD 2 & 135 SO.	COUNTY AUDITOR	ST. PAUL UNION STOCKYARD
C	CINCINNATI OH 45202	112 N. OAK	ELKO MN 55020	BOX 496	SO. ST. PAUL MN 55075
D		OWATONNA MN 55060		WINONA MN 55987	
E	R	R	R	R	R
F	R	R	R	R	R
G	R	R	R	R	R
H	ALL	ALL	ALL	ALL	ALL
I	PGA	PGA	PGA	PGA	PGA
J					

	ENTRY # 231	**ENTRY # 232**	**ENTRY # 233**	**ENTRY # 234**	**ENTRY # 235**
A		AGNES ENGELBRECHT	DAVID LOCH-EXEC. DIR.	F. R. (DICK) KADRIE	ROBERT DE LA VEGA
B		R. 4 BOX 358	REG. 5 REG. DEVELOP COMM	657 BURR ST.	CITIZENS LEAGUE
C		ALEXANDRIA MN 56308	611 IOWA AVE.	ST. PAUL MN 55101	84 S. 6TH ST.
D			STAPLES MN 56479		MINNEAPOIS MN 55402
E		R	R	R	R
F		R	R	R	R
G		R	R	R	R
H		ALL	ALL	ALL	ALL
I		PGA	PGA	PGA	PGA
J					

	ENTRY # 236	**ENTRY # 237**	**ENTRY # 238**	**ENTRY # 239**	**ENTRY # 240**
A	CROW WING CONCERNED	COUNTY ADMINISTRATION	REV. DONALD GRUMMERT	GORDON FORBES-COUNSEL	CHARLES KROEGER
B	CITIZENS	POLK COUNTY COURTHOUSE	1435 ADAMS ST.	2071 UNIVERSITY AVE.	DSS
C	1216 S. 6TH ST.	CROOKSTON MN 56716	MINNEAPOLIS MN 55413	ST. PAUL MN 55104	P. O. BOX 838
D	BRAINERD MN 56401				FARIBAULT MN 55021
E	R	R	R	R	R
F	R	R	R	R	R
G	R	R	R	R	R
H	ALL	ALL	ALL	ALL	ALL
I	PGA	PGA	PGA	PGA	PGA
J					

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	ENTRY # 241	**ENTRY # 242**	**ENTRY # 243**	**ENTRY # 244**	**ENTRY # 245**
A	JAY MYSTER	JOYCE PESCH-EXEC. DIR.	HALVOR LACHER-EXEC DIR	LIBRARY	MOREY ANDERSON
B	215 SOUTH CASCADE ST.	W. CENTRAL MN COM ACTION	SEMCAC INC BOX 549	BRIGGS & MORGAN	ASSN. OF MINN. COUNTIES
C	FERGUS FALLS MN 56537	BOX 3026	RUSHFORD MN 55971	2200 1ST NATL BANK BLDG	555 PARK STREET
D		ELBOW LAKE MN 56531		ST. PAUL MN 55101	ST. PAUL MN 55103
E	R	R	R	R	R
F	R	R	R	R	R
G	R	R	R	R	R
H	ALL	ALL	ALL	ALL	ALL
I	PGA	PGA	PGA	PGA	PGA
J					

	ENTRY # 246	**ENTRY # 247**	**ENTRY # 248**	**ENTRY # 249**	**ENTRY # 250**
A	TOM POLANSKY	NHRAC	DIRECTOR		THOMAS M. POLT-ATTORNEY
B	RENVILLE CTY COURTHOUSE	3231 - 1ST AVE. SO.	DEVELOP. DISAB. PLANNING		MCCARTHY BLDG.
C	OLIVIA MN 56277	MINNEAPOLIS MN 55408	200 CAPITOL SQUARE BLDG.		EYOTA MN 55934
D			ST. PAUL MN 55101		
E	R	R	R		R
F	R	R	R		R
G	R	R	R		R
H	ALL	ALL	ALL		ALL
I	PGA	PGA	PGA		PGA
J					

	ENTRY # 251	**ENTRY # 252**	**ENTRY # 253**	**ENTRY # 254**	**ENTRY # 255**
A	MN ASSN. OF COOPERATIVES	MINN. MASONRY INSTITUTE	MCAA	DAVID M. GRINB	CHUCK WESTIN
B	480 CEDAR STREET	7851 METRO PKWY. STE.103	239 CITY HALL	CONCORDIA COLLEGE	800 ALLWORTH BLDG.
C	380 HANOVER BUILDING	MINNEAPOLIS MN 55420	MINNEAPOLIS MN 55415	MOORHEAD MN 56560	DULUTH MN 55802
D	ST. PAUL MN 55101				
E	R	R	R	R	R
F	R	R	R	R	R
G	R	R	R	R	R
H	ALL	ALL	ALL	ALL	ALL
I	PGA	PGA	PGA	PGA	PGA
J					

	ENTRY # 256	**ENTRY # 257**	**ENTRY # 258**	**ENTRY # 259**	**ENTRY # 260**
A	HAL MARSOLAIS-EXEC DIR	JOHN G. PIDGEON-CITY MGR	ROGER L. HERDT-DIRECTOR	MOTOR VEHICLE MFRS ASSN.	DOUGLAS V. MOEN
B	MN-DAKOTAS RETAIL HDWE.	2215 W. OLD SHAKOPEE RD.	UNITED TELEPHONE COMPANY	411 MAIN ST. (215)	HOUSTON COUNTY AUDITOR
C	3033 EXCELSIOR BLVD.	BLOOMINGTON MN 55431	850 NW NATL. BANK BLDG.	ST. PAUL MN 55102	CALEDONIA MN 55921
D	MINNEAPOLIS MN 55437		ST. PAUL MN 55101		
E	R	R		R	R
F	R	R		R	R
G	R	R	RP	R	R
H	ALL	ALL		ALL	ALL
I	PGA	PGA		PGA	PGA
J					

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	ENTRY # 261	**ENTRY # 262**	**ENTRY # 263**	**ENTRY # 264**	**ENTRY # 265**
A	ROD DANIELSON-FIN. SEC.	FLORENCE HALLBERG-CLERK	BILL PAYNE	PHILLIPS LEGISLATIVE SRV	CITY DESK
B	LOCAL UNION NO. 87	CITY OF EDINA	NEW CONNECTION PROGRAMS	459 RICE ST.	MINNEAPOLIS TRIBUNE
C	411 MAIN ST.-SUITE 210	4801 W. 50TH ST.	73 LEECH ST.	ST. PAUL MN 55103	425 PORTLAND AVE.
D	ST. PAUL MN 55102	EDINA MN 55424	ST. PAUL MN 55102		MINNEAPOLIS MN 55488
E	R	R	R	R	R
F	R	R	R	R	R
G	R	R	R	R	R
H	ALL	ALL	ALL	ALL	ALL
I	PGA	PGA	PGA	PGA	PGA
J					

	ENTRY # 266	**ENTRY # 267**	**ENTRY # 268**	**ENTRY # 269**	**ENTRY # 270**
A	LUKE MARKVE	EDWARD J. KRANZ-CTY ADM.	BOB HAGEN	LINDA EVEN	DAVID SOLLENBERGER
B	WRIGHT CO. C.A.	100 SIBLEY ST.	MINNEAPOLIS TRIBUNE	ANOKA COUNTY FINA. SRVS.	CITY HALL
C	P. O. BOX 39	HASTINGS MN 55033	425 PORTLAND AVE.	COURTHOUSE - 3RD FLOOR	4TH & LAFAYETTE ST.
D	WAVERLY MN 55390		MINNEAPOLIS MN 55488	ANOKA MN 55303	WINONA MN 55987
E	R	R	R	R	R
F	R	R	R	R	R
G	R	R	R	R	R
H	ALL	ALL	ALL	ALL	ALL
I	PGA	PGA	PGA	PGA	PGA
J					

	ENTRY # 271	**ENTRY # 272**	**ENTRY # 273**	**ENTRY # 274**	**ENTRY # 275**
A	LAKES & PINES-CAC	SCOTT G. LARSON	DICK GRABCO-ENERGY DIR.	CRAIG A. WALDRON	R. J. BARTO-PLANT MGR.
B	ENERGY PROGRAMS DEPT.	139 EAST 1ST AVE.	281 MAIN ST. BOX 157	P. O. BOX 3367	MIDLAND GLASS CO. INC.
C	129 WEST FOREST	CAMBRIDGE MN 55008	ZUMBROTA MN 55992	MANKATO MN 56001	P. O. BOX 69
D	MORA MN 55051				SHAKOPEE MN 55379
E	R	R	R	R	R
F	R	R	R	R	R
G	R	R	R	R	R
H	ALL	ALL	ALL	ALL	ALL
I	PGA	PGA	PGA	PGA	PGA
J					

	ENTRY # 276	**ENTRY # 277**	**ENTRY # 278**	**ENTRY # 279**	**ENTRY # 280**
A	CLARENCE E. SCHULTZ	PATRICIA N. WRIGHT	DWIGHT A. SMITH	PAUL LARSON-SECTY/TREAS	CAROL CARLSON-ADMIN ASST
B	MCLEOD COUNTY AUDITOR	DAYTON HUDSON COORP.	SENATE RESEARCH	WINTHROP TELEPHONE CO.	CITY OF CHAMPLIN
C	GLENCOE MN 55336	777 NICOLLET MALL	460 STATE OFFICE BLDG.	WINTHROP MN 55396	1200 HIGHWAY 52
D		MINNEAPOLIS MN 55402	ST. PAUL MN 55155		CHAMPLIN MN 55316
E	R	R	R		R
F	R	R	R		R
G	R	R	R	NP	R
H	ALL	ALL	ALL		ALL
I	PGA	PGA	PGA		PGA
J					

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	ENTRY # 281	**ENTRY # 282**	**ENTRY # 283**	**ENTRY # 284**	**ENTRY # 285**
A	JAMES F. ANDRE-CITY MGR.	BOB FRANKLIN-CITY EDITOR	MN GOV. ENG. COUNCIL	ELMER WARDLIN	P. J. THORNTON
B	2660 CIVIC CENTER DR.	MINNEAPOLIS TRIBUNE	555 PARK STREET	AUDITOR-TREASURER	IRON RANGE BLDG. TRADES
C	ROSEVILLE MN 55113	425 PORTLAND AVE.	ST. PAUL MN 55103	MILLE LACS COUNTY	107 S. 15TH AVE. WEST
D		MINNEAPOLIS MN 55488		MILACA MN 56353	VIRGINIA MN 55792
E	R	R	R	R	R
F	R	R	R	R	R
G	R	R	R	R	R
H	ALL	ALL	ALL	ALL	ALL
I	PGA	PGA	PGA	PGA	PGA
J					

	ENTRY # 286	**ENTRY # 287**	**ENTRY # 288**	**ENTRY # 289**	**ENTRY # 290**
A	RICK E. CARTER	UNITED STEELWORKERS OF	WRIGHT COUNTY COMMUNITY	ROBERT W. LARSON	CLARENCE JOHNSON
B	MN ASSN HEALTH CARE FAC.	AMERICA	ACTION	P. O. BOX 1096	3615 - 37TH AVE. S.
C	2850 METRO DR.-SUITE 429	609 PROVIDENCE BLDG.	BOX 39	MINNEAPOLIS MN 55440	MINNEAPOLIS MN 55406
D	MINNEAPOLIS MN 55420	DULUTH MN 55802	WAVERLY MN 55390		
E	R	R	R	R	R
F	R	R	R	R	R
G	R	R	R	R	R
H	ALL	ALL	ALL	ALL	ALL
I	PGA	PGA	PGA	PGA	PGA
J					

	ENTRY # 291	**ENTRY # 292**	**ENTRY # 293**	**ENTRY # 294**	**ENTRY # 295**
A	P. D. BRICK	T. J. MANTHEY		D. H. STAPH	DONALD PAULEY
B	200 W. SUPERIOR ST.-#811	PICKANDS MATHER & CO.		WESTERN COMMUNITY ACTION	2401 HWY. 10
C	DULUTH MN 55802	1100 SUPERIOR AVE. N.E.		203 W. MAIN-P.O. BOX 246	MOUNDS VIEW MN 55102
D		CLEVELAND OH 44114		MARSHALL MN 56258	
E	R	R		R	R
F	R	R		R	R
G	R	R		R	R
H	ALL	ALL		ALL	ALL
I	PGA	PGA		PGA	PGA
J					

	ENTRY # 296	**ENTRY # 297**	**ENTRY # 298**	**ENTRY # 299**	**ENTRY # 300**
A	ADVOCATE FOR THE BLIND	MARVIN B. GOLDBERG	JAMES B. SIMS	F. M. CHRISTIANSEN	RONALD REYNE
B	1821 UNIVERSITY AVE.	875 SUMMIT AVE.	SUITE 204 METRO SQUARE	911 CAPITOL SQUARE BLDG.	COUNTY AUDITOR
C	ST. PAUL MN 55104	ST. PAUL MN 55105	ST. PAUL MN 55101	ST. PAUL MN 55101	WATONWAN CTY COURTHOUSE
D					ST. JAMES MN 56081
E	R	R	R	R	R
F	R	R	R	R	R
G	R	R	R	R	R
H	ALL	ALL	ALL	ALL	ALL
I	PGA	PGA	PGA	PGA	PGA
J					

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	ENTRY # 301	**ENTRY # 302**	**ENTRY # 303**	**ENTRY # 304**	**ENTRY # 305**
A	LEROY A. VOS	MELROY PETERSON	STEVE WIENER	MICHAEL BRADLEY-MNG ATTY	JOHN E. DRAWZ
B	2137 BURNS AVE.	LAKE COUNTY AUDITOR	P. O. BOX 78	RESIDENTIAL UTILITY DIV.	1100 FIRST NATIONAL BANK
C	ST. PAUL MN 55119	LAKE CTY. COURTHOUSE	MARSHALL MN 56258	340 BREMER TOWER	MINNEAPOLIS MN 55402
D		TWO HARBORS MN 55616		ST. PAUL MN 55101	
E	R	R	R	R	R
F	R	R	R	R	R
G	R	R	R	R	R
H	ALL	ALL	ALL	ALL	ALL
I	PGA	PGA	PGA	PGA	PGA
J					

	ENTRY # 306	**ENTRY # 307**	**ENTRY # 308**	**ENTRY # 309**	**ENTRY # 310**
A	KENNETH BENESH	MARTHA BALLOU	G. L. KAZIUKEWICZ	GARY L. DICKSON-CITY MGR	MIKE & HELEN MCALISTER
B	NORMAN CTY COURTHOUSE	66 E. KING	CHAMPION PACKAGING	CITY OF SHOREVIEW	4295 ELIZABETH LANE
C	ADA MN 56510	ST. PAUL MN 55107	P. O. BOX 43260	4665 NO. VICTORIA	VADNAIS HEIGHTS MN 55110
D			ST. PAUL MN 55164	SHOREVIEW MN 55112	
E	R	R	R	R	R
F	R	R	R	R	R
G	R	R	R	R	R
H	ALL	ALL	ALL	ALL	ALL
I	PGA	PGA	PGA	PGA	PGA
J		C			

	ENTRY # 311	**ENTRY # 312**	**ENTRY # 313**	**ENTRY # 314**	**ENTRY # 315**
A	GARY N. SUDDUTH	OTIS A. LOOSE	JOHN R. LANGAN	HERBERT ANDERSON	CITY OF ST. CHARLES
B	MUL 411 E. 38TH ST.	AUDITOR - ADMINISTRATOR	COURTHOUSE	418 - 8TH ST. S.	1242 WHITEWATER AVE.
C	MINNEAPOLIS MN 55409	BROWN COUNTY-P.O.BOX 248	BENSON MN 56215	VIRGINIA MN 55792	ST. CHARLES MN 55972
D		NEW ULM MN 56073			
E	R	R	R	R	R
F	R	R	R	R	R
G	R	R	R	R	R
H	ALL	ALL	ALL	ALL	ALL
I	PGA	PGA	PGA	PGA	PGA
J					

	ENTRY # 316	**ENTRY # 317**	**ENTRY # 318**	**ENTRY # 319**	**ENTRY # 320**
A	ALLAN W. NASLUND-AUDITOR	DAVID M. MARTIN	SENATE COMMERCE COMM.	DEWAYNE RUBEDOR	SAMUEL W. SHULT
B	CARLTON CTY COURTHOUSE	OWATONNA PUBLIC UTILITY	ROOM 309 STATE CAPITOL	523 SINCLAIR LEWIS AVE.	CITY CLERK
C	CARLTON MN 55718	P. O. BOX 800	ST. PAUL MN 55155	SAUK CENTRE MN 56378	106 E. 1ST ST.
D		OWATONNA MN 55060			WINTHROP MN 55396
E	R	R	R	R	R
F	R	R	R	R	R
G	R	R	R	R	R
H	ALL	ALL	ALL	ALL	ALL
I	PGA	PGA	PGA	PGA	PGA
J					

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	ENTRY # 321	**ENTRY # 322**	**ENTRY # 323**	**ENTRY # 324**	**ENTRY # 325**
A	ED SHUKLE-CITY MANAGER	JOHN W. COOK	KATIE MCWATT	BILL FREEMAN	TOM BRENNER
B	CITY OF BENSON	310 E. 3RD ST.	ST. PAUL URBAN LEAGUE	501 S. 1ST ST.	SOCIAL ACTION CENTER
C	1411 PACIFIC AVE.	PARK RAPIDS MN 56470	401 SELBY AVE.	MONTEVIDEO MN 56265	8701 - 36TH AVE. NO.
D	BENSON MN 56215		ST. PAUL MN 55102		NEW HOPE MN 55427
E	R	R	R	R	R
F	R	R	R	R	R
G	R	R	R	R	R
H	ALL	ALL	ALL	ALL	ALL
I	PGA	PGA	PGA	PGA	PGA
J			C		

	ENTRY # 326	**ENTRY # 327**	**ENTRY # 328**	**ENTRY # 329**	**ENTRY # 330**
A	WAYNE H. OLSON	JOHN A. KNAPP	PAUL L. STEVENS-PRES.	JEFF BAILL-ESQUIRE	
B	OLSON GUNN & SERAN LTD	1500 MIDWEST PLAZA BLDG.	MANKATO CITIZENS TEL. CO	670 TWIN CITY FED. TOWER	
C	315 PEAVEY BLDG.	MINNEAPOLIS MN 55402	221 E. HICKORY ST.	MINNEAPOLIS MN 55402	
D	MINNEAPOLIS MN 55402		MANKATO MN 56001		
E	R	R	R	R	
F	R	R	R	R	
G	R	R	RP	R	
H	ALL	ALL	ALL	ALL	
I	PGA	PGA	PGA	PGA	
J					

	ENTRY # 331	**ENTRY # 332**	**ENTRY # 333**	**ENTRY # 334**	**ENTRY # 335**
A	KAY BONNER NEE	CITY OF WARREN	JERRY NEPPEL-EAST GRAND	HAROLD STEPPUHN	TOM HEDGES
B	219 LOGAN PKWY.	126 WEST JOHNSON	FORKS WATER & LIGHT	P. O. BOX 218	3795 PILOT KNOB ROAD
C	FRIDLEY MN 55432	WARREN MN 56762	BOX 480	PRINCETON MN 55371	EAGAN MN 55122
D			E. GRAND FORKS MN 56721		
E	R	R	R	R	R
F	R	R	R	R	R
G	R	R	R	R	R
H	ALL	ALL	ALL	ALL	ALL
I	PGA	PGA	PGA	PGA	PGA
J					

	ENTRY # 336	**ENTRY # 337**	**ENTRY # 338**	**ENTRY # 339**	**ENTRY # 340**
A	GARY R. MACOMBER	BURT ASSOCIATES	LEONARD ERICKSON	SAM RUHLE-OAH	GEORGE R. CODREA
B	4344 IDS CENTER	P. O. BOX 14299	ENERGY ENG.-PAPER GROUP	400 SUMMIT BANK BLDG.	REGULATORY INFORM. SRVE.
C	MINNEAPOLIS MN 55402	COLUMBUS OH 43214	BOISE CASCADE CORP.	310 SOUTH FOURTH AVE.	4520 E.-W. HWY-SUITE 800
D			INT'L FALLS MN 56649	MINNEAPOLIS MN 55415	BETHESDA MD 20814
E	R	R	R	R	R
F	R	R	R	R	R
G	R	R	R	R	R
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A NAME B COMPANY C ADDRESS D CITY STZIP E GAS RUL&CO
F ELECTRIC " G PHONE " H RULES MISC I PGA J MISC LISTS

	ENTRY # 341	**ENTRY # 342**	**ENTRY # 343**	**ENTRY # 344**	**ENTRY # 345**
A	HAL HANSON	MARK LOFTHUS	MURIEL RUNHOLT	PETER FUGINA-PRESIDENT	JIM MILLER
B	12215 MARI LANE	COUNTRYSIDE COUNCIL	RURAL ROUTE	MINN. SENIOR FEDERATION	MPIRG
C	MINNETONKA MN 55343	P. O. BOX 78	MARSHALL MN 56258	301 FULLER AVE.	2412 UNIVERSITY AVE. SE
D		MARSHALL MN 56258		ST. PAUL MN 55103	MINNEAPOLIS MN 55414
E		R			R
F		R			R
G		R			R
H		ALL			ALL
I		PGA			PGA
J	C	C	C	C	C

	ENTRY # 346	**ENTRY # 347**	**ENTRY # 348**	**ENTRY # 349**	**ENTRY # 350**
A	JOHN OLLIG-PRESIDENT	KIP SULLIVAN	JEANNE HALE	BRIAN HULING	
B	WINSTED TELEPHONE CO.	MINNESOTA COACT	COACT	A 2308	
C	181 2ND ST. SO.	2395 UNIVERSITY-RM. 304	2019 - 16TH AVE. SO.#501	HENN CO GOVT CTR	
D	WINSTED MN 55395	ST. PAUL MN 55114	MINNEAPOLIS MN 55404	MINNEAPOLIS MN 55487	
E				R	
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G	NP				
H					
I		PGA		PGA	
J		C	C		

A NAME B COMPANY C ADDRESS D CITY STZIP E GAS RUL&CO
F ELECTRIC " G PHONE " H RULES MISC I PGA J MISC LISTS

(2)

MCTC MANKATO CITIZENS TELEPHONE COMPANY

221 EAST HICKORY STREET • P.O. BOX 3248 • MANKATO, MINNESOTA 56002 • TELEPHONE: (507) 387-1151

RECEIVED

MAR 17 1986

MINNESOTA PUBLIC
UTILITIES COMMISSION

March 15, 1986

Mary Ellen Hennen
Executive Secretary
Minnesota Public Utilities Commission
780 American Center Building
160 East Kellogg Blvd.
St. Paul, Minnesota 55101

In re: Draft of Rules Governing Practice and Procedures
for Ex Parte Communications published February 17, 1986
Our File: 1213/019

Dear Ms. Hennen:

The Mankato Citizens Telephone Company believes that the proposed rules governing ex parte communications are too broad. If adopted in their present form, these rules will make it impossible for the Commission Staff to discharge their responsibilities. The rules are structured as a complete prohibition of ex parte communications with specified exceptions. Thus, the staff and employees of public utilities or telephone companies who do business with the Commission will always be at the peril of stepping beyond an exception into the general prohibition. We think a rule of this kind should be drafted so as to prohibit specifically defined sorts of contact, and permit all other contact which is not prohibited. We believe our goals could be accomplished by making the following changes in the rule:

7830.7000 Definitions:

A. Ex Parte Contact.

This definition should be redrafted to specify what sort of contact is prohibited. In its present form, the rule prohibits saying good morning to decision-making personnel. The public utilities and the telephone companies must deal with the Commission Staff. In fairness, they should know what they can and cannot say to the Staff members with whom they deal.

B. Decision-Making Personnel.

Decision-making personnel should be limited to members of the Commission. The Staff must gather and evaluate information and make recommendations to the Commission concerning pending matters. The Staff cannot accomplish this far-ranging task if every word of each letter or conversation must be weighed to see if it fits within one of the exceptions listed in Section 7830.7200. There may be good policy reasons for prohibiting employees of the public utilities and telephone companies from arguing the merits of their cases in private conversation with members of the Commission. Since the Staff has only the power of recommendation, and not the power of decision, there is no reason why the public utilities and telephone companies should not be permitted to discuss their cases with the Staff.

C. Interested Persons.

The definition of "Interested Persons" includes parties and their representatives and any other person who might be affected by the outcome. This definition seems to be all-encompassing. However, it is unclear if public officials such as the staff of the Department of Public Service, the Retail Utilities Division of the Attorney General's Office, or the Mayors and Councils of cities involved in rate making are "affected by the outcome of the proceeding". We believe that the ex parte communications rule should apply only to contested cases and general rate makings, as opposed to miscellaneous tariffs, service complaints, and the like. We also believe that public officials' contacts with interested persons should be limited in exactly the same manner as are those of the public utilities and telephone companies.

The foregoing changes would be reflected in Section 7830.7100 Ex Parte Contacts Prohibited. The effect would be to prohibit only defined ex parte contacts with members of the Commission concerning a pending contested case or general rate-making proceeding by all persons involved in that proceeding including employees of the utilities and telephone companies and public officials. Contacts with the Staff concerning such cases should be permitted.

Section 7830.7500 Sanctions.

This section permits a proceeding to be dismissed if:

1. The ex parte presentation has materially prejudiced the decision-making process; or

2. A repeated pattern of ex parte presentations in the current proceeding and other proceedings evidences disregard for this rule.

If a public utility or telephone company engages in a repeated pattern of the kind described in paragraph 2., dismissal of the proceeding is appropriate. However, the dismissal of a proceeding is a grave step affecting not only the public utility or telephone company personnel who engaged in the prohibited ex parte contact, but the stock holders and rate payers of the utility or telephone company as well. Dismissal should occur only in the most serious cases. We think that dismissal is appropriate in the case of repeated and wilfull violations as described in 2. above. However, unless that kind of a pattern is shown, the proceeding should not be dismissed. Whether or not an ex parte presentation has "materially prejudiced the decision-making process" is a highly subjective judgment. We would urge that paragraph 1 be stricken.

We also wish to comment on Section 7830.8000 Gifts By Public Utilities or Telephone Companies Prohibited. Again, this rule as drafted is too broad. It literally prohibits buying a cup of coffee or doing a simple favor for an acquaintance on the Commission staff. We think it would be more appropriate to prohibit only those gifts which are more than tokens. See Lobbyist Registration and Reporting Rules, Section 4510.0600. We are appalled by the language in the proposed rules stating the Commission may dismiss or deny an application pending before it because a public utility or telephone company bought a staff member a gift of token value. Again, we feel that dismissal of a proceeding is a most serious sanction which should apply only to serious cases.

We also note that this rule applies only to public utilities or telephone companies. Apparently it does not include other parties to a contested case or rate-making proceeding, nor does it include public officials such as mayors, councils, the Department of Public Service, or the Attorney General's Office. We think a rule such as this should apply even-handedly to everyone involved.

MANKATO CITIZENS TELEPHONE COMPANY

Paul L. Stevens

Paul L. Stevens
Chairman

sh

Comm. Gen. Sec. Richard Legal (Hand)

(3)

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Lefler
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Dayle Nolan
Brian F. Rice
John G. Kressel
Lorraine S. Clugg
James M. Strommen
Ronald H. Batty
William P. Jordan
Susan Dickel Minsberg
Kurt J. Erickson
William R. Skallerud
Rodney D. Anderson
Corrine A. Heine
John R. McDonald, Jr.
David D. Beaudoin

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MAR 17 1986

MINNESOTA PUBLIC
UTILITIES COMMISSION

March 14, 1986

Ms. Mary Ellen Hennen
Executive Secretary
Minnesota Public Utilities Commission
780 American Center Building
160 East Kellogg Boulevard
St. Paul, MN 55101

Re: Draft Rules Concerning Ex Parte Communications

Dear Ms. Hennen:

This letter is in response to your notice in the State Register of February 17, 1986, concerning a draft of rules concerning ex parte communications. The response is made on behalf of the Suburban Rate Authority.

Overall, the draft is acceptable, and it appears to be the product of careful consideration.

Three points should be considered. The first relates to 7830.7000,A. The phrase "where the decision is to be made on the record" is somewhat vague. We believe the rule should include contacts concerning facts or arguments which may be in issue even though there is no current petition before the commission (the Legislature may, unfortunately, preempt rulemaking on this point). The use of the word "parties" may suggest that the intent of the rule is to govern only communications made during the pendency of a petition, as there may not be "parties" when there is no petition. The only problem is in the identification of interested persons.

With regard to ex parte contacts occurring outside of the period of the pendency of a petition, but as to issues outside of those described in 7830.7200, prior notice is impractical and perhaps unnecessary. Communications made outside of the pendency of a petition might be properly noticed simply by notation in a register kept at commission offices. Obviously, there would be no "record" which would be affected. The ledger

showing information such as date, identity and general subject of a conversation should be sufficient to allow interested parties to inquire further, if they thought it appropriate.

The second comment is that the phrase "ex parte contact" is defined, but in the rule it appears to have been used interchangeably with "ex parte presentation" and "ex parte communication."

Section 7830.7500, dealing with sanctions, addresses only parties. We think this should be extended to persons.

We would appreciate being notified if a determination is made to submit the draft to rulemaking.

Very truly yours,

LeFEVERE, LEFLER, KENNEDY,
O'BRIEN & DRAWZ

Glenn E. Purdue
Counsel for Suburban Rate Authority

GEP/sbp
cc: Graydon R. Boeck, Chairman

(4)
U-999/R-86-79

March 14, 1986

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MAR 17 1986

MINNESOTA PUBLIC
UTILITIES COMMISSION

Mary Ellen Hennen, Executive Secretary
Minnesota Public Utilities Commission
780 American Center Building
St. Paul, MN 55101

In reference to: Ex-Parte Communications

The following comments are offered in response to a call for comments regarding a draft of rules governing practice and procedures for ex-parte communications.

In general;

1. During and in the course of business it is not reasonable to expect and it would be impossible for utilities and their representatives to avoid contact with the Commission.

2. Upon the filing of a rate case, it is agreed that contacts should be held with utility representatives and the Commission regarding the issues of the rate case.

3. In the performance of normal business operations, Commissioners and utility representatives should be allowed to hold discussions on other non-related issues such as conservation programs, cold weather rules, intervention in FERC rate proceedings and other generic issues.

PNG Company requests the PUC to consider these comments when promulgating new rules which address ex-parte communications.

Respectfully submitted,

Marilyn Bothun

Marilyn Bothun
REGIONAL GOVERNMENT AFFAIRS COORDINATOR
Peoples Natural Gas Company
3460 Washington Drive
Eagan, MN 55121

Comm.
Richard
Legal (Kent)
& Exec. Sec.

(5)

Hearing



Northwestern Bell

J.B. Keffeler

100 South 5th Street, Room 660
Minneapolis, Minnesota 55402
Phone (612) 344-6053

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MAR 17 1986

MINNESOTA PUBLIC
UTILITIES COMMISSION

March 17, 1986

Ms. Mary Ellen Hennen, Executive Secretary
Minnesota Public Utilities Commission
780 American Center Building
160 East Kellogg Boulevard
St. Paul, Minnesota 55101

Re: Proposed Rule Governing Practice and Procedures for Ex Parte Communication

Dear Ms. Hennen:

Northwestern Bell Telephone Company submits the enclosed comments in response to the Minnesota Public Utilities Commission's request for statements on its proposed rules governing practices and procedures for ex parte communications as published in the State Register, Monday, February 17, 1986.

Sincerely,

for Jean Burhardt Keffeler
Assistant Vice President
Government Relations/Regulatory

Attachment

cc: Linda Anthony
Michael J. Bradley
James Jarvis

Comm.
Richard
Legal (Karl)
Exec. Sec.

(5)
U-999/R-86-79

BEFORE THE MINNESOTA PUBLIC UTILITIES COMMISSION

Harry Seymour Crump		Chair
Barbara S. Beerhalter	RECEIVED	Commissioner
Cynthia A. Kitlinski		Commissioner
Robert J. O'Keefe		Commissioner

MAR 17 1986

MINNESOTA PUBLIC UTILITIES COMMISSION

In the Matter of the Proposed Rule Governing Ethical Practices of Regulated Companies

Docket No: _____

COMMENTS OF NORTHWESTERN BELL TELEPHONE COMPANY

I.

Introduction.

On Monday, February 17, 1986, the Minnesota Public Utilities Commission ("MPUC") caused to be published in the State Register a proposed rule governing ethical practices of regulated companies. As part of that publication, the MPUC solicited information or opinions and comments on the draft rule, as well as on alternatives that might also address the matters being considered by the MPUC in the context of the proposed rule. In response to the MPUC's request, Northwestern Bell Telephone Company (the "Company") submits the following comments and suggestions.

II.

Substantive Comments

The Company welcomes the MPUC's attempt to develop clear ethical standards and practices that will govern the relationships that may exist between regulated utilities and the MPUC and the MPUC staff. The Company also generally agrees with

the thrust of the proposed rule that regulated utilites should not provide items of any significant monetary value to individual commissioners or to commission staff members.

However, the Company believes that the proposed rule:

(1) does not adequately recognize the current competitive conditions that exist, particularly in the telecommunications marketplace;

(2) does not adequately recognize the conditions that exist in the current regulatory environment;

(3) does not provide an appropriate mechanism for dealing adequately with the ethical issues that may exist when the commissioners or the commission staff members are offered or accept items of value;

(4) does not establish sanctions that bear a reasonable relationship to the individual conduct that may be involved or the circumstances that may exist at the time; and

(5) does not provide appropriate procedural safeguards to insure that the utility has been treated fairly in light of the circumstances and in accordance with applicable legal standards.

Each of these matters is discussed briefly below.

As the Company understands the proposed rule, it is designed and intended to prohibit a regulated utility from giving anything of value to a commissioner or a commission staff person in order to make sure that the commissioner or staff person will not be influenced thereby into making recommendations or decisions in matters that might be more favorable to the

regulated utility than otherwise might have been the case. The Company also understands that the prohibition is an absolute one, i.e. "anything of value" -- no matter how slight that value might be, perhaps in order to avoid even the possible appearance of impropriety.

However, the proposed rule as drafted applies only to regulated utilities and enables the MPUC to impose sanctions only against regulated utilities. In this regard, the proposed rule fails to recognize that large segments of the telecommunications business operates on an unregulated basis today. Moreover, NWB offers a variety of regulated services that compete with the services offered by unregulated vendors in the marketplace on a daily basis. Examples include the competition that exists between NWB offered Centrex and Centron services and sophisticated PBX and digital switching systems marketed by dozens of large and small vendors in the marketplace. NWB's unregulated competitors have a substantial interest in the outcome of regulatory proceedings that involve NWB. The reason is obvious. They may be able to improve their competitive position if they can convince the MPUC to adopt positions that are unfavorable to NWB. Yet, the proposed rule does not address this concern at all. The Company's unregulated competitors are free to deal with the MPUC or its staff members with complete impunity under the proposed rule.

Similarly, the proposed rule does not recognize the actual conditions that exist in the regulatory environment. In addition to failing to reach the Company's unregulated competitors, it does not reach or extend in any respect to other active participants in the regulatory process. For example, the Minnesota Business Utility Users Council (many of whose members are competitors of the Company), the Minnesota Public Interest Research Group, the Minnesota Senior Federation, the Suburban Rate Authority, and a host of public agencies -- including various legal aid societies, the Department of Public Service, the Attorney General's office, the Department of Administration, and the Federal Executive Agencies, are all frequent participants in the regulatory process. Each of these parties seek to represent their unique interests and influence the MPUC and its staff members to support and adopt their respective positions. Yet, the proposed rule does not address the possibility of actual undue influence or the appearance of the exercise of such influence by these or other members of the regulatory process. Clearly, it is detrimental to the process to have all but the regulated participants free to engage in precisely the sort of conduct that the MPUC is trying to curtail on the part of utitlites by virtue of the proposed rule.

Because the proposed rule does not adequately recognize either current competitive conditions or regulatory conditions, the proposed rule does not provide an adequate mechanism to insure the public that the regulatory process is free of actual

or even the appearance of any attempt to improperly influence individual commissioners or MPUC staff members. Instead, the proposed rule is directed at only one segment of the competitive and regulatory process -- the regulated utilities -- and adopts harsh sanctions that can be imposed against a utility for the same conduct that others involved in the marketplace and the regulatory process can engage in with impunity. In short, the proposed rule does not adequately or appropriately address the actual or potential problems that may be perceived to exist.

In the Company's view, the most effective way to address the wide range of actual or potential problems that might exist, particularly in light of unregulated nature of large segments of the marketplace, is to adopt a rule that is directed at the MPUC itself and the MPUC's staff, rather than a rule directed solely at participants in the marketplace or the regulatory process. A rule that imposes stiff sanctions upon a commissioner or a staff member who accepts items ofany significant value from anyone engaged in the telecommunications business or in the regulatory process could provide the public with confidence that such conduct will not take place or that it will not be tolerated if it does occur.

This is not to say that a rule directed solely at the MPUC and its staff is the only rule that should be adopted in this regard however. The Company believes that a rule directed at the MPUC and its staff could effectively be augmented with a rule directed at <u>all</u> of the participants in the regulatory process,

including the regulated utilities. However, any such rule should provide some standards of reasonableness. For example, dismissal of all pending proceedings, and perhaps future proceedings, because of an inadvertent, unintentional and minor infraction of the rule, is simply unwarranted. A more reasonable alternative, for example, might be to exclude the commissioner or staff members involved from further participation in the pending proceeding. Similarly, any rule that is adopted should provide some procedural safeguards to insure that whatever penalty is imposed is appropriate in light of all of the circumstances and that the utility or other participant in the process who has committed the infraction has some opportunity to explain what occurred and the surrounding circumstances.

III.

Conclusion

As pointed out above, Northwestern Bell Telephone Company does not believe that the proposed rule is appropriate in its present form. The Company would actively support any rule proposed by the MPUC that addresses the concerns that caused the MPUC to promulgate the proposed rule and the concerns noted above. The Company also requests that after the Commission has developed a proposed rule regarding this matter that it send the proposed rule to the Office of Administrative Hearings with orders to conduct a hearing on the matter.

Dated: March 17, 1986

(6)
U-999/R-86-79

Northern States Power Company
Law Department

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Senior Vice President & General Counsel
David G. McGannon
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March 17, 1986

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MAR 17 1986
MINNESOTA PUBLIC
UTILITIES COMMISSION

Mary Ellen Hennen
Executive Secretary
Minnesota Public Utilities
Commission
780 American Center Building
160 East Kellogg Boulevard
St. Paul, MN 55101

Re: Draft Rules on Ex Parte Communications

Dear Ms. Hennen:

The Commission published notice in the State Register on February 17, 1986, that it sought information and opinions from outside sources in preparing new rules governing ex parte communications. NSP would be affected by those rules and hereby submits its comments on the draft rules.

NSP believes that simple and straightforward ex parte rules would be helpful to everyone who appears before the Commission, to Commission employees, and to Commissioners. Limiting contacts with decisionmakers is rooted in concepts of due process of law which are not universally understood. Understandable and workable ground rules could clarify the line between proper and improper communications.

The draft rules do not balance properly the need to control improper ex parte contacts with the Commission's need for communication with and understanding of regulated industries. The fundamental problem with the draft is that it starts with the proposition that no communication should occur, and then attempts to enumerate a list of exceptions where communication is allowable. The list is incomplete, and perhaps cannot be drafted to cover every type of proper communication.

NSP believes that the effect of a blanket prohibition subject to exceptions will be increased isolation of Commissioners, greater misunderstandings of regulated industries, inefficient staff activities, and less effective regulation.

Comm. Returned to Exec. Sec. Legal (Karl)

NSP strongly suggests an alternative approach which directly and affirmatively defines improper ex parte communications which everyone should avoid. An ex parte communication is improper only if it relates to a material issue in a pending contested case proceeding. A contested case is pending from the time it is referred to the Office of Administrative Hearings until a final order is issued. A rule to clarify these basic principles would directly tell people what should not be done, and need not include a long list of incomplete exceptions like the draft rules. It would be similar to the standards set for judges and would not result in effectively sequestering Commissioners for the duration of their terms.

Many specific problems with sections of the draft rules discussed below would be avoided if the rules approached the problem directly rather than beginning with a prohibition of all contacts.

Sec. 7830.7000(A)

The definition of "ex parte contact" as drafted would include all communications by NSP to decision-making personnel. It includes "any" communication where "the decision is to be made on the record". It is rare that a large utility like NSP does not have some filing pending before the Commission which is to be decided on the record. That record could be a full contested case hearing, one decided only on written submissions, may involve only NSP or could involve intervenors. Since the definition does not cover only communications related to pending cases, it effectively covers all communications.

The definition should be amended as follows:

> "An 'ex parte contact' is any communication made to decision-making personnel related to a material issue during a pending contested case proceeding."

NSP cannot believe that the Commission intends to adopt a rule that on its face says unless you can find a specific exception, you cannot speak to Commissioners on topics unrelated to pending cases.

It is important that the broad category of miscellaneous filings which are not seriously contested be excluded from the rules. To handle those filings efficiently and

knowledgeably the Commission and staff need to be able to have a dialogue with the applicant. The Commission and its staff also need to be able to speak to people about policy issues, potential legislation, industry trends and other matters which do not relate directly to any contested case.

Sec. 7830.7000(B)

NSP recommends that the Executive Secretary not be included as a decision-making person. The Executive Secretary is an administrator and key person in matters of procedure and meeting dates, and must be able to discuss these matters without constantly writing memos to the file or worrying about removal from office.

Sec. 7830.7200

As discussed above, NSP strongly recommends against a blanket rule against ex parte contacts subject to a list of exceptions. If that approach is maintained, however, there should be changes to the list of exceptions.

Subsection B should be expanded to include questions and clarifications about a filing, and any other matter which is not a material or contested issue:

> "B. Communications between the Commission staff and a public utility or telephone company
>
> (1) necessary to implement notices, compliance tariffs, or refund plans;
> (2) to provide clarifications and answer questions about a filing; or
> (3) related to any matter which is not a material issue in any pending contested case."

Subsection E should not require that settlement negotiations be conducted entirely in public. It is NSP's belief based on experience that serious settlement negotiations at times must be conducted in private and are privileged. As long as all parties desiring to be present are given notice and can participate in the process, there is no ex parte problem.

NSP recommends that additional subsections be added to cover other types of permissible communications. Commissioners should be able to talk to people, including utility people

about current events, industry trends, weather, common acquaintances, etc., unless it relates to a material issue in a contested case. Commissioners should be able to visit and inspect utility facilities, and get direct answers to any question they might have about the utility. With the draft rules in effect, the Commission and its staff could not have attended or participated in the qualifying facility task force, nor in negotiations regarding CIP and URRPP project proposals. The draft rules would not allow pre-filing meetings with staff to resolve technical problems prior to major case filings. In addition, the staff could not consult with utilities on a purely technical level to understand all the details of a pending proposal.

Even if the list of exceptions were expanded, there would still be a need for a catch-all provision to take care of items not foreseen at the time of rulemaking, allowing other communications not listed which are not related to a material issue in a pending case. It should read:

> "Other communications not related to a material issue in a pending contested case proceeding."

Sec. 7830.7400

NSP suggests that this section explicitly set out a procedure for other parties to respond to matters raised in a prohibited ex parte contract. The best remedy for minor and inadvertent improper communications is an ameliorating response from other interested parties.

Very truly yours,

DAVID A. LAWRENCE

DAL/ccj

Minnegasco
A Company of Diversified Energies, Inc.

(9) U-999/R-86-79

Phillip R. Hammond
Director
Rates & Tariffs

March 17, 1986

RECEIVED
MAR 17 1986
MINNESOTA PUBLIC UTILITIES COMMISSION

Ms. Mary Ellen Hennen
Executive Secretary
Minnesota Public Utilities Commission
780 American Center Building
160 East Kellogg Boulevard
St. Paul, MN 55101

RE: Minnegasco's Comments on the Draft of Rules Governing Practice and Procedures for Ex-Parte Communications

Dear Ms. Hennen:

Minnegasco appreciates the opportunity to offer comments on the Draft of Rules Governing Practice and Procedures for Ex-Parte Communications. Minnegasco supports the Commission's intent to eliminate communications between Commissioners and parties to contested proceedings before the Commission, when such off the record communications are intended to influence Commission decisions. We, therefore, support adding that no interested party should knowingly make an ex-parte communication.

Minnegasco believes the suggested rules will: restrict the Commission's and its Staff's ability to gather information by hindering the willingness of affected parties to provide information to the Commission or Staff for fear of being disqualified from the proceedings. Minnegasco offers specific comments on two areas: a) ex-parte communications not permissible, and b) definition of decision-making personnel on Minnesota Public Utilities Commission.

Ex-Parte Communications Not Permissible

The suggested rules take an unduly restrictive approach by delineating only those specific instances where communications are permitted. This means that all communications which are not specifically stated in 7830.7200 are prohibited. By writing the rule in this manner, the Commission is purporting to have thought of every type of communication it will encounter. Minnegasco believes a better rule would define those few proceedings in which specific types of communications with Commissioners are not permissible. The rule should specify both exact types of communications which are inappropriate and the procedural point in each process that such communications are prohibited. Further, Minnegasco believes that ex-parte communications with Commissioners should be prohibited in only four circumstances:

1) general rate cases from the time they are filed with the Secretary of the Commission.
2) other contested case proceedings from the time the case is referred to the Office of Administrative Hearings.

201 South Seventh Street
Minneapolis, MN 55402
612-342-4809

3) controversial rulemaking proceedings from the time they are referred to the Office of Administrative Hearings.
4) miscellaneous filings from the time they are presented to the Commission for decision by Commission staff or from the time any parties other than the regulated utility and the Department of Public Service formally intervene in any proceedings relating to the miscellaneous filing.

Definition-Decision Making Personnel

Professional staff members of the Commission should not be defined as "decision-making personnel." Staff members have no formal statutory authority to make regulatory decisions and, in fact, it has been the customary practice to prohibit the staff from actually making recommendations to the Commission. The Commission staff does state the issues to be decided and they provide information required by the Commissioners to make well-reasoned and well-informed decisions. To perform this intelligence gathering function well, the Staff should not be restricted from communicating and gathering data from all sources at any time in any proceeding.

For example, when a customer complaint is heard by an Administrative Law Judge, an exchange of information between utility personnel and the Commission staff occurs up to the time of decision. This communication clarifies issues and helps to resolve the complaint to the customer's satisfaction. Such communications between the utility and the Commission staff would be prohibited under the draft rules. Another example of a communication that serves the public's interest is that which occurs when a decision concerning the Cold Weather Rule is before the Commission and a contested situation exists. However, the information that is exchanged by utility and staff personnel is meaningful and appropriate. This should not be foreclosed.

In summary, Minnegasco believes the rules governing practice and procedures for ex-parte communications should: 1) define by type of proceeding communications with Commissioners which are prohibited, and 2) remove "members of its technical staff" from the definition of decision-making personnel in 7830.7000(B).

If Minnegasco can provide additional information concerning this inquiry or its comments, please contact me. If a formal proposal for rulemaking is noticed, Minnegasco intends to participate further as we do not feel it is appropriate for the Commission or its staff to become insulated from the communication of meaningful, relevant information.

Sincerely,

Phillip R. Hammond

Phillip R. Hammond
Director - Rates & Tariffs

PRH/lg

Comm. Exec. Sec. Richard Ingebretsen

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ROBERT W. JOHNSON*
SCOTT JAMES KOCH
BETH HULT**

ALSO ADMITTED IN
*WISCONSIN
**ILLINOIS

OF COUNSEL
ANDREW A. GLENN

March 17, 1986

RECEIVED

MAR 17 1986

MINNESOTA PUBLIC
UTILITIES COMMISSION

Mary Ellen Hennen, Executive Secretary
Minnesota Public Utilities Commission
780 American Center Building
160 East Kellogg Boulevard
St. Paul, MN 55101

Re: Draft of Rules Governing Practice and Procedures for Ex Parte Communications Promulgated under the Authority of Minnesota Statutes Sec. 14.06 (1984) and Minnesota Statutes Secs. 216B.08 (1984) and 237.10 (1984).

Dear Ms. Hennen:

Enclosed please find the draft and comments of the Minnesota Telephone Association in the above referenced matter. We trust that you will seriously consider our proposed changes and comments in evaluating the final draft and implementation of these proposed Rules.

If you have any questions, please feel free to call me.

Very truly yours,

Scott J. Koch
Attorney for Minnesota
Telephone Association

kd
encl.

Comm. Richard & Gen. Sec. Legal (Karl)

(7)
U-999/R-86-79
Richard

RECEIVED
MAR 17 1986
MINNESOTA PUBLIC UTILITIES COMMISSION

PUBLIC UTILITIES COMMISSION

MINNESOTA TELEPHONE ASSOCIATION

Comments to Rules Governing Practice and Procedures for Ex Parte Communications.

7830.7000 DEFINITIONS.

A. Ex Parte contact. An "ex parte contact" is any communication, oral or written, made to Commissioners, where the decision is to be made on the record, that is not part of the record and for which prior notice is not given to all parties.

B. COMMISSIONERS. "Commissioners" are members of the Minnesota Public Utilities Commission.

(The Minnesota Telephone Association "MTA" strongly urges that these rules be limited exclusively to members of the Minnesota PUC. This is not to say that the MTA does not believe the Commission staff are not decision making personnel. Quite the contrary. However, imposition of these rules upon the staff will make the present decision making system unworkable and burdensome for all parties concerned. The current decision making system works most efficiently and effectively because of the free flow of communication and ideas between all parties. These proposed rules would be particularly onerous when applied to the PUC staff because they would "chill" the entire information gathering process. Clearly the staff needs the freedom and unfettered opportunity to obtain all needed information to insure that a proper, well informed and reasoned decision can be made. The logical alternative is for the Commission to adopt precise internal guidelines governing staff contacts with all interested parties to a proceeding.)

C. INTERESTED PERSON. "Interested person" is any person having a direct or indirect interest or economic stake in the outcome of a proceeding, including the following:

1. Parties, and their attorneys, agents or representatives, to the proceeding;

2. Any other person, and their attorneys, agents, or representatives, who might be benefitted, aggreived, or adversely affected by the outcome of the proceeding.

*All underlining refers to new language proposed by MTA.

7830.7100 EX PARTE CONTACTS PROHIBITED.

A. Except as allowed in subp. 7200, no interested person shall, either directly or indirectly, make or attempt to make any ex parte presentation to any Commissioner.

B. No Commissioners shall request, entertain, or consider a prohibited ex parte communication.

7830.7200 PERMISSIBLE EX PARTE COMMUNICATIONS.

The following ex parte communications are allowed under this rule:

(NOTE: The MTA objects to these provisions as vague, unworkable and clearly subject to potential misunderstandings. Underlying the above proposed rule as presently stated, is the presumption that all communication between interested parties and the Commission is improper, unless the communication is "deemed proper" by some unknown third party who will arbitrarily determine whether the communication fits within a proposed category or categories of acceptable communication. This is unworkable and inefficient. A democratic decision making process can only function in an environment that supposes absolute freedom of communication and the free flow of ideas subject to acceptable limits of conduct. These rules propose a system in which all communication is presumed improper unless it fits within a specially approved category. Our present decision making system can only operate efficiently and freely if the principles of democracy apply. The practical alternative as suggested by the MTA is to establish a clear, concise and understandable definition of the type of communication that is not permissible. By identifying precisely what is not acceptable the parties will be able to better distinguish the proper way in which to present information to the Commission.)

7830.7300 PROCEDURES FOR PERMISSIBLE EX PARTE CONTACTS.

A. A copy of any permissible written ex parte presentation shall be placed in the commission's public file by the Commissioners receiving the communication.

B. A Commissioner who receives or makes a permissible oral ex parte presentation shall insure that any significant data or arguments presented there are reflected in the public file by placing a written memorandum of the communication in the commission's public record within forty-eight hours of the presentation. Where the proceeding has been assigned to an administrative law judge, a copy of the memorandum shall be sent to him or her.

7830.7400 PROCEDURES FOR HANDLING UNAVOIDABLE PROHIBITED EX PARTE CONTACTS.

A. To the extent possible, unauthorized written ex parte communications will be forwarded to the executive secretary without being read. A Commissioner who receives and reads an unauthorized written ex parte communication shall forward the communication with a statement describing the circumstances to the executive secretary.

B. If an unauthorized oral ex parte presentation is made to a Commissioner, he or she shall advise the person making the presentation that it is prohibited and terminate the discussion of such matters. If an unauthorized ex parte presentation in fact occurs, the Commissioner receiving the presentation shall forward to the executive secretary within forty eight hours a statement containing as much of the following information as is known to him or her:

1. Name and docket number of the proceeding;

2. Name and address of the peson making the presentation and his or her relationship (if any) to the parties to the proceeding;

3. The date and time of the presentation, its duration, and the means and circumstances under which it was made;

4. A summary of the matters discussed;

5. Whether the person making the presentation persisted in doing so after having been advised that the presentation is prohibited;

6. Date and sign the statement.

C. The executive secretary shall place the material or statement in a public file but shall not make the statement part of the record of the proceeding. The executive secretary shall serve a copy of the material or statement on all parties to the proceeding. If the material is voluminous, it shall be sufficient to serve notice that the material is available for public inspection at the commission's offices.

7830.7500 SANCTIONS.

(The MTA objects to the sanction provision of the proposed rules as this rule fails to link specific sanctions to specific violations. It would appear that the vagueness of this proposed rule would permit a complete dismissal of a multi-million dollar rate case because of a minor violation of the proposed rules. Clearly for sanctions to be effective they must enunciate what penalty a violator will incur as a result of a specific

violation. No doubt it is the intent of the author of this proposed rule that the penalty be commensurate with the violation. This can be reasonably accomplished through a well thought out list of specific categories. All parties should have the opportunity to respond to a proposed violation.)

7830.7600 VIOLATIONS BY COMMISSION PERSONNEL.

A. Intentional violation of this rule by commissioners may be grounds for removal from office for cause or for other disciplinary action provided for by law.

B. Commissioners who intentionally violate this rule shall not participate in, offer advice upon, or vote in the commission's decision making process in the proceeding necessary under this subpart.

7830.8000 GIFTS BY PUBLIC UTILITIES OR TELEPHONE COMPANIES PROHIBITED.

Whenever a public utility or a telephone company or an affiliate or a representative of such public utility or telephone company offers, provides or grants to a commissioner or staff person any compensation, gift, gratuity, favor, entertainment, meal, beverage, loan, or any other thing of monetary value, the commission may dismiss or deny any application or proceeding of the public utility or telephone company pending before it at that time or that is affected by the offer, provisions, or grant.

The MTA urges a re-examination of this proposed rule on a number of grounds.

First: This rule is overly restrictive. The rule places an onerous burden on a public utility, telephone company, commissioner or staff person to avoid giving or receiving anything of monetary value. Taken to its illogical conclusion, a utility or telephone company could not offer a cup of coffee or soft drink to a commissioner or staff member attending a convention or field meeting. Likewise, a commissioner or staff person would be concerned and fearful of accepting even a paper clip from a utility or telephone company for fear of violating this rule. Considering that the violation of this rule could result in a proceeding being dismissed, this fear would be all too real. Ironically, no such burden is imposed on members of the Minnesota House and Senate and U.S. Congressmen, all of whom engage in matters affecting utilities and telephone companies. Such a distinction between these public servants is ludicrous and insults the integrity of the commissioner and staff by insinuating that these individuals could be "bought" by a cup of coffee or a meal.

Second: This proposed rule is a clear case of "selective legislation". While singling out the public utilities and telephone companies by prohibition, no restriction of any kind is placed on the behavior of special interest groups, such as MPIRG or other intervenors and unregulated competitors. The MTA recommends a more practical and fair approach to this rule as it applies to any public servant, including members of the Minnesota State Legislature.

(8)
U-999/R-86-79
(7)
U-999/R-86-80

STATE OF MINNESOTA
OFFICE OF THE ATTORNEY GENERAL
ST. PAUL 55155

HUBERT H. HUMPHREY, III
ATTORNEY GENERAL

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TELEPHONE:
Charities (612) 297-4613
Res. Utilities (612) 296-6504

March 17, 1986

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MAR 17 1986
MINNESOTA PUBLIC UTILITIES COMMISSION

Mary Ellen Hennen
Executive Secretary
Minnesota Public Utilities Commission
780 American Center Building
160 East Kellogg Boulevard
St. Paul, Minnesota 55101

Re: Proposed Rules on Ethical Practices and Ex Parte Communications.
Docket Nos. U-999/R-86-79 ✓
U-999/R-86-80

Dear Ms. Hennen:

These comments are submitted by the Office of Attorney General ("OAG") in response to the Commission's publication of proposed rules relating to Ethical Practices and Ex Parte Communications. The OAG strongly endorses the concepts behind both rules. Our comments will be limited to efforts to clarify how the rules work and to make the rules more effective.

Rule 7830.8000 Gifts

We recommend that the rule be amended to read:

No public utility, telephone company, nor their representatives, or agents shall offer, provide or grant to a commissioner or staff person any compensation, suggestion of future reward, gift, gratuity, favor, entertainment, meal, beverage, or loan, if the item is of more than nominal value. A violation of

Comm. Richard-Woellner
& Exec Sec
Legal (Kaul)

this provision shall be cause for an investigation to determine whether the intent was to influence the affected Commissioner or the Commission. Upon an affirmative finding of an attempt to influence one or more Commissioners, all matters pending at the time of the violation or which are affected by the violation will be reviewed to determine whether any action should be taken against the utility or the telephone company. Depending on the severity of the violation, the Commission shall either warn the utility or telephone company, rehear a matter previously decided, revoke a prior authorization coupled with an order for refund, dismiss or deny any application or proceeding.

Rule 7830.7000 et seq. Ex Parte Communications

A. Ex parte contact. Paragraph A should be amended to read:

A prohibited "ex parte contact" is any communication, oral or written, except for communications permitted under subp. 7200, which:

1. Relates to a matter or issue presently pending before the Commission;

2. The matter or issue is to be decided based on the record;

3. The Communication is made to decision-making personnel; and

4. No prior or concurrent notice is given to all parties of record.

B. Adopt, as proposed, except remove the word "all" in the first line. A communication to a single Commissioner is as improper as a communication to all of the Commissioners.

C. Adopt as proposed.

Rule 7830.7100

D. This paragraph should be amended as follows:

Except as allowed in subp. 7200, no interested person shall, either directly or indirectly, make or attempt to make any ex parte ~~presentatation~~ contact to ~~commission~~ decision-making personnel.

Rule 7830.7200

Adopt as proposed, except:

1. Strike Paragraph C, because all parties should have an opportunity to know what evidence is being elicited;

2. Strike Paragraph E which, by its terms, is not an ex parte communication because it involves "all parties";

3. Strike Paragraph I which does not, as written, state a valid exception. The mere fact that a matter is in another forum is no reason to allow selective communication.

Rule 7830.7300

Adopt as written, except that the following language should be added to the end of Paragraph B: "and served on all parties of record." This addition mirrors the notice requirements of subd. 7830.7400 C.

Rule 7830.7400. Adopt as proposed.

Rule 7830.7500. Adopt as proposed.

Rule 7830.7600. Adopt as proposed.

The OAG commends the efforts already expended on these proposed rules and hopes these comments are beneficial. If there is any confusion as to the need for any requested change, I would be happy to further explain our reasons.

Respectfully submitted,

By: Michael J. Bradley

MICHAEL J. BRADLEY
Assistant Attorney General
Attorney Registration No. 10625

340 Bremer Tower
Seventh Place & Minnesota St.
St. Paul, Minnesota 55101
Telephone: (612) 297-4609

ON BEHALF OF ATTORNEY GENERAL
HUBERT H. HUMPHREY, III

(10)

STATE OF MINNESOTA

OFFICE OF THE ATTORNEY GENERAL

HUBERT H. HUMPHREY, III
ATTORNEY GENERAL

ST. PAUL 55155

March 17, 1986

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MAR 18 1986

MINNESOTA PUBLIC
UTILITIES COMMISSION

Mary Ellen Hennen
Executive Secretary
Minnesota Public Utilities Commission
780 American Center Building
160 East Kellogg Boulevard
St. Paul, MN 55101

Re: Ex Parte Communications Practice and Procedures Rules
Docket No. U-999/R-86-79

Dear Ms. Hennen:

Enclosed are the original and eleven (11) copies of the Comments by the Department of Public Service in the above-captioned matter.

Sincerely,

MARY JO MURRAY
Special Assistant
Attorney General
Telephone: (612) 296-9020

COUNSEL FOR THE DEPARTMENT OF
PUBLIC SERVICE

MJM/lar

Encs.

Comm. Dec.
Exec. Sec.
Richard
Legal (Hunt)

STATE OF MINNESOTA

BEFORE THE PUBLIC UTILITIES COMMISSION

RECEIVED

MAR 18 1986

MINNESOTA PUBLIC UTILITIES COMMISSION

Harry S. Crump	Chair
Barbara S. Beerhalter	Commissioner
Roger L. Hanson	Commissioner
Cynthia A. Kitlinski	Commissioner
Robert J. O'Keefe	Commissioner

Ex Parte Communications
Practice and Procedures
Rules

Docket No. U-999/R-86-79

COMMENTS BY THE DEPARTMENT OF PUBLIC SERVICE ON PROPOSED EX PARTE COMMUNICATIONS RULES

The Department of Public Service ("Department"), with the following changes, supports the adoption of the rules governing ex parte communications proposed by the Minnesota Public Utilities Commission ("Commission").

A. Definitions.

The Commission has not included a definition for "proceeding" in its proposed rule, although it uses the term several times as well as exempts certain types of proceedings from the rule. The Department recommends that the following be added to Section 7830.7000:

D. Proceeding. "Proceeding" means a proceeding required by statute, constitution, commission rule or commission order to be decided on the basis of a record, including disputed formal petitions.

Because not all petitions filed with the Commission are subject to the provisions of Minn. Stat. § 216B.16 subd. 1a or Minn. Stat. § 237.075 subd. 1a, the Department recommends the following definition be added:

E. Disputed Formal Petition. Any petition filed with the Commission under Minn. Stat. § 216B.16 or 237.075 for which a hearing is not automatically required shall become a disputed formal petition when any person notifies the Commission in writing that it proposes to contest the petition.

Rule 7830.7200 Subsection C should be stricken since in an on-the-record proceeding there are formal ways to admit further evidence without making any ex parte contact. See, e.g., Commission Rules of Practice and Procedure, 7830.4000. If the Commission staff requires further evidence in a record, that evidence must be admitted only with notice to all parties and opportunity to respond; otherwise, serious due process violations could occur even if the communications were recorded under proposed rule 7830.7300.

Rule 7830.7200 Subsection D should be amended to read:

D. Communications expressing general concerns common to the public at large from persons who are not interested persons.

The language will then conform to the proposed definition section.

Rule 7830.7200 Subsection E should be stricken since by definition, such a meeting would not be an ex parte contact.

Rule 7830.7200 Subsection H should include a reference to the statutes which authorize the commission to perform such functions (Minn. Stats. §§ 216B.13, 216B.14, 237.295).

In Rule 7830.7400 the word "unavoidable" should be removed from the heading since if an ex parte contact is "avoidable", it will not need a procedure to handle it.

Finally, the Commission defines the meaning of "ex parte contact" but uses the terms "ex parte contact", "ex parte communication" and "ex parte presentation" interchangably throughout the proposed rule. The Commission should clarify that the terms can be used interchangeably or use one term consistently.

Dated: March 17, 1986

Respectfully submitted,

By: _____

MARY JO MURRAY
Special Assistant
Attorney General

1100 Bremer Tower
7th Place and Minnesota Street
St. Paul, Minnesota 55101
Telephone: (612) 296-9020

Attorney for Department of
Public Service

HUBERT H. HUMPHREY, III
ATTORNEY GENERAL

STATE OF MINNESOTA

OFFICE OF THE ATTORNEY GENERAL

ST. PAUL 55155

March 17, 1986

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MAR 18 1986
MINNESOTA PUBLIC
UTILITIES COMMISSION

Mary Ellen Hennen
Executive Secretary
Minnesota Public Utilities Commission
780 American Center Building
160 East Kellogg Boulevard
St. Paul, MN 55101

Re: Ex Parte Communications Practice and Procedures Rules
Docket No. U-999/R-86-79

Dear Ms. Hennen:

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Sincerely,

MARY JO MURRAY
Special Assistant
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Telephone: (612) 296-9020

COUNSEL FOR THE DEPARTMENT OF
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MJM/lar

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STATE OF MINNESOTA

BEFORE THE PUBLIC UTILITIES COMMISSION

Harry S. Crump	Chair
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Dated: March 17, 1986

Respectfully submitted,

By: _____

MARY JO MURRAY
Special Assistant
Attorney General

1100 Bremer Tower
7th Place and Minnesota Street
St. Paul, Minnesota 55101
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Attorney for Department of
Public Service

HUBERT H. HUMPHREY, III
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STATE OF MINNESOTA

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Mary Ellen Hennen
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160 East Kellogg Boulevard
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Re: Ex Parte Communications Practice and Procedures Rules
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Dear Ms. Hennen:

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Sincerely,

MARY JO MURRAY
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COUNSEL FOR THE DEPARTMENT OF
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MJM/lar

Encs.

STATE OF MINNESOTA

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Harry S. Crump	Chair
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Ex Parte Communications
Practice and Procedures
Rules

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Dated: March 17, 1986

Respectfully submitted,

By: _____

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Special Assistant
Attorney General

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7th Place and Minnesota Street
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Telephone: (612) 296-9020

Attorney for Department of
Public Service

HUBERT H. HUMPHREY, III
ATTORNEY GENERAL

STATE OF MINNESOTA

OFFICE OF THE ATTORNEY GENERAL

ST. PAUL 55155

March 17, 1986

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MINNESOTA PUBLIC UTILITIES COMMISSION

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Minnesota Public Utilities Commission
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COUNSEL FOR THE DEPARTMENT OF PUBLIC SERVICE

MJM/lar

Encs.

STATE OF MINNESOTA

BEFORE THE PUBLIC UTILITIES COMMISSION

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Ex Parte Communications
Practice and Procedures
Rules

Docket No. U-999/R-86-79

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The language will then conform to the proposed definition section.

Rule 7830.7200 Subsection E should be stricken since by definition, such a meeting would not be an ex parte contact.

Rule 7830.7200 Subsection H should include a reference to the statutes which authorize the commission to perform such functions (Minn. Stats. §§ 216B.13, 216B.14, 237.295).

In Rule 7830.7400 the word "unavoidable" should be removed from the heading since if an ex parte contact is "avoidable", it will not need a procedure to handle it.

Finally, the Commission defines the meaning of "ex parte contact" but uses the terms "ex parte contact", "ex parte communication" and "ex parte presentation" interchangably throughout the proposed rule. The Commission should clarify that the terms can be used interchangeably or use one term consistently.

Dated: March 17, 1986

Respectfully submitted,

By: _____

MARY JO MURRAY
Special Assistant
Attorney General

1100 Bremer Tower
7th Place and Minnesota Street
St. Paul, Minnesota 55101
Telephone: (612) 296-9020

Attorney for Department of
Public Service

HUBERT H. HUMPHREY, III
ATTORNEY GENERAL

STATE OF MINNESOTA

OFFICE OF THE ATTORNEY GENERAL

ST. PAUL 55155

March 17, 1986

ADDRESS REPLY TO:
1100 BREMER TOWER
SEVENTH PL. AND MINNESOTA ST.
ST. PAUL, MN 55101
TELEPHONE: (612) 296-9412

RECEIVED
MAR 18 1986
MINNESOTA PUBLIC UTILITIES COMMISSION

Mary Ellen Hennen
Executive Secretary
Minnesota Public Utilities Commission
780 American Center Building
160 East Kellogg Boulevard
St. Paul, MN 55101

Re: Ex Parte Communications Practice and Procedures Rules
Docket No. U-999/R-86-79

Dear Ms. Hennen:

Enclosed are the original and eleven (11) copies of the Comments by the Department of Public Service in the above-captioned matter.

Sincerely,

MARY JO MURRAY
Special Assistant
Attorney General
Telephone: (612) 296-9020

COUNSEL FOR THE DEPARTMENT OF PUBLIC SERVICE

MJM/lar

Encs.

STATE OF MINNESOTA

BEFORE THE PUBLIC UTILITIES COMMISSION

Harry S. Crump	Chair
Barbara S. Beerhalter	Commissioner
Roger L. Hanson	Commissioner
Cynthia A. Kitlinski	Commissioner
Robert J. O'Keefe	Commissioner

Ex Parte Communications
Practice and Procedures
Rules

Docket No. U-999/R-86-79

COMMENTS BY THE DEPARTMENT OF PUBLIC SERVICE ON PROPOSED EX PARTE COMMUNICATIONS RULES

The Department of Public Service ("Department"), with the following changes, supports the adoption of the rules governing ex parte communications proposed by the Minnesota Public Utilities Commission ("Commission").

A. Definitions.

The Commission has not included a definition for "proceeding" in its proposed rule, although it uses the term several times as well as exempts certain types of proceedings from the rule. The Department recommends that the following be added to Section 7830.7000:

D. Proceeding. "Proceeding" means a proceeding required by statute, constitution, commission rule or commission order to be decided on the basis of a record, including disputed formal petitions.

Because not all petitions filed with the Commission are subject to the provisions of Minn. Stat. § 216B.16 subd. 1a or Minn. Stat. § 237.075 subd. 1a, the Department recommends the following definition be added:

E. Disputed Formal Petition. Any petition filed with the Commission under Minn. Stat. § 216B.16 or 237.075 for which a hearing is not automatically required shall become a disputed formal petition when any person notifies the Commission in writing that it proposes to contest the petition.

Rule 7830.7200 Subsection C should be stricken since in an on-the-record proceeding there are formal ways to admit further evidence without making any ex parte contact. See, e.g., Commission Rules of Practice and Procedure, 7830.4000. If the Commission staff requires further evidence in a record, that evidence must be admitted only with notice to all parties and opportunity to respond; otherwise, serious due process violations could occur even if the communications were recorded under proposed rule 7830.7300.

Rule 7830.7200 Subsection D should be amended to read:

D. Communications expressing general concerns common to the public at large from persons who are not interested persons.

The language will then conform to the proposed definition section.

Rule 7830.7200 Subsection E should be stricken since by definition, such a meeting would not be an ex parte contact.

Rule 7830.7200 Subsection H should include a reference to the statutes which authorize the commission to perform such functions (Minn. Stats. §§ 216B.13, 216B.14, 237.295).

In Rule 7830.7400 the word "unavoidable" should be removed from the heading since if an ex parte contact is "avoidable", it will not need a procedure to handle it.

Finally, the Commission defines the meaning of "ex parte contact" but uses the terms "ex parte contact", "ex parte communication" and "ex parte presentation" interchangably throughout the proposed rule. The Commission should clarify that the terms can be used interchangeably or use one term consistently.

Dated: March 17, 1986

Respectfully submitted,

By: _____

MARY JO MURRAY
Special Assistant
Attorney General

1100 Bremer Tower
7th Place and Minnesota Street
St. Paul, Minnesota 55101
Telephone: (612) 296-9020

Attorney for Department of
Public Service

(11)

Otter Tail
POWER COMPANY

215 South Cascade Street
Fergus Falls, Minnesota 56537
Phone 218-739-8200

March 17, 1986

RECEIVED
MAR 19 1986
MINNESOTA PUBLIC UTILITIES COMMISSION

Mary Ellen Hennen, Executive Secretary
Minnesota Public Utilities Commission
780 American Center Building
160 E. Kellogg Boulevard
St. Paul, MN 55101

Re: Docket No. U-999/R-86-79
No. U-999/R-86-80

Dear Ms. Hennen,

Enclosed for filing are the comments of Otter Tail Power on the Draft Rules in the above Dockets.

Please notify us if there will be further opportunity for input into the Proposed Rules.

Thank you.

Katherine E. Sasseville,
Senior Attorney

cc. Department of Public Service

Comm. Sec.
Exec. Sec.
Richard
Legal (Mark)

RECEIVED

MAR 19 1986

MINNESOTA PUBLIC UTILITIES COMMISSION

BEFORE THE MINNESOTA PUBLIC UTILITIES COMMISSION

In Re Draft Rules on Ex Parte Practice and Procedure

DOCKET NO. U-999/R-86-79

COMMENTS OF OTTER TAIL POWER COMPANY

By notice in the State Register of February 17, 1986, the Commission has asked for outside opinion on Draft Rules dealing with ex parte contacts between regulated entities and the Commission. Following are the Comments of Otter Tail Power Company.

I.

The primary concern with the proposed rules is that while ex parte contacts with decision making personnel are properly prohibited in on the record proceedings, the rule does not adequately define an on the record proceeding.

Almost all Commission actions are made on the record, even trivial and uncontested tariff changes are acted on by the Commission at a formal meeting, on the basis of a written submission, with the facts and reasoning set forth by the applicant, and a written recommendation by staff of either the Department, the Commission, or both. Finally, there is made a written record of the action, and the entire discussion of the matter on the Commission's agenda is tape recorded. What, exactly is meant by an "on the record" proceeding if not all agenda matters?

Yet, if "on the record" means all agenda matters, the ex parte rules are far too constraining. A long standing problem is that it is not clear when a miscellaneous matter should be on the record, or when it should be a contested case. The draft rules are appropriate to contested cases. In contested case matters, where factual matters are in dispute and must be resolved in a public hearing, and where adversarial positions are taken, due process of law requires fundamental fairness throughout the proceedings, and no material matters should be presented to the Commission outside the record where affected parties have not all had the opportunity to be heard.

II.

The Commission's effort, in 7830.7200, to itemize situations when ex parte contacts are permissible is preferable to working out the exceptions on an ad hoc basis; however, it is simply not possible to foresee and describe all those permutations on the authorized exceptions which should be allowed in

the public interest. Given the extremity of the sanctions proposed, all regulated entities will err on the side of non-communication, even when it is important to transmit certain questions or information. The result can only be a Commission less informed, less knowledgeable, less capable of representing the public interest than the public deserves.

It is a mistake to treat the regulatory process as judicial and adversarial in its entirety. Rate making is a delegation of the legislative process of government, and administrative agencies with quasi-judicial functions are inherently different in function and process from the courts. The adoption of restrictions which constrain the flow of general information about an industry, its practices, its requirements and characteristics, would be inimical to the public interest.

A major problem of regulation in Minnesota is not that regulators and the regulated are too close, but that there is insufficient communication. There is not enough information exchanged. The production and delivery of electricity, for example, is essentially an engineering function. Yet the Commission and the Department between them have only one professional engineer on staff, to our knowledge. Certainly there is little opportunity for the Commission or its staff to discuss current thinking on engineering aspects of utility operations with operating engineers. The Commission is presumed to have an expertise in the various professional aspects of regulation: engineering, finance, accounting, valuation and law. And yet, in Minnesota there is scant opportunity for Commissioners to communicate with any experts, whether industry or academics, about current problems and issues in those areas. The draft rules do not appear to help that problem, and may well exacerbate it.

Recent press coverage of the Commission and the regulated utilities has conveyed the impression that the public interest requires the Commission to serve as Knight to the utilities' dragon: that the Commission's proper role is to hound and subjugate its enemy, the utility. Such a view may sell newspapers, but it distorts the public interest objective of responsible regulation.

Minnesota Statutes are predicated on the theory that the ability of the utility industry to provide reliable service is essential to the state's economy and to the lives of customers. In this respect the private interest of the utility and the public interest of the state are the same. The Commission, the Department and their respective staffs must be sufficiently knowledgeable to assist utility management to operate their systems efficiently, and the Commission must develop public policy choices that support that goal.

In order to do so, the Commission must have the resources and information to protect and promote this interest, and communications of a general nature, designed to expand mutual understanding of issues is vital to the proper functioning of the agencies.

III.

The procedures set forth in the draft rules for dealing with both permissible and impermissible ex parte contacts are burdensome and onerous, and the sanctions are extreme. Because staff will not have the time or energy to write memoranda of each permissible ex parte contact and statements of each impermissible contact, they will simply discourage all contacts.

Because of the extremity of the sanctions, interested parties will refrain from all contacts.

The draft rules set up strong incentives discouraging all communications with the Commission and its staff. This is unfortunate in any case, but doubly so when one realizes that in Minnesota restraint and an extreme concern for propriety have characterized the relationship of the Commission and the regulated firms under its jurisdiction.

Perhaps it is impossible to separate this rulemaking from the limelight of recent coverage of one highly improper event. But it is also a mistake to tie up the entire regulatory process in restrictive procedures as a response to that one incident.

Respectfully submitted,

Katherine Sasseville

Katherine E. Sasseville,
Senior Attorney

CERTIFICATE OF THE
MINNESOTA PUBLIC UTILITIES COMMISSION
AUTHORIZING RESOLUTION

I, Harry Seymour Crump, do hereby certify that I am a member of the Minnesota Public Utilities Commission, a commission, duly authorized under the laws of the State of Minnesota, and that the following is a true, complete, and correct copy of a resolution adopted at a meeting of the Minnesota Public Utilities Commission duly and properly called and held on the 4th day of September, 1986, that a quorum was present, and that a majority of those present voted for the resolution which has not been rescinded or modified.

> "RESOLVED, that Mary Ellen Hennen, the executive secretary of the Minnesota Public Utilities Commission, is hereby granted the authority and directed to sign and to give the Notice of the Commission's Intent to Adopt a rule without a public hearing governing Ex Parte Communications to all persons who have registered their names with the Commission for that purpose and publish the Notice and rule in the State Register, and perform any and all acts incidental thereto."

IN WITNESS WHEREOF, I have hereunto subscribed my name this 5th day of February, 1987.

Harry Seymour Crump
Acting Chair, Minnesota Public Utilities Commission

Robert J. O'Keefe
Member, Minnesota Public Utilities Commission

Public Utilities Commission

Proposed Permanent Rules Relating to Ex Parte Communication

Rules as Proposed (all new material)

7845.7000 DEFINITIONS.

Subpart 1. **Scope.** The terms used in parts 7845.7000 to 7845.7600 have the meanings given them in this part.

Subp. 2. **Decision-making personnel.** "Decision-making personnel" means the commission's executive secretary and professional staff, and consultants to the commission.

Subp. 3. **Disputed formal petition.** A "disputed formal petition" refers to a formal petition (1) filed with the commission, (2) for which a hearing is not automatically required, (3) for which the commission has received a written statement disputing the action or relief sought in the petition, and (4) on which the commission has ordered comments, written responses to comments, oral argument, negotiations, settlement conferences, a formal hearing, or other procedures it considers necessary or helpful to enable it to decide the petition. A petition ceases to be a "disputed formal petition" when the notice of dispute is withdrawn in writing or when the commission resolves the dispute by written order.

Subp. 4. **Ex parte communication.** "Ex parte communication" means an oral or written, off-the-record communication made to or by commissioners or commission decision-making personnel, without notice to parties, that is directed to the merits or outcome of an on-the-record proceeding. This term does not include procedural, scheduling, and status inquiries or other inquiries or requests for information that have no bearing on the merits or the outcome of the proceeding.

Subp. 5. **Material issue.** "Material issue" means an issue that may affect the merits or outcome of an on-the-record proceeding.

Subp. 6. **Party.** "Party" means a person by or against whom

APPROVED IN THE REVISOR OF STATUTES OFFICE BY:

a proceeding before the commission is commenced or a person permitted to intervene in a proceeding before the commission. A party includes a petitioner, complainant, intervenor, applicant, and respondent, and their attorneys, agents, or representatives.

7845.7100 PERMISSIBLE EX PARTE COMMUNICATIONS.

An ex parte communication is permissible except as prohibited in part 7845.7200.

7845.7200 PROHIBITED EX PARTE COMMUNICATIONS.

Subpart 1. **Communications with commissioners.** An ex parte communication, either direct or indirect, must not be made or attempted to be made between a commissioner and a party concerning:

A. a material issue during a pending contested case proceeding, from the date the matter is referred to the Office of Administrative Hearings until the commission issues its final order and the time to petition for reconsideration expires, or until the commission issues a final order responding to the petition for reconsideration, whichever is later;

B. a material issue in a rulemaking proceeding after the beginning of commission deliberations, from the date the commission posts notice of its deliberations for adoption of rules on the open meeting calendar until the order adopting the rules is issued;

C. a material issue in a disputed formal petition; or

D. other communications prohibited by law such as:

(1) offers of employment to commissioners, as described in Minnesota Statutes, section 216A.036, and in parts 7845.0700 and 7845.0800;

(2) discussions with commissioners concerning past or future benefits or compensation, as described in Minnesota Statutes, section 216A.037, subdivision 2, and in parts 7845.0700 and 7845.0800; or

(3) offers to commissioners of compensation, gifts, gratuities, favors, entertainment, meals, beverages, loans, or other things of monetary value, as described in part

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REVISOR OF STATUTES
OFFICE BY:

7845.0700.

Subp. 2. **Communications with staff.** Ex parte communications with decision-making personnnel are not prohibited under Minnesota Statutes, section 216A.037.

7845.7300 HANDLING PROHIBITED EX PARTE COMMUNICATIONS.

Subpart 1. **Written communication.** When possible, a commissioner who receives a prohibited written ex parte communication shall forward the communication, without reading it, to the commission's executive secretary.

A commissioner who receives and reads a prohibited written ex parte communication shall forward the commmunication to the commission's executive secretary within 48 hours, along with a signed statement of the source of and circumstances under which the communication was received and read.

Subp. 2. **Oral communication.** If a party makes or attempts to make a prohibited oral ex parte communication to a commissioner, the commissioner shall advise the party who makes or attempts to make the communication that the communication is prohibited and shall immediately terminate the communication. If a prohibited oral ex parte communication takes place, the commissioner who receives the communication shall forward to the commission's executive secretary, within 48 hours, a signed and dated statement that includes the following information:

A. the name and docket number of the proceeding;

B. to the extent known, the name and address of the person making the communication and the relationship, if any, to the parties to the proceeding;

C. the date and time of the communication, its duration, and the means by and circumstances under which it was made;

D. a summary of the matters discussed; and

E. whether the party making the prohibited communication persisted after being advised that the communication was prohibited.

Subp. 3. **Notice to parties.** The commission's executive

APPROVED IN THE
REVISOR OF STATUTES
OFFICE BY:

secretary shall place the statement in the commission's public file within 48 hours, but shall not make the statement part of the record of the pending proceeding. The executive secretary shall serve a copy of the statement on the parties on the commission's official service list. If the statement is voluminous, the executive secretary may serve notice to the parties on the official service list that the statement is available for public inspection at the commission's offices during regular business hours.

7845.7400 HANDLING PERMISSIBLE EX PARTE COMMUNICATIONS.

Subpart 1. **Documentation.** Documentation is not needed for permissible ex parte communications with commissioners and decision-making personnel except as provided in subparts 2 to 4.

Subp. 2. **Written communicatons with staff.** Decision-making personnel who receive or generate a permissible written ex parte communication that is prohibited for commissioners under part 7845.7200 shall file a copy of the communication in the commission's public file with a notation of the sender and recipient within 48 hours after the communication is received or generated.

Subp. 3. **Oral communications with staff.** Decision-making personnel who receive or generate a permissible oral ex parte communication that is prohibited for commissioners under part 7845.7200 shall ensure that the substance of the communication and the name of the maker or recipient of the communication is recorded in a signed memorandum to the commission's public file within 48 hours. If a proceeding has been assigned to an administrative law judge, a copy of the memorandum must be sent to the judge.

Subp. 4. **Interim rate proceedings; compliance filings.** Commissioners and decision-making personnel may receive or generate written or oral ex parte communications with a party in the setting of interim rates or the review of compliance filings following the issuance of a final order or order after reconsideration. Commissioners and decision-making personnnel

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REVISOR OF STATUTES
OFFICE BY:

who receive or generate written or oral ex parte communications in these situations shall place a signed note in the commission's public file containing the name of the party, date, docket number of proceeding, and topic as soon as practicable, but no later than the issuance of the interim rate order or the compliance filing order.

Subp. 5. **Informing the public.** The commission shall make information regarding ex parte communications that occur in these situations available to the public upon reasonable request at its office during regular business hours.

7845.7500 SANCTIONS.

Subject to notice and hearing, a party who makes a prohibited ex parte communication to a commissioner or who encourages or solicits others to make a prohibited ex parte communication to a commissioner is subject to the following sanctions:

A. dismissal of the proceeding if the prohibited ex parte communication has so prejudiced the proceeding that the commission cannot consider it impartially;

B. an adverse ruling on a pending issue that is the subject of the prohibited ex parte communication, when other parties are prejudiced by the prohibited ex parte communication;

C. the striking of evidence or pleadings when the evidence or pleadings are tainted by the prohibited ex parte communication; or

D. a public statement of censure by the commission, when the prohibited ex parte communication is determined to be part of a continuing pattern of improper ex parte communication or when a single prohibited communication takes place and mitigating circumstances exist that:

(1) negate the need for a more severe sanction;

(2) do not prejudice the proceeding to the extent that the commission is unable to consider it impartially;

(3) do not prejudice other parties to the proceeding; and

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REVISOR OF STATUTES
OFFICE BY:

(4) do not taint the evidence or pleadings.

7845.7600 VIOLATIONS BY COMMISSION AND STAFF.

A commissioner who intentionally violates parts 7845.7000 to 7845.7500 shall recuse himself or herself and shall not participate, offer advice, or vote in the commission's decision-making process in the pending on-the-record proceeding.

Decision-making personnel who intentionally violate parts 7845.7000 to 7845.7500 must be removed from participating in a staff support capacity or prohibited from offering advice on the affected case if the violation has substantially interfered with due process in the proceeding.

APPROVED IN THE
REVISOR OF STATUTES
OFFICE BY:

Office of the Revisor of Statutes

Administrative Rules

TITLE: Proposed Permanent Rules Relating to Ex Parte Communication

AGENCY: Public Utilities Commission

MINNESOTA RULES: Chapter 7845

The attached rules are approved for publication in the State Register

Ron Ray
Assistant Revisor

Office of the Revisor of Statutes
Administrative Rules

Ron Ray
Assistant Revisor
296-0945



700 State Office Building
435 Park Street
St. Paul, MN 55155-1297

September 24, 1986

RECEIVED
SEP 25 1986
MINNESOTA PUBLIC
UTILITIES COMMISSION

Rosellen Condon
Public Utilities Commission
American Center Building, Room 780
Saint Paul, Minnesota 55101

RE: AR1023 Ex Parte Communication

Dear Rosellen:

Enclosed is a stripped copy of your proposed rules as published in the State Register. The copy shows the text of the rules as you proposed them with the stricken text deleted and the underscoring removed.

If your proposed emergency rules or proposed rules adopted without public hearing are adopted without modification, please submit the required number of copies of this document to the Attorney General for final approval. If these rules are to be modified, please use this copy to indicate the modifications you wish to make. Our office will then input the changes, approve the document as to form, and provide you with copies to submit to the Attorney General.

If your proposed rules are adopted after public hearing without modification, please submit one copy of this document to our office for final approval as to form. If these rules are to be modified, please use this copy to indicate the modifications you wish to make. Our office will input the changes, approve the document as to form, and provide you with copies.

Very truly yours,

RR/cks

Ron Ray

RR/jc
Encl.

BEFORE THE MINNESOTA PUBLIC UTILITIES COMMISSION

Harry Seymour Crump	Chair
Barbara Beerhalter	Commissioner
Cynthia A. Kitlinski	Commissioner
Robert J. O'Keefe	Commissioner
Darrel L. Peterson	Commissioner

In the Matter of the Proposed Adoption of Rules of the Minnesota Public Utilities Commission Relating to Ex Parte Communications

ISSUE DATE: SEP 19 1986

Docket No. U-999/R-86-79

NOTICE OF PROPOSED ADOPTION OF RULES WITHOUT A PUBLIC HEARING

Notice is hereby given that the Minnesota Public Utilities Commission intends to adopt the above-entitled rule without a public hearing following the procedures set forth in the Administrative Procedure Act for adopting rules without a public hearing. Minnesota Statutes, sections 14.22 to 14.28.[1] The statutory authority to adopt the rule is Minnesota Statutes, section 216A.037.

All persons have 30 days (until 4:30 p.m. on October 22, 1986) in which to submit comment in support of or in opposition to the proposed rule or any part or subpart of the rule. Comment is encouraged.[2] Each comment should identify the portion of the proposed rule addressed, the reason for the comment, and any change proposed.[3]

Any person may make a written request for a public hearing on the rule within the 30-day comment period. If 25 or more persons submit a written request for a public hearing within the 30-day comment period, a public hearing will be held unless a sufficient number withdraw their request in writing.[4] Any person requesting a public hearing should state his or her name and address, and is encouraged to identify the portion of the proposed rule addressed, the reason for the request, and any change proposed.[6] If a public hearing is required, the agency will proceed pursuant to Minnesota Statutes, sections 14.131 to 14.20.[7]

Comments or written requests for a public hearing must be submitted to:[5]

Caroline Robinson
Minnesota Public Utilities Commission
780 American Center Building
St. Paul, MN 55101
Telephone: (612) 296-9617

The proposed rule may be modified if the modifications are supported by data and views submitted to the Commission and do not result in a substantial change in the proposed rule as noticed.[8]

A copy of the proposed rule is attached to this notice.[11]

A free copy of the rule is available upon request from Kathy Briesemeister, Minnesota Public Utilities Commission, 780 American Center Building, 150 East Kellogg Boulevard, St. Paul, MN 55101, (612) 296-9616.

A Statement of Need and Reasonableness[12] that describes the need for and reasonableness of each provision of the proposed rule and identifies the data and information relied upon to support the proposed rule has been prepared and is available from Kathy Briesemeister upon request.

The adoption of this rule by the Commission will not require expenditure of public moneys[13] by local public bodies nor have a direct impact on agricultural land. Therefore, Minn. Stat. § 14.11 (1984) is inapplicable to this rulemaking proceeding. The Commission has considered pursuant to Minn. Stat. § 14.115 (1984) whether these proposed rules may have an impact on small businesses and has determined that they will not.[14]

If no hearing is required, upon adoption of the rule, the rule and the required supporting documents will be submitted to the Attorney General for review as to legality and form to the extent the form relates to legality. Any person may request notification of the date of submission to the Attorney General. Persons who wish to be advised of the submission of this material to the Attorney General, or who wish to receive a copy of the adopted rule, must submit the written request to Kathy Briesemeister.[9]

BY ORDER OF THE COMMISSION

Janet H. Gonzalez, for:
Mary Ellen Hennen
Executive Secretary

(S E A L)

0573D/2D

Public Utilities Commission

Proposed Permanent Rules Relating to Ex Parte Communication

Rules as Proposed (all new material)

7845.7000 DEFINITIONS.

Subpart 1. **Scope.** The terms used in parts 7845.7000 to 7845.7600 have the meanings given them in this part.

Subp. 2. **Decision-making personnel.** "Decision-making personnel" means the commission's executive secretary and professional staff, and consultants to the commission.

Subp. 3. **Disputed formal petition.** A "disputed formal petition" refers to a formal petition (1) filed with the commission, (2) for which a hearing is not automatically required, (3) for which the commission has received a written statement disputing the action or relief sought in the petition, and (4) on which the commission has ordered comments, written responses to comments, oral argument, negotiations, settlement conferences, a formal hearing, or other procedures it considers necessary or helpful to enable it to decide the petition. A petition ceases to be a "disputed formal petition" when the notice of dispute is withdrawn in writing or when the commission resolves the dispute by written order.

Subp. 4. **Ex parte communication.** "Ex parte communication" means an oral or written, off-the-record communication made to or by commissioners or commission decision-making personnel, without notice to parties, that is directed to the merits or outcome of an on-the-record proceeding. This term does not include procedural, scheduling, and status inquiries or other inquiries or requests for information that have no bearing on the merits or the outcome of the proceeding.

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Subp. 6. **Party.** "Party" means a person by or against whom

APPROVED IN THE REVISOR OF STATUTES OFFICE BY:

a proceeding before the commission is commenced or a person permitted to intervene in a proceeding before the commission. A party includes a petitioner, complainant, intervenor, applicant, and respondent, and their attorneys, agents, or representatives.

7845.7100 PERMISSIBLE EX PARTE COMMUNICATIONS.

An ex parte communication is permissible except as prohibited in part 7845.7200.

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A. a material issue during a pending contested case proceeding, from the date the matter is referred to the Office of Administrative Hearings until the commission issues its final order and the time to petition for reconsideration expires, or until the commission issues a final order responding to the petition for reconsideration, whichever is later;

B. a material issue in a rulemaking proceeding after the beginning of commission deliberations, from the date the commission posts notice of its deliberations for adoption of rules on the open meeting calendar until the order adopting the rules is issued;

C. a material issue in a disputed formal petition; or

D. other communications prohibited by law such as:

(1) offers of employment to commissioners, as described in Minnesota Statutes, section 216A.036, and in parts 7845.0700 and 7845.0800;

(2) discussions with commissioners concerning past or future benefits or compensation, as described in Minnesota Statutes, section 216A.037, subdivision 2, and in parts 7845.0700 and 7845.0800; or

(3) offers to commissioners of compensation, gifts, gratuities, favors, entertainment, meals, beverages, loans, or other things of monetary value, as described in part

APPROVED IN THE REVISOR OF STATUTES OFFICE BY:

7845.0700.

Subp. 2. **Communications with staff.** Ex parte communications with decision-making personnnel are not prohibited under Minnesota Statutes, section 216A.037.

7845.7300 HANDLING PROHIBITED EX PARTE COMMUNICATIONS.

Subpart 1. **Written communication.** When possible, a commissioner who receives a prohibited written ex parte communication shall forward the communication, without reading it, to the commission's executive secretary.

A commissioner who receives and reads a prohibited written ex parte communication shall forward the commmunication to the commission's executive secretary within 48 hours, along with a signed statement of the source of and circumstances under which the communication was received and read.

Subp. 2. **Oral communication.** If a party makes or attempts to make a prohibited oral ex parte communication to a commissioner, the commissioner shall advise the party who makes or attempts to make the communication that the communication is prohibited and shall immediately terminate the communication. If a prohibited oral ex parte communication takes place, the commissioner who receives the communication shall forward to the commission's executive secretary, within 48 hours, a signed and dated statement that includes the following information:

A. the name and docket number of the proceeding;

B. to the extent known, the name and address of the person making the communication and the relationship, if any, to the parties to the proceeding;

C. the date and time of the communication, its duration, and the means by and circumstances under which it was made;

D. a summary of the matters discussed; and

E. whether the party making the prohibited communication persisted after being advised that the communication was prohibited.

Subp. 3. **Notice to parties.** The commission's executive

APPROVED IN THE REVISOR OF STATUTES OFFICE BY:

secretary shall place the statement in the commission's public file within 48 hours, but shall not make the statement part of the record of the pending proceeding. The executive secretary shall serve a copy of the statement on the parties on the commission's official service list. If the statement is voluminous, the executive secretary may serve notice to the parties on the official service list that the statement is available for public inspection at the commission's offices during regular business hours.

7845.7400 HANDLING PERMISSIBLE EX PARTE COMMUNICATIONS.

Subpart 1. **Documentation.** Documentation is not needed for permissible ex parte communications with commissioners and decision-making personnel except as provided in subparts 2 to 4.

Subp. 2. **Written communicatons with staff.** Decision-making personnel who receive or generate a permissible written ex parte communication that is prohibited for commissioners under part 7845.7200 shall file a copy of the communication in the commission's public file with a notation of the sender and recipient within 48 hours after the communication is received or generated.

Subp. 3. **Oral communications with staff.** Decision-making personnel who receive or generate a permissible oral ex parte communication that is prohibited for commissioners under part 7845.7200 shall ensure that the substance of the communication and the name of the maker or recipient of the communication is recorded in a signed memorandum to the commission's public file within 48 hours. If a proceeding has been assigned to an administrative law judge, a copy of the memorandum must be sent to the judge.

Subp. 4. **Interim rate proceedings; compliance filings.** Commissioners and decision-making personnel may receive or generate written or oral ex parte communications with a party in the setting of interim rates or the review of compliance filings following the issuance of a final order or order after reconsideration. Commissioners and decision-making personnnel

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who receive or generate written or oral ex parte communications in these situations shall place a signed note in the commission's public file containing the name of the party, date, docket number of proceeding, and topic as soon as practicable, but no later than the issuance of the interim rate order or the compliance filing order.

Subp. 5. **Informing the public.** The commission shall make information regarding ex parte communications that occur in these situations available to the public upon reasonable request at its office during regular business hours.

7845.7500 SANCTIONS.

Subject to notice and hearing, a party who makes a prohibited ex parte communication to a commissioner or who encourages or solicits others to make a prohibited ex parte communication to a commissioner is subject to the following sanctions:

A. dismissal of the proceeding if the prohibited ex parte commmunication has so prejudiced the proceeding that the commission cannot consider it impartially;

B. an adverse ruling on a pending issue that is the subject of the prohibited ex parte communication, when other parties are prejudiced by the prohibited ex parte communication;

C. the striking of evidence or pleadings when the evidence or pleadings are tainted by the prohibited ex parte communication; or

D. a public statement of censure by the commission, when the prohibited ex parte communication is determined to be part of a continuing pattern of improper ex parte communication or when a single prohibited communication takes place and mitigating circumstances exist that:

(1) negate the need for a more severe sanction;

(2) do not prejudice the proceeding to the extent that the commission is unable to consider it impartially;

(3) do not prejudice other parties to the proceeding; and

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(4) do not taint the evidence or pleadings.

7845.7600 VIOLATIONS BY COMMISSION AND STAFF.

A commissioner who intentionally violates parts 7845.7000 to 7845.7500 shall recuse himself or herself and shall not participate, offer advice, or vote in the commission's decision-making process in the pending on-the-record proceeding.

Decision-making personnel who intentionally violate parts 7845.7000 to 7845.7500 must be removed from participating in a staff support capacity or prohibited from offering advice on the affected case if the violation has substantially interfered with due process in the proceeding.

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OFFICE BY:

STATE OF MINNESOTA)
)SS
COUNTY OF RAMSEY)

AFFIDAVIT OF SERVICE

Donna Carolus, being first duly sworn, deposes and says:

That on the 19th day of September, 1986, (s)he served the attached Notice of Proposed Adoption of Rules without a Public Hearing U-999/R-86-79 (Ex Parte)

XX By depositing in the United States Mail at the City of St. Paul, a true and correct copy thereof, properly enveloped with postage prepaid

XX By personal service

to all persons at the addresses indicated below and on the service list attached with the letter:

Commissioners
Staff
Legal

Donna Carolus

Subscribed and sworn to before me, a notary public, this 23rd day of September, 1986.

Sharon L. Juen
Notary Public

SHARON L. JUEN
NOTARY PUBLIC—MINNESOTA
WASHINGTON COUNTY
MY COMM. EXPIRES JAN. 19, 1991

0717 B
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BEFORE THE MINNESOTA PUBLIC UTILITIES COMMISSION

Harry Seymour Crump	Chair
Barbara Beerhalter	Commissioner
Cynthia A. Kitlinski	Commissioner
Robert J. O'Keefe	Commissioner
Darrel L. Peterson	Commissioner

In the Matter of the Proposed Adoption of Rules of the Minnesota Public Utilities Commission Relating to Ex Parte Communications	Docket No: U-999/R-86-79 STATEMENT OF NEED AND REASONABLENESS

INTRODUCTION

Prohibitions against ex parte communications can arise implicitly or explicitly from statutory provisions or from constitutional protections. The Minnesota Public Utilities Commission was directed by Minn. Laws 1986, Ch. 409, section 5, subd. 1 adopt rules governing ex parte communications. The proposed rules which the Statement of Need and Reasonableness supports and explains are patterned, in large part, after the Federal Communication Commission's ex parte communication rules, 47 C.F.R. 1.200 to 1.216.

The perceived need for the adoption of formal ex parte rules arose in response to recent controversies that developed concerning ex-parte communications between Commissioners, Commission decision-making personnel and employees and representatives of regulated utility companies during the pendency of Commission proceedings involving those same utility companies. Questions arose as to the propriety of those ex parte communications.

Minnesota administrative law demands that the Commission decision-making process be fair and open and that it must afford all participants an even-handed resolution of the matters under consideration. Additional authority for prohibiting ex parte contacts is found at Minn. Stat. § 14.60, subd. 2 (1984), which states that "no factual information or evidence shall be considered in the determination of the case unless it is part of the record." Similarly, Minn. Stat. § 14.62 (1984) requires that every decision and order rendered by an agency shall be based upon the record.

The due process clause of the U.S. and Minnesota constitutions also recognizes and requires that an agency or commission provide persons appearing before it with an opportunity to present factual or legal claims supporting their positions, including an opportunity to respond to claims or arguments made by their opposition. The record developed by an agency should also contain all claims and presentations made by the parties to allow a reviewing court to base its review on the same record as that relied on by the agency.

The proposed rules are intended to address the problem of the potential for negative influences on the Commission's decision-making process and the bias to influence Commissioners that exists because of the occurrence of ex parte communications. The rule recognizes, however, that not all ex parte communications are undesirable, and that the occurrence of beneficial ex parte communications promotes openness and facilitates the decision-making process. The concern is to prohibit only those ex parte communications that have the potential to unduly influence the decision-making process.

The procedures established in the proposed rules to handle ex parte communications are necessary to ensure that the Commission's decision-making process remains open, to prevent undue influence and to provide a fair opportunity for all parties to be heard. The proposed rules balance the Commission's need for flexibility when obtaining information and evidence with the need for an open and fair decision-making process.

This Statement of Need and Reasonableness is designed to comply with Minnesota Rules, part 2000.0400 and the proposed rules of the Office of the Attorney General, Minnesota Rules, part 2010.0700. It contains a summary of the evidence and argument which the Commission intends to present and rely upon in support of these proposed rules.

In the Commission's opinion, this Statement supports the need for the proposed rules and the reasonableness thereof.

SMALL BUSINESS CONSIDERATIONS

Minn. Stat. § 14.115 (1984) requires a state agency to mitigate the effects of new rules or amendments to existing rules on small businesses and to aid the small business in participating in the rulemaking process. The Commission has considered a number of factors in determining whether Minn. Stat. 14.115 (1984) applies to this rulemaking procedure.

The Commission notes that in Minn. Stat. Ch. 216B and 237, it has been authorized by the legislature to regulate gas and electric utilities and telephone companies. Some of the basic tenets of utility regulation are: utilities are affected with a deep public interest; utilities are obligated to provide satisfactory service to the entire public on demand; utilities are obligated to charge fair, non-discriminatory rates. A general freedom from substantial direct competition and the opportunity to make a fair return on investment are among the benefits utilities receive from regulation. Given this regulatory scheme, it is clear that the legislature views utilities and telephone companies differently from other concerns defined as small businesses. The degree of government intervention in the operations of a public utility or telephone company is considerably higher than in other types of businesses.

Even if some small utilities or telephone companies could be viewed as "small businesses" as that term is defined, they, nevertheless, would be excepted from this statute.

The Commission finds that Minn. Stat. § 14.115, subd. 7 (1984) establishes exceptions to the general obligations created by the statute and applies to rules promulgated by the Commission. In pertinent part, it states:

> Subd. 7. Applicability. This section does not apply to: (c) service businesses regulated by government bodies, for standards and costs, such as nursing homes, long-term care facilities, hospitals, providers of medical care, daycare centers, group homes and residential care facilities;

The Commission finds that utilities and telephone companies fall within this broad definition. They are certainly service businesses regulated by

government bodies for standards and costs. The words following the phrase "such as" merely provide some examples of government regulated businesses and are not exclusive.

Even assuming that these rules may have a minimal effect on some small businesses, the Commission finds that to the degree the small business will be affected, it will primarily be benefitted. The procedures articulated in these rules ensure that the regulatory process is fair and open to all. By experience, the Commission recognizes that the communications addressed in these rules are primarily made to and by public utilities and telephone companies. Permissible ex parte communications are generally information and data gathering communications and are permissible for all parties. The prohibited ex parte communications are prohibited by statute to all parties and commissioners. To except small businesses from these structures would circumvent statutory intent and undermine the regulatory process. For the foregoing reasons, the Commission finds that Minn. Stat § 14.115 (1984) is not applicable to this rulemaking procedure.

7845.7000 Definitions

Subpart 1. Scope. This subpart is necessary to introduce the definitional section of the ex parte communication rules. This subpart is reasonable because it clearly states that the terms used in parts 7845.7000 through 7845.7600 shall have the meanings given to them in this section.

Subpart 2. Decision-making personnel. This definition is necessary to clarify which Commission personnel, other than the Commissioners, will be subject to the ex parte rules. The term "professional staff" refers to the Commission's financial, legal, rate and statistical analysts. This is a definable group, previously recognized, in that the employees encompassed by this term are all required by Minn. Stat. § 216A.035(c) to file annual Statements of Economic Interest with the State Ethical Practices Board and by Minn. Stat. § 216A.035(a) are prohibited from receiving any income other than dividends or other earnings from a mutual fund or trust if these earnings do not constitute a significant portion of the person's income directly or indirectly from any public utility or other organization subject to regulation by the Commission. Consultants, when hired, are substitutes for professional staff. This definition is reasonable because it encompasses only those Commission personnel whose positions have the potential to involve them in substantive decision-making on material issues pending before the Commission. Decision-making personnel prepare written briefings, recommendations and orders for the Commission, in addition to appearing before the Commission in an advisory capacity. Omitted from this definition are clerical and secretarial support staff personnel who are not subject to the requirements of Minn. Stat. § 216A.035(c).

Subpart 3. Disputed formal petition. This definition is necessary to implement Minn. Laws 1986, Ch. 409, section 5, subd. 1, which prohibits ex parte communications between Commissioners and parties that relate to a material issue in a disputed formal petition.

This definition is reasonable because it clearly explains when a formal petition becomes disputed by listing the four conditions necessary to create a disputed formal petition, thereby giving notice to Commissioners, decision

making personnel and parties when ex parte communications become prohibited under part 7845.7200.

This definition presents the logical sequence of turning a petition into a disputed formal petition. The Commission's Rules of Practice and Procedure Minn. Rules, part 7830.2100, defines petition. Clearly, prior to becoming a disputed formal petition, a formal petition must be filed with the Commission. The petition must address a matter for which a contested case hearing is not required or has not been ordered at the time the investigation begins under Minnesota Statutes §§ 216B.16 or 237.075. The third condition of this definition is that a written statement of dispute must be filed with the Commission. This is clearly necessary to a disputed formal petition. Finally, the Commission must take a final formal procedural step before the ex parte communication prohibition is invoked.

This framework provides the Commission with the flexibility to attempt to resolve disputes raised in formal petitions before taking additional formal procedural steps such as ordering comments, written responses to comments, oral argument, negotiations, settlement conferences, a formal hearing or other procedures. The Commission has followed this approach in the past and has found it to be successful and efficient.

This definition is also reasonable because it clearly specifies the circumstances under which a disputed formal petition ceases to be disputed.

Subpart 4. Ex parte communication. This definition is necessary to implement Minn. Laws 1986, ch. 409, section 5, which prohibits certain ex parte communications between Commissioners and parties, and to provide a clear explanation of the persons and the types of communications affected by these ex parte rules. This definition is modeled on the definition of ex parte communication found at § 6.18, Davis, Administrative Law Treatise, Vol. 1, 2 Ed. The Federal Communication Commission's Rules on Ex Parte Communications and Presentations in Commission Proceedings, 47 C.F.R. § 1.201, were also used for guidance.

This definition is reasonable because it does not attempt to encompass all off-the-record communications but, instead, is limited to only those off-the-record communications which might influence the merits or the outcome of an on-the-record proceeding. This definition, therefore, excludes procedural, scheduling and status inquiries or other inquiries or requests for information which have no bearing on the merits or the outcome of a proceeding.

This definition is also reasonable because it addresses only those off-the-record communications that are made to or by Commissioners or Commission decision-making personnel and does not impose undue restrictions on Commission clerical and secretarial support staff members whose positions do not involve them in the decision-making process concerning material issues pending before the Commission.

Subpart 5. Material Issue. This definition is necessary to implement Minn. Laws 1986, ch. 409, section 5, subd. 1, which prohibits ex parte communications between Commissioners and parties relating to material issues in proceedings, petitions and other matters pending before the Commission. This definition is reasonable because it is narrowly drawn to include only those issues which might have a bearing on the merits or the outcome of a

pending matter. Black's Law Dictionary defines "material" as important; more or less necessary; having influence or effect; going to the merits; having to do with matter as distinguished from form. Representation relating to matter which is so substantial and important as to influence party to whom made is "material." H. C. Black, Black's Law Dictionary 880 (5th ed. 1979). This is a commonly understood, workable definition.

Subpart 6. Party. This definition is necessary to conform with Minn. Laws 1986, ch. 409, section 5, subd. 1, subd. 1, which prohibits certain ex parte communications between Commissioners and parties.

This definition is reasonable because it corresponds with the definition of "party" that appears in the Commission's Rules on Practice and Procedure, Minn. Rules, part 7830.0100, subp. 8, and with the Commission's Rules on Code of Conduct, part 7845.0100, as well as with the definition of "party" that appears in the Minnesota Office of Administrative Hearings' Rules on Rulemaking and Contested Cases, Minn. Rules. part 1400.1500, subp. 7, thereby providing internal consistency and preventing confusion.

This definition is also reasonable because it is limited to those persons who have an interest different from that of the general public, in a matter pending before the Commission and, therefore, implements the broad legislative intent to take precautions to prevent the occurence of improper ex parte communications that could taint the Commission decision-making process.

7845.7100 Permissible Ex Parte Communications.

This rule is necessary to implement Minn. Laws 1986, ch. 409, section 5, Subdivision 1, which requires the Commission's rules to distinguish between permissible and prohibited ex parte communications since the reporting requirements and sanctions will vary accordingly. This rule is reasonable because it recognizes that certain ex parte communications are valuable and necessary to assist the Commissioners and decision-making personnel in their fact-finding and decision-making functions. The proposed rule recognizes that the Commission has both legislative and quasi-judicial functions pursuant to Minn. Stat. Chapter 216A and that ex parte communications that are not prohibited by statute help the Commission to fulfill those responsibilities. The rule makes clear that ex parte communications are permissible except to the extent that they are listed as prohibited in Minn. Laws 1986, ch. 409, section 5, subd. 1, and as reflected in part 7845.7200.

7845.7200 Prohibited Ex Parte Communications.

This rule is necessary to explain Minn. Laws 1986, ch. 409, section 5, subd. 1, which prohibits certain ex parte communications between Commissioners and parties. In accordance with the statute, Subpart 1, items A through D, of the rule list the circumstances under which ex parte communications are prohibited.

Items A and B of Subpart 1 of the rule set forth the time frames established in the Statute for each category of prohibited ex parte communications in an easy to read and understandable format. The time frame during which ex parte communications will be prohibited with regard to

disputed formal petitions, referred to in item C of Subpart 1, is explained in the definitional section, 7845.7000, subp. 3. This is because the definition of a disputed formal petition describes a procedure that establishes a time frame beyond which ex parte communications are prohibited. The time frames specified in the rule are reasonable because they encompass the period during which ex parte communications have the potential to unduly influence the Commission's decision-making process.

Item D of Subpart 1 specifically sets forth three other types of communications that are prohibited by law: offers of employment to Commissioners, Minn. Laws 1986, ch. 409, section 4; discussions with Commissioners concerning past future benefits or compensation, Minn. Laws 1986, ch. 409, section 5, subd. 2; and offers to Commissioners of compensation, gifts, gratuities, favors, entertainment, meals, beverages, loans or other things of monetary value, proposed Minn. Rule 7845.8000. Item D, in conformance with Minn. Laws 1986, ch. 409, section 5, indicates some examples of other communications that are prohibited by law. This item of the rule is reasonable because all of the matters it covers share in common the potential to unduly influence or improperly taint the Commission's decision-making process.

Subpart 2 of the rule clarifies that the prohibitions on ex parte communications mandated by Minn. Laws 1986, ch. 409, section 5, do not apply to Commission decision-making personnel, but only to Commissioners and parties.

7845.7300. Handling Prohibited Ex Parte Communications.

This rule is necessary to implement Minn. Laws 1986, ch. 409, section 5, which prohibits certain ex parte communications. The rule establishes filing and notice procedures for the Commission to follow in the event that prohibited oral or written ex parte communications occur or are attempted. The filing and notice procedures are necessary so that parties and interested members of the general public will have an opportunity to review all actual or attempted prohibited communications, the overall purpose being to prevent the Commission decision-making process from becoming unduly influenced by prohibited ex parte communications. The filing and notice procedures will discourage attempts at improper ex parte communications by making such attempts public. A major harm from such improper contacts is their secretive nature. Removing that secrecy helps remove the harm they do to due process and fundamental fairness.

Subpart 1 of the rule specifies the procedures to be followed when a Commissioner receives a prohibited written ex parte communication. This provision is reasonable because it establishes a procedure that quickly discloses a Commissioner's exposure to prohibited written ex parte communications. The requirement that, when possible, Commissioners forward such communications to the Executive Secretary without reading them, is reasonable because it furthers the purpose of keeping the decision-making process from being negatively influenced by prohibited communications, while at the same time recognizing that it will not always be possible for a Commissioner to avoid seeing a prohibited written ex parte communication before forwarding it to the Executive Secretary. The additional requirement that when a Commissioner sees a prohibited written ex parte communication, he

or she shall prepare a signed statement of the source and circumstances under which the communication was received and read and forward that statement to the Commission's Executive Secretary within 48 hours is reasonable because it prevents the decision-making process from being unduly influenced by calling for complete and speedy disclosure of the prohibited communication, its source and the circumstances under which it was received and read.

Subpart 2 of the rule specifies the procedures to be followed when a party makes or attempts to make a prohibited oral ex parte communication to a Commissioner. As in Subpart 1, this provision acknowledges that situations will arise when parties will have the opportunity to attempt to make or actually make prohibited ex parte communications and provides the Commissioners with a clear and direct response to such prohibited communications or attempted communications. The rule is reasonable because it recognizes that it will not always be possible for a Commissioner to prevent a prohibited oral ex parte communication from taking place and because the recording requirements demand a complete and speedy disclosure that will help prevent the Commissioners' decision-making process from undue influence from the prohibited communications.

Subpart 3 of the rule is reasonable because it establishes procedures that will ensure a complete and speedy disclosure of prohibited oral and written ex parte communications to parties and the public. The notice procedures provide a logical means for ensuring that parties and the public will have ample opportunity to review such communications.

7845.7400 Handling Permissible Ex Parte Communications

This rule is necessary to implement Minn. Laws 1986, ch. 409, section 5, Subd. 1, which requires the adoption of rules prescribing permissible and impermissibnle ex parte communications.

Subpart 1 of the rule defines the scope of the documentation that will be required for permissible ex parte communications. The Commission believes that documentation in these limited areas is reasonable because it will benefit the decision making process by maintaining an atmosphere of openness and ensuring that improper influence does not take place, without causing an undue burden to decision-making personnel.

Subpart 2 and 3 of the rule apply to decision-making personnel who receive or generate oral or written ex parte communications that are permissible for them but are prohibited for Commissioners pursuant to Minn. Laws 1986, ch. 409, section 5 and part 7845.7200. Because these types of ex parte communications are prohibited for Commissioners, they are, by their very nature, suspect, even when made by decision-making personnel. Therefore, in order to prevent circumvention of the decision-making process and to maintain the spirit of the rule, Subparts 3 and 4 reasonably require that these permissible ex parte communications be noted and filed in the Commission's public file. The specified time frame for filing is also reasonable because it helps prevent improper influences on the decison-making process and is not unduly burdensome for the affected decision-making personnel.

Subpart 4 applies to both Commissioners and decision-making personnel who receive or generate permissible written or oral ex parte communications

through interaction with a party during the setting of interim rates or the review of compliance filings. The rule recognizes that it is necessary for the Commission's decision-making personnel to gather information to complete its analysis and to assure the accuracy of the Commission's interim rate determinations and compliance orders. However, without a means of monitoring the ex parte communications with decision-making personnel, improper influence could reach into the Commission's decision-making process.

Subpart 4 recognizes that not all communications between decision-making personnel and a party during these stages are in writing. Decision-making personnel have demonstrated a regular need to communicate orally with parties during this time. Decision-making personnel may orally seek additional data and calculation, clarification regarding a party's positions, assurance of feasibility of proposals, and resolution of the timing of the implementation of changes. Oral communications expedite the process which for interim rates is subject to a 60 day time constraint, and increase the accuracy of the Commission determination. However, this information needs to be placed into the public file to avoid the problems of secret government. The rule recognizes this public purpose by requiring that these types of communications be recorded and placed into the public file. If necessary, additional information regarding the communication may then be obtained through the staff members who participated in the communications.

To accomodate both the need for information gathering and the need to ensure that improper influence does not affect the decision-making process, the rule reasonably requires the disclosure of basic information surrounding the ex parte communications. This will protect the decision-making process in interim rates and compliance filings by allowing all affected persons to know of the communications. Furthermore, decision-making at these stages is also reviewable by the courts. For meaningful review to take place, the court must know what was considered by the Commission in its decision-making.

Subpart 5 is reasonable because it furthers the overall intent of the statute to prevent the occurrence of improper influences upon the decision-making process by establishing a procedure whereby parties and the public will have access to review of the ex parte communications that occur in these situations.

7845.7500 Sanctions.

This rule is necessary to implement Minn. Laws 1986, ch. 409, section 5, which prohibits ex parte communications between Commissioners and parties relating to material issues in proceedings, petitions and other matters pending before the Commission and grants the Commission the power to impose sanctions on parties if violations occur. The rule deters parties from engaging in prohibited ex parte communications and corrects abuses of the Commission's decision-making process that cannot be remedied simply by disclosure. Due process requires that these sanctions be imposed subject to notice and opportunity for hearing.

Not all violations need to be remedied by dismissal. Lesser sanctions are appropriate when a violation does not irrevocably taint the Commission's decision-making process so as to make an impartial proceeding impossible. Therefore, under this rule the extent of the sanction is made communsurate

with the degree of the harm. The range of sanctions can be viewed as points along a continuum, with no sanction placed at one end where there has been no harm and dismissal of a proceeding placed at the other end where there has been great and irrevocable harm.

The placement of the rule's various sanctions along the continuum is not arbitrary--the sanctons are logical, reasonable and fair and help cure the problem of vagueness that would exist in their absence. The determination as to what sanction is needed in a given situation requires an evaluation of all the standards set forth in items A through D of part 7845.7500. Again, the sanctions range from no adverse action to dismissal of a proceeding.

Item A of the rule is reasonable because dismissal of a proceeding is the only action that will effectively remedy the abuse of the decision-making process that results when a prohibited ex parte communication has so prejudiced the proceeding that the Commission cannot consider it impartially. Dismissal restores the status quo ante where the process has been corrupted by a party's actions. It is a logical and reasonable remedy that has been recognized by the courts where the gravity of the conduct irrevocably taints the integrity of the process and the fairness of the results. WKAT, Inc. v. FCC, 296 F .2d 375 (D.C. Cir. 1961).

At the other end of the continuum is the situation where no harm results from a prohibited ex parte communication. Even so, the fact that a prohibited ex parte communication has occurred generates concern and a need for an examination of the circumstances surrounding its occurrence. Where the ex parte communication has not affected the impartiality of the decision-making process, case law demonstrates that no corrective action is necessary. PATCO v. Federal Labor Relations Authority 685 F. 2d 547 (1982).

Clearly, situations will occur where dismissal is not warranted but corrective action is needed. Items B, C and D are logical, fair and reasonable points along the continuum between dismissal and no corrective action. They establish articulable standards for remedies that are commensurate with the degree of harm resulting from the prohibited ex parte communication.

Items B and C of the rule are reasonable because either an adverse ruling on a pending issue that is the subject of a prohibited ex parte communication or the striking of evidence or pleadings that have become negatively influenced by a prohibited ex parte communication will cure the affected proceeding without needing to resort to a complete dismissal and will effectively penalize the parties who have engaged in prohibited ex parte communications, thereby discouraging other attempts to improperly influence the Commission decision-making process.

Item B is particularly effective for parties who did not initiate a proceeding and might benefit from its dismissal. When such parties cause great and irrevocable harm through their ex parte communications with the Commission, dismissal of the party but not of the proceeding will cure the process and protect other innocent parties.

Item D is reasonable because a public statement of censure by the Commission is a practical and effective means of making a party accountable for engaging in either one or a series of prohibited ex parte communications

when mitigating circumstances exist that negate the need for a more severe sanction and the conditions that would justify the imposition of the sanctions set forth in items A, B and C of this rule are not present.

Examples of mitigating circumstances would be when a party voluntarily attempts to correct the harm done by the occurrence of either an intentional or unintentional prohibited ex parte communication by disclosing the communication and the surrounding circumstances, withdrawing the matter under consideration, or by taking other actions that attempt to correct the harm done to the decision-making process.

7845.7600 Violations by Commission and Staff.

This rule is necessary to implement the statutory intent of Minn. Laws 1986, ch. 409, section 5 to prevent the Commission's decision-making process during a pending proceeding from being improperly influenced by the introduction of prohibited ex parte communications. The rule addresses only intentional violations. This limitation is reasonable because to allow Commissioners or decision-making personnel who have intentionally violated these prohibitions to continue to participate in the decision-making process would undermine the purpose of Minn. Laws 1986, ch. 409, section 5 and the accompanying rules. While unintentional violations also have the potential to negatively influence the decision-making process, they are mitigated by disclosure, self-removal or other actions that seek to remove or correct the harmful influence. No one should be able to entrap a Commissioner to force a disqualification from participation in a proceeding.

The restrictions on participation in the decision-making process contained in this rule that are specifically limited to decision-making personnel are also reasonable because they provide the Commissioners with the flexibility to review such situations on a case-by-case basis. The Commission works on statutory deadlines. Flexibility is therefore needed to restrict the intentional offender, while at the same time protecting the ratepaying public. Most staff problems can be handled through the internal staff management process by reassignment.

of the date of submission to the Attorney General. Persons who wish to be advised of the submission of this material to the Attorney General, or who wish to receive a copy of the adopted rule, must submit the written request to Joyce M. Schowalter.

Dated: 8 September 1986

JOYCE M. SCHOWALTER
Executive Director

Rules as Proposed

6900.0200 REGISTRATION RENEWAL.

Every application for renewal of registration by a podiatrist shall be accompanied by a fee ~~of $50~~.

Rules as Proposed (all new material)

6900.0250 FEES.

Fees for the licensure of podiatrists are as follows:

A. The fee for licensure by examination is $200.

B. The fee for reexamination under an original application is $200.

C. The fee for renewal of a license is $75.

D. The fee for late renewal of a license is $50.

E. The fee for licensure by reciprocity is $200.

F. The fee for the replacement of an original license or renewal certificate is $10.

Public Utilities Commission

Proposed Permanent Rules Relating to Ex Parte Communication

Notice of Proposed Adoption of Rule Amendments without a Public Hearing

Notice is hereby given that the Minnesota Public Utilities Commission intends to adopt the above-entitled rule without a public hearing following the procedures set forth in the Administrative Procedure Act for adopting rules without a public hearing. Minnesota Statutes, sections 14.22 to 14.28. The statutory authority to adopt the rule is Minnesota Statutes, section 216A.037.

All persons have 30 days (until 4:30 p.m. on October 22, 1986) in which to submit comment in support of or in opposition to the proposed rule or any part or subpart of the rule. Comment is encouraged. Each comment should identify the portion of the proposed rule addressed, the reason for the comment, and any change proposed.

Any person may make a written request for a public hearing on the rule within the 30-day comment period. If 25 or more persons submit a written request for a public hearing within the 30-day comment period, a public hearing will be held unless a sufficient number withdraw their request in writing. Any person requesting a public hearing should state his or her name and address, and is encourged to identify the portion of the proposed rule addressed, the reason for the request, and any change proposed. If a public hearing is required, the agency will proceed pursuant to Minnesota Statutes, sections 14.131 to 14.20.

Comments or written requests for a public hearing must be submitted to:

Caroline Robinson
Minnesota Public Utilities Commission
780 American Center Building
St. Paul, MN 55101
Telephone: (612) 296-9617

The proposed rule may be modified if the modifications are supported by data and views submitted to the Commission and do not result in a substantial change in the proposed rule as noticed.

A copy of the proposed rule is attached to this notice.

A free copy of the rule is available upon request from Kathy Briesemeister, Minnesota Public Utilities Commission, 780 American Center Building, 150 East Kellogg Boulevard, St. Paul, MN 55101, (612) 296-9616.

A Statement of Need and Reasonableness that describes the need for and reasonableness of each provision of the proposed rule and identifies the data and information relied upon to support the proposed rule has been prepared and is available from Kathy Briesemeister upon request.

The adoption of this rule by the Commission will not require expenditure of public monies by local public bodies nor have a direct impact on agricultural land. Therefore, Minn. Stat. § 14.11 (1984) is inapplicable to this rulemaking proceeding. The Commission has considered pursuant to Minn. Stat. § 14.115 (1984) whether these proposed rules may have an impact on small businesses and has determined that they will not.

If no hearing is required, upon adoption of the rule, the rule and the required supporting documents will be submitted to the Attorney General for review as to legality and form to the extent the form relates to legality. Any person may request notification of the date of submission to the Attorney General. Persons who wish to be advised of the submission of this material to the Attorney General, or who wish to receive a copy of the adopted rule, must submit the written request to Kathy Briesemeister.

Mary Ellen Hennen
Executive Secretary

Rules as Proposed (all new material)

7845.7000 DEFINITIONS.

Subpart 1. **Scope.** The terms used in parts 7845.7000 to 7845.7600 have the meanings given them in this part.

Subp. 2. **Decision-making personnel.** "Decision-making personnel" means the commission's executive secretary and professional staff, and consultants to the commission.

Subp. 3. **Disputed formal petition.** A "disputed formal petition" refers to a formal petition ~~(1)~~ filed with the commission, (2) for which a hearing is not automatically required, (3) for which the commission has received a written statement disputing the action or relief sought in the petition, and (4) on which the commission has ordered comments, written responses to comments, oral argument, negotiations, settlement conferences, a formal hearing, or other procedures it considers necessary or helpful to enable it to decide the petition. A petition ceases to be a "disputed formal petition" when the notice of dispute is withdrawn in writing or when the commission resolves the dispute by written order.

Subp. 4. **Ex parte communication.** "Ex parte communication" means an oral or written, off-the-record communication made to or by commissioners or commission decision-making personnel, without notice to parties, that is directed to the merits or outcome of an on-the-record proceeding. This term does not include procedural, scheduling, and status inquiries or other inquiries or requests for information that have no bearing on the merits or the outcome of the proceeding.

Subp. 5. **Material issue.** "Material issue" means an issue that may affect the merits or outcome of an on-the-record proceeding.

Subp. 6. **Party.** "Party" means a person by or against whom a proceeding before the commission is commenced or a person permitted to intervene in a proceeding before the commission. A party includes a petitioner, complainant, intervenor, applicant, and respondent, and their attorneys, agents, or representatives.

7845.7100 PERMISSIBLE EX PARTE COMMUNICATIONS.

An ex parte communication is permissible except as prohibited in part 7845.7200.

7845.7200 PROHIBITED EX PARTE COMMUNICATIONS.

Subpart 1. **Communications with commissioners.** An ex parte communication, either direct or indirect, must not be made or attempted to be made between a commissioner and a party concerning:

A. a material issue during a pending contested case proceeding, from the date the matter is referred to the Office of Administrative Hearings until the commission issues its final order and the time to petition for reconsideration expires, or until the commission issues a final order responding to the petition for reconsideration, whichever is later;

B. a material issue in a rulemaking proceeding after the beginning of commission deliberations, from the date the commission posts notice of its deliberations for adoption of rules on the open meeting calendar until the order adopting the rules is issued;

C. a material issue in a disputed formal petition; or

D. other communications prohibited by law such as:

(1) offers of employment to commissioners, as described in Minnesota Statutes, section 216A.036, and in parts 7845.0700 and 7845.0800;

KEY: PROPOSED RULES SECTION — Underlining indicates additions to existing rule language. ~~Strike outs~~ indicate deletions from existing rule language. If a proposed rule is totally new, it is designated "all new material." ADOPTED RULES SECTION — Underlining indicates additions to proposed rule language. ~~Strike outs~~ indicate deletions from proposed rule language.

(2) discussions with commissioners concerning past or future benefits or compensation, as described in Minnesota Statutes, section 216A.037, subdivision 2, and in parts 7845.0700 and 7845.0800; or

(3) offers to commissioners of compensation, gifts, gratuities, favors, entertainment, meals, beverages, loans, or other things of monetary value, as described in part 7845.0700.

Subp. 2. **Communications with staff.** Ex parte communications with decision-making personnel are not prohibited under Minnesota Statutes, section 216A.037.

7845.7300 HANDLING PROHIBITED EX PARTE COMMUNICATIONS.

Subpart 1. **Written communication.** When possible, a commissioner who receives a prohibited written ex parte communication shall forward the communication, without reading it, to the commission's executive secretary.

A commissioner who receives and reads a prohibited written ex parte communication shall forward the communication to the commission's executive secretary within 48 hours, along with a signed statement of the source of and circumstances under which the communication was received and read.

Subp. 2. **Oral communication.** If a party makes or attempts to make a prohibited oral ex parte communication to a commissioner, the commissioner shall advise the party who makes or attempts to make the communication that the communication is prohibited and shall immediately terminate the communication. If a prohibited oral ex parte communication takes place, the commissioner who receives the communication shall forward to the commission's executive secretary, within 48 hours, a signed and dated statement that includes the following information:

A. the name and docket number of the proceeding;

B. to the extent known, the name and address of the person making the communication and the relationship, if any, to the parties to the proceeding;

C. the date and time of the communication, its duration, and the means by and circumstances under which it was made;

D. a summary of the matters discussed; and

E. whether the party making the prohibited communication persisted after being advised that the communication was prohibited.

Subp. 3. **Notice to parties.** The commission's executive secretary shall place the statement in the commission's public file within 48 hours, but shall not make the statement part of the record of the pending proceeding. The executive secretary shall serve a copy of the statement on the parties on the commission's official service list. If the statement is voluminous, the executive secretary may serve notice to the parties on the official service list that the statement is available for public inspection at the commission's offices during regular business hours.

7845.7400 HANDLING PERMISSIBLE EX PARTE COMMUNICATIONS.

Subpart 1. **Documentation.** Documentation is not needed for permissible ex parte communications with commissioners and decision-making personnel except as provided in subparts 2 to 4.

Subp. 2. **Written communications with staff.** Decision-making personnel who receive or generate a permissible written ex parte communication that is prohibited for commissioners under part 7845.7200 shall file a copy of the communication in the commission's public file with a notation of the sender and recipient within 48 hours after the communication is received and generated.

Subp. 3. **Oral communications with staff.** Decision-making personnel who receive or generate a permissible oral ex parte communication that is prohibited for commissioners under part 7845.7200 shall ensure that the substance of the communication and the name of the maker or recipient of the communication is recorded in a signed memorandum to the commission's public file within 48 hours. If a proceeding has been assigned to an administrative law judge, a copy of the memorandum must be sent to the judge.

Subp. 4. **Interim rate proceedings; compliance filings.** Commissioners and decision-making personnel may receive or generate written or oral ex parte communications with a party in the setting of interim rates or the review of compliance filings following the issuance of a final order or order after reconsideration. Commissioners and decision-making personnel who receive or generate written or oral ex parte communications in these situations shall place a signed note in the commission's public file containing the name of the party, date, docket number of proceeding, and topic as soon as practicable, but no later than the issuance of the interim rate order or the compliance filing order.

Subp. 5. **Informing the public.** The commission shall make information regarding ex parte communications that occur in these situations available to the public upon reasonable request at its office during regular business hours.

7845.7500 SANCTIONS.

Subject to notice and hearing, a party who makes a prohibited ex parte communication to a commissioner or who encourages or solicits others to make a prohibited ex parte communication to a commissioner is subject to the following sanctions:

A. dismissal of the proceeding if the prohibited ex parte communication has so prejudiced the proceeding that that commission cannot consider it impartially;

B. an adverse ruling on a pending issue that is the subject of the prohibited ex parte communication, when other parties are prejudiced by the prohibited ex parte communication;

C. the striking of evidence or pleadings when the evidence or pleadings are tainted by the prohibited ex parte communication; or

D. a public statement of censure by the commission, when the prohibited ex parte communication is determined to be part of a contining pattern of improper ex parte communication or when a single prohibited communication takes place and mitigating circumstances exist that:

(1) negate the need for a more severe sanction;

(2) do not prejudice the proceeding to the extent that the commission is unable to consider it impartially;

(3) do not prejudice other parties to the proceeding; and

(4) do not taint the evidence or pleadings.

7845.7600 VIOLATIONS BY COMMISSION AND STAFF.

A commissioner who intentionally violates parts 7845.7000 to 7845.7500 shall recuse himself or herself and shall not participate, offer advice, or vote in the commission's decision-making process in the pending on-the-record proceeding.

Decision-making personnel who intentionally violate parts 7845.7000 to 7845.7500 must be removed from participating in a staff support capacity or prohibited from offering advice on the affected case if the violation has substantially interfered with due process in the proceeding.

ADOPTED RULES

The adoption of a rule becomes effective after the requirements of Minn. Stat. § 14.14-14.28 have been met and five working days after the rule is published in *State Register*, unless a later date is required by statutes or specified in the rule.

If an adopted rule is identical to its proposed form as previously published, a notice of adoption and a citation to its previous *State Register* publication will be printed.

If an adopted rule differs from its proposed form, language which has been deleted will be printed with strikeouts and new language will be underlined. The rule's previous *State Register* publication will be cited.

An emergency rule becomes effective five working days after the approval of the Attorney General as specified in Minn. Stat. § 14.33 and upon the approval of the Revisor of Statutes as specified in § 14.36. Notice of approval by the Attorney General will be published as soon as practicable, and the adopted emergency rule will be published in the manner provided for adopted rules under § 14.18.

Minnesota Racing Commission

Adopted Permanent Rules Relating to Harness Racing

The rules proposed and published at *State Register*, Volume 11, Number 5, pages 128-130, August 4, 1986 (11 S.R. 128) are adopted as proposed.

KEY: PROPOSED RULES SECTION — Underlining indicates additions to existing rule language. ~~Strike outs~~ indicate deletions from existing rule language. If a proposed rule is totally new, it is designated "all new material." ADOPTED RULES SECTION — Underlining indicates additions to proposed rule language. ~~Strike outs~~ indicate deletions from proposed rule language.

(17)

CERTIFICATE OF THE
MINNESOTA PUBLIC UTILITIES COMMISSION

RESOLUTION ADOPTING THE RULE

I, Harry Seymour Crump, do hereby certify that I am a member and the Chair of the Minnesota Public Utilities Commission, a commission duly authorized under the laws of the State of Minnesota, and that the following is a true, complete, and correct copy of a resolution adopted at a meeting of the Minnesota Public Utilities Commission, duly and properly called and held on the 16th day of December, 1986, that a quorum was present, and that a majority of those present voted for the resolution which has not been rescinded or modified.

> "RESOLVED, that the rule relating to Ex Parte Communications is approved and adopted, pursuant to authority vested in the Minnesota Public Utilities Commission by Minnesota Statutes 216A.037, Mary Ellen Hennen, the Executive Secretary of the Minnesota Public Utilities Commission, is authorized to sign the findings of fact, conclusions, and order adopting the rule and further is authorized to modify the rule if necessary to obtain the approval of the rule by the attorney general and to perform the necessary acts to provide that the rule shall have the force and effect of law."

IN WITNESS WHEREOF, I have hereunto subscribed my name this 5th day of January, 1987.

Harry Seymour Crump
Chair of Minnesota Public Utilities Commission

Robert J. O'Keefe
Member of Minnesota Public Utilities Commission

STATE OF MINNESOTA
PUBLIC UTILITIES COMMISSION

In the Matter of the Proposed Adoption of the Rule of the Minnesota Public Utilities Commission Governing Ex Parte Communications

FINDINGS OF FACT CONCLUSIONS, AND ORDER ADOPTING RULE WITHOUT PUBLIC HEARING

Notice of the Commission's proposed adoption of the above-entitled rule without a public hearing was published in the State Register on September 22, 1986 and was sent by United States mail to all persons on the list maintained by the agency pursuant to Minnesota Statutes, sections 14.14, subdivision 1a and 14.22 on September 19, 1986. The statement of need and reasonableness was prepared before the notice of proposed adoption of a rule without a public hearing was mailed to all persons on the rulemaking mailing list and published in the State Register and was available to the public.

All persons were given the opportunity to submit comment on the rule for 30 days after notice of proposed rulemaking. No requests for a public hearing on the rule were received by the agency.

No requests for notice of submission to the Attorney General were received by the agency.

On October 8, 1986, oral comment was received from Katherine Sasseville representing the Otter Tail Power Company. Ms. Sasseville stated that she would not submit written comment because the proposed rule addressed the concerns that she had with an earlier proposed rule on which the Commission had solicited outside comment in the February 17, 1986 issue of the State Register. Minn. Laws 1986 ch. 409 § 5 was passed and became effective after that date. It defined the scope of ex parte rules for the Commission and consequently made the earlier proposed language inapplicable. This rulemaking followed. Ms. Sasseville also stated that she thought it was unfair that the Minnesota Department of Public Service has unlimited contact with the Commission staff due to its location next to the Commission and the opportunity for seeing the Commission staff every day, compared to the infrequent opportunity for an outstate utility such as Otter Tail Power Company. Ms. Sasseville stated she didn't have a solution, so she wouldn't submit written comment.

On October 29, 1986, the Residential Utilities Division of the Office of Attorney General (the RUD-AG) filed untimely written comment. The RUD-AG's comment was filed one week after the October 22, 1986, thirty day deadline. To accept the RUD-AG's late comment would render the thirty day deadline meaningless and be unfair to all other interested persons.

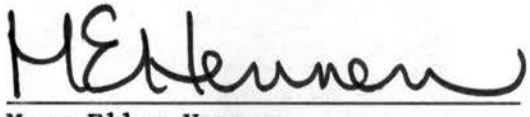
Even if the RUD-AG's comment had been timely filed, the Commission would not have adopted its suggestions. The RUD-AG's suggestions expand the scope and purpose of the proposed rules too far beyond their original intent and would therefore, cause the rule to be changed substantially.

For instance, the RUD-AG suggested expanding proposed part 7845.7300, Handling Prohibited Ex Parte Communications, to include a reporting mechanism for witnesses to an ex parte communication who are not parties to the communication. The RUD-AG also suggested expanding proposed part 7845.7500, Sanctions, to require sanctions for attempted violations of the proposed rules. Also, the RUD-AG suggested expanding proposed part 7845.7600, Violations by Commission and Staff, to require recusal from a proceeding for unintentional violations. The RUD-AG's suggestions expand the proposed rule in such a way as to unreasonably burden a new class of persons and place additional, unreasonable restrictions on the parties and the Commission and its staff.

Based on the comments and evidence in the record before the agency, the Commission finds the following:

The above-captioned rule as proposed and published in the State Register of September 22, 1986, is needed and reasonable. The statement of need and reasonableness supporting the proposed rule was not challenged and the Commission continues to agree with the reasons given there for adopting this rule. The Commission adopts the reasons for the rule found in the statement of need and reasonableness to justify adopting the proposed rule as a final rule. Therefore, the proposed rule as noticed, published, and mailed will be adopted.

NOW, THEREFORE, IT IS ORDERED that the rule identified as proposed Minnesota Rules, parts 7845.7000 through 7845.7600, governing ex parte communications, is adopted this 12th day of February, 1987, pursuant to authority vested in the Commission by Minnesota Statutes, section 14.26.



Mary Ellen Hennen
Executive Secretary

HUBERT H. HUMPHREY, III
ATTORNEY GENERAL

STATE OF MINNESOTA
OFFICE OF THE ATTORNEY GENERAL
ST. PAUL 55155

ADDRESS REPLY TO:
340 BREMER TOWER
SEVENTH PL. AND MINNESOTA ST.
ST. PAUL, MN 55101
TELEPHONE:
Charities (612) 297-4613
Res. Utilities (612) 296-6504

RECEIVED
OCT 29 1986
MINNESOTA PUBLIC UTILITIES COMMISSION

October 27, 1986

Caroline Robinson
Minnesota Public Utilities Commission
780 American Center Building
St. Paul, MN 55101

Re: In the Matter of the Proposed Adoption of Rules of the Minnesota Public Utilities Commission Relating to Ex Parte Communications
Docket No. U-999/E-86-79

Dear Ms. Robinson:

These comments are submitted by the Office of Attorney General in response to the Commission's publication of Notice of Proposed Adoption of Rules Without a Public Hearing regarding ex parte communications. This office strongly endorses the intention of the rules and our comments will be limited to clarification and implementation of the rules themselves.

Rule 7845.7000 Definitions

Adopt as proposed except Subpart 5, "Material issue," which should be deleted as superfluous. The purpose of this subparagraph is subsumed in the definition of ex parte communications, Subpart 4 (lines 27-31). If undeleted, this appears to add a requirement of materiality beyond that contained in Subpt. 4. Such an added requirement is improper. This suggested deletion would necessitate the elimination of that term in 7845.7200. This elimination may be accomplished by deleting "concerning" from Subp. 1 (line 12), and deleting "a material issue" in paragraphs A, B and C and adding "concerning" beginning paragraph D. This office believes that these changes preserve the purposes of the rule while eliminating an unnecessary and inappropriate analytical step.

7845.7300 Handling Prohibited Ex Parte Communications

Two changes to this rule are recommended. First, this section makes no provision for the treatment of an ex parte communication that is noticed or witnessed by a person not a party to the communication. For example, if a violation of 7845.7200

"intentionally" should be deleted from the first paragraph. The perceived taint to due process caused by ex parte communications does not turn on the intent of the commissioner. To preserve the impartiality of the tribunal, any violation of the rule should be sufficient to trigger recusal regardless of intent.

Respectfully submitted,

Gary R Cunningham

GARY R. CUNNINGHAM
Special Assistant
Attorney General

340 Bremer Tower
Seventh Place & Minnesota St.
St. Paul, Minnesota 55101
Telephone: (612) 297-4611

ON BEHALF OF ATTORNEY GENERAL
HUBERT H. HUMPHREY, III

(1)(D)(3) is witnessed by a party or Commission staff member, there should be some mechanism available under this rule for the reporting of such a communication.

Second,. Subpart 5 should be amended to clarify what type of information will be provided to the public. The words "make information" should be deleted and the following language substituted: "the memorandum required by this rule for oral communications, and a copy of all written communications." Additionally, the word "reasonable" should be deleted because it is ambiguous.

7845.7500 Sanctions

It is evident from Rule 7845.7300 that an attempted ex parte communication is prohibited. Yet, the sanctions section is silent about such attempts. Certainly a series of attempts should merit censure. Therefore, this Office suggests that paragraph 1 be changed by adding "or attempts to make" after "party who makes" in line 12. Subpart D should be similarly changed by adding "or attempted communications" after "ex parte communications" in line 28, and adding "or attempt" after "prohibited communication" in line 29.

Additionally, to the first paragraph should be added "one or more of" following "subject to" and preceeding "following sanctions." That is, public censure should always be an available sanction even if another sanction has been ordered.

Finally, Subpart D seems to preclude a public censure if a single prohibited communication is prejudicial. The rule seems to permit public censure of prejudicial communications only if there is a series of them whereas a single non-prejudicial communication may be sanctioned. This result seems anomalous. This result may be avoided by deleting all of lines 27 and 28 "when the prohibited . . . improper ex parte communication," and adding "Public censure is the preferred saction when a single . . . . " This method would preserve the right to censure for multiple ex parte communications because a single communication would suffice.

7845.7600 Violations by Commission and Staff

The Office of Attorney General believes that this section unduly emphasizes a punitive response. Rather, the thrust of this section should be remedial, in order to provide the best environment for fair and impartial deliberations. To this effect, the word

In the Matter of the Adoption
of the Rule of the Minnesota
Public Utilities Commission
Governing Ex Parte Communications

I, Karl W. Sonneman, Special Assistant Attorney General, do hereby declare that I have examined the above-captioned rule, and the supporting rulemaking record, and that, based on my examination, the Administrative Procedure Act and Minnesota Rules, chapter 2010 have been followed. Any exceptions are listed below. For Attorney General billing purposes, the four-digit docket client code is I449.

The notice of intent to adopt a rule without public hearing which form is set forth in part 2010.9915, was captioned in this proceeding "Notice of Proposed Adoption of a Rule Without a Public Hearing." This occurred because the Commission was following the form in the Attorney General's proposed rules. The Commission's Notice was issued on September 19, 1986, and published in the State Register on September 22, 1986. The Attorney General's final rules and forms were published in the State Register on September 29, 1986. Thus, the deviation from the form set forth in the rule was inadvertent and occurred because the Commission did not know of the change to be made in the final form adopted by the Attorney General. The Commission's ex parte rules should be accepted despite this deviation from the Attorney General rule because the notice of intent to adopt rules without a public hearing is otherwise complete in all respects and gave full and adequate notice of the Commission's intent to adopt the proposed rule to the public.



KARL W. SONNEMAN
Special Assistant Attorney General

STATE OF MINNESOTA
COUNTY OF RAMSEY

CERTIFICATE

In the Matter of the Proposed Adoption
of Rules of the Minnesota Public
Utilities Commission Governing
Ex Parte Communications

Docket No. U-999/R-86-79

I hereby certify that the list of persons, associations, and other interested groups who have requested, pursuant to Minnesota Statutes, section 14.14, Subdivision 1, that their names be placed on file with and maintained by the Minnesota Public Utilities Commission for the purpose of receiving notice of the proposed adoption of rules by this Commission is accurate and complete as of 2:00 p.m., this 19th day of September, 1986.

Donna Carolus

Donna Carolus

MINNESOTA public UTILITIES COMMISSION

February 12, 1987

Hon. Hubert H. Humphrey, III
Attorney General
Administration Division
204 Administration Building
50 Sherburne Avenue
St. Paul, MN 55155

RE: Minnesota Public Utilities Commission
Ex Parte Rules, Docket No. U-999/R-86-79

Dear Mr. Humphrey:

Enclosed for your review under Minn. Stat. §§14.22-14.28 are the Minnesota Public Utilities Commission's adopted rules governing Ex Parte Communications.

The materials required by the rules of the Office of the Attorney General are included. No person requested notification of the submission of these rules to your office.

Please feel free to call me with any questions.

Sincerely,

Rosellen Condon

Rosellen Condon
Legal Research Analyst

RC:sj
Enclosures

RECEIVED
FEB 12 1987
ATTORNEY GENERAL
ADMINISTRATIVE AGENCIES

AMERICAN CENTER building • kellogg and robert sts • saint paul, mn 55101

Notice of Intent - OK

Comments - only 1 requested a hearing

Rule
OK 216A.037

p. 3 Subp 2. Lines 2 - 4

The law, 216A.037 Subd 1 Reads "The exparte rules may prohibit only exparte communications by commission members with a party...

The rule stretches the prohibition to "decision making personnel." I'm confused!

(also see pg 1 line 24-28).
no - the subpt says DM personnel are not prohibited.

p4 line 31 "may receive" DIM see a problem.