

Minnesota Attorney General: Administrative Rules Proceedings

Copyright Notice:

This material may be protected by copyright law (U.S. Code, Title 17). Researchers are liable for any infringement. For more information, visit www.mnhs.org/copyright.

Version 3
August 20, 2018

STATE OF MINNESOTA
PUBLIC UTILITIES COMMISSION

RECEIVED MAY 27 1987

In the Matter of the Proposed Rules Governing Rate Adjustments due to Tax Reform Act of 1986, Minn. Rules Parts 7827.0100 to 7827.0600.

NOTICE OF SUBMISSION OF RULE ADOPTED WITHOUT PUBLIC HEARING TO THE ATTORNEY GENERAL

Pursuant to your request and in accordance with Minn. Stat. § 14.26 (1986):

PLEASE TAKE NOTICE that the above-captioned rules as adopted have been submitted to the Office of the Attorney General on this date, May 26, 1987, for review as to legality and form to the extent form relates to legality. The proposed rules, the rules as adopted, all the notices, the Statement of Need and Reasonableness, all written comments and requests for a hearing received, and other required documents also have been submitted to the Attorney General.

The proposed rule which was published in the State Register and made available to the public on March 23, 1987, has been modified. A copy of the rule as modified and the Findings of Fact, Conclusions, and Order Adopting Rules is enclosed with this notice.

The rules must be approved or disapproved by the Attorney General within 14 calendar days of the date of submission to the Attorney General. You may submit written comments to the Attorney General on the legality of the rules. Any written comments must be submitted within eight calendar days of the date of the submission of the rules to the Attorney General. Your comments must address only the issue of legality of the rules or the legality of the specific parts or subparts of the rules. The Attorney General standards for review are set forth in Minnesota Rules pt. 2010.1000. You may receive a copy of the Attorney General decision upon written request to the Attorney General. Your comments or requests for the decision must be directed to:

The Office of the Attorney General
204 Administration Building
50 Sherburne Avenue
St. Paul, MN 55155
Telephone: (612) 296-1288

Caroline Robinson
Staff Attorney

RECEIVED MAY 27 1987

Public Utilities Commission

Adopted Permanent Rules Relating to Rate Adjustments Due to Tax Reform Act of 1986

Rules as Adopted

7827.0100 DEFINITIONS.

Subpart 1. **Scope.** The terms used in this chapter have the meanings given them in this part.

Subp. 2. **Commission.** "Commission" means the Minnesota Public Utilities Commission.

Subp. 3. **Department.** "Department" means the Minnesota Department of Public Service.

Subp. 4. **Public utility.** "Public utility" has the meaning given it in Minnesota Statutes, section 216B.02, subdivision 4.

Subp. 5. **Tax reform act.** "Tax reform act" means the federal Tax Reform Act of 1986, Public Law Number 99-514.

Subp. 6. **Telephone company.** "Telephone company" has the meaning given it in Minnesota Statutes, section 237.01, subdivision 2, for telephone companies providing service to 15,000 or more subscribers.

7827.0200 PURPOSE.

The purpose of this chapter is to require telephone companies and public utilities to adjust rates for service within Minnesota to recognize the reduction in operating costs attributable to the reductions in federal corporate income taxes as a result of the tax reform act.

7827.0300 REASONABLE RATES.

On and after July 1, 1987, the overall rates of public utilities and telephone companies are found to be unjust and unreasonable unless:

A. the rates have been adjusted to account for the reduction in federal income tax expense computed under part 7827.0400;

Approved by Revisor

B. the rates have been established pursuant to a general rate case decision rendered on or after January 1, 1987, that incorporates the new federal income tax rate in the determination of the revenue requirement; ~~or~~

C. the ~~rate is an~~ rates are interim ~~rate~~ rates subject to refund as part of a general rate case;

D. the public utility or telephone company is a party to a commission proceeding pending on January 1, 1987, or initiated between January 1, 1987, and July 1, 1987, in which the commission has ordered an investigation for the stated purpose of determining whether the public utility's or telephone company's rates should be reduced and has directed, in the investigation, that the company file financial data that address the impact of the tax reform act; or

E. the rates have been established under a stipulated settlement and a commission decision approving the settlement.

If a public utility or telephone company files with the commission before July 1, 1987, an agreement to make collections for its federal income tax expense subject to appropriate refund, the public utility or telephone company shall have an additional 90 days to obtain commission approval of the ~~stipulated-settlement~~.

Public utilities and telephone companies whose rates are found to be just and reasonable under item B, C, D, or E are exempt from the requirements of parts 7827.0400 to 7827.0600.

7827.0400 COMPUTATION.

The federal income tax expense adjustment amount must be computed and submitted to the commission as follows:

A. The public utility or telephone company shall compute current operating income based upon actual 1986 revenues and expenses, adjusted to include items that are the same in nature and kind as in the currently effective order in the utility's most recent rate proceeding, and normalized to the extent necessary to reflect normal operating conditions. Adjustments made to 1986 actual revenues and expenses must be

Approved by Revisor _____

separately identified and detailed.

B. Using the same method approved by the commission in the most recent rate proceeding, the public utility or telephone company shall compute income tax expense based upon the operating income determined in item A, in two ways as specified in subitems (1) and (2). The income tax expense must show the breakdown by component, including deferred taxes, net investment tax credits, and any other component applicable to an individual public utility or telephone company. The public utility or telephone company shall submit detailed schedules supporting the income tax expense computed under the following:

(1) using the tax rates and provisions in effect before enactment of the tax reform act; and

(2) using the tax rates effective July 1, 1987, containing a maximum tax rate of 34 percent and final provisions of the tax reform act.

C. The public utility or telephone company shall compute the difference between item B, subitems (1) and (2). The difference must be multiplied by the gross revenue conversion factor using the tax rates applied in item B, subitem (2). The calculation supporting the gross revenue conversion factor must be submitted to the commission.

7827.0500 ADJUSTMENTS OF TARIFFS, SCHEDULES.

Subpart 1. **Adjustments; tariffs filed.** The public utility or telephone company shall reduce its rates by the federal income tax expense adjustment amount calculated under part 7827.0400. The public utility or telephone company must file tariffs for service rendered on and after July 1, 1987, reflecting the reduced rates, in accordance with subparts 3, 4, and 5.

Subp. 2. **Detailed supporting schedules submitted.** The public utility or telephone company shall submit detailed schedules supporting the calculation of the reduced rates.

Subp. 3. **Public utility charges reduced, allocated.** A public utility shall reduce unit demand and unit energy charges

Approved by Revisor _____

uniformly across all rate schedules. The reduction must be allocated between demand and energy charges in proportion to 1986 normalized demand and energy revenues.

Subp. 4. **Telephone company local exchange rates.** A telephone company providing local exchange service shall reduce the rates for local exchange access line services by a uniform percentage.

Subp. 5. **Telephone company interexchange rates.** A telephone company providing interexchange service shall reduce toll rates for message telecommunications services by a uniform percentage.

7827.0600 FILINGS; WRITTEN COMMENTS.

A tariff required under part 7827.0500 and documentation required under parts 7827.0400 and 7827.0500 must be filed with the commission, the department, and the Office of the Attorney General, Residential Utilities Division, by May 1, 1987, or 30 days after the effective date of parts 7827.0100 to 7827.0600, whichever is later.

Interested persons may submit written comments to the commission within 20 days from the date of filing.

Approved
by Revisor _____

Continental, NSP, Central, the DPS, and the RUD-AG commented that this part should be modified by adding a new item governing stipulated settlements.

This exemption is needed to protect the ratepayers and the financial viability of the public utilities and telephone companies. A stipulated settlement would most likely be initiated by a public utility or telephone company that determined the rate decrease due to the Act may be wholly or partially offset by any rate increase it would be entitled to under Minn. Stat. §§ 216B.16 or 237.075 (1986). In such a situation the ratepayers and public utility or telephone company should not be charged with paying for a rate case proceeding to reestablish the same rates that currently exist.

Public utilities and telephone companies are allowed an additional 90 days to obtain Commission approval of a stipulated settlement. A time extension is necessary because the rules may not be adopted until shortly before July 1, 1987. It will take time to fashion a stipulated settlement and to receive Commission approval. During the interim, an agreement to make collection for the federal tax expense subject to appropriate refund will protect the ratepayers.

In the event that a public utility or telephone company avails itself of the additional item for approval of a settlement, proposed item E requires that the ratepayers be protected by providing for a refund mechanism. The refund is based upon a voluntary agreement by the regulated company and gives the Commission authority to prevent overcharges by unjust rates. It is equitable that delay in implementing the rule should be conditioned upon the regulated company volunteering to refund the excess rates being collected. Refunds are needed to ensure that public utilities and telephone companies do not enter stipulated settlements to avoid the purpose of the rules and keep a portion of the windfall received due to the Act.

Proposed item E is reasonable because it provides an efficient means to achieve just and reasonable rates. It will prevent premature and simultaneously-filed general rate cases that would unnecessarily strain the resources of the Commission, the ratepayers, intervenors, and the public utilities and telephone companies. Settlements allow the consideration of proposals tailored to the individual circumstances of a particular public utility or telephone company and would therefore result in just and reasonable rates in those cases where individual circumstances warrant a different treatment.

Adding item E to the rules does not result in a substantial change to the rules as originally proposed and noticed for several reasons. First, proposed item E affects the same class of persons as the originally proposed rules - public utilities and telephone companies. This class has had an opportunity to comment on the proposed rules. Furthermore, the proposed modification does not create a new class who did not have an opportunity to comment on the proposed rules.

Second, items B and C of part 7827.0300 of the rules as noticed provide for an exemption to parts 7827.0400 through 7827.0600. Item E is based upon the same premise as items B and C and is a logical extension of them. The method chosen is not as crucial as ensuring that the effects of the Act are considered, any potential windfall to the public utility or telephone company is prevented, and the ratepayers are protected. It was clear from the proposed rules and the rulemaking notice that this was the purpose of the rules in general and of part 7827.0300 in particular. Thus, any reasonable person would have anticipated that the Commission would consider alternate methods for ensuring just and reasonable rates. The numerous requests for such an additional method further demonstrates that other methods were reasonably anticipated from the proposed rules. Item E does not introduce significant new subject matter. The subject matter of the rules as proposed and of item E is to consider the effects of the Act and to adjust rates accordingly. Furthermore, a stipulated settlement is available as a method of resolving a general rate case under Minn. Stat. §§ 216B.16, subd. 1a and 237.075, subd. 1a (1986). In this respect, item E is contemplated by the proposed rules because part 7827.0300, items B and C provide an exemption for general rate cases.

Third, proposed item E does not make a major substantive change that was not raised by the proposed rule as originally noticed in such a way as to invite reaction", Minn. Rules, part 2010.1000. This proposed rule, like any proposed rule, is a change from the status quo. As such it has generated reaction from those affected by it - those who benefit from it and those who are obliged to perform, to refrain, or to be limited in performing an act or acts.

In evaluating item E as a modification to these rules as proposed, the Commission finds that it is a logical extension of the exemptions created in items B and C. Participants in this rulemaking are aware that there will be a change in the status quo of utility regulation. These people are aware that the Act has affected public utility and telephone company rates, and, further, that the Commission is concerned with those effects. The proposed rule establishes a filing procedure to evaluate and address those effects. Minn. Rules, part 7827.0300, items B and C, clearly alert participants in this rulemaking that exemptions to that filing procedure were considered and made available in certain situations. Item E recognizes another situation in which to consider the effects of the Act. The Commission finds that the proposed rule should recognize those instances where a stipulation settlement should be reached. Further, adding item E to the proposed rules will obviate the need for a rule variance for those situtions where a stipulation settlement is appropriate.

For the above-stated reasons, the Commission concludes that item E is needed and reasonable and does not constitute a substantial change. The Commission will adopt item E as a modification to the proposed rules for clarity, completeness, and to promote administrative efficiency.

Finally, the Commission finds that the proposed rule should be modified by adopting the following language at the end of part 7827.0300:

> Public utilities and telephone companies whose rates are found to be just and reasonable under items B, C, D, or E of this part are exempt from the requirements of parts 7827.0400 through 7827.0600.

The RUD-AG commented that the rule should clearly state that items B, C, D, and E are exemptions. The above language makes it clear that these items are intended as exemptions from parts 7827.0400 through 7827.0600 as explained in the Statement of Need and Reasonableness at page 7. Because it is a clarification, it is not a substantial change to the proposed rules.

7. The Commission adopts the Statement of Need and Reasonableness, in its entirety, as the factual basis for the proposed rules. The Commission hereby incorporates the Statement of Need and Reasonableness into these findings, except as modified in Finding No. 6 above.

8. The Commission finds that additional modifications sought by the parties in their comments should not be made for the following reasons:

7827.0200 PURPOSE

Central Telephone Company (Central) proposed amending this part as follows:

> The purpose of this chapter is to require telephone companies and public utilities to adjust rates for service within Minnesota to recognize the reduction in operating costs attributable to the reductions in federal corporate income taxes as a result of all provisions of the tax reform act.

Central stated that other effects of the Act besides the reduction in corporate income taxes should be considered by these rules. Continental, AT&T, and Minnegasco made similar statements in their written comments.

Part 7827.0400, item B, subitem 2, states that the federal income tax adjustment shall be computed "using the tax rates effective July 1, 1987, containing a maximum tax rate of 34 percent and final provisions of the tax reform act" (emphasis added). Therefore, the rules already consider the effects of all the provisions of the Act upon income tax expense.

Several public utilities and telephone companies also commented that the rules should consider all the provisions of the Act upon rate base, as well as upon the income tax expense. As explained in the Statement of Need and Reasonableness at page 3, the rules do not

consider the effects of the Act upon rate base because the Commission expects these effects to be minimal. Where the effects upon rate base are not minimal, the public utility or telephone company may elect to have these effects considered under the exemptions from the rules contained in part 7827.0300.

Central argued that the rules limit its right to a hearing recognized in In the Matter of Minnesota Power's Transfer of M.L. Hibbard Units 3 and 4 Boilers and Related Facilities 399 N.W.2d 147 (Minn. 1987). Northern Minnesota Utilities agreed with Central and further argued that the rules would violate statutory and constitutional requirements of due process by reducing rates without providing for a hearing. Neither contention is sound.

Adoption of rules establishing just and reasonable rates in light of the reduced expenses due to the Act have not and will not deny public utilities or telephone companies a reasonable opportunity for a hearing before their rates are reduced. The rulemaking process itself affords interested persons the opportunity to have a hearing on questions of the reasonableness of the rates being resolved here. The statute allows for a contested rule hearing if 25 individuals request such a hearing. Public utilities and telephone companies typically have no difficulty obtaining signatures of 25 individuals to claim their right to a hearing. In this case, after the requests for hearing sponsored by NSP and NWB were withdrawn, there was no longer any significant claim to the right to a contested rule hearing.

Further, the rule itself allows public utilities and telephone companies opportunities to obtain a contested case hearing. Part 7827.0300, item B, recognizes that a utility may initiate a general rate case filing and thus avoid the automatic calculation under the rule. In a general rate change filing under either Minn. Stat. §§ 216B.16 or 237.075 (1986), a hearing must be undertaken if all issues are not resolved to the satisfaction of the Commission. A proposed rate change may reduce as well as increase a rate. Nothing prevents a utility or telephone company from filing a petition to change its rates in order to account for the effects of the Act and thus obtain a hearing under these statutes. Moreover, the Commission may fairly place the responsibility to seek a hearing upon the public utility or telephone company. By recognizing the statutory opportunity for a hearing in these sections, the Commission has recognized the option available to the utility to seek a hearing and the Commission, in addition, may pursue other options that would not normally lead to a hearing. --

A hearing would not be necessary under part 7827.0300, item A, because the issue of reasonableness is already determined in the rules. A filing made under this option is a compliance filing to assure that the public utility or telephone company has properly computed the rates adjusted according to the rules. If the filing is in compliance with the rules, the Commission would accept the tariff presented by the public utility or telephone company and no hearing would be necessary. This is partially due to the situation that no material fact is in dispute. If a compliance filing is disputed, the

Commission may order a hearing to correct a compliance calculation proposed by the public utility or telephone company. However, in practical experience, hearings for this purpose are not usually necessary because the data needed is taken from the standard accounting records of the company.

A second argument made in reliance on the Minnesota Power case is that the rules must allow for examining the entire ratemaking formula of rate base, rate of return and expenses, rather than just one element of taxes. As explained in the Statement of Need and Reasonableness at pages 3 and 4, the Federal Congress has imposed the significant, known and measurable change in the federal income tax expense, which affects all regulated public utilities and telephone companies.

The statements in the Minnesota Power case directing an examination of rate base, rate of return and expenses explained the basic methodology of ratemaking and obviously do not state new law. Thus, they must be considered in the context of decades of public utility rate regulation. In considering this rule, the Commission has recognized that it must account for rate base, expenses and rate of return of the public utilities or telephone companies. The Commission has done so by finding that only a limited, known change is likely to have occurred. Based upon actions of regulated companies who have not filed rate cases recently and upon recognition of the general condition of the economy, the Commission could fairly conclude that all other factors and their interrelationship in determining the regulated company's rate of return had not changed since the last general rate case of the company. Thus, except for a possible windfall recovery of money formerly associated with income tax, the relationships leading to reasonable rates were being maintained. To account for the reduction in income tax expense and maintain the relationship of reasonable rates, actual rates needed to be reduced by the reduced tax expense.

Moreover, the Commission has created means to address other changes where facts demonstrate that rate base, other expense items, or the rate of return have also changed. The public utility or telephone company may file a general rate case and thus except itself from the further application of the rules under part 7827.0300, item B; or it may reach a settlement pursuant to part 7827.0300, item E. The options allowed under the rules fully protect the regulated company.

Several comments attempt to address factually that the rules would unfairly limit the ratemaking elements considered to one element. However, review of these claims demonstrates that they are factually erroneous. Minnegasco presented a schedule estimating effects on rate base which shows that the major adjustment offsetting the cost reductions recognized by the Commission is for unbilled revenues. This adjustment is highly questionable because of the prior treatment given unbilled revenues by the Commission. In several cases, the Commission has refused to adjust test year revenues for unbilled revenues because this would be an extraordinary adjustment that distorts test year operations. See, Findings of Fact, Conclusions of Law, and Order In the Matter of the Petition of Northern States Power

Company for Authority to Change its Schedule of Rates for Electric Utility Service for Customers Within the State of Minnesota, Docket No. E-002/GR-81-342 (June 25, 1982) and Docket No. E-002/GR-85-558 (June 2, 1986); In the Matter of the Petition of Northern States Power Company for Authority to Change its Schedule of Rates for Gas Utility Service for Customers Within the State of Minnesota, Docket No. G-002/GR-86-160, G-002/M-86-165 (January 27, 1987); In the Matter of the Petition of Otter Tail Power Company for Authority to Increase Rates for Electric Service in Minnesota, Docket No. E-015/GR-86-380 (April 27, 1987); and In the Matter of the Petition of Interstate Power Company for Authority to Increase its Rates for Electric Service in Minnesota, Docket No. E-001/GR-86-384 (May 1, 1987). Moreover, adding unbilled revenues to the test year more than offsets any increase in tax expense for these revenues. The net effect of unbilled revenues is an increase in revenues available and a corresponding reduction in individual rates. Minnegasco has simply ignored the revenue side of considering unbilled revenues in its demonstration.

Northern Minnesota Utilities claims that application of the rules will reduce rate of return for the public utility or telephone company. This claim is false because the rules are designed to maintain the rate of return earned by the company before the Act becomes effective in the time period after the Act applies. The effect of the rules is to remove the windfall which the regulated company will accrue from an increased rate of return that would occur without the rules. Moreover, the rules allow that if actual rates of return have fallen below the current cost of capital for the regulated company, the company controls its fate by retaining the ability to file a rate case. The rules simply prevents the regulated company from increasing its earned return in a manner in which it has not demonstrated it is entitled.

AT&T and Continental commented that the rules are unfair because the rules propose only a reduction in rates. However, the rules merely balance the regulated company's ability to obtain rate increases with the public's need to obtain rate decreases and thus to pay only reasonable rates when unique, known and measurable expenses of the regulated companies fall. Minnesota Statues §§ 216B.16 and 237.075 (1986) already provide a mechanism to increase rates upon request by a public utility or telephone company, and afford these companies the opportunity to obtain the increased rates within 60 days of making the request. The rules recognizes a universal situation requiring a rate decrease.

Lastly, the Commission finds that changes in single expense items often are considered in ratemaking in Minnesota. Public utilities or telephone companies are allowed to increase individual rates when they can demonstrate that unique factors caused the cost of providing a particular service to increase. See, In the Matter of the Request of Northwestern Bell Telephone Company for Authority to Implement a Premises Maintenance Plan and a Trouble Isolation Charge, Docket No. P-421/M-84-453 (April 17, 1985). Likewise, gas and electric public utilities regularly avail themselves of purchased gas adjustments and fuel adjustments allowed under existing Commission rules. See, Minn. Rules, parts 7825.2390 through 7825.3000. The automatic gas or fuel

adjustment rules recognize the change in a single expense element - the cost of purchased gas or of fuel consumed to generate electricity. Rates are increased or decreased automatically without consideration of other cost changes. Moreover, no hearing is required or provided before the change is made. Precedent for recognizing changes in single cost items is well established and should not be overturned here.

7827.0400 COMPUTATION
7827.0500 ADJUSTMENTS OF TARIFFS, SCHEDULES

The RUD-AG recommended that part 7827.0400 be amended by adding: For all utilities and telephone companies whose rates are found to be unjust and unreasonable pursuant to part 7827.0300, the federal income tax adjustment...

The RUD-AG recommended that part 7827.0500 be amended by adding: Unless otherwise ordered by the Commission, upon a finding that such an adjustment would not be in the public interest... The purpose of the amendments proposed by the RUD-AG is to provide that if a public utility or telephone company falls under an exemption in part 7827.0300, then it need not comply with part 7827.0400 or part 7827.0500.

The Commission has modified part 7827.0300 to add: Public utilities and telephone companies whose rates are found to be just and reasonable under items B, C, D, or E of this part are exempt from the requirements of parts 7827.0400 through 7827.0600.

This added provision clarifies that public utilities and telephone companies that fall under item B, C, D, or E of part 7827.0300 are exempted from further requirements under the rules. The added language addresses the concern of the RUD-AG and thus no further amendments are needed.

A number of public utilities and telephone companies commented that the computation of the adjustment amount under the proposed rule does not provide for consideration of all effects of the Act. Minnegasco suggested that the adjustment include any effects of the Act upon rate base. According to Minnegasco, the effects are known and can be readily considered. United and Central stated that a complete understanding of the effects of the Act is not yet possible. Central suggested that public utilities or telephone companies may be able to demonstrate effects not recognized by the proposed rules. Continental stated that, although the initial impact of the Act will be a decrease in taxes, several elements will in the long run potentially increase its tax liability.

The Commission, through the rules, capture the major effects of the Act in an efficient way. To that end, the Commission considered and rejected including in the adjustment the effects of the Act upon rate base. In the Commission's view, determining the effects of the Act upon rate base would be complex, time-consuming, and likely to result in a contested case hearing. Furthermore, the Commission expects the effects of the Act upon rate base to be minimal.

The Commission rejects the implication that no adjustment to rates should be made until all effects of the Act are known. The major provision of the Act, the change in corporate tax rate from 46% to 34%, is known and measurable. Possible clarifications or amendments to the Act are speculative. If the result is material, the public utility or telephone company retains the right to file a general rate case. Until such changes are known, however, the Commission has the obligation to ensure that existing rates are just and reasonable and must make the adjustment based upon the provisions of the Act that are known and reasonably determinable.

Several public utilities and telephone companies also commented that factors other than the effects of the Act should be used in determining an appropriate adjustment. For example, United suggested consideration of the result of In the Matter of a Summary Investigation into Intralata Toll Access Compensation for Local Exchange Carriers Providing Telephone Service Within the State of Minnesota, Docket No. P-99/CI-85-582; Minnegasco suggested consideration of known changes in operating expenses, capital investments, and depreciation expense; and Continental suggested consideration of the potential shift of nontraffic sensitive cost to the end user, implementation of optional local measured service on a statewide basis, possible capital recovery proposals, results of activities at the Federal Communications Commission and Federal-State joint board, and effects of In the Matter of the Petitions of Certain Subscribers in the Exchanges of Zimmerman, Prescott, Waconia, Belle Plaine, North Branch, Lindstrom, New Prague, Cambridge, Hudson, Houlton and LeSuer for Extended Area Service to the Minneapolis/St. Paul Metropolitan Calling Area, Docket Nos. P-421, P-405, P-407, P-430, P-426, P-520, P-427/CI-87-76.

The Commission finds than many of the factors identified in the comments are speculative and have not been quantified. In contrast, the federal tax law has changed and its impact is measurable. If events identified in the comments do result in changes in the public utility or telephone company's revenue requirement, the public utility or telephone company retains the options of either filing a general rate case to adjust rates or entering into a stipulated settlement. As explained in the Statement of Need and Reasonableness, changes since a public utility or telephone company's last general rate case in rate base or expenses other than federal income tax expense are more appropriately addressed in a general rate case. Because items other than federal income tax expense may have changed for unknown reasons in unmeasurable amounts, extensive testimony and exhibits may be needed to prove the amount of change. In contrast, the change required by the proposed rule is reasonably known and measurable and therefore a general rate case to implement the change is not necessary.

AT&T and Minnegasco suggested that the Commission also provide for a procedure similar to that contained in the proposed rules for future changes in tax-related items such as property tax, gross receipts tax, and state income tax.

The rule does not provide for subsequent federal, state, or local tax law changes because the sole purpose of the rule is to adjust rates for changes caused by the Act which are extraordinary in scope and

significance and must be separately addressed. Other tax law changes can be addressed through a general rate case or through a stipulated settlement.

Finally, several telephone companies commented on the allocation of the adjustment to class of service. AT&T suggested that local exchange companies allocate the reduction to all services, not only local exchange access line services as provided in part 7827.0500 of the rules. Furthermore, interexchange companies should allocate the reduction to all services rather than only toll rates for message telecommunications services as provided in the rules. Central suggested that the rules be flexible enough to allow for the possibility of applying the reduction to rates other than local service rates. Continental stated that any reduction in access charges to carriers should be passed on to the interLATA toll users in its service area on a dollar-for-dollar basis. Any expense reductions the carriers receive as a result of changes due to the Act should be passed back to end users in the form of lower toll prices.

The approach taken in part 7827.0500 of the rules - that the residual group receives the benefit of the reduction - is consistent with the rate design approved for telephone companies in recent general rate cases. See, Findings of Fact, Conclusions of Law, and Order, In the Matter of the Petition of Continental Telephone Company of Minnesota, Inc., for Authority to Change its Schedule of Telephone Rates for Customers Within the State of Minnesota, Docket No. P-407/GR-83-294 (March 23, 1984); and Order After Redeliberation, In the Matter of the Application of Northwestern Bell Telephone Company, Minneapolis, Minnesota for Authority to Change its Schedule of Telephone Rates for Customers Within the State of Minnesota, Docket No. P-421/GR-83-600 (April 3, 1987). The rules do not attempt to change currently authorized rate design. The two services identified in the rules are the services most widely used; therefore, applying the reduction as proposed by the rules would benefit a majority of Minnesota customers. Furthermore, the approach is reasonable because it can be applied uniformly to all telephone companies.

Application of the reduction as proposed in the rules is also administratively efficient because it does not require a separate case-by-case determination of which rates of individual telephone companies should be reduced. The suggestion of the telephone companies would be inefficient to the extent that it would require a case-by-case determination of which rates should be reduced. In addition, it prevents preferential treatment to certain classes of services that could result if the amendments proposed by the telephone companies are accepted. A determination of the relative price levels for all of a telephone company's services should be reserved for a general rate case or a stipulated agreement.

CONCLUSIONS

1. The Minnesota Public Utilties Commission duly acquired and has jurisdiction over this proceeding pursuant to Minn. Stat. §§ 216B.08, 216B.03, 237.10, 237.02, and 237.06 (1986).

2. The Commission published and served timely and adequate notice of the intent to adopt the rules without a public hearing.

3. The Commission has complied with all relevant legal and procedural requirements of statute and rule.

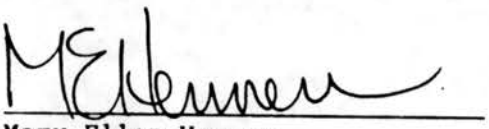
4. The modifications to the proposed rules are supported by the record and do not result in a substantial change in the proposed rules.

ORDER

1. The Commission hereby adopts Minn. Rules, parts 7827.0100 through 7827.0600, governing Rate Adjustments due to Tax Reform Act of 1986.

2. This Order shall become effective immediately.

BY ORDER OF THE COMMISSION

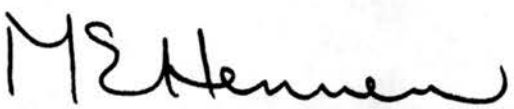


Mary Ellen Hennen
Executive Secretary

(S E A L)
1858B

CERTIFICATION

The undersigned Mary Ellen Hennen, being the Executive Secretary of the Minnesota Public Utilities Commission ("MPUC"), hereby certifies the attached documents constitute the Findings of Fact, Conclusions, and Order Adopting Rules issued by the MPUC on May 26, 1987 in MPUC Docket No. U-999/R-87-64.



Mary Ellen Hennen
Executive Secretary
Minnesota Public Utilities Commission
American Center Building
160 East Kellogg Boulevard
St. Paul, Minnesota 55101
Telephone: (612) 296-7526

STATE OF MINNESOTA
PUBLIC UTILITIES COMMISSION

RECEIVED MAY 27 1987

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

In the Matter of the Proposed Rules Governing Rate Adjustments due to Tax Reform Act of 1986, Minn. Rules Parts 7827.0100 to 7827.0600.

ISSUE DATE: MAY 26 1987

DOCKET NO. U-999/R-87-64

FINDINGS OF FACT, CONCLUSIONS, AND ORDER ADOPTING RULES

FINDINGS OF FACT

The above-entitled matter came on for decision before the Minnesota Public Utilities Commission (Commission) on the 7th day of May, 1987. After affording all interested persons the opportunity to present written and oral data, statements and arguments to the Commission, in accordance with statutory requirements regarding the adoption of noncontroversial rules, and after considering all of the evidence in the record, file and proceedings herein, the Commission adopts the following Findings of Fact, Conclusions, and Order:

1. Notice of the Commission's intent to adopt the above-entitled rules without a public hearing was published in the State Register on March 23, 1987, and was sent by mail to all persons on the list maintained by the Commission pursuant to Minn. Stat. §§ 14.14, subd. 1a and 14.22 (1986) on March 20, 1987.

2. The Statement of Need and Reasonableness was prepared prior to mailing and publication of the notice and was made available to the public.

3. All persons were given the opportunity to submit comments on the rule for 30 days after notice of proposed rulemaking. The 30 day comment period, as set out in the notice, expired on April 22, 1987.

4. During the comment period the Commission received 54 timely requests for public hearing, of which 51 were subsequently withdrawn. Therefore, the Commission did not receive requests for a public hearing from 25 or more persons which were not withdrawn.

5. Requests for notice of submission to the Attorney General were received by the Commission.

6. During the comment period the Commission received 9 timely filed written comments from: AT&T Communications of the Midwest, Inc. (AT&T), Northern Minnesota Utilities, the Minnesota Department of Public Service (DPS), Minnegasco, Inc. (Minnegasco), Continental Telephone Company (Continental), Central Telephone Company (Central), Northern States Power Company (NSP), Northwestern Bell Telephone Company (NWB), and the Residential Utilities Division of the Office of the Attorney General (RUD-AG). The Commission received two late filed written comments from U.S. Sprint and Great Plains Natural Gas Company.

The Commission finds that modifications to the proposed rules are justified by the record in this proceeding, as follows:

Any modifications to the proposed rules as published in the State Register and mailed to persons on the Commission's rulemaking list must not constitute a "substantial change" in accordance with Minn. Rules, part 2010.1000, governing Standards of Review by the Attorney General. That rule states as follows:

A rule must be disapproved by the Attorney General if ...there is a substantial change in the rule as adopted from the proposed rule as noticed. A change, by additions or deletions or other modifications to a proposed rule, is substantial if it:

1) affects classes of persons who could not reasonably have been expected to comment on the proposed rules as originally noticed;

2) introduces significant new subject matter which a reasonable person, on the basis of the proposed rule as originally noticed, would not have anticipated would occur during the rulemaking proceeding; or

3) makes a major substantive change that was not raised by the proposed rule as originally noticed in such a way as to invite reaction.

7827.0300 REASONABLE RATES.

The Commission finds that the proposed rule should be modified by making the following change to item C:

C. the rates are interim rates subject to refund as part of a general rate case.

This change to item C makes the language of item C consistent with items A and B. Items A and B refer to "rates", while item C as originally proposed refers to "rate". The Commission did not intend to distinguish between the singular and plural of "rate". Moreover, Minn. Stat. § 645.08, subd. 2, (1986) indicates that the normal rule of construction is that the singular includes the plural and vice versa. The proposed change does not result in a substantial change because it merely removes an inconsistency in language and therefore clarifies the rule as originally proposed.

The Commission also finds that the proposed rule should be modified by adding the following language:

D. the public utility or telephone company is a party to a commission proceeding pending on January 1, 1987 or initiated between January 1, 1987 and July 1, 1987 in which the commission has ordered an investigation for the stated purpose of determining whether the public utility's or telephone company's rates should be reduced and has directed, in the investigation, that the company file financial data which address the impact of the tax reform act.

This exemption from the rate adjustment requirements of parts 7827.0400 through 7827.0600 is necessary to prevent the overlap or duplication of proceedings. It would be administratively inefficient and costly to examine the effects of the Tax Reform Act of 1986 (the Act) both under item A and through an investigation ordered by the Commission. In addition, it would be administratively inefficient for a public utility or telephone company to refile financial data under part 7827.0400 when it has already provided detailed financial data pursuant to a Commission ordered investigation.

Proposed item D is reasonable because it recognizes investigations that have already been initiated to protect the ratepayers. If the Commission determines as a result of its investigations that a public utility's or telephone company's rates are unjust and unreasonable, it will adjust rates accordingly to account for the effects of the Act.

Commission-ordered investigations that fall under item D examine the effects of the Act in addition to investigating the general earnings of a public utility or telephone company. It would, therefore, be unreasonable for the Commission to separate its examination of the effects of the Act from these investigations where their purpose is to examine the effects of the Act in the context of the overall financial requirements of the public utility or telephone company.

Adding item D to the rules does not result in a substantial change to the rules as originally proposed and noticed for several reasons. First, proposed item D affects the same class of persons as the originally proposed rules - public utilities and telephone companies. This class has had an opportunity to comment on the proposed rules. Furthermore, the proposed modification does not create a new class who did not have an opportunity to comment on the proposed rules.

Second, items B and C of part 7827.0300 of the rules as noticed provide for an exemption to parts 7827.0400 through 7827.0600. Item D is based upon the same premise as items B and C and is a logical extension of them. The purpose of the rule is to prevent any potential windfall to the public utility or telephone company and to protect ratepayers by ensuring that they pay just and reasonable rates. The exemptions to the rule stated in part 7827.0300 further those purposes and promote administrative efficiency and fairness. Any reasonable person would have anticipated that the Commission would consider alternate methods for achieving those ends. This is

especially true where the alternate method is another proceeding initiated to examine the same effects as the rules as proposed. Item D does not introduce significant new subject matter. The subject matter of the rules as proposed and of item D is to consider the effects of the Act and to adjust rates accordingly. Furthermore, Commission-ordered investigations are available under Minn. Stat. §§ 216B.21, 216B.23, or 237.081 (1986) as a method of establishing just and reasonable rates.

Third, proposed item D does not "make a major substance change that was not raised by the proposed rule as originally noticed in such a way as to invite reaction", Minn. Rules, part 2010.1000. This proposed rule, like any proposed rule, is a change from the status quo. As such it has generated reaction from those affected by it - those who benefit from it and those who are obliged to perform, to refrain, or to be limited in performing an act or acts.

In evaluating item D as a modification to these rules as proposed, the Commission finds that it is a logical extension of the exemptions created in items B and C. Participants in this rulemaking are aware that there will be a change in the status quo of utility regulation. These people are aware that the Act has affected public utility and telephone company expenses, and, further, that the Commission is concerned with those effects. The proposed rule establishes a filing procedure to evaluate and address those effects. Minn. Rules, part 7827.0300, items B and C, clearly alert participants in this rulemaking that exemptions to that filing procedure were available in situations where the effects of the Act were already being evaluated by the Commission. Item D merely recognizes the current Commission-ordered investigations into the effects of the Act. The Commission finds that it would be unfair, unnecessarily duplicative, and administratively inefficient to fail to recognize these current investigations. Further, adding item D to the proposed rules will obviate the need for a rule variance for those current investigations.

For the above stated reasons, the Commission concludes that item D is needed and reasonable and does not constitute a substantial change. The Commisson will adopt item D as a modification to the proposed rules for clarity, completeness, and to promote administrative efficiency.

The Commission further finds that the proposed rule should be modified by adding the following language to allow the exemption of Commission-approved stipulated settlements from the rate adjustment requirements of parts 7827.0400 through 7827.0600:

E. the rates have been established pursuant to a stipulated settlement and a commission decision approving the settlement. In the event that a public utility or telephone company files with the commission before July 1, 1987 an agreement to make collection for its federal income tax expense subject to appropriate refund, the public utility or telephone company shall have an additional 90 days to obtain commission approval of the stipulated settlement.

Rule 1371

RECEIVED
ATTORNEY GENERAL'S OFFICE

JUN 26 1987

204 ADMINISTRATION BLDG.
50 SHERBURNE AVENUE
ST. PAUL, MN 55155

STATE OF MINNESOTA
IN COURT OF APPEALS

RULEMAKING TITLE:

In the Matter of the Proposed Rules Governing Rate Adjustments due to Tax Reform Act of 1986, Minn. Rules Parts 7827.0100 to 7827.0600.	PETITION FOR DECLARATORY JUDGMENT TO COURT OF APPEALS
	MINNESOTA PUBLIC UTILITIES COMMISSION DOCKET NO.: U-999/R-87-64
Minnegasco, Inc., Petitioner	DATE RULES ADOPTED: May 26, 1987
vs.	
Minnesota Public Utilities Commission, Respondent.	DATE RULES EFFECTIVE: June 29, 1987

TO: The Court of Appeals of the State of Minnesota

Please take notice that Minnegasco, Inc. petitions the Court of Appeals of the State of Minnesota, pursuant to Minn. Stat. §§ 14.44-.45 and 480A.06(4), for a determination of the validity of Minnesota Rules Parts 7827.0100 to 7827.0600, adopted by the Minnesota Public Utilities Commission (MPUC) on May 26, 1987. In support of its petition, Minnegasco states as follows:

1. Minnegasco is a corporation which, among other things, operates, maintains and controls equipment and facilities for furnishing at retail natural gas to the public within the State of Minnesota. As such, Minnegaso is a "public utility" within the meaning of Minn. Stat. § 216B.02, subd. 4, and is subject to the regulatory jurisdiction of the MPUC as provided by Minnesota Statutes Chapter 216B.

2. On May 26, 1987, the MPUC entered its Findings of Fact, Conclusions and Order Adopting Rules, relating to Minnesota Rules Parts 7827.0100 to 7827.0600 (hereafter "the rules"). On June 22, 1987, the adopted rules were published in the State Register, to become effective on June 29, 1987. The rules purport to be applicable to all "public utilities," including Minnegasco.

3. Under the rules the rates of all public utilities, including Minnegasco, "are found to be unjust and unreasonable" on and after July 1, 1987, unless the utility satisfies one or more specified exemptions. Minnegasco does not fall within one of the exemptions. On or about June 12, 1987, Minnegasco received notice that the MPUC intended to vigorously enforce the rules, that Minnegasco would "have to file lower rates with the MPUC by July 29" unless it was negotiating compliance with the rules and that Minnegasco should notify the Commission, the Department of Public Service and the Attorney General's Office whether it intended to comply with Part 7827.0300(a) or Part 7827.0300(e) of the rules.

4. The rules, and their threatened application, interfere with and impair, and threaten to interfere with and impair, the legal rights and privileges of Minnegasco.

5. The rules violate constitutional provisions, are in excess of the statutory authority of the MPUC and were adopted without compliance with the statutory rulemaking procedures, including the following:

a. The rules violate constitutional provisions in that the generic "finding" that certain public utilities'

rates are unjust and unreasonable on and after July 1, 1987, violates substantive due process as being arbitrary and violates procedural due process as being made without a hearing and without a determination whether the resulting rates will provide a constitutionally required reasonable rate of return.

b. The rules exceed the MPUC's statutory authority in that Minnesota Statutes Chapter 216B requires the MPUC to determine just and reasonable rates after consideration of all costs of service, through the conduct of a contested case hearing, and provides no authority for piecemeal rate-making based upon changes in a single item of the utility's cost of service.

c. The rules were adopted without compliance with statutory ratemaking procedures because they were adopted without a public hearing even though 25 or more persons submitted timely written requests for a public hearing within the thirty (30) day notice period and because the Notice of Intent to Adopt a Rule Without a Public Hearing was deficient for having misstated the statutory requirements for adopting such rules and for having failed to include substantial portions of the adopted rules.

For these reasons, Minnegasco requests that the Court of Appeals determine the validity of Minnesota Rules Parts 7827.0100

to 7827.0600 and declare that such rules are invalid and unenforceable.

Dated: JUNE 26, 1987

MINNEGASCO, INC.

By Tracy Bridge
Tracy Bridge
Legal Department
201 South Seventh Street
Minneapolis, Minnesota 55402
(612) 342-4723
Attorney Reg. No. 174750

BRIGGS AND MORGAN

By Samuel L. Hanson
Samuel L. Hanson
2400 IDS Center
Minneapolis, Minnesota 55402
(612) 339-0661
Attorney Reg. No. 41051

ATTORNEYS FOR PETITIONER
MINNEGASCO, INC.

5/006

STATE OF MINNESOTA
IN COURT OF APPEALS

RULEMAKING TITLE:

In the Matter of the Proposed Rules Governing Rate Adjustments due to Tax Reform Act of 1986, Minn. Rules Parts 7827.0100 to 7827.0600.	STATEMENT OF THE CASE OF PETITIONER MINNEGASCO, INC.
Minnegasco, Inc., Petitioner	MINNESOTA PUBLIC UTILITIES COMMISSION DOCKET NO.: U-999/R-87-64
vs.	Court of Appeals Case No. _____
Minnesota Public Utilities Commission, Respondent.	

1. Agency, Hearing Officer.

On May 26, 1987, the Minnesota Public Utilities Commission ("MPUC") adopted Minn. R. pts. 7827.0100 to 7827.0600 ("Rules"). Said Rules were adopted without a hearing and no hearing officer presided.

2. Jurisdiction.

Jurisdiction for the Petition for Declaratory Judgment to Court of Appeals, challenging the validity of the Rules is provided by Minn. Stat. §§ 14.44-.45 and 480A.06(4). Minnegasco is a "public utility," as defined by Minn. Stat. § 216B.02, subd. 4, and Minn. R. pt. 7827.0100, subp. 4, and the adopted Rules will interfere with and impair, and threaten to interfere with and impair, its legal rights and privileges.

3. Type of Litigation/Statutes.

Administrative Law - Administrative Procedure Act, Minn. Stat. §§ 14.05, .14, .22(3), .24, .25, .44, and .45; Agency, Minn. Stat. §§ 216B.01, .03, .14, .16, .17, .21 and .23; Constitutional Law, U.S. CONST., amend. XIV.

4. Claims/Result Below.

The MPUC is a state agency operating pursuant to Minn. Stat. Chapter 216A to regulate public utilities in accordance with Minn. Stat. Chapter 216B. On March 23, 1987, the PUC gave Notice of Intent to Adopt Rules Without Hearing. The Rules "find" that on July 1, 1987, a public utility's rates are unjust and unreasonable unless action has been taken or is pending to recognize the federal income tax effects of the Federal Tax Reform Act of 1986. The Rules required a non-exempt public utility to file with the MPUC, within thirty (30) days after the Rules become effective, revised tariffs which reduce rates to recognize solely the effects of the Tax Reform Act of 1986.

Minnegasco and other public utilities filed comments in opposition to the Rules, raising constitutional, statutory and procedural objections. More than 25 persons requested a public hearing. On May 26, 1987, without a public hearing, the MPUC entered its Findings of Fact, Conclusions and Order Adopting Rules. The adopted Rules were substantially modified from the rules proposed with the Notice. The adopted Rules were published in the State Register on June 22, 1987, to become effective

June 29, 1987. The MPUC has notified public utilities of its intent to vigorously enforce the Rules and to require rate reductions unless one of the Rules' exemptions applies.

Minnegasco does not fall within the exemptions contained in the Rules. It believes that the Rules are invalid because they violate constitutional provisions, are in excess of the MPUC's statutory authority and were adopted without compliance with the statutory rulemaking procedures, including the following:

a. The Rules violate constitutional provisions in that the generic "finding" that certain public utilities' rates are unjust and unreasonable on and after July 1, 1987, violates substantive due process as being arbitrary and violates procedural due process as being made without a hearing and without a determination whether the resulting rates will provide a constitutionally required reasonable rate of return.

b. The Rules exceed the MPUC's statutory authority in that Minnesota Statutes Chapter 216B requires the MPUC to determine just and reasonable rates after consideration of all costs of service, through the conduct of a contested case hearing, and provides no authority for piecemeal ratemaking based upon changes in a single item of the utility's cost of service.

c. The Rules were adopted without compliance with statutory ratemaking procedures because they were adopted

without a public hearing even though 25 or more persons submitted timely written requests for a public hearing within the thirty (30) day notice period and because the Notice of Intent to Adopt a Rule Without a Public Hearing was deficient for having misstated the statutory requirements for adopting such rules and for having failed to include substantial portions of the adopted rules.

5. Issues.

The issue for which a declaratory judgment is sought is: "Whether the Rules adopted by the MPUC on May 26, 1987, violate constitutional provisions, exceed the statutory authority of the MPUC, or were adopted without compliance with statutory rulemaking procedures, and therefore are invalid?"

The subissues are:

a. Whether the generic finding that rates of non-exempt public utilities are unreasonable and requirement that rates be reduced to recognize a change in federal income taxes, without a hearing and without consideration of changes in other cost of service elements, denies due process rights to a fair hearing in which a reasonable rate of return must be established?

b. Whether the generic finding that rates of non-exempt public utilities are unreasonable and requirement that rates be reduced to recognize a change in federal income taxes, without a hearing and without consideration of changes

in other cost of service elements, is in excess of and in conflict with the MPUC's statutory authority and obligation to establish just and reasonable rates, after a contested case hearing, with full consideration to the changes in all cost of service elements?

c. Whether the adoption of Rules without a hearing satisfies statutory rulemaking procedures where more than 25 persons request a hearing and their requests are not withdrawn within the specified 30-day period, the Notice of Intent to Adopt a Rule does not accurately describe the statutory procedure and the Rules as adopted substantially modify the Rules proposed in the Notice?

6. Transcript.

A full transcript of the MPUC meetings and deliberations is required.

7. Oral Argument.

Oral argument is required, at the place provided in Rule 134.09(2).

8. Briefs.

Formal briefs are necessary.

9. Attorneys for Petitioner:

Tracy Bridge
Legal Department
Minnegasco, Inc.
201 South Seventh Street
Minneapolis, Minnesota 55402
(612) 342-4723

Samuel L. Hanson
Briggs and Morgan
2400 IDS Center
Minneapolis, Minnesota 55402
(612) 339-0661

Attorney for Respondent:

Karl Sonneman
Special Assistant Attorney General
780 American Center Building
160 East Kellogg Boulevard
St. Paul, Minnesota 55101
(612) 296-0410

Dated: JUNE 26, 1987

MINNEGASCO, INC.

By Tracy Bridge
Tracy Bridge
Legal Department
201 South Seventh Street
Minneapolis, Minnesota 55402
(612) 342-4723
Attorney Reg. No. 174750

BRIGGS AND MORGAN

By Samuel L. Hanson
Samuel L. Hanson
2400 IDS Center
Minneapolis, Minnesota 55402
(612) 339-0661
Attorney Reg. No. 41051

ATTORNEYS FOR PETITIONER
MINNEGASCO, INC.

5/008

SF-00006-05 (4/86)

STATE OF MINNESOTA

Office Memorandum

DEPARTMENT : ATTORNEY GENERAL

DATE : June 9, 1987

TO : CAROLINE ROBINSON
Staff Attorney
Minnesota PUC

FROM : MARTHA CASSERLY
Special Assistant
Attorney General

PHONE : 6-6204

SUBJECT : In the Matter of the Adopted Rule Relating to Rate Adjustments Due to Tax Reform Act of 1986

The above-referenced rule has been approved as to its legality by the Attorney General on June 9, 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.

MJC: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 Rate Adjustments Due to Tax Reform Act of 1986

Rules as Adopted

7827.0100 DEFINITIONS.

Subpart 1. **Scope.** The terms used in this chapter have the meanings given them in this part.

Subp. 2. **Commission.** "Commission" means the Minnesota Public Utilities Commission.

Subp. 3. **Department.** "Department" means the Minnesota Department of Public Service.

Subp. 4. **Public utility.** "Public utility" has the meaning given it in Minnesota Statutes, section 216B.02, subdivision 4.

Subp. 5. **Tax reform act.** "Tax reform act" means the federal Tax Reform Act of 1986, Public Law Number 99-514.

Subp. 6. **Telephone company.** "Telephone company" has the meaning given it in Minnesota Statutes, section 237.01, subdivision 2, for telephone companies providing service to 15,000 or more subscribers.

7827.0200 PURPOSE.

The purpose of this chapter is to require telephone companies and public utilities to adjust rates for service within Minnesota to recognize the reduction in operating costs attributable to the reductions in federal corporate income taxes as a result of the tax reform act.

7827.0300 REASONABLE RATES.

On and after July 1, 1987, the overall rates of public utilities and telephone companies are found to be unjust and unreasonable unless:

A. the rates have been adjusted to account for the reduction in federal income tax expense computed under part 7827.0400;

Approved by Revisor Ron Ray

B. the rates have been established pursuant to a general rate case decision rendered on or after January 1, 1987, that incorporates the new federal income tax rate in the determination of the revenue requirement; ~~or~~

C. the ~~rate is an~~ rates are interim ~~rate~~ rates subject to refund as part of a general rate case;

D. the public utility or telephone company is a party to a commission proceeding pending on January 1, 1987, or initiated between January 1, 1987, and July 1, 1987, in which the commission has ordered an investigation for the stated purpose of determining whether the public utility's or telephone company's rates should be reduced and has directed, in the investigation, that the company file financial data that address the impact of the tax reform act; or

E. the rates have been established under a stipulated settlement and a commission decision approving the settlement. If a public utility or telephone company files with the commission before July 1, 1987, an agreement to make collections for its federal income tax expense subject to appropriate refund, the public utility or telephone company shall have an additional 90 days to obtain commission approval of the stipulated settlement.

Public utilities and telephone companies whose rates are found to be just and reasonable under item B, C, D, or E are exempt from the requirements of parts 7827.0400 to 7827.0600.

7827.0400 COMPUTATION.

The federal income tax expense adjustment amount must be computed and submitted to the commission as follows:

A. The public utility or telephone company shall compute current operating income based upon actual 1986 revenues and expenses, adjusted to include items that are the same in nature and kind as in the currently effective order in the utility's most recent rate proceeding, and normalized to the extent necessary to reflect normal operating conditions. Adjustments made to 1986 actual revenues and expenses must be

Approved by Revisor _____

separately identified and detailed.

B. Using the same method approved by the commission in the most recent rate proceeding, the public utility or telephone company shall compute income tax expense based upon the operating income determined in item A, in two ways as specified in subitems (1) and (2). The income tax expense must show the breakdown by component, including deferred taxes, net investment tax credits, and any other component applicable to an individual public utility or telephone company. The public utility or telephone company shall submit detailed schedules supporting the income tax expense computed under the following:

(1) using the tax rates and provisions in effect before enactment of the tax reform act; and

(2) using the tax rates effective July 1, 1987, containing a maximum tax rate of 34 percent and final provisions of the tax reform act.

C. The public utility or telephone company shall compute the difference between item B, subitems (1) and (2). The difference must be multiplied by the gross revenue conversion factor using the tax rates applied in item B, subitem (2). The calculation supporting the gross revenue conversion factor must be submitted to the commission.

7827.0500 ADJUSTMENTS OF TARIFFS, SCHEDULES.

Subpart 1. **Adjustments; tariffs filed.** The public utility or telephone company shall reduce its rates by the federal income tax expense adjustment amount calculated under part 7827.0400. The public utility or telephone company must file tariffs for service rendered on and after July 1, 1987, reflecting the reduced rates, in accordance with subparts 3, 4, and 5.

Subp. 2. **Detailed supporting schedules submitted.** The public utility or telephone company shall submit detailed schedules supporting the calculation of the reduced rates.

Subp. 3. **Public utility charges reduced, allocated.** A public utility shall reduce unit demand and unit energy charges

Approved
by Revisor _____

uniformly across all rate schedules. The reduction must be allocated between demand and energy charges in proportion to 1986 normalized demand and energy revenues.

Subp. 4. **Telephone company local exchange rates.** A telephone company providing local exchange service shall reduce the rates for local exchange access line services by a uniform percentage.

Subp. 5. **Telephone company interexchange rates.** A telephone company providing interexchange service shall reduce toll rates for message telecommunications services by a uniform percentage.

7827.0600 FILINGS; WRITTEN COMMENTS.

A tariff required under part 7827.0500 and documentation required under parts 7827.0400 and 7827.0500 must be filed with the commission, the department, and the Office of the Attorney General, Residential Utilities Division, by May 1, 1987, or 30 days after the effective date of parts 7827.0100 to 7827.0600, whichever is later.

Interested persons may submit written comments to the commission within 20 days from the date of filing.

Approved
by Revisor _____

STATE OF MINNESOTA
DEPARTMENT OF STATE
FILED
JUN 10 1987
Joan Anderson Growe
Secretary of State
11:30 AM

APPROVED AS TO FORM AND LEGALITY
June 9 1987
HUBERT H. HUMPHREY, III
ATTORNEY GENERAL
BY M J Cassedy
SPECIAL ASSISTANT ATTORNEY GENERAL

RULE REVIEW CHECKLIST

File No. 1371 Docket No. 05-0009, 0733

DATE RECEIVED 5/26/87
REVIEW DATE 6/3/87
DUE DATE 6/9/87

APPROVED 6-9-87 mjc
DISAPPROVED
WITHDRAWN

ADOPTED W/O HEARING X
EMERGENCY RULE

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

✓ Rule as adopted (4 copies)

~~Notice to Solicit Outside Information/Opinion~~
Date published in State Register
Comments

~~Petition for Adoption of a Rule~~

✓ Board's Authorizing Resolution

✓ Proposed rule
yes Revisor's Certificate

✓ Notice of Intent to Adopt Rule
216 B.08, 237.02, 237.06, 216 B.03, 237.10 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
3/20/87 Date 30/25 days before adoption

✓ Publication in State Register
3/23/87 Date 30/25 days before adoption

✓ Resolution Adopting

✓ Findings of Fact, Conclusions & Order Adopting
5/26/87 Date

✓ Written requests, submissions or comments

✓ Declaration of attorney
Karl Sonneman Name of SAAG representing agency

✓ Notice of Submission to Attorney General

✓ Affidavit of Mailing Notice to Attorney General

✓ Tax Reform Act of 1986 - Requests for copies

CERTIFICATE OF THE

AUTHORIZING RESOLUTION

I, Barbara Beerhalter, do hereby certify that I am a member and the Chair, of the 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 Commission duly and properly called and held on the 3rd day of March, 1987, 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 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 rate adjustments due to the Tax Reform Act of 1986 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 to perform any and all acts incidental thereto."

IN WITNESS WHEREOF, I have hereunto subscribed my name this 26th day of May, 1987.

Barbara Beerhalter
Chair of the Commission

Robert J. O'Keefe
Attest by one other Commission member

Public Utilities Commission

Proposed Permanent Rules Relating to Rate Adjustments Due to Tax Reform Act of 1986

Rules as Proposed (all new material)

7827.0100 DEFINITIONS.

Subpart 1. **Scope.** The terms used in this chapter have the meanings given them in this part.

Subp. 2. **Commission.** "Commission" means the Minnesota Public Utilities Commission.

Subp. 3. **Department.** "Department" means the Minnesota Department of Public Service.

Subp. 4. **Public utility.** "Public utility" has the meaning given it in Minnesota Statutes, section 216B.02, subdivision 4.

Subp. 5. **Tax reform act.** "Tax reform act" means the federal Tax Reform Act of 1986, Public Law Number 99-514.

Subp. 6. **Telephone company.** "Telephone company" has the meaning given it in Minnesota Statutes, section 237.01, subdivision 2, for telephone companies providing service to 15,000 or more subscribers.

7827.0200 PURPOSE.

The purpose of this chapter is to require telephone companies and public utilities to adjust rates for service within Minnesota to recognize the reduction in operating costs attributable to the reductions in federal corporate income taxes as a result of the tax reform act.

7827.0300 REASONABLE RATES.

On and after July 1, 1987, the overall rates of public utilities and telephone companies are found to be unjust and unreasonable unless:

A. the rates have been adjusted to account for the reduction in federal income tax expense computed under part 7827.0400;

Approved by Revisor

B. the rates have been established pursuant to a general rate case decision rendered on or after January 1, 1987, that incorporates the new federal income tax rate in the determination of the revenue requirement; or

C. the rate is an interim rate subject to refund as part of a general rate case.

7827.0400 COMPUTATION.

The federal income tax expense adjustment amount must be computed and submitted to the commission as follows:

A. The public utility or telephone company shall compute current operating income based upon actual 1986 revenues and expenses, adjusted to include items that are the same in nature and kind as in the currently effective order in the utility's most recent rate proceeding, and normalized to the extent necessary to reflect normal operating conditions. Adjustments made to 1986 actual revenues and expenses must be separately identified and detailed.

B. Using the same method approved by the commission in the most recent rate proceeding, the public utility or telephone company shall compute income tax expense based upon the operating income determined in item A, in two ways as specified in subitems (1) and (2). The income tax expense must show the breakdown by component, including deferred taxes, net investment tax credits, and any other component applicable to an individual public utility or telephone company. The public utility or telephone company shall submit detailed schedules supporting the income tax expense computed under the following:

(1) using the tax rates and provisions in effect before enactment of the tax reform act; and

(2) using the tax rates effective July 1, 1987, containing a maximum tax rate of 34 percent and final provisions of the tax reform act.

C. The public utility or telephone company shall compute the difference between item B, subitems (1) and (2). The difference must be multiplied by the gross revenue

Approved
by Revisor _____

conversion factor using the tax rates applied in item B, subitem (2). The calculation supporting the gross revenue conversion factor must be submitted to the commission.

7827.0500 ADJUSTMENTS OF TARIFFS, SCHEDULES.

Subpart 1. **Adjustments; tariffs filed.** The public utility or telephone company shall reduce its rates by the federal income tax expense adjustment amount calculated under part 7827.0400. The public utility or telephone company must file tariffs for service rendered on and after July 1, 1987, reflecting the reduced rates, in accordance with subparts 3, 4, and 5.

Subp. 2. **Detailed supporting schedules submitted.** The public utility or telephone company shall submit detailed schedules supporting the calculation of the reduced rates.

Subp. 3. **Public utility charges reduced, allocated.** A public utility shall reduce unit demand and unit energy charges uniformly across all rate schedules. The reduction must be allocated between demand and energy charges in proportion to 1986 normalized demand and energy revenues.

Subp. 4. **Telephone company local exchange rates.** A telephone company providing local exchange service shall reduce the rates for local exchange access line services by a uniform percentage.

Subp. 5. **Telephone company interexchange rates.** A telephone company providing interexchange service shall reduce toll rates for message telecommunications services by a uniform percentage.

7827.0600 FILINGS; WRITTEN COMMENTS.

A tariff required under part 7827.0500 and documentation required under parts 7827.0400 and 7827.0500 must be filed with the commission, the department, and the Office of the Attorney General, Residential Utilities Division, by May 1, 1987, or 30 days after the effective date of parts 7827.0100 to 7827.0600, whichever is later.

Interested persons may submit written comments to the

Approved
by Revisor _____

commission within 20 days from the date of filing.

Approved
by Revisor _____

Office of the Revisor of Statutes

Administrative Rules

TITLE: Proposed Permanent Rules Relating to Rate Adjustments Due to Tax Reform Act of 1986

AGENCY: Public Utilities Commission

MINNESOTA RULES: Chapter 7827

The attached rules are approved for publication in the State Register

Ron Ray

Ron Ray
Assistant Revisor

(2)

Minnesota Public Utilities Commission

In the Matter of the Proposed Adoption of the Rule of the Minnesota Public Utilities Commission Governing Rate Adjustments Due to Tax Reform Act of 1986

NOTICE OF INTENT TO ADOPT A RULE WITHOUT A PUBLIC HEARING

Docket No. U-999/R-87-64

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 in Minnesota Statutes, sections 14.22 to 14.28. The statutory authority to adopt the rule is Minnesota Statutes, sections 216B.08, 237.02, 237.06, 216B.03, and 237.10.

All persons have 30 days 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 encouraged 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:

Rosellen Condon
Minnesota Public Utilities Commission
780 American Center Building
150 E. Kellogg Boulevard
St. Paul, MN 55101
(612) 296-2357

The proposed rule may be modified if the modifications are supported by data and views submitted to the agency 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 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 Dawn Walker, (612) 296-2354, upon request.

(2)

Minnesota Public Utilities Commission

In the Matter of the Proposed Adoption of the Rule of the Minnesota Public Utilities Commission Governing Rate Adjustments Due to Tax Reform Act of 1986	NOTICE OF INTENT TO ADOPT A RULE WITHOUT A PUBLIC HEARING Docket No. U-999/R-87-64

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 in Minnesota Statutes, sections 14.22 to 14.28. The statutory authority to adopt the rule is Minnesota Statutes, sections 216B.08, 237.02, 237.06, 216B.03, and 237.10.

All persons have 30 days 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 encouraged 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:

Rosellen Condon
Minnesota Public Utilities Commission
780 American Center Building
150 E. Kellogg Boulevard
St. Paul, MN 55101
(612) 296-2357

The proposed rule may be modified if the modifications are supported by data and views submitted to the agency 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 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 Dawn Walker, (612) 296-2354, upon request.

The adoption of this rule by the Commission will not require expenditure of public moneys by local public bodies nor have a direct impact on agricultural land. Therefore, Minn. Stat. § 14.11 (1986) is inapplicable to this rulemaking proceeding. The Commission has considered pursuant to Minn. Stat. § 14.115 (1986) 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 Dawn Walker, Minnesota Public Utilities Commission, 780 American Center Building, 150 E. Kellogg Boulevard, St. Paul, MN 55101.

3/9/87
Date

M E Hennen
Mary Ellen Hennen
Executive Secretary

(3)

Minnesota Public Utilities Commission

In the Matter of the Proposed Adoption of the Rule of the Minnesota Public Utilities Commission Governing Rate Adjustments Due to Tax Reform Act of 1986	NOTICE OF INTENT TO ADOPT A RULE WITHOUT A PUBLIC HEARING Docket No. U-999/R-87-64

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 in Minnesota Statutes, sections 14.22 to 14.28. The statutory authority to adopt the rule is Minnesota Statutes, sections 216B.08, 237.02, 237.06, 216B.03, and 237.10.

All persons have 30 days 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 encouraged 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:

Rosellen Condon
Minnesota Public Utilities Commission
780 American Center Building
150 E. Kellogg Boulevard
St. Paul, MN 55101
(612) 296-2357

The proposed rule may be modified if the modifications are supported by data and views submitted to the agency 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 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 Dawn Walker, (612) 296-2354, upon request.

The adoption of this rule by the Commission will not require expenditure of public moneys by local public bodies nor have a direct impact on agricultural land. Therefore, Minn. Stat. § 14.11 (1986) is inapplicable to this rulemaking proceeding. The Commission has considered pursuant to Minn. Stat. § 14.115 (1986) 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 Dawn Walker, Minnesota Public Utilities Commission, 780 American Center Building, 150 E. Kellogg Boulevard, St. Paul, MN 55101.

3/9/87
Date

M E Hennen
Mary Ellen Hennen
Executive Secretary

3A

STATE OF MINNESOTA
PUBLIC UTILITIES COMMISSION

In the Matter of the Proposed Rules Governing Rate Adjustments Due to Tax Reform Act of 1986, Minn. Rules, parts 7827.0100 to 7827.0600	Docket No. U-999/R-87-64 STATEMENT OF NEED AND REASONABLENESS

I. INTRODUCTION

The proposed rules change, where necessary, the rates charged to consumers by certain gas and electric utilities and telephone companies. Any change in rates will account for changes in a utility or telephone company's cost of service that are caused by the federal Tax Reform Act of 1986, Public Law Number 99-514 (the Act). The Minnesota Public Utilities Commission (Commission) drafted these rules in response to the Act.

The Commission is also proposing legislation in response to the Act. The proposed rules are intended to complement the proposed legislation but, if necessary, can stand alone to account for changes in a company's cost of service caused by the Act.

II. STATEMENT OF COMMISSION'S STATUTORY AUTHORITY

The Commission's statutory authority to adopt these rules is found in Minn. Stat. ch. 216B (1986) governing gas and electric utilities and in Minn. Stat. ch. 237 (1986) governing telephone companies. Specifically, Minn. Stat. §§ 216B.08, 216B.03, 237.10, 237.02 and 237.06 (1986) provide:

> 216B.08 DUTIES OF COMMISSION
>
> The commission is hereby vested with the powers, rights, functions, and jurisdiction to regulate in accordance with the provisions of Laws 1974, chapter 429 every public utility as defined herein. The exercise of such power, rights, functions, and jurisdiction is prescribed as a duty of the commission. The commission is authorized to make rules in furtherance of the purposes of Laws 1974, chapter 429.
>
> 216B.03 REASONABLE RATE
>
> Every rate made, demanded, or received by any public utility, or by any two or more public utilities jointly, shall be just and reasonable. Rates shall not be unreasonably preferential, unreasonably prejudicial or discriminatory, but shall be sufficient, equitable and consistent in application to a class of consumers. To the maximum reasonable extent, the commission shall set rates to encourage energy conservation and

renewable energy use and to further the goals of sections 116J.05, 216B.164, and 216B.241. Any doubt as to reasonableness should be resolved in favor of the consumer. For rate making purposes a public utility may treat two or more municipalities served by it as a single class wherever the populations are comparable in size or the conditions of service are similar.

237.10 UNIFORM RULES

It shall be the duty of the commission to prescribe uniform rules and classifications pertaining to the conduct of intrastate telephone business and a system of accounting to be used by telephone companies in transacting this business, and it shall prescribe and furnish blanks and forms for reports, all of which shall conform as nearly as practicable to the rules, classification, accounting systems, and reports prescribed by the Federal Communications Commission for the interstate business of like size companies.

The commission shall by correspondence or conference where necessary use its best endeavors toward establishing uniformity in practice in all matters pertaining to regulation of the business of telephone companies between the federal government and state government of this and adjacent states.

237.02 UNDER DEPARTMENT OF PUBLIC SERVICE AND PUBLIC UTILITIES COMMISSION

The department of public service and the public utilities commission, now existing under the laws of this state, are hereby vested with the same jurisdiction and supervisory power over telephone companies doing business in this state as it now has over railroad and express companies. The definitions set forth in section 216A.02 shall apply also to this chapter.

237.06 RATES TO BE FAIR AND REASONABLE

It shall be the duty of every telephone company to furnish reasonably adequate service and facilities for the accommodation of the public, and its rates, tolls, and charges shall be fair and reasonable for the intrastate use thereof. All unreasonable rates, tolls, and charges are hereby declared to be unlawful. Any telephone company organized after January 1, 1949, may include in its charges a reasonable deposit fee not exceeding $50 for facilities furnished.

Under these statutes, the Commission has the necessary statutory authority to adopt the proposed rules. Minn. Stat. §§ 216B.08, 237.10 and 237.02 (1986) grant the Commission authority to promulgate rules governing certain gas and electric utilities and telephone companies. Minn. Stat. §§ 216B.03 and 237.06 (1986) require that the rates charged by these companies be fair and reasonable. The proposed rules are intended to enable the Commission to carry out its duties under the latter sections.

III. STATEMENT OF NEED

Minn. Stat. ch. 14 (1986) requires the Commission to make an affirmative presentation of facts establishing the need for and reasonableness of the

rules as proposed. In general terms, this means that the Commission must set forth the reasons for its proposal, and the reasons must not be arbitrary or capricious. Moreover, to the extent that need and reasonableness are separate, need has come to mean that a problem exists which requires administrative attention, and reasonableness means that the solution proposed by the Commission is appropriate. The need for the rules is discussed below.

The rules are necessary to prevent rates charged to ratepayers from being unjust and unreasonable as a result of the federal Tax Reform Act of 1986, Public Law Number 99-514 (the Act). The rules change rates to account for changes in a utility or telephone company's cost of service that are caused by the Act.

The Commission has consistently recognized income tax expense as an appropriate expense when it sets rates. Indeed, income tax expense is a major expense for most gas and electric utilities and telephone companies and represents a substantial portion of the cost of providing service. The likely result of the Act is to reduce the amount of federal income tax expense properly recovered from ratepayers because, among other things, it substantially reduces the maximum corporate tax rate. The corporate tax rate as established in federal tax law is used to determine the federal tax expense for ratemaking. If the rates are not adjusted, the company will receive a windfall, at the expense of its customers, in the form of an overrecovery of federal income tax expense.

The result of the reduction in federal income tax expense for ratemaking means that the current rates charged to the ratepayers will become unjust and unreasonable on July 1, 1987, the effective date of the revised corporate tax rates. Pursuant to Minn. Stat. §§ 216B.03 and 237.06 (1986), the Commission is charged with responsibility for setting just and reasonable rates. In order to meet its statutory duty and fulfill its responsibility, the Commission must adjust rates that are unjust and unreasonable due to the Act and make them just and reasonable.

The utilities and telephone companies may argue that the rules are unnecessary because provisions of the Act other than the reduction in the corporate tax rate will work to increase the amount of federal income tax expense properly recovered from ratepayers. However, the Commission has considered these effects. The adjustment is computed by using all provisions of the Act applicable to the computation of federal income tax expense reflected in the operating income statement for ratemaking.

The utilities and telephone companies may also argue that the proposed rules are not needed because there will be effects on rate base, caused by the Act, that may offset the effects contemplated by the proposed rules. As explained in the discussion on the reasonableness of part 7827.0400, the proposed rules do not adjust for the effects of the Act upon rate base because the effects are expected be minimal. In the Commissions's view, the computations used to calculate the effects upon rate base are too time consuming and complex to justify their use for purposes of carrying out the intent of the rules.

The utilities and telephone companies may argue that the proposed rules are unnecessary because other expenses or rate base changes have occurred which may offset the effects of the Act. The Commission finds that all expenses, including the federal tax expense, were calculated and used for setting rates

in the utility or telephone company's most recent general rate case. If other expenses or rate base items have changed then the appropriate forum to recalculate rates is in a new general rate case. A general rate case is the more appropriate forum in this instance because the other expenses may have increased for unknown reasons in unmeasurable amounts. Since these changing expense levels are uncertain, extensive testimony and exhibits may be needed to prove the amount of change. A general rate case is not necessary to implement the changes required by the proposed rules because the amount of the tax expense change is reasonably known and measurable. Furthermore, the proposed rules recognize that a utility or telephone company may file a general rate case, in lieu of the adjustment contained in the proposed rules, if it determines that changes in other expenses may offset the decrease in the federal income tax expense.

IV. STATEMENT OF REASONABLENESS

The Commission is required by Minn. Stat. ch. 14 (1986) to make an affirmative presentation of facts establishing the reasonableness of the proposed rules. Reasonableness is the opposite of arbitrariness or capriciousness. It means that there is a rational basis for the Commission's proposed action. The reasonableness of the proposed rules is discussed below.

A. Reasonableness of the Rules as a Whole

The proposed rules solve the problem of unjust and unreasonable rates by adjusting rates for the reduction in federal income tax expense for any utility or telephone company that would experience a windfall recovery under the Act. The amount of the adjustment is based upon recent financial data of the utility or telephone company and the final provisions of the Act.

This approach is reasonable because the provisions of the Act are applicable to all utilities and telephone companies. Furthermore, the change in expense is reasonably known and measurable. In addition, the change in expense is the result of a change in federal law, which is beyond the control of the utilities and telephone companies and the Commission.

The proposed rules do not adjust for any expenses of the utility or telephone company other than the federal income tax expense. This is reasonable because other changes in expense levels may be questioned as to whether they should be allowed for ratemaking purposes and may be contested. Moreover, changing levels in other expenses may not be experienced equally by all utilities or telephone companies. Therefore, the changing levels of other expenses are more appropriately addressed in a general rate case which allows for a thorough investigation and hearing.

The proposed rules do not adjust rates in the event that the Act results in an increase in the federal income tax expense for ratemaking purposes. Minn. Stat. §§ 216B.16 and 237.075 (1986) already provide a mechanism for an increase in rates. By means of the interim rates provisions contained in these statutes, a utility or telephone company can implement increased rates within 60 days of its request for a change in rates.

The statutes contain no comparable provision for a rate decrease. The Commission's authority to initiate an investigation under Minn. Stat. §§ 216B.21, 216B.23 or 237.081 (1986), and thereby reduce rates, would result in an unreasonably lengthy solution to a problem that needs immediate action.

In summary, the Commission does not have express statutory authority to initiate a general rate case under Minn. Stat. §§ 216B.16 or 237.075 (1986). An investigation under Minn. Stat. §§ 216B.21, 216B.23 or 237.081 (1986) can be an unwieldy and lengthly process. If a utility or telephone company underrecovers the federal income tax expense, it can receive relief in 60 days by filing a general rate case.

The proposed rules also provide a means for the utilities and telephone companies to adjust rates for the effects of the Act which avoids the administrative burden and associated costs of a general rate case. Utilities and telephone companies need not develop extensive testimony and exhibits, and need not go through the time and expense of an evidentiary hearing. These savings for the utilities and telephone companies also result in savings for the ratepayers. Finally, the information needed to perform the adjustment to rates under the rules is readily available to the utilities and telephone companies, and can be completed in much less time than a general rate case.

B. Reasonableness of Individual Rules

The following discussion addresses the specific provisions of the proposed rules.

Part 7827.0100 Definitions

Subpart 1 defines the scope of the definitional section of the rules. It is reasonable to state that this part gives the meaning of the terms used in the proposed rules.

Subparts 2 and 3 explain that the Minnesota Public Utilities Commission and the Minnesota Department of Public Service will be referred to as the Commission and the Department, respectively.

Subpart 4 defines public utility as it is commonly used and as set forth in Minn. Stat. § 216B.02, subd. 4 (1986):

> Subd. 4. "Public utility" means persons, corporations or other legal entities, their lessees, trustees, and receivers, now or hereafter operating, maintaining, or controlling in this state equipment or facilities for furnishing at retail natural, manufactured or mixed gas or electric service to or for the public or engaged in the production and retail sale thereof but does not include (1) a municipality or a cooperative electric association, organized under the provisions of chapter 308 producing or furnishing natural, manufactured or mixed gas or electric service or (2) a retail seller of compressed natural gas used as a vehicular fuel which purchases the gas from a public utility. Except as otherwise provided, the provisions of this chapter shall not be applicable to any sale of natural, manufactured or mixed gas or electricity by a public utility to another public utility for

resale. In addition, the provisions of this chapter shall not apply to a public utility whose total natural gas business consists of supplying natural, manufactured or mixed gas to not more than 650 customers within a city pursuant to a franchise granted by the city, provided a resolution of the city council requesting exemption from regulation is filed with the commission. The city council may rescind the resolution requesting exemption at any time, and, upon the filing of the rescinding resolution with the commission, the provisions of this chapter shall apply to the public utility. No person shall be deemed to be a public utility if it furnishes its services only to tenants or cooperative or condominium owners in buildings owned, leased or operated by such person. No person shall be deemed to be a public utility if it furnishes service to occupants of a manufactured home or trailer park owned, leased, or operated by such person. No person shall be deemed to be a public utility if it produces or furnishes service to less than 25 persons.

It is reasonable to use the statutory definition of public utility because these utilities are affected by the Act and therefore, their rates may need to be adjusted by the proposed rules.

Subpart 5 defines the tax reform act as the federal Tax Reform Act of 1986, Public Law Number 99-514. It is reasonable to refer to this law as the "tax reform act" throughout the proposed rules so that the intent, scope and effect of the rules is clear.

Subpart 6 defines telephone company as it is commonly used and as set forth in Minn. Stat. § 237.01, subd. 2 (1986):

> Subd. 2. Telephone company. "Telephone company," means and applies to any person, firm, association or any corporation, private or municipal, owning or operating any telephone line or telephone exchange for hire, wholly or partly within this state, or furnishing any telephone service to the public.
>
> A "telephone company" does not include a radio common carrier as defined in subdivision 4. A telephone company which also conforms with the definition of a radio common carrier is subject to regulation as a telephone company. However, none of chapter 237 applies to telephone company activities which conform to the definition of a radio common carrier.

However, the definition used for the proposed rules specifically excludes telephone companies providing service to fewer than 15,000 subscribers because most of these companies are not subject to the ratemaking provisions of Minn. Stat. § 237.075 (1986). It also excludes small toll companies.

The proposed rules are patterned after a distinction created by statute for ratemaking purposes. That distinction is based on size. Only the five largest telephone companies which serve more than 15,000 subscribers are fully rate regulated by the Commission. These five companies serve approximately 89% of the local exchange telephone customers in Minnesota. The statutory scheme is followed in the proposed rules because it is reasonable and not arbitrary. Only five local exchange companies are burdened, while the benefits of just and reasonable rates are provided to the maximum number of ratepayers.

The same reasoning applies to companies that provide long distance, toll service to Minnesota customers. Only the largest toll companies will be subject to the proposed rules because these companies provide almost all the long distance service in Minnesota.

Part 7827.0200 Purpose

This part clearly states the intent of the proposed rules. This part emphasizes that the rules result from the impact of the Act on rates charged by telephone companies and public utilities for service within Minnesota. It recognizes that the Act affects rates by reducing federal corporate income tax expense, which in turn reduces corporate operating costs. Since the cost of service will decrease, rates must be adjusted accordingly.

Part 7827.0300 Reasonable Rates

This part recognizes that unless rates are adjusted to reflect the decrease in the federal tax expense, those rates will become unjust and unreasonable as of July 1, 1987 because the utilities and telephone companies will be collecting more federal income tax expense through rates than is necessary under the Act. The necessary adjustment to ensure just and reasonable rates can occur in three ways: through either the proposed rules, a completed general rate case that considered the effects of the Act or an on-going general rate case that will consider the effects of the Act on rates.

Item A explains the first way to ensure just and reasonable rates. Rates that have been adjusted under part 7827.0400 are just and reasonable because the reduction in federal income tax expense has been accounted for in the rates.

Item B recognizes that general rate cases decided or begun in 1987 have considered or will consider the effect of the Act on rates by incorporating the provisions of the Act in determining the revenue requirement of a utility or telephone company. Therefore, rates set in such a manner will not be unjust and unreasonable because adjustments will be made for the effects of the Act.

Item C recognizes that any interim rates in effect on July 1, 1987, as part of a general rate case are subject to refund. If the effect of the Act was not considered in setting interim rates, it will be considered in setting final rates in the general rate case. Since interim rates are subject to refund, any overrecovery during the interim period will be returned to the ratepayers at the conclusion of the general rate case.

Items B and C also work to exempt companies from parts 7827.0400 to 7827.0600 of the proposed rules when their rates have been or will be adjusted to reflect changes in the federal income tax expense. Thus, a company may elect its statutory option and file a general rate case under Minn. Stat. §§ 216B.16 and 237.075 (1986), if it determines that a rate increase is needed or if it determines that an increase in other expenses may offset the decrease in the federal income tax expense.

Part 7827.0400 Computation

This part supplies the calculation of the federal income tax adjustment amount. As explained in part 7827.0500, the federal income tax adjustment amount computed in this part will be used to reduce rates.

The rule does not seek to compute the adjustment necessary to rates by determining a new revenue deficiency for the effects of the Act. A new revenue deficiency would be determined by establishing a new rate base, rate of return, and operating income. The rule instead computes the adjustment necessary to rates by determining the effects of the Act on the utility or telephone company's Minnesota jurisdictional federal income tax expense based upon the revenues and expenses included in its recent income statement.

This approach is reasonable for two reasons. First, it is effective because it captures the majority of the effects, which will be reflected in the change in the federal income tax expense amount. This is because the Act affects the computation of the expense to a much greater degree than it affects amounts in the rate base or possible ramifications to the rate of return. Second, this approach is efficient because the calculation of the effects of the Act based upon the utility or telephone company's income statement is reasonably known and measurable and thus can be computed and reviewed with a minimum amount of cost and effort. Determining the effects of the Act on the utility or telephone company's rate base and rate of return, on the other hand, would be complex, time-consuming, and likely to result in a contested case hearing. Such determinations are more appropriately the subject of a general rate case. The rules provide this option to a utility or telephone company. In summary, the method chosen carries out the intent of the rule by capturing the major elements of the change in federal income tax expense in a reasonable and efficient manner.

The adjustment amount is computed by determining two different amounts of federal income tax expense for the same amount of taxable income. The two different federal income tax expense amounts are the result of applying federal tax rates and provisions in effect before and after implementation of the Act. This is reasonable because it isolates the effect of the Act upon federal income tax expense and thus carries out the intent of the rules to adjust rates for the reduction in the utility or telephone company's operating costs as a result of the Act.

Item A

Item A defines the amount of taxable income to which the two different tax computations are to be applied. The amount of taxable income is to consist of the utility or telephone company's actual 1986 revenues and expenses, adjusted to include only items that are the same in nature and kind as in the currently effective order in the utility's most recent rate proceeding, and normalized to the extent necessary to reflect normal operating conditions.

The Commission considered three options for the appropriate time period over which to measure the effects of the Act: the utility or telephone company's most recent general rate case; a projection of 1987 data; or recent actual 1986 data.

The Commission finds that the data approved in a utility or telephone company's most recent general rate case may have changed substantially since the time of the general rate case. Applying provisions of the Act to such outdated information would result in an adjustment that may be inappropriate. The Commission finds that requiring a projection of 1987 data would place an unreasonable burden upon the utility or telephone company because of the substantial amount of work necessary to develop projections. Furthermore, there is an inherent uncertainty in using forecasted numbers. Finally, the Commission finds that the use of 1986 revenues and expenses is reasonable because the information is readily available and has been audited which gives an assurance of accuracy. In addition, it allows the use of current revenue/cost relationships which may have changed since the utility or telephone company's last general rate case. The recent information must be adjusted, however.

Revenues and expenses should include only items the same in nature and kind as allowed in the utility's last general rate case. The company's current operating income may include revenues and expenses that were not allowed in the company's most recent general rate case. Therefore, the rules require an adjustment to the company's current operating income to factor out those revenues and expenses. If the company were to include items not approved by the Commission, the tax expense would be based upon nonratemaking items. Thus, the resulting tax expense and adjustment to rates would be inaccurate for ratemaking.

The 1986 revenues and expenses must be further adjusted to reflect only normal operating conditions. Revenues and expenses actually reported may include items that are unique to 1986 or at levels unusual when compared with long-term averages. For example, an extremely cold winter would result in greater than normal natural gas sales. Normalizing revenues and expenses is reasonable because it is consistent with the method used in general rate cases to determine the allowable revenues and expenses for ratemaking. Furthermore, it will result in a level of taxable income representative of normal past conditions which can reasonably be expected to carry on into the future over the period of time when the adjustment to rates is in effect.

Item B

Item B requires the computation of two different amounts of federal income tax expense for the income determined in Item A. Federal income tax expense is to be calculated using the rates and provisions of federal tax law before and after implementation of the Act. This allows the effects of the Act on federal income tax expense to be identified. Detailed schedules are necessary to enable the Commission and interested parties to understand how the computation was made.

In both cases, the federal income tax expense is to be computed using the same method approved by the Commission in the utility's most recent rate proceeding. This is reasonable because the rules do not attempt to adjust for a change in the method of calculating federal income tax expense. The method to be used was determined by the Commission in the utility's most recent rate proceeding to be appropriate for ratemaking. The component parts of the tax calculations and the detailed schedules of the calculations must be shown to allow for an independent determination of their reasonableness.

Item C

Item C requires the utility to determine the difference between the two amounts of federal income tax expense in Item B. This difference is the basis of the adjustment amount that will be used to reduce rates. The difference must then be multiplied by a gross revenue conversion factor. This is necessary because the difference in federal income tax expense reflects the reduction in operating costs only. The amount of revenue associated with that reduction is greater due to the tax effects of the reduced revenues. Calculation of the gross revenue conversion factor must be submitted to the Commission so it can determine that the appropriate tax rates were used and that the calculation is accurate.

Part 7827.0500 Adjustments of Tariffs, Schedules

Subpart 1 of the rule requires the public utility or telephone company to reduce its rates by the adjustment amount calculated in part 7827.0400. The reduced rates are to take effect on July 1, 1987, the effective date of the Act. On and after that date, rates not adjusted for the change in federal income tax expense are unjust and unreasonable. Before that date, no adjustment is necessary because the new, reduced corporate tax rates found in the Act are not in effect.

Subpart 2 requires that the Commission receive detailed schedules supporting the calculation of the reduced rates. This is a reasonable means of ensuring that the calculation is done accurately. It is also a reasonable means of providing for a timely and efficient agency review of the calculation.

Subparts 3, 4 and 5 ensure that any rate reductions are uniform for all classes of service. This is a reasonable means of ensuring that the benefits of any rate reductions are shared equally among all the ratepayers. To do otherwise would result in a change to the rate design established in the company's most recent general rate case.

Part 7827.0600 Filings; Written Comments

This part states when and where the information required by other parts of the proposed rules must be filed. The Minnesota Department of Public Service (the DPS) is the investigatory arm of the Commission and in that capacity routinely reviews filings and submits reports and recommendations to the Commission. The Office of the Attorney General, Residential Utilities Division (the RUD-AG), represents residential ratepayers in proceedings before the Commission.

This part does not require that other interested persons, such as the Minnesota Public Interest Research Group or large industrial customers, be served a copy of the filings. However, interested persons may review a copy of the filings at the Commission or company offices. This part also provides a written comment period of 20 days to enable voluntary participation by interested persons.

These and other interested persons do not automatically receive a copy of the filings because it would be unnecessary and unreasonably burdensome to serve

copies on all potentially interested persons. This part is also reasonable because the proposed rules provide an established and uniform method of adjusting rates. In this way, the filings made under the proposed rules are similiar in application and effect to a compliance filing for a general rate case. Compliance filings ensure that the utilities and telephone companies have established rates which conform to the Commission's directives. The Commission reviews the compliance filings and the DPS and the RUD-AG are served copies of the filings so that they may submit comments. Other interested persons may receive a copy upon request under normal terms and submit comments, as in the proposed rules.

The filings are due May 1, 1987, or 30 days after the adoption of the proposed rules, whichever is later. This timeframe is intended to ensure that the adjusted rates take effect on or as soon after July 1, 1987, as possible. Time is important because any overrecovery will begin on the effective date of the Act. The filing dates are reasonable because they allow companies sufficient time to prepare their filings. The Act was enacted into law on October 22, 1986. Therefore, affected companies will have had at least six months to determine the impact of the Act on their operations. These dates are also reasonable because they allow for timely review of the filings and will therefore, keep any overrecovery to a minimum.

V. SMALL BUSINESS CONSIDERATIONS IN RULEMAKING

Minn. Stat. § 14.115, subd. 2 (1986) requires the Commission, when proposing rules which may affect small businesses, to consider the following methods for reducing the impact on small businesses:

(a) the establishment of less stringent compliance or reporting requirements for small businesses;

(b) the establishment of less stringent schedules or deadlines for compliance or reporting requirements for small businesses;

(c) the consolidation or simplification of compliance or reporting requirements for small businesses;

(d) the establishment of performance standards for small businesses to replace design or operational standards required in the rule; and

(e) the exemption of small businesses from any or all requirements of the rule.

Minn. Stat. § 14.115, subd. 1 (1986) defines small business as:

> Definition. For purposes of this section, "small business" means a business entity, including its affiliates, that (a) is independently owned and operated; (b) is not dominant in its field; and (c) employs fewer than 50 full-time employees or has gross annual sales of less than $4,000,000. For purposes of a specific rule, an agency may define small business to include more employees if necessary to adapt the rule to the needs and problems of small businesses.

The Commission believes that the gas and electric utilities and telephone companies affected by the proposed rules do not fall within the statutory definition of small business. The utilities and telephone companies affected by the rules are dominant in their service area and generally have gross annual sales in excess of $4,000,000.

Furthermore, the Commission notes that in Minn. Stat. ch. 216B and ch. 237 (1986), it has been authorized by the legislature to regulate gas and electric utilities and telephone companies. Some of the basic tenets of utility and telephone company regulation are: utilities and telephone companies are affected with a deep public interest; utilities and telephone companies are obligated to provide satisfactory service to the entire public on demand; and utilities and telephone companies 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 and telephone companies 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 and telephone company is considerably higher than in other types of businesses.

Even if some small utilities and 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 (1986) 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.

While the Commission recognizes that the proposed rules will add to the administrative burden of all regulated utilities and telephone companies, the added burden is not significant when compared to the administrative burden of a general rate case. For the foregoing reasons, the Commission finds that Minn. Stat. § 14.115 (1986) is not applicable to this rulemaking procedure.

VII. CONCLUSION

Based on the foregoing, the proposed Minn. Rules pts. 7827.0100 to 7827.0600 are both needed and reasonable.

Mary Ellen Hennen
Executive Secretary

Dated: MAR 2 0 1987

1687B

STATE OF MINNESOTA
PUBLIC UTILITIES COMMISSION

In the Matter of the Proposed Adoption of the Rule of the Minnesota Public Utilities Commission Governing Rate Adjustments Due to Tax Reform Act of 1986

AFFIDAVIT OF MAILING THE NOTICE OF INTENT TO ADOPT RULE WITHOUT A PUBLIC HEARING AND CERTIFICATE OF MAILING LIST

STATE OF MINNESOTA)
) ss.
COUNTY OF RAMSEY)

Dawn M. Walker, being duly sworn says:

I hereby certify that the list of persons and associations who have requested, pursuant to Minn. Stat. §§ 14.14, subd. 1a and 14.22 (1986) that their names be placed on the Minnesota Public Utilities Commission's rulemaking mailing list is accurate, complete, and current as of this 20th day of March, 1987.

That on the 20th day of March, 1987, at the City of St. Paul, County of Ramsey, State of Minnesota, I mailed the attached Notice of Intent to Adopt Rules Without a Public Hearing by depositing in the State of Minnesota Central Mail System for United States Mail or in the United States mail a copy thereof, with postage prepaid, to all persons and associations on the aforementioned mailing list.

Dawn M Walker

Subscribed and sworn to before me
this 20th day of March, 1987.

Karen Dorff
Notary Public

#0952C

KAREN DORFF
NOTARY PUBLIC-MINNESOTA
ANOKA COUNTY
MY COMMISSION EXPIRES APRIL 14, 1990

0717 B
Disk 0021A

MASTER RULEMAKING LIST
(Use for general rules)

Michele Foster
!T
Opus Corporation
Box 150
Minneapolis, MN 55440

Steven D. Toelle
!GE CN
Box 3026
Elbow Lake, MN 56531

Colin P. Milne
!GE
Resources Conservation
P.O. Box 71
Greenwich, CT 06836

Marcella M. Daehn, Clerk
!GE T CN
City of Edina
4801 West 50th Street
Edina, MN 55424

Blooming Prairie Public Utilities
!GE
P.O. Box 55
Blooming Prairie, MN 55917

Vernon Vick
!T
Vocational Director
Independent School District 623
1251 County Road B2 West
Roseville, MN 55113

City of Brownton
!GE
Brownton, MN 55312

Richard Haubensak
!GE
Peoples Natural Gas Company
25 Main Place
Council Bluffs, IA 51501

Tom Heller
!GE
Box 779
Moorhead, MN 56560

William Thibault
!GE CN
Planning Director
City of St. Louis Park
5005 Minnetonka Blvd.
St. Louis Park, MN 55426

John Green
!CN
University of Minnesota
Geology Department
Math/Geology Bldg., Room 229
Duluth, MN 55812

Joseph I. Adrian, Manager
!GE T CN
Light and Power Commission
Municipal Electric Plant
305 11th Street East
Glencoe, MN 55336

Ruth Helmer
!T CN
Mayor
City of Hermantown
3161 Maple Grove Road
Hermantown, MN 55811

R.G. Kirkham, Exec. Director
!GE CN
MN Municipal Utilities Association
P.O. Box 459
Buffalo, MN 55313

Otto Schmid
!GE T CN
Exec. Director RDC 6W
Upper Minnesota Valley Regional
Development Commission
323 Schlienman W.
Appleton, MN 56208

Diana Skelly, Clerk
!GE
Town of Bass Brook
Box 146
Cohasset, MN 55721

P.D. Brick
!GE CN
Pickands Mather & Co.
1100 Superior Avenue N.E.
Cleveland, OH 44114

D.D. Hahn
!GE
Geo. A. Hormel Co.
P.O. Box 800
Austin, MN 55912

Allen F. Schrupp
!GE CN
1604 7-1/2 Street S.W.
Willmar, MN 56201

Library
!GE T
Briggs & Morgan
2200 1st National Bank Bldg.
St. Paul, MN 55101

Richard O. Johnson
!GE T CN
Board of Residential Utility Consumers
3521 East Lake Street
Minneapolis, Minnesota 55406

Joseph Takats
!GE CN
Engineer
Gilbert/Commonwealth Inc.
209 East Washington Avenue
Jackson, MI 49201

Karen M. George
!GE T CN
Southern Minnesota Legal Services
Medical Arts Building, Room 300
Albert Lea, MN 56007

COACT
!GE
2904 West Third Street
Duluth, MN 56806

Nancy Needham
!T
Inst. Corp./Gov. Strat.
49 Pinckney Street
Boston, MA 02114

James J. Ryan
!GE CN
2208 Central Trust Tower
Cincinnati, OH 45202

President
!GE CN
Saint Paul Area Chamber of Commerce
600 North Central Life Tower
445 Minnesota Street
Saint Paul, Minnesota 55101

Burington Northern Railroad Comp
!CN
Law Department
176 East 5th Street
St. Paul, MN 55101

D. F. Hennen, Plant Manager
!GE
Anchor Glass Container Corporatio
4108 Valley Industrial Blvd. Nort
Shakopee, MN 55379-0069

Glen Shaw, Director
!T
Southwest & West Central Ed. Coop
Southwest State University
Marshall, MN 56258

Executive Director
!GE T CN
Region 5 Regional Devel. Commissi
611 Iowa Avenue
Staples, MN 56479

Paul Kinn
!T
Instructor
Wadena AVTI
405 Colfax Avenue S.W.
Wadena, MN 56482

Lyon-Lincoln Elec. cooperative
!GE
Box 639, West Highway 14
Tyler, MN 56178

Bill Payne
!CN
New Connection Programs
73 Leech Street
St. Paul, MN 55102

John E. Drawz
!GE T CN
Attorney
2000 First Bank Place West
120 South Sixth Street
Minneapolis, MN 55402

John T. Anderson
!GE
Power & Light Department
Box 528
Thief River Falls, MN 56701

Vern Peterson
!T
Metron Municipal Assn.
183 university Avenue East
St. Paul, MN 55101

Dwight Picha
!GE T CN
City of Woodbury
2100 Radio Dr.
Woodbury, MN 55125

Clarence P. Lindberg
!GE CN
Lindberg Associates
750 South Plaza Drive
Mendota Heights, MN 55120

James F. Andre, City Manager
!GE T CN
2660 Civic Center Drive
Roseville, MN 55113

John G. McMillan
!GE
Energy Manager
Hennepin County Offices
300 Sixth Street South, Room A2208
Minneapolis, MN 55487

Don E. Salzmann, Utility Supt.
!GE CN
Melrose Municipal Utilities
21 West Main Street
Melrose, MN 56352

Tom Ollig, Manager
!T
Winsted Telephone Company
181 Second Street South
Winsted, MN 55395

City of Breckenridge
!GE T
Michael D. Casper
203 North Fifth Street
Breckenridge, MN 56520

Luther D. Nelson
!GE CN
David Winter
Hennepin County Environmental &
Energy Office
822 South Third Street
Minneapolis, MN 55415

Marvin W. Field
!GE
Carlton County Coop Power
Kettle River, MN 55757

Myra Gibson, Assistant Planner
!GE T CN
City of Fridley
6431 University Avenue N.E.
Fridley, MN 55432

James Solem
!GE
Minnesota Housing Finance Agency
400 Sibley Street, Room 300
St. Paul, MN 55101

Kip Sullivan
!GE
Minnesota COACT
2395 University - Room 304
St. Paul, MN 55114

David Fricke
!CN
Executive Director
Association of Minnesota Township
Box 246
St. Michael, MN 55376

Dale L. Swanson
!GE T CN
City Engineer
City of Willmar
333 Sixth Street S.W., Box 755
Willmar, MN 56201

Peter Ranum, Chairman
!GE T CN
Minnesota COACT Energy Task Force
1216 South Sixth Street
Brainerd, MN 56401

Minnesota Attorney General's Off
!GE T CN
Antitrust Division
117 University Avenue, second Flo
St. Paul, MN 55155

Beverly Gleeson
!GE CN
State LIEAP/Weatherization Progra
690 American Center Building
160 Kellogg BLvd.
St. Paul, MN 55101

John P. Leifer
!GE T CN
Assistant General Manager
Dairyland Power Cooperative
2615 East Avenue South
LaCrosse, WI 54601

Jack Bittle, City Engineer
!GE
City of Champlin
1200 Highway 52
Champlin, MN 55316

Charles K. Dayton
!CN
Dayton, Herman, Graham & Getts
10 Fifth Street South, Suite 930
Minneapolis, MN 55401

Bemidji Chamber of Commerce
!GE T CN
Box 850
Bemidji, MN 56601

Carla C. Kjellberg
!GE T CN
Attorney
MPIRG
2412 University Avenue S.E.
Minneapolis, MN 55414

Mary Sullivan, Executive Director
!GE T CN
Scott-Carver Economic Council
6th And Oak
Carver, MN 55215

George Sundstrom
!GE T CN
Sr. Citizen Coalition of NE MN
407 West Superior
Duluth, MN 55802

John Herman
!GE T CN
Dayton, Herman, Graham & Getts
10th Fifth Street South, Suite 930
Minneapolis, MN 55401

Jay Myster
!GE CN
215 South Cascade Street
Fergus Falls, MN 56537

C.W. Peterson
!GE
Box W
Pelican Rapids, MN 56572

Ottertail-Wadena Community
!GE
Action Councial
Box L
New York Mills, MN 56567

Clyde Weivoda, Clerk
!GE T CN
City of Albany
Box 374
Albany, MN 56307

Manager
!GE T
P.K.M. Electric Coop
Box 108
Warren, MN 56762

City of Warren
!GE
126 West Johnson
Warren, MN 56762

C. Ted Nelson, Gen. Manager
!GE CN
Municipal Utilities Commission
P.O. Box 937
Willmar, MN 56201

Water & Light Commission
!GE
P.O. Box 418
Moose Lake, MN 55767

Mark Moenning
!CN
Reroute Crude Oil Association
Route 2, Box 183
Dodge Center, MN 55927

Town of White Bear
!GE T CN
1281 Hammond Road
White Bear Lake, MN 55110

Karen Swenson
!GE T CN
City Council Research
705 City Hall
St. Paul, MN 55102

Russel F. Berg
!GE
104 North Jefferson
Wadena, MN 56482

St. Paul Tenants' Union
!GE T CN
500 Laurel
St. Paul, MN 55102

City of Rosemount
!GE
1367 145th Street East
Rosemount, MN 55068

Central MN-COACT
!GE T CN
123-1/2 Broadway
Little Falls, MN 56345

Gordon Breczinski
!GE T CN
Rte. 1, Box 162
Marshall, MN 56258

Barry C. Schade, Director
!CN
Minnesota Pollution Control Agency
1935 Co. Rd. B2 West
Roseville, MN 55113

Zona De Witt
!GE T CN
Legislative Reference Library
645 State Office Building
St. Pual, MN 55155

Richard J. Bradford
!GE T CN
City Clerk
City of Hoyt Lakes
City Hall
Hoyt Lakes, MN 55750

Don Brandt
!GE CN
Peoples Coop Power
P.O. Box 1039
Rochester, MN 55901

Public Utilities Commission
!GE
City of Grand Marais
Grand Marais, MN 55604

City of St. Charles
!GE T CN
1242 Whitewater Avenue
St. Charles, MN 55972

Jeremy Lane, Legal Aid
!GE T
222 Grain Exchange Building
323 Fourth Avenue South
Minneapolis, MN 55415

Charles F. Gosen
!GE T CN
County Auditor
Box 808
Baudette, MN 56623

Daniel J. Donhue
!GE T CN
City of New Hope
4401 Xylon Avenue North
New Hope, MN 55428

Jeff Muehler, Office Manager
!(GE)
P.O. Box 410
520 Nebraska Avenue
Breckenridge, MN 56520

Daniel R. Duklet
!(GE)
Superintendent
Halstad, MN 56548

Jan P. Gasterland
!GE T
Building Code Officer
Room 445 City Hall
St. Paul, MN 55102

Lisa Swanson, Secretary
!GE T CN
228 Central Avenue
P.O. Box 434
Faribault, MN 55021

Albert D. Dial, Director
!GE T CN
Real Estate, Right of Way
Related Service
Dairyland Power Cooperative
Box 817
LaCrosse, WI 54602-0817

Lois Gearhart
!GE T CN
Regulatory Information Srv.
4520 East-West Highway, Ste. 800
Bethesda, MD 20814

William J. Nicholson
!GE CN
Potlatch Corporation
P.O. Box 8162
Walnut Creek, CA 94596

Barbara Ecklund, Director
!GE T CN
Minnesota Senior Federation
301 Fuller Avenue
St. Paul, MN 55103

John A. Knapp, Esq.
!GE T
Winthrop & Weinstine
1800 Conwed Tower
444 Cedar Street
St. Paul, MN 55101

Burt Associates
!GE
P.O. Box 14299
Columbus, OH 43214

Becky Comstock
!GE T CN
Dorsey & Whitney
2200 First Bank Place East
Minneapolis, MN 55402

Charles Kroeger
!GE T CN
QSS
P.O. Box 838
Faribault, MN 55021

Steven Johnson, Executive Director
!GE CN
MN-Dakotas Retail Hardware
3033 Excelsior Blvd.
Minneapolis, MN 55437

Roger Buettner
!GE T
South St. Pual Public Schools
700 Second Street North
South St. Paul, MN 55075

James Mahon, Gen. Mgr.
!GE CN
Virginia Dept. of Public Utilitie
618 Second Street South
Virginia, MN 55792

Ron Kennedy, Mgr.
!GE
Red Lake Electric Coop.
Red Lake Falls, MN 56750

Phillip R. Hammond
!GE T CN
Director-Rates and Tariffs
Minnegasco
201 Seventh Street South
Minneapolis, MN 55472

G. L. Kaziukewicz
!GE CN
Quality & Environmental Manager
Waldorf Corporation, P.O. Box 201
2250 Wabash Avenue
St. Paul, MN 55164

August Blegen
!T
Minnesota Business Util. Users
P.O. Box 20163
Minneapolis, MN 55407

D.E. Hamill, Vice President-
!GE CN
Budgets/Regulatory Affairs
Interstate Power Company
1000 Main Street
Dubugue, IA 52001

Director
!GE T CN
Developmental Disabilities Planni
201 Capitol Square Building
St. Paul, MN 55101

W.C. Sjolund, Superintendent
!GE
Brainerd Water & Light
Box 373
Brainerd, MN 56401

Jim Tersteeg
!GE T CN
Renville County Courthouse
Olivia, MN 56277

Crow Wing Coop Power & Light
!GE
P.O. Box 507
Brainerd, MN 56401

Northern Natural Gas Co.
!GE
Government Affairs Office 7901 Xerxes Ave.S.
~~Suite 1412, Midwest Plaza West~~
Minneapolis, MN ~~55402~~ 55431

W. John Licke, General Counsel
!GE
Blandin Paper Company
114 First Street Southwest
Grand Rapids, MN 55744

Herbert Anderson
!T
418 - 8th Street South
Virginia, MN 55792

David P. Larson, General Manager
!GE
Wright-Hennepin Coop. Electric
Maple Lake, MN 55358

David Jeronimus
!GE
Manager, Regional Affairs
Minnesota Power Company
30 West Superior Street
Duluth, MN 55802

Gerald L. Mahon, Director
!GE T
Water Utility
City Hall
St. Cloud, MN 56301

Leon Barnier, General Manager
!GE CN
MN Rural Electric Association
4901 West 77th Street
Minneapolis, MN 55435

Robert A. Julius
!GE CN
Southern Minnesota Municipal
Power Agency
21 First Street S.W., Suite 400
Rochester, MN 55901

MCAA
!GE T CN
310 1/2 City Hall
Minneapolis, MN 55415

Jean Dawson, Editor
!GE T CN
Minnesota Government Report
B-12 Press Room
State Capitol Building
St. Paul, MN 55155

Donald L. LaValley
!GE T CN
County Auditor
Court House
Austin, MN 55912

Elaine Debeir
!GE T CN
Government Affairs Assistant
Minnesota Power
30 West Superior Street
Duluth, MN 55802

Gary E. Brown - City Admin.
!GE T CN
100 Sibley Street
Hastings, MN 55033

Chris Enger
!GE T CN
City of Eden Prairie
8950 Eden Prairie Road
Eden Prairie, MN 55344

William P. Lavin, City Manager
!GE CN
885 Prentice
Granite Falls, MN 56241

Leroy D. Schecher, Manager
!GE
501 South First Street
P.O. Box 717
Montevideo, MN 56265

General Manager
!GE
Brown County Rural Electric Assn.
Sleepy Eye, MN 56085

Frank W. Watkinson
!GE
Energy Eng. - Paper Group
Boise Cascade Corporation
International Falls, MN 56649

Sarah Linderman
!GE
Sutherland, Asbill & Brennan
1666 K. Street N.W.
Washington, D.E. 20006

Jay M. Heffern, Chief Counsel
!CN
Metro Square Building
7th Street and Robert
St. Paul, MN 55101

John R. Langan
!GE T CN
Courthouse
Benson, MN 56215

Richard Grakow, City Adminstrator
!GE CN
City of Detroit Lakes
P.O. Box 647
Detroit Lakes, MN 56501

Public Utilities Commission
!GE T CN
120 First Street N.W.
Aitkin, MN 56431

David Sollenberger
!GE T CN
City Hall, P.O. Box 378
4th and Lafayette Sts.
Winona, MN 55987

Reynold Rahko
!GE CN
Manager-Projects Coord. Division
United Power Association
Elk River, MN 55330

Daniel D. Foth
!GE T CN
Executive Director
Associated Builders & Contractors
6989 Washington Avenue South
Edina, MN 55435

Henry Fieldseth
!GE CN
Northern Sun Alliance
1519 Franklin Avenue East
Minneapolis, MN 55404

Richard Carlund
!GE
New York Mills Municipal Gas
Box H
New York Mills, MN 56567

Dwane Brase
!GE
Superintendent
508 South Street
Waseca, MN 56093

Michael Gregerson
!CN
Director, Environmental &
Regulatory Activities Dept.
Northern States Power Company
414 Nicollet Mall
Minneapolis, MN 55401

Michael L. Enfield
!GE T CN
Sec. General Manager
Austin Utilities
P.O. Box 368
Austin, MN 55912

Gordon Johnson
!CN
Lutheran Social Service
2414 Park Avenue
Minneapolis, MN 55404

Kay Bonner Nee
!T
219 Logan parkway
Fridley, MN 55432

Kenneth E. Devillers
!GE
Utility Manager
205 West Center
Lake City, MN 55041

Scott G. Larson
!GE T
139 East 1st Avenue
Cambridge, MN 55008

Louis W. Claeson, Jr.
!T
Minnesota Auto Dealers Assn.
277 University Avenue
St. Paul, MN 55103

Clearwater-Polk Utilities
!GE
Bagley, MN 56621

Thomas Kalitowski
!CN
Executive Director
Minnesota Pollution Control Agency
1935 Couonty Road B2 West
Roseville, MN 55113

Dallas E. Nelso
!GE CN
Box 521
Litchfield, MN 55355

Maryanne V. Hruby
!GE T CN
Executive Director
Minnesota Legislative Commission
to Review Administrative Rules
State Office Bldg., Room 55
St. Paul, MN 55155

Minnesota Dept. of Health
!CN
Division of Env. Health
717 Delaware Street S.E.
Minneapolis, MN 55440

Yellow Medicine County Planning Office
!CN
10th Avenue, P.O. Box 675
Clarkfield, MN 56223

Jack Schuster
!GE T
Clerk Administrator
City of Gaylord
428 Main Avenue., Box 124
Gaylord, MN 55334

Don Anderson
!GE CN
Beltrami Electric Coop.
Box 488
Bemidji, MN 56601

Lloyd G. Becker
!GE T CN
City of Golden Valley
7800 Golden Valley Road
Golden Valley, MN 55427

Lucille Moe
!GE
Bi-County CAC
Box 579
Bemidji, MN 56601

Susan L. Carroll
!GE T
Legal Aid Society
2507 Fremont Avenue North
Minneapolis, MN 55411

Tom F. Bovitz, P.E.
!GE T CN
19th Street and Sixth Avenue
Hibbing, MN 55746

Delano Public Utilities
!GE
11 West Bridge Avenue
Delano, MN 55328

Anthony T. Ward
!GE CN
P.O. Box 658
Grand Rapids, MN 55744

Gary L. Dickson, City Manager
!GE T
City of Shoreview
4665 North Victoria
Shoreview, MN 55112

J. A. Smith
!GE CN
Donovan Companies, Inc.
1080 Montreal Avenue
St. Paul, MN 55116

Michael P. McMahon, Gen. Manager
!GE
Red River Valley Coop. Power
Halstad, MN 56548

Curt Brekke Jr.
!GE T CN
City Administrator
Civic Center
420 Main Street East
Belle Plaine, MN 56011

County Administration
!GE T CN
Polk County Courthouse
Crookston, MN 56716

Michael J. Ahern
!GE T CN
Moss & Barnett
200 Sixth St. South, Suite 1200
Minneapolis, MN 55402

Douglas E. Wallace, Manager
!GE CN
Nobles Coop. Electric
P.O. Box 788
Worthington, MN 56187

Clement Springer, Jr.
!GE CN
Defrees & Fiske
72 West Adams, #1500
Chicago, IL 60603-5163

Larry Turner
!GE
City of Northfield
801 Washington Street
Northfield, MN 55057

Tobey Lapakko
!GE T CN
AFL-CIO
175 Aurora Avenue
St. Paul, MN 55104

Catherine Sherwood
!GE T
County Auditor
171 West 3rd Street
Winona, MN 55987

Teri Virkus
!GE T CN
1031 Sixth Street East
Duluth, MN 55805

Family Service of St. Croix
!GE
216 Myrtle Street
Stillwater, MN 55082

W.C. Viitala, Dir. of Pub. Affairs
!GE T CN
Honeywell, Inc.
Honeywell Plaza MN125215
Minneapolis, MN 55408

James W. Keinath
!GE
Clerk-Administrator
9201 N. Lexington Avenue
Circle Pines, MN 55014

Lawrence Acker
!GE T CN
LeBoeuf, Lamb, Leiby, McRae
1333 New Hampshire Avenue NW
Washington, D.C. 20036

Martin A. Hillert, JR., Gen. Mgr
!GE
North Pine Electric Coop.
Finlayson, MN 55735

David Nelson, Gen. Mgr.
!GE
Alexandria Light and Power
P.O. Box 609
Alexandria, MN 56308

Ade Mussell
!GE CN
Manager, Power Supply Planning
& System Operations
Cooperative Power Assn.
14615 Lone Oak Road
Eden Prairie, MN 55344

James A. Roberts
!GE T CN
Minnesota Power
30 West Superior Street
Duluth, MN 55802

Tom Eidem
!GE T CN
City of Monticello
250 E. Broadway
Monticello, MN 55362

P. Vincent Mehmel
!T CN
Executive Director
West Central Comm. Serv. Center,
1128 Sixth St. S.E., Box 787
Willmar, MN 56201

Michael D. Johnson
!GE T CN
117 West Fifth Street
Blue Earth, MN 56013

Ronald J. Steckman
!GE
Freeborn-Mower Electric Coop.
Box 611
Albert Lea, MN 56007

Southestern Minnesota
!GE T CN
Cooperative Electric
P.O. Box 336
Pipestone, MN 56164

M.D. Hentges
!GE CN
Le Sueur Municipal Utilities
228 N. Main Street
Le Sueur, MN 56058

David S. Logan
!GE T CN
City of Pipestone
City Hall
Pipestone, MN 56164

John G. Pidgeon, City Manager
!GE T CN
2215 Old Shakopee Road West
Bloomington, MN 55431

Minnesota Audubon Council
!GE CN
730 Hennepin Avenue
Suite 330
Minneapolis, MN 55403

Barbara L. Hughes
!T
American Lung Association of
Ramsey County
614 Portland Avenue
St. Paul, MN 55102

Dean Amo
!GE
Box 230
Aitkin, MN 56431

Andrew E. Anderson
!GE
Otter Tail Power Company
215 South Cascade Street
Fergus Falls, MN 56537

Jack Deitz
!GE T CN
Norman County Courthouse
Ada, MN 56510

Patrick E. O'Brien, Gen. Manager
!GE
Itasca-Mantrap Co-OP.
Electrical Association
P.O. Box 192
Park Rapids, MN 56470

Stanley Wieber
!GE T CN
Executive Vice President
Fergus Falls Chamber of Commerce
202 South Court
Fergus Falls, MN 56537

Sandra J. Hale
!T
Commissioner
Minnesota Department of Administr
50 Sherburne Ave., Room 200
St. Paul, MN 55155

Susan Robertson, Director
!CN
Minnesota Legislative Commission
on Waste Management
Room 85, State Office Building
St. Paul, MN 55155

Michael Bradley
!GE T CN
Residential Utility Div.
Office of the Attorney General
340 Bremer Building
St. Paul, MN 55101

Mary Adams
!CN
Metro Council Library
121 Seventh St. E., Room 300
St. Paul, MN 55101

Bruce Hauschulz
!GE CN
Manager, Planning/Research
United Power Association
Elk River, MN 55330

McLeod Coop Power Assn.
!GE
P.O. Box 70
Glencoe, MN 55336

Charles B. Hoffman
!GE CN
Pickands mather & Company
200 Superior St. West, Suite 811
Duluth, MN 55802

Mark G. Sexton
!GE T CN
Director of Planning/Evaluation
Tri County Comm. Action Prog.
404 Second Ave. N.E.
Little Falls, MN 56345

C.G. Weber
!GE
P.O. Box 48
Redwood Falls, MN 56283

Robert Burk
!GE T CN
Attorney At Law
Popham, Haik, Schnobrich, Kaufman/Doty
80 Eighth St. South, Room 4344
Minneapolis, MN 55402

Bruce L. Meistad, General Manager
!GE
P.O. Box 626
Tri-County Electric Coop
Rushford, MN 55971-0626

Farley Grunig
!GE T CN
Cottonwood County Offices
Courthouse
Windom, MN 56101

Sam Ruhle
!GE T CN
Office of Administration Hearings
400 Summit Bank Building
310 South 4th Avenue
Minneapolis, MN 55415

Mary Guhin, Clerk
!GE
City of Luverne
Box 348
Luverne, MN 56156

Tony Zerpich
~~Ray Bohn~~, Director
!GE T CN
MN Dept. of Public Service
790 American Center Building
St. Paul, MN 55101

City Clerk's Office
!GE T
444 Ninth Street
Windom, MN 56101

Harold Haugh
!GE T
Jones, Haugh & Smith, Inc.
515 Washington Avenue South
Albert Lea, MN 56007

Menno Mennenga
!GE CN
14 North Marshall Avenue
Springfiled, MN 56087

Paul L. Stevens, President
!T CN
Mankato Citizens Telephone Compan
221 East Hickory Street
Mankato, MN 56001

Vern Ingvalson
!GE T CN
MN Farm Bureau Federation
P.O. Box 64370
St. Paul, MN 55164

Marcia Pelzel, City Clerk
!GE
City of Fairfax
112 S.E. First Street
Fairfax, MN 55332

Roger C. Miller
!GE CN
Levander/Gillen/Miller/Anderson/K
633 Concord Street, Room 402
P.O. Box 298
South St. Paul, MN 55075

Paul J. Huber, President
!GE T CN
Paul J. Huber, Ltd.
1821 University Avenue
St. Paul, MN 55104

Senator Donald J. Frank
!GE T CN
State Capitol Bldg., Room G28
St. Paul, MN 55155

Al Ross
!GE CN
6356 Ware Road
Lino Lakes, MN 55014

David S. Douglas
!GE
Rt. 5 Box 3950
Buffalo, MN 55313

John V. Hoene
!GE T CN
Minnesota Asphalt Pavement Associ
555 Wabasha St., Room 208
St. Paul, MN 55102

Lakes & Pines CAC
!GE
Agency Administration
129 West Forest
Mora, MN 55051

Richard O. Johnson
!GE T CN
9457 Columbus Avenue South
Minneapolis, MN 55420

Samuel W. Shult, City Clerk
!GE T CN
P.O. Box Y
305 N. Main Street
Winthrop, MN 55396

City Administrator
!GE T
City of Maple Grove
9401 Fernbrook Lane
Maple Grove, MN 55369

Alfred F. France
!GE CN
Lake Superior Industrial Bureau
First Natl. Bank Buldg., Room 828
Duluth, MN 55802

Robert Ambrose
!GE T CN
Cooperative Power
14615 Lone Oak Road
Eden Prairie, MN 55344-2287

Philip G. Meininger
!T
Minneapolis City Planning Dept.
350 Fifth St. South, Room 210
Minneapolis, MN 55415

Lewis Bradford
!GE
215 Harrison Street
Anoka, MN 55303

Gil A. Dullinger
!GE T CN
City of Brooklyn Park
5800 85th Avenue North
Brooklyn Park, MN 55443

Jody A. Hauer
!GE T CN
Citizens League
84 South 6th Street
Minneapolis, MN 55402

Traverse Electric Cooperative
!GE
P.O. Box 66
Wheaton, MN 56296

William Seeley
!GE T CN
Eastlund, Peterson and Solstad, L
801 Nicollet Mall, Room 1702
Minneapolis, MN 55402

Mark Lofthus
!T
Countryside Council
P.O. Box 78
Marshall, MN 56258

A.J. Johnson
!GE T CN
City Manager
City of Montevideo
103 Canton Avenue
Montevideo, MN 56265

Al Barthelemy
!CN
Benton Co. Planning/Zoning Adm.
Courthouse
531 Dewey Street
Foley, MN 56329

Goodhue County Coop
!GE
Electric Association
224 Main Street
Zumbrota, MN 55992

Phillips Legislative Service
!GE T CN
459 Rice Street
St. Paul, MN 55103

J.J. Keller, Act. Supt. & Secy.
!GE CN
E. Grand Forks Water & Light
Box 322
East Grand Forks, MN 56721

Bill Grant
!GE CN
Dept. of Energy & Economic Develop
900 American Center Building
160 E. Kellogg
St. Paul, MN 55101

Vern Genzlinger
!GE CN
Assoc. Company Administrator
Hennepin County
A2307 Government Center
Minneapolis, MN 55487

Mary Wirtz
!GE T CN
Inter-City Gas
910 Cloquet Avenue
Cloquet, MN 55720

Ellen Gavin
!T CN
S. MN Regional Legal Service
300 Minnesota Building
St. Paul, MN 55101

Louis Van Hout
!GE
1030 East Fourth Avenue
Shakopee, MN 55379

Glenn Purdue
!GE
LeFevere & Lefler
2000 First Bank Place W.
Minneapolis, MN 55402

Phillip Fernkes
!T, CN
Metro Fone Communications
4211 Rhode Island Ave. N.
Minneapolis, MN 55428

David Steen, President
!T
Teleplus Consulting, Inc.
8000 W. 78th Street, Suite 190
Edina, MN 55435

Ed Tiemann
!T
Minnesota Telephone Association
386 N. Wabasha, Suite 770
St. Paul, MN 55102

Janet Sanderson
!T
Dorsey & Whitney
2200 First Bank Place E.
Minneapolis, MN 55402

Lawrence Ware
!T
Garden Valley Telephone Co.
201 Ross Avenue
Erskine, MN 56535

Kip Hendrickson
!T
General Telephone Co. of Minnesot
11 Eleventh Avenue
Grinnell, IA 50112

Ron Graham, Manager
!GE CN T
Legislative Affairs
Otter Tail Power Company
215 South Cascade St.
Fergus Falls, MN 56537

Harold Steppuhn
!GE
P.O. Box 218
Princeton, MN 55371

Brenda Berkebile
!T
Enhanced Telemanagement
Suite 1044, IDS Center
80 South 8th Street
Minneapolis, MN 55402

Mark B. Rotenberg
!T
Dorsey & Whitney
2200 First Bank Place E.
Minneapolis, MN 55402

Tracy Bridge
!GE CN
Regulatory Attorney
Minnegasco
201 South 7th
Minneapolis, MN 55402

Mary Ayde
!GE T CN
MN Chapter, NSWMA
4649 Bloomington Ave. S.
Minneapolis, MN 55407

Terry Hoffman
!T GE
1334 Conwed Tower
444 Cedar Street
St. Paul, MN 55101

Willie E. Williamson
!T GE CN
REA Field Representatave
U.S. Dept. of Agriculture - REA
P.O. Box 3563
Mankato, MN 56002-3563

William E. Flynn
!T GE CN
O'Connor & Hannan
3800 IDS Center
Minneapolis, MN 55402

Joann Anderson
!T
AT&T Communications
400 North Robert, Suite 950
St. Paul, MN 55101

Kenneth Larsen
!CN
Executive Vice President
Faribault Area Chamber of Commerce
228 Central Avenue
P.O. Box 434
Faribault, MN 55021

SCORE Chapter #406
!CN
Lloyd Welty
220 S. Broadway, Suite 100
Rochester, MN 55904

Roger Nelson
!T
Telecommunications/DOA
3rd Floor Centennial Bldg.
St. Paul, MN 55145

Byron Starns
!T GE CN
100 S. 5th Street, Suite 1500
Minneapolis, MN 55402

James R. Clements
!GE
Energy Factors
1495 Pacific Highway, Suite 400
San Diego, CA 92101-2473

Robert Reichert
!T
Starlight Satellite Systems, Inc.
506 East Fourth St.
Duluth, MN 55805

Deretich & Timmons
!GE
375 Jackson, Suite 450
St. Paul, MN 55101

Thomas J. Weyandt, Asst. City At
!T GE CN
647 City Hall and Courthouse
15 West Kellogg Blvd.
St. Paul, MN 55102

Carol Casebolt
!GE T
Legal Aid Society of Minneapolis
222 Grain Exchange Bldg.
Minneapolis, MN 55415

Doug O'Boyle, Executive Editor
!T
Telecom Publishing Group
1300 North 17th Street, Suite 160
Arlington, VA 22209

Ron Schuler
!GE
2526 Seventh Avenue
North St. Paul, MN 55109

Frank Frison
!GE
N.E.C.A.
100 Rober St. S., Room 305
St. Paul, MN 55107

Leslie Recht
!GE
Defrees and Fiske
72 West Adams, Suite 1500
Chicago, IL 60603

Robert J. Latham
!GE, CN
Iowa Electric Light & Power
200 First Street SE
Cedar Rapids, IA 52406

Catherine T. Gibbins
!T
Department Librarian
Centel Corporation
5725 N. East River Road
Chicago, IL 60631

Marjorie Marcotte
!GE, T, CN
Public Utilities Commission
242 State Street
Augusta, ME 04333

Rules as Proposed

2100.9300 FEES.

The Board of Barber Examiners shall charge the following fees:

A. examination and certificate, registered barber ~~$50~~, $55;

B. examination and certificate, apprentice ~~48~~, $50;

C. examination, instructor, $150;

D. certificate, instructor, $35;

E. renewal of license, registered barber ~~20~~, $25;

F. renewal of license, apprentice ~~18~~, $20;

G. renewal of license, instructor, $35;

H. student permit, $10;

I. initial shop registration, $50;

J. initial school registration, $1,000;

K. renewal shop registration ~~25~~, $35;

L. renewal school registration, $200;

M. restoration of registered barber license ~~45~~, $50;

N. restoration of apprentice license ~~43~~, $45;

O. restoration of shop registration ~~50~~, $60;

P. change of ownership or location, $25; and

Q. duplicate license, $10.

EFFECTIVE DATE. Part 2100.9300, items K and O are effective June 30, 1987. The remainder of this part is effective December 31, 1987.

Public Utilities Commission

Proposed Permanent Rules Relating to Rate Adjustments Due to Tax Reform Act of 1986

Notice of Intent to Adopt a Rule 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 in Minnesota Statutes, sections 14.22 to 14.28. The statutory authority to adopt the rule is Minnesota Statutes, sections 216B.08, 237.02, 237.06, 216B.03, and 237.10.

All persons have 30 days 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 encouraged 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.

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.

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

Rosellen Condon
Minnesota Public Utilities Commission
780 American Center Building
150 E. Kellogg Boulevard
St. Paul, MN 55101
(612) 296-2357

The proposed rule may be modified if the modifications are supported by data and views submitted to the agency 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 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 Dawn Walker, (612) 296-2354, upon request.

The adoption of this rule by the Commission will not require expenditure of public moneys by local public bodies nor have a direct impact on agricultural land. Therefore, Minn. Stat. § 14.11 (1986) is inapplicable to this rulemaking proceeding. The Commission has considered pursuant to Minn. Stat. § 14.115 (1986) 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 Dawn Walker, Minnesota Public Utilities Commission, 780 American Center Building, 150 E. Kellogg Boulevard, St. Paul, MN 55101.

Dated: 9 March 1987

Mary Ellen Hennen, Executive Secretary
Minnesota Public Utilities Commission

Rules as Proposed (all new material)

7827.0100 DEFINITIONS.

Subpart 1. **Scope.** The terms used in this chapter have the meanings given them in this part.

Subp. 2. **Commission.** "Commission" means the Minnesota Public Utilities Commission.

Subp. 3. **Department.** "Department" means the Minnesota Department of Public Service.

Subp. 4. **Public utility.** "Public utility" has the meaning given it in Minnesota Statutes, section 216B.02, subdivision 4.

Subp. 5. **Tax reform act.** "Tax reform act" means the federal Tax Reform Act of 1986, Public Law Number 99-514.

Subp. 6. **Telephone company.** "Telephone company" has the meaning given it in Minnesota Statutes, section 237.01, subdivision 2, for telephone companies providing service to 15,000 or more subscribers.

7827.0200 PURPOSE.

The purpose of this chapter is to require telephone companies and public utilities to adjust rates for service within Minnesota to recognize the reduction in operating costs attributable to the reductions in federal corporate income taxes as a result of the tax reform act.

7827.0300 REASONABLE RATES.

On and after July 1, 1987, the overall rates of public utilities and telephone companies are found to be unjust and unreasonable unless:

A. the rates have been adjusted to account for the reduction in federal income tax expense computed under part 7827.0400;

B. the rates have been established pursuant to a general rate case decision rendered on or after January 1, 1987, that incorporates the new federal income tax rate in the determination of the revenue requirement; or

C. the rate is an interim rate subject to refund as part of a general rate case.

7827.0400 COMPUTATION.

The federal income tax expense adjustment amount must be computed and submitted to the commission as follows:

A. The public utility or telephone company shall compute current operating income based upon actual 1986 revenues and expenses, adjusted to include items that are the same in nature and kind as in the currently effective order in the utility's most recent rate proceeding, and normalized to the extent necessary to reflect normal operating conditions. Adjustments made to 1986 actual revenues and expenses must be separately identified and detailed.

B. Using the same method approved by the commission in the most recent rate proceeding, the public utility or telephone company shall compute income tax expense based upon the operating income determined in item A, in two ways as specified in subitems (1) and (2). The income tax expense must show the breakdown by component, including deferred taxes, net investment tax credits, and any other component applicable to an individual public utility or telephone company. The public utility or telephone company shall submit detailed schedules supporting the income tax expense computed under the following:

(1) using the tax rates and provisions in effect before enactment of the tax reform act; and

(2) using the tax rates effective July 1, 1987, containing a maximum tax rate of 34 percent and final provisions of the tax reform act.

C. The public utility or telephone company shall compute the difference between item B, subitems (1) and (2). The difference must be multiplied by the gross revenue conversion factor using the tax rates applied in item B, subitem (2). The calculation supporting the gross revenue conversion factor must be submitted to the commission.

7827.0500 ADJUSTMENTS OF TARIFFS, SCHEDULES.

Subpart 1. **Adjustments; tariffs filed.** The public utility or telephone company shall reduce its rates by the federal income tax expense adjustment amount calculated under part 7827.0400. The public utility or telephone company must file tariffs for service rendered on and after July 1, 1987, reflecting the reduced rates, in accordance with subparts 3, 4, and 5.

Subp. 2. **Detailed supporting schedules submitted.** The public utility or telephone company shall submit detailed schedules supporting the calculation of the reduced rates.

Subp. 3. **Public utility charges reduced, allocated.** A public utility shall reduce unit demand and unit energy charges uniformly across all rate schedules. The reduction must be allocated between demand and energy charges in proportion to 1986 normalized demand and energy revenues.

Subp. 4. **Telephone company local exchange rates.** A telephone company providing local exchange service shall reduce the rates for local exchange access line services by a uniform percentage.

Subp. 5. **Telephone company interexchange rates.** A telephone company providing interexchange service shall reduce toll rates for message telecommunications services by a uniform percentage.

7827.0600 FILINGS; WRITTEN COMMENTS.

A tariff required under part 7827.0500 and documentation required under parts 7827.0400 and 7827.0500 must be filed with the commission, the department, and the Office of the Attorney General, Residential Utilities Division, by May 1, 1987, or 30 days after the effective date of parts 7827.0100 to 7827.0600, whichever is later.

Interested persons may submit written comments to the commission within 20 days from the date of filing.

Minnesota Racing Commission

Proposed Permanent Rules Relating to the Regulation of Horse Racing

Notice of Proposed Adoption of a Rule without a Public Hearing

NOTICE is hereby given that the Minnesota Racing Commission proposes to adopt the above-entitled rule without a public hearing following the procedures set forth in Minnesota Statutes, sections 14.22 to 14.28. The statutory authority to adopt the rule is Minnesota Statutes, section 240.23.

All persons have 30 days 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.

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.

RESOLUTION ADOPTING RULES

BE IT RESOLVED, that the Minnesota Public Utilities Commission (Commission) hereby approves and adopts the rules governing Rate Adjustments due to the Tax Reform Act of 1986 pursuant to the authority vested in the Commission by Minn. Stat. §§ 216B.08, 216B.03, 237.10, 237.02, 237.06 (1986).

BE IT FURTHER RESOLVED, that prior to publishing the rules as adopted in the State Register, the Executive Secretary is authorized to make any form changes in the rules that the Revisor of Statutes requires the Commission to make in order to obtain the Revisor's Certificate as required by Minn. Stat. § 14.28 (1986).

BE IT FURTHER RESOLVED, that the Commission adopts the attached Findings of Fact, Conclusions, and Order Adopting Rules and that the Executive Secretary is hereby authorized to sign the above-mentioned document on behalf of the Commission and to perform the necessary acts to provide that the rule shall have the force and effect of law.

Barbara Beerhalter
Officer of the Commission

Robert J. O'Keefe
Attest by one other Commission member

STATE OF MINNESOTA
PUBLIC UTILITIES COMMISSION

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

In the Matter of the Proposed Rules Governing Rate Adjustments due to Tax Reform Act of 1986, Minn. Rules Parts 7827.0100 to 7827.0600.

ISSUE DATE: MAY 26 1987

DOCKET NO. U-999/R-87-64

FINDINGS OF FACT, CONCLUSIONS, AND ORDER ADOPTING RULES

FINDINGS OF FACT

The above-entitled matter came on for decision before the Minnesota Public Utilities Commission (Commission) on the 7th day of May, 1987. After affording all interested persons the opportunity to present written and oral data, statements and arguments to the Commission, in accordance with statutory requirements regarding the adoption of noncontroversial rules, and after considering all of the evidence in the record, file and proceedings herein, the Commission adopts the following Findings of Fact, Conclusions, and Order:

1. Notice of the Commission's intent to adopt the above-entitled rules without a public hearing was published in the State Register on March 23, 1987, and was sent by mail to all persons on the list maintained by the Commission pursuant to Minn. Stat. §§ 14.14, subd. 1a and 14.22 (1986) on March 20, 1987.

2. The Statement of Need and Reasonableness was prepared prior to mailing and publication of the notice and was made available to the public.

3. All persons were given the opportunity to submit comments on the rule for 30 days after notice of proposed rulemaking. The 30 day comment period, as set out in the notice, expired on April 22, 1987.

4. During the comment period the Commission received 54 timely requests for public hearing, of which 51 were subsequently withdrawn. Therefore, the Commission did not receive requests for a public hearing from 25 or more persons which were not withdrawn.

5. Requests for notice of submission to the Attorney General were received by the Commission.

6. During the comment period the Commission received 9 timely filed written comments from: AT&T Communications of the Midwest, Inc. (AT&T), Northern Minnesota Utilities, the Minnesota Department of Public Service (DPS), Minnegasco, Inc. (Minnegasco), Continental Telephone Company (Continental), Central Telephone Company (Central), Northern States Power Company (NSP), Northwestern Bell Telephone Company (NWB), and the Residential Utilities Division of the Office of the Attorney General (RUD-AG). The Commission received two late filed written comments from U.S. Sprint and Great Plains Natural Gas Company.

The Commission finds that modifications to the proposed rules are justified by the record in this proceeding, as follows:

Any modifications to the proposed rules as published in the State Register and mailed to persons on the Commission's rulemaking list must not constitute a "substantial change" in accordance with Minn. Rules, part 2010.1000, governing Standards of Review by the Attorney General. That rule states as follows:

A rule must be disapproved by the Attorney General if ...there is a substantial change in the rule as adopted from the proposed rule as noticed. A change, by additions or deletions or other modifications to a proposed rule, is substantial if it:

1) affects classes of persons who could not reasonably have been expected to comment on the proposed rules as originally noticed;

2) introduces significant new subject matter which a reasonable person, on the basis of the proposed rule as originally noticed, would not have anticipated would occur during the rulemaking proceeding; or

3) makes a major substantive change that was not raised by the proposed rule as originally noticed in such a way as to invite reaction.

7827.0300 REASONABLE RATES.

The Commission finds that the proposed rule should be modified by making the following change to item C:

C. the rates are interim rates subject to refund as part of a general rate case.

This change to item C makes the language of item C consistent with items A and B. Items A and B refer to "rates", while item C as originally proposed refers to "rate". The Commission did not intend to distinguish between the singular and plural of "rate". Moreover, Minn. Stat. § 645.08, subd. 2, (1986) indicates that the normal rule of construction is that the singular includes the plural and vice versa. The proposed change does not result in a substantial change because it merely removes an inconsistency in language and therefore clarifies the rule as originally proposed.

The Commission also finds that the proposed rule should be modified by adding the following language:

D. the public utility or telephone company is a party to a commission proceeding pending on January 1, 1987 or initiated between January 1, 1987 and July 1, 1987 in which the commission has ordered an investigation for the stated purpose of determining whether the public utility's or telephone company's rates should be reduced and has directed, in the investigation, that the company file financial data which address the impact of the tax reform act.

This exemption from the rate adjustment requirements of parts 7827.0400 through 7827.0600 is necessary to prevent the overlap or duplication of proceedings. It would be administratively inefficient and costly to examine the effects of the Tax Reform Act of 1986 (the Act) both under item A and through an investigation ordered by the Commission. In addition, it would be administratively inefficient for a public utility or telephone company to refile financial data under part 7827.0400 when it has already provided detailed financial data pursuant to a Commission ordered investigation.

Proposed item D is reasonable because it recognizes investigations that have already been initiated to protect the ratepayers. If the Commission determines as a result of its investigations that a public utility's or telephone company's rates are unjust and unreasonable, it will adjust rates accordingly to account for the effects of the Act.

Commission-ordered investigations that fall under item D examine the effects of the Act in addition to investigating the general earnings of a public utility or telephone company. It would, therefore, be unreasonable for the Commission to separate its examination of the effects of the Act from these investigations where their purpose is to examine the effects of the Act in the context of the overall financial requirements of the public utility or telephone company.

Adding item D to the rules does not result in a substantial change to the rules as originally proposed and noticed for several reasons. First, proposed item D affects the same class of persons as the originally proposed rules - public utilities and telephone companies. This class has had an opportunity to comment on the proposed rules. Furthermore, the proposed modification does not create a new class who did not have an opportunity to comment on the proposed rules.

Second, items B and C of part 7827.0300 of the rules as noticed provide for an exemption to parts 7827.0400 through 7827.0600. Item D is based upon the same premise as items B and C and is a logical extension of them. The purpose of the rule is to prevent any potential windfall to the public utility or telephone company and to protect ratepayers by ensuring that they pay just and reasonable rates. The exemptions to the rule stated in part 7827.0300 further those purposes and promote administrative efficiency and fairness. Any reasonable person would have anticipated that the Commission would consider alternate methods for achieving those ends. This is

especially true where the alternate method is another proceeding initiated to examine the same effects as the rules as proposed. Item D does not introduce significant new subject matter. The subject matter of the rules as proposed and of item D is to consider the effects of the Act and to adjust rates accordingly. Furthermore, Commission-ordered investigations are available under Minn. Stat. §§ 216B.21, 216B.23, or 237.081 (1986) as a method of establishing just and reasonable rates.

Third, proposed item D does not "make a major substance change that was not raised by the proposed rule as originally noticed in such a way as to invite reaction", Minn. Rules, part 2010.1000. This proposed rule, like any proposed rule, is a change from the status quo. As such it has generated reaction from those affected by it - those who benefit from it and those who are obliged to perform, to refrain, or to be limited in performing an act or acts.

In evaluating item D as a modification to these rules as proposed, the Commission finds that it is a logical extension of the exemptions created in items B and C. Participants in this rulemaking are aware that there will be a change in the status quo of utility regulation. These people are aware that the Act has affected public utility and telephone company expenses, and, further, that the Commission is concerned with those effects. The proposed rule establishes a filing procedure to evaluate and address those effects. Minn. Rules, part 7827.0300, items B and C, clearly alert participants in this rulemaking that exemptions to that filing procedure were available in situations where the effects of the Act were already being evaluated by the Commission. Item D merely recognizes the current Commission-ordered investigations into the effects of the Act. The Commission finds that it would be unfair, unnecessarily duplicative, and administratively inefficient to fail to recognize these current investigations. Further, adding item D to the proposed rules will obviate the need for a rule variance for those current investigations.

For the above stated reasons, the Commission concludes that item D is needed and reasonable and does not constitute a substantial change. The Commisson will adopt item D as a modification to the proposed rules for clarity, completeness, and to promote administrative efficiency.

The Commission further finds that the proposed rule should be modified by adding the following language to allow the exemption of Commission-approved stipulated settlements from the rate adjustment requirements of parts 7827.0400 through 7827.0600:

E. the rates have been established pursuant to a stipulated settlement and a commission decision approving the settlement. In the event that a public utility or telephone company files with the commission before July 1, 1987 an agreement to make collection for its federal income tax expense subject to appropriate refund, the public utility or telephone company shall have an additional 90 days to obtain commission approval of the stipulated settlement.

Continental, NSP, Central, the DPS, and the RUD-AG commented that this part should be modified by adding a new item governing stipulated settlements.

This exemption is needed to protect the ratepayers and the financial viability of the public utilities and telephone companies. A stipulated settlement would most likely be initiated by a public utility or telephone company that determined the rate decrease due to the Act may be wholly or partially offset by any rate increase it would be entitled to under Minn. Stat. §§ 216B.16 or 237.075 (1986). In such a situation the ratepayers and public utility or telephone company should not be charged with paying for a rate case proceeding to reestablish the same rates that currently exist.

Public utilities and telephone companies are allowed an additional 90 days to obtain Commission approval of a stipulated settlement. A time extension is necessary because the rules may not be adopted until shortly before July 1, 1987. It will take time to fashion a stipulated settlement and to receive Commission approval. During the interim, an agreement to make collection for the federal tax expense subject to appropriate refund will protect the ratepayers.

In the event that a public utility or telephone company avails itself of the additional item for approval of a settlement, proposed item E requires that the ratepayers be protected by providing for a refund mechanism. The refund is based upon a voluntary agreement by the regulated company and gives the Commission authority to prevent overcharges by unjust rates. It is equitable that delay in implementing the rule should be conditioned upon the regulated company volunteering to refund the excess rates being collected. Refunds are needed to ensure that public utilities and telephone companies do not enter stipulated settlements to avoid the purpose of the rules and keep a portion of the windfall received due to the Act.

Proposed item E is reasonable because it provides an efficient means to achieve just and reasonable rates. It will prevent premature and simultaneously-filed general rate cases that would unnecessarily strain the resources of the Commission, the ratepayers, intervenors, and the public utilities and telephone companies. Settlements allow the consideration of proposals tailored to the individual circumstances of a particular public utility or telephone company and would therefore result in just and reasonable rates in those cases where individual circumstances warrant a different treatment.

Adding item E to the rules does not result in a substantial change to the rules as originally proposed and noticed for several reasons. First, proposed item E affects the same class of persons as the originally proposed rules - public utilities and telephone companies. This class has had an opportunity to comment on the proposed rules. Furthermore, the proposed modification does not create a new class who did not have an opportunity to comment on the proposed rules.

Second, items B and C of part 7827.0300 of the rules as noticed provide for an exemption to parts 7827.0400 through 7827.0600. Item E is based upon the same premise as items B and C and is a logical extension of them. The method chosen is not as crucial as ensuring that the effects of the Act are considered, any potential windfall to the public utility or telephone company is prevented, and the ratepayers are protected. It was clear from the proposed rules and the rulemaking notice that this was the purpose of the rules in general and of part 7827.0300 in particular. Thus, any reasonable person would have anticipated that the Commission would consider alternate methods for ensuring just and reasonable rates. The numerous requests for such an additional method further demonstrates that other methods were reasonably anticipated from the proposed rules. Item E does not introduce significant new subject matter. The subject matter of the rules as proposed and of item E is to consider the effects of the Act and to adjust rates accordingly. Furthermore, a stipulated settlement is available as a method of resolving a general rate case under Minn. Stat. §§ 216B.16, subd. 1a and 237.075, subd. 1a (1986). In this respect, item E is contemplated by the proposed rules because part 7827.0300, items B and C provide an exemption for general rate cases.

Third, proposed item E does not make a major substantive change that was not raised by the proposed rule as originally noticed in such a way as to invite reaction", Minn. Rules, part 2010.1000. This proposed rule, like any proposed rule, is a change from the status quo. As such it has generated reaction from those affected by it - those who benefit from it and those who are obliged to perform, to refrain, or to be limited in performing an act or acts.

In evaluating item E as a modification to these rules as proposed, the Commission finds that it is a logical extension of the exemptions created in items B and C. Participants in this rulemaking are aware that there will be a change in the status quo of utility regulation. These people are aware that the Act has affected public utility and telephone company rates, and, further, that the Commission is concerned with those effects. The proposed rule establishes a filing procedure to evaluate and address those effects. Minn. Rules, part 7827.0300, items B and C, clearly alert participants in this rulemaking that exemptions to that filing procedure were considered and made available in certain situations. Item E recognizes another situation in which to consider the effects of the Act. The Commission finds that the proposed rule should recognize those instances where a stipulation settlement should be reached. Further, adding item E to the proposed rules will obviate the need for a rule variance for those situtions where a stipulation settlement is appropriate.

For the above-stated reasons, the Commission concludes that item E is needed and reasonable and does not constitute a substantial change. The Commission will adopt item E as a modification to the proposed rules for clarity, completeness, and to promote administrative efficiency.

Finally, the Commission finds that the proposed rule should be modified by adopting the following language at the end of part 7827.0300:

> Public utilities and telephone companies whose rates are found to be just and reasonable under items B, C, D, or E of this part are exempt from the requirements of parts 7827.0400 through 7827.0600.

The RUD-AG commented that the rule should clearly state that items B, C, D, and E are exemptions. The above language makes it clear that these items are intended as exemptions from parts 7827.0400 through 7827.0600 as explained in the Statement of Need and Reasonableness at page 7. Because it is a clarification, it is not a substantial change to the proposed rules.

7. The Commission adopts the Statement of Need and Reasonableness, in its entirety, as the factual basis for the proposed rules. The Commission hereby incorporates the Statement of Need and Reasonableness into these findings, except as modified in Finding No. 6 above.

8. The Commission finds that additional modifications sought by the parties in their comments should not be made for the following reasons:

7827.0200 PURPOSE

Central Telephone Company (Central) proposed amending this part as follows:

> The purpose of this chapter is to require telephone companies and public utilities to adjust rates for service within Minnesota to recognize the reduction in operating costs attributable to the reductions in federal corporate income taxes as a result of all provisions of the tax reform act.

Central stated that other effects of the Act besides the reduction in corporate income taxes should be considered by these rules. Continental, AT&T, and Minnegasco made similar statements in their written comments.

Part 7827.0400, item B, subitem 2, states that the federal income tax adjustment shall be computed "using the tax rates effective July 1, 1987, containing a maximum tax rate of 34 percent and final provisions of the tax reform act" (emphasis added). Therefore, the rules already consider the effects of all the provisions of the Act upon income tax expense.

Several public utilities and telephone companies also commented that the rules should consider all the provisions of the Act upon rate base, as well as upon the income tax expense. As explained in the Statement of Need and Reasonableness at page 3, the rules do not

consider the effects of the Act upon rate base because the Commission expects these effects to be minimal. Where the effects upon rate base are not minimal, the public utility or telephone company may elect to have these effects considered under the exemptions from the rules contained in part 7827.0300.

Central argued that the rules limit its right to a hearing recognized in In the Matter of Minnesota Power's Transfer of M.L. Hibbard Units 3 and 4 Boilers and Related Facilities 399 N.W.2d 147 (Minn. 1987). Northern Minnesota Utilities agreed with Central and further argued that the rules would violate statutory and constitutional requirements of due process by reducing rates without providing for a hearing. Neither contention is sound.

Adoption of rules establishing just and reasonable rates in light of the reduced expenses due to the Act have not and will not deny public utilities or telephone companies a reasonable opportunity for a hearing before their rates are reduced. The rulemaking process itself affords interested persons the opportunity to have a hearing on questions of the reasonableness of the rates being resolved here. The statute allows for a contested rule hearing if 25 individuals request such a hearing. Public utilities and telephone companies typically have no difficulty obtaining signatures of 25 individuals to claim their right to a hearing. In this case, after the requests for hearing sponsored by NSP and NWB were withdrawn, there was no longer any significant claim to the right to a contested rule hearing.

Further, the rule itself allows public utilities and telephone companies opportunities to obtain a contested case hearing. Part 7827.0300, item B, recognizes that a utility may initiate a general rate case filing and thus avoid the automatic calculation under the rule. In a general rate change filing under either Minn. Stat. §§ 216B.16 or 237.075 (1986), a hearing must be undertaken if all issues are not resolved to the satisfaction of the Commission. A proposed rate change may reduce as well as increase a rate. Nothing prevents a utility or telephone company from filing a petition to change its rates in order to account for the effects of the Act and thus obtain a hearing under these statutes. Moreover, the Commission may fairly place the responsibility to seek a hearing upon the public utility or telephone company. By recognizing the statutory opportunity for a hearing in these sections, the Commission has recognized the option available to the utility to seek a hearing and the Commission, in addition, may pursue other options that would not normally lead to a hearing.

A hearing would not be necessary under part 7827.0300, item A, because the issue of reasonableness is already determined in the rules. A filing made under this option is a compliance filing to assure that the public utility or telephone company has properly computed the rates adjusted according to the rules. If the filing is in compliance with the rules, the Commission would accept the tariff presented by the public utility or telephone company and no hearing would be necessary. This is partially due to the situation that no material fact is in dispute. If a compliance filing is disputed, the

Commission may order a hearing to correct a compliance calculation proposed by the public utility or telephone company. However, in practical experience, hearings for this purpose are not usually necessary because the data needed is taken from the standard accounting records of the company.

A second argument made in reliance on the Minnesota Power case is that the rules must allow for examining the entire ratemaking formula of rate base, rate of return and expenses, rather than just one element of taxes. As explained in the Statement of Need and Reasonableness at pages 3 and 4, the Federal Congress has imposed the significant, known and measurable change in the federal income tax expense, which affects all regulated public utilities and telephone companies.

The statements in the Minnesota Power case directing an examination of rate base, rate of return and expenses explained the basic methodology of ratemaking and obviously do not state new law. Thus, they must be considered in the context of decades of public utility rate regulation. In considering this rule, the Commission has recognized that it must account for rate base, expenses and rate of return of the public utilities or telephone companies. The Commission has done so by finding that only a limited, known change is likely to have occurred. Based upon actions of regulated companies who have not filed rate cases recently and upon recognition of the general condition of the economy, the Commission could fairly conclude that all other factors and their interrelationship in determining the regulated company's rate of return had not changed since the last general rate case of the company. Thus, except for a possible windfall recovery of money formerly associated with income tax, the relationships leading to reasonable rates were being maintained. To account for the reduction in income tax expense and maintain the relationship of reasonable rates, actual rates needed to be reduced by the reduced tax expense.

Moreover, the Commission has created means to address other changes where facts demonstrate that rate base, other expense items, or the rate of return have also changed. The public utility or telephone company may file a general rate case and thus except itself from the further application of the rules under part 7827.0300, item B; or it may reach a settlement pursuant to part 7827.0300, item E. The options allowed under the rules fully protect the regulated company.

Several comments attempt to address factually that the rules would unfairly limit the ratemaking elements considered to one element. However, review of these claims demonstrates that they are factually erroneous. Minnegasco presented a schedule estimating effects on rate base which shows that the major adjustment offsetting the cost reductions recognized by the Commission is for unbilled revenues. This adjustment is highly questionable because of the prior treatment given unbilled revenues by the Commission. In several cases, the Commission has refused to adjust test year revenues for unbilled revenues because this would be an extraordinary adjustment that distorts test year operations. See, Findings of Fact, Conclusions of Law, and Order In the Matter of the Petition of Northern States Power

Company for Authority to Change its Schedule of Rates for Electric Utility Service for Customers Within the State of Minnesota, Docket No. E-002/GR-81-342 (June 25, 1982) and Docket No. E-002/GR-85-558 (June 2, 1986); In the Matter of the Petition of Northern States Power Company for Authority to Change its Schedule of Rates for Gas Utility Service for Customers Within the State of Minnesota, Docket No. G-002/GR-86-160, G-002/M-86-165 (January 27, 1987); In the Matter of the Petition of Otter Tail Power Company for Authority to Increase Rates for Electric Service in Minnesota, Docket No. E-015/GR-86-380 (April 27, 1987); and In the Matter of the Petition of Interstate Power Company for Authority to Increase its Rates for Electric Service in Minnesota, Docket No. E-001/GR-86-384 (May 1, 1987). Moreover, adding unbilled revenues to the test year more than offsets any increase in tax expense for these revenues. The net effect of unbilled revenues is an increase in revenues available and a corresponding reduction in individual rates. Minnegasco has simply ignored the revenue side of considering unbilled revenues in its demonstration.

Northern Minnesota Utilities claims that application of the rules will reduce rate of return for the public utility or telephone company. This claim is false because the rules are designed to maintain the rate of return earned by the company before the Act becomes effective in the time period after the Act applies. The effect of the rules is to remove the windfall which the regulated company will accrue from an increased rate of return that would occur without the rules. Moreover, the rules allow that if actual rates of return have fallen below the current cost of capital for the regulated company, the company controls its fate by retaining the ability to file a rate case. The rules simply prevents the regulated company from increasing its earned return in a manner in which it has not demonstrated it is entitled.

AT&T and Continental commented that the rules are unfair because the rules propose only a reduction in rates. However, the rules merely balance the regulated company's ability to obtain rate increases with the public's need to obtain rate decreases and thus to pay only reasonable rates when unique, known and measurable expenses of the regulated companies fall. Minnesota Statues §§ 216B.16 and 237.075 (1986) already provide a mechanism to increase rates upon request by a public utility or telephone company, and afford these companies the opportunity to obtain the increased rates within 60 days of making the request. The rules recognizes a universal situation requiring a rate decrease.

Lastly, the Commission finds that changes in single expense items often are considered in ratemaking in Minnesota. Public utilities or telephone companies are allowed to increase individual rates when they can demonstrate that unique factors caused the cost of providing a particular service to increase. See, In the Matter of the Request of Northwestern Bell Telephone Company for Authority to Implement a Premises Maintenance Plan and a Trouble Isolation Charge, Docket No. P-421/M-84-453 (April 17, 1985). Likewise, gas and electric public utilities regularly avail themselves of purchased gas adjustments and fuel adjustments allowed under existing Commission rules. See, Minn. Rules, parts 7825.2390 through 7825.3000. The automatic gas or fuel

adjustment rules recognize the change in a single expense element - the cost of purchased gas or of fuel consumed to generate electricity. Rates are increased or decreased automatically without consideration of other cost changes. Moreover, no hearing is required or provided before the change is made. Precedent for recognizing changes in single cost items is well established and should not be overturned here.

7827.0400 COMPUTATION
7827.0500 ADJUSTMENTS OF TARIFFS, SCHEDULES

The RUD-AG recommended that part 7827.0400 be amended by adding: For all utilities and telephone companies whose rates are found to be unjust and unreasonable pursuant to part 7827.0300, the federal income tax adjustment...

The RUD-AG recommended that part 7827.0500 be amended by adding: Unless otherwise ordered by the Commission, upon a finding that such an adjustment would not be in the public interest... The purpose of the amendments proposed by the RUD-AG is to provide that if a public utility or telephone company falls under an exemption in part 7827.0300, then it need not comply with part 7827.0400 or part 7827.0500.

The Commission has modified part 7827.0300 to add: Public utilities and telephone companies whose rates are found to be just and reasonable under items B, C, D, or E of this part are exempt from the requirements of parts 7827.0400 through 7827.0600.

This added provision clarifies that public utilities and telephone companies that fall under item B, C, D, or E of part 7827.0300 are exempted from further requirements under the rules. The added language addresses the concern of the RUD-AG and thus no further amendments are needed.

A number of public utilities and telephone companies commented that the computation of the adjustment amount under the proposed rule does not provide for consideration of all effects of the Act. Minnegasco suggested that the adjustment include any effects of the Act upon rate base. According to Minnegasco, the effects are known and can be readily considered. United and Central stated that a complete understanding of the effects of the Act is not yet possible. Central suggested that public utilities or telephone companies may be able to demonstrate effects not recognized by the proposed rules. Continental stated that, although the initial impact of the Act will be a decrease in taxes, several elements will in the long run potentially increase its tax liability.

The Commission, through the rules, capture the major effects of the Act in an efficient way. To that end, the Commission considered and rejected including in the adjustment the effects of the Act upon rate base. In the Commission's view, determining the effects of the Act upon rate base would be complex, time-consuming, and likely to result in a contested case hearing. Furthermore, the Commission expects the effects of the Act upon rate base to be minimal.

The Commission rejects the implication that no adjustment to rates should be made until all effects of the Act are known. The major provision of the Act, the change in corporate tax rate from 46% to 34%, is known and measurable. Possible clarifications or amendments to the Act are speculative. If the result is material, the public utility or telephone company retains the right to file a general rate case. Until such changes are known, however, the Commission has the obligation to ensure that existing rates are just and reasonable and must make the adjustment based upon the provisions of the Act that are known and reasonably determinable.

Several public utilities and telephone companies also commented that factors other than the effects of the Act should be used in determining an appropriate adjustment. For example, United suggested consideration of the result of In the Matter of a Summary Investigation into Intralata Toll Access Compensation for Local Exchange Carriers Providing Telephone Service Within the State of Minnesota, Docket No. P-99/CI-85-582; Minnegasco suggested consideration of known changes in operating expenses, capital investments, and depreciation expense; and Continental suggested consideration of the potential shift of nontraffic sensitive cost to the end user, implementation of optional local measured service on a statewide basis, possible capital recovery proposals, results of activities at the Federal Communications Commission and Federal-State joint board, and effects of In the Matter of the Petitions of Certain Subscribers in the Exchanges of Zimmerman, Prescott, Waconia, Belle Plaine, North Branch, Lindstrom, New Prague, Cambridge, Hudson, Houlton and LeSuer for Extended Area Service to the Minneapolis/St. Paul Metropolitan Calling Area, Docket Nos. P-421, P-405, P-407, P-430, P-426, P-520, P-427/CI-87-76.

The Commission finds than many of the factors identified in the comments are speculative and have not been quantified. In contrast, the federal tax law has changed and its impact is measurable. If events identified in the comments do result in changes in the public utility or telephone company's revenue requirement, the public utility or telephone company retains the options of either filing a general rate case to adjust rates or entering into a stipulated settlement. As explained in the Statement of Need and Reasonableness, changes since a public utility or telephone company's last general rate case in rate base or expenses other than federal income tax expense are more appropriately addressed in a general rate case. Because items other than federal income tax expense may have changed for unknown reasons in unmeasurable amounts, extensive testimony and exhibits may be needed to prove the amount of change. In contrast, the change required by the proposed rule is reasonably known and measurable and therefore a general rate case to implement the change is not necessary.

AT&T and Minnegasco suggested that the Commission also provide for a procedure similar to that contained in the proposed rules for future changes in tax-related items such as property tax, gross receipts tax, and state income tax.

The rule does not provide for subsequent federal, state, or local tax law changes because the sole purpose of the rule is to adjust rates for changes caused by the Act which are extraordinary in scope and

significance and must be separately addressed. Other tax law changes can be addressed through a general rate case or through a stipulated settlement.

Finally, several telephone companies commented on the allocation of the adjustment to class of service. AT&T suggested that local exchange companies allocate the reduction to all services, not only local exchange access line services as provided in part 7827.0500 of the rules. Furthermore, interexchange companies should allocate the reduction to all services rather than only toll rates for message telecommunications services as provided in the rules. Central suggested that the rules be flexible enough to allow for the possibility of applying the reduction to rates other than local service rates. Continental stated that any reduction in access charges to carriers should be passed on to the interLATA toll users in its service area on a dollar-for-dollar basis. Any expense reductions the carriers receive as a result of changes due to the Act should be passed back to end users in the form of lower toll prices.

The approach taken in part 7827.0500 of the rules - that the residual group receives the benefit of the reduction - is consistent with the rate design approved for telephone companies in recent general rate cases. See, Findings of Fact, Conclusions of Law, and Order, In the Matter of the Petition of Continental Telephone Company of Minnesota, Inc., for Authority to Change its Schedule of Telephone Rates for Customers Within the State of Minnesota, Docket No. P-407/GR-83-294 (March 23, 1984); and Order After Redeliberation, In the Matter of the Application of Northwestern Bell Telephone Company, Minneapolis, Minnesota for Authority to Change its Schedule of Telephone Rates for Customers Within the State of Minnesota, Docket No. P-421/GR-83-600 (April 3, 1987). The rules do not attempt to change currently authorized rate design. The two services identified in the rules are the services most widely used; therefore, applying the reduction as proposed by the rules would benefit a majority of Minnesota customers. Furthermore, the approach is reasonable because it can be applied uniformly to all telephone companies.

Application of the reduction as proposed in the rules is also administratively efficient because it does not require a separate case-by-case determination of which rates of individual telephone companies should be reduced. The suggestion of the telephone companies would be inefficient to the extent that it would require a case-by-case determination of which rates should be reduced. In addition, it prevents preferential treatment to certain classes of services that could result if the amendments proposed by the telephone companies are accepted. A determination of the relative price levels for all of a telephone company's services should be reserved for a general rate case or a stipulated agreement.

CONCLUSIONS

1. The Minnesota Public Utilties Commission duly acquired and has jurisdiction over this proceeding pursuant to Minn. Stat. §§ 216B.08, 216B.03, 237.10, 237.02, and 237.06 (1986).

2. The Commission published and served timely and adequate notice of the intent to adopt the rules without a public hearing.

3. The Commission has complied with all relevant legal and procedural requirements of statute and rule.

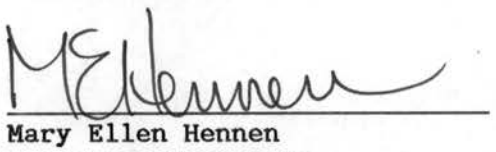
4. The modifications to the proposed rules are supported by the record and do not result in a substantial change in the proposed rules.

ORDER

1. The Commission hereby adopts Minn. Rules, parts 7827.0100 through 7827.0600, governing Rate Adjustments due to Tax Reform Act of 1986.

2. This Order shall become effective immediately.

BY ORDER OF THE COMMISSION



Mary Ellen Hennen
Executive Secretary

(S E A L)
1858B

CERTIFICATE OF RESOLUTION ADOPTING RULES

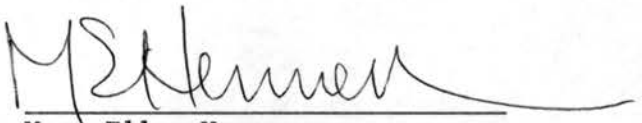
I, Mary Ellen Hennen, do hereby certify that I am the Executive Secretary of the Minnesota Public Utilities Commission, an agency duly authorized under the laws of the State of Minnesota, and that the following is a true, complete, and correct copy of a resolution adopted at a meeting of the Minnesota Public Utilties Commission duly and properly called and held on the 7th day of May, 1987, that a quorum was present at said meeting, that a majority of those present voted for the resolution and that said resolution will be set forth in the minutes of said meeting and has not been rescinded or modified:

BE IT RESOLVED, that the Minnesota Public Utilities Commission (Commission) hereby approves and adopts the rules governing Rate Adjustments due to the Tax Reform Act of 1986 pursuant to the authority vested in the Commission by Minn. Stat. §§ 216B.08, 216B.03, 237.10, 237.02, 237.06 (1986).

BE IT FURTHER RESOLVED, that prior to publishing the rules as adopted in the State Register, the Executive Secretary is authorized to make any form changes in the rules that the Revisor of Statutes requires the Commission to make in order to obtain the Revisor's Certificate as required by Minn. Stat. § 14.28 (1986).

BE IT FURTHER RESOLVED, that the Commission adopts the attached Findings of Fact, Conclusions, and Order Adopting Rules and that the Executive Secretary is hereby authorized to sign the above-mentioned document on behalf of the Commission 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 18th day of May, 1987.



Mary Ellen Hennen
Executive Secretary

MINNESOTA public utilities COMMISSION

May 26, 1987

RECEIVED
ATTORNEY GENERAL'S OFFICE

MAY 28 1987

204 ADMINISTRATION BLDG.
50 SHERBURNE AVENUE
ST. PAUL, MN 55155

Mr. Mike Miles, Assistant Attorney General
Office of the Attorney General
204 Administration Building
50 Sherburne Avenue
St. Paul, MN 55155

Re: In the Matter of Proposed Rules Governing Rate Adjustments due to Tax Reform Act of 1986, Minn. Rules Parts 7827.0100 to 7827.0600.

Dear Mr. Miles:

On May 7, 1987, the Minnesota Public Utilities Commission adopted the above-captioned rules governing Rate Adjustments due to Tax Reform Act of 1986. Enclosed for your review are the following:

1. Rules as adopted (original and three copies).
2. Findings of Fact, Conclusions, and Order Adopting Rules (two copies).
3. Certificate of Resolution Adopting Rules.
4. Certificate of Authorizing Resolution.
5. Notice of Intent to Adopt Rules Without a Public Hearing and rules as proposed (11 S.R. 1731, March 23, 1987).
6. Comments received during the comment period.
7. Notice of Intent to Adopt Rules Without a Public Hearing, as mailed.
8. Affidavit of Mailing the Notice of Intent to Adopt Rule Without a Public Hearing and Certificate of Mailing List.
9. Rules as proposed.
10. Statement of Need and Reasonableness.
11. Declaration of Counsel.
12. Notice of Submission of Rule Adopted Without Public Hearing to the Attorney General.
13. Affidavit of Mailing of Notice of Submission of Rule Adopted Without Public Hearing to the Attorney General.

Very truly yours,

Caroline Robinson

Caroline Robinson
Staff Attorney

Enc.

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

6/5/87

Rita:

The copy of comments you requested. We disagree with Mr. Hanson's comments. If you would like a response from the Commission, please call me at 296-9617. Thank you.

Caroline Robinson

RECEIVED
ATTORNEY GENERAL'S OFFICE

JUN 0 8 1987

204 ADMINISTRATION BLDG
50 SHERBURNE AVENUE
ST. PAUL, MN 55155

Notice of Intent - Ok

Authority

216B.08 ✓ 216B.03

237.02 237

237.06

Comments

Request for Hearing 54

W/ Drawl of Request 51

Have called Caroline for requests - She is having someone deliver. - Delivered

Rec'd Comment during 8 day period

Our letter was by Linda Bruton. My comments attached

Rule

Changes on "Adopted" Rule

p6- Re 216B - Is a good argument however, it might be one for the court to decide.

p 8-9 w/draw of comment came after 30 day comment ~~de~~ period expired. New AG rule allows

The PUC ~~u~~ fining fees ∴ therefore 2010.0300 E (15) - applies. There is not a clause in our rules which allow "a public hearing will be held unless a sufficient number w/draw their request in writing."

They may have an argument.

↳ N/A - Agency is not charging fees, regulated party is

BEFORE THE MINNESOTA PUBLIC UTILITIES COMMISSION

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

In the Matter of the Proposed Adoption of the Rule of Minnesota Public Utilities Commission Governing Rate Adjustments Due to Tax Reform Act of 1986

ISSUE DATE: MAR 24 1987

Docket No. U999/R-87-64

NOTICE CLARIFYING COMMENT PERIOD

The Notice of Intent to Adopt a Rule Without a Public Hearing in the above captioned proceeding was mailed on March 20, 1987, to persons who have registered their names with the Minnesota Public Utilities Commission (the Commission) pursuant to Minn. Stat § 14.22 (1986). It was published in the State Register on March 23, 1987, at 1731 (11 S.R. 1731).

There has been some confusion as to the 30-day comment period for the rules and for the submission of written request for a public hearing, due to the fact that the mailed notice was dated March 9, 1987. The 30-day comment period begins on March 24, 1987 and continues through April 22, 1987.

BY ORDER OF THE COMMISSION

Mary Ellen Hennen
Executive Secretary

(S E A L)

STATE OF MINNESOTA)
)SS
COUNTY OF RAMSEY)

AFFIDAVIT OF SERVICE

I Tamiko S. Hicks, being first duly sworn, deposes and says:

That on the 24th day of March 1987, (s)he served the attached

Notice Clarifying Comment Period

Docket No. U999/R-87-94

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

XX By inter-office mail

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

Tamiko S. Hicks

Subscribed and sworn to before me,
a notary public, this _____ day of
_____, 198___.

_____
Notary Public

MASTER RULEMAKING LIST
(Use for general rules)

Michele Foster
!T
Opus Corporation
Box 150
Minneapolis, MN 55440

Steven D. Toelle
!GE CN
Box 3026
Elbow Lake, MN 56531

Colin P. Milne
!GE
Resources Conservation
P.O. Box 71
Greenwich, CT 06836

Marcella M. Daehn, Clerk
!GE T CN
City of Edina
4801 West 50th Street
Edina, MN 55424

Blooming Prairie Public Utilities
!GE
P.O. Box 55
Blooming Prairie, MN 55917

Vernon Vick
!T
Vocational Director
Independent School District 623
1251 County Road B2 West
Roseville, MN 55113

City of Brownton
!GE
Brownton, MN 55312

Richard Haubensak
!GE
Peoples Natural Gas Company
25 Main Place
Council Bluffs, IA 51501

Tom Heller
!GE
Box 779
Moorhead, MN 56560

William Thibault
!GE CN
Planning Director
City of St. Louis Park
5005 Minnetonka Blvd.
St. Louis Park, MN 55426

John Green
!CN
University of Minnesota
Geology Department
Math/Geology Bldg., Room 229
Duluth, MN 55812

Joseph I. Adrian, Manager
!GE T CN
Light and Power Commission
Municipal Electric Plant
305 11th Street East
Glencoe, MN 55336

Ruth Helmer
!T CN
Mayor
City of Hermantown
3161 Maple Grove Road
Hermantown, MN 55811

R.G. Kirkham, Exec. Director
!GE CN
MN Municipal Utilities Association
P.O. Box 459
Buffalo, MN 55313

Otto Schmid
!GE T CN
Exec. Director RDC 6W
Upper Minnesota Valley Regional
Development Commission
323 Schlienman W.
Appleton, MN 56208

Diana Skelly, Clerk
!GE
Town of Bass Brook
Box 146
Cohasset, MN 55721

P.D. Brick
!GE CN
Pickands Mather & Co.
1100 Superior Avenue N.E.
Cleveland, OH 44114

D.D. Hahn
!GE
Geo. A. Hormel Co.
P.O. Box 800
Austin, MN 55912

Allen F. Schrupp
!GE CN
1604 7-1/2 Street S.W.
Willmar, MN 56201

Library
!GE T
Briggs & Morgan
2200 1st National Bank Bldg.
St. Paul, MN 55101

Richard O. Johnson
!GE T CN
Board of Residential Utility Consumers
3521 East Lake Street
Minneapolis, Minnesota 55406

Joseph Takats
!GE CN
Engineer
Gilbert/Commonwealth Inc.
209 East Washington Avenue
Jackson, MI 49201

Karen M. George
!GE T CN
Southern Minnesota Legal Services
Medical Arts Building, Room 300
Albert Lea, MN 56007

COACT
!GE
2904 West Third Street
Duluth, MN 56806

Nancy Needham
!T
Inst. Corp./Gov. Strat.
49 Pinckney Street
Boston, MA 02114

James J. Ryan
!GE CN
2208 Central Trust Tower
Cincinnati, OH 45202

President
!GE CN
Saint Paul Area Chamber of Commerce
600 North Central Life Tower
445 Minnesota Street
Saint Paul, Minnesota 55101

Burington Northern Railroad Compan
!CN
Law Department
176 East 5th Street
St. Paul, MN 55101

D. F. Hennen, Plant Manager
!GE
Anchor Glass Container Corporation
4108 Valley Industrial Blvd. North
Shakopee, MN 55379-0069

Glen Shaw, Director
!T
Southwest & West Central Ed. Coop.
Southwest State University
Marshall, MN 56258

Executive Director
!GE T CN
Region 5 Regional Devel. Commission
611 Iowa Avenue
Staples, MN 56479

Paul Kinn
!T
Instructor
Wadena AVTI
405 Colfax Avenue S.W.
Wadena, MN 56482

Lyon-Lincoln Elec. cooperative
!GE
Box 639, West Highway 14
Tyler, MN 56178

Bill Payne
!CN
New Connection Programs
73 Leech Street
St. Paul, MN 55102

John E. Drawz
!GE T CN
Attorney
2000 First Bank Place West
120 South Sixth Street
Minneapolis, MN 55402

John T. Anderson
!GE
Power & Light Department
Box 528
Thief River Falls, MN 56701

Vern Peterson
!T
Metron Municipal Assn.
183 university Avenue East
St. Paul, MN 55101

Dwight Picha
!GE T CN
City of Woodbury
2100 Radio Dr.
Woodbury, MN 55125

Clarence P. Lindberg
!GE CN
Lindberg Associates
750 South Plaza Drive
Mendota Heights, MN 55120

James F. Andre, City Manager
!GE T CN
2660 Civic Center Drive
Roseville, MN 55113

John G. McMillan
!GE
Energy Manager
Hennepin County Offices
300 Sixth Street South, Room A2208
Minneapolis, MN 55487

Don E. Salzmann, Utility Supt.
!GE CN
Melrose Municipal Utilities
21 West Main Street
Melrose, MN 56352

Tom Ollig, Manager
!T
Winsted Telephone Company
181 Second Street South
Winsted, MN 55395

City of Breckenridge
!GE T
Michael D. Casper
203 North Fifth Street
Breckenridge, MN 56520

Luther D. Nelson
!GE CN
David Winter
Hennepin County Environmental &
Energy Office
822 South Third Street
Minneapolis, MN 55415

Marvin W. Field
!GE
Carlton County Coop Power
Kettle River, MN 55757

Myra Gibson, Assistant Planner
!GE T CN
City of Fridley
6431 University Avenue N.E.
Fridley, MN 55432

James Solem
!GE
Minnesota Housing Finance Agency
400 Sibley Street, Room 300
St. Paul, MN 55101

Kip Sullivan
!GE
Minnesota COACT
2395 University - Room 304
St. Paul, MN 55114

David Fricke
!CN
Executive Director
Association of Minnesota Townships
Box 246
St. Michael, MN 55376

Dale L. Swanson
!GE T CN
City Engineer
City of Willmar
333 Sixth Street S.W., Box 755
Willmar, MN 56201

Peter Ranum, Chairman
!GE T CN
Minnesota COACT Energy Task Force
1216 South Sixth Street
Brainerd, MN 56401

Minnesota Attorney General's Offic
!GE T CN
Antitrust Division
117 University Avenue, second Floor
St. Paul, MN 55155

Beverly Gleeson
!GE CN
State LIEAP/Weatherization Program
690 American Center Building
160 Kellogg BLvd.
St. Paul, MN 55101

John P. Leifer
!GE T CN
Assistant General Manager
Dairyland Power Cooperative
2615 East Avenue South
LaCrosse, WI 54601

Jack Bittle, City Engineer
!GE
City of Champlin
1200 Highway 52
Champlin, MN 55316

Charles K. Dayton
!CN
Dayton, Herman, Graham & Getts
10 Fifth Street South, Suite 930
Minneapolis, MN 55401

Bemidji Chamber of Commerce
!GE T CN
Box 850
Bemidji, MN 56601

Carla C. Kjellberg
!GE T CN
Attorney
MPIRG
2412 University Avenue S.E.
Minneapolis, MN 55414

Mary Sullivan, Executive Director
!GE T CN
Scott-Carver Economic Council
6th And Oak
Carver, MN 55215

George Sundstrom
!GE T CN
Sr. Citizen Coalition of NE MN
407 West Superior
Duluth, MN 55802

John Herman
!GE T CN
Dayton, Herman, Graham & Getts
10th Fifth Street South, Suite 930
Minneapolis, MN 55401

Jay Myster
!GE CN
215 South Cascade Street
Fergus Falls, MN 56537

C.W. Peterson
!GE
Box W
Pelican Rapids, MN 56572

Ottertail-Wadena Community
!GE
Action Councial
Box L
New York Mills, MN 56567

Clyde Weivoda, Clerk
!GE T CN
City of Albany
Box 374
Albany, MN 56307

Manager
!GE T
P.K.M. Electric Coop
Box 108
Warren, MN 56762

City of Warren
!GE
126 West Johnson
Warren, MN 56762

C. Ted Nelson, Gen. Manager
!GE CN
Municipal Utilities Commission
P.O. Box 937
Willmar, MN 56201

Water & Light Commission
!GE
P.O. Box 418
Moose Lake, MN 55767

Mark Moenning
!CN
Reroute Crude Oil Association
Route 2, Box 183
Dodge Center, MN 55927

Town of White Bear
!GE T CN
1281 Hammond Road
White Bear Lake, MN 55110

Karen Swenson
!GE T CN
City Council Research
705 City Hall
St. Paul, MN 55102

Russel F. Berg
!GE
104 North Jefferson
Wadena, MN 56482

St. Paul Tenants' Union
!GE T CN
500 Laurel
St. Paul, MN 55102

City of Rosemount
!GE
1367 145th Street East
Rosemount, MN 55068

Central MN-COACT
!GE T CN
123-1/2 Broadway
Little Falls, MN 56345

Gordon Breczinski
!GE T CN
Rte. 1, Box 162
Marshall, MN 56258

Barry C. Schade, Director
!CN
Minnesota Pollution Control Agency
1935 Co. Rd. B2 West
Roseville, MN 55113

Zona De Witt
!GE T CN
Legislative Reference Library
645 State Office Building
St. Paul, MN 55155

Richard J. Bradford
!GE T CN
City Clerk
City of Hoyt Lakes
City Hall
Hoyt Lakes, MN 55750

Don Brandt
!GE CN
Peoples Coop Power
P.O. Box 1039
Rochester, MN 55901

Public Utilities Commission
!GE
City of Grand Marais
Grand Marais, MN 55604

City of St. Charles
!GE T CN
1242 Whitewater Avenue
St. Charles, MN 55972

Jeremy Lane, Legal Aid
!GE T
222 Grain Exchange Building
323 Fourth Avenue South
Minneapolis, MN 55415

Charles F. Gosen
!GE T CN
County Auditor
Box 808
Baudette, MN 56623

Daniel J. Donhue
!GE T CN
City of New Hope
4401 Xylon Avenue North
New Hope, MN 55428

Jeff Muehler, Office Manager
!(GE)
P.O. Box 410
520 Nebraska Avenue
Breckenridge, MN 56520

Daniel R. Duklet
!(GE)
Superintendent
Halstad, MN 56548

Jan P. Gasterland
!GE T
Building Code Officer
Room 445 City Hall
St. Paul, MN 55102

Lisa Swanson, Secretary
!GE T CN
228 Central Avenue
P.O. Box 434
Faribault, MN 55021

Albert D. Dial, Director
!GE T CN
Real Estate, Right of Way
Related Service
Dairyland Power Cooperative
Box 817
LaCrosse, WI 54602-0817

Lois Gearhart
!GE T CN
Regulatory Information Srv.
4520 East-West Highway, Ste. 800
Bethesda, MD 20814

William J. Nicholson
!GE CN
Potlatch Corporation
P.O. Box 8162
Walnut Creek, CA 94596

Barbara Ecklund, Director
!GE T CN
Minnesota Senior Federation
301 Fuller Avenue
St. Paul, MN 55103

John A. Knapp, Esq.
!GE T
Winthrop & Weinstine
1800 Conwed Tower
444 Cedar Street
St. Paul, MN 55101

Burt Associates
!GE
P.O. Box 14299
Columbus, OH 43214

Becky Comstock
!GE T CN
Dorsey & Whitney
2200 First Bank Place East
Minneapolis, MN 55402

Charles Kroeger
!GE T CN
QSS
P.O. Box 838
Faribault, MN 55021

Steven Johnson, Executive Director
!GE CN
MN-Dakotas Retail Hardware
3033 Excelsior Blvd.
Minneapolis, MN 55437

Roger Buettner
!GE T
South St. Pual Public Schools
700 Second Street North
South St. Paul, MN 55075

James Mahon, Gen. Mgr.
!GE CN
Virginia Dept. of Public Utilities
618 Second Street South
Virginia, MN 55792

Ron Kennedy, Mgr.
!GE
Red Lake Electric Coop.
Red Lake Falls, MN 56750

Phillip R. Hammond
!GE T CN
Director-Rates and Tariffs
Minnegasco
201 Seventh Street South
Minneapolis, MN 55472

G. L. Kaziukewicz
!GE CN
Quality & Environmental Manager
Waldorf Corporation, P.O. Box 20163
2250 Wabash Avenue
St. Paul, MN 55164

August Blegen
!T
Minnesota Business Util. Users
P.O. Box 20163
Minneapolis, MN 55420

D.E. Hamill, Vice President-
!GE CN
Budgets/Regulatory Affairs
Interstate Power Company
1000 Main Street
Dubugue, IA 52001

Director
!GE T CN
Developmental Disabilities Planning
201 Capitol Square Building
St. Paul, MN 55101

W.C. Sjolund, Superintendent
!GE
Brainerd Water & Light
Box 373
Brainerd, MN 56401

Jim Tersteeg
!GE T CN
Renville County Courthouse
Olivia, MN 56277

Crow Wing Coop Power & Light
!GE
P.O. Box 507
Brainerd, MN 56401

Northern Natural Gas Co.
!GE
Government Affairs Office
7901 Xerxes Avenue South
Minneapolis, MN 55431

W. John Licke, General Counsel
!GE
Blandin Paper Company
114 First Street Southwest
Grand Rapids, MN 55744

Herbert Anderson
!T
418 - 8th Street South
Virginia, MN 55792

David P. Larson, General Manager
!GE
Wright-Hennepin Coop. Electric
Maple Lake, MN 55358

David Jeronimus
!GE
Manager, Regional Affairs
Minnesota Power Company
30 West Superior Street
Duluth, MN 55802

Gerald L. Mahon, Director
!GE T
Water Utility
City Hall
St. Cloud, MN 56301

Leon Barnier, General Manager
!GE CN
MN Rural Electric Association
4901 West 77th Street
Minneapolis, MN 55435

Robert A. Julius
!GE CN
Southern Minnesota Municipal
Power Agency
21 First Street S.W., Suite 400
Rochester, MN 55901

MCAA
!GE T CN
310 1/2 City Hall
Minneapolis, MN 55415

Jean Dawson, Editor
!GE T CN
Minnesota Government Report
B-12 Press Room
State Capitol Building
St. Paul, MN 55155

Donald L. LaValley
!GE T CN
County Auditor
Court House
Austin, MN 55912

Elaine Debeir
!GE T CN
Government Affairs Assistant
Minnesota Power
30 West Superior Street
Duluth, MN 55802

Gary E. Brown - City Admin.
!GE T CN
100 Sibley Street
Hastings, MN 55033

Chris Enger
!GE T CN
City of Eden Prairie
8950 Eden Prairie Road
Eden Prairie, MN 55344

William P. Lavin, City Manager
!GE CN
885 Prentice
Granite Falls, MN 56241

Leroy D. Schecher, Manager
!GE
501 South First Street
P.O. Box 717
Montevideo, MN 56265

General Manager
!GE
Brown County Rural Electric Assn.
Sleepy Eye, MN 56085

Frank W. Watkinson
!GE
Energy Eng. - Paper Group
Boise Cascade Corporation
International Falls, MN 56649

Paul Decancq
!GE
Sutherland, Asbill & Brennan
1666 K. Street N.W.
Washington, D.E. 20006

Jay M. Heffern, Chief Counsel
!CN
Metro Square Building
7th Street and Robert
St. Paul, MN 55101

John R. Langan
!GE T CN
Courthouse
Benson, MN 56215

Richard Grakow, City Adminstrator
!GE CN
City of Detroit Lakes
P.O. Box 647
Detroit Lakes, MN 56501

Public Utilities Commission
!GE T CN
120 First Street N.W.
Aitkin, MN 56431

David Sollenberger
!GE T CN
City Hall, P.O. Box 378
4th and Lafayette Sts.
Winona, MN 55987

Reynold Rahko
!GE CN
Manager-Projects Coord. Division
United Power Association
Elk River, MN 55330

Daniel D. Foth
!GE T CN
Executive Director
Associated Builders & Contractors
6989 Washington Avenue South
Edina, MN 55435

Henry Fieldseth
!GE CN
Northern Sun Alliance
1519 Franklin Avenue East
Minneapolis, MN 55404

Richard Carlund
!GE
New York Mills Municipal Gas
Box H
New York Mills, MN 56567

Dwane Brase
!GE
Superintendent
508 South Street
Waseca, MN 56093

Michael Gregerson
!CN
Director, Environmental &
Regulatory Activities Dept.
Northern States Power Company
414 Nicollet Mall
Minneapolis, MN 55401

Michael L. Enfield
!GE T CN
Sec. General Manager
Austin Utilities
P.O. Box 368
Austin, MN 55912

Gordon Johnson
!CN
Lutheran Social Service
2414 Park Avenue
Minneapolis, MN 55404

Kay Bonner Nee
!T
219 Logan parkway
Fridley, MN 55432

Kenneth E. Devillers
!GE
Utility Manager
205 West Center
Lake City, MN 55041

Scott G. Larson
!GE T
139 East 1st Avenue
Cambridge, MN 55008

Louis W. Claeson, Jr.
!T
Minnesota Auto Dealers Assn.
277 University Avenue
St. Paul, MN 55103

Clearwater-Polk Utilities
!GE
Bagley, MN 56621

Thomas Kalitowski
!CN
Executive Director
Minnesota Pollution Control Agency
1935 Couonty Road B2 West
Roseville, MN 55113

Dallas E. Nelso
!GE CN
Box 521
Litchfield, MN 55355

Maryanne V. Hruby
!GE T CN
Executive Director
Minnesota Legislative Commission
to Review Administrative Rules
State Office Bldg., Room 55
St. Paul, MN 55155

Minnesota Dept. of Health
!CN
Division of Env. Health
717 Delaware Street S.E.
Minneapolis, MN 55440

Yellow Medicine County Planning Office
!CN
10th Avenue, P.O. Box 675
Clarkfield, MN 56223

Jack Schuster
!GE T
Clerk Administrator
City of Gaylord
428 Main Avenue., Box 124
Gaylord, MN 55334

Don Anderson
!GE CN
Beltrami Electric Coop.
Box 488
Bemidji, MN 56601

Lloyd G. Becker
!GE T CN
City of Golden Valley
7800 Golden Valley Road
Golden Valley, MN 55427

Lucille Moe
!GE
Bi-County CAC
Box 579
Bemidji, MN 56601

Susan L. Carroll
!GE T
Legal Aid Society
2507 Fremont Avenue North
Minneapolis, MN 55411

Tom F. Bovitz, P.E.
!GE T CN
19th Street and Sixth Avenue
Hibbing, MN 55746

Delano Public Utilities
!GE
11 West Bridge Avenue
Delano, MN 55328

Anthony T. Ward
!GE CN
P.O. Box 658
Grand Rapids, MN 55744

Gary L. Dickson, City Manager
!GE T
City of Shoreview
4665 North Victoria
Shoreview, MN 55112

J. A. Smith
!GE CN
Donovan Companies, Inc.
1080 Montreal Avenue
St. Paul, MN 55116

Michael P. McMahon, Gen. Manager
!GE
Red River Valley Coop. Power
Halstad, MN 56548

Curt Brekke Jr.
!GE T CN
City Administrator
Civic Center
420 Main Street East
Belle Plaine, MN 56011

County Administration
!GE T CN
Polk County Courthouse
Crookston, MN 56716

Michael J. Ahern
!GE T CN
Moss & Barnett
200 Sixth St. South, Suite 1200
Minneapolis, MN 55402

Douglas E. Wallace, Manager
!GE CN
Nobles Coop. Electric
P.O. Box 788
Worthington, MN 56187

Clement Springer, Jr.
!GE CN
Defrees & Fiske
72 West Adams, #1500
Chicago, IL 60603-5163

Larry Turner
!GE
City of Northfield
801 Washington Street
Northfield, MN 55057

Tobey Lapakko
!GE T CN
AFL-CIO
175 Aurora Avenue
St. Paul, MN 55104

Catherine Sherwood
!GE T
County Auditor
171 West 3rd Street
Winona, MN 55987

Teri Virkus
!GE T CN
1031 Sixth Street East
Duluth, MN 55805

Family Service of St. Croix
!GE
216 Myrtle Street
Stillwater, MN 55082

W.C. Viitala, Dir. of Pub. Affairs
!GE T CN
Honeywell, Inc.
Honeywell Plaza MN125215
Minneapolis, MN 55408

James W. Keinath
!GE
Clerk-Administrator
9201 N. Lexington Avenue
Circle Pines, MN 55014

Lawrence Acker
!GE T CN
LeBoeuf, Lamb, Leiby, McRae
1333 New Hampshire Avenue NW
Washington, D.C. 20036

Martin A. Hillert, JR., Gen. Mgr.,
!GE
North Pine Electric Coop.
Finlayson, MN 55735

David Nelson, Gen. Mgr.
!GE
Alexandria Light and Power
P.O. Box 609
Alexandria, MN 56308

Ade Mussell
!GE CN
Manager, Power Supply Planning
& System Operations
Cooperative Power Assn.
14615 Lone Oak Road
Eden Prairie, MN 55344

James A. Roberts
!GE T CN
Minnesota Power
30 West Superior Street
Duluth, MN 55802

Tom Eidem
!GE T CN
City of Monticello
250 E. Broadway
Monticello, MN 55362

P. Vincent Mehmel
!T CN
Executive Director
West Central Comm. Serv. Center, In
1128 Sixth St. S.E., Box 787
Willmar, MN 56201

Michael D. Johnson
!GE T CN
117 West Fifth Street
Blue Earth, MN 56013

Ronald J. Steckman
!GE
Freeborn-Mower Electric Coop.
Box 611
Albert Lea, MN 56007

Southestern Minnesota
!GE T CN
Cooperative Electric
P.O. Box 336
Pipestone, MN 56164

M.D. Hentges
!GE CN
Le Sueur Municipal Utilities
228 N. Main Street
Le Sueur, MN 56058

David S. Logan
!GE T CN
City of Pipestone
City Hall
Pipestone, MN 56164

John G. Pidgeon, City Manager
!GE T CN
2215 Old Shakopee Road West
Bloomington, MN 55431

Minnesota Audubon Council
!GE CN
730 Hennepin Avenue
Suite 330
Minneapolis, MN 55403

Barbara L. Hughes
!T
American Lung Association of
Ramsey County
614 Portland Avenue
St. Paul, MN 55102

Dean Amo
!GE
Box 230
Aitkin, MN 56431

Andrew E. Anderson
!GE
Otter Tail Power Company
215 South Cascade Street
Fergus Falls, MN 56537

Jack Deitz
!GE T CN
Norman County Courthouse
Ada, MN 56510

Patrick E. O'Brien, Gen. Manager
!GE
Itasca-Mantrap Co-OP.
Electrical Association
P.O. Box 192
Park Rapids, MN 56470

Stanley Wieber
!GE T CN
Executive Vice President
Fergus Falls Chamber of Commerce
202 South Court
Fergus Falls, MN 56537

Sandra J. Hale
!T
Commissioner
Minnesota Department of Administrat
50 Sherburne Ave., Room 200
St. Paul, MN 55155

Susan Robertson, Director
!CN
Minnesota Legislative Commission
on Waste Management
Room 85, State Office Building
St. Paul, MN 55155

Michael Bradley
!GE T CN
Residential Utility Div.
Office of the Attorney General
340 Bremer Building
St. Paul, MN 55101

Mary Adams
!CN
Metro Council Library
121 Seventh St. E., Room 300
St. Paul, MN 55101

Bruce Hauschulz
!GE CN
Manager, Planning/Research
United Power Association
Elk River, MN 55330

McLeod Coop Power Assn.
!GE
Bernard J. Janowski, Gen. Mgr.
P.O. Box 70
Glencoe, MN 55336

Charles B. Hoffman
!GE CN
Pickands mather & Company
200 Superior St. West, Suite 811
Duluth, MN 55802

Mark G. Sexton
!GE T CN
Director of Planning/Evaluation
Tri County Comm. Action Prog.
404 Second Ave. N.E.
Little Falls, MN 56345

C.G. Weber
!GE
P.O. Box 48
Redwood Falls, MN 56283

Robert Burk
!GE T CN
Attorney At Law
Popham, Haik, Schnobrich, Kaufman/Doty
80 Eighth St. South, Room 4344
Minneapolis, MN 55402

Bruce L. Meistad, General Manager
!GE
P.O. Box 626
Tri-County Electric Coop
Rushford, MN 55971-0626

Farley Grunig
!GE T CN
Cottonwood County Offices
Courthouse
Windom, MN 56101

Sam Ruhle
!GE T CN
Office of Administration Hearings
400 Summit Bank Building
310 South 4th Avenue
Minneapolis, MN 55415

Mary Guhin, Clerk
!GE
City of Luverne
Box 348
Luverne, MN 56156

Tony Perpich, Director
!GE T CN
MN Dept. of Public Service
790 American Center Building
St. Paul, MN 55101

City Clerk's Office
!GE T
444 Ninth Street
Windom, MN 56101

Harold Haugh
!GE T
Jones, Haugh & Smith, Inc.
515 Washington Avenue South
Albert Lea, MN 56007

Menno Mennenga
!GE CN
14 North Marshall Avenue
Springfiled, MN 56087

Paul L. Stevens, President
!T CN
Mankato Citizens Telephone Company
221 East Hickory Street
Mankato, MN 56001

Vern Ingvalson
!GE T CN
MN Farm Bureau Federation
P.O. Box 64370
St. Paul, MN 55164

Marcia Pelzel, City Clerk
!GE
City of Fairfax
112 S.E. First Street
Fairfax, MN 55332

Roger C. Miller
!GE CN
Levander/Gillen/Miller/Anderson/Kun
633 Concord Street, Room 402
P.O. Box 298
South St. Paul, MN 55075

Paul J. Huber, President
!GE T CN
Paul J. Huber, Ltd.
1821 University Avenue
St. Paul, MN 55104

Senator Donald J. Frank
!GE T CN
State Capitol Bldg., Room G28
St. Paul, MN 55155

Al Ross
!GE CN
6356 Ware Road
Lino Lakes, MN 55014

David S. Douglas
!GE
Rt. 5 Box 3950
Buffalo, MN 55313

John V. Hoene
!GE T CN
Minnesota Asphalt Pavement Associat
555 Wabasha St., Room 208
St. Paul, MN 55102

Lakes & Pines CAC
!GE
Agency Administration
129 West Forest
Mora, MN 55051

Richard O. Johnson
!GE T CN
9457 Columbus Avenue South
Minneapolis, MN 55420

Samuel W. Shult, City Clerk
!GE T CN
P.O. Box Y
305 N. Main Street
Winthrop, MN 55396

City Administrator
!GE T
City of Maple Grove
9401 Fernbrook Lane
Maple Grove, MN 55369

Alfred F. France
!GE CN
Lake Superior Industrial Bureau
First Natl. Bank Buldg., Room 828
Duluth, MN 55802

Robert Ambrose
!GE T CN
Cooperative Power
14615 Lone Oak Road
Eden Prairie, MN 55344-2287

Philip G. Meininger
!T
Minneapolis City Planning Dept.
350 Fifth St. South, Room 210
Minneapolis, MN 55415

Lewis Bradford
!GE
215 Harrison Street
Anoka, MN 55303

Gil A. Dullinger
!GE T CN
City of Brooklyn Park
5800 85th Avenue North
Brooklyn Park, MN 55443

Jody A. Hauer
!GE T CN
Citizens League
84 South 6th Street
Minneapolis, MN 55402

Traverse Electric Cooperative
!GE
P.O. Box 66
Wheaton, MN 56296

William Seeley
!GE T CN
Eastlund, Peterson and Solstad, Ltd
801 Nicollet Mall, Room 1702
Minneapolis, MN 55402

Mark Lofthus
!T
Countryside Council
P.O. Box 78
Marshall, MN 56258

A.J. Johnson
!GE T CN
City Manager
City of Montevideo
103 Canton Avenue
Montevideo, MN 56265

Al Barthelemy
!CN
Benton Co. Planning/Zoning Adm.
Courthouse
531 Dewey Street
Foley, MN 56329

Goodhue County Coop
!GE
Electric Association
224 Main Street
Zumbrota, MN 55992

Phillips Legislative Service
!GE T CN
459 Rice Street
St. Paul, MN 55103

J.J. Keller, Act. Supt. & Secy.
!GE CN
E. Grand Forks Water & Light
Box 322
East Grand Forks, MN 56721

Bill Grant
!GE CN
Dept. of Energy & Economic Developm
900 American Center Building
160 E. Kellogg
St. Paul, MN 55101

Willie E. Williamson
!T GE CN
REA Field Representatave
U.S. Dept. of Agriculture - REA
P.O. Box 3563
Mankato, MN 56002-3563

William E. Flynn
!T GE CN
O'Connor & Hannan
3800 IDS Center
Minneapolis, MN 55402

Joann Anderson
!T
AT&T Communications
400 North Robert, Suite 950
St. Paul, MN 55101

Kenneth Larsen
!CN
Executive Vice President
Faribault Area Chamber of Commerce
228 Central Avenue
P.O. Box 434
Faribault, MN 55021

SCORE Chapter #406
!CN
Lloyd Welty
220 S. Broadway, Suite 100
Rochester, MN 55904

Roger Nelson
!T
Telecommunications/DOA
3rd Floor Centennial Bldg.
St. Paul, MN 55145

Byron Starns
!T GE CN
100 S. 5th Street, Suite 1500
Minneapolis, MN 55402

James R. Clements
!GE
Energy Factors
1495 Pacific Highway, Suite 400
San Diego, CA 92101-2473

Robert Reichert
!T
Starlight Satellite Systems, Inc.
506 East Fourth St.
Duluth, MN 55805

Deretich & Timmons
!GE
375 Jackson, Suite 450
St. Paul, MN 55101

Thomas J. Weyandt, Asst. City Atty
!T GE CN
647 City Hall and Courthouse
15 West Kellogg Blvd.
St. Paul, MN 55102

Carol Casebolt
!GE T
Legal Aid Society of Minneapolis
222 Grain Exchange Bldg.
Minneapolis, MN 55415

Doug O'Boyle, Executive Editor
!T
Telecom Publishing Group
1300 North 17th Street, Suite 1600
Arlington, VA 22209

Ron Schuler
!GE
2526 Seventh Avenue
North St. Paul, MN 55109

Frank Frison
!GE
N.E.C.A.
100 Rober St. S., Room 305
St. Paul, MN 55107

Leslie Recht
!GE
Defrees and Fiske
72 West Adams, Suite 1500
Chicago, IL 60603

Robert J. Latham
!GE, CN
Iowa Electric Light & Power
200 First Street SE
Cedar Rapids, IA 52406

Catherine T. Gibbins
!T
Department Librarian
Centel Corporation
5725 N. East River Road
Chicago, IL 60631

Marjorie Marcotte
!GE, T, CN
Public Utilities Commission
242 State Street
Augusta, ME 04333

Vern Genzlinger
!GE CN
Assoc. Company Administrator
Hennepin County
A2307 Government Center
Minneapolis, MN 55487

Mary Wirtz
!GE T CN
Inter-City Gas
910 Cloquet Avenue
Cloquet, MN 55720

Ellen Gavin
!T CN
S. MN Regional Legal Service
300 Minnesota Building
St. Paul, MN 55101

Louis Van Hout
!GE
1030 East Fourth Avenue
Shakopee, MN 55379

Glenn Purdue
!GE
LeFevere & Lefler
2000 First Bank Place W.
Minneapolis, MN 55402

Phillip Fernkes
!T, CN
Metro Fone Communications
4211 Rhode Island Ave. N.
Minneapolis, MN 55428

David Steen, President
!T
Teleplus Consulting, Inc.
8000 W. 78th Street, Suite 190
Edina, MN 55435

Ed Tiemann
!T
Minnesota Telephone Association
386 N. Wabasha, Suite 770
St. Paul, MN 55102

Janet Sanderson
!T
Dorsey & Whitney
2200 First Bank Place E.
Minneapolis, MN 55402

Lawrence Ware
!T
Garden Valley Telephone Co.
201 Ross Avenue
Erskine, MN 56535

Kip Hendrickson
!T
General Telephone Co. of Minnesota
11 Eleventh Avenue
Grinnell, IA 50112

Ron Graham, Manager
!GE CN T
Legislative Affairs
Otter Tail Power Company
215 South Cascade St.
Fergus Falls, MN 56537

Harold Steppuhn
!GE
P.O. Box 218
Princeton, MN 55371

Brenda Berkebile
!T
Enhanced Telemanagement
Suite 1044, IDS Center
80 South 8th Street
Minneapolis, MN 55402

Mark B. Rotenberg
!T
Dorsey & Whitney
2200 First Bank Place E.
Minneapolis, MN 55402

Tracy Bridge
!GE CN
Regulatory Attorney
Minnegasco
201 South 7th
Minneapolis, MN 55402

Mary Ayde
!GE T CN
MN Chapter, NSWMA
4649 Bloomington Ave. S.
Minneapolis, MN 55407

Terry Hoffman
!T GE
1334 Conwed Tower
444 Cedar Street
St. Paul, MN 55101

Legal Department

Dwight H. Oglesby
Miggie E. Cramblit
Luke R. Komarek
Brenda A. Bjorklund
Tracy B. Bridge

Minnegasco
A Company of Diversified Energies, Inc.

June 4, 1987

Office of the Attorney General
204 Administration Building
50 Sherburne Avenue
St. Paul, Minnesota 55155

Re: In the Matter of the Proposed Rules Governing Rate Adjustments due to Tax Reform Act of 1986, Minn. Rules Parts 7827.0100 to 7827.0600.

Dear Sir or Madam:

This letter is to request a copy of the Attorney General decision regarding the legality of the proposed rules in the above referenced proceeding. The rules are proposed by the Minnesota Public Utilities Commission and were submitted to the Office of the Attorney General on May 26, 1987.

Thank you.

Sincerely,

Tracy Bridge
612/342-4723

/cas

RECEIVED
ATTORNEY GENERAL'S OFFICE
JUN 05 1987
204 ADMINISTRATION BLDG
50 SHERBURNE AVENUE
ST. PAUL, MN 55155

201 South Seventh Street
Minneapolis, MN 55402

MATTHEW J. LEVITT
COLE OEHLER
ROBERT M. BOWEN
FRANK HAMMOND
LEONARD J. KEYES
ROBERT G. SHARE
BURT E. SWANSON
M. J. GALVIN, JR.
DAVID C. FORSBERG
JOHN J. MCNEELY
MCNEIL V. SEYMOUR, JR.
JERRY F. ROTMAN
TERENCE N. DOYLE
RICHARD H. KYLE
JOHN L. DEVNEY
RONALD L. SORENSON
PETER H. SEED
SAMUEL L. HANSON
RONALD E. ORCHARD
JOHN TROYER
STEPHEN WINNICK
AVRON L. GORDON
JOHN R. KENEFICK
THOMAS A. LARSON
DAVID J. SPENCER
DANIEL J. COLE, JR.
DOUGLAS L. SKOR
MICHAEL H. JERONIMUS
R. SCOTT DAVIES
J. PATRICK MCDAVITT
JOHN B. VAN DE NORTH, JR.
RICHARD G. MARK
ANDREW C. SELDEN
ANDREW C. BECHER
JEFFREY J. KEYES
JAMES E. NELSON
JEROME A. GEIS
STEVE A. BRAND
JOEL H. GOTTESMAN
ALAN H. MACLIN
JEFFREY F. SHAW
MATTHEW L. LEVITT
DAVID G. GREENING
DAVID B. SAND
DANIEL M. COUGHLAN
JOSEPH P. NOACK
CHARLES R. HAYNOR
ANDREA M. BOND
TIMOTHY P. FLAHERTY
MARTIN H. FISK
ROBERT J. PRATTE
JOHN BULTENA

LAW OFFICES

BRIGGS AND MORGAN

PROFESSIONAL ASSOCIATION

2400 IDS CENTER

MINNEAPOLIS, MINNESOTA 55402

TELEPHONE (612) 339-0661

TELECOPIER (612) 375-1078

INCLUDING THE FORMER FIRM OF
LEVITT, PALMER, BOWEN, ROTMAN & SHARE

JAMES G. RAY
RICHARD H. MARTIN
TRUDY J. HALLA
MARY L. IPPEL
JAMES A. VOSE
ROBYN L. HANSEN
ROBERT E. WOODS
WILLIAM J. JOANIS
MARGARET K. SAVAGE
BRIAN G. BELISLE
TONY STEMBERGER
MARY E. SCHAFFNER
MICHAEL H. STREATER
JOHN H. LINDSTROM
RICHARD D. ANDERSON
SALLY A. SCOGGIN
DAVID C. MCDONALD
BRUCE W. MOOTY
ERIC NILSSON
ANDREW R. KINTZINGER
FREDERICK P. ANOST
ROBERT L. LEE
ANN HUNTRODS
ELIZABETH J. ANDREWS
GREGORY J. STENMOE
CHARLES B. ROGERS
TERRY L. SLYE
MAUREEN E. WARREN
MARY M. DYRSETH
PATRICK M. GARRY
TIMOTHY E. MARX
CHERYL A. THOMAS
KEVIN A. BERG
MARK SCHROEDER
M. BRIGID MCDONOUGH
MARIAN M. DURKIN
CHRISTOPHER C. CLEVELAND
NANCY D. ARNISON
MICHAEL J. MCELLISTREM
PAUL S. JACOBSEN
NEAL T. BUETHE
TIMOTHY J. KEENAN
CARLOS R. CARRASQUILLO
KRISTIN S. MELBY
ELENA L. OSTBY
KEVIN J. HINIKER
ROBERT D. SICOLI
RUTH J. KELMAN
VINCENT A. THOMAS

OF COUNSEL
J. NEIL MORTON
RICHARD E. KYLE
JOHN M. PALMER
SAMUEL H. MORGAN
FRANK N. GRAHAM
A. LAURENCE DAVIS
CLARENCE G. FRAME
JOHN M. SULLIVAN

May 28, 1987

Office of the Attorney General
204 Administration Building
50 Sherburne Avenue
St. Paul, MN 55155

Re: Public Utilities Commission
Rules 7827.0100 - 7827.0600

Gentlemen:

We are attorneys for Northern Minnesota Utilities, a party which is potentially adversely affected by proposed Minnesota Rules Part 7827.0100 to 7827.0600. Attached are comments addressing issues of the legality of the rules. Please provide us with a copy of the Attorney General's decision after your review.

Very truly yours,

Samuel L. Hanson

SLH/rmb
Enclosure
cc Mary Ellen Hennen
Craig R. Anderson
Michael J. Bradley
Fred K. Little

RECEIVED
ATTORNEY GENERAL'S OFFICE
MAY 29 1987
204 ADMINISTRATION BLDG.
50 SHERBURNE AVENUE
ST. PAUL, MN 55155

2-999/R-87-64 (21)

MATTHEW J. LEVITT
COLE OEHLER
ROBERT M. BOWEN
FRANK HAMMOND
LEONARD J. KEYES
ROBERT G. SHARE
BURT E. SWANSON
M. J. GALVIN, JR.
DAVID C. FORSBERG
JOHN J. MCNEELY
MCNEIL V. SEYMOUR, JR.
JERRY F. ROTMAN
TERENCE N. DOYLE
RICHARD H. KYLE
JOHN L. DEVNEY
RONALD L. SORENSON
PETER H. SEED
SAMUEL L. HANSON
RONALD E. ORCHARD
JOHN TROYER
STEPHEN WINNICK
AVRON L. GORDON
JOHN R. KENEFICK
THOMAS A. LARSON
DAVID J. SPENCER
DANIEL J. COLE, JR.
DOUGLAS L. SKOR
MICHAEL H. JERONIMUS
R. SCOTT DAVIES
J. PATRICK MCDAVITT
JOHN B. VAN DE NORTH, JR.
RICHARD G. MARX
ANDREW C. SELDEN
ANDREW C. BECHER
JEFFREY J. KEYES
JAMES E. NELSON
JEROME A. GEIS
STEVE A. BRAND
JOEL H. GOTTESMAN
ALAN H. MACLIN
JEFFREY F. SHAW
MATTHEW L. LEVITT
DAVID G. GREENING
DAVID B. SAND
DANIEL M. COUGHLAN
JOSEPH P. NOACK
CHARLES R. HAYNOR
ANDREA M. BOND
TIMOTHY P. FLAHERTY
MARTIN H. FISK
ROBERT J. PRATTE
JOHN BULTENA

LAW OFFICES
BRIGGS AND MORGAN
PROFESSIONAL ASSOCIATION

2400 IDS CENTER
MINNEAPOLIS, MINNESOTA 55402

TELEPHONE (612) 339-0661

TELECOPIER (612) 375-1078

INCLUDING THE FORMER FIRM OF
LEVITT, PALMER, BOWEN, ROTMAN & SHARE

JAMES G. RAY
RICHARD H. MARTIN
TRUDY J. HALLA
MARY L. IPPEL
JAMES A. VOSE
ROBYN L. HANSEN
ROBERT E. WOODS
WILLIAM J. JOANIS
MARGARET K. SAVAGE
BRIAN G. BELISLE
TONY STEMBEROER
MARY E. SCHAFFNER
MICHAEL H. STREATER
JOHN H. LINDSTROM
RICHARD D. ANDERSON
SALLY A. SCOGGIN
DAVID C. MCDONALD
BRUCE W. MOOTY
ERIC NILSSON
ANDREW R. KINTZINGER
FREDERICK P. ANOST
ROBERT L. LEE
ANN HUNTRODS
ELIZABETH J. ANDREWS
GREGORY J. STENMOE
CHARLES B. ROGERS
TERRY L. SLYE
MAUREEN E. WARREN
MARY M. DYRSETH
PATRICK M. GARRY
TIMOTHY E. MARX
CHERYL A. THOMAS
KEVIN A. BERG
MARK SCHROEDER
M. BRIGID MCDONOUGH
MARIAN M. DURKIN
CHRISTOPHER C. CLEVELAND
NANCY D. ARNISON
MICHAEL J. MCELLISTREM
PAUL S. JACOBSEN
NEAL T. BUETHE
TIMOTHY J. KEENAN
CARLOS R. CARRASQUILLO
KRISTIN S. MELBY
ELENA L. OSTBY
KEVIN J. HINIKER
ROBERT D. SICOLI
RUTH J. KELMAN
VINCENT A. THOMAS

OF COUNSEL
J. NEIL MORTON
RICHARD E. KYLE
JOHN M. PALMER
SAMUEL H. MORGAN
FRANK N. GRAHAM
A. LAURENCE DAVIS
CLARENCE G. FRAME
JOHN M. SULLIVAN

May 28, 1987

RECEIVED
MAY 29 1987
MINNESOTA PUBLIC
UTILITIES COMMISSION

Office of the Attorney General
204 Administration Building
50 Sherburne Avenue
St. Paul, MN 55155

Re: Public Utilities Commission
Rules 7827.0100 - 7827.0600

Gentlemen:

We are attorneys for Northern Minnesota Utilities, a party which is potentially adversely affected by proposed Minnesota Rules Part 7827.0100 to 7827.0600. Attached are comments addressing issues of the legality of the rules. Please provide us with a copy of the Attorney General's decision after your review.

Very truly yours,

Samuel L. Hanson

SLH/rmb
Enclosure
cc Mary Ellen Hennen
Craig R. Anderson
Michael J. Bradley
Fred K. Little

Comm.
Roelofs
Caroline
Louis
Karen K.
Janet
Stu
Legal (Karl)

2200 FIRST NATIONAL BANK BUILDING
SAINT PAUL, MINNESOTA 55101
(612) 291-1215

2400 IDS CENTER
MINNEAPOLIS, MINNESOTA 55402
(612) 339-0661

STATE OF MINNESOTA
PUBLIC UTILITIES COMMISSION

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

In the Matter of the Proposed Rules Governing Rate Adjustments due to Tax Reform Act of 1986, Minn. Rules Parts 7827.0100 to 7827.0600	Docket No. U-999/R-87-64 **COMMENTS OF NORTHERN MINNESOTA UTILITIES**

Northern Minnesota Utilities believes that Minnesota Rules Parts 7827.0100 to 7827.0600 are unlawful for both substantive and procedural reasons.

A. Substantive Objections

The rules as adopted, particularly Rule 7827.0300, attempt to provide a definition of "reasonable rates" which conflicts with the statutory and constitutional requirements which the Commission is obliged to follow in establishing reasonable rates. Basing a determination that a utility's rate is unjust or unreasonable on the sole grounds that it has not been adjusted to account for the reduction in federal income tax expense is piecemeal ratemaking and violates the obligation of the Commission, imposed by Minnesota Statutes Chapter 216B and the constitution, to consider all costs of service in determining just and reasonable rates.

1. Constitutional Prohibitions

Piecemeal ratemaking violates due process prohibitions against confiscation since the Commission's obligation in setting

a constitutional rate is to consider the entire cost of service. See, e.g., Bluefield Water Works & Improvement Co. v. PSC, 262 U.S. 679 (1923); FPC v. Hope Natural Gas Co., 320 U.S. 591 (1944); and Hibbing Taconite Co. v. MPUC, 302 N.W.2d 5 (Minn. 1980). The standard announced in Bluefield is as follows (262 U.S. at 690):

> "Rates which are not sufficient to yield reasonable return on the value of the property used, at the time it is being used to render the service, are unjust, unreasonable, and confiscatory, and their enforcement deprives the public utility company of its property in violation of the Fourteenth Amendment."

Rates established by consideration of a single element of the utility's cost of service are unconstitutional and confiscatory. This constitutional prohibition cannot be altered by legislative action, which must conform to the constitutional requirements. Thus, in NSP v. City of St. Paul, 99 N.W.2d 207 (Minn. 1959), the court stated (99 N.W.2d at 211):

> "Just where the legislative function involving the power to fix rates ends and the judicial function involving a review of the reasonableness of such rates begins is not always easy to determine. It is clear, however, that while the courts may not usurp the legislative function of ratemaking neither are they impotent to grant relief from confiscatory or noncompensatory rates established by the ratemaking authority. Courts must and do have the power to prevent the unlawful taking of property without due process of law by the establishment of rates which are confiscatory or noncompensatory."

In fact, NSP v. City of St. Paul determined that the denial of an application for increased rates, upon a showing of an increase in a single cost factor such as the wholesale cost

of natural gas, has the same effect as fixing unreasonably low rates. The court issued a temporary injunction restraining the City from enforcing an ordinance which established rates which did not recognize this cost increase. Obviously, the requirement that rates be reduced to reflect a decrease in a single cost of service item, while intentionally ignoring all increases in cost of service, is confiscation by definition.

2. Statutory Requirements

Minn. Rules Parts 7827.0100 to 7827.0600 violate provisions of Minnesota Statutes Chapter 216B, including the following:

Section 216B.01 -- containing the legislative finding that the public interest requires the establishment of "reasonable rates, consistent with the financial and economic requirements of public utilities and their need to construct facilities to provide such services or to otherwise obtain energy supplies, * * *." The requirement of the rules, that rates be adjusted to reflect a change in a single element of the financial and economic requirements of a public utility, is inconsistent with that legislative finding.

Section 216B.03 -- mandating that every rate of a public utility "shall be just and reasonable." As noted in Hibbing Taconite Co. v. MPSC, supra, (302 N.W.2d at 11):

> "Chapter 216B gives to the PSC the duty as well as the power to set a just and reasonable rate after full review of evidence and testimony."

The obligation to determine "reasonable rates" requires the review of all elements of the utility's cost of service, including

all items of rate base, all items of operating expense and its rate of return. As noted by the Court of Appeals in Matter of Minnesota Power's Transfer, 399 N.W.2d 147, 150 (Minn. App. 1987)

> "Determining reasonable rates involves more than determining the appropriate rate base; it also involves determining the appropriate rate of return on equity and the utilities operating expense. * * * It cannot be said that the mere transfer of any property by a utility, regardless of the amount, automatically makes its rates unreasonable, because the appropriate rate of return and its operating expenses may have increased since the rate base was last determined."

Section 216B.16 -- which sets forth a comprehensive procedure for rate changes at the request of the utility. That section contemplates that the Commission could find current rates to be unjust or unreasonable only after a hearing (Subdivisions 2 and 5), giving due consideration to, among other things, "the need of the public utility for revenue sufficient to enable it to meet the cost of furnishing the service, including adequate provision for depreciation of its utility property used and useful in rendering service to the public, and to earn a fair and reasonable return on the investment in such property." (Subd. 6). The arbitrary reduction in rates to reflect a change in a single factor of cost of service gives no consideration to the revenue needs of the public utility.

Section 216B.23 -- which authorizes the Commission to conduct an investigation and fix reasonable rates. As noted by the Court of Appeals in Matter of Minnesota Power's Transfer, the

Commission cannot use this section to adjust rates based upon a change in a single cost of service element, but must look at all rate base, expense and return elements. The court noted (399 N.W.2d at 150):

> "Minnesota Statutes Section 216B.23, subd. 1, requires not only a finding that current rates are unreasonable before setting new ones, but also that the new rates be reasonable. For the PUC to act as Hanna requested would be to ignore both requirements: the record does not show that Minnesota Power's rates are unreasonable solely because of the transfer, and removing the property from its rate base would not be 'determining and fixing' reasonable rates as required by the statute."

See also Hibbing Taconite Co. v. Minnesota Public Service Commission, 302 N.W.2d 5 (Minn. 1980).

B. Procedural Objections

1. Constitutional Requirements for a Hearing

The Fourteenth Amendment provides procedural as well as substantive constraints to rate setting. As noted years ago in Chicago M & St. P. Ry. Co. v. State of Minnesota, 134 U.S. 418, 458:

> "The question of reasonableness of a rate of change for transportation by a railroad company, involving, as it does, the element of reasonableness both as regards the Company and as regards the public, is eminently a question for judicial investigation, requiring due process of law for its determination." (emphasis added)

The constitutionally mandated hearing must be a comprehensive one, covering all of the elements which contribute to a compensatory, nonconfiscatory return under the Bluefield and Hope

standards. The rules unlawfully provide for a reduction in rates without a due process hearing.

2. Statutory Requirements for a Hearing

a. Chapter 216B

Chapter 216B also requires that the utility be accorded a hearing before the Commission can change any rates. As noted by the Court of Appeals in Matter of Minnesota Power's Transfer, supra, (399 N.W.2d at 150):

> "The statute also requires that Minnesota Power be accorded a hearing before the PUC changes its rates. Minn. St. § 216B.23, subd. 1, provides that when an investigation reveals rates to be unreasonable, new rates must be fixed by order. Minn. St. § 216B.14 (1984) provides that while the PUC may investigate a public utility without a hearing, 'it shall make no order without affording the affected parties a hearing.'"

Thus, the reduction of rates under the rules, without a hearing to determine the utility's total cost of service, is not permitted by the statute.

b. Chapter 14

The rules also violate the Administrative Procedures Act. Under Minn. Stat. § 14.61, an agency decision in a contested case cannot be made until after the report of the Administrative Law Judge, issued pursuant to §§ 14.48-14.56. Minn. Stat. § 14.58 requires that all parties to a contested case be afforded an opportunity for hearing after reasonable notice. Under Minn. Stat. § 14.02, subd. 3, a contested case is defined as "a proceeding before an agency in which the legal rights, duties or

privileges of specific parties are required by the law or constitutional right to be determined after an agency hearing."

The reduction in rates constitutes the determination of the Company's legal rights, which is required by law and by the constitution to be made only after a due process hearing.

3. Violation of Rulemaking Procedures

The proposed rules were not adopted in compliance with the rulemaking requirements of Minn. Stat. § 14.22, for the following reasons.

a. Deficient Notice

The Notice of Intent to Adopt a Rule Without a Public Hearing was inconsistent with the requirements of § 14.22(3), which provides "that 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; * * *." The Commission's Notice of Intent to Adopt a Rule Without a Public Hearing varied this requirement (and varied the format contained in the recommended format under Minnesota Rules 2000.9965) by stating that "a public hearing will be held unless a sufficient number withdraw their request in writing." The underlined language is not authorized by the statute or Minnesota Rules and is ineffectual. The inclusion of this unauthorized qualification in the Notice renders the Notice deficient.

Further, the Notice was deficient in that the rules ultimately adopted varied significantly and materially from the proposed rules published in the State Register. The adoption

of such rules was thus improper without republication and re-opening of the comment period. The changes made from the proposed rules to the adopted rules were the addition of exemptions D and E to Rule 7827.0300. These exemptions were arbitrarily and specially designed to eliminate the objections of two utilities who each controlled 25 requests for a public hearing. Exemption D was designed to eliminate the objections of Northwestern Bell Telephone Company. Exemption E was designed to eliminate the objections of Northern States Power Company. These exemptions were not proposed until after the 30-day comment period had expired and 54 requests for public hearing had been timely submitted to the Commission. Other parties who requested a public hearing had a right to rely upon the multiple requests caused to be filed by Northwestern Bell and Northern States Power Company. Those parties were adversely affected by the additions of exemptions D and E to the rules. The rules thus could not be adopted without a republication.

b. Hearing was Required

As noted above, the Commission's attempt to disregard 50 requests for a public hearing, because they had been withdrawn after the close of the comment period, is not authorized by Minn. Stat. § 14.22. Under that statute, the event which triggers the requirement for a public hearing is the "submission" of 25 or more requests within the 30-day comment period. Once that event has occurred, the subsequent withdrawal of a request

for public hearing, after the close of the comment period, is ineffectual to defeat the requirement for a public hearing. In fact, the statute does not even contemplate that withdrawal of a request for public hearing within the 30-day comment period would defeat the requirement for a public hearing.

As a consequence of receiving 54 requests for a public hearing within the 30-day comment period, the Commission was obligated to conduct a hearing prior to the adoption of any rules was established. That obligation was not eliminated by the later withdrawals.

Dated: May 28, 1987

Respectfully submitted,

BRIGGS AND MORGAN

By Samuel L. Hanson

Samuel L. Hanson
Attorneys for Northern
Minnesota Utilities
2400 IDS Center
Minneapolis, Minnesota 55402
(612) 339-0661

4/001

U-999/R-87-64
(20)

RECEIVED

MAY 28 1987

MINNESOTA PUBLIC UTILITIES COMMISSION

STATE OF MINNESOTA

OFFICE OF ADMINISTRATIVE HEARINGS

400 SUMMIT BANK BUILDING
310 FOURTH AVENUE SOUTH
MINNEAPOLIS, MINNESOTA 55415
(612) 341-7600

May 27, 1987

Caroline Robinson
Staff Attorney
Minnesota Public Utilities Commission
780 American Center Building
160 East Kellogg Boulevard
St. Paul, Minnesota 55101

Re: Proposed Rules Governing Rate Adjustments Due to Tax Reform Act of 1986, Minn. Rules Parts 7827.0100 to 7827.0600; OAH Docket Nos. PUC-87-017-PR and 9-2500-1504-1.

Dear Ms. Robinson:

This letter will confirm our phone conversation of last week wherein you advised me of the Commission's decision to cancel the rule hearing in the above-entitled matter. You also advised me that the Notice of and Order for Hearing was not published in the State Register. It is my further understanding that the Commission will proceed with the adoption of these rules through the non-controversial rulemaking process.

Accordingly, I am closing the file, and returning the official record in this matter to you.

Sincerely,

Phyllis A. Reha

PHYLLIS A. REHA
Administrative Law Judge

Telephone: 612/341-7611

PAR:vh
Enclosures
cc: Mary Ellen Hennen

Comms.
Louis Hanenk
Janet, Stan
Legal

AN EQUAL OPPORTUNITY EMPLOYER

(18)

Northern States Power Company
Law Department

David G. McGannon
Vice President—Law
Gary R. Johnson
Director—Law
Writer's Direct Dial Number

414 Nicollet Mall
Minneapolis, Minnesota 55401
Telephone (612)330-6600

Attorneys
Gene R. Sommers
Ralph S. Towler
Joseph D. Bizzano, Jr.
Stephen C. Lapadat
Harold J. Bagley
Jack F. Sjoholm, Jr.
Robert W. Groth
David A. Lawrence
Gale K. Nordling
JoAnn M. McGuire
David M. Sparby
James L. Altman

RECEIVED
MAY 06 1987
MINNESOTA PUBLIC UTILITIES COMMISSION

May 6, 1987

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

Re: In the Matter of the Proposed Rules Governing Rate Adjustments Due to Tax Reform Act of 1986, Minn. Rules, parts 7827.0100 to 7827.0600
Docket No. U-999/R-87-64

Dear Ms. Hennen:

Please find attached and served upon you the withdrawal of the 25 signatures submitted on April 20, 1987.

Please contact me if you have any questions regarding this letter.

Sincerely,

David M Sparby

DAVID M. SPARBY

DMS/ccj

Comms.
Gas Sec
Roelke
Caroline
Laird, Karen K.
Janet, Stu
Legal

RECEIVED
MAY 06 1987
MINNESOTA PUBLIC UTILITIES COMMISSION

STATE OF MINNESOTA

BEFORE THE MINNESOTA PUBLIC UTILITIES COMMISSION

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

In the Matter of the Proposed Rules Governing Rate Adjustments Due to Tax Reform Act of 1986, Minn. Rules, parts 7827.0100 to 7827.0600

Docket No. U-999/R-87-64

AFFIDAVIT OF SERVICE

STATE OF MINNESOTA)
:
COUNTY OF HENNEPIN)

COLETTE JUREK does hereby certify that copies of Northern States Power Company's Withdrawal of Protest in the above-referenced matter were served on all persons listed below by U.S. mail or personally delivering the same on May 6, 1987.

Colette Jurek
COLETTE JUREK

Subscribed and sworn to before me, a Notary Public, this 6th day of May, 1987.

Catherine A. Jones
Notary Public

CATHERINE A. JONES
NOTARY PUBLIC - MINNESOTA
HENNEPIN COUNTY
My Commission Expires Sept 6, 1...

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

Docket No. U-999/R-87-64

May 5, 1987

Based on the Commission's decision of this day approving the settlement among NSP, the DPS and the AG regarding the effects of the Tax Reform Act of 1986, and the proposed changes to the rule, there is no reason for a continuing protest of the Commission's proposed rule. The petition for a hearing in the above-captioned docket submitted by the following individuals is withdrawn.

RECEIVED

MAY 06 1987

MINNESOTA PUBLIC
UTILITIES COMMISSION

James L. Altman
5319 Dupont Avenue South
Minneapolis, MN 55419

Gene R. Sommers
3431 York Avenue North
Minneapolis, MN 55422

David A. Lawrence
5230 Howard's Point Road
Shorewood, MN 55331

Benjamin J. Ewers, Jr.
5680 Matterhorn Drive
Fridley, MN 55432

James Foster
4231 Salem Avenue South
St. Louis Park, MN 55416

James W. Sawyer
9020 61½ Avenue North
New Hope, MN 55428

Ellen J. Stein
4201 Drew Avenue North
Robbinsdale, MN 55422

Jamie C. Seitz
7687 66th St. N.
Pine Springs, MN 55115

Janet Carlson
55 E. Wentworth Court
Minneapolis, MN 55419

William H. Olson, Jr.
203 E. 19th Street, Apt. 3
Minneapolis, MN 55403

Gene F. Ryan
4841 2nd Avenue South
Minneapolis, MN 55409

Dennis C. Fulton
RR2 Box 183
Welch, MN 55089

Mary Jo Nygaard
2622 Northdale Boulevard
Coon Rapids, MN 55433

Donald R. Hazuka
3662 Robin Lane
Minnetonka, MN 55343

Merle W. Fiereck
1403 - 97th Avenue N.W.
Coon Rapids, MN 55433

John M. Agrey, Jr.
1435 Metrose Avenue
St. Louis Park, MN 55426

Marlys K. Fleisher
15619-94th Street N.E.
Elk River, MN 55330

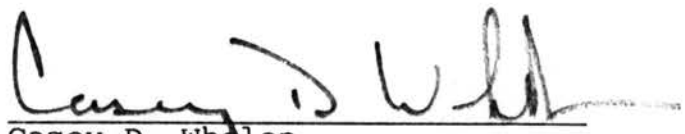
Peter R. Carney
13221 Everest Avenue
Apple Valley, MN 55124

Dan J. Winter
890 Dawn Avenue
Shoreview, MN 55126

Steven V. Huso
1837 Moore Street
Falcon Heights, MN 55113

John Chow
3170 12th Street N.W.
New Brighton, MN 55112

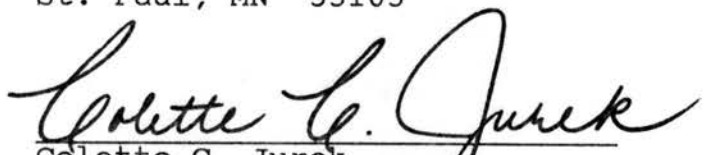
Catherine Wellman
13580 Evergreen Lane
Dayton, MN 55327



Casey D. Whelan
3848 Abbott Avenue North
Robbinsdale, MN 55422



Jack F. Sibholm, Jr.
951 Lincoln
St. Paul, MN 55105



Colette C. Jurek
3233 Minnehaha Avenue South
Minneapolis, MN 55406

(17)

Northern States Power Company
Law Department

David G. McGannon
Vice President—Law
Gary R. Johnson
Director—Law
Writer's Direct Dial Number

414 Nicollet Mall
Minneapolis, Minnesota 55401
Telephone (612)330-6600

Attorneys
Gene R. Sommers
Ralph S. Towler
Joseph D. Bizzano, Jr.
Stephen C. Lapadat
Harold J. Bagley
Jack F. Sjoholm, Jr.
Robert W. Groth
David A. Lawrence
Gale K. Nordling
JoAnn M. McGuire
David M. Sparby
James L. Altman

May 5, 1987

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

RECEIVED
MAY 5 1987
MINNESOTA PUBLIC UTILITIES COMMISSION

Re: In the Matter of the Proposed Rules Governing Rate Adjustments Due to Tax Reform Act of 1986, Minn. Rules, parts 7827.0100 to 7827.0600
Docket No. U-999/R-87-64

Dear Ms. Hennen:

Based on the Commission's decision of this day approving the settlement among NSP, the DPS and the AG regarding the effects of the Tax Reform Act of 1986, and the proposed changes to the rule, there is no reason for a continuing protest of the Commission's proposed rule. The petition for a hearing in the above-captioned docket submitted by the 25 individuals under my cover on April 20, 1987, is withdrawn.

Please contact me if you have any questions regarding this letter.

Sincerely,

David M. Sparby

DAVID M. SPARBY

DMS/ccj

Comm. Sec
Exec. Sec
Roellen / Caroline
Louis, Karen K.
Janet, Stu
Legal

RECEIVED

MAY 05 1987

MINNESOTA PUBLIC UTILITIES COMMISSION

STATE OF MINNESOTA

BEFORE THE MINNESOTA PUBLIC UTILITIES COMMISSION

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

In the Matter of the Proposed Rules Governing Rate Adjustments Due to Tax Reform Act of 1986, Minn. Rules, parts 7827.0100 to 7827.0600

Docket No. U-999/R-87-64

AFFIDAVIT OF SERVICE

STATE OF MINNESOTA)
:
COUNTY OF HENNEPIN)

COLETTE JUREK does hereby certify that copies of Northern States Power Company's Withdrawal of Protest in the above-referenced matter were served on all persons listed below by U.S. mail or personally delivering the same on May 5, 1987.

Colette Jurek
COLETTE JUREK

Subscribed and sworn to before me, a Notary Public, this 5th day of May, 1987.

CATHERINE A. JONES
NOTARY PUBLIC - MINNESOTA
HENNEPIN COUNTY
My Commission Expires Sept 6, 1987

Catherine A. Jones
Notary Public

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

MINNESOTA PUBLIC UTILITIES COMMISSION

May 6, 1987

Steve Refsell, Esq.
Legal Department
Northwestern Bell Telephone Company
200 South Fifth Street, Room 1800
Minneapolis, Minnesota 55402

Re: Rules to Implement Tax Reform Act
MPUC Docket No. U-999/R-87-64

Dear Mr. Refsell:

As part of the understanding reached between the Commission and Northwestern Bell Telephone Company at the time you agreed to withdraw the signatures filed by Northwestern Bell requesting a contested rule hearing in this matter, we agreed that several matters should be clarified. First, the Commission understands that the investigation into Northwestern Bell's rates identified as MPUC Docket No. P-421/CI-86-354 would be covered by the amendment identified as item D to proposed Minn. Rules pt. 7827.0300. Second, if the amendment identified as item D to proposed part 7827.0300 is rejected by the Attorney General on the grounds that the amendment is a substantial change to the rule, the Commission will set the entire rule for a contested rule hearing.

I believe this reflects our full understanding.

Sincerely,

MARY ELLEN HENNEN
Executive Secretary
Minnesota Public Utilities Commission

AMERICAN CENTER building • kellogg AND ROBERT STS • SAINT PAUL, MN 55101

Northwestern Bell

A.A. Albrecht
General Manager - Regulatory

Room 3A75
200 South 5th Street
Minneapolis, Minnesota 55402
Phone (612) 344-5247

May 6, 1987

Ms. Rosellen Condon
Minnesota Public Utilities Commission
780 American Center Building
160 East Kellogg Boulevard
St. Paul, MN. 55101

Dear Ms. Condon:

In reliance that the proposed permanent rules relating to rate adjustments due to the Tax Reform Act of 1986 as published in the State Register, March 23, 1987 are going to be amended by the Minnesota Public Utilities Commission (PUC) and that Northwestern Bell Telephone Company (NWB) has been informed by the PUC that under said amendment NWB will be exempt from said rules and that NWB has been informed by the PUC that in the event said amendment is ever deleted from said rules there will be a public hearing, the attached letters are submitted withdrawing previous request for a public hearing.

Sincerely,

R. A. Lawson for

A. A. Albrecht
General Manager-Regulatory

Attachment

cc: Mary Ellen Hennen
(No Attachments)

Northwestern Bell

A.A. Albrecht
General Manager - Regulatory

Room 3A75
200 South 5th Street
Minneapolis, Minnesota 55402
Phone (612) 344-5247

May 6, 1987

Ms. Rosellen Condon
Minnesota Public Utilities Commission
780 American Center Building
160 East Kellogg Boulevard
St. Paul, MN. 55101

Dear Ms. Condon:

In reliance that the proposed permanent rules relating to rate adjustments due to the Tax Reform Act of 1986 as published in the State Register, March 23, 1987 are going to be amended by the Minnesota Public Utilities Commission (PUC) and that Northwestern Bell Telephone Company (NWB) has been informed by the PUC that under said amendment NWB will be exempt from said rules and that NWB has been informed by the PUC that in the event said amendment is ever deleted from said rules there will be a public hearing, the attached letters are submitted withdrawing previous request for a public hearing.

Sincerely,

R. A. Lawson for

A. A. Albrecht
General Manager-Regulatory

Attachment

cc: Mary Ellen Hennen
(No Attachments)

Northwestern Bell
Regulatory Department
200 South 5th Street, Room 3A75
Minneapolis, Minnesota 55402

May 5, 1987

Ms. Rosellen Condon
Minnesota Public Utilities Commission
780 American Center Building
160 East Kellogg Boulevard
St. Paul, MN. 55101

Dear Ms. Condon:

I have been informed by Northwestern Bell Telephone (NWB) Company that the proposed permanent rules relating to rate adjustments due to the Tax Reform Act of 1986 as published in the State Register, March 23, 1987 are going to be amended by the Minnesota Public Utilities Commission (PUC) and that NWB has been informed by the PUC that under said amendment NWB will be exempt from said rules and that NWB has been informed by the PUC that in the event said amendment is ever deleted from said rules I would be entitled to a public hearing. In reliance on the foregoing action by the PUC I hereby withdraw my previous request for a public hearing.

Sincerely,

Name: Kathy Kolbe

Address: Room 395
200 South 5th Street
Mpls., Mn. 55402

Northwestern Bell
Regulatory Department
200 South 5th Street, Room 3A75
Minneapolis, Minnesota 55402

May 5, 1987

Ms. Rosellen Condon
Minnesota Public Utilities Commission
780 American Center Building
160 East Kellogg Boulevard
St. Paul, MN. 55101

Dear Ms. Condon:

I have been informed by Northwestern Bell Telephone (NWB) Company that the proposed permanent rules relating to rate adjustments due to the Tax Reform Act of 1986 as published in the State Register, March 23, 1987 are going to be amended by the Minnesota Public Utilities Commission (PUC) and that NWB has been informed by the PUC that under said amendment NWB will be exempt from said rules and that NWB has been informed by the PUC that in the event said amendment is ever deleted from said rules I would be entitled to a public hearing. In reliance on the foregoing action by the PUC I hereby withdraw my previous request for a public hearing.

Sincerely,

Name: Marni R Platteter

Address: 200 S 5th St
Mpls. Mn 55402

Northwestern Bell
Regulatory Department
200 South 5th Street, Room 3A75
Minneapolis, Minnesota 55402

May 5, 1987

Ms. Rosellen Condon
Minnesota Public Utilities Commission
780 American Center Building
160 East Kellogg Boulevard
St. Paul, MN. 55101

Dear Ms. Condon:

I have been informed by Northwestern Bell Telephone (NWB) Company that the proposed permanent rules relating to rate adjustments due to the Tax Reform Act of 1986 as published in the State Register, March 23, 1987 are going to be amended by the Minnesota Public Utilities Commission (PUC) and that NWB has been informed by the PUC that under said amendment NWB will be exempt from said rules and that NWB has been informed by the PUC that in the event said amendment is ever deleted from said rules I would be entitled to a public hearing. In reliance on the foregoing action by the PUC I hereby withdraw my previous request for a public hearing.

Sincerely,

Name: Marcia L. Murray

Address: 200 So. 5 St. Room 3A75
Mpls, Mn. 55402

Northwestern Bell
Regulatory Department
200 South 5th Street, Room 3A75
Minneapolis, Minnesota 55402

May 5, 1987

Ms. Rosellen Condon
Minnesota Public Utilities Commission
780 American Center Building
160 East Kellogg Boulevard
St. Paul, MN. 55101

Dear Ms. Condon:

I have been informed by Northwestern Bell Telephone (NWB) Company that the proposed permanent rules relating to rate adjustments due to the Tax Reform Act of 1986 as published in the State Register, March 23, 1987 are going to be amended by the Minnesota Public Utilities Commission (PUC) and that NWB has been informed by the PUC that under said amendment NWB will be exempt from said rules and that NWB has been informed by the PUC that in the event said amendment is ever deleted from said rules I would be entitled to a public hearing. In reliance on the foregoing action by the PUC I hereby withdraw my previous request for a public hearing.

Sincerely,

Name: Susan L. Nelson

Address: 800 So 5th St.
Mpls MN 55402

Northwestern Bell
Regulatory Department
200 South 5th Street, Room 3A75
Minneapolis, Minnesota 55402

May 5, 1987

Ms. Rosellen Condon
Minnesota Public Utilities Commission
780 American Center Building
160 East Kellogg Boulevard
St. Paul, MN. 55101

Dear Ms. Condon:

I have been informed by Northwestern Bell Telephone (NWB) Company that the proposed permanent rules relating to rate adjustments due to the Tax Reform Act of 1986 as published in the State Register, March 23, 1987 are going to be amended by the Minnesota Public Utilities Commission (PUC) and that NWB has been informed by the PUC that under said amendment NWB will be exempt from said rules and that NWB has been informed by the PUC that in the event said amendment is ever deleted from said rules I would be entitled to a public hearing. In reliance on the foregoing action by the PUC I hereby withdraw my previous request for a public hearing.

Sincerely,

Name: Nancy J Kienz

Address: 3A75 - 200 S 5th ST
MPLS, MN 55402

Northwestern Bell
Regulatory Department
200 South 5th Street, Room 3A75
Minneapolis, Minnesota 55402

May 5, 1987

Ms. Rosellen Condon
Minnesota Public Utilities Commission
780 American Center Building
160 East Kellogg Boulevard
St. Paul, MN. 55101

Dear Ms. Condon:

I have been informed by Northwestern Bell Telephone (NWB) Company that the proposed permanent rules relating to rate adjustments due to the Tax Reform Act of 1986 as published in the State Register, March 23, 1987 are going to be amended by the Minnesota Public Utilities Commission (PUC) and that NWB has been informed by the PUC that under said amendment NWB will be exempt from said rules and that NWB has been informed by the PUC that in the event said amendment is ever deleted from said rules I would be entitled to a public hearing. In reliance on the foregoing action by the PUC I hereby withdraw my previous request for a public hearing.

Sincerely,

Name: Mary J Dosse

Address: 200 S. 5th St
Minneapolis, Mn 55402

Northwestern Bell
Regulatory Department
200 South 5th Street, Room 3A75
Minneapolis, Minnesota 55402

May 5, 1987

Ms. Rosellen Condon
Minnesota Public Utilities Commission
780 American Center Building
160 East Kellogg Boulevard
St. Paul, MN. 55101

Dear Ms. Condon:

I have been informed by Northwestern Bell Telephone (NWB) Company that the proposed permanent rules relating to rate adjustments due to the Tax Reform Act of 1986 as published in the State Register, March 23, 1987 are going to be amended by the Minnesota Public Utilities Commission (PUC) and that NWB has been informed by the PUC that under said amendment NWB will be exempt from said rules and that NWB has been informed by the PUC that in the event said amendment is ever deleted from said rules I would be entitled to a public hearing. In reliance on the foregoing action by the PUC I hereby withdraw my previous request for a public hearing.

Sincerely,

Name: Pat Snook

Address: 200 So 5th St
Mpls Mn, 55402

Northwestern Bell
Regulatory Department
200 South 5th Street, Room 3A75
Minneapolis, Minnesota 55402

May 5, 1987

Ms. Rosellen Condon
Minnesota Public Utilities Commission
780 American Center Building
160 East Kellogg Boulevard
St. Paul, MN. 55101

Dear Ms. Condon:

I have been informed by Northwestern Bell Telephone (NWB) Company that the proposed permanent rules relating to rate adjustments due to the Tax Reform Act of 1986 as published in the State Register, March 23, 1987 are going to be amended by the Minnesota Public Utilities Commission (PUC) and that NWB has been informed by the PUC that under said amendment NWB will be exempt from said rules and that NWB has been informed by the PUC that in the event said amendment is ever deleted from said rules I would be entitled to a public hearing. In reliance on the foregoing action by the PUC I hereby withdraw my previous request for a public hearing.

Sincerely,

Name: H. L. Sievers

Address: 200 So. 5th Street
Mpls. Mn. 55402

Northwestern Bell
Regulatory Department
200 South 5th Street, Room 3A75
Minneapolis, Minnesota 55402

May 5, 1987

Ms. Rosellen Condon
Minnesota Public Utilities Commission
780 American Center Building
160 East Kellogg Boulevard
St. Paul, MN. 55101

Dear Ms. Condon:

I have been informed by Northwestern Bell Telephone (NWB) Company that the proposed permanent rules relating to rate adjustments due to the Tax Reform Act of 1986 as published in the State Register, March 23, 1987 are going to be amended by the Minnesota Public Utilities Commission (PUC) and that NWB has been informed by the PUC that under said amendment NWB will be exempt from said rules and that NWB has been informed by the PUC that in the event said amendment is ever deleted from said rules I would be entitled to a public hearing. In reliance on the foregoing action by the PUC I hereby withdraw my previous request for a public hearing.

Sincerely,

Name: Diane Sams

Address: 200 South 5 St
Mpls. MN 55402

Northwestern Bell
Regulatory Department
200 South 5th Street, Room 3A75
Minneapolis, Minnesota 55402

May 5, 1987

Ms. Rosellen Condon
Minnesota Public Utilities Commission
780 American Center Building
160 East Kellogg Boulevard
St. Paul, MN. 55101

Dear Ms. Condon:

I have been informed by Northwestern Bell Telephone (NWB) Company that the proposed permanent rules relating to rate adjustments due to the Tax Reform Act of 1986 as published in the State Register, March 23, 1987 are going to be amended by the Minnesota Public Utilities Commission (PUC) and that NWB has been informed by the PUC that under said amendment NWB will be exempt from said rules and that NWB has been informed by the PUC that in the event said amendment is ever deleted from said rules I would be entitled to a public hearing. In reliance on the foregoing action by the PUC I hereby withdraw my previous request for a public hearing.

Sincerely,

Name: Mary Menshek

Address: 200 So 5th St.
Mpls Mn 55402

Northwestern Bell
Regulatory Department
200 South 5th Street, Room 3A75
Minneapolis, Minnesota 55402

May 5, 1987

Ms. Rosellen Condon
Minnesota Public Utilities Commission
780 American Center Building
160 East Kellogg Boulevard
St. Paul, MN. 55101

Dear Ms. Condon:

I have been informed by Northwestern Bell Telephone (NWB) Company that the proposed permanent rules relating to rate adjustments due to the Tax Reform Act of 1986 as published in the State Register, March 23, 1987 are going to be amended by the Minnesota Public Utilities Commission (PUC) and that NWB has been informed by the PUC that under said amendment NWB will be exempt from said rules and that NWB has been informed by the PUC that in the event said amendment is ever deleted from said rules I would be entitled to a public hearing. In reliance on the foregoing action by the PUC I hereby withdraw my previous request for a public hearing.

Sincerely,

Name: Carol Richardson

Address: 200 S. 5th St.
Minneapolis, MN 55402

Northwestern Bell
Regulatory Department
200 South 5th Street, Room 3A75
Minneapolis, Minnesota 55402

May 5, 1987

Ms. Rosellen Condon
Minnesota Public Utilities Commission
780 American Center Building
160 East Kellogg Boulevard
St. Paul, MN. 55101

Dear Ms. Condon:

I have been informed by Northwestern Bell Telephone (NWB) Company that the proposed permanent rules relating to rate adjustments due to the Tax Reform Act of 1986 as published in the State Register, March 23, 1987 are going to be amended by the Minnesota Public Utilities Commission (PUC) and that NWB has been informed by the PUC that under said amendment NWB will be exempt from said rules and that NWB has been informed by the PUC that in the event said amendment is ever deleted from said rules I would be entitled to a public hearing. In reliance on the foregoing action by the PUC I hereby withdraw my previous request for a public hearing.

Sincerely,

Name: Brian Mathews

Address: 200 South 5th St
MPLS MN 55402

Northwestern Bell
Regulatory Department
200 South 5th Street, Room 3A75
Minneapolis, Minnesota 55402

May 5, 1987

Ms. Rosellen Condon
Minnesota Public Utilities Commission
780 American Center Building
160 East Kellogg Boulevard
St. Paul, MN. 55101

Dear Ms. Condon:

I have been informed by Northwestern Bell Telephone (NWB) Company that the proposed permanent rules relating to rate adjustments due to the Tax Reform Act of 1986 as published in the State Register, March 23, 1987 are going to be amended by the Minnesota Public Utilities Commission (PUC) and that NWB has been informed by the PUC that under said amendment NWB will be exempt from said rules and that NWB has been informed by the PUC that in the event said amendment is ever deleted from said rules I would be entitled to a public hearing. In reliance on the foregoing action by the PUC I hereby withdraw my previous request for a public hearing.

Sincerely,

Name: Thomas S. Tinglov

Address: Room 3A75
200 So. 5th St.
Mpls., Minn., 55402

Northwestern Bell
Regulatory Department
200 South 5th Street, Room 3A75
Minneapolis, Minnesota 55402

May 5, 1987

Ms. Rosellen Condon
Minnesota Public Utilities Commission
780 American Center Building
160 East Kellogg Boulevard
St. Paul, MN. 55101

Dear Ms. Condon:

I have been informed by Northwestern Bell Telephone (NWB) Company that the proposed permanent rules relating to rate adjustments due to the Tax Reform Act of 1986 as published in the State Register, March 23, 1987 are going to be amended by the Minnesota Public Utilities Commission (PUC) and that NWB has been informed by the PUC that under said amendment NWB will be exempt from said rules and that NWB has been informed by the PUC that in the event said amendment is ever deleted from said rules I would be entitled to a public hearing. In reliance on the foregoing action by the PUC I hereby withdraw my previous request for a public hearing.

Sincerely,

Name: John S Walty

Address: Rm 3A75
200 S 5th St.
Mpls., Minn. 55402

Northwestern Bell
Regulatory Department
200 South 5th Street, Room 3A75
Minneapolis, Minnesota 55402

May 5, 1987

Ms. Rosellen Condon
Minnesota Public Utilities Commission
780 American Center Building
160 East Kellogg Boulevard
St. Paul, MN. 55101

Dear Ms. Condon:

I have been informed by Northwestern Bell Telephone (NWB) Company that the proposed permanent rules relating to rate adjustments due to the Tax Reform Act of 1986 as published in the State Register, March 23, 1987 are going to be amended by the Minnesota Public Utilities Commission (PUC) and that NWB has been informed by the PUC that under said amendment NWB will be exempt from said rules and that NWB has been informed by the PUC that in the event said amendment is ever deleted from said rules I would be entitled to a public hearing. In reliance on the foregoing action by the PUC I hereby withdraw my previous request for a public hearing.

Sincerely,

Name: John H. O'Brien

Address: Room 3A75
200 So. 5th St.
Minneapolis, Minn 55402

Northwestern Bell
Regulatory Department
200 South 5th Street, Room 3A75
Minneapolis, Minnesota 55402

May 5, 1987

Ms. Rosellen Condon
Minnesota Public Utilities Commission
780 American Center Building
160 East Kellogg Boulevard
St. Paul, MN. 55101

Dear Ms. Condon:

I have been informed by Northwestern Bell Telephone (NWB) Company that the proposed permanent rules relating to rate adjustments due to the Tax Reform Act of 1986 as published in the State Register, March 23, 1987 are going to be amended by the Minnesota Public Utilities Commission (PUC) and that NWB has been informed by the PUC that under said amendment NWB will be exempt from said rules and that NWB has been informed by the PUC that in the event said amendment is ever deleted from said rules I would be entitled to a public hearing. In reliance on the foregoing action by the PUC I hereby withdraw my previous request for a public hearing.

Sincerely,

Name: Barbara Johnson

Address: 200 So 5 St
Mpls MN 55402

Northwestern Bell
Regulatory Department
200 South 5th Street, Room 3A75
Minneapolis, Minnesota 55402

May 5, 1987

Ms. Rosellen Condon
Minnesota Public Utilities Commission
780 American Center Building
160 East Kellogg Boulevard
St. Paul, MN. 55101

Dear Ms. Condon:

I have been informed by Northwestern Bell Telephone (NWB) Company that the proposed permanent rules relating to rate adjustments due to the Tax Reform Act of 1986 as published in the State Register, March 23, 1987 are going to be amended by the Minnesota Public Utilities Commission (PUC) and that NWB has been informed by the PUC that under said amendment NWB will be exempt from said rules and that NWB has been informed by the PUC that in the event said amendment is ever deleted from said rules I would be entitled to a public hearing. In reliance on the foregoing action by the PUC I hereby withdraw my previous request for a public hearing.

Sincerely,

Name: Thomas L. Lee

Address: 1318 PRESTON LANE
HOPKINS, MN 55343

Northwestern Bell
Regulatory Department
200 South 5th Street, Room 3A75
Minneapolis, Minnesota 55402

May 5, 1987

Ms. Rosellen Condon
Minnesota Public Utilities Commission
780 American Center Building
160 East Kellogg Boulevard
St. Paul, MN. 55101

Dear Ms. Condon:

I have been informed by Northwestern Bell Telephone (NWB) Company that the proposed permanent rules relating to rate adjustments due to the Tax Reform Act of 1986 as published in the State Register, March 23, 1987 are going to be amended by the Minnesota Public Utilities Commission (PUC) and that NWB has been informed by the PUC that under said amendment NWB will be exempt from said rules and that NWB has been informed by the PUC that in the event said amendment is ever deleted from said rules I would be entitled to a public hearing. In reliance on the foregoing action by the PUC I hereby withdraw my previous request for a public hearing.

Sincerely,

Name: Tim Ogren

Address: 200 So. 5th St. - Room 395
Mpls, MN 55402

Northwestern Bell
Regulatory Department
200 South 5th Street, Room 3A75
Minneapolis, Minnesota 55402

May 5, 1987

Ms. Rosellen Condon
Minnesota Public Utilities Commission
780 American Center Building
160 East Kellogg Boulevard
St. Paul, MN. 55101

Dear Ms. Condon:

I have been informed by Northwestern Bell Telephone (NWB) Company that the proposed permanent rules relating to rate adjustments due to the Tax Reform Act of 1986 as published in the State Register, March 23, 1987 are going to be amended by the Minnesota Public Utilities Commission (PUC) and that NWB has been informed by the PUC that under said amendment NWB will be exempt from said rules and that NWB has been informed by the PUC that in the event said amendment is ever deleted from said rules I would be entitled to a public hearing. In reliance on the foregoing action by the PUC I hereby withdraw my previous request for a public hearing.

Sincerely,

Name: Richard J. Caldwell

Address: 200 S. 5TH ST.
Minneapolis, MN. 55402

Northwestern Bell
Regulatory Department
200 South 5th Street, Room 3A75
Minneapolis, Minnesota 55402

May 5, 1987

Ms. Rosellen Condon
Minnesota Public Utilities Commission
780 American Center Building
160 East Kellogg Boulevard
St. Paul, MN. 55101

Dear Ms. Condon:

I have been informed by Northwestern Bell Telephone (NWB) Company that the proposed permanent rules relating to rate adjustments due to the Tax Reform Act of 1986 as published in the State Register, March 23, 1987 are going to be amended by the Minnesota Public Utilities Commission (PUC) and that NWB has been informed by the PUC that under said amendment NWB will be exempt from said rules and that NWB has been informed by the PUC that in the event said amendment is ever deleted from said rules I would be entitled to a public hearing. In reliance on the foregoing action by the PUC I hereby withdraw my previous request for a public hearing.

Sincerely,

Name: M. Smaniech

Address: 7200 - 20. 5th St
Mpls. Mn. 55402

Northwestern Bell
Regulatory Department
200 South 5th Street, Room 3A75
Minneapolis, Minnesota 55402

May 5, 1987

Ms. Rosellen Condon
Minnesota Public Utilities Commission
780 American Center Building
160 East Kellogg Boulevard
St. Paul, MN. 55101

Dear Ms. Condon:

I have been informed by Northwestern Bell Telephone (NWB) Company that the proposed permanent rules relating to rate adjustments due to the Tax Reform Act of 1986 as published in the State Register, March 23, 1987 are going to be amended by the Minnesota Public Utilities Commission (PUC) and that NWB has been informed by the PUC that under said amendment NWB will be exempt from said rules and that NWB has been informed by the PUC that in the event said amendment is ever deleted from said rules I would be entitled to a public hearing. In reliance on the foregoing action by the PUC I hereby withdraw my previous request for a public hearing.

Sincerely,

Name: Dixie DeMaio

Address 700 So 5th St.
Mpls. Minn 55402

Northwestern Bell
Regulatory Department
200 South 5th Street, Room 3A75
Minneapolis, Minnesota 55402

May 5, 1987

Ms. Rosellen Condon
Minnesota Public Utilities Commission
780 American Center Building
160 East Kellogg Boulevard
St. Paul, MN. 55101

Dear Ms. Condon:

I have been informed by Northwestern Bell Telephone (NWB) Company that the proposed permanent rules relating to rate adjustments due to the Tax Reform Act of 1986 as published in the State Register, March 23, 1987 are going to be amended by the Minnesota Public Utilities Commission (PUC) and that NWB has been informed by the PUC that under said amendment NWB will be exempt from said rules and that NWB has been informed by the PUC that in the event said amendment is ever deleted from said rules I would be entitled to a public hearing. In reliance on the foregoing action by the PUC I hereby withdraw my previous request for a public hearing.

Sincerely,

Name: Michael A. Hansen

Address: 200 So. 5th ST
Minneapolis, Minnesota 55402

Northwestern Bell
Regulatory Department
200 South 5th Street, Room 3A75
Minneapolis, Minnesota 55402

May 5, 1987

Ms. Rosellen Condon
Minnesota Public Utilities Commission
780 American Center Building
160 East Kellogg Boulevard
St. Paul, MN. 55101

Dear Ms. Condon:

I have been informed by Northwestern Bell Telephone (NWB) Company that the proposed permanent rules relating to rate adjustments due to the Tax Reform Act of 1986 as published in the State Register, March 23, 1987 are going to be amended by the Minnesota Public Utilities Commission (PUC) and that NWB has been informed by the PUC that under said amendment NWB will be exempt from said rules and that NWB has been informed by the PUC that in the event said amendment is ever deleted from said rules I would be entitled to a public hearing. In reliance on the foregoing action by the PUC I hereby withdraw my previous request for a public hearing.

Sincerely,

Name: Phyllis Johnson

Address: 200 So 5th St
Mpls Minn 55402

Northwestern Bell
Regulatory Department
200 South 5th Street, Room 3A75
Minneapolis, Minnesota 55402

May 5, 1987

Ms. Rosellen Condon
Minnesota Public Utilities Commission
780 American Center Building
160 East Kellogg Boulevard
St. Paul, MN. 55101

Dear Ms. Condon:

I have been informed by Northwestern Bell Telephone (NWB) Company that the proposed permanent rules relating to rate adjustments due to the Tax Reform Act of 1986 as published in the State Register, March 23, 1987 are going to be amended by the Minnesota Public Utilities Commission (PUC) and that NWB has been informed by the PUC that under said amendment NWB will be exempt from said rules and that NWB has been informed by the PUC that in the event said amendment is ever deleted from said rules I would be entitled to a public hearing. In reliance on the foregoing action by the PUC I hereby withdraw my previous request for a public hearing.

Sincerely,

Name: Judith A Guthrie

Address: 200 So. 5 Street - Room 3A60
Mpls. Mn 55402

Northwestern Bell
Regulatory Department
200 South 5th Street, Room 3A75
Minneapolis, Minnesota 55402

May 5, 1987

Ms. Rosellen Condon
Minnesota Public Utilities Commission
780 American Center Building
160 East Kellogg Boulevard
St. Paul, MN. 55101

Dear Ms. Condon:

I have been informed by Northwestern Bell Telephone (NWB) Company that the proposed permanent rules relating to rate adjustments due to the Tax Reform Act of 1986 as published in the State Register, March 23, 1987 are going to be amended by the Minnesota Public Utilities Commission (PUC) and that NWB has been informed by the PUC that under said amendment NWB will be exempt from said rules and that NWB has been informed by the PUC that in the event said amendment is ever deleted from said rules I would be entitled to a public hearing. In reliance on the foregoing action by the PUC I hereby withdraw my previous request for a public hearing.

Sincerely,

Name: Carol A. Dale

Address: 200 So. 5th St.
Mpls., Mn. 55402

STATE OF MINNESOTA
PUBLIC UTILITIES COMMISSION

In the Matter of the Proposed Rules
Governing Rate Adjustments due to Tax
Reform Act of 1986, Minn. Rules Parts
7827.0100 to 7827.0600.

DECLARATION OF COUNSEL

I, Karl Sonneman, Special Assistant Attorney General, do hereby declare that I have examined the above-captioned rules and the supporting rulemaking record, and that, based on my examination, the Administrative Procedure Act and Minnesota Rules ch. 2010 have been followed. For Attorney General billing purposes, the four-digit docket client code is I530.

Karl Sonneman
Special Assistant
Attorney General

STATE OF MINNESOTA
PUBLIC UTILITIES COMMISSION

In the Matter of the Proposed Rules Governing Rate Adjustments due to Tax Reform Act of 1986, Minn. Rules Parts 7827.0100 to 7827.0600.

NOTICE OF SUBMISSION OF RULE ADOPTED WITHOUT PUBLIC HEARING TO THE ATTORNEY GENERAL

Pursuant to your request and in accordance with Minn. Stat. § 14.26 (1986):

PLEASE TAKE NOTICE that the above-captioned rules as adopted have been submitted to the Office of the Attorney General on this date, May 26, 1987, for review as to legality and form to the extent form relates to legality. The proposed rules, the rules as adopted, all the notices, the Statement of Need and Reasonableness, all written comments and requests for a hearing received, and other required documents also have been submitted to the Attorney General.

The proposed rule which was published in the State Register and made available to the public on March 23, 1987, has been modified. A copy of the rule as modified and the Findings of Fact, Conclusions, and Order Adopting Rules is enclosed with this notice.

The rules must be approved or disapproved by the Attorney General within 14 calendar days of the date of submission to the Attorney General. You may submit written comments to the Attorney General on the legality of the rules. Any written comments must be submitted within eight calendar days of the date of the submission of the rules to the Attorney General. Your comments must address only the issue of legality of the rules or the legality of the specific parts or subparts of the rules. The Attorney General standards for review are set forth in Minnesota Rules pt. 2010.1000. You may receive a copy of the Attorney General decision upon written request to the Attorney General. Your comments or requests for the decision must be directed to:

The Office of the Attorney General
204 Administration Building
50 Sherburne Avenue
St. Paul, MN 55155
Telephone: (612) 296-1288

Caroline Robinson
Staff Attorney

STATE OF MINNESOTA
PUBLIC UTILITIES COMMISSION

In the Matter of Proposed Rules
Governing Rate Adjustments due to
Tax Reform Act of 1986, Minn. Rules
Parts 7827.0100 to 7822.0600

AFFIDAVIT OF MAILING
NOTICE OF SUBMISSION OF RULE
ADOPTED WITHOUT PUBLIC HEARING TO
ATTORNEY GENERAL

STATE OF MINNESOTA)
) SS.
COUNTY OF RAMSEY)

Dawn Walker, being duly sworn, deposes and says: That on the 26th day of May, 1987, at the City of St. Paul, County of Ramsey, State of Minnesota, she served the attached Notice of Submission of Rule Adopted Without Public Hearing to the Attorney General by depositing in the State of Minnesota Central Mail System or in the United States mail for first class mailing at said City of St. Paul, a copy thereof, properly enveloped, with postage prepaid, on all persons and associations who requested notice that the rules in the above-captioned matter have been submitted to the Attorney General.

Dawn M Walker

Subscribed and sworn to before me
this 26 day of MAY, 1987.

DEBORAH J. SMITH
NOTARY PUBLIC—MINNESOTA
WASHINGTON COUNTY
MY COMM. EXPIRES MAY 23, 1991

Deborah J. Smith
Notary Public

TAX REFORM ACT OF 1986
Requests for copies of adopted rules

Docket No. U-999/R-87-64

Samuel L. Hanson
Briggs and Morgan
2400 IDS Center
Minneapolis, MN 55402

A. E. Stricker, President
Great Plains Natural Gas Co.
P.O. Box 176
Fergus Falls, MN 56537

Jack Burge
United Telephone Company
850 Norwest Center
St. Paul, MN 55101

North Central Public Service Company
1080 Montreal Avenue
St. Paul, MN 55116

David Christensen
Mankato Citizens Telephone Company
P.O. Box 3248
221 East Hickory Street
Mankato, MN 56001

Tracy B. Bridge
Minnegasco
201 South Seventh Street
Minneapolis, MN 55402

Capt. David Carson
U.S. Army Legal Services Agency
Attn: JALS-RL
5611 Columbia Pike
Falls Church, Virginia 22041-5013

Public Utilities Commission

Proposed Permanent Rules Relating to Rate Adjustments Due to Tax Reform Act of 1986

Rules as Proposed (all new material)

7827.0100 DEFINITIONS.

Subpart 1. **Scope.** The terms used in this chapter have the meanings given them in this part.

Subp. 2. **Commission.** "Commission" means the Minnesota Public Utilities Commission.

Subp. 3. **Department.** "Department" means the Minnesota Department of Public Service.

Subp. 4. **Public utility.** "Public utility" has the meaning given it in Minnesota Statutes, section 216B.02, subdivision 4.

Subp. 5. **Tax reform act.** "Tax reform act" means the federal Tax Reform Act of 1986, Public Law Number 99-514.

Subp. 6. **Telephone company.** "Telephone company" has the meaning given it in Minnesota Statutes, section 237.01, subdivision 2, for telephone companies providing service to 15,000 or more subscribers.

7827.0200 PURPOSE.

The purpose of this chapter is to require telephone companies and public utilities to adjust rates for service within Minnesota to recognize the reduction in operating costs attributable to the reductions in federal corporate income taxes as a result of the tax reform act.

7827.0300 REASONABLE RATES.

On and after July 1, 1987, the overall rates of public utilities and telephone companies are found to be unjust and unreasonable unless:

A. the rates have been adjusted to account for the reduction in federal income tax expense computed under part 7827.0400;

Approved by Revisor _____

B. the rates have been established pursuant to a general rate case decision rendered on or after January 1, 1987, that incorporates the new federal income tax rate in the determination of the revenue requirement; or

C. the rate is an interim rate subject to refund as part of a general rate case.

7827.0400 COMPUTATION.

The federal income tax expense adjustment amount must be computed and submitted to the commission as follows:

A. The public utility or telephone company shall compute current operating income based upon actual 1986 revenues and expenses, adjusted to include items that are the same in nature and kind as in the currently effective order in the utility's most recent rate proceeding, and normalized to the extent necessary to reflect normal operating conditions. Adjustments made to 1986 actual revenues and expenses must be separately identified and detailed.

B. Using the same method approved by the commission in the most recent rate proceeding, the public utility or telephone company shall compute income tax expense based upon the operating income determined in item A, in two ways as specified in subitems (1) and (2). The income tax expense must show the breakdown by component, including deferred taxes, net investment tax credits, and any other component applicable to an individual public utility or telephone company. The public utility or telephone company shall submit detailed schedules supporting the income tax expense computed under the following:

(1) using the tax rates and provisions in effect before enactment of the tax reform act; and

(2) using the tax rates effective July 1, 1987, containing a maximum tax rate of 34 percent and final provisions of the tax reform act.

C. The public utility or telephone company shall compute the difference between item B, subitems (1) and (2). The difference must be multiplied by the gross revenue

Approved
by Revisor _____

conversion factor using the tax rates applied in item B, subitem (2). The calculation supporting the gross revenue conversion factor must be submitted to the commission.

7827.0500 ADJUSTMENTS OF TARIFFS, SCHEDULES.

Subpart 1. **Adjustments; tariffs filed.** The public utility or telephone company shall reduce its rates by the federal income tax expense adjustment amount calculated under part 7827.0400. The public utility or telephone company must file tariffs for service rendered on and after July 1, 1987, reflecting the reduced rates, in accordance with subparts 3, 4, and 5.

Subp. 2. **Detailed supporting schedules submitted.** The public utility or telephone company shall submit detailed schedules supporting the calculation of the reduced rates.

Subp. 3. **Public utility charges reduced, allocated.** A public utility shall reduce unit demand and unit energy charges uniformly across all rate schedules. The reduction must be allocated between demand and energy charges in proportion to 1986 normalized demand and energy revenues.

Subp. 4. **Telephone company local exchange rates.** A telephone company providing local exchange service shall reduce the rates for local exchange access line services by a uniform percentage.

Subp. 5. **Telephone company interexchange rates.** A telephone company providing interexchange service shall reduce toll rates for message telecommunications services by a uniform percentage.

7827.0600 FILINGS; WRITTEN COMMENTS.

A tariff required under part 7827.0500 and documentation required under parts 7827.0400 and 7827.0500 must be filed with the commission, the department, and the Office of the Attorney General, Residential Utilities Division, by May 1, 1987, or 30 days after the effective date of parts 7827.0100 to 7827.0600, whichever is later.

Interested persons may submit written comments to the

Approved
by Revisor _____

commission within 20 days from the date of filing.

Approved
by Revisor _____