

Minnesota Attorney General: Administrative Rules Proceedings

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Version 3
August 20, 2018

RULE REVIEW CHECKLIST

File No. 1419 | Docket No. 05.0009. ~~1521~~ 0729

DATE RECEIVED 11/24/87 | ADOPTED W/O HEARING X

REVIEW DATE 12/3/87 | EMERGENCY RULE

DUE DATE 12/8/87

REVISOR APPROVED

APPROVED ✓ 12/8/87 gat | REVISOR DISAPPROVED

DISAPPROVED | FIELD W/SEC.STATE

WITHDRAWN | RETURNED TO AGENCY

✓ Rule as adopted (4 copies)

✓ Notice to Solicit Outside Information/Opinion

11/20/87 Date published in State Register

yes Comments

~~Petition for Adoption of a Rule~~

✓ Board's Authorizing Resolution

✓ Proposed rule

Yes Revisor's Certificate

✓ Notice of Intent to Adopt Rule

MnLaws '87, ch 340 § 13-16 Statutory Authority

yes Small Business Statement

yes Expenditure of public money statement

yes Signature

✓ Statement of Need and Reasonableness

Yes Small Business Statement

n/a Fees - § 16A.128

✓ Affidavit of Mailing Notice of Intent to Adopt Rule

10/16/87 Date (30)/25 days before adoption attached to notice of Intent

✓ Publication in State Register

10/19/87 Date (30)/25 days before adoption

✓ Resolution Adopting

✓ Findings of Fact, Conclusions & Order Adopting

11/24/87 Date

✓ Written requests, submissions or comments

✓ Declaration of attorney

Gregory Dittrich Name of SAAG representing agency

~~Notice of Submission to Attorney General~~

~~Affidavit of Mailing Notice to Attorney General~~

SF-00006-05 (4/86)

STATE OF MINNESOTA

Office Memorandum

DEPARTMENT : ATTORNEY GENERAL

DATE : December 9, 1987

TO : CAROLINE ROBINSON
Minnesota Public Utilities Commission

FROM : JULIE A. LEPPINK
Special Assistant
Attorney General

PHONE : 7-3493

SUBJECT : In the Matter of the Adopted Rules Relating to Telephone Assistance Plan

The above-referenced rule has been approved as to its legality by the Attorney General on December 8, 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.

JAL: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 Telephone Assistance Plan

Rules as Adopted

7817.0100 DEFINITIONS.

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

Subp. 2. **Access line.** "Access line" means telephone company-owned facilities furnished to permit switched access to the telecommunications network that extend from a central office to the demarcation point on the property where the subscriber is served. The term includes access lines provided to residential and business subscribers and includes centrex access lines on a trunk-equivalent basis, but does not include private nonswitched or wide area telephone service access lines.

Subp. 3. **Commission.** "Commission" means the Minnesota Public Utilities Commission.

Subp. 4. **Department of Human Services.** "Department of Human Services" means the Minnesota Department of Human Services.

Subp. 5. **Department of Public Service.** "Department of Public Service" means the Minnesota Department of Public Service.

Subp. 6. **Federal matching plan.** "Federal matching plan" means the telephone assistance plan of the Federal Communications Commission in Code of Federal Regulations, title 47, part 69, that waives the federal access charge for eligible local telephone subscribers. This federal plan provides matching federal assistance to eligible households receiving assistance through a state telephone assistance plan.

Subp. 7. **Household.** "Household" means a subscriber, a subscriber's spouse, and the minor children with whom a subscriber resides.

Subp. 8. **Income.** "Income" has the meaning given it in Minnesota Statutes, section 290A.03, subdivision 3.

Subp. 9. **Local agency.** "Local agency" means a county or

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multicounty agency that is authorized under Minnesota Statutes, sections 393.01, subdivision 7, and 393.07, subdivision 2, to administer public assistance programs.

Subp. 10. **Local exchange service.** "Local exchange service" means telecommunication service provided within local exchange service areas in accordance with the tariffs. It includes the use of exchange facilities required to establish connections between stations within the exchange and between stations and the toll facilities serving the exchange. It also includes extended area service that is interexchange calling for which a message toll charge is not assessed.

Subp. 11. **Permanent changes.** "Permanent changes" means changes in eligibility that are expected to continue for 12 months or more. These changes include increased income, change of residence, or death of the subscriber.

Subp. 12. **Public assistance programs.** "Public assistance programs" means programs administered by local agencies to provide financial assistance to needy individuals.

Subp. 13. **Subscriber.** "Subscriber" means a person in whose name local exchange telecommunications service is provided by a telephone company.

Subp. 14. **Telephone assistance credits.** "Telephone assistance credits" means the credits applied to reduce the local telephone rates of residential households that qualify under the telephone assistance plan.

Subp. 15. **Telephone assistance plan.** "Telephone assistance plan" means the plan required by Laws of Minnesota 1987, chapter 340, sections 13 to 16, and set out in this chapter.

Subp. 16. **Telephone company.** "Telephone company" has the meanings given it in Minnesota Statutes, section 237.01, subdivisions 2 and 3, that provides local exchange telephone service.

7817.0200 PURPOSE AND CONSTRUCTION.

The purpose of this chapter is to develop and implement a

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statewide telephone assistance plan to provide telephone assistance credits to reduce the local telephone rates of eligible residential households, to be jointly administered by the commission, the Department of Human Services, and the telephone companies. The purpose of this chapter is also to permit the implementation of federal telephone assistance plans so that the state's local telephone customers are afforded the opportunity to acquire the benefits of these federal plans.

This chapter is to be liberally construed to further these purposes.

7817.0300 FUNDING.

Subpart 1. **Uniform statewide monthly surcharge.** The telephone assistance plan must be funded through the assessment of a uniform recurring monthly surcharge applicable to all classes and grades of access lines provided by each telephone company in the state. The initial surcharge must be assessed beginning with the first billing cycle occurring immediately after the effective date of this part. The commission shall determine the level of the surcharge on an annual basis no later than November 30 of each year beginning with the first billing cycle of the calendar year. The surcharge must be calculated based on the following criteria:

makes more specific OK

A. the revenue generated by the surcharge must not exceed $2,500,000 on a statewide basis;

B. the statewide $2,500,000 must be apportioned between telephone companies based on their relative number of access lines; and

C. the surcharge level must be uniform statewide.

Subp. 2. **Use of surcharge revenues.** A telephone company shall bill the surcharge and collect the surcharge revenues. The telephone company shall use those revenues to extend credits to eligible subscribers under the telephone assistance plan. The company shall also use the surcharge revenues to cover its administrative expenses associated with the telephone assistance plan. The telephone company shall remit, with its quarterly

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report, excess surcharge revenues to the commission to become part of the statewide surcharge revenue pool.

Subp. 3. **Statewide surcharge revenue pool.** Excess surcharge revenues remitted by the telephone companies to the commission must be placed in a statewide surcharge revenue pool to be administered by the commission. The commission shall use the surcharge revenue pool funds:

A. for full or partial reimbursement of its reasonable administrative expenses associated with the telephone assistance plan; and

B. to reimburse a telephone company, within 60 days of receipt of the company's quarterly report, reasonable expenses and telephone assistance credits associated with the telephone assistance plan and not covered by the surcharge revenues collected by the telephone company.

7817.0400 ELIGIBILITY FOR TELEPHONE ASSISTANCE CREDITS.

Subpart 1. **Information provided.** On request, the local agency shall offer to a person an application form developed by the Department of Human Services and a brochure that describes the ~~program's~~ telephone assistance plan's eligibility requirements and application process.

Subp. 2. **Application process.** On completing the application stating income within the guidelines, the applicant must return it to the ~~local agency for an eligibility determination~~ telephone company for enrollment in the telephone assistance plan. An application may be made by the subscriber, the subscriber's spouse, or a person authorized by the subscriber to act on the subscriber's behalf.

Subp. 3. **Documenting, verifying, and reviewing eligibility.** A local agency shall verify the income of an applicant and the applicant's spouse ~~at the time of application~~. When a condition of eligibility changes, and at each redetermination of eligibility, the local agency may verify income.

A. In a timely manner, an applicant or recipient

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shall document income or authorize the local agency to verify the income. The local agency shall help an applicant or recipient obtain documents that the applicant or recipient does not possess and cannot obtain. Information previously verified and retained by the local agency must not be verified again unless the information no longer applies to current circumstances.

B. The local agency shall not request information about an applicant or recipient that is not of public record from a source other than local agencies, or the Department of Human Services, ~~and telephone companies~~ without the applicant's or recipient's prior written consent. The local agency may request information about an applicant or recipient that is not of public record from the telephone companies by obtaining the applicant's or recipient's prior written consent on an application or recertification form. The local agency shall not provide third parties with access to information about an applicant's or recipient's eligibility status or other case record information without the prior written consent of that applicant or recipient, except where access to specific case information is granted to agencies designated by the Minnesota Government Data Practices Act, Minnesota Statutes, chapter 13. Information designated as confidential by the Minnesota Government Data Practices Act may only be made available to agencies granted access under that law and must not be provided to an applicant, recipient, or third party.

C. The local agency shall inform the recipient of the recipient's responsibility to report permanent changes in circumstances that affect eligibility within ten days of each change.

Subp. 4. **Eligibility criteria.** To be eligible for a telephone assistance credit:

A. the household must not be in receipt of assistance for telephone service under any other state public assistance program;

B. the ~~household must contain a member who subscribes~~

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~~to-local-exchange-service-and-is~~ subscriber must be 65 years of age or older; and

C. the subscriber ~~resides~~ must reside in Minnesota or has moved to Minnesota and intends to remain.

Subp. 5. **Income.** To determine **program** eligibility, a local agency shall evaluate income received by household members. All payments must be counted as income if listed in Minnesota Statutes, section 290A.03, subdivision 3. Maximum total annual household income must not exceed:

A. when the size of the household is one, $7,862;

B. when the size of the household is two, $10,281;

C. when the size of the household is three, $12,699;

D. when the size of the household is four, $15,118; or

E. when the size of the household is more than four, $15,118 plus, for each additional household member, $2,419.

For the purpose of calculating income under this subpart, household income does not include the income of minor children.

Subp. 6. **Local agency responsibilities.** On receiving notification of an application from the telephone company, the local agency shall determine the applicant's eligibility or ineligibility within ~~30~~ 120 days. At the end of every 12-month period, the local agency shall redetermine eligibility.

Subp. 7. **Applicant and recipient responsibilities.** An applicant shall provide current information on an application form about circumstances that permanently affect the applicant's **program** eligibility. At least 30 days before the end of every 12-month period, the recipient shall complete a recertification form required for the redetermination of eligibility.

Subp. 8. **Notices.** ~~A-local-agency-shall-notify~~ An applicant or recipient must be notified of the disposition of the application ~~by-mailing-the-notice-to-the-last-known-address~~ in the following manner.

~~A. When-an-applicant-or-recipient-is-found-eligible, the-local-agency-shall-notify-the-applicant-or-recipient-in writing.~~

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B.---When If an applicant or recipient is found eligible, the local agency shall notify the telephone company.

B. If eligible, the telephone company shall notify the applicant or recipient by placing telephone assistance credits on the bill.

C. When If an applicant ~~or recipient~~ is denied eligibility or a recipient's eligibility is ~~denied or~~ terminated, the local agency shall notify the applicant or recipient in writing of the reasons for the denial or termination, of the right to appeal, and of the right to reapply.

D. When If an applicant is denied eligibility or a ~~recipient~~ recipient's eligibility is terminated, the local agency shall notify the telephone company.

E. Sixty days before the end of every 12-month period, the local agency shall notify the recipient of the need to redetermine eligibility.

Subp. 9. Denial or termination of ~~credit~~ eligibility. A local agency shall deny or terminate ~~a~~ eligibility for telephone assistance ~~credit~~ credits if income limits permanently exceed the maximums described in subpart 5, or the local agency is notified of permanent changes in basic eligibility requirements.

7817.0500 CALCULATION OF CREDITS.

The commission shall ~~calculate a~~ establish the level of telephone assistance plan ~~credit~~ credits for each telephone company on an annual basis ~~at the beginning of each calendar year~~ no later than November 30 of each year to be effective for the subsequent calendar year. The credits must be calculated based on the following criteria:

A. the credits must not exceed the amount of credit available under the federal matching plan;

B. the credits must not exceed more than 50 percent of the weighted average of the local exchange rate charged for local exchange service provided to the household by that household's telephone company;

C. the credits must not exceed the level of credits

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that can actually be funded in accordance with the surcharge limitations in part 7817.0300; and

D. the level of credits must be uniform for each company statewide.

7817.0600 PROVISION AND TERMINATION OF CREDITS.

Subpart 1. **Provision of credits.** A telephone company shall ~~provide~~ apply telephone assistance ~~plan~~ credits against monthly charges for each certified household. Telephone assistance ~~plan~~ credits must be made available within 90 days after the date the surcharge is first assessed. A telephone company shall apply telephone assistance credits to an applicant's earliest possible billing cycle but no later than the applicant's second billing cycle after enrollment in the telephone assistance plan.

Subp. 2. ~~Following notice from local agency~~ Termination of credits. After the telephone company receives an ~~eligibility~~ application from an applicant or a termination notice from the local agency, the telephone company shall proceed according to items A ~~to C~~ and B.

A. ~~A telephone company shall apply telephone credits beginning with the telephone company's billing cycle that begins in the month after the month in which the local agency notifies it of an applicant's or recipient's eligibility.~~

B. A telephone company shall cease credits at the end of every 12-month period by billing cycle ~~unless~~ when notified by the local agency that ~~eligibility~~ ineligibility has been ~~redetermined~~ determined.

~~C.~~ B. A telephone company shall cease credits before the end of the 12-month period when notified by the local agency that eligibility has been permanently terminated. When so notified, the credit ends with the start of the telephone company's billing cycle beginning in the month after the month in which the company is notified.

7817.0700 ADJUSTMENT TO LEVEL OF SURCHARGE AND CREDITS.

When it appears to the commission that the revenue

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generated by the maximum level of surcharge permitted under part 7817.0300 will be inadequate to fund a particular level of telephone assistance credits, the commission by official order and on 30 days' notice to the telephone companies, shall reduce the credits to a level that can be adequately funded by the maximum level of surcharge. Similarly, the commission by official order and on 30 days' notice to the telephone companies, may increase the level of the telephone assistance plan credits that are available or reduce the surcharge to a level and for a period of time that will prevent an unreasonable overcollection of surcharge revenues.

7817.0800 FEDERAL TELEPHONE ASSISTANCE PLANS.

The telephone assistance plan must be combined with the existing federal matching plan. Telephone companies shall participate in both plans. If and when other federal telephone assistance plans are developed, the commission shall seek outside comment on those plans and review each plan and the comments submitted by interested persons. After appropriate proceedings, the commission shall determine whether to incorporate those plans into the telephone assistance plan and require telephone companies to participate.

7817.0900 COMPANY RECORDING, REPORTING REQUIREMENTS.

Subpart 1. **Records to be maintained.** A telephone company shall maintain adequate records of surcharge revenues, expenses, and credits related to the telephone assistance plan.

Subp. 2. **Quarterly report.** No later than 30 days after the end of each calendar year quarter, a telephone company shall file a quarterly report with the commission and the Department of Public Service for review. With the quarterly report, the telephone company shall submit a check to the commission in the amount of the excess surcharge revenues collected during that quarter. The quarterly report must list, quarterly and cumulatively for the year:

A. the surcharge revenues collected by the telephone company;

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B. the number of access lines billed the surcharge;

C. itemized telephone assistance plan expenses incurred by the company;

D. the amount of excess surcharge revenues collected;

E. the amount of surcharge revenue deficiency;

F. the amount of reimbursement from the federal matching plan applied for or received;

G. the number of subscribers that received credits under the telephone assistance plan and the number of subscribers that were given waivers under the federal matching plan; and

H. the monetary amount of credits extended by the telephone company under the telephone assistance plan and the monetary amount of waivers given under the federal matching plan.

This report must be made on a form prescribed by the commission.

Subp. 3. **Annual report.** No later than 30 days after the end of a calendar year, a telephone company shall file a year-end report with the commission and the Department of Public Service. The cumulative fourth-quarter report provided under subpart 2 may serve as the annual report. This report must be a financial report and accounting for the telephone company's experience under the telephone assistance plan. The report must also be adequate to satisfy the reporting requirements of the federal matching plan.

7817.1000 APPEALS AND COMPLAINTS.

Subpart 1. **Appeal after termination or denial of eligibility.** An applicant or recipient who is denied or terminated telephone assistance credits has the right to appeal. Appeal hearings must be conducted at a reasonable time, date, and place by an impartial referee employed by the Department of Human Services. An applicant or recipient may introduce evidence relevant to the issues on appeal. Recommendations of an appeals referee <u>to the designee of the commissioner of the Department of Human Services</u> must be based

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on evidence introduced at the hearing and are not limited to a review of the propriety of a local agency's action.

Subp. 2. **Complaint procedure.** Complaints against the telephone companies regarding the telephone assistance plan may be referred to the commission. Complaints against telephone companies regarding the telephone assistance plan must be investigated by the Department of Public Service. The Department of Public Service shall report the ~~results~~ status of its investigation to the commission within 45 days of receipt of the complaint.

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by Revisor _____

STATE OF MINNESOTA
DEPARTMENT OF STATE
FILED

DEC 9 - 1987

Joan Anderson Growe
Secretary of State

2:29 pm

APPROVED AS TO FORM AND LEGALITY
December 8 19 87
HUBERT H. HUMPHREY, III
ATTORNEY GENERAL
BY Julie A. Lepperik
SPECIAL ASSISTANT ATTORNEY GENERAL

P-999/R-87-358 (2)

Written statements related to the computerized statewide voter registration system should be addressed to: Tom Durand, Secretary of State, 180 State Office Bldg., St. Paul, MN 55155.

The telephone number for oral statements is 612: 296-9219.

The adoption of rules related to uniform commercial code financing statements is authorized by *Laws of 1985*, chapter 233, Sec. 9 and *Laws of 1985*, chapter 306, Sec. 25 directing the Secretary of State to adopt rules for filing, amending, continuation, termination, removal and destruction of financing statements.

Written statements related to uniform commercial code financing statements should be addressed to: Cheri Mattson, UCC Division, 180 State Office Bldg., St. Paul, MN 55155.

The telephone number for oral statements is 612: 296-2434.

The adoption of rules related to agricultural production in-put lien notification statements is authorized by *Laws of 1985*, chapter 246, Sec. 7 which requires the Secretary of State to adopt rules for filing, amendment, termination, and removal of lien notification statements.

Written statements related to agricultural production in-put lien notification statements should be addressed to: Cheri Mattson, UCC Division, 180 State Office Bldg., St. Paul, MN 55155.

The telephone number for oral statements is 612: 296-2434.

The adoption of rules related to a statewide uniform commercial code network is authorized by *Laws of 1987* chapter 356 which requires the Secretary of State to develop, implement and maintain a central data base for uniform commercial code information accessible by each county recorder and to adopt rules for coding collateral and for providing an identification procedure for debtors and secured parties to enhance searching capabilities.

Written statements related to statewide uniform commercial code network should be addressed to: Tom Durand, Secretary of State, 180 State Office Bldg., St. Paul, MN 55155.

The telephone number for oral statements is 612: 296-9219.

Minnesota Public Utilities Commission

Notice of Intent to Solicit Outside Information Regarding Proposed Rule Governing Telephone Assistance Plan, Docket No. P-999/R-87-358

Notice is hereby given that the Minnesota Public Utilities Commission (Commission) is seeking information or opinions from outside sources in preparing to propose the adoption of rules governing a telephone assistance plan. The adoption of the rule is authorized by *Laws of Minnesota 1987*, ch. 340 §§ 13-17 which requires the Commission to develop a telephone assistance plan.

The Commission requests information and opinions concerning the subject matter of the rule. Interested persons or groups may submit data or views in writing or orally. Written or oral statements or comments should be directed to:

Karin Sonneman
Minnesota Public Utilities Commission
780 American Center Building
150 East Kellogg Boulevard
St. Paul, MN 55101
Telephone: (612) 296-8994

Oral statements will be received during regular business hours, 8:00 a.m. to 12:00 p.m., Monday through Friday.

All statements of information and opinion will be accepted until August 28, 1987. Any written materials received by the Commission shall become part of the rulemaking record in the event that the rule is adopted.

Mary Ellen Hennen
Executive Secretary

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wrong date in State Register

(8)

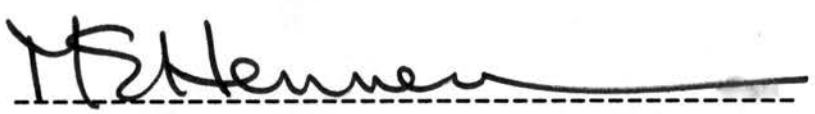
CERTIFICATE OF AUTHORIZING RESOLUTION
Docket No. P-999/R-87-358

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 Utilities Commission duly and properly called and held on the 2nd day of October, 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 Executive Secretary of the Minnesota Public Utilities Commission (Commission) is hereby granted the authority to sign and to give notice of the Commission's intent to adopt, without a public hearing, the attached rules governing the Telephone Assistance Plan, Minn. Rules, parts 7817.0100 to 7817.1000, to all persons who have registered their names with the Commission for that purpose and publish the notice and the rules in the State Register, and to perform any acts incidental thereto, including making any form changes in the rules that the Revisor of Statutes requires the Commission to make in order to obtain the Revisor's certification as required by Minn. Stat. section 14.07, subd. 2 (1986).

BE IT FURTHER RESOLVED, that in the event a public hearing becomes necessary, the Executive Secretary is hereby granted the authority and directed to call a hearing for the purpose of promulgating said rules as well as to perform any and all acts incidental thereto, including but not limited to signing an Order for and Notice of Hearing, as well as acting as the Commission's representative at all hearings.

IN WITNESS WHEREOF, I have hereunto subscribed my name this 2nd day of October, 1987.



Mary Ellen Hennen
Executive Secretary

Office of the Revisor of Statutes

Administrative Rules

TITLE: Proposed Permanent Rules Relating to Telephone Assistance Plan

AGENCY: Public Utilities Commission

MINNESOTA RULES: Chapter 7817

The attached rules are approved for publication in the State Register

RR / Dmm

Ron Ray
Assistant Revisor

Public Utilities Commission

Proposed Permanent Rules Relating to Telephone Assistance Plan

Rules as Proposed (all new material)

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

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statewide telephone assistance plan to provide telephone assistance credits to reduce the local telephone rates of eligible residential households, to be jointly administered by the commission, the Department of Human Services, and the telephone companies. The purpose of this chapter is also to permit the implementation of federal telephone assistance plans so that the state's local telephone customers are afforded the opportunity to acquire the benefits of these federal plans.

This chapter is to be liberally construed to further these purposes.

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B. the statewide $2,500,000 must be apportioned between telephone companies based on their relative number of access lines; and

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part of the statewide surcharge revenue pool.

Subp. 3. **Statewide surcharge revenue pool.** Excess surcharge revenues remitted by the telephone companies to the commission must be placed in a statewide surcharge revenue pool to be administered by the commission. The commission shall use the surcharge revenue pool funds:

A. for full or partial reimbursement of its reasonable administrative expenses associated with the telephone assistance plan; and

B. to reimburse a telephone company, within 60 days of receipt of the company's quarterly report, reasonable expenses associated with the telephone assistance plan and not covered by the surcharge revenues collected by the telephone company.

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by Revisor _____

local agency must not be verified again unless the information no longer applies to current circumstances.

B. The local agency shall not request information about an applicant or recipient that is not of public record from a source other than local agencies, the Department of Human Services, and telephone companies without the applicant's or recipient's prior written consent. The local agency shall not provide third parties with access to information about an applicant's or recipient's eligibility status or other case record information without the prior written consent of that applicant or recipient, except where access to specific case information is granted to agencies designated by the Minnesota Government Data Practices Act, Minnesota Statutes, chapter 13. Information designated as confidential by the Minnesota Government Data Practices Act may only be made available to agencies granted access under that law and must not be provided to an applicant, recipient, or third party.

C. The local agency shall inform the recipient of the recipient's responsibility to report permanent changes in circumstances that affect eligibility within ten days of each change.

Subp. 4. **Eligibility criteria.** To be eligible for a telephone assistance credit:

A. the household must not be in receipt of assistance for telephone service under any other state public assistance program;

B. the household must contain a member who subscribes to local exchange service and is 65 years of age or older; and

C. the subscriber resides in Minnesota or has moved to Minnesota and intends to remain.

Subp. 5. **Income.** To determine program eligibility, a local agency shall evaluate income received by household members. All payments must be counted as income if listed in Minnesota Statutes, section 290A.03, subdivision 3. Maximum total annual household income must not exceed:

A. when the size of the household is one, $7,862;

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B. when the size of the household is two, $10,281;

C. when the size of the household is three, $12,699;

D. when the size of the household is four, $15,118; or

E. when the size of the household is more than four, $15,118 plus, for each additional household member, $2,419.

For the purpose of calculating income under this subpart, household income does not include the income of minor children.

Subp. 6. **Local agency responsibilities.** On receiving an application, the local agency shall determine the applicant's eligibility or ineligibility within 30 days.

Subp. 7. **Applicant and recipient responsibilities.** An applicant shall provide current information on an application form about circumstances that permanently affect the applicant's program eligibility. Before the end of every 12-month period, the recipient shall complete a recertification form required for the redetermination of eligibility.

Subp. 8. **Notices.** A local agency shall notify an applicant or recipient of the disposition of the application by mailing the notice to the last known address.

A. When an applicant or recipient is found eligible, the local agency shall notify the applicant or recipient in writing.

B. When an applicant or recipient is found eligible, the local agency shall notify the telephone company.

C. When an applicant or recipient is denied or terminated, the local agency shall notify the applicant or recipient in writing of the reasons for the denial or termination, of the right to appeal, and of the right to reapply.

D. When a recipient is terminated, the local agency shall notify the telephone company.

E. Sixty days before the end of every 12-month period, the local agency shall notify the recipient of the need to redetermine eligibility.

Subp. 9. **Termination of credit.** A local agency shall terminate a telephone assistance credit if income limits

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permanently exceed the maximums described in subpart 5, or the local agency is notified of permanent changes in basic eligibility requirements.

7817.0500 CALCULATION OF CREDITS.

The commission shall calculate a telephone assistance plan credit for each telephone company on an annual basis at the beginning of each calendar year. The credits must be calculated based on the following criteria:

A. the credits must not exceed the amount of credit available under the federal matching plan;

B. the credits must not exceed more than 50 percent of the weighted average of the local exchange rate charged for local exchange service provided to the household by that household's telephone company;

C. the credits must not exceed the level of credits that can actually be funded in accordance with the surcharge limitations in part 7817.0300; and

D. the level of credits must be uniform for each company statewide.

7817.0600 PROVISION AND TERMINATION OF CREDITS.

Subpart 1. **Provision of credits.** A telephone company shall provide telephone assistance plan credits against monthly charges for each certified household. Telephone assistance plan credits must be made available within 90 days after the date the surcharge is first assessed.

Subp. 2. **Following notice from local agency.** After the telephone company receives an eligibility or termination notice from the local agency, the telephone company shall proceed according to items A to C.

A. A telephone company shall apply telephone credits beginning with the telephone company's billing cycle that begins in the month after the month in which the local agency notifies it of an applicant's or recipient's eligibility.

B. A telephone company shall cease credits at the end of every 12-month period by billing cycle unless notified by the

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local agency that eligibility has been redetermined.

C. A telephone company shall cease credits before the end of the 12-month period when notified by the local agency that eligibility has been permanently terminated. When so notified, the credit ends with the start of the telephone company's billing cycle beginning in the month after the month in which the company is notified.

7817.0700 ADJUSTMENT TO LEVEL OF SURCHARGE AND CREDITS.

When it appears to the commission that the revenue generated by the maximum level of surcharge permitted under part 7817.0300 will be inadequate to fund a particular level of telephone assistance credits, the commission by official order and on 30 days' notice to the telephone companies, shall reduce the credits to a level that can be adequately funded by the maximum level of surcharge. Similarly, the commission by official order and on 30 days' notice to the telephone companies, may increase the level of the telephone assistance plan credits that are available or reduce the surcharge to a level and for a period of time that will prevent an unreasonable overcollection of surcharge revenues.

7817.0800 FEDERAL TELEPHONE ASSISTANCE PLANS.

The telephone assistance plan must be combined with the existing federal matching plan. Telephone companies shall participate in both plans. If and when other federal telephone assistance plans are developed, the commission shall seek outside comment on those plans and review each plan and the comments submitted by interested persons. After appropriate proceedings, the commission shall determine whether to incorporate those plans into the telephone assistance plan and require telephone companies to participate.

7817.0900 COMPANY RECORDING, REPORTING REQUIREMENTS.

Subpart 1. Records to be maintained. A telephone company shall maintain adequate records of surcharge revenues, expenses, and credits related to the telephone assistance plan.

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Subp. 2. **Quarterly report.** No later than 30 days after the end of each calendar year quarter, a telephone company shall file a quarterly report with the commission and the Department of Public Service for review. With the quarterly report, the telephone company shall submit a check to the commission in the amount of the excess surcharge revenues collected during that quarter. The quarterly report must list, quarterly and cumulatively for the year:

A. the surcharge revenues collected by the telephone company;

B. the number of access lines billed the surcharge;

C. itemized telephone assistance plan expenses incurred by the company;

D. the amount of excess surcharge revenues collected;

E. the amount of surcharge revenue deficiency;

F. the amount of reimbursement from the federal matching plan applied for or received;

G. the number of subscribers that received credits under the telephone assistance plan and the number of subscribers that were given waivers under the federal matching plan; and

H. the monetary amount of credits extended by the telephone company under the telephone assistance plan and the monetary amount of waivers given under the federal matching plan.

This report must be made on a form prescribed by the commission.

Subp. 3. **Annual report.** No later than 30 days after the end of a calendar year, a telephone company shall file a year-end report with the commission and the Department of Public Service. The cumulative fourth-quarter report provided under subpart 2 may serve as the annual report. This report must be a financial report and accounting for the telephone company's experience under the telephone assistance plan. The report must also be adequate to satisfy the reporting requirements of the federal matching plan.

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7817.1000 APPEALS AND COMPLAINTS.

Subpart 1. **Appeal after termination or denial of eligibility.** An applicant or recipient who is denied or terminated telephone assistance credits has the right to appeal. Appeal hearings must be conducted at a reasonable time, date, and place by an impartial referee employed by the Department of Human Services. An applicant or recipient may introduce evidence relevant to the issues on appeal. Recommendations of an appeals referee must be based on evidence introduced at the hearing and are not limited to a review of the propriety of a local agency's action.

Subp. 2. **Complaint procedure.** Complaints against the telephone companies regarding the telephone assistance plan may be referred to the commission. Complaints against telephone companies regarding the telephone assistance plan must be investigated by the Department of Public Service. The Department of Public Service shall report the results of its investigation to the commission within 45 days of receipt of the complaint.

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MINNESOTA public utilities COMMISSION

Proposed Rules Governing the Telephone Assistance Plan
Minn. Rules, parts 7817.0100 to 7817.1000
Docket No. P-999/R-87-358

NOTICE OF INTENT TO ADOPT RULES WITHOUT A PUBLIC HEARING

Notice is hereby given that the Minnesota Public Utilities Commission (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 Minn. Stat. sections 14.22 to 14.28 (1986). The Commission's authority to adopt the rule is set forth in Laws of Minnesota 1987, chapter 340, sections 13 to 16.

All persons have until 4:30 p.m. on November 18, 1987, to submit comments in support of or in opposition to the proposed rules or any part of the subpart of the rules. 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 comment period. If 25 or more persons submit a written request for a public hearing within the comment period, a public hearing will be held unless a sufficient number withdraw their requests 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 Commission will proceed pursuant to Minn. Stat. sections 14.131 to 14.20 (1986).

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

Caroline Robinson
Minnesota Public Utilities Commission
780 American Center Building
150 East Kellogg Boulevard
St. Paul, Minnesota 55101
(612) 296-9617

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

The proposed rule, if adopted, will provide eligible seniors with a discount on their telephone bills. A copy of the proposed rule is enclosed. One free copy of the rule is available upon request by calling Kris Kline at (612) 296-7124.

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

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 upon request by calling Kris Kline at (612) 296-7124.

You are hereby advised, pursuant to Minn. Stat. section 14.115 (1986), "Small business considerations in rulemaking," that the proposed rule will affect small telephone company businesses as defined in that section. The proposed rule requires telephone companies to collect a monthly surcharge and provide a monthly credit to eligible telephone subscribers. The proposed rule also requires telephone companies to record the amount of surcharges and credits and to provide quarterly and annual reports. However, the proposed rule allows the telephone companies to be reimbursed for their administrative expenses from the surcharge revenues.

In addition, pursuant to Minn. Stat. section 14.11, subdivision 1 (1986), "Special notice of rulemaking," the proposed rule will require the expenditure of public money by local public bodies. The proposed rule requires county or multicounty agencies that are authorized to administer public assistance programs to determine eligibility and provide notice to the telephone companies and the applicants. A reasonable estimate of the total cost to all local public bodies in the state to implement the rule for the two years immediately following adoption of the rule is approximately $600,000. This estimate is based on the cost of annually verifying the income of approximately 30,000 applicants, as required by the federal matching telephone assistance plan.

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 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 rule, must submit the written request to Caroline Robinson at the address stated above.

Mary Ellen Hennen
Executive Secretary

Office of the Revisor of Statutes

Administrative Rules

TITLE: Proposed Permanent Rules Relating to Telephone Assistance Plan

AGENCY: Public Utilities Commission

MINNESOTA RULES: Chapter 7817

The attached rules are approved for publication in the State Register

RR Ronn

Ron Ray
Assistant Revisor

Public Utilities Commission

Proposed Permanent Rules Relating to Telephone Assistance Plan

Rules as Proposed (all new material)

7817.0100 DEFINITIONS.

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

Subp. 2. **Access line.** "Access line" means telephone company-owned facilities furnished to permit switched access to the telecommunications network that extend from a central office to the demarcation point on the property where the subscriber is served. The term includes access lines provided to residential and business subscribers and includes centrex access lines on a trunk-equivalent basis, but does not include private nonswitched or wide area telephone service access lines.

Subp. 3. **Commission.** "Commission" means the Minnesota Public Utilities Commission.

Subp. 4. **Department of Human Services.** "Department of Human Services" means the Minnesota Department of Human Services.

Subp. 5. **Department of Public Service.** "Department of Public Service" means the Minnesota Department of Public Service.

Subp. 6. **Federal matching plan.** "Federal matching plan" means the telephone assistance plan of the Federal Communications Commission in Code of Federal Regulations, title 47, part 69, that waives the federal access charge for eligible local telephone subscribers. This federal plan provides matching federal assistance to eligible households receiving assistance through a state telephone assistance plan.

Subp. 7. **Household.** "Household" means a subscriber, a subscriber's spouse, and the minor children with whom a subscriber resides.

Subp. 8. **Income.** "Income" has the meaning given it in Minnesota Statutes, section 290A.03, subdivision 3.

Subp. 9. **Local agency.** "Local agency" means a county or

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multicounty agency that is authorized under Minnesota Statutes, sections 393.01, subdivision 7, and 393.07, subdivision 2, to administer public assistance programs.

Subp. 10. **Local exchange service.** "Local exchange service" means telecommunication service provided within local exchange service areas in accordance with the tariffs. It includes the use of exchange facilities required to establish connections between stations within the exchange and between stations and the toll facilities serving the exchange. It also includes extended area service that is interexchange calling for which a message toll charge is not assessed.

Subp. 11. **Permanent changes.** "Permanent changes" means changes in eligibility that are expected to continue for 12 months or more. These changes include increased income, change of residence, or death of the subscriber.

Subp. 12. **Public assistance programs.** "Public assistance programs" means programs administered by local agencies to provide financial assistance to needy individuals.

Subp. 13. **Subscriber.** "Subscriber" means a person in whose name local exchange telecommunications service is provided by a telephone company.

Subp. 14. **Telephone assistance credits.** "Telephone assistance credits" means the credits applied to reduce the local telephone rates of residential households that qualify under the telephone assistance plan.

Subp. 15. **Telephone assistance plan.** "Telephone assistance plan" means the plan required by Laws of Minnesota 1987, chapter 340, sections 13 to 16, and set out in this chapter.

Subp. 16. **Telephone company.** "Telephone company" has the meanings given it in Minnesota Statutes, section 237.01, subdivisions 2 and 3, that provides local exchange telephone service.

7817.0200 PURPOSE AND CONSTRUCTION.

The purpose of this chapter is to develop and implement a

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statewide telephone assistance plan to provide telephone assistance credits to reduce the local telephone rates of eligible residential households, to be jointly administered by the commission, the Department of Human Services, and the telephone companies. The purpose of this chapter is also to permit the implementation of federal telephone assistance plans so that the state's local telephone customers are afforded the opportunity to acquire the benefits of these federal plans.

This chapter is to be liberally construed to further these purposes.

7817.0300 FUNDING.

Subpart 1. **Uniform statewide monthly surcharge.** The telephone assistance plan must be funded through the assessment of a uniform recurring monthly surcharge applicable to all classes and grades of access lines provided by each telephone company in the state. The initial surcharge must be assessed beginning with the first billing cycle occurring immediately after the effective date of this part. The commission shall determine the level of the surcharge on an annual basis beginning with the first billing cycle of the calendar year. The surcharge must be calculated based on the following criteria:

A. the revenue generated by the surcharge must not exceed $2,500,000 on a statewide basis;

B. the statewide $2,500,000 must be apportioned between telephone companies based on their relative number of access lines; and

C. the surcharge level must be uniform statewide.

Subp. 2. **Use of surcharge revenues.** "A telephone company shall bill the surcharge and collect the surcharge revenues. The telephone company shall use those revenues to extend credits to eligible subscribers under the telephone assistance plan. The company shall also use the surcharge revenues to cover its administrative expenses associated with the telephone assistance plan. The telephone company shall remit, with its quarterly report, excess surcharge revenues to the commission to become

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part of the statewide surcharge revenue pool.

Subp. 3. **Statewide surcharge revenue pool.** Excess surcharge revenues remitted by the telephone companies to the commission must be placed in a statewide surcharge revenue pool to be administered by the commission. The commission shall use the surcharge revenue pool funds:

A. for full or partial reimbursement of its reasonable administrative expenses associated with the telephone assistance plan; and

B. to reimburse a telephone company, within 60 days of receipt of the company's quarterly report, reasonable expenses associated with the telephone assistance plan and not covered by the surcharge revenues collected by the telephone company.

7817.0400 ELIGIBILITY FOR TELEPHONE ASSISTANCE CREDITS.

Subpart 1. **Information provided.** On request, the local agency shall offer to a person an application form developed by the Department of Human Services and a brochure that describes the program's eligibility requirements and application process.

Subp. 2. **Application process.** On completing the application, the applicant must return it to the local agency for an eligibility determination. An application may be made by the subscriber, the subscriber's spouse, or a person authorized by the subscriber to act on the subscriber's behalf.

Subp. 3. **Documenting, verifying, and reviewing eligibility.** A local agency shall verify the income of an applicant and the applicant's spouse at the time of application. When a condition of eligibility changes, and at each redetermination of eligibility, the local agency may verify income.

A. An applicant or recipient shall document income or authorize the local agency to verify the income. The local agency shall help an applicant or recipient obtain documents that the applicant or recipient does not possess and cannot obtain. Information previously verified and retained by the

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local agency must not be verified again unless the information no longer applies to current circumstances.

B. The local agency shall not request information about an applicant or recipient that is not of public record from a source other than local agencies, the Department of Human Services, and telephone companies without the applicant's or recipient's prior written consent. The local agency shall not provide third parties with access to information about an applicant's or recipient's eligibility status or other case record information without the prior written consent of that applicant or recipient, except where access to specific case information is granted to agencies designated by the Minnesota Government Data Practices Act, Minnesota Statutes, chapter 13. Information designated as confidential by the Minnesota Government Data Practices Act may only be made available to agencies granted access under that law and must not be provided to an applicant, recipient, or third party.

C. The local agency shall inform the recipient of the recipient's responsibility to report permanent changes in circumstances that affect eligibility within ten days of each change.

Subp. 4. **Eligibility criteria.** To be eligible for a telephone assistance credit:

A. the household must not be in receipt of assistance for telephone service under any other state public assistance program;

B. the household must contain a member who subscribes to local exchange service and is 65 years of age or older; and

C. the subscriber resides in Minnesota or has moved to Minnesota and intends to remain.

Subp. 5. **Income.** To determine program eligibility, a local agency shall evaluate income received by household members. All payments must be counted as income if listed in Minnesota Statutes, section 290A.03, subdivision 3. Maximum total annual household income must not exceed:

A. when the size of the household is one, $7,862;

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B. when the size of the household is two, $10,281;

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D. when the size of the household is four, $15,118; or

E. when the size of the household is more than four, $15,118 plus, for each additional household member, $2,419.

For the purpose of calculating income under this subpart, household income does not include the income of minor children.

Subp. 6. **Local agency responsibilities.** On receiving an application, the local agency shall determine the applicant's eligibility or ineligibility within 30 days.

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Subp. 8. **Notices.** A local agency shall notify an applicant or recipient of the disposition of the application by mailing the notice to the last known address.

A. When an applicant or recipient is found eligible, the local agency shall notify the applicant or recipient in writing.

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C. When an applicant or recipient is denied or terminated, the local agency shall notify the applicant or recipient in writing of the reasons for the denial or termination, of the right to appeal, and of the right to reapply.

D. When a recipient is terminated, the local agency shall notify the telephone company.

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permanently exceed the maximums described in subpart 5, or the local agency is notified of permanent changes in basic eligibility requirements.

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The commission shall calculate a telephone assistance plan credit for each telephone company on an annual basis at the beginning of each calendar year. The credits must be calculated based on the following criteria:

A. the credits must not exceed the amount of credit available under the federal matching plan;

B. the credits must not exceed more than 50 percent of the weighted average of the local exchange rate charged for local exchange service provided to the household by that household's telephone company;

C. the credits must not exceed the level of credits that can actually be funded in accordance with the surcharge limitations in part 7817.0300; and

D. the level of credits must be uniform for each company statewide.

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Subpart 1. **Provision of credits.** A telephone company shall provide telephone assistance plan credits against monthly charges for each certified household. Telephone assistance plan credits must be made available within 90 days after the date the surcharge is first assessed.

Subp. 2. **Following notice from local agency.** After the telephone company receives an eligibility or termination notice from the local agency, the telephone company shall proceed according to items A to C.

A. A telephone company shall apply telephone credits beginning with the telephone company's billing cycle that begins in the month after the month in which the local agency notifies it of an applicant's or recipient's eligibility.

B. A telephone company shall cease credits at the end of every 12-month period by billing cycle unless notified by the

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local agency that eligibility has been redetermined.

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When it appears to the commission that the revenue generated by the maximum level of surcharge permitted under part 7817.0300 will be inadequate to fund a particular level of telephone assistance credits, the commission by official order and on 30 days' notice to the telephone companies, shall reduce the credits to a level that can be adequately funded by the maximum level of surcharge. Similarly, the commission by official order and on 30 days' notice to the telephone companies, may increase the level of the telephone assistance plan credits that are available or reduce the surcharge to a level and for a period of time that will prevent an unreasonable overcollection of surcharge revenues.

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Subpart 1. **Records to be maintained.** A telephone company shall maintain adequate records of surcharge revenues, expenses, and credits related to the telephone assistance plan.

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Subp. 2. **Quarterly report.** No later than 30 days after the end of each calendar year quarter, a telephone company shall file a quarterly report with the commission and the Department of Public Service for review. With the quarterly report, the telephone company shall submit a check to the commission in the amount of the excess surcharge revenues collected during that quarter. The quarterly report must list, quarterly and cumulatively for the year:

A. the surcharge revenues collected by the telephone company;

B. the number of access lines billed the surcharge;

C. itemized telephone assistance plan expenses incurred by the company;

D. the amount of excess surcharge revenues collected;

E. the amount of surcharge revenue deficiency;

F. the amount of reimbursement from the federal matching plan applied for or received;

G. the number of subscribers that received credits under the telephone assistance plan and the number of subscribers that were given waivers under the federal matching plan; and

H. the monetary amount of credits extended by the telephone company under the telephone assistance plan and the monetary amount of waivers given under the federal matching plan.

This report must be made on a form prescribed by the commission.

Subp. 3. **Annual report.** No later than 30 days after the end of a calendar year, a telephone company shall file a year-end report with the commission and the Department of Public Service. The cumulative fourth-quarter report provided under subpart 2 may serve as the annual report. This report must be a financial report and accounting for the telephone company's experience under the telephone assistance plan. The report must also be adequate to satisfy the reporting requirements of the federal matching plan.

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7817.1000 APPEALS AND COMPLAINTS.

Subpart 1. **Appeal after termination or denial of eligibility.** An applicant or recipient who is denied or terminated telephone assistance credits has the right to appeal. Appeal hearings must be conducted at a reasonable time, date, and place by an impartial referee employed by the Department of Human Services. An applicant or recipient may introduce evidence relevant to the issues on appeal. Recommendations of an appeals referee must be based on evidence introduced at the hearing and are not limited to a review of the propriety of a local agency's action.

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STATE OF MINNESOTA)
)SS
COUNTY OF RAMSEY)

AFFIDAVIT OF SERVICE

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

That on the 16th day of October 1987, (s)he served the attached

Notice of Intent to Adopt Rules Without A Public Hearing

Proposed Rules Governing the Telephone Assistance Plan

Docket No. P-999/R-87-358

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 28th day of
October, 1987.

Sharon L. Juen
Notary Public

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

RULEMAKING LIST
TELECOMMUNICATIONS

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Vocational Director
Independent School District 623
1251 County Road B2 West
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305 11th Street East
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Hermantown, MN 55811

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Karen Swenson
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12-A

STATE OF MINNESOTA
PUBLIC UTILITIES COMMISSION

In the Matter of the Proposed Permanent Rules Governing the Telephone Assistance Plan, Minn. Rules, parts 7817.0100 to 7817.1000

STATEMENT OF NEED AND REASONABLENESS

I. INTRODUCTION

The Minnesota Public Utilities Commission (Commission) proposes to adopt as permanent rules Minn. Rules, parts 7817.0100 to 7817.1000, rules governing the Telephone Assistance Plan (TAP). The proposed rules implement a statewide telephone assistance plan to provide eligible senior citizens with credits on their telephone bills. The proposed rules also permit the implementation of federal telephone assistance plans which benefit Minnesota's local telephone customers.

Implementation of TAP and the proposed rules began with the passage of Laws of Minnesota 1987, chapter 340, sections 13 to 16, establishing TAP. Soon after that, the Commission sponsored a Telecommunications Forum which examined TAP. After considering the concerns presented at the forum and after soliciting outside comment, the proposed rules were drafted in consultation with an Advisory Task Force, a Research Work Group, and a Technical Work Group. The task force and work groups consist of representatives of the affected state and local agencies, telephone companies, and citizen groups. The sponsor of the legislation requiring the proposed rules has also been involved in this process, as has a representative of the Federal Communications Commission.

II. STATEMENT OF COMMISSION'S STATUTORY AUTHORITY

The Commission's statutory authority to adopt the rules is set forth in Laws of Minnesota 1987, chapter 340, sections 13 to 16, which provides in part:

> Sec. 15. [237.65] [Rules.]
> The commission shall adopt rules under the administrative procedure act necessary or appropriate to establish the telephone assistance plan in accordance with this chapter so that the telephone assistance plan is effective as of January 1, 1988, or as soon after that date as Federal Communications Commission approval of the telephone assistance plan is obtained.

Under this law, the Commission has the necessary statutory authority to adopt the proposed rules.

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. However, 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 proposed rules are needed to ensure that telephone service is available for eligible senior citizens. Telephone service has become a necessity for these citizens. It is vital that they have access to a telephone for emergencies. In addition, senior citizens are often on a fixed income. However, the cost of owning and maintaining a telephone continues to rise. The result is that fewer and fewer senior citizens can afford to own a telephone. The proposed rules are needed to establish the legislatively mandated program designed to counteract this problem.

The need for the proposed rules also arises from the telephone assistance plan of the Federal Communications Commission (FCC) in Code of Federal Regulations, title 47, part 69. The FCC plan provides matching federal assistance to low income households that receive telephone assistance through a state plan. The state plan must be approved by the FCC in order to receive matching federal assistance.

To obtain the benefits of the FCC's federal matching plan, the Minnesota legislature enacted the Minnesota telephone assistance plan (TAP) in Laws of Minnesota 1987, chapter 340, sections 13 to 16, and directed the Commission to adopt rules establishing TAP. Therefore, the proposed rules are needed.

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 Commission approached the problem of establishing the TAP rules in several different ways.

Initially, the Commission discussed TAP and the proposed rules with those interested in telecommunications at its Telecommunications Forum. Thereafter, the Commission solicited outside comment on the proposed rules by publishing notice in the State Register and by mailing notice to all those on the Commission's rulemaking list for telephone matters. The Commission received written comments from the Department of Public Service, the Minnesota Telephone Association, and Northwestern Bell Telephone Company. The Commission reviewed their comments and incorporated their suggestions wherever possible in the proposed rules.

Laws of Minnesota 1987, chapter 340, section 14, subdivision 7, requires that TAP be administered jointly by the Commission, the Department of Human Services, and the telephone companies in accordance with the guidelines set out in that section. The law identifies the responsibilities of each joint administrator. In keeping with those responsibilities, each administrator provided key input on those sections of the proposed rule that dealt with its particular area of administration of the program. The legislative sponsor was an additional resource for the Commission.

As the administrator responsible for the rules, the Commission coordinated this input through an Advisory Task Force, a Technical Work Group, and a Research Work Group. In addition to the joint administrators, the task force and work groups included representatives from other affected state and local agencies and citizen groups. The task force and work groups continue to meet to evaluate TAP and prepare recommendations for the Commission, and ultimately, the legislature.

The Commission also consulted with the FCC to learn what provisions were required in the TAP rule in order to secure FCC approval for the matching plan and to learn what other states had done to receive FCC approval. By comparing the proposed rules to other state plans and receiving guidance from the FCC, the Commission was able to draft rules that are consistent with those states that have received FCC approval.

These approaches are reasonable because they draw on the knowledge and expertise of other affected groups within Minnesota and on the past experiences of other states and the federal government.

B. Reasonableness of Individual Rules

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

Part 7817.0100 DEFINITIONS

Subpart 1 provides the scope of the terms used in parts 7817.0100 to 7817.1000. Delineating the scope of the terms is reasonable to clarify where the definitions apply.

Subpart 2 defines "access line" as it is defined by the legislation governing TAP. See Laws of Minnesota 1987, chapter 340, section 13, subdivision 5. It is reasonable to use this definition in the proposed rules because the legislation requires it, and because it is the definition commonly understood by the those involved in the telephone industry.

Subparts 3,4 and 5 provide that "Commission" refers to the Minnesota Public Utilities Commission; that "Department of Human Services" refers to the Minnesota Department of Human Services; and that "Department of Public Service" refers to the Minnesota Department of Public Service. These definitions serve to shorten terminology used elsewhere in the rules and are reasonable because they clarify these terms for the reader.

Subpart 6 defines the "federal matching plan" by giving the full name of the federal program and providing a citation. The definition further states that the federal program provides matching federal assistance in the form of a waiver of the federal access charge for eligible subcribers that are receiving state assistance. This definition is reasonable because it reduces the amount of terminology needed in other parts of the rule and because it explains what the federal matching plan does.

Subpart 7 defines "household" as a subscriber, a subscriber's spouse, and the minor children with whom a subcriber resides. The definition of "household" is important to the TAP rule because it determines which persons' income is used to verify program eligibility. This definition was agreed upon by the members of the task force and the work groups as the most efficient and effective term for the purposes of determining program eligibility and minimizing the administrative costs of income verification.

All of the members of the task force and work groups recognize that there may be situations in which adult children of the senior subscriber residing with the senior may be contributing to the income of the household. However, adult children were not included in the definition for several reasons.

The first reason is that because the FCC requires that the income of a household be verified before a subscriber can be certified as eligible for assistance, a definition of household was needed that minimized the cost of verification. The administrative cost of verification increases tremendously for each additional person in the household whose income must be verified. For this reason,

the definition of household was limited to the subscriber, the subscriber's spouse, and their minor children (whose income will not be included).

Another reason for excluding adult children from the definition was the practical consideration that the amount of the TAP benefit will be small in comparison to the cost of transferring the telephone listing from the name of the adult child into the name of the senior parent. That cost, and the inconvenience of not having the telephone listing in the adult child's name, led the Commission to agree with the task force and work groups that it was reasonable to believe that most adult children would not go to the trouble of changing the listing to an over-65 parent residing in the child's house solely to qualify for program benefits.

For these reasons, the Commission decided it was reasonable and practical to exclude the income of any adult children residing in a household from the definition of household.

Subpart 8 incorporates the definition of "income" set forth in the Minnesota Property Tax Refund Act. See Minn. Stat., section 290A.03, subdivision 3. This is also the definition set forth in the TAP legislation. See Laws of Minnesota 1987, chapter 340, section 13, subdivison 8. It is, therefore, reasonable to use this standard definition of income.

Subpart 9 defines "local agency" as a county or multicounty agency authorized to administer public assistance programs under Minn. Stat., sections 393.01, subdivision 7, and 393.07, subdivision 2. These sections provide for the establishment, powers, and duties of county welfare boards. This is the rule definition of local agency used by the Department of Human Services. It is reasonable to incorporate the Department of Human Services' definition of local agency because the TAP legislation requires the Department of Human Services, through its various offices and local agencies, to determine eligibility. See Laws of Minnesota 1987, chapter 340, section 14, subdivision 7(b).

Subpart 10 defines "local exchange service" by combining the definitions found in Minn. Rules, parts 7810.0100, subpart 23, and part 7815.0100, subpart 4. Minn. Rules, part 7810.0100, subpart 23, defines local exchange service for the chapter governing telephone utilities. Minn. Rules, part 7815.0100, subpart 4, defines extended area service for the chapter governing inter-exchange calling. Both of these terms refer to different components of local telephone service and together they result in a complete definition of local exchange service. It is reasonable to combine them rather than referring to two different terms throughout the proposed rules.

Subpart 11 defines "permanent changes" for the purposes of determining whether eligibility should be terminated pursuant to part 7817.0400, subpart 9, of the proposed rules. It is reasonable to consider only changes in eligibility that are expected to continue for 12 months or more because the TAP benefits are given for 12 months at a time, and because eligibility must be reverified every 12 months. Therefore, the practical effect of determining eligibility under the proposed rules is that changes lasting at least 12 months are permanent. It is also reasonable to make all the time frames regarding eligibility consistent to promote administrative economy and efficiency and to avoid confusing the program participants.

Permanent changes are further defined to include changes such as increased income, change of residence, or death of the subscriber. Any of these factors may change the eligiblity of a participant under part 7817.0400 of the proposed rules. Therefore, it is reasonable to specify what types of changes could result in a loss of TAP benefits.

Subpart 12 defines "public assistance programs" as those programs administered by the local agencies to provide financial assistance to needy individuals. This is a standard definition of the Department of Human Services and is used in the proposed rules to clarify what sorts of programs will affect eligibility for TAP under part 7817.0400, subpart 4, of the proposed rules. The definition is written broadly so that it will encompass the many financial assistance programs administered by the local agencies.

Subpart 13 incorporates part of the standard Commission definition of "subscriber" found in Minn. Rules, part 7810.0100, subpart 12. The definition of "subcriber" used in the proposed rules is limited to persons and does not include firms, partnerships, corporations, municipalities, cooperative organizations, governmental agencies, etc. This limitation on the definition of subscriber is necessary because the TAP benefits are limited to persons; namely, eligible senior citizens who subscribe to local telephone service. It was therefore reasonable to similarly limit the definition of subscriber to persons.

Subpart 14 defines what the TAP benefits are under the proposed rules. TAP benefits take the form of "telephone assistance credits" that are applied to the local telephone bills of eligible subscribers. The credits reduce the amount of local telephone rates for those residential households that qualify under TAP. The amount of the telephone assistance credit is set forth in part 7817.0500 of the proposed rules. This definition is reasonable because it is accurate and because it serves to shorten and clarify language throughout the proposed rules.

Subpart 15 states that the "telephone assistance plan" means the plan required by Laws of Minnesota 1987, chapter 340, sections 13 to 16, and set out in the proposed rules. This definition is reasonable because it shortens the terminology used in the proposed rules and because it clarifies this term for the reader.

Finally, subpart 16 defines "telephone company" as it is defined in the TAP legislation. See Laws of Minnesota 1987, chapter 340, section 13, subdivision 4. It is reasonable to use the definition set out in the TAP legislation because that definition incorporates the statutory definition of telephone company in Minn. Stat. section 237.01, subdivisions 2 and 3. Minn. Stat., chapter 237, governs telephone and telegraph companies operating in Minnesota and, therefore, provides the most accurate and complete definition of telephone company.

Part 7817.0200 PURPOSE AND CONSTRUCTION

Part 7817.0200 provides that the purpose of the proposed rules is to develop and implement a statewide telephone assistance plan to provide telephone assistance credits to reduce the local telephone rates of eligible residential households, to be jointly administered by the Commission, the Department of Human Services, and the telephone companies. This language combines the ideas expressed in the Scope portion and the Administration portion of the TAP legislation. See Laws of Minnesota 1987, chapter 340, section 14, subdivisions 2 and 7. These statements are therefore consistent with the legislative intent in enacting TAP and requiring these rules.

This part also provides that the purpose of the proposed rules is to permit the implementation of federal telephone assistance plans so that the state's local telephone customers are afforded the opportunity to acquire the benefits of these federal plans. The Commission received many comments from affected persons, agencies, and telephone companies during the Telecommunications Forum, the solicitation of comments, and the task force and work groups meetings requesting that the proposed TAP rules provide for the eventual implementation of other federal telephone assistance plans, such as the Link-Up America Plan.

The Commission agreed with the interested persons who made these requests that the benefits of these federal programs should be made available to Minnesota subscribers. Because the addition of other federal telephone assistance programs would be in the public interest, as demonstrated by the comments received, the Commission proposed rule part 7817.0800 which provides for the incorporation of other federal telephone assistance plans. It is reasonable to explain the Commission's intent in the Purpose section of the proposed rules to make it clear that the Commission will be examining other federal plans for possible implementation in Minnesota.

Lastly, this proposed rule states that the rules will be liberally construed to further the purposes discussed above. It is reasonable to include a general statement of the rules' construction in order to clarify for the affected persons and the general public that the rules will be interpreted so as to be consistent with the general objectives of the rules.

Part 7817.0300 FUNDING

Part 7817.0300, Subpart 1. Uniform statewide monthly surcharge

Subpart 1 of this part states that the funds for TAP are to be collected as a monthly surcharge on all telephone access lines provided by the local telephone companies in Minnesota. Using a monthly surcharge to collect TAP funds is the method mandated by Laws of Minnesota 1987, chapter 340, section 14, subdivisions 6 and 7(d)(1). This method is consistent with the funding of several other state and federal telephone assistance plans. Therefore, it is reasonable to specify this method of funding in the proposed TAP rules.

The subpart explains that the initial surcharge will be assessed beginning with the first billing cycle occurring immediately after the effective date of the rules. The proposed rules, if adopted, will be in effect by January 1, 1988. In order to implement TAP as soon as practicable, it is reasonable to begin assessing the monthly surcharge after the rules are in effect. Coinciding the first monthly surcharge with the first billing cycle is a reasonable method for initiating the surcharge because it fits in with the method for collecting funds already established by the telephone companies. It is administratively efficient and economical.

After the initial determination of surcharge level, the subpart provides that the Commission shall annually redetermine the surcharge level. Redetermination will be required every year for several reasons. First, the initial level of surcharge determination will made in January, 1988. Depending upon the participation levels of the program and the actual level of administrative expenses of the program, it may be neccessary to adjust the surcharge level. Laws of Minnesota 1987, chapter 340, section 14, subdivision 6, gives the Commission the authority to calculate the surcharge and subdivision 7(d)(5) gives the Commission the authority to modify the surcharge.

Second, the TAP credits will be given to eligible subcribers for a maximum of 12 months. See proposed part 7817.0600, subpart 2, items B and C. Since the credits will extend through 1988 before a redetermination of eligibility is necessary, it is reasonable to be consistent and have the surcharge similarly continue through 1988 and be redetermined in 1989, and every year thereafter. For the same reasons as given above, the annual

redetermination of surcharge level will begin with the first billing cycle of the calendar year.

The Commission notes that the proposed rules provide that the surcharge level may be redetermined more often than once every year, as needed to ensure an adequate level of funding. See proposed part 7817.0700. Therefore, the annual requirement does not prevent the Commission from taking action when necessary to adequately fund TAP as long as the surcharge does not generate more than $2.5 million annually.

Items A, B, and C of subpart 1 list the criteria for calculating the level of surcharge. The surcharge cannot collect more than $2,500,000 statewide; the surcharge must be apportioned between telephone companies according to their relative number of access lines; and the surcharge level must be uniform statewide. These criteria reflect the statutory criteria of the TAP legislation in Laws of Minnesota 1987, chapter 340, section 14, subdivisions 6 and 7(d)(1). It is reasonable, therefore, to include these criteria in the proposed TAP rules.

Part 7817.0300, subpart 2. Use of surcharge revenues

This subpart details how the surcharge will be collected, by whom, what the surcharge will be used for, and what will be done with any excess surcharge revenues. The telephone companies are responsible, as co-administrators of TAP, for collecting the surcharge through their telephone bills. The telephone companies shall also use the surcharge revenues to give credits to eligible TAP subcribers and to cover the administrative expenses of the telephone companies. If there are any revenues remaining after the telephone companies give TAP credits and deduct their expenses, the excess revenues shall be put into a statewide surcharge revenue pool and administered by the Commission.

It is reasonable for the telephone companies to collect the surcharge and distribute the credits because they have direct access to the telephone bills of the participants. They are the most administratively efficient and practical resource for performing this aspect of TAP.

Furthermore, the TAP legislation specifies the duties of the telephone companies. Laws of Minnesota 1987, section 14, subdivisions 7(c) and 7(d)(2), states that the telephone companies shall provide TAP credits. Section 14, subdivisions 7(d)(3) and 7(d)(5), make it clear that the telephone companies are entitled to reimbursement for their expenses incurred in administering TAP. Section 14, subdivisions 7 and 7(d)(4), provide that excess surcharge revenues are to be remitted to the Commission for administration as part of the statewide surcharge revenue pool. Thus, it is reasonable to incorporate these statutory duties into the proposed rule.

Part 7817.0300, subpart 3. Statewide surcharge revenue pool

Subpart 3 establishes a revenue pool of any excess surcharge revenues collected by the telephone companies. Items A and B specify that the money in the revenue pool will be used to reimburse the co-administrators of TAP.

A revenue pool is needed because some telephone companies will have excess revenues while other telephone companies will not collect enough surcharge revenues to cover the cost of providing TAP credits and administrative expenses. TAP is intended to provide benefits throughout Minnesota, but not all of the eligible households in the state will receive TAP credits if their telephone company cannot collect sufficient surcharges to cover the costs of providing TAP. On the other hand, telephone companies that may have excess revenues after providing TAP to all eligible households should not reap a windfall benefit by retaining the excess benefits. A reasonable solution is to create a pool of the excess revenues and use that pool to ensure that all eligible households receive TAP benefits, and that the costs of administering TAP are covered.

The proposed rule is also reasonable because it reflects the TAP legislation establishing a statewide surcharge revenue pool and providing for the reimbursement of administrative expenses. See Laws of Minnesota 1987, chapter 340, section 14, subdivisions 7, 7(4), and 7(5).

Items A and B of the proposed rule recognize that the amount of Commission and telephone company administrative expenses should be reasonable and provide for a full or partial reimbursement of Commission expenses. In this way, none of the co-administrators of TAP will receive a financial windfall from the surcharge revenues. This approach is reasonable because the purpose of TAP is to benefit eligible households while keeping the administrative costs to a minimum so that the telephone customers who pay the surcharge are not overcharged. The proposed rule language will provide sufficient protection for both the participants of TAP and the surcharge paying telephone customers, and still ensure that administrative expenses are reimbursed as needed.

In particular, item A provides for full or partial reimbursement of reasonable Commission expenses. As a TAP administrator, the Commission will incur expenses for various activities. These activities will include reviewing the telephone company reports, calculating and providing reimbursements to the telephone companies, handling customer complaints, and contracting to provide the most economical means of implementing the other aspects of TAP such as determining eligiblity, verifying income, providing notices, and in general, overseeing the TAP process.

Item B provides for reasonable telephone company expenses not covered by surcharge revenues previously collected by the telephone company. The telephone companies are also TAP administrators and therefore will incur expenses in collecting the surcharge and dispensing the credits. Under the TAP legislation, the telephone companies are entitled to reimbursement for their administrative expenses. See Laws of Minnesota 1987, chapter 340, section 14, subdivisions 7(d)(3), 7(d)(4), and 7(d)(5). This law also requires telephone companies to maintain a record of their expenses and report to the Commission. See Laws of Minnesota 1987, chapter 340, section 14, subdivision 7(d)(3) and 7(e). Therefore, the proposed rule requires the Commission to reimburse the telephone companies within 60 days of a telephone company's quarterly report. Sixty days is a reasonable amount of time for the Commission to review a company's report and calculate the appropriate amount of reimbursement.

Part 7817.0400 ELIGIBILITY FOR TELEPHONE ASSISTANCE CREDITS

Laws of Minnesota 1987, chapter 340, section 14, subdivision 4, establishes the criteria for determining eligibility for TAP credits. Proposed part 7817.0400 is needed to implement this law. Specifying these criteria in the rule is reasonable because it ensures that local agencies and other people affected by the law are informed of their statutory rights and responsibilities. It is also necessary to add specific conditions under which persons must be found eligible for TAP credits under Laws of Minnesota 1987, chapter 340, section 14, subdivision 4, in order to insure that these criteria are applied uniformly and that TAP credits are administered as uniformly as possible throughout the state as required under Laws of Minnesota 1987, chapter 340, section 14, subdivision 2.

Part 7817.0400, subpart 1. Information provided

Subpart 1 states that information on qualifying for TAP credits must be provided by the local agencies upon request. That information will be in the form of a brochure that describes the eligiblity requirements and application process. In addition, an application form will be offered to the person requesting information.

TAP is a statewide program and information concerning TAP must to be made available to the public in some way. It is reasonable to inform people of the TAP eligiblity requirements through an informational brochure and application form. A brochure is a means of accurately conveying the necessary information. By also providing an application form, persons can immediately apply for TAP credits after determining whether they may qualify. Brochures and application forms can also be picked up at local agency offices and used to apply at a later date. Thus,

brochures and application forms are a convenient and confidential way for people to examine TAP. This method is also reasonable because it costs less to administer than requiring individual interviews for each potential applicant.

Part 7817.0400, subpart 2. Application process

Proposed subpart 2 clarifies that an application must be returned to the local agency. As explained above for subpart 1, it is for the applicant's convenience that application forms can be picked up at the local agency offices and completed at the applicant's leisure. However, since the local agency is required by the TAP legislation to determine eligiblity, the application form must be returned to the local agency for that purpose. See Laws of Minnesota 1987, chapter 340, section 14, subdivision 7(b).

In addition, the application may be made by the subscriber, the subscriber's spouse, or a person authorized to act on the subscriber's behalf. This section of the proposed rule was also added for the applicant's convenience. Since the income of the subscriber's spouse will be considered for the purposes of determining eligibility in proposed subpart 5, and since the spouse is a member of the household potentially receiving TAP credits, it is reasonable to allow the subscriber's spouse to complete the application. Allowing a person authorized to act on the subscriber's behalf to make the application is also reasonable because there may be instances in which a subscriber is unable to apply for TAP credits on his or her own, but is nonetheless entitled to receive TAP credits. It would be unfair to deny TAP credits to these people.

Part 7817.0400, subpart 3. Documenting, verifying, and reviewing eligiblity

Proposed subpart 3 describes who will determine eligibility and the eligibility process. The local agencies have the responsibility to determine eligibility. See Laws of Minnesota 1987, chapter 340, section 14, subdivision 7(b). The federal matching plan similarly requires the state plan to determine eligibililty. Therefore, it is reasonable to state in the proposed rule that the local agencies shall verify income to determine eligibility.

The proposed rule further provides that the local agencies may verify income when eligibility needs to be redetermined or if there are permanent changes in eligibility. The need to redetermine eligibility or terminate eligibility arises from Laws of Minnesota 1987, chapter 340, section 14, subdivision 7(c), and is also discussed under proposed subpart 9.

Because TAP operates on a 12-month cycle, eligibility is redetermined at least every 12-months. However, any changes to

eligibility during or after the 12-month cycle will be permanent changes that render a person ineligible for TAP credits. And, as described in proposed subpart 9, permanent changes render a person ineligible for TAP credits. For this reason, proposed subpart 3 treats redetermination and permanent changes to eligibility in the same manner.

It is reasonable to not automatically require reverification of income for redetermination and permanent eligibility changes because income has already been verified for the original application. After the original application has been certified for eligibility, the recipient has the responsibility under subpart 9 to report any increases in income beyond the TAP guidelines or any other permanent changes in eligibility. Permanent changes include an increase in income and result in a recipient losing his or her eligibility status. Therefore, since the recipient must inform the local agency of permanent changes that result in ineligibility, there is very little need for the local agency to automatically reverify income for redetermination and permanent eligiblity changes.

This approach is also reasonable because it greatly reduces the costs of administrating TAP. Verifying income is one of the largest expenses incurred to implement TAP. Moreover, the need for reverifying income after it has already been verified is not great enough to justify such a high cost. Senior citizens are often on a fixed income and, if there are any changes in income, the changes will most likely be reductions in income.

Item A of proposed subpart 3 requires an applicant to document income or authorize the local agency to verify income. This item recognizes that in order to determine eligibility or verify income, proof of eligibility is necessary. Documentation is a reasonable means of providing this proof. To ease the burden on the applicant, item A further requires the local agency to help the applicant obtain the necessary documents when the applicant does not possess and cannot obtain the documents. Finally, item A makes it clear that documents previously verified and retained by the local agency need not be verified again unless the information no longer applies. This statement is reasonable because it would be an unnecessary duplication of effort and expense to reverify documents that have already been verified. The practical exception would be situations where the documents no longer reflect current circumstances. In those situations, new documentation would be needed.

Proposed item B protects the applicant by requiring prior written consent before the local agencies can request information from sources other than other local agencies, the DHS, or the telephone companies that is not of public record. The applicant is further protected under item B because third parties cannot have access to information about the applicant's eligibility

without prior written consent from the applicant, unless access is granted under the Minnesota Government Data Practices Act, Minn. Stat., chapter 13. It is reasonable to include these statutory protections in the proposed rule so that the applicants are informed of their rights under the law and to ensure that the applicant's rights are not violated by the local agencies.

Proposed item C requires the local agencies to inform recipients of their responsibility to report permanent changes in eligibility to the local agencies within 10 days of any change. Permanent changes are defined in proposed part 7817.0100, subpart 11, and discussed in the corresponding section of this Statement of Need and Reasonableness. It is reasonable to place the burden of reporting permanent changes that may render a recipient ineligible for TAP credits on the recipient because in most instances only the recipient has knowledge of any such changes. Since only eligible persons are entitled to TAP credits, it is unfair to other recipients and the surcharge revenue payers to allow persons who are not entitled to TAP credits to continue receiving these credits. Finally, it is reasonable to require the local agencies to notify recipients of this responsibility so that the recipients are sure to be informed of their responsibility and act accordingly.

Part 7817.0400, subpart 4. Eligibility criteria

Items A, B, and C list the criteria that must be satisified before an applicant can be certified as eligible to receive TAP credits. Proposed items A and B are also specified in Laws of Minnesota 1987, chapter 340, section 14, subdivision 4.

Proposed item A states that the household must not receive telephone service assistance from state programs other than TAP. Currently, there are no other state programs offering telephone service assistance. However, this proposed item was included in the rules to satisfy the TAP legislative criteria cited above. Prohibiting TAP recipients from also receiving non-TAP telephone assistance is reasonable because it prevents multiple recovery of telephone service assistance benefits. Thus, recipients may receive benefits from either TAP or non-TAP programs, but not both.

The proposed item A does not prohibit telephone assistance from federal programs other than the federal matching plan for several reasons. Proposed part 7817.0800 provides for the addition of other federal telephone assistance plans, such as the Link-Up America plan which provides assistance for the initial connection of telephone service. Other states routinely offer both the TAP federal matching plan and the Link-Up America plan. It is reasonable to similarly offer both federal plans in Minnesota because the federal plans provide different benefits and do not result in multiple recovery for telephone assistance.

Proposed part 7817.0800, also provides if other federal telephone assistance plans are offered, they will be incorporated into TAP. That is, the corresponding state plans will become part of TAP. Utilizing TAP in this manner is a reasonable way to ensure that Minnesota customers will receive the benefits arising out of future federal telephone assistance plans and their state plan counterparts.

Proposed item B states that an applicant must be 65 years of age or older. The Minnesota legislature has recognized that senior citizens have a great need for TAP credits. Senior citizens must have access to a telephone for medical and transportation purposes. The high cost of telephone service often jeopardizes access to telephone service for these citizens.

In addition, item B further provides that only those seniors who subscribe to telephone service are eligible for TAP credits. Since the subscriber is financially responsible for paying the telephone bill, it is reasonable to provide TAP credits only to subscribers. This requirement prevents those persons who have a senior citizen as a member of their household from receiving TAP credits if the senior is not responsible for paying the telephone bill. This requirement is a reasonable means of ensuring that only eligible senior citizens will receive TAP credits.

Finally, item C requires that the subscriber is, or is about to become, a Minnesota resident. This is a reasonable requirement because TAP is a statewide program for the benefit of certain Minnesota telephone customers. Non-Minnesota residents and persons who do not intend to remain in Minnesota should not receive benefits targeted for other persons.

Part 7817.0400, subpart 5. Income

Proposed subpart 5 states what the income level must be to be eligible for TAP credits. The income levels listed in subpart 5 are those authorized by Laws of Minnesota 1987, chapter 340, section 14, subdivison 4(3). Therefore, proposed subpart 5 lists the maximum total annual household income, depending on the size of the household, as stated in the TAP legislation.

Subpart 5 also states that income has the meaning given it in Minn. Stat., section 290A.03, subdivision 3. This statement is consistent with the definition of income in proposed part 7817.0100, subpart 8. This statement is also consistent with the definition of income in Laws of Minnesota, chapter 340, section 13, subdivision 8, and is therefore a reasonable choice for the meaning of income for the purposes of determining TAP eligibility.

Furthermore, proposed subpart 5 makes it clear that the income of minor children residing in the subscriber's household will not be

considered for the purpose of determining TAP eligibility. This is a practical consideration which recognizes that minor children will contribute very little to the income of the household. Since there are probably very few minor children residing with senior citizens, the group of minor children that may contribute substantially to the household's income is even smaller. On the other hand, the administrative costs of verifying the income of any person, even a minor child, is very high. Therefore, the high cost of determining whether a rare situation exists makes it reasonable to not consider the income of minor children for the purposes of determining TAP eligibility.

Part 7817.0400, subpart 6. Local agency responsibilities

Proposed subpart 6 gives the local agencies 30 days to determine eligibility once the local agencies receive a TAP application. Thirty days was chosen as a reasonable time for the local agencies to perform the administrative tasks required by the proposed rules, such as verifying income. Moreover, the 30 day application turn-around time is similiar to other assistance programs administered by DHS and the local agencies. Any longer time period would unduly delay receipt of TAP credits and any shorter time period could result in errors in determining eligibility.

Part 7817.0400, subpart 7. Applicant and recipient responsibilities

Proposed subpart 7 requires an applicant to provide current information about circumstances that permanently affect TAP eligibility. This requirement is a reasonable means of facillitating the process used to determine eligibility. It recognizes that eligibility can only be accurately determined by evaluating current and permanent information. Old information may not be accurate and temporary information changes too often to be of value. Moreover, requiring current and permanent information ensures that eligiblity will not have to be redetermined before the 12-month period expires and will, therefore, save administrative expenses and be more convenient for the applicant.

Proposed subpart 7 also requires a recipient to submit a recertificiation form required for redetermining eligibility, before the end of every 12-month period. Annual completion and submission of a recertification form is authorized in Laws of Minnesota 1987, chapter 340, section 14, subdivisions 7(a),(b), and (c). It is reasonable to place the burden of completing a recertification form on the recipient because the recipient has knowledge of any permanent changes in circumstance that would affect continued eligibility.

Part 7817.0400, subpart 8. Notices

Proposed subpart 8 requires the local agency to notify the applicant of the disposition of the application by mail to the applicant's last known address. Notification by mail is a reasonable means of ensuring that applicants are aware of their eligibility status promptly. This method is also reasonable because it will be less expensive administratively than notifying in person or by telephone. Mailing to the applicant's last known address is also reasonable because the local agencies will have this information on the application form which will be current and, therefore, accurate.

Proposed items A through E explain who shall receive notice under different situations. Items A and B cover the situation in which an applicant is certified as eligible for TAP credits. In that situation, the local agency shall notify the applicant and the telephone company. It is reasonable to have the local agency notify both parties, rather than requiring the applicant to notify the telephone company or vice-versa for several reasons. It will take less time to implement TAP and provide TAP credits if the applicant and the telephone company receive notice of certification at approximately the same time. It will also be more convenient for the applicant to not have to notify the telephone company and vice-versa. Finally, the administrative burden on the local agencies will be slight because they already have access to this information.

Proposed items C and D cover the situation in which eligibility is denied or terminated. In that instance, the applicant or recipient has the right to know why his or her eligibility was denied or terminated, his or her right to appeal, and his or her right to reapply for TAP credits. Stating these rights in Item C is a reasonable means of ensuring that applicants and recipients are informed of their rights so that they may exericise them when necessary. Item D is also reasonable because the telephone companies must know when a recipient's eligibility is terminiated so that the telephone company can cease providing credits pursuant to proposed part 7817.0600.

Lastly, proposed item E requires the local agencies to notify the recipient of the need to apply for recertification, sixty days before the end of every 12-month period. As discussed above for proposed subpart 7, recipients must complete and submit a recertification form to the local agencies before the end of every 12-month period. Therefore, it is reasonable for the local agencies to remind recipients of this responsibility before the 12-month period expires. Sixty days was chosen as a reasonable time period because the recipients must be given adequate time to obtain, complete, and submit recertification forms.

Part 7817.0400, subpart 9. Termination of credit

Proposed subpart 9 describes the conditions under which TAP credits will be terminated. TAP credits will be terminated if income limits permanently exceed the maximums listed in above for proposed subpart 5. TAP credits will also be terminated if there are permanent changes in other basic eligibility requirements.

Subpart 9 is consistent with the TAP legislation which provides for the termination of TAP credits in Laws of Minnesota 1987, chapter 340, section 14, subdivision 7(c). It is reasonable to terminate credits if a recipient is no longer eligible because that person is no longer entitled to the credits. To allow TAP credits to continue could ultimately jeopardize TAP and would be unfair to other recipients and to the surcharge revenue payers.

Part 7817.0500 CALCULATION OF CREDITS

This part of the proposed rules specifies who shall calculate the TAP credits, how often the credits shall be calculated, and the criteria on which the calculations shall be based. The Commission is responsible for calculating the TAP credits on an annual basis at the beginning of each year. The calculation criteria are listed in items A through D of the proposed rule.

Laws of Minnesota 1987, chapter 340, section 14, subdivision 7(d)(2), states that the Commission shall establish the level of credit that each telephone company shall provide to the TAP participants. It is reasonable for the Commission to set the level of credit for each telephone company because the Commission is the administrator of the statewide surcharge revenue pool and because the telephone companies will be reporting to the Commission. Since the Commission will have access to this information, it is administratively efficient for the Commission to also determine the appropriate level of credits.

Similarly, Laws of Minnesota 1987, chapter 340, section 14, subdivision 7(c), requires the telephone companies to provide TAP credits for a maximum of 12 months, after which time the credits must cease unless the eligible household is recertified. Laws of Minnesota 1987, chapter 340, section 14, subdivision 7(e), requires the telephone companies to give an annual report to the Commission on the amount of TAP credits given during the year. Reading these two sections together, it is reasonable for the Commission to recalculate the appropriate level of credits every 12 months since the eligiblity for credits will be redetermined at that time and since the provision of credits for the previous year will be reviewed at that time.

This part further provides that the Commission shall redetermine the level of credits at the beginning of each calendar year. The beginning of the calendar year was chosen because the proposed

rules, if adopted, will be in effect January 1, 1988, and TAP will be implemented at that time. As explained above, TAP will be evaluated every year so it is reasonable to redetermine the level of credits on each TAP anniversary.

The criteria for calculating the appropriate amount of credit are laid out in items A, B, C, and D of this proposed rule. These are also the criteria that are laid out in Laws of Minnesota 1987, chapter 340, section 14, subdivisions 5 and 7(d)(2). Taken together, these two subdivisions require that the credits must be uniform for each telephone company in the state and cannot exceed:

- the amount of the federal matching plan credits;
- 50% of the household's local exchange rate; and
- the amount of funds available from the surcharge.

The federal matching plan matches the value of the state plan's assistance up to the amount of the federal subscriber line charge. The federal subscriber line charge is currently $2.60 per access line. That amount will increase to $3.20 on December 1, 1988; and to $3.50 on April 1, 1989. The FCC will waive this charge for eligible TAP participants who are receiving the same amount of TAP credits. Therefore, Minnesota's TAP credits must match the current federal subscriber line charge and it's scheduled increases. Any TAP credits above the federal waiver will not receive a matching federal benefit. For this reason, it is reasonable to specify in item A of the proposed rule that the federal matching plan amounts are one ceiling for the TAP credits.

Item B of the proposed rule specifies a second ceiling for the TAP credits. The credits must not exceed more than 50 percent of the weighted average of the local exchange rate charged for local exchange service provided to the household by that household's telephone company. The 50 percent level chosen by the Minnesota legislature is reasonable. It ensures that all those who receive TAP credits are given a substantial reduction in the amount of their monthly telephone bill while also ensuring that windfall benefits are not given at the expense of those who are funding TAP, the surcharge revenue payers.

Item B further requires a weighted average because telephone companies have more than one rate. There are one-party, two-party, three-party rates, extended area service rates, and so on. The administrative cost of making a customer-specific rate determination for the estimated 30,000 TAP participants is very high. On the other hand, for a greatly reduced administrative cost, the telephone company can calculate the weighted average of all the local exchange rates offered by the company. Moreover, because the average is weighted, very little accuracy is lost by using this method. Therefore, it is reasonable to use a weighted

average when calculating the appropriate level of TAP credits.

Item C is a practical limitation upon the level of TAP credits. The credits must not exceed the level of credits that can actually be funded in accordance with the surcharge limitations in proposed part 7817.0300. This limitation will prevent the Commission from providing more credits than there are revenues. It was similarly reasonable to include this requirement in the proposed rule.

Finally, item D states that the level of credits must be uniform for each company statewide. This limitation ensures that some eligible TAP households do not receive more or less credits than they are entitled to from the telephone company that provides them with telephone service. It is reasonable to prevent discrimination under the proposed rules in this way.

Part 7817.0600 PROVISION AND TERMINATION OF CREDITS

Part 7817.0600, subpart 1. Provision of credits.

Subpart 1 of the proposed rule states who shall provide TAP credits and how they shall be provided. Subpart 1 requires telephone companies to provide TAP credits against monthly charges for each certified household. This requirement is the basic concept underlying TAP. Namely, that eligible households shall receive TAP credits under the proposed rules. Moreover, the TAP legislation makes this requirement in Laws of Minnesota 1987, chapter 340, section 14, subdivision 7(c). It is, therefore, reasonable to include this requirement in the proposed rule.

In addition, subpart 1 requires the telephone companies to make the credits available within 90 days after the date the surcharge is first assessed. The surcharge will be first assessed in January of 1988, after the proposed rules are adopted and TAP goes into effect. See proposed part 7817.0300, subpart 1. Ninety days from that date was chosen as a reasonable time period for the telephone companies to collect the surcharge and make the necessary administrative preparations before giving the credits. This time will also be used to advertise TAP and determine eligibility under proposed part 7817.0400.

Part 7817.0600, subpart 2. Following notice from local agency.

Subpart 2 states that the local agencies are responsible for notifying the telephone company about a household's eligiblity. As explained in proposed part 7817.0400, the local agencies determine TAP eligibility. In keeping with that responsibility, the proposed rule requires the local agencies to notify the telephone companies regarding eligibility. That is a reasonable and practical solution to the problem of how to let the telephone

companies know who is entitled to TAP credits since the local agencies will be the first to know who is eligible.

Item A, B, and C of subpart 2 specify what the telephone company's responsibilities are once it receives notification of eligibility from a local agency. These responsibilities are also set forth in Laws of Minnesota 1987, chapter 340, section 14, subdivision 7(c).

Item A requires a telephone company to apply credits in the month after the month in which the local agency notifies it of eligibility. One month is a sufficient and, therefore, reasonable amount of time for a telephone company to do the administrative work necessary to prepare and provide credits to an eligible household. This item further specifies that the credits are to begin with the telephone company's next monthly billing cycle. This is reasonable because the telephone company's billing cycle is already established. Therefore, the provision of credits will fit into this pre-established billing cycle with the minimum amount of administrative cost and effort.

Item B of subpart 2 requires a telephone company to stop giving credits at the end of every 12 month period, unless notified that eligiblity has been redetermined. This 12 month redetermination period has been discussed earlier in conjunction with proposed part 7817.0500, governing the calculation of credits. The same reasoning applies here for ceasing credits every 12 months, absent a redetermination of eligiblity.

Item C states that a telephone company shall stop providing credits before the end of a 12-month period if eligibility has been permanently terminated. Permanent changes, as defined in proposed part 7817.0100, subpart 11, are those changes that render a subscriber ineligible for 12 months or more. Item C is intended to protect the telephone customers who pay the TAP surcharge from funding TAP credits unnecessarily. It is reasonable to require the termination of credits if a subscriber will no longer be eligible on a permanent basis.

However, due to the high cost of verifying eligibility, it is not reasonable to terminate eligibility for temporary changes. This is true because temporary changes could reverse themselves and render a subscriber eligible again within the same 12-month period. In such a situation, eligiblity would have to be verified for a third time within the same year. Therefore, the number of verifications, and the corresponding administrative cost, would increase for each temporary change in eligibility. The amount of TAP benefit would quickly be consumed by the attendant increase in verification costs. For these reasons, the proposed rule is limited to permanent changes in eligibility.

Part 7817.0700 ADJUSTMENT TO LEVEL OF SURCHARGE AND CREDITS

This proposed rule allows the Commission to adjust the level of surcharge and credits when necessary to stay within the limitations on the level of surcharge and credits set out in proposed parts 7817.0300 (funding) and 7817.0500 (calculation of credits). The Commission was given the authority to make these adjustments in Laws of Minnesota 1987, chapter 340, section 14, subdivision 7(d)(5).

Whenever it appears that the maximum amount of surcharge revenues collected are insufficient to fund the level of credits established by the Commission, the Commission must reduce the level of credits so that the funds being collected can cover the cost of providing the credits. Otherwise, the surcharge revenue pool would be depleted and TAP's future would be threatened. Allowing the Commission to reduce the level of credits in such an instance is a reasonable means of ensuring that TAP is not operated at a deficit.

The proposed rule further allows the Commission to increase the level of credits if there are sufficient surcharge revenues available. Alternately, the Commission may reduce the surcharge so that an unreasonable overcollection of surcharge revenues is prevented. Either of these adjustments may be necessary if there are excess revenues in the statewide surcharge revenue pool. If the level of credits was already at the maximum amount allowed under proposed rule part 7817.0500, then the level of credits could not be raised any higher to accomodate the excess surcharge revenues. In that situation, the level of surcharge may need to be reduced because additional credits could not be given. That is, reducing the level of surcharge could prevent an unreasonable overcollection of surcharge revenues.

Therefore, taken as a whole, this proposed rule will enable the Commission to monitor and make corrections to the collection of surcharges and provision of credits as necessary. This is a reasonable way to ensure an equitable collection and distribution of resouces. It will enable the Commission to more closely match the level of surcharge and credits so that eligible households receive the maximum benefit for each dollar of surcharge revenue.

Under the proposed rule, to adjust the level of surcharges or credits, the Commission must issue an official order and give the telephone companies 30 days notice. It is reasonable to require an official order to protect the rights of all affected persons. It is also reasonable to require 30 days notice so that the telephone companies have sufficient time to make the necessary administrative changes to reset the level of credits.

Part 7817.0800 FEDERAL TELEPHONE ASSISTANCE PLANS

The proposed rule makes it clear that TAP and the federal matching plan must be combined and provided by the telephone companies. These statements are necessary to ensure that the telephone companies offer both TAP and the federal matching plan to eligible households. The federal matching plan, which waives the federal subscriber line charge, is not available without a matching state plan such as TAP. Offering TAP without the federal matching plan would cut the available benefits in half. To ensure that the benefits of both plans are made available, it is reasonable to require in the proposed rule that both plans be offered by the telephone companies.

The proposed rule further provides that the Commission shall decide whether to incorporate federal telephone assistance plans, other than the federal matching plan, when additional federal plans are developed. This provision is included in the proposed rule to ensure that the benefits of any additional federal plans are made available to Minnesota customers in an expeditious manner. Making this statement in the proposed rule is a reasonable way to provide for these benefits.

Moreover, the Commission received requests from both telephone companies and state agencies to include the Link-Up America plan in the TAP rules. The Link-Up America plan is a federal plan designed to assist eligible subscribers with the costs of commencing telephone service. The Advisory Task Force determined that due to the January 1, 1988 implementation date for TAP and due to the varying eligiblity criteria and accounting issues for different federal plans, future implementation of the currently available Link-Up America plan, as well as any future federal plans, should be not be attempted through the TAP rules at this time. However, the Advisory Task Force further recognized that future implementation of these other federal plans should be provided for in the TAP rules so that the benefits of these plans are received. The Commission agreed with the Advisory Task Force that it was reasonable to protect the best interests of Minnesota customers, the telephone companies, and the affected state and local agencies by recognizing the future implementation of these federal plans in the proposed rule.

To protect the interests of the affected customers, telephone companies, and state and local agencies, the proposed rule also sets forth the procedures that will be followed in implementing future federal plans. That is, the proposed rule states that the Commission shall seek outside comments and review the federal plan and the outside comments. Then, after appropriate proceedings, the Commission shall determine whether to incorporate the federal plan into TAP and require the telephone companies to participate in the federal plan.

These procedural requirements are a reasonable means of protecting the interests of the affected customers, telephone companies, and state and local agencies. They ensure that the Commission does not operate in a vacuum and makes its decisions with procedural safeguards and input from interested persons.

Part 7817.0900 COMPANY RECORDING, REPORTING REQUIREMENTS

Part 7817.0900, subpart 1. Records to be maintained

Proposed subpart 1 of the rule requires the telephone companies to keep records on TAP and lists the subject matter of the records. The records must include the surcharge revenues collected, administrative expenses incurred, and credits given under TAP. Laws of Minnesota 1987, chapter 340, section 14, subdivisions 7(d)(3) and 7(e), similarly requires the telephone companies to prepare this information.

It is reasonable to require the telephone companies to maintain records so that, as administrator of the statewide surcharge revenue pool under proposed part 7817.0300, the Commission can review the financial impact of TAP on the telephone companies and their customers. Records are also necessary under proposed part 7817.0300 so that the Commission can determine whether a telephone company is entitled to reimbursement from the surcharge revenue pool. Moreover, the Commission needs this record information to evaluate whether or not adjustments to the surcharge or credits may be necessary under proposed part 7817.0700.

Part 7817.0900, subpart 2. Quarterly report

Subpart 2 requires the telephone companies to submit quarterly reports to the Commission and the Department of Public Service (the DPS) for their review. Laws of Minnesota 1987, chapter 340, section 14, subdivision 7(d)(3), enables the Commission to require the telephone companies to account on a periodic basis concerning TAP surcharge, expenses, and credits. Quarterly reports will provide this information on a periodic basis. Since TAP operates on an annual 12-month cycle, it is reasonable to require periodic reports every quarter of that 12-month cycle.

Moreover, the administrative cost to the telephone companies has been minimized by providing that the quarterly reports are to be cumulative during each 12-month cycle. This will also ease the annual reporting requirement in proposed subpart 3, explained below, because the fourth quarter cumulative report may serve as the annual report.

The quarterly reports are due 30 days after the end of each quarter. 30 days will give the telephone companies sufficient time to gather the necessary information and prepare the report.

Allowing more than 30 days would result in the report being received too far into the next quarter and would defeat the purpose behind reviewing the financial experience of the telephone companies on a quarterly basis.

The DPS will also be reviewing the quarterly reports. The DPS regularly reviews filings submitted to the Commission and submits comments and recommendations based on their review. It is reasonable to require the DPS to review the quarterly reports as an additional protection for the TAP surcharge payers, eligible subscribers, and other telephone companies.

Subpart 2 goes on to require the telephone companies to submit any excess surcharge revenues collected during the quarter to the Commission. As administrator of the statewide surcharge revenue pool under proposed part 7817.0300, it is reasonable for the Commission to collect any excess revenues for the revenue pool. Requiring excess revenues as part of the quarterly report is an administratively efficient and effective means of ensuring that a telephone company does not hold excess revenues. Rather, these funds will be remitted to the Commission and used for such purposes as increasing the level of credits, or reducing the level of surcharge being collected, or reimbursing other TAP administrators as necessary. Furthermore, Laws of Minnesota 1987, chapter 340, section 14, subdivision 7(d)(4), requires the telephone companies to remit excess revenues to the Commission for administration as part of the revenue pool. Therefore, this requirement is reasonable.

Items A through H in subpart 2 list the information that must be included in the quarterly reports. Items A, B, D, and E relate to the surcharge revenues. These items will provide the pertinent accounting information needed to determine whether the correct amount of surcharge was collected, whether the correct number of access lines were charged, whether any excess surcharge revenues were collected, or whether insufficient revenues were collected. Without this information, the Commission cannot evaluate TAP or make any necessary adjustments to the level of surcharge.

Item C requires an itemized list of the telephone companies' administrative expenses. Although the telephone companies pay their administrative expenses out of the surcharge revenues they collect before remitting any excess revenues to the pool, the telephone companies still have the responsibility under the TAP legislation to account for their expenses. See Laws of Minnesota 1987, chapter 340, section 14, subdivision 7(d)(3). Therefore, it is reasonable to include this information in the quarterly reports.

Items G and H require the telephone companies to report on the number of subscribers that received TAP credits during the

quarter, and the monetary value of these credits. As with the items requiring information on the surcharge, these items require information on the credits so that the Commission can evaluate TAP and make any necessary adjustments to the level of credits. It is reasonable to require this information from the telephone companies because they provide the credits and have that information readily available.

Items F, G, and H require information regarding the federal matching plan. Item F requires the telephone companies to report the amount of federal reimbursement under the federal matching plan applied for or received. Items G and H require information on the number of subscribers given waivers under the federal matching plan, and the monetary value of those waivers. This information is necessary for auditing purposes so the Commission can ensure that the telephone companies have not collected the same expenses from two different sources. Administrative expenses associated with the federal matching plan should not be paid by Minnnesota customers, nor should federal customers pay for Minnesota's TAP. Requiring this information in the quarterly reports is a reasonable means of protecting Minnesota customers.

Finally, subpart 2 states that the quarterly reports must be on a form prescribed by the Commission. This requirement is intended to ease the administrative burden on the telephone companies, the Commission, and the DPS. By prescribing the quarterly report format, the telephone companies will be spared the administrative expense of preparing their own form. Moreover, a form that is the same for all telephone companies is reasonable because it will provide a uniform standard for evaluating TAP and will enable the Commission and the DPS to easily compare the companies.

Part 7817.0900, subpart 3. Annual report

This subpart requires the telephone companies to submit annual financial reports and accountings for their experience under TAP. The annual reports must be adequate to satisfy the reporting requirements of the federal matching plan. The Commission has the authority under the TAP legislation to require annual reports that contain such information and assurances. See Laws of Minnesota 1987, chapter 340, section 14, subdivision 7(e).

Subpart 3 also provides that the cumulative fourth-quarter report filed pursuant to subpart 2 may serve as the annual report. As discussed above in subpart 2, this is a reasonable way to keep down the administrative costs for the telephone companies and for the Commission and the DPS.

Since the cumulative fourth-quarter report may serve as the annual report, the same information listed in subpart 2 is required for the annual report. These items are reasonable for

the same reasons that were given above for subpart 2.

Similarly, as for the quarterly reports, the annual reports are due 30 days after the end of each calendar year. 30 days is a reasonable time for the telephone companies to prepare and file the necessary information.

It is also reasonable for the proposed rule to require that the annual report satisfy the federal matching plan reporting requirements. Federal matching plan approval is needed to fulfill a major purpose behind TAP. Without federal approval, half the benefits under the proposed rules, namely the waiver of the federal subscriber line charge, will be lost to eligible Minnesota subscribers. Therefore, the proposed rule makes it clear that the federal matching plan reporting requirements must be satisfied.

Part 7817.1000 APPEALS AND COMPLAINTS

Part 7817.1000, subpart 1. Appeal after termination or denial of eligibility

Subpart 1 of this proposed part states that a TAP applicant or recipient has the right to an appeal if that person is denied or terminated TAP credits. This subpart is a reasonable way to ensure that the rights of TAP applicants and recipients are protected.

Subpart 1 goes on to specify the appeal process. Appeal hearings must be conducted at a reasonable time, date, and place by an impartial referee employed by the Department of Human Services (the DHS). It is reasonable to have the appeal process administered by the DHS because the local agencies determine eligibility pursuant to proposed part 7817.0400. Therefore, the DHS is the logical choice to handle matters related to eligibility for TAP credits. Furthermore, the DHS regularly handles appeals for the other assistance programs it administers such as the Aid to Families With Dependent Children and Food Stamps programs.

Proposed subpart 1 states that the appeals referee employed by the DHS must be impartial. The requirement of impartiality is a reasonable means of ensuring that the appeal decisions are just and do not favor the local agencies over the applicant or recipient. The appeals referee makes a recommendation concerning the outcome of the appeal to the Commissioner of DHS. This process is regularly used by DHS to handle the appeals of its other assistance programs. Since this process is already in place for other DHS assistance programs that are tied to federal programs, it is reasonable to use the same process for TAP which is co-administered by DHS and which is also tied to a federal program.

Moreover, subpart 1 requires that the hearings be conducted at a reasonable time, date, and place. The requirement is a reasonable way to ensure that an appeal is not unduly delayed as a ploy to discourage appeals or favor the local agencies.

Lastly, proposed subpart 1 addresses the evidence and scope of review on appeal. An applicant or recipient may introduce evidence relevant to the issues on appeal; and recommendations of the appeals referee must be based on evidence introduced at the hearing and are limited to a review of the propriety of a local agency's action. The introduction of evidence is necessary and, therefore, it is reasonable to require that the evidence be relevant to the appeal. It also follows that proper appeal decisions must be based on such relevant evidence. And, since the purpose of the appeal is to determine whether the denial or termination of TAP credits was appropriate, it is reasonable to limit the scope of the appeal decision to a review of whether or not the local agency's action in denying or terminating TAP credits was appropriate.

Part 7817.1000, subpart 2. Complaint procedure

Proposed subpart 2 states that complaints against the telephone companies may be referred to the Commission. Complaints against the telephone companies will most likely concern the collection of the surcharge and the provision of credits. Since the Commission is a co-administrator in the area of the surcharge and credits, it is reasonable to allow complaints concerning these matters to be addressed to the Commission.

Subpart 2 further provides that complaints will be investigated by the Department of Public Service (the DPS). After its investigation, the DPS must report the results to the Commission. The DPS was given this investigatory responsibility in Laws of Minnesota 1987, chapter 340, section 14, subdivision 7(f). In addition, the DPS is the enforcement and investigatory arm of the Commission. Therefore, it is reasonable to continue the existing relationship between the Commission and the DPS by delegating any necessary TAP complaint investigations to the DPS.

Similarly, the DPS is given 45 days under the proposed rule to report the results of its investigation to the Commission. This time frame is the minimum amount of time that the DPS needs to conduct a thorough and sufficient investigation and report its results to the Commission. Any longer time period would unnecessarily delay the complaint process and discourage complaints.

V. SMALL BUSINESS CONSIDERATIONS IN RULEMAKING

Minn. Stat. section 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 rules; and

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

The proposed rules may affect small businesses as defined in Minn. Stat. section 14.115, subd. 1 (1986). The small businesses that may be affected are the small independent, cooperative, and municipal telephone companies. For this reason, the Commission has considered the above-listed methods for reducing the impact of the rules on these small telephone company businesses.

Methods (a), (b), and (c) address compliance and reporting requirements. Proposed parts 7817.0300, 7817.0600, and 7817.0900, contain compliance and reporting requirements. Each proposed rule part will be discussed in turn.

Proposed part 7817.0300 requires telephone companies to collect surcharge revenues, use those revenues to extend TAP credits and pay their own expenses, and remit excess revenues to the Commission. The proposed rule further provides that excess revenues will be used by the Commission to pay the reasonable expenses of those telephone companies that do not collect enough surcharge revenues to pay their own expenses. The Commission anticipates that the telephone companies that fit the statutory definition of small business will not be able to collect enough surcharge revenues to pay for their expenses. Therefore, the burden of complying with the proposed rule is eased by allowing the telephone companies to be reimbursed for their reasonable administrative expenses.

Proposed part 7817.0600 provides for the provision and termination of credits. This part describes the time periods and procedure for collecting the surcharge revenues, providing the TAP credits, and ceasing the TAP credits. No distinction was made between large and small telephone companies because TAP is a legislatively-mandated statewide program with a statewide surcharge revenue pool. See Laws of Minnesota 1987, chapter 340,

section 14, subdivision 2. Therefore, TAP requires the establishment of a uniform and universal system for giving and terminating TAP credits by all telephone companies that provide local exchange service in Minnesota.

Proposed part 7817.0900 requires the telephone companies to comply with certain recording and reporting requirements. The proposed rule contains the minimum amount of information which the Commission needs to evaluate the collection of surcharge revenues and the provision of credits. The proposed rule keeps the reporting requirements to a minimum by clearly stating the eight items needed to evaluate TAP and by prescribing a form for supplying the information.

The legislature recognized that the Commission would need the information required by proposed part 7817.0900 when it enacted Laws of Minnesota 1987, chapter 340, section 14, subdivision 7(d)(3) and 7(e). Those subdivisons require the telephone companies to account to the Commission on a regular basis and maintain adequate records and provide the Commission and the Department of Public Service with a financial report.

The Commission needs this information from all the telephone companies that participate in TAP so that the Commission can fulfill its duty to administer and evaluate TAP. One of the Commission's duties is to adjust the level of surcharge or credits when necessary. See proposed part 7817.0800. The Commission would not receive an accurate picture of TAP and could not determine whether adjustments were warranted if it collected only some of the necessary information from the small telephone companies.

The Commission did not consider method (d) for reducing the impact of the rules on small telephone company businesses. The proposed rules not contain design or operational standards. Therefore, method (d) does not apply to the proposed rules.

Method (e) addresses the exemption of small businesses from any or all rule requirements. The essential requirements placed on the small telephone company businesses by the proposed rules are mandated by Laws of Minnesota 1987, chapter 340, sections 13 to 16. The law requires the Commission to implement these statutory requirements through rules. Therefore, the Commission cannot exempt small businesses from the requirements contained in the proposed rules. As discussed above, exempting the small telephone company businesses from any part of the rule requirements would seriously hinder the implementation, administration, and effectiveness of the TAP program.

VI. CONCLUSION

Based on the foregoing, the proposed Minn. Rules, parts 7817.0100 to 7817.1000, are both needed and reasonable.

Dated: October 16, 1987

Mary Ellen Hennen
Executive Secretary

Tel Telephone Assistance Plan Rule P-999/R-87-358 (13) Sharon

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Public Utilities Commission

Proposed Permanent Rules Relating to Telephone Assistance Plan

Notice of Intent to Adopt Rule Without a Public Hearing

Notice is hereby given that the Minnesota Public Utilities Commission (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 (1986). The Commission's authority to adopt the rule is set forth in *Laws of Minnesota 1987*, chapter 340, sections 13 to 16.

All persons have until 4:30 p.m. on November 18, 1987, to submit comments in support of or in opposition to the proposed rule or any part of the 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 comment period. If 25 or more persons submit a written request for a public hearing within the comment period, a public hearing will be held unless a sufficient number withdraw their requests 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 Commission will proceed pursuant to *Minnesota Statutes* sections 14.131 to 14.20 (1986).

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

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

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

The proposed rule, if adopted, will provide eligible seniors with a discount on their telephone bills. The proposed rule is published below. One free copy of the rule is available upon request by calling Kris Kline at (612) 296-7124.

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 upon request by calling Kris Kline at (612) 296-7124.

You are hereby advised, pursuant to *Minnesota Statutes* section 14.115 (1986), "Small business considerations in rulemaking," that the proposed rule will affect small telephone company businesses as defined in that section. The proposed rule requires telephone companies to collect a monthly surcharge and provide a monthly credit to eligible telephone subscribers. The proposed rule also requires telephone companies to record the amount of surcharges and credits and to provide quarterly and annual reports. However, the proposed rule allows the telephone companies to be reimbursed for their administrative expenses from the surcharge revenues.

In addition, pursuant to *Minnesota Statutes* section 14.11, subdivision 1 1986), "Special notice of rulemaking," the proposed rule will require the expenditure of public money by local public bodies. The proposed rule requires county or multicounty agencies that are authorized to administer public assistance programs to determine eligibility and provide notice to the telephone companies and the applicants. A reasonable estimate of the total cost to all local public bodies in the state to implement the rule for the two years immediately following adoption of the rule is approximately $600,000. This estimate is based on the cost of annually verifying the income of approximately 30,000 applicants, as required by the federal matching telephone assistance plan.

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 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 rule, must submit the written request to Mary Ellen Hennen.

Mary Ellen Hennen
Executive Secretary

Rules as Proposed (all new material)

7817.0100 DEFINITIONS.

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

Subp. 2. **Access line.** "Access line" means telephone company-owned facilities furnished to permit switched access to the telecommunications network that extend from a central office to the demarcation point on the property where the subscriber is served. The term includes access lines provided to residential and business subscribers and includes centrex access lines on a trunk-equivalent basis, but does not include private nonswitched or wide area telephone service access lines.

Subp. 3. **Commission.** "Commission" means the Minnesota Public Utilities Commission.

Subp. 4. **Department of Human Services.** "Department of Human Services" means the Minnesota Department of Human Services.

Subp. 5. **Department of Public Service.** "Department of Public Service" means the Minnesota Department of Public Service.

Subp. 6. **Federal matching plan.** "Federal matching plan" means the telephone assistance plan of the Federal Communications Commission in Code of Federal Regulations, title 47, part 69, that waives the federal access charge for eligible local telephone subscribers. This federal plan provides matching federal assistance to eligible households receiving assistance through a state telephone assistance plan.

Subp. 7. **Household.** "Household" means a subscriber, a subscriber's spouse, and the minor children with whom a subscriber resides.

Subp. 8. **Income.** "Income" has the meaning given it in Minnesota Statutes, section 290A.03, subdivision 3.

Subp. 9. **Local agency.** "Local agency" means a county or multicounty agency that is authorized under Minnesota Statutes, sections 393.01, subdivision 7, and 393.07, subdivision 2, to administer public assistance programs.

Subp. 10. **Local exchange service.** "Local exchange service" means telecommunication service provided within local exchange service areas in accordance with the tariffs. It includes the use of exchange facilities required to establish connections between stations within the exchange and between stations and the toll facilities serving the exchange. It also includes extended area service that is interexchange calling for which a message toll charge is not assessed.

Subp. 11. **Permanent changes.** "Permanent changes" means changes in eligibility that are expected to continue for 12 months or more. These changes include increased income, change of residence, or death of the subscriber.

Subp. 12. **Public assistance programs.** "Public assistance programs" means programs administered by local agencies to provide financial assistance to needy individuals.

Subp. 13. **Subscriber.** "Subscriber" means a person in whose name local exchange telecommunications service is provided by a telephone company.

Subp. 14. **Telephone assistance credits.** "Telephone assistance credits" means the credits applied to reduce the local telephone rates of residential households that qualify under the telephone assistance plan.

Subp. 15. **Telephone assistance plan.** "Telephone assistance plan" means the plan required by Laws of Minnesota 1987, chapter 340, sections 13 to 16, and set out in this chapter.

Subp. 16. **Telephone company.** "Telephone company" has the meanings given it in Minnesota Statutes, section 237.01, subdivisions 2 and 3, that provides local exchange telephone service.

7817.0200 PURPOSE AND CONSTRUCTION.

The purpose of this chapter is to develop and implement a statewide telephone assistance plan to provide telephone assistance credits to reduce the local telephone rates of eligible residential households, to be jointly administered by the commission, the Department of Human Services, and the telephone companies. The purpose of this chapter is also to permit the implementation of federal telephone assistance plans so that the state's local telephone customers are afforded the opportunity to acquire the benefits of these federal plans.

This chapter is to be liberally construed to further these purposes.

7817.0300 FUNDING.

Subpart 1. **Uniform statewide monthly surcharge.** The telephone assistance plan must be funded through the assessment of a uniform recurring monthly surcharge applicable to all classes and grades of access lines provided by each telephone company in the state. The initial surcharge must be assessed beginning with the first billing cycle occurring immediately after the effective date of

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this part. The commission shall determine the level of the surcharge on an annual basis beginning with the first billing cycle of the calendar year. The surcharge must be calculated based on the following criteria:

A. the revenue generated by the surcharge must not exceed $2,500,000 on a statewide basis;

B. the statewide $2,500,000 must be apportioned between telephone companies based on their relative number of access lines; and

C. the surcharge level must be uniform statewide.

Subp. 2. **Use of surcharge revenues.** "A telephone company shall bill the surcharge and collect the surcharge revenues. The telephone company shall use those revenues to extend credits to eligible subscribers under the telephone assistance plan. The company shall also use the surcharge revenues to cover its administrative expenses associated with the telephone assistance plan. The telephone company shall remit, with its quarterly report, excess surcharge revenues to the commission to become part of the statewide surcharge revenue pool.

Subp. 3. **Statewide surcharge revenue pool.** Excess surcharge revenues remitted by the telephone companies to the commission must be placed in a statewide surcharge revenue pool to be administered by the commission. The commission shall use the surcharge revenue pool funds:

A. for full or partial reimbursement of its reasonable administrative expenses associated with the telephone assistance plan; and

B. to reimburse a telephone company, within 60 days of receipt of the company's quarterly report, reasonable expenses associated with the telephone assistance plan and not covered by the surcharge revenues collected by the telephone company.

7817.0400 ELIGIBILITY FOR TELEPHONE ASSISTANCE CREDITS.

Subpart 1. **Information provided.** On request, the local agency shall offer to a person an application form developed by the Department of Human Services and a brochure that describes the program's eligibility requirements and application process.

Subp. 2. **Application process.** On completing the application, the applicant must return it to the local agency for an eligibility determination. An application may be made by the subscriber, the subscriber's spouse, or a person authorized by the subscriber to act on the subscriber's behalf.

Subp. 3. **Documenting, verifying, and reviewing eligibility.** A local agency shall verify the income of an applicant and the applicant's spouse at the time of application. When a condition of eligibility changes, and at each redetermination of eligibility, the local agency may verify income.

A. An applicant or recipient shall document income or authorize the local agency to verify the income. The local agency shall help an applicant or recipient obtain documents that the applicant or recipient does not possess and cannot obtain. Information previously verified and retained by the local agency must not be verified again unless the information no longer applies to current circumstances.

B. The local agency shall not request information about an applicant or recipient that is not of public record from a source other than local agencies, the Department of Human Services, and telephone companies without the applicant's or recipient's prior written consent. The local agency shall not provide third parties with access to information about an applicant's or recipient's eligibility status or other case record information without the prior written consent of that applicant or recipient, except where access to specific case information is granted to agencies designated by the Minnesota Government Data Practices Act, Minnesota Statutes, chapter 13. Information designated as confidential by the Minnesota Government Data Practices Act may only be made available to agencies granted access under that law and must not be provided to an applicant, recipient, or third party.

C. The local agency shall inform the recipient of the recipient's responsibility to report permanent changes in circumstances that affect eligibility within ten days of each change.

Subp. 4. **Eligibility criteria.** To be eligible for a telephone assistance credit:

A. the household must not be in receipt of assistance for telephone service under any other state public assistance program;

B. the household must contain a member who subscribes to local exchange service and is 65 years of age or older; and

C. the subscriber resides in Minnesota or has moved to Minnesota and intends to remain.

Subp. 5. **Income.** To determine program eligibility, a local agency shall evaluate income received by household members. All payments must be counted as income if listed in Minnesota Statutes, section 290A.03, subdivision 3. Maximum total annual household income must not exceed:

A. when the size of the household is one, $7,862;

B. when the size of the household is two, $10,281;

C. when the size of the household is three, $12,699;

D. when the size of the household is four, $15,118; or

E. when the size of the household is more than four, $15,118 plus, for each additional household member, $2,419.

For the purpose of calculating income under this subpart, household income does not include the income of minor children.

Subp. 6. **Local agency responsibilities.** On receiving an application, the local agency shall determine the applicant's eligibility or ineligibility within 30 days.

Subp. 7. **Applicant and recipient responsibilities.** An applicant shall provide current information on an application form about circumstances that permanently affect the applicant's program eligibility. Before the end of every 12-month period, the recipient shall complete a recertification form required for the redetermination of eligibility.

Subp. 8. **Notices.** A local agency shall notify an applicant or recipient of the disposition of the application by mailing the notice to the last known address.

A. When an applicant or recipient is found eligible, the local agency shall notify the applicant or recipient in writing.

B. When an applicant or recipient is found eligible, the local agency shall notify the telephone company.

C. When an applicant or recipient is denied or terminated, the local agency shall notify the applicant or recipient in writing of the reasons for the denial or termination, of the right to appeal, and of the right to reapply.

D. When a recipient is terminated, the local agency shall notify the telephone company.

E. Sixty days before the end of every 12-month period, the local agency shall notify the recipient of the need to redetermine eligibility.

Subp. 9. **Termination of credit.** A local agency shall terminate a telephone assistance credit if income limits permanently exceed the maximums described in subpart 5, or the local agency is notified of permanent changes in basic eligibility requirements.

7817.0500 CALCULATION OF CREDITS.

The commission shall calculate a telephone assistance plan credit for each telephone company on an annual basis at the beginning of each calendar year. The credits must be calculated based on the following criteria:

A. the credits must not exceed the amount of credit available under the federal matching plan;

B. the credits must not exceed more than 50 percent of the weighted average of the local exchange rate charged for local exchange service provided to the household by that household's telephone company;

C. the credits must not exceed the level of credits that can actually be funded in accordance with the surcharge limitations in part 7817.0300; and

D. the level of credits must be uniform for each company statewide.

7817.0600 PROVISION AND TERMINATION OF CREDITS.

Subpart 1. **Provision of credits.** A telephone company shall provide telephone assistance plan credits against monthly charges for each certified household. Telephone assistance plan credits must be made available within 90 days after the date the surcharge is first assessed.

Subp. 2. **Following notice from local agency.** After the telephone company receives an eligibility or termination notice from the local agency, the telephone company shall proceed according to items A to C.

A. A telephone company shall apply telephone credits beginning with the telephone company's billing cycle that begins in the month after the month in which the local agency notifies it of an applicant's or recipient's eligibility.

B. A telephone company shall cease credits at the end of every 12-month period by billing cycle unless notified by the local agency that eligibility has been redetermined.

C. A telephone company shall cease credits before the end of the 12-month period when notified by the local agency that eligibility has been permanently terminated. When so notified, the credit ends with the start of the telephone company's billing cycle beginning in the month after the month in which the company is notified.

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7817.0700 ADJUSTMENT TO LEVEL OF SURCHARGE AND CREDITS.

When it appears to the commission that the revenue generated by the maximum level of surcharge permitted under part 7817.0300 will be inadequate to fund a particular level of telephone assistance credits, the commission by official order and on 30 days' notice to the telephone companies, shall reduce the credits to a level that can be adequately funded by the maximum level of surcharge. Similarly, the commission by official order and on 30 days' notice to the telephone companies, may increase the level of the telephone assistance plan credits that are available or reduce the surcharge to a level and for a period of time that will prevent an unreasonable overcollection of surcharge revenues.

7817.0800 FEDERAL TELEPHONE ASSISTANCE PLANS.

The telephone assistance plan must be combined with the existing federal matching plan. Telephone companies shall participate in both plans. If and when other federal telephone assistance plans are developed, the commission shall seek outside comment on those plans and review each plan and the comments submitted by interested persons. After appropriate proceedings, the commission shall determine whether to incorporate those plans into the telephone assistance plan and require telephone companies to participate.

7817.0900 COMPANY RECORDING, REPORTING REQUIREMENTS.

Subpart 1. **Records to be maintained.** A telephone company shall maintain adequate records of surcharge revenues, expenses, and credits related to the telephone assistance plan.

Subp. 2. **Quarterly report.** No later than 30 days after the end of each calendar year quarter, a telephone company shall file a quarterly report with the commission and the Department of Public Service for review. With the quarterly report, the telephone company shall submit a check to the commission in the amount of the excess surcharge revenues collected during that quarter. The quarterly report must list, quarterly and cumulatively for the year:

A. the surcharge revenues collected by the telephone company;

B. the number of access lines billed the surcharge;

C. itemized telephone assistance plan expenses incurred by the company;

D. the amount of excess surcharge revenues collected;

E. the amount of surcharge revenue deficiency;

F. the amount of reimbursement from the federal matching plan applied for or received;

G. the number of subscribers that received credits under the telephone assistance plan and the number of subscribers that were given waivers under the federal matching plan; and

H. the monetary amount of credits extended by the telephone company under the telephone assistance plan and the monetary amount of waivers given under the federal matching plan.

This report must be made on a form prescribed by the commission.

Subp. 3. **Annual report.** No later than 30 days after the end of a calendar year, a telephone company shall file a year-end report with the commission and the Department of Public Service. The cumulative fourth-quarter report provided under subpart 2 may serve as the annual report. This report must be a financial report and accounting for the telephone company's experience under the telephone assistance plan. The report must also be adequate to satisfy the reporting requirements of the federal matching plan.

7817.1000 APPEALS AND COMPLAINTS.

Subpart 1. **Appeal after termination or denial of eligibility.** An applicant or recipient who is denied or terminated telephone assistance credits has the right to appeal. Appeal hearings must be conducted at a reasonable time, date, and place by an impartial referee employed by the Department of Human Services. An applicant or recipient may introduce evidence relevant to the issues on appeal. Recommendations of an appeals referee must be based on evidence introduced at the hearing and are not limited to a review of the propriety of a local agency's action.

Subp. 2. **Complaint procedure.** Complaints against the telephone companies regarding the telephone assistance plan may be referred to the commission. Complaints against telephone companies regarding the telephone assistance plan must be investigated by the Department of Public Service. The Department of Public Service shall report the results of its investigation to the commission within 45 days of receipt of the complaint.

B. Provide that the recipient is authorized to enter into contracts to complete the work specified in the agreement.

C. Identify the product of the proposal and provide that the results of all studies or analyses performed under this agreement are made available to the board and to the general public. All information and techniques developed through a project assisted by a board grant will be made available to all hazardous and industrial waste generators in the state through the technical assistance program established by the board.

Subp. 2. to 4. [Unchanged.]

Subp. 5. **Audit.** Since this program involves the expenditure of public funds, the books, records, documents, and accounting procedures and practices of the recipient of grant funds that are only relevant to this program are subject to examination at any time by the ~~chairperson~~ chair of the board and other appropriate state officials. Any audit exceptions identified by the board must be reimbursed at the board's discretion.

Subp. 6. [Unchanged.]

Department of Labor and Industry

Proposed Permanent Rules Relating to Employee Termination Notice

Notice of Intent to Adopt Rules Without a Public Hearing

Notice is hereby given that the Department of Labor and Industry, Labor Standards Division, proposes to adopt the above-captioned Rule part 5200.0280 without a public hearing. The Department has determined that the proposed adoption of the rule will be noncontroversial in nature and has elected to follow the procedures set forth in *Minnesota Statutes*, Section 14.21-14.28 (1984).

Persons or groups interested in this rule shall have 30 days to submit comments on the proposed rule. Comments in support of or in opposition to the proposed rule are encouraged. Each comment should identify the portion of the proposed rule addressed, the reason for the comment, and any change proposed. The proposed rule may be modified if the modifications are supported by the data and views submitted to the Department and do not result in a substantial change in the proposed language.

A public hearing will be held if 25 or more persons submit written requests for a public hearing on the proposed rule within the 30-day comment period. If a public hearing is required, the Department will proceed according to the provisions of *Minnesota Statutes*, Section 14.131-14.20 (1984). 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.

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

Ray Bohn
Commissioner, Department of Labor and Industry
5th Floor, Space Center Building
444 Lafayette Road
St. Paul, Minnesota 55101
(612) 296-2342

Authority for the adoption of this rule is contained in *Minnesota Statutes* 181.934. A Statement of Need and Reasonableness that describes the need for and reasonableness of the proposed rule identifies the data and information relied upon to support the proposed rule and assesses the impact of the proposed rule on small business and on local public bodies has been prepared and is available from the Commissioner upon request at the above address.

The qualitative, quantitative impact on small business after the adoption of the rule will have no greater effect on small business than already placed on small business by the Legislature under *Minnesota Statutes* 181.931 through 181.935.

Upon adoption of the final rule without a public hearing, all jurisdictional documents, the Statement of Need and Reasonableness, all written amendments and requests for hearing received, and the final rule as adopted, will be delivered to the Attorney General. The rule will then be reviewed by the Attorney General as to legality and form as it relates to legality, including the issues of substantial change, the agency's authority to adopt the rule and the existence of a rational basis for the need for and reasonableness of the proposed rule. Persons who wish to be notified of the submission of this material to the Attorney General, including modifi-

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.

CERTIFICATE OF RESOLUTION ADOPTING RULES
Docket No. P-999/R-87-358

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 Utilities Commission duly and properly called and held on the 24th day of November, 1987, that a quorum was present at said meeting, that a majority of those present voted of 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 hereby approves and adopts the rules governing the Telephone Assistance Plan pursuant to the authority vested in the Commission by Laws of Minnesota 1987, chapter 340, sections 13 to 16.

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. Section 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 24th day of November, 1987.



Mary Ellen Hennen
Executive Secretary

RESOLUTION ADOPTING RULES

Docket No. P-999/R-87-358

BE IT RESOLVED, that the Minnesota Public Utilities Commission (Commission) hereby approves and adopts the rules governing the Telephone Assistance Plan pursuant to the authority vested in the Commission by Laws of Minnesota 1987, chapter 340, sections 13 to 16.

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. Section 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

In the Matter of the Proposed Permanent Rules Governing the Telephone Assistance Plan, Minn. Rules, parts 7817.0100 to 7817.1000.

ISSUE DATE: NOV 24 1987

DOCKET NO. P-999/R-87-358

FINDINGS OF FACT, CONCLUSIONS, AND ORDER ADOPTING RULES

The above-entitled matter came on for decision before the Minnesota Public Utilities Commission (Commission) on the 24th day of November, 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, after considering the Statement of Need and Reasonableness, after considering all of the evidence adduced upon the records, files and proceedings herein, the Commission, being fully advised in the premises, hereby adopts the following Findings of Fact, Conclusions, and Order:

FINDINGS OF FACT

1. Notice of the Commission's intent to adopt the above rules without a public hearing was published in the State Register on October 19, 1987, and was sent by mail to all persons on the list maintained by the Commission pursuant to Minn. Stat. Sections 14.14, subd. 1a and 14.22 (1986) on October 16, 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 November 18, 1987.

4. During the comment period the Commission received one request for public hearing from the Mower County Board of Commissioners in Austin, Minnesota, which was not subsequently withdrawn. In its request, Mower County objected to the proposed rule for several reasons.

First, Mower County was concerned about the high level of county administrative costs required to implement the Telephone Assistance Plan (TAP) under the originally proposed rule. The Commission agrees with its concern. To solve this problem, the Commission reduced county administrative costs by almost half through modifications to the originally proposed rule. These modifications are described below in Finding #7.

Second, Mower County was concerned that low income people are unfairly included in the group of telephone customers who will pay the monthly surcharge to fund TAP. However, this is a statutory requirement. See Laws of Minnesota 1987, chapter 340, section 14, subdivision 6. For that reason, the Commission was unable to modify the funding part of the proposed rules.

A public hearing was not held because the Commission did not receive request for a public hearing from 25 or more persons which were not withdrawn.

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

6. During the comment period the Commission received seven written comments from the Mower County Board of Commissioners in Austin, Minnesota; the Southern Minnesota Regional Legal Services, Inc.; Northwestern Bell Telephone Company; the Minnesota Telephone Association; the Minnesota Fair Phones and Utilities Coalition; the Minnesota Board on Aging; and United Telephone Company.

The Mower County Board of Commissioners in Austin, Minnesota requested a public hearing and its comments are discussed above in Finding #4.

The Southern Minnesota Regional Legal Services, Inc. requested a copy of the finally adopted rule.

Northwestern Bell Telephone Company commented that it supported the rule and the suggested modifications recommended by the Advisory Task Force and related Work Groups.

The Minnesota Telephone Association submitted recommended modifications which are discussed below in Finding #7.

The Minnesota Fair Phones and Utilities Coalition expressed its support of the proposed rules, but suggested that the rules be changed to make the amount of TAP credits received proportionate to a subscriber's monthly bill. The Commission finds that this suggestion was considered by the Advisory Task Force at its meetings. While the task force agreed that this method may be a more equitable distribution of credits than the method used in the proposed rules, the enabling statute prohibits

this method by limiting the amount of credit to the amounts available under the federal matching plan ($2.60) and by requiring that the amount of credit be uniform statewide. See Laws of Minnesota 1987, chapter 340, section 14, subdivisions 5, 6, and 7(d)(2).

In its comments the Minnesota Board on Aging also recommended that a percentage method of giving credits should be implemented instead of the statutory method. However, the Commission recognizes that one of the issues the Advisory Task Force is considering is a recommendation to the legislative authors that they amend the TAP statute in the next session to allow for a different method of distributing TAP credits. The Minnesota Board on Aging also recommended making changes to part 7817.0400 ELIGIBILITY FOR TELEPHONE ASSISTANCE CREDITS to reflect a self-verification process. The process the Board is referring to is part of the Utah plan, which the Commission has adopted through modifications to the proposed rules (discussed in Finding #7 below). While the Utah plan is close to self-verification, the local agencies must still verify income and determine eligibility. For that reason, the Federal Communications Commission has approved the Utah plan and stated that it would approve Minnesota's adoption of that plan. The Utah plan also complies with the Minnesota legislation enacting TAP with respect to verification and eligibility determination and does not result in a substantial change to the proposed rules.

7. The Commission received suggested modifications to the proposed rules from three sources: the Advisory Task Force and related Work Groups, the Minnesota Telephone Association, and United Telephone Company. In this Finding, the Commission will discuss the recommended modifications it will adopt from these sources.

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.

Modifications recommended by the Advisory Task Force, Research Work Group, and Technical Work Group

The following modifications were recommended to the Commission by the TAP Advisory Task Force and the respective Research and Technical Work Groups through a series of meetings. The task force and work groups consist of representatives of the affected state and local agencies, telephone companies, and citizen groups. The Commission finds that the recommended modifications, described below, are needed and reasonable and do not constitute substantial changes according to the Attorney General's rule.

a. Modifications to part 7817.0400 ELIGIBILITY FOR TELEPHONE ASSISTANCE CREDITS.

Subparts 1 and 5 have been changed by removing the term "program". This change was made so that the rules would consistantly refer to the telephone assistance plan, as defined in part 7817.0100 DEFINITIONS. In subpart 1, the term "program's" has been replaced with "telephone assistance plan's" to make it absolutely clear that it is the telephone assistance plan that is being described in the Department of Human Service's brochure. Because these changes are clarifications, they are not substantive changes.

Subparts 2 and 6 have been modified to reflect a change in the logistics of processing the applications. Rather than having the applications going from the applicants to the local agencies and then from the local agencies to the telephone companies, the applications will go from the applicants to the telephone companies and then to the local agencies.

This change in the logistical flow of paper will considerably reduce the administrative costs of operating TAP. In fact, this is the procedure used by the state of Utah. Utah has received approval from the Federal Communications Commission for their plan. It was adopted by Utah because it was the most administratively convenient, cost effective and efficient method for processing applications.

By channeling the applications directly to the telephone companies under subpart 2, the applicants will be enrolled in the telephone assistance plan earlier than they would if the applications had to go to the local agencies first. No additional burdens are placed upon the applicant as a result of this change. Therefore, this method is beneficial to the

applicants.

Finally, the modified rules are consistent with the telephone companies' statutory responsibility to provide telephone assistance credits and the local agencies' statutory responsibility to determine eligibility. See Laws of Minnesota 1987, chapter 340, section 14, subdivision 7.

The only additional requirement on the telephone companies is to notify the local agencies that they have received an application. This is a minimal burden because it will require the telephone companies, at most, to maintain a list of applicants and send that list to the appropriate local agency. The telephone companies will be compiling this information for their records under part 7817.0900 COMPANY RECORDING, REPORTING REQUIREMENTS. Therefore, submitting this information to the local agency is not unduly burdensome or expensive.

After receiving notification from the telephone companies, the local agencies will determine eligibility. The timeframe in subpart 6 has been changed from 30 days to 120 days to allow the local agencies additional time to determine eligibility. Extra time is needed because the income verification required to determine eligibility may become a lengthy process. Letters must be sent to the applicants requesting additional information; that information must be reviewed by the local agencies; the income information must be verified; and the telephone companies must be informed whether the applicant is eligible for credits. 120 days was chosen because it is a more reasonable estimate of the amount of time that will actually be necessary.

These changes in the application process are not substantial because they affect the same classes of persons that were expected to comment on the originally proposed rule, namely, the telephone companies, the local agencies, and the applicants. Nor does it introduce significant new subject matter. The subject matter remains the same - the processing of applications and the local agencies responsibilities under this process. Finally, this is not a major substantive change. Applications are still being reviewed, eligiblity is still being determined, and telephone assistance credits are still being given. None of the substance of this process has been changed by the proposed modifications to the logistical route the applications must take or the timelines for completion.

Lastly, the Commission clarified subparts 2 and 6 by adding language to each subpart. The phrase "stating income within the guidelines" was added to subpart 2 so that it is clear what information must be on the applications. Income information is necessary to determine whether an applicant is eligible for TAP credits under subpart 5, which lists the income guidelines. The sentence "At the end of every 12-month period, the local agency

shall redetermine eligibility," was added to subpart 6 because nowhere do the rules explicitly state that eligibility must be redetermined every 12-months as required by Laws of Minnesota 1987, chapter 340, section 14, subdivision 7(a). In order to satisfy the law, the rules needed to state this requirement. These additions are not substantial changes because they merely clarify the intent of the rules.

Subpart 3 has been modified by deleting the phrase "at the time of application". This change was made so that subpart 3 would be consistent with subparts 2 and 6. Under those subparts, the applications will be going to the telephone company, rather than to the local agency. The local agency cannot verify income at the time of application because the telephone company initially handles applications. This change was made to prevent contradictions within the rules and avoid future problems in understanding and interpreting the rule. Therefore, this change does not constitute a substantial change under the Attorney General's rule.

Subpart 3, item A, has been modified by adding the phrase "in a timely manner" to the statement that an applicant or recipient shall document income or authorize the local agency to verify the income. This change was made so that the 120 day deadline for determining eligibility in subpart 6 will be met. Delays in verifying income can result from an applicant not promptly documenting income or authorizing the local agency to verify income. The local agency cannot determine eligibility until it receives this information from the applicant. This phrase highlights the necessity of submitting this information to the local agency as soon as practicable.

This change to subpart 3, item A, is not substantial because it affects the same class of persons - the applicants. Their responsibility under the rules remains the same. Nor does this change introduce new subject matter. The subject matter continues to be the documentation and verification of income. Finally, this change is not a substantive change. The applicants must still document their income or authorize the local agency to verify their income.

Subpart 8 governing the provision of notices has been modified to be chronologically correct, to be consistent with the changes in subparts 2 and 6, and to reduce the administrative costs of mailing notices.

First, items A and B have been interchanged. Former item A is now item B and former item B is now item A. This restructuring of the proposed rule was necessary to put the events described in chronological order. In this way, the rule will be more accurate and easier to interpret. The language in former items A and B has also been modified. The discussion that follows refers to

the newly named items A and B.

The first word in the new item A has been changed from "when" to "if". This change was made so that the rule will be more accurate and easier to read. The change is also consistent with the changes in items B and C and does not result in a substantial change.

The new item B is consistent with changes in the logistics for handling applications under subparts 2 and 6. Under that new process, the applicant will be notified automatically of the disposition of his or her application. That is, eligible applicants will receive TAP credits on their bills. The administrative costs of mailing a written notice of eligibility are duplicative and, therefore, unnecessary. For that reason, item B has been modified to recognize that receiving TAP credits will serve as notice of eligibility.

Changing item B in this manner is not a substantial change because the same classes of persons are affected - the applicants and the local agencies. No new subject matter is introduced because the subject matter is still the notification of eligibility. Removing the requirement of notice by mail is not a major substantive change because eligible applicants will continue to automatically receive eligibility notification on their bills. Furthermore, the issue of the type of notification was raised by the originally proposed rules. Any interested person was, therefore, invited to react to this issue. No comments were received on this issue.

Item C of subpart 8 continues to require the local agency to notify applicants and recipients if they are denied eligiblility or if their eligiblity is being terminated. However, the language in item C has been changed to recognize that denial or termination is with regard to eligibility. A similar change was made to the language in item D. These changes were made to clarify items C and D. Thus, they do not rise to the level of a substantial change.

Finally, subpart 9 of part 7817.0400 has been modified to recognize that not meeting the income guidelines in subpart 5 is grounds not only for the termination of eligiblity, but also for the initial denial of eligibility. As clarifications, and "clean-up" modifications, the changes to subpart 9 are not substantial.

b. Modifications to part 7817.0600 PROVISION AND TERMINATION OF CREDITS.

Changes have been made to both subparts of this rule. All of the changes are intended to make this part of the rules easier to read and more understandable, as well as to make this part

consistent with changes made elsewhere in the rules.

The word "plan" has been removed from subpart 1 because the phrase telephone assistance credits has been defined in part 7817.0100 DEFINITIONS and does not include the word "plan". This modification ensures consistency throughout the rules and is not a substantial change.

Since part 7817.0600 refers to the provision and termination of credits, subpart 1 has been changed to govern only the provision of credits and subpart 2 has been changed to govern only the termination of credits. For example, item A in subpart 2 has been moved up and included in subpart 1 because item A only governs the provision of credits. The remaining items in subpart 2 only govern the termination of credits. It was reasonable to distinguish the subparts in this manner. Consequently, subpart 2 has been renamed "Termination of credits" to make this distinction clear. These changes are organizational and do not result in a substantial change.

Subparts 1 and 2 also contain language changes to recognize changes made to the application process in part 7817.0400 ELIGIBILITY FOR TELEPHONE ASSISTANCE CREDITS. Since the applicants will be notified of their eligibility when they receive TAP credits on their telephone bill, reference to the local agency notifying eligible applicants has been removed from subpart 1 (formerly, item A of subpart 2) and from subpart 2. In their place, subpart 1 has been changed to refer to enrollment in the telephone assistance plan and subpart 2 has been changed to refer to receipt of an application from an applicant. These changes ensure that this part is consistent with the application procedure changes made to part 7817.0400. As such, they are not substantial changes.

In addition, the Minnesota Telephone Association (MTA) raised a concern with the originally proposed language in item A referring to the billing cycle in which the telephone companies are to begin applying TAP credits. This language could result in the telephone companies having only one day after receipt of an application to place credits on a telephone bill. The telephone companies cannot accomplish this in so short a time. A reasonable solution is to require the telephone companies to apply TAP credits to the earliest possible billing cycle, but no later than the applicant's second billing cycle after enrollment in TAP. This modification will still ensure timely receipt of credits without unduly restricting the operating procedures, and thereby inflating the administrative costs, of the telephone companies. Changing the application of credits in this way is not a substantial change to the proposed rules because it affects the same class of persons, does not introduce new subject matter, and does not amount to a major substantive change.

Lastly, former item B in subpart 2 (now item A) has several changes concerning the termination of credits at the end of every 12-month period. Formerly, item B stated that unless notified by the local agency that eligibility has been redetermined, credits cease every 12 months. Item B has been changed to state that when notified by the local agency that ineligiblity has been determined, credits cease every 12 months. This change was made to save substantial administrative expenses. It is less expensive to compile a small list of recipients who are ineligibile than it is to compile a long list of recipients who are eligible. Since under either method ineligible recipients will no longer receive credits, the end result is the same. Moreover, the risk in compiling a long list of those who are still eligible is that a mere clerical error could wrongly deny credits to an eligible recipient. A more just approach would be to err on the side of unintentionally and temporarily giving credits to someone who was no longer eligible.

These changes to former item B are not substantial changes because the same classes of persons, the local agencies and the applicants and recipients, are affected. Furthermore, the subject matter has not changed. The subject matter is still the notification of the termination of credits. Nor are the modifications major substantive changes that were not raised by the originally proposed rule in such a way as to invite reaction. Credits to ineligible recipients will be terminated every 12-months for the same reasons as before. The format in which the telephone companies receive notification of termination is not a significant issue, and a primary concern of all participants in this rulemaking has been the reduction of administrative costs. These changes significantly reduce administrative expenses while achieving the stated purposes of the rules.

c. part 7817.1000 APPEALS AND COMPLAINTS.

Subpart 1 of this part has been modified to state that the appeals referee's recommendations are made "to the designee of the Commissioner of the Department of Human Services." The rule as originally proposed was incomplete in that it did not state to whom the recommendations of the appeals referee should be given. This language is consistent with the procedure currently followed by the Department of Human Services and is, therefore, reasonable. Moreover, the additional language does not constitute a substantial change because it merely clarifies the originally proposed rule.

Subpart 2 has been modified to state that the Department of Public Service (DPS) shall report the "status" of its investigation to the Commission. The rule as originally proposed stated that the DPS was to report the "results" of its investigation. This change was made so that additional time would be available to the DPS if needed to complete its

investigation. However, the Commission will continue to be apprised of the situation, and take appropriate action where necessary, because the DPS must report the status of its investigation within 45 days. The only class of persons affected by this change, the DPS, requested this change from the Advisory Task Force, and this change does not introduce significant new subject matter nor make a major substantive change. Therefore, it is not a subtantial change as recognized under the Attorney General's rule.

Modifications Recommended by the Minnesota Telephone Association

The Commission also received written comments from the Minnesota Telephone Association (MTA), a member of the Advisory Task Force. In their written comments, the MTA recommended changes the following proposed rule parts. The Commission finds that some of the recommended changes are needed and reasonable, and do not result in substantial changes. However, other recommended changes are either not needed or reasonable, or result in substantial changes. Each suggested change is discussed below.

a. Modifications to part 7817.0300 FUNDING.

The MTA recommended that the term "immediately" in the second sentence of subpart 1 be replaced with the phrase "within 30 days" to avoid retroactive billing. The Commission finds that retroactive billing will not be a problem in this instance because the telephone companies have had ample advance notice that they must begin collecting a surcharge beginning January 1, 1988, the target effective date of the rules. This date appears in Laws of Minnesota 1987, chapter 340, section 15, which requires the implementation of TAP, and in the corresponding rules for their reference.

Moreover, the telephone companies have been, or will soon be, notified that the amount of the surcharge to be collected is ten cents per access line. This amount has been calculated by the Advisory Task Force and Research and Technical Work Groups by dividing the total number of local access lines in Minnesota by the funding limit of $2.5 million dollars. The Commission will also officially notify all the affected telephone companies in December 1987 when these rules are in place. Therefore, the telephone companies will have at least 30 days to prepare for the January billing cycle during which the surcharge will be collected.

Finally, accepting the MTA's comment would result in the credits being delayed for an additional 30 days, or until April, 1988, because credits will be applied 90 days after the surcharge is first assessed. See part 7817.0600, subpart 1. Delaying the provision of credits by 30 days would be detrimental to the

recipients. For these reasons, the Commission finds that an additional 30 days notice for the telephone companies to prepare for their first billing cycle is not necessary.

The MTA also recommended adding the phrase "no later than November 30 of each year" to the third sentence in subpart 1. The Commission finds that this suggestion has merit. Without this language, the telephone companies will not be assured of adequate time to prepare for the first billing cycle of each subsequent year. The Commission does not know at this time whether or in which year the ten cent surcharge level will have to be changed, and if so, to what amount. Moreover, giving 30 days notice before changing the level of surcharge is consistent with proposed part 7817.0700 ADJUSTMENT TO LEVEL OF SURCHARGE AND CREDITS. Therefore, it is reasonable to give the telephone companies 30 days notice of a new surcharge level in which to prepare for the first billing cycle at the beginning of each year. This change is not a substantial change because it merely adds further refinement to existing subject matter and ensures additional procedural planning time or protection for the affected class.

Lastly, the MTA recommended changing item B of subpart 3 so that TAP credits will be reimbursed from the statewide surcharge revenue pool, when warranted. The Commission finds that this change is reasonable because it reflects the statutory intent and language of Laws of Minnesota 1987, chapter 340, section 14, subdivision 7(d)(5). That is, the Commission is required to remit to each telephone company from the surcharge revenue pool, the amount necessary to compensate the company for expenses and TAP credits that are not covered by the surcharge revenue collected by the company. Therefore, the Commission will add the phrase "and telephone assistance credits" to item B of subpart 3. Because this addition is in the nature of a clarification, it does not consitute a substantial change.

b. Modifications to part 7817.0400 ELIGIBILITY FOR TELEPHONE ASSISTANCE CREDITS.

The MTA recommended changes to subparts 1, 4, 7, and 8 of this rule part. The Commission will discuss each subpart in turn.

For subpart 1, the MTA suggested adding the sentence "The application forms will only be available at local agencies of the Department of Human Services and Community Action Program agencies". As its reason, the MTA stated that this sentence would protect the privacy of potential applicants. The Commission finds that the originally proposed subpart 1 does not endanger the privacy of potential applicants. In fact, the Commission encourages the availablity of application forms at places other than the local agencies, including Community Action Program agencies. In that way, TAP will reach a broader spectrum

of people and provide additional benefits. For this reason, the Commission finds that MTA's language is not necessary and will not include it in the rule.

For subpart 4, the MTA made two suggested changes. First, the MTA recommended changing item B to read "the eligible subscriber must be 65 years of age or older." The Commission agrees with the MTA that this language is clearer and easier to interpret than the originally proposed language. However, the word "eligible" is not accurate because age is a factor leading to a determination of eligiblity. Therefore, the Commission will change item B to read "the subscriber must be 65 years of age or older". This change is not substantial because it is a clarification.

Second, the MTA suggested removing the language "or has moved to Minnesota and intends to remain" from item C so that item C would be easier to interpret. The Commission finds that the language the MTA recommends removing is necessary to the rule. Without this language, the number of potential recipients is reduced. Namely, those applicants who have not yet established legal residency and are in the process of doing so, will not be eligible for TAP. The intent of TAP is to make it available to the largest group of people. The MTA's suggestion is not in keeping with this intent and, therefore, will not be adopted by the Commission.

For subpart 7, the MTA recommended replacing the term "before" in the second sentence with the phrase "a minimum of 30 days prior to" which would set a time period for recertification of eligibility. The Commission agrees with the MTA that this change will ensure that telephone companies do not terminate TAP credits to recipients who are eligible for recertification and will protect TAP from unnecessary costs associated with termination and recertification. Therefore, the Commission will adopt this language change. This does not constitute a substantial change because it affects the same class of persons, does not introduce new subject matter, and does not make a major substantive change.

The Commission also agrees with the MTA's suggested additions to subpart 8. Adding the term "eligibility" has already been discussed and adopted under the changes recommended by the task force and work groups.

c. Modifications to part 7817.0500 CALCULATION OF CREDITS.

The MTA recommended several changes to this proposed rule part. First the MTA suggested changing the first sentence to read "The Commission shall establish the level of telephone assistance plan credits on an annual basis no later than November 30 of each year to be effective for the subsequent calendar year". The Commission agrees with part of this suggested change. Providing

30 days notice to the telephone companies by requiring that credits be established by November 30 of each year is reasonable. The telephone companies need time to alter their bill and prepare for the next billing cycle. 30 days is a reasonable amount of time and is the amount of time given in other parts of the rule. See part 7817.0700 ADJUSTMENT TO LEVEL OF SURCHARGE AND CREDITS, and modified parts 7817.0300 FUNDING and 7817.0400 ELIGIBILITY FOR TELEPHONE ASSISTANCE CREDITS. Moreover, this type of modification is not a substantial change. Therefore, the Commission will adopt this portion of MTA's suggestion.

The Commission also finds that MTA's language concerning the level of TAP credits is consistent with the enabling statute. See Laws of Minnesota 1987, chapter 340, section 14, subdivision 7(d)(2), which requires the Commission to "establish a uniform statewide level of credits." However, that section of the law goes on to state that the level must apply to "each telephone company." Therefore, the first sentence in the originally proposed part 7817.0500 properly refers to each telephone company. For these reasons, the Commission will modify the first sentence in subpart 7817.0500 to read "The commission shall establish the level of telephone assistance plan credits for each telephone company on an annual basis no later than November 30 of each year to be effective for the subsequent calendar year."

The MTA also recommended changing item B of this subpart. The MTA's suggested language is a logical interpretation of reading the originally proposed language in items A and B together. Under item A, the credits cannot exceed the amount available under the federal matching plan. That amount is currently $2.60. Under item B, the credits cannot exceed 50% of the weighted average of local exchange rates. If the weighted average of local service rates is at or above $5.20, then 50% of that amount is at least $2.60 (the ceiling amount under item A) and the amount of credit would be $2.60. If the weighted average of local service rates is below $5.20, then 50% of that amount is less than $2.60 (below the ceiling amount under item A) and the amount of credit would be below $2.60 pursuant to items A and B.

The Commission finds that the MTA's suggested language unnecessarily incorporates item A into item B by referring to "two times the level of credit" ($2.60 X 2 = $5.20). Such a reference blurs the distinction between items A and B and is potentially confusing. Moreover, the originally proposed language in item B mirrors the statutory language. See Laws of Minnesota 1987, chapter 340, section 14, subdivision 5. Therefore, the Commission will not adopt this suggested change.

Finally, the MTA suggested changing the phrase "for each" in item D with the phrase "within each". The phrase "for each" was originally chosen because it most closely mirrors the statutory language. See Laws of Minnesota 1987, chapter 340, section 14,

subdivision 7(d)(2). For that reason, the Commission will continue to use its originally proposed language.

d. Modifications to part 7817.0600 PROVISION AND TERMINATION OF CREDITS.

The MTA recommended that the Commission substitute the word "apply" for "provide" in the first sentence of subpart 1. The Commission agrees with the MTA that the word "apply" better reflects the situation described in subpart 1 and is not a substantial change. Therefore, the Commission will adopt that modification.

Modifications recommended by United Telephone Company

In its comments, United Telephone Company (United) recommended that the Commission modify part 7817.0400 ELIGIBILITY FOR TELEPHONE ASSISTANCE CREDITS, subpart 3, item B, to recognize the federal Electronic Communications Privacy Act of 1986, 18 USCA section 2703 (the Act). The Act prohibits telephone companies from disclosing a record or other information pertaining to one of its subscribers to a governmental entity in the absence of a warrant, subpoena, or court order, unless the governmental entity has the subscriber's consent to the disclosure. However, proposed item B authorizes the local agencies to request information about an applicant or recipient that is not of public record from the telephone companies without the applicant's or recipient's prior written consent.

To remedy this conflict between the Act and the proposed rule, the Commission finds that it is necessary to modify item B so that an applicant's or recipient's prior written consent is obtained by the local agencies before the local agencies can request non-public record information from the telephone companies. Obtaining prior written consent on the application or recertification form is a reasonable, administratively efficient, and cost effective means of complying with the Act. Therefore, the Commission will adopt United's suggested modification to item B. This modification is not a substantial change, rather, it ensures the legality of the proposed rules and protects the legal rights of the applicants and recipients.

8. 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. 7 above.

9. The above-captioned rule is needed and reasonable.

CONCLUSIONS

1. The Minnesota Public Utilities Commission duly acquired and has jurisdiction over this proceeding pursuant to Minn. Stat. Section 237.10 (1986) and Laws of Minnesota 1987, chapter 340, sections 13 to 16.

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

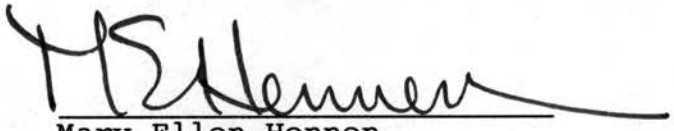
3. The Commission has complied with all relevant legal and procedural requirements of statute and rule.

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

ORDER

1. The Commission hereby adopts Minn. Rules, parts 7817.0100 to 7817.1000 governing the Telephone Assistance Plan.

BY ORDER OF THE COMMISSION



Mary Ellen Hennen
Executive Secretary

STATE OF MINNESOTA
OFFICE OF THE ATTORNEY GENERAL
PUBLIC UTILITIES COMMISSION

In the Matter of the Proposed Rules Governing Telephone Assistance Plan, Minn. Rules, parts 7817.0100 to 7817.1000.

DOCKET NO. P-999/R-87-358

DECLARATION OF COUNSEL

I, Gregory D. Dittrich, 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 I577.

Gregory D. Dittrich
Special Assistant
Attorney General

AUTHORIZATION TO PROCEED WITH ADOPTION OF
TELEPHONE ASSISTANCE PLAN RULES
WITHOUT A PUBLIC HEARING
Docket No. P-999/R-87-358

BE IT RESOLVED, that the Executive Secretary of the Minnesota Public Utilities Commission (Commission) is hereby granted the authority to sign and to give notice of the Commission's intent to adopt, without a public hearing, the attached rules governing the Telephone Assistance Plan, Minn. Rules, parts 7817.0100 to 7817.1000, to all persons who have registered their names with the Commission for that purpose and publish the notice and the rules in the State Register, and to perform any acts incidental thereto, including making any form changes in the rules that the Revisor of Statutes requires the Commission to make in order to obtain the Revisor's certification as required by Minn. Stat. section 14.07, subd. 2 (1986).

BE IT FURTHER RESOLVED, that in the event a public hearing becomes necessary, the Executive Secretary is hereby granted the authority and directed to call a hearing for the purpose of promulgating said rules as well as to perform any and all acts incidental thereto, including but not limited to signing an Order for and Notice of Hearing, as well as acting as the Commission's representative at all hearings.

Barbara Beerhalter

Barbara Beerhalter, Chair

MINNESOTA public utilities COMMISSION

November 24, 1987

RECEIVED
ATTORNEY GENERAL'S OFFICE
NOV 24 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 the Telephone Assistance Plan, Minn. Rules, parts 7817.0100 to 7817.1000, Docket No. P-999/R-87-358.

Dear Mr. Miles:

On November 24, 1987, the Minnesota Public Utilities Commission adopted the above-captioned rules governing the Telephone Assistance Plan. Enclosed for your review are the following:

1. Rules as adopted (original and three copies).

2. Findings of Fact, Conclusions, and Order Adopting Rules.

3. Resolution Adopting Rules and Certificate of Authorizing Resolution.

4. Notice of Intent to Solicit Outside Opinion (12 S.R. 112, July 20, 1987).

5. Copies of written comments received pursuant to Notice of Intent to Solicit Outside Opinion.

6. Authorization to Proceed with Adoption of Rules Without Public Hearing and Certificate of Authorizing Resolution.

7. Notice of Intent to Adopt Rules Without a Public Hearing and rules as published (12 S.R. 814, October 19, 1987).

8. Comments received during the comment period.

9. Notice of Intent to Adopt Rules Without a Public Hearing, as mailed.

10. Affidavit of Mailing the Notice of Intent to Adopt Rule Without a public Hearing and Certificate of Mailing List.

AMERICAN CENTER building • kellogg AND robert sts • saint paul, MN 55101

11. Rules as proposed.

12. Statement of Need and Reasonableness.

13. Declaration of Counsel.

Please call me at (612) 296-9617 if you have any questions. Thank you.

Very truly yours,

Caroline Robinson
Rules Attorney

Authority

MnLaws '87 ch. 340 § 73-16 OK (§ 14 Subd 7 (f)

Rule

There are numerous changes in the proposed Rule vs the adopted Rule. Some, may be substantial changes. (Comments are in pencil on the "AG Copy")

Comments

1 Request for a hearing

COPY

Public Utilities Commission

Adopted Permanent Rules Relating to Telephone Assistance Plan

Rules as Adopted

7817.0100 DEFINITIONS.

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

Subp. 2. **Access line.** "Access line" means telephone company-owned facilities furnished to permit switched access to the telecommunications network that extend from a central office to the demarcation point on the property where the subscriber is served. The term includes access lines provided to residential and business subscribers and includes centrex access lines on a trunk-equivalent basis, but does not include private nonswitched or wide area telephone service access lines.

Subp. 3. **Commission.** "Commission" means the Minnesota Public Utilities Commission.

Subp. 4. **Department of Human Services.** "Department of Human Services" means the Minnesota Department of Human Services.

Subp. 5. **Department of Public Service.** "Department of Public Service" means the Minnesota Department of Public Service.

Subp. 6. **Federal matching plan.** "Federal matching plan" means the telephone assistance plan of the Federal Communications Commission in Code of Federal Regulations, title 47, part 69, that waives the federal access charge for eligible local telephone subscribers. This federal plan provides matching federal assistance to eligible households receiving assistance through a state telephone assistance plan.

Subp. 7. **Household.** "Household" means a subscriber, a subscriber's spouse, and the minor children with whom a subscriber resides.

Subp. 8. **Income.** "Income" has the meaning given it in Minnesota Statutes, section 290A.03, subdivision 3.

Subp. 9. **Local agency.** "Local agency" means a county or

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multicounty agency that is authorized under Minnesota Statutes, sections 393.01, subdivision 7, and 393.07, subdivision 2, to administer public assistance programs.

Subp. 10. **Local exchange service.** "Local exchange service" means telecommunication service provided within local exchange service areas in accordance with the tariffs. It includes the use of exchange facilities required to establish connections between stations within the exchange and between stations and the toll facilities serving the exchange. It also includes extended area service that is interexchange calling for which a message toll charge is not assessed.

Subp. 11. **Permanent changes.** "Permanent changes" means changes in eligibility that are expected to continue for 12 months or more. These changes include increased income, change of residence, or death of the subscriber.

Subp. 12. **Public assistance programs.** "Public assistance programs" means programs administered by local agencies to provide financial assistance to needy individuals.

Subp. 13. **Subscriber.** "Subscriber" means a person in whose name local exchange telecommunications service is provided by a telephone company.

Subp. 14. **Telephone assistance credits.** "Telephone assistance credits" means the credits applied to reduce the local telephone rates of residential households that qualify under the telephone assistance plan.

Subp. 15. **Telephone assistance plan.** "Telephone assistance plan" means the plan required by Laws of Minnesota 1987, chapter 340, sections 13 to 16, and set out in this chapter.

Subp. 16. **Telephone company.** "Telephone company" has the meanings given it in Minnesota Statutes, section 237.01, subdivisions 2 and 3, that provides local exchange telephone service.

7817.0200 PURPOSE AND CONSTRUCTION.

The purpose of this chapter is to develop and implement a

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statewide telephone assistance plan to provide telephone assistance credits to reduce the local telephone rates of eligible residential households, to be jointly administered by the commission, the Department of Human Services, and the telephone companies. The purpose of this chapter is also to permit the implementation of federal telephone assistance plans so that the state's local telephone customers are afforded the opportunity to acquire the benefits of these federal plans.

This chapter is to be liberally construed to further these purposes.

7817.0300 FUNDING.

Subpart 1. **Uniform statewide monthly surcharge.** The telephone assistance plan must be funded through the assessment of a uniform recurring monthly surcharge applicable to all classes and grades of access lines provided by each telephone company in the state. The initial surcharge must be assessed beginning with the first billing cycle occurring immediately after the effective date of this part. The commission shall determine the level of the surcharge on an annual basis no later than November 30 of each year beginning with the first billing cycle of the calendar year. The surcharge must be calculated based on the following criteria:

$ in Findings makes more specific OK 6K

A. the revenue generated by the surcharge must not exceed $2,500,000 on a statewide basis;

B. the statewide $2,500,000 must be apportioned between telephone companies based on their relative number of access lines; and

C. the surcharge level must be uniform statewide.

Subp. 2. **Use of surcharge revenues.** A telephone company shall bill the surcharge and collect the surcharge revenues. The telephone company shall use those revenues to extend credits to eligible subscribers under the telephone assistance plan. The company shall also use the surcharge revenues to cover its administrative expenses associated with the telephone assistance plan. The telephone company shall remit, with its quarterly

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report, excess surcharge revenues to the commission to become part of the statewide surcharge revenue pool.

Subp. 3. **Statewide surcharge revenue pool.** Excess surcharge revenues remitted by the telephone companies to the commission must be placed in a statewide surcharge revenue pool to be administered by the commission. The commission shall use the surcharge revenue pool funds:

A. for full or partial reimbursement of its reasonable administrative expenses associated with the telephone assistance plan; and

B. to reimburse a telephone company, within 60 days of receipt of the company's quarterly report, reasonable expenses and telephone assistance credits associated with the telephone assistance plan and not covered by the surcharge revenues collected by the telephone company.

7817.0400 ELIGIBILITY FOR TELEPHONE ASSISTANCE CREDITS.

Subpart 1. **Information provided.** On request, the local agency shall offer to a person an application form developed by the Department of Human Services and a brochure that describes the ~~program's~~ telephone assistance plan's eligibility requirements and application process.

Subp. 2. **Application process.** On completing the application stating income within the guidelines, the applicant must return it to the ~~local agency for an eligibility determination~~ telephone company for enrollment in the telephone assistance plan. An application may be made by the subscriber, the subscriber's spouse, or a person authorized by the subscriber to act on the subscriber's behalf.

Subp. 3. **Documenting, verifying, and reviewing eligibility.** A local agency shall verify the income of an applicant and the applicant's spouse ~~at the time of application~~. When a condition of eligibility changes, and at each redetermination of eligibility, the local agency may verify income.

A. In a timely manner, an applicant or recipient

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shall document income or authorize the local agency to verify the income. The local agency shall help an applicant or recipient obtain documents that the applicant or recipient does not possess and cannot obtain. Information previously verified and retained by the local agency must not be verified again unless the information no longer applies to current circumstances.

B. The local agency shall ~~not~~ request information about an applicant or recipient that is not of public record from a source other than local agencies, or the Department of Human Services, ~~and telephone companies~~ without the applicant's or recipient's prior written consent. The local agency may request information about an applicant or recipient that is not of public record from the telephone companies by obtaining the applicant's or recipient's prior written consent on an application or recertification form. The local agency shall not provide third parties with access to information about an applicant's or recipient's eligibility status or other case record information without the prior written consent of that applicant or recipient, except where access to specific case information is granted to agencies designated by the Minnesota Government Data Practices Act, Minnesota Statutes, chapter 13. Information designated as confidential by the Minnesota Government Data Practices Act may only be made available to agencies granted access under that law and must not be provided to an applicant, recipient, or third party.

C. The local agency shall inform the recipient of the recipient's responsibility to report permanent changes in circumstances that affect eligibility within ten days of each change.

Subp. 4. **Eligibility criteria.** To be eligible for a telephone assistance credit:

A. the household must not be in receipt of assistance for telephone service under any other state public assistance program;

B. the ~~household must contain a member who subscribes~~

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~~to local exchange service and is~~ subscriber must be 65 years of age or older; and

C. the subscriber ~~resides~~ must reside in Minnesota or has moved to Minnesota and intends to remain.

Subp. 5. **Income.** To determine ~~program~~ eligibility, a local agency shall evaluate income received by household members. All payments must be counted as income if listed in Minnesota Statutes, section 290A.03, subdivision 3. Maximum total annual household income must not exceed:

A. when the size of the household is one, $7,862;

B. when the size of the household is two, $10,281;

C. when the size of the household is three, $12,699;

D. when the size of the household is four, $15,118; or

E. when the size of the household is more than four, $15,118 plus, for each additional household member, $2,419.

For the purpose of calculating income under this subpart, household income does not include the income of minor children.

Subp. 6. **Local agency responsibilities.** On receiving notification of an application from the telephone company, the local agency shall determine the applicant's eligibility or ineligibility within ~~30~~ 120 days. At the end of every 12-month period, the local agency shall redetermine eligibility.

Subp. 7. **Applicant and recipient responsibilities.** An applicant shall provide current information on an application form about circumstances that permanently affect the applicant's ~~program~~ eligibility. At least 30 days before the end of every 12-month period, the recipient shall complete a recertification form required for the redetermination of eligibility.

Subp. 8. **Notices.** ~~A local agency shall notify~~ An applicant or recipient must be notified of the disposition of the application ~~by mailing the notice to the last known address~~ in the following manner.

A. ~~When an applicant or recipient is found eligible, the local agency shall notify the applicant or recipient in writing;~~

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B.--When If an applicant or recipient is found eligible, the local agency shall notify the telephone company.

B. If eligible, the telephone company shall notify the applicant or recipient by placing telephone assistance credits on the bill.

C. When If an applicant ~~or recipient~~ is denied eligibility or a recipient's eligibility is ~~denied or~~ terminated, the local agency shall notify the applicant or recipient in writing of the reasons for the denial or termination, of the right to appeal, and of the right to reapply.

D. When If an applicant is denied eligibility or a ~~recipient~~ recipient's eligibility is terminated, the local agency shall notify the telephone company.

E. Sixty days before the end of every 12-month period, the local agency shall notify the recipient of the need to redetermine eligibility.

Subp. 9. Denial or termination of ~~credit~~ eligibility. A local agency shall deny or terminate ~~a~~ eligibility for telephone assistance ~~credit~~ credits if income limits permanently exceed the maximums described in subpart 5, or the local agency is notified of permanent changes in basic eligibility requirements.

7817.0500 CALCULATION OF CREDITS.

The commission shall ~~calculate a~~ establish the level of telephone assistance plan ~~credit~~ credits for each telephone company on an annual basis ~~at the beginning of each calendar year~~ no later than November 30 of each year to be effective for the subsequent calendar year. The credits must be calculated based on the following criteria:

A. the credits must not exceed the amount of credit available under the federal matching plan;

B. the credits must not exceed more than 50 percent of the weighted average of the local exchange rate charged for local exchange service provided to the household by that household's telephone company;

C. the credits must not exceed the level of credits

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that can actually be funded in accordance with the surcharge limitations in part 7817.0300; and

D. the level of credits must be uniform for each company statewide.

7817.0600 PROVISION AND TERMINATION OF CREDITS.

Subpart 1. **Provision of credits.** A telephone company shall ~~provide~~ apply telephone assistance ~~plan~~ credits against monthly charges for each certified household. Telephone assistance ~~plan~~ credits must be made available within 90 days after the date the surcharge is first assessed. A telephone company shall apply telephone assistance credits to an applicant's earliest possible billing cycle but no later than the applicant's second billing cycle after enrollment in the telephone assistance plan. ok

Subp. 2. ~~Following notice from local agency~~ Termination of credits. After the telephone company receives an ~~eligibility~~ application from an applicant or a termination notice from the local agency, the telephone company shall proceed according to items A ~~to C~~ and B.

A. ~~A telephone company shall apply telephone credits beginning with the telephone company's billing cycle that begins in the month after the month in which the local agency notifies it of an applicant's or recipient's eligibility.~~ ok

B. A telephone company shall cease credits at the end of every 12-month period by billing cycle ~~unless~~ when notified by the local agency that ~~eligibility~~ ineligibility has been ~~redetermined~~ determined.

~~C.~~ B. A telephone company shall cease credits before the end of the 12-month period when notified by the local agency that eligibility has been permanently terminated. When so notified, the credit ends with the start of the telephone company's billing cycle beginning in the month after the month in which the company is notified.

7817.0700 ADJUSTMENT TO LEVEL OF SURCHARGE AND CREDITS.

When it appears to the commission that the revenue

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generated by the maximum level of surcharge permitted under part 7817.0300 will be inadequate to fund a particular level of telephone assistance credits, the commission by official order and on 30 days' notice to the telephone companies, shall reduce the credits to a level that can be adequately funded by the maximum level of surcharge. Similarly, the commission by official order and on 30 days' notice to the telephone companies, may increase the level of the telephone assistance plan credits that are available or reduce the surcharge to a level and for a period of time that will prevent an unreasonable overcollection of surcharge revenues.

7817.0800 FEDERAL TELEPHONE ASSISTANCE PLANS.

The telephone assistance plan must be combined with the existing federal matching plan. Telephone companies shall participate in both plans. If and when other federal telephone assistance plans are developed, the commission shall seek outside comment on those plans and review each plan and the comments submitted by interested persons. After appropriate proceedings, the commission shall determine whether to incorporate those plans into the telephone assistance plan and require telephone companies to participate.

7817.0900 COMPANY RECORDING, REPORTING REQUIREMENTS.

Subpart 1. **Records to be maintained.** A telephone company shall maintain adequate records of surcharge revenues, expenses, and credits related to the telephone assistance plan.

Subp. 2. **Quarterly report.** No later than 30 days after the end of each calendar year quarter, a telephone company shall file a quarterly report with the commission and the Department of Public Service for review. With the quarterly report, the telephone company shall submit a check to the commission in the amount of the excess surcharge revenues collected during that quarter. The quarterly report must list, quarterly and cumulatively for the year:

A. the surcharge revenues collected by the telephone company;

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B. the number of access lines billed the surcharge;

C. itemized telephone assistance plan expenses incurred by the company;

D. the amount of excess surcharge revenues collected;

E. the amount of surcharge revenue deficiency;

F. the amount of reimbursement from the federal matching plan applied for or received;

G. the number of subscribers that received credits under the telephone assistance plan and the number of subscribers that were given waivers under the federal matching plan; and

H. the monetary amount of credits extended by the telephone company under the telephone assistance plan and the monetary amount of waivers given under the federal matching plan.

This report must be made on a form prescribed by the commission.

Subp. 3. **Annual report.** No later than 30 days after the end of a calendar year, a telephone company shall file a year-end report with the commission and the Department of Public Service. The cumulative fourth-quarter report provided under subpart 2 may serve as the annual report. This report must be a financial report and accounting for the telephone company's experience under the telephone assistance plan. The report must also be adequate to satisfy the reporting requirements of the federal matching plan.

7817.1000 APPEALS AND COMPLAINTS.

Subpart 1. **Appeal after termination or denial of eligibility.** An applicant or recipient who is denied or terminated telephone assistance credits has the right to appeal. Appeal hearings must be conducted at a reasonable time, date, and place by an impartial referee employed by the Department of Human Services. An applicant or recipient may introduce evidence relevant to the issues on appeal. Recommendations of an appeals referee <u>to the designee of the commissioner of the Department of Human Services</u> must be based

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on evidence introduced at the hearing and are not limited to a review of the propriety of a local agency's action.

Subp. 2. **Complaint procedure.** Complaints against the telephone companies regarding the telephone assistance plan may be referred to the commission. Complaints against telephone companies regarding the telephone assistance plan must be investigated by the Department of Public Service. The Department of Public Service shall report the ~~results~~ status of its investigation to the commission within 45 days of receipt of the complaint.

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by Revisor _____

COPY AG Copy

Public Utilities Commission

Adopted Permanent Rules Relating to Telephone Assistance Plan

Rules as Adopted

7817.0100 DEFINITIONS.

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

Subp. 2. **Access line.** "Access line" means telephone company-owned facilities furnished to permit switched access to the telecommunications network that extend from a central office to the demarcation point on the property where the subscriber is served. The term includes access lines provided to residential and business subscribers and includes centrex access lines on a trunk-equivalent basis, but does not include private nonswitched or wide area telephone service access lines.

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multicounty agency that is authorized under Minnesota Statutes, sections 393.01, subdivision 7, and 393.07, subdivision 2, to administer public assistance programs.

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Subp. 14. **Telephone assistance credits.** "Telephone assistance credits" means the credits applied to reduce the local telephone rates of residential households that qualify under the telephone assistance plan.

Subp. 15. **Telephone assistance plan.** "Telephone assistance plan" means the plan required by Laws of Minnesota 1987, chapter 340, sections 13 to 16, and set out in this chapter.

Subp. 16. **Telephone company.** "Telephone company" has the meanings given it in Minnesota Statutes, section 237.01, subdivisions 2 and 3, that provides local exchange telephone service.

7817.0200 PURPOSE AND CONSTRUCTION.

The purpose of this chapter is to develop and implement a

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statewide telephone assistance plan to provide telephone assistance credits to reduce the local telephone rates of eligible residential households, to be jointly administered by the commission, the Department of Human Services, and the telephone companies. The purpose of this chapter is also to permit the implementation of federal telephone assistance plans so that the state's local telephone customers are afforded the opportunity to acquire the benefits of these federal plans.

This chapter is to be liberally construed to further these purposes.

7817.0300 FUNDING.

Subpart 1. **Uniform statewide monthly surcharge.** The telephone assistance plan must be funded through the assessment of a uniform recurring monthly surcharge applicable to all classes and grades of access lines provided by each telephone company in the state. The initial surcharge must be assessed beginning with the first billing cycle occurring immediately after the effective date of this part. The commission shall determine the level of the surcharge on an annual basis no later than November 30 of each year beginning with the first billing cycle of the calendar year. The surcharge must be calculated based on the following criteria:

makes more specific OK

A. the revenue generated by the surcharge must not exceed $2,500,000 on a statewide basis;

B. the statewide $2,500,000 must be apportioned between telephone companies based on their relative number of access lines; and

C. the surcharge level must be uniform statewide.

Subp. 2. **Use of surcharge revenues.** A telephone company shall bill the surcharge and collect the surcharge revenues. The telephone company shall use those revenues to extend credits to eligible subscribers under the telephone assistance plan. The company shall also use the surcharge revenues to cover its administrative expenses associated with the telephone assistance plan. The telephone company shall remit, with its quarterly

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report, excess surcharge revenues to the commission to become part of the statewide surcharge revenue pool.

Subp. 3. **Statewide surcharge revenue pool.** Excess surcharge revenues remitted by the telephone companies to the commission must be placed in a statewide surcharge revenue pool to be administered by the commission. The commission shall use the surcharge revenue pool funds:

A. for full or partial reimbursement of its reasonable administrative expenses associated with the telephone assistance plan; and

B. to reimburse a telephone company, within 60 days of receipt of the company's quarterly report, reasonable expenses and telephone assistance credits associated with the telephone assistance plan and not covered by the surcharge revenues collected by the telephone company.

7817.0400 ELIGIBILITY FOR TELEPHONE ASSISTANCE CREDITS.

Subpart 1. **Information provided.** On request, the local agency shall offer to a person an application form developed by the Department of Human Services and a brochure that describes the ~~program's~~ telephone assistance plan's eligibility requirements and application process.

Subp. 2. **Application process.** On completing the application stating income within the guidelines, the applicant must return it to the ~~local agency for an eligibility determination~~ telephone company for enrollment in the telephone assistance plan. An application may be made by the subscriber, the subscriber's spouse, or a person authorized by the subscriber to act on the subscriber's behalf.

Subp. 3. **Documenting, verifying, and reviewing eligibility.** A local agency shall verify the income of an applicant and the applicant's spouse ~~at the time of application~~. When a condition of eligibility changes, and at each redetermination of eligibility, the local agency may verify income.

A. In a timely manner, an applicant or recipient

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shall document income or authorize the local agency to verify the income. The local agency shall help an applicant or recipient obtain documents that the applicant or recipient does not possess and cannot obtain. Information previously verified and retained by the local agency must not be verified again unless the information no longer applies to current circumstances.

B. The local agency shall not request information about an applicant or recipient that is not of public record from a source other than local agencies, or the Department of Human Services, ~~and telephone companies~~ without the applicant's or recipient's prior written consent. The local agency may request information about an applicant or recipient that is not of public record from the telephone companies by obtaining the applicant's or recipient's prior written consent on an application or recertification form. The local agency shall not provide third parties with access to information about an applicant's or recipient's eligibility status or other case record information without the prior written consent of that applicant or recipient, except where access to specific case information is granted to agencies designated by the Minnesota Government Data Practices Act, Minnesota Statutes, chapter 13. Information designated as confidential by the Minnesota Government Data Practices Act may only be made available to agencies granted access under that law and must not be provided to an applicant, recipient, or third party.

C. The local agency shall inform the recipient of the recipient's responsibility to report permanent changes in circumstances that affect eligibility within ten days of each change.

Subp. 4. **Eligibility criteria.** To be eligible for a telephone assistance credit:

A. the household must not be in receipt of assistance for telephone service under any other state public assistance program;

B. ~~the household must contain a member who subscribes~~

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~~to local exchange service and is~~ subscriber must be 65 years of age or older; and

C. the subscriber ~~resides~~ must reside in Minnesota or has moved to Minnesota and intends to remain.

Subp. 5. **Income.** To determine ~~program~~ eligibility, a local agency shall evaluate income received by household members. All payments must be counted as income if listed in Minnesota Statutes, section 290A.03, subdivision 3. Maximum total annual household income must not exceed:

A. when the size of the household is one, $7,862;

B. when the size of the household is two, $10,281;

C. when the size of the household is three, $12,699;

D. when the size of the household is four, $15,118; or

E. when the size of the household is more than four, $15,118 plus, for each additional household member, $2,419.

For the purpose of calculating income under this subpart, household income does not include the income of minor children.

Subp. 6. **Local agency responsibilities.** On receiving notification of an application from the telephone company, the local agency shall determine the applicant's eligibility or ineligibility within ~~30~~ 120 days. At the end of every 12-month period, the local agency shall redetermine eligibility.

Subp. 7. **Applicant and recipient responsibilities.** An applicant shall provide current information on an application form about circumstances that permanently affect the applicant's ~~program~~ eligibility. At least 30 days before the end of every 12-month period, the recipient shall complete a recertification form required for the redetermination of eligibility.

Subp. 8. **Notices.** ~~A local agency shall notify~~ An applicant or recipient must be notified of the disposition of the application ~~by mailing the notice to the last known address~~ in the following manner.

~~A. When an applicant or recipient is found eligible, the local agency shall notify the applicant or recipient in writing.~~

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B. ~~--~~When If an applicant or recipient is found eligible, the local agency shall notify the telephone company.

B. If eligible, the telephone company shall notify the applicant or recipient by placing telephone assistance credits on the bill.

C. When If an applicant ~~or recipient~~ is denied eligibility or a recipient's eligibility is ~~denied or~~ terminated, the local agency shall notify the applicant or recipient in writing of the reasons for the denial or termination, of the right to appeal, and of the right to reapply.

D. When If an applicant is denied eligibility or a ~~recipient~~ recipient's eligibility is terminated, the local agency shall notify the telephone company.

E. Sixty days before the end of every 12-month period, the local agency shall notify the recipient of the need to redetermine eligibility.

Subp. 9. Denial or termination of ~~credit~~ eligibility. A local agency shall deny or terminate ~~a~~ eligibility for telephone assistance ~~credit~~ credits if income limits permanently exceed the maximums described in subpart 5, or the local agency is notified of permanent changes in basic eligibility requirements.

7817.0500 CALCULATION OF CREDITS.

The commission shall ~~calculate a~~ establish the level of telephone assistance plan ~~credit~~ credits for each telephone company on an annual basis ~~at the beginning of each calendar year~~ no later than November 30 of each year to be effective for the subsequent calendar year. The credits must be calculated based on the following criteria:

A. the credits must not exceed the amount of credit available under the federal matching plan;

B. the credits must not exceed more than 50 percent of the weighted average of the local exchange rate charged for local exchange service provided to the household by that household's telephone company;

C. the credits must not exceed the level of credits

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that can actually be funded in accordance with the surcharge limitations in part 7817.0300; and

D. the level of credits must be uniform for each company statewide.

7817.0600 PROVISION AND TERMINATION OF CREDITS.

Subpart 1. **Provision of credits.** A telephone company shall ~~provide~~ apply telephone assistance ~~plan~~ credits against monthly charges for each certified household. Telephone assistance ~~plan~~ credits must be made available within 90 days after the date the surcharge is first assessed. A telephone company shall apply telephone assistance credits to an applicant's earliest possible billing cycle but no later than the applicant's second billing cycle after enrollment in the telephone assistance plan.

Subp. 2. ~~Following notice from local agency~~ Termination of credits. After the telephone company receives an ~~eligibility~~ application from an applicant or a termination notice from the local agency, the telephone company shall proceed according to items A ~~to C~~ and B.

A. ~~A telephone company shall apply telephone credits beginning with the telephone company's billing cycle that begins in the month after the month in which the local agency notifies it of an applicant's or recipient's eligibility.~~

B. A telephone company shall cease credits at the end of every 12-month period by billing cycle ~~unless~~ when notified by the local agency that ~~eligibility~~ ineligibility has been ~~redetermined~~ determined.

~~C.~~ B. A telephone company shall cease credits before the end of the 12-month period when notified by the local agency that eligibility has been permanently terminated. When so notified, the credit ends with the start of the telephone company's billing cycle beginning in the month after the month in which the company is notified.

7817.0700 ADJUSTMENT TO LEVEL OF SURCHARGE AND CREDITS.

When it appears to the commission that the revenue

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generated by the maximum level of surcharge permitted under part 7817.0300 will be inadequate to fund a particular level of telephone assistance credits, the commission by official order and on 30 days' notice to the telephone companies, shall reduce the credits to a level that can be adequately funded by the maximum level of surcharge. Similarly, the commission by official order and on 30 days' notice to the telephone companies, may increase the level of the telephone assistance plan credits that are available or reduce the surcharge to a level and for a period of time that will prevent an unreasonable overcollection of surcharge revenues.

7817.0800 FEDERAL TELEPHONE ASSISTANCE PLANS.

The telephone assistance plan must be combined with the existing federal matching plan. Telephone companies shall participate in both plans. If and when other federal telephone assistance plans are developed, the commission shall seek outside comment on those plans and review each plan and the comments submitted by interested persons. After appropriate proceedings, the commission shall determine whether to incorporate those plans into the telephone assistance plan and require telephone companies to participate.

7817.0900 COMPANY RECORDING, REPORTING REQUIREMENTS.

Subpart 1. **Records to be maintained.** A telephone company shall maintain adequate records of surcharge revenues, expenses, and credits related to the telephone assistance plan.

Subp. 2. **Quarterly report.** No later than 30 days after the end of each calendar year quarter, a telephone company shall file a quarterly report with the commission and the Department of Public Service for review. With the quarterly report, the telephone company shall submit a check to the commission in the amount of the excess surcharge revenues collected during that quarter. The quarterly report must list, quarterly and cumulatively for the year:

A. the surcharge revenues collected by the telephone company;

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B. the number of access lines billed the surcharge;

C. itemized telephone assistance plan expenses incurred by the company;

D. the amount of excess surcharge revenues collected;

E. the amount of surcharge revenue deficiency;

F. the amount of reimbursement from the federal matching plan applied for or received;

G. the number of subscribers that received credits under the telephone assistance plan and the number of subscribers that were given waivers under the federal matching plan; and

H. the monetary amount of credits extended by the telephone company under the telephone assistance plan and the monetary amount of waivers given under the federal matching plan.

This report must be made on a form prescribed by the commission.

Subp. 3. **Annual report.** No later than 30 days after the end of a calendar year, a telephone company shall file a year-end report with the commission and the Department of Public Service. The cumulative fourth-quarter report provided under subpart 2 may serve as the annual report. This report must be a financial report and accounting for the telephone company's experience under the telephone assistance plan. The report must also be adequate to satisfy the reporting requirements of the federal matching plan.

7817.1000 APPEALS AND COMPLAINTS.

Subpart 1. **Appeal after termination or denial of eligibility.** An applicant or recipient who is denied or terminated telephone assistance credits has the right to appeal. Appeal hearings must be conducted at a reasonable time, date, and place by an impartial referee employed by the Department of Human Services. An applicant or recipient may introduce evidence relevant to the issues on appeal. Recommendations of an appeals referee <u>to the designee of the commissioner of the Department of Human Services</u> must be based

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on evidence introduced at the hearing and are not limited to a review of the propriety of a local agency's action.

Subp. 2. **Complaint procedure.** Complaints against the telephone companies regarding the telephone assistance plan may be referred to the commission. Complaints against telephone companies regarding the telephone assistance plan must be investigated by the Department of Public Service. The Department of Public Service shall report the ~~results~~ status of its investigation to the commission within 45 days of receipt of the complaint.

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