


# Minnesota Attorney General: Administrative Rules Proceedings

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Version 3
August 20, 2018

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# RULE REVIEW CHECKLIST

File No. 1568 — Docket No. 05-0009-0729

DATE RECEIVED 2/3/89 — ADOPTED W/O HEARING X

REVIEW DATE 2/13/89 — EMERGENCY RULE _____

DUE DATE 2/17/89 — REVISOR APPROVED _____

APPROVED 2-17-89 mjc — REVISOR DISAPPROVED _____

DISAPPROVED _____ — FILED W/SEC. OF STATE _____

WITHDRAWN _____ — RETURNED TO AGENCY _____

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✓ Rule as adopted (4 copies)

~~Notice to Solicit Outside Information/Opinion (if applicable)~~
- ~~Date published in State Register~~
- ~~Comments~~

~~Petition for Adoption of a Rule (if applicable)~~

✓ Board's Authorizing Resolution
- ~~1/15/88~~ Date adopted

✓ Proposed Rule
- Yes Revisor's Certificate

✓ Notice of Intent to Adopt Rule
- 237.10 Statutory Authority Mn Laws 1988, ch 621, Subd 18.
- Yes Small Business Statement
- Yes Expenditure of public money statement
- Yes Signature

✓ Statement of Need and Reasonableness (if applicable)
- Yes Small Business Statement
- _____ Fees - § 16A.128

✓ Affidavit of Mailing Notice of Intent to Adopt Rule
- 11/1/88 Date (30)/25 days before adoption
- DK Notice attached
- ~~Copy of rule or summary attached~~

✓ Publication in State Register
- 11/14/88 Date 30/25 days before adoption

180-day deadline from:
- _____ Effective date of law requiring rule (14.12) (both rules)
- 12/14/88 end of comment period (§ 14.26) (rules without hearing)
- ~~effective date of statutory authority (§ 14.29) (emergency rules)~~

✓ Resolution Adopting
- 1/17/89 Date adopted

✓ Findings of Fact, Conclusions & Order Adopting
- 1/17/89 Date

✓ Written requests, submissions or comments (2)

✓ Declaration of attorney
- Greg Drttrich Name of SAAG representing agency

~~Notice of Submission to Atty. Gen. (if applicable)~~

~~Aff. of Mailing Notice to Atty. Gen. (if applicable)~~

SF-00006-05 (4/86)

STATE OF MINNESOTA

# Office Memorandum

DEPARTMENT : ATTORNEY GENERAL

DATE : February 22, 1989

TO : CAROLINE HEIL
Rules Attorney

FROM : MARTHA J. CASSERLY
Special Assistant
Attorney General

PHONE : 6-6839

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

The above-referenced rule has been approved as to its legality by the Attorney General on February 17, 1989.

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 accoradance with Minn. Stat. § 14.27. An emergency rule becomes effective five working days after approval by the Attorney General; however, the agency must publish a notice in the State Register in accordance with Minn. Stat. § 14.34.

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

MJC:klk
Enclosures

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

William Brown
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. to 3. [Unchanged.]

Subp. 3a. **Department of Administration.** "Department of Administration" means the Minnesota Department of Administration.

Subp. 4. to 5. [Unchanged.]

Subp. 5a. **Disabled.** "Disabled" has the meaning given it in Minnesota Statutes, section 363.01, subdivision 25.

Subp. 6. **Federal matching plan.** "Federal matching plan" means any telephone assistance plan of the Federal Communications Commission, including the federal plan in Code of Federal Regulations, title 47, part 69, that waives the federal interstate 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. to 9. [Unchanged.]

Subp. 10. **Local exchange service.** "Local exchange service" means telephone service provided within local exchange service areas in accordance with telephone company 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. and 12. [Unchanged.]

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

Subp. 14. [Unchanged.]

Subp. 14a. **Telephone assistance fund.** "Telephone

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MINNESOTA PUBLIC UTILITIES COMMISSION



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assistance fund" means a statewide surcharge revenue pool created by Laws of Minnesota 1988, chapter 621, section 16.

Subp. 15. [Unchanged.]

Subp. 16. **Telephone company.** "Telephone company" has the meanings given in Minnesota Statutes, section 237.01, subdivisions 2 and 3, and also means a company that provides local exchange 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 exchange service 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, not to exceed ten cents per access line, applicable to all classes and grades of access lines provided by each telephone company in the state. Each telephone company may assess the surcharge per access line, combine the surcharge with the charges for other programs such as the emergency 911 telephone service, or include the surcharge in existing or future rates. 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. The recalculated surcharge must be effective beginning with the



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first billing cycle of the next calendar year.

Subp. 2. **Collection of surcharge revenues.** A telephone company shall bill the surcharge and collect the surcharge revenues. At the time of reporting under part 7817.0900, subpart 3, item H, a telephone company shall notify the commission if a subscriber does not pay the surcharge.

Subp. 3. **Use of surcharge revenues and fund.** A telephone company shall remit, under Minnesota Statutes, section 403.11, surcharge revenues to the Department of Administration for deposit in the telephone assistance fund. The commission shall use the money in the telephone assistance fund to:

A. reimburse the telephone assistance credits extended by a telephone company and reimburse a telephone company's expenses, not including expenses of collecting the surcharge, within 60 days of receipt of a telephone company's report under part 7817.0900;

B. reimburse the administrative expenses of the Department of Human Services from January 1, 1988 to June 30, 1989, not to exceed $90,000; and

C. reimburse the administrative expenses of the commission not to exceed $25,000 annually.

7817.0400 ELIGIBILITY FOR TELEPHONE ASSISTANCE CREDITS.

Subpart 1. **Information provided.** Each telephone company shall annually mail a notice of the availability of the telephone assistance plan to each residential subscriber in a regular billing. The notice must state the following: You may be eligible for assistance in paying your telephone bill if you meet certain household income limits, and you are 65 years of age or older or are disabled. For more information or an application form please contact ..... On request, the telephone company shall mail to a person an application form developed by the Department of Human Services and a brochure that describes the telephone assistance plan's eligibility requirements and application process.

Subp. 2. **Application process.** On completing the



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application certifying that the statutory criteria for eligibility are satisfied, the applicant must return it to the 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.** The Department of Human Services or a local agency shall verify whether the applicant is eligible.

When a condition of eligibility changes, and at each redetermination of eligibility, the Department of Human Services or a local agency shall verify eligibility.

A. In a timely manner, an applicant or recipient shall document income or authorize the Department of Human Services or a local agency to verify the income. The Department of Human Services or a 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 Department of Human Services or a local agency must not be verified again unless the information no longer applies to current circumstances.

B. The Department of Human Services or a 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 without the applicant's or recipient's prior written consent. The Department of Human Services or a 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 Department of Human Services or a 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 the



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Department of Human Services or local 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 Department of Human Services or a 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 the applicant must certify that:

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

B. the subscriber is disabled or 65 years of age or older;

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

D. the household income satisfies the criteria in subpart 5.

Subp. 5. **Income.** To determine eligibility, the Department of Human Services or 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.

The applicant's household income must be 150 percent or less of the federal poverty income guidelines, as published periodically in the Federal Register, or the applicant must be currently eligible for:

A. aid to families with dependent children;

B. medical assistance;

C. general assistance;

D. Minnesota supplemental aid;

E. food stamps;

F. refugee cash assistance or refugee medical



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assistance;

G. energy assistance; or

H. supplemental security income.

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

Subp. 6. **Agency responsibilities.** On receiving notification of an application from the telephone company, the Department of Human Services or a local agency shall determine the applicant's eligibility or ineligibility within 120 days. At least once in every 12-month period, the Department of Human Services or a local agency shall redetermine eligibility.

Subp. 7. **Applicant and recipient responsibilities.** An applicant shall provide current information about circumstances that permanently affect the applicant's eligibility.

Subp. 8. **Notices.** An applicant or recipient must be notified of the disposition of the application in the following manner.

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

B. If an applicant is denied eligibility or a recipient's eligibility is terminated, the Department of Human Services or a 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.

C. If an applicant is denied eligibility or a recipient's eligibility is terminated, the Department of Human Services or a local agency shall notify the telephone company.

D. The Department of Human Services or a local agency shall notify the recipient of the need to verify eligibility and shall allow at least 30 days for the recipient to respond.

Subp. 9. **Ineligibility.** The Department of Human Services or a local agency shall determine that a recipient is ineligible if (1) the recipient does not meet the eligibility criteria of subpart 4, (2) the recipient does not respond within 30 days to a request for verification under subpart 8, item D, or (3) the



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Department of Human Services or a local agency is notified of permanent changes in basic eligibility requirements that result in ineligibility.

7817.0600 PROVISION AND TERMINATION OF CREDITS.

Subpart 1. **Provision of credits.** After a telephone company receives an application for telephone assistance credits, the company shall enroll the applicant in the telephone assistance plan and shall apply telephone assistance credits against monthly charges for each certified household. 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 certification in the telephone assistance plan.

Subp. 2. **Termination of credits.** After the telephone company enrolls an applicant in the telephone assistance plan, the company shall cease credits when notified by the Department of Human Services that ineligibility has been determined or when local exchange service ends. 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.

7817.0900 COMPANY RECORDING, REPORTING REQUIREMENTS.

Subpart 1. [Unchanged.]

Subp. 2. **Reporting requirements.** A telephone company shall file at its option either quarterly or monthly reports with the commission and the Department of Public Service for review. A telephone company with 100 or fewer subscribers may file an annual report under subpart 4 rather than filing quarterly or monthly reports. Quarterly reports are due no later than 30 days after the end of each quarter of a calendar year. Monthly reports are due no later than 30 days after the end of each calendar month. The reports must be made on a form prescribed by the commission.

Subp. 3. **Contents of report.** The quarterly or monthly reports must list the following items for that reporting period



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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 reimbursement requested from the telephone assistance fund;

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

F. 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;

G. 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; and

H. a list of the subscribers who did not pay the surcharge.

These reports must be made on forms prescribed by the commission.

Subp. 4. **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. A telephone company with 100 or fewer subscribers that files only an annual report must include the information required by subpart 3 in its annual report. Depending on the reporting option chosen under subpart 2, a cumulative year-end monthly or quarterly report provided under subpart 3 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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STATE OF MINNESOTA
DEPARTMENT OF STATE
FILED

FEB 23 1989

Joan Anderson Growe

Secretary of State

10:10 AM

APPROVED AS TO FORM AND LEGALITY

February 17 1989

HUBERT H. HUMPHREY, III
ATTORNEY GENERAL

BY M J Cassedy
SPECIAL ASSISTANT ATTORNEY GENERAL

AUTHORIZATION TO PROCEED WITH AMENDMENT
OF 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 amend, without a public hearing, the attached amendments to 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

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 (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 Commission duly and properly called and held on the 5th day of July, 1988, 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 Director of the Minnesota Public Utilities Commission (Commission) is hereby granted the authority to sign and to give notice of the Commission's intent to amend, without a public hearing, the attached amendments to 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 by name this 15th day of July, 1988.

Mary Ellen Hennen
Executive Secretary

# Office of the Revisor of Statutes
## Administrative Rules

Ron Ray
Assistant Revisor
296-0945

700 State Office Building
100 Constitution Avenue
St. Paul, MN 55155-1297

October 4, 1988

Ms. Caroline Heil
Public Utilities Commission
780 American Center Building
Saint Paul, Minnesota 55101

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OCT 06 1988
MINNESOTA PUBLIC
UTILITIES COMMISSION

RE: RD1357 - Telephone Assistance Plan

Dear Ms. Heil:

I am enclosing six copies of your rules, approved as to form. Please submit two copies to the State Register for publication.

If you have any questions, please call me.

Very truly yours,

Ron Ray

RR/ms
Encl.

Public Utilities Commission

Proposed Permanent Rules Relating to Telephone Assistance Plan

Rules as Proposed

7817.0100 DEFINITIONS.

Subpart 1. to 3. [Unchanged.]

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Subp. 7. to 9. [Unchanged.]

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Subp. 14. [Unchanged.]

Subp. 14a. **Telephone assistance fund.** "Telephone



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assistance fund" means a statewide surcharge revenue pool created by Laws of Minnesota 1988, chapter 621, section 16.

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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, not to exceed ten cents per access line, applicable to all classes and grades of access lines provided by each telephone company in the state. Each telephone company may assess the surcharge per access line, combine the surcharge with the charges for other programs such as the emergency 911 telephone service, or include the surcharge in existing or future rates. 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. The recalculated surcharge must be effective beginning with the

fees money goes to DOA - p. 3 line 33*



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first billing cycle of the next 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~~ Collection 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~~ At the time of reporting under part 7817.0900, subpart 3, item H, a telephone company shall notify the commission if a subscriber does not pay the surcharge.

Subp. 3. ~~Statewide~~ Use of surcharge ~~revenue pool~~ revenues and fund. ~~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.~~ A telephone company shall remit, under Minnesota Statutes, section 403.11, surcharge revenues to the Department of Administration for deposit in the telephone assistance fund. The commission shall



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use the money in the telephone assistance fund to:

A. reimburse the telephone assistance credits extended by a telephone company and reimburse a telephone company's expenses, not including expenses of collecting the surcharge, within 60 days of receipt of a telephone company's report under part 7817.0900;

B. reimburse the administrative expenses of the Department of Human Services from January 1, 1988 to June 30, 1989, not to exceed $90,000; and

C. reimburse the administrative expenses of the commission not to exceed $25,000 annually.

7817.0400 ELIGIBILITY FOR TELEPHONE ASSISTANCE CREDITS.

Subpart 1. **Information provided.** Each telephone company shall annually mail a notice of the availability of the telephone assistance plan to each residential subscriber in a regular billing. The notice must state the following: You may be eligible for assistance in paying your telephone bill if you meet certain household income limits, and you are 65 years of age or older or are disabled. For more information or an application form please contact ..... On request, the ~~local agency~~ telephone company shall ~~offer~~ mail to a person an application form developed by the Department of Human Services and a brochure that describes the telephone assistance plan's eligibility requirements and application process.

Subp. 2. **Application process.** On completing the application ~~stating income within the guidelines~~ certifying that the statutory criteria for eligibility are satisfied, the applicant must return it to the 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.** The Department of Human Services or a local agency shall verify ~~the income of an~~ whether the applicant ~~and the applicant's spouse~~ is eligible.



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When a condition of eligibility changes, and at each redetermination of eligibility, the Department of Human Services or a local agency ~~may~~ shall verify ~~income~~ eligibility.

A. In a timely manner, an applicant or recipient shall document income or authorize the Department of Human Services or a local agency to verify the income. The Department of Human Services or a 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 Department of Human Services or a local agency must not be verified again unless the information no longer applies to current circumstances.

B. The Department of Human Services or a 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 without the applicant's or recipient's prior written consent. The Department of Human Services or a 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 Department of Human Services or a 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 the Department of Human Services or local 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 Department of Human Services or a local agency shall inform the recipient of the recipient's responsibility to report permanent changes in circumstances that affect



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eligibility within ten days of each change.

Subp. 4. **Eligibility criteria.** To be eligible for a telephone assistance credit the applicant must certify that:

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

B. the subscriber ~~must be~~ is disabled or 65 years of age or older; ~~and~~

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

D. the household income satisfies the criteria in subpart 5.

Subp. 5. **Income.** To determine eligibility, the Department of Human Services or 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.~~

The applicant's household income must be 150 percent or less of the federal poverty income guidelines, as published periodically in the Federal Register, or the applicant must be currently eligible for:

A. aid to families with dependent children;

B. medical assistance;

C. general assistance;

D. Minnesota supplemental aid;

E. food stamps;

F. refugee cash assistance or refugee medical assistance;



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G. energy assistance; or

H. supplemental security income.

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 Department of Human Services or a local agency shall determine the applicant's eligibility or ineligibility within 120 days. At ~~the end of~~ least once in every 12-month period, the Department of Human Services or a 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 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.** An applicant or recipient must be notified of the disposition of the application in the following manner.

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

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

~~C.~~ B. If an applicant is denied eligibility or a recipient's eligibility is terminated, the Department of Human Services or a 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.~~ C. If an applicant is denied eligibility or a recipient's eligibility is terminated, the Department of Human Services or a 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.~~



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D. The Department of Human Services or a local agency shall notify the recipient of the need to verify eligibility and shall allow at least 30 days for the recipient to respond.

Subp. 9. ~~Denial or termination of eligibility~~ **Ineligibility.** The Department of Human Services or a local agency shall ~~deny or terminate~~ determine that a recipient is ineligible if (1) the recipient does not meet the eligibility ~~for telephone assistance credits if income limits permanently exceed the maximums described in subpart 5~~ criteria of subpart 4, (2) the recipient does not respond within 30 days to a request for verification under subpart 8, item D, or (3) the Department of Human Services or a local agency is notified of permanent changes in basic eligibility requirements that result in ineligibility.

7817.0600 PROVISION AND TERMINATION OF CREDITS.

Subpart 1. **Provision of credits.** After a telephone company receives an application for telephone assistance credits, the company shall enroll the applicant in the telephone assistance plan and shall apply telephone assistance credits against monthly charges for each certified household. ~~Telephone assistance 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~~ certification in the telephone assistance plan.

Subp. 2. **Termination of credits.** After the telephone company ~~receives an application from~~ enrolls an applicant ~~or a termination notice from the local agency~~ in the telephone assistance plan, the ~~telephone~~ company shall ~~proceed according to items A and B.~~

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



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~~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~~ or when local exchange service ends. 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.

7817.0900 COMPANY RECORDING, REPORTING REQUIREMENTS.

Subpart 1. [Unchanged.]

Subp. 2. ~~Quarterly report~~ Reporting requirements. ~~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.~~ A telephone company shall file at its option either quarterly or monthly reports with the commission and the Department of Public Service for review. Quarterly reports are due no later than 30 days after the end of each quarter of a calendar year. Monthly reports are due no later than 30 days after the end of each calendar month. The reports must be made on a form prescribed by the commission.

Subp. 3. **Contents of report.** The quarterly ~~report~~ or monthly reports must list, ~~quarterly~~ the following items for that reporting period 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~~ reimbursement requested from the telephone assistance fund;

~~E. the amount of surcharge revenue deficiency;~~

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



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~~G.~~ F. 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.~~ G. 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; and

H. a list of the subscribers who did not pay the surcharge.

~~This report~~ These reports must be made on ~~a form~~ forms prescribed by the commission.

Subp. ~~3.~~ 4. **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~~ Depending on the reporting option chosen under subpart 2, a cumulative ~~fourth-quarter~~ year-end monthly or quarterly report provided under subpart ~~2~~ 3 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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# 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

Ron Ray
Assistant Revisor

(100)

MINNESOTA public utilities COMMISSION

November 1, 1988

Proposed Amendments to 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 amendments without a public hearing following the procedures set forth in the Administrative Procedure Act for adopting rule amendments without a public hearing in Minn. Stat. sections 14.22 to 14.28 (1986). The Commission's authority to adopt the rule amendments is set forth in Minn. Stat. section 237.10 (1986) and Laws of Minnesota 1988, chapter 621, subd. 18.

All persons have until 4:30 p.m. on December 14, 1988, to submit comments in support of or in opposition to the proposed rules or any part or subpart of the rules. Comment is encouraged. Each comment should identify the portion of the proposed rules addressed, the reason for the comment, and any change proposed. PLEASE USE Docket No. P-999/R-87-358 ON ALL CORRESPONDENCE.

Any person may make a written request for a public hearing on the rules 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 rules 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 Heil
Minnesota Public Utilities Commission
780 American Center Building
150 East Kellogg Boulevard
St. Paul, Minnesota 55101
(612) 296-9617

The proposed rules 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.

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

The proposed rules, if adopted, will amend the rules governing the Telephone Assistance Plan. A copy of the proposed rules is enclosed. One free copy of the rules is available upon request from the Commission by contacting the Commission's receptionist, Kris Kline, at the above address or by calling (612) 296-7124.

A Statement of Need and Reasonableness that describes the need for and reasonableness of each provision of the proposed rules and identifies the data and information relied upon to support the proposed rule has been prepared and is available upon request from the Commission by contacting the Commission's receptionist, Kris Kline, at the above address or by calling (612) 296-7124.

You are hereby advised, pursuant to Minn. Stat. section 14.115 (1986), "Small business considerations in rulemaking," that the proposed rule amendments may effect small telephone companies. The proposed rule amendments require telephone companies to submit certain information in either monthly or quarterly reports. However, the telephone companies are reimbursed for their administrative expenses, not including the expenses of collecting the surcharges.

The adoption of these rule amendments by the Commission will not require the expenditure of public money by local public bodies nor have a direct impact on agricultural land. Therefore, Minn. Stat. section 14.11 (1986) is not applicable to this rulemaking proceeding.

If no hearing is required, upon adoption of the rule amendments, the rule amendments 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 submitted to the Attorney General, must submit a written request to Caroline Heil at the above address.



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

Ron Ray
Assistant Revisor

Public Utilities Commission

Proposed Permanent Rules Relating to Telephone Assistance Plan

Rules as Proposed

7817.0100 DEFINITIONS.

Subpart 1. to 3. [Unchanged.]

Subp. 3a. **Department of Administration.** "Department of Administration" means the Minnesota Department of Administration.

Subp. 4. to 5. [Unchanged.]

Subp. 5a. **Disabled.** "Disabled" has the meaning given it in Minnesota Statutes, section 363.01, subdivision 25.

Subp. 6. **Federal matching plan.** "Federal matching plan" means ~~the~~ any telephone assistance plan of the Federal Communications Commission, including the federal plan in Code of Federal Regulations, title 47, part 69, that waives the federal interstate 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. to 9. [Unchanged.]

Subp. 10. **Local exchange service.** "Local exchange service" means ~~telecommunication~~ telephone service provided within local exchange service areas in accordance with ~~the~~ telephone company 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. and 12. [Unchanged.]

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

Subp. 14. [Unchanged.]

Subp. 14a. **Telephone assistance fund.** "Telephone



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assistance fund" means a statewide surcharge revenue pool created by Laws of Minnesota 1988, chapter 621, section 16.

Subp. 15. [Unchanged.]

Subp. 16. **Telephone company.** "Telephone company" has the meanings given ~~it~~ in Minnesota Statutes, section 237.01, subdivisions 2 and 3, and also means a company 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 exchange service 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, not to exceed ten cents per access line, applicable to all classes and grades of access lines provided by each telephone company in the state. Each telephone company may assess the surcharge per access line, combine the surcharge with the charges for other programs such as the emergency 911 telephone service, or include the surcharge in existing or future rates. 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. The recalculated surcharge must be effective beginning with the



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first billing cycle of the next 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~~ Collection 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~~ At the time of reporting under part 7817.0900, subpart 3, item H, a telephone company shall notify the commission if a subscriber does not pay the surcharge.

Subp. 3. **Statewide** Use of surcharge ~~revenue pool~~ revenues and fund. ~~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.~~ A telephone company shall remit, under Minnesota Statutes, section 403.11, surcharge revenues to the Department of Administration for deposit in the telephone assistance fund. The commission shall



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use the money in the telephone assistance fund to:

A. reimburse the telephone assistance credits extended by a telephone company and reimburse a telephone company's expenses, not including expenses of collecting the surcharge, within 60 days of receipt of a telephone company's report under part 7817.0900;

B. reimburse the administrative expenses of the Department of Human Services from January 1, 1988 to June 30, 1989, not to exceed $90,000; and

C. reimburse the administrative expenses of the commission not to exceed $25,000 annually.

7817.0400 ELIGIBILITY FOR TELEPHONE ASSISTANCE CREDITS.

Subpart 1. **Information provided.** Each telephone company shall annually mail a notice of the availability of the telephone assistance plan to each residential subscriber in a regular billing. The notice must state the following: You may be eligible for assistance in paying your telephone bill if you meet certain household income limits, and you are 65 years of age or older or are disabled. For more information or an application form please contact ..... On request, the ~~local agency~~ telephone company shall ~~offer~~ mail to a person an application form developed by the Department of Human Services and a brochure that describes the telephone assistance plan's eligibility requirements and application process.

Subp. 2. **Application process.** On completing the application ~~stating income within the guidelines~~ certifying that the statutory criteria for eligibility are satisfied, the applicant must return it to the 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.** The Department of Human Services or a local agency shall verify ~~the income of an applicant and the applicant's spouse~~ whether the applicant is eligible.



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When a condition of eligibility changes, and at each redetermination of eligibility, the Department of Human Services or a local agency ~~may~~ shall verify ~~income~~ eligibility.

A. In a timely manner, an applicant or recipient shall document income or authorize the Department of Human Services or a local agency to verify the income. The Department of Human Services or a 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 Department of Human Services or a local agency must not be verified again unless the information no longer applies to current circumstances.

B. The Department of Human Services or a 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 without the applicant's or recipient's prior written consent. The Department of Human Services or a 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 Department of Human Services or a 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 the Department of Human Services or local 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 Department of Human Services or a local agency shall inform the recipient of the recipient's responsibility to report permanent changes in circumstances that affect



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eligibility within ten days of each change.

Subp. 4. **Eligibility criteria.** To be eligible for a telephone assistance credit the applicant must certify that:

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

B. the subscriber ~~must be~~ is disabled or 65 years of age or older; ~~and~~

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

D. the household income satisfies the criteria in subpart 5.

Subp. 5. **Income.** To determine eligibility, the Department of Human Services or 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.~~

The applicant's household income must be 150 percent or less of the federal poverty income guidelines, as published periodically in the Federal Register, or the applicant must be currently eligible for:

A. aid to families with dependent children;

B. medical assistance;

C. general assistance;

D. Minnesota supplemental aid;

E. food stamps;

F. refugee cash assistance or refugee medical assistance;



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G. energy assistance; or

H. supplemental security income.

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 Department of Human Services or a local agency shall determine the applicant's eligibility or ineligibility within 120 days. At ~~the-end-of~~ least once in every 12-month period, the Department of Human Services or a 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 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.** An applicant or recipient must be notified of the disposition of the application in the following manner.

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

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

~~C.~~ B. If an applicant is denied eligibility or a recipient's eligibility is terminated, the Department of Human Services or a 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.~~ C. If an applicant is denied eligibility or a recipient's eligibility is terminated, the Department of Human Services or a 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.~~



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D. The Department of Human Services or a local agency shall notify the recipient of the need to verify eligibility and shall allow at least 30 days for the recipient to respond.

Subp. 9. ~~Denial or termination of eligibility~~ **Ineligibility.** The Department of Human Services or a local agency shall ~~deny or terminate~~ determine that a recipient is ineligible if (1) the recipient does not meet the eligibility ~~for telephone assistance credits if income limits permanently exceed the maximums described in subpart 5~~ criteria of subpart 4, (2) the recipient does not respond within 30 days to a request for verification under subpart 8, item D, or (3) the Department of Human Services or a local agency is notified of permanent changes in basic eligibility requirements that result in ineligibility.

7817.0600 PROVISION AND TERMINATION OF CREDITS.

Subpart 1. **Provision of credits.** After a telephone company receives an application for telephone assistance credits, the company shall enroll the applicant in the telephone assistance plan and shall apply telephone assistance credits against monthly charges for each certified household. ~~Telephone assistance 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~~ certification in the telephone assistance plan.

Subp. 2. **Termination of credits.** After the telephone company ~~receives an application from~~ enrolls an applicant ~~or a termination notice from the local agency~~ in the telephone assistance plan, the ~~telephone~~ company shall ~~proceed according to items A and B.~~

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



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~~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~~ or when local exchange service ends. 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.

7817.0900 COMPANY RECORDING, REPORTING REQUIREMENTS.

Subpart 1. [Unchanged.]

Subp. 2. ~~Quarterly-report~~ Reporting requirements. ~~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.~~ A telephone company shall file at its option either quarterly or monthly reports with the commission and the Department of Public Service for review. Quarterly reports are due no later than 30 days after the end of each quarter of a calendar year. Monthly reports are due no later than 30 days after the end of each calendar month. The reports must be made on a form prescribed by the commission.

Subp. 3. Contents of report. The quarterly ~~report~~ or monthly reports must list~~,-quarterly~~ the following items for that reporting period 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~~ reimbursement requested from the telephone assistance fund;

E. ~~the-amount-of-surcharge-revenue-deficiency,~~

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



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~~G.~~ F. 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.~~ G. 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; and

H. a list of the subscribers who did not pay the surcharge.

~~This report~~ These reports must be made on ~~a form~~ forms prescribed by the commission.

Subp. ~~3.~~ 4. **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~~ Depending on the reporting option chosen under subpart 2, a cumulative ~~fourth-quarter~~ year-end monthly or quarterly report provided under subpart ~~2~~ 3 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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STATE OF MINNESOTA
PUBLIC UTILITIES COMMISSION

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

ISSUE DATE: October 28, 1988

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

STATEMENT OF NEED AND REASONABLENESS

## I. INTRODUCTION

The Minnesota Public Utilities Commission (Commission) proposes to amend its permanent rules governing the Telephone Assistance Plan (TAP). See Minn. Rules, parts 7817.0100 to 7817.1000.

Rule amendments are necessary because of changes in the law enacting TAP. See Laws of Minnesota 1988, chapter 621, subd. 9 to 20. These rule amendments were recommended to the Commission by the TAP Advisory Task Force. The TAP Advisory Task Force consists of representatives of the affected state and local agencies, telephone companies, and citizen groups.

## II. STATEMENT OF COMMISSION'S STATUTORY AUTHORITY

The Commission's statutory authority to adopt the rules is set forth in Laws of Minnesota 1988, chapter 621, subd. 18, which provides:

> The commission may adopt emergency and permanent rules to implement sections 1 to 16.

The Commission also has general rulemaking authority under Minn. Stat. section 237.10 (1986).

Under these laws, the Commission has the necessary statutory authority to adopt the proposed rule amendments.

## 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 need for the proposed rule amendments arises from the recent amendments to the law governing TAP. See Laws of Minnesota 1988, chapter 621, subd. 9 to 20. The statutory amendments change:

- how the TAP surcharge is collected;
- who administers the TAP surcharge funds;
- the amount of reimbursement for administrative expenses; and
- who is eligible for TAP credits.

The permanent rules governing TAP are no longer appropriate as a result of these statutory amendments. Therefore, the proposed rule amendments 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.

However, the proposed rules need not be the most reasonable solution to the situation which created the need for rules. The proposed rules are not unreasonable simply because a more reasonable alternative exists or a better job of drafting might have been done.

The reasonableness of the proposed rules is discussed below.

### A. Reasonableness of the Rules as a Whole

The overall approach taken by the Commission in proposing these rule amendments was to consult with an Advisory Task Force comprised of representatives of the state and local agencies involved, the telephone companies, and the affected citizen groups.

Consultation with an Advisory Task Force is a reasonable means of preparing proposed rule amendments because it draws on the knowledge and expertise of various entities.

The Advisory Task Force analyzed the changes in Laws of Minnesota 1988, chapter 621, subd. 9 to 20, and the impact of these changes on the permanent TAP rules. The Commission found the Advisory Task Force's recommended rule amendments to be reasonable and consistent with the new law. Therefore, the Commission proposes these rule amendments for adoption.

B. Reasonableness of Individual Rules

The following discussion addresses the specific provisions of the proposed rule amendments.

7817.0100 DEFINITIONS

A new subpart 3a is added to the definitions. Subpart 3a defines "Department of Administration" as the Minnesota Department of Administration. The new TAP law requires the Department of Administration to perform certain duties. See Laws of Minnesota 1988, chapter 621, subd. 16. As a consequence, the Department of Administration has been added to various sections of the rules. See proposed Minn. Rules, part 7817.0300, subp. 3. Therefore, defining the Department of Administration in subpart 4 serves to shorten terminology used elsewhere in the rules and is reasonable because it clarifies this term for the reader.

A new subpart 5a is added to the definitions. Subpart 5a defines "disabled" as it is defined in Minn. Stat. section 363.01, subd. 25 (1986). A definition of disabled is necessary because disabled persons are now eligible for TAP credits. This definition is consistent with the definition of disabled in the new TAP law. See Laws of Minnesota 1988, chapter 621, subd. 9. Therefore, it is reasonable to use this definition of disabled in the proposed rule amendments.

Subpart 6 defines "federal matching plan". The definition has been amended to recognize the change in the definition of federal matching plan in the amended TAP law. See Laws of Minnesota 1988, chapter 621, subd. 10. The new law defines federal matching plan as "any" such plan formulated by the Federal Communications Commission that provides federal assistance to local telephone subscribers. It is reasonable for the rule to be consistent with the statute in this regard.

This subpart has also been amended to clarify that the federal plan cited in the rule definition is only one such federal plan. For example, the Link-Up America plan offers telephone installation assistance to qualified applicants. Hence, it is

reasonable to add the language "including" to the rule definition of federal matching plan.

Finally, this subpart has been clarified to recognize that the federal access charge referred to in the definition is an "interstate" rather than an intrastate, access charge. The Federal Communications Commission regulates interstate access charges. Intrastate matters are left to the states to regulate. Therefore, this clarification is reasonable because it avoids misleading the reader.

The definition of "local exchange service" in subpart 10 has two clarifying changes. The word "telecommunication" has been changed to "telephone" to be consistent with the terminology used elsewhere in the rules. The phrase "telephone company" has been added to clarify that the "tariffs" referred to in the definition are those of the telephone company. These amendments are reasonable because they result in a clearer, more consistent definition.

A similar change has been made in subpart 13 defining "subscriber". The word "telecommunications" has been removed. This amendment is reasonable because it results in the phrase "local exchange service" being consistent with the definition of local exchange service in subpart 10.

A new subpart 14a, defining "telephone assistance fund" has been added to the rule. The telephone assistance fund is a statewide surcharge revenue pool created by the recent statutory amendments. See Laws of Minnesota 1988, chapter 621, subd. 16. A new rule part has been added to the rules to govern the telephone assistance fund. See proposed Minn. Rules, part 7817.0300, subp. 3. Therefore, it is reasonable to shorten the terminology used in the rules and to clarify this term for the reader by adding this definition of telephone assistance fund to the rules.

Subpart 16 defining "telephone company" has been amended by adding the phrase "and also means a company". This phrase is reasonable because it clarifies that TAP applies to telephone companies that provide local exchange service. The word "telephone" has also been removed from the phrase "local exchange service" to be consistent with the definition of local exchange service in subpart 10.

7817.0200 PURPOSE AND CONSTRUCTION

On line 16 on page 2 of the proposed rule, the phrase "exchange service" has been added. This amendment makes the rule part consistent with the definition of "local exchange service" in proposed part 7817.0100, subp. 10, and, therefore, is reasonable.

7817.0300 FUNDING

Subpart 1 governs the uniform statewide monthly surcharge through which TAP is funded. The amendments to subpart 1 reflect the statutory amendments to the TAP law. See Laws of Minnesota 1988, chapter 621, subd. 14.

The new statute on TAP funding changes the level of surcharge. Formerly, the TAP law capped the surcharge level at $2,500,000 and apportioned that amount between the telephone companies based on their relative number of access lines. The new law removes those requirements and replaces them with the requirement that the surcharge not exceed ten cents per access line.

To reflect these statutory changes, subpart 1 has been amended by adding the phrase "not to exceed ten cents per access line" and by deleting the criteria upon which the surcharge was calculated under the old TAP law (former items A through C). These changes are reasonable because they parallel the legislative amendments.

In addition, subpart 1 has been amended so that telephone companies have the option of assessing the surcharge per access line or combining the TAP surcharge with surcharges for other items, such as the 911 telephone service, or including the surcharge in their rates.

These options stem from the combined local access surcharge provision of the amended TAP statute. See Laws of Minnesota 1988, chapter 621, subd. 1. That subdivision requires telephone companies to collect from each subscriber an amount or amounts representing the total of the surcharges required under Minn. Stat. sections 237.52, 237.70, and 403.11. Minn. Stat. section 237.52 (1987 Supp.) governs the Telecommunication Access for Communication-Impaired Persons plan. Minn. Stat. section 237.70 (1987 Supp.) governs TAP. Minn. Stat. section 403.11 (1986) governs the 911 telephone service.

It is reasonable to allow the companies to implement a surcharge method that is economical and efficient. A particular method is not mandated by the statute. Each of the methods provided for in the rule is reasonable because each method results in the TAP surcharge being collected, as required by statute.

Finally, a clarifying amendment has been made in subpart 1. Beginning on line 34 on page 2 of the proposed rule, one sentence has been made into two sentences. The two sentences tell when the level of surcharge must be redetermined each year and when the redetermined surcharge is effective. This change is reasonable because it makes the intent of the rule more readable and more easily understood.

Subpart 2 has been amended in several respects. Language has been stricken that is no longer appropriate in light of the amended TAP legislation. In addition, a reporting requirement has been added regarding subscribers who do not pay the TAP surcharge.

Use of the surcharge revenues collected by the telephone companies has changed pursuant to Laws of Minnesota 1988, chapter 621, subd. 15. Administrative expenses of the companies have been limited under the new law and the surcharge revenues are remitted to the Department of Administration. Therefore, it is reasonable to remove the language in subpart 2, and rename subpart 2, because the language no longer applies under the new TAP law.

There has also been language added to subpart 2 regarding subscribers who do not pay the TAP surcharge. Telephone companies occasionally experience this problem. Since the TAP surcharge is required by law, companies cannot waive collection of the surcharge from persons who refuse to pay. For this reason, the rule directs telephone companies to notify the Commission if a subscriber does not pay the surcharge.

Subpart 2 requires companies to include the subscriber nonpayment information in their monthly or quarterly report. See proposed Minn. Rules, part 7817.0900, subp. 3, item H. The Commission needs this information to determine the amount of nonpayment for use in its report to the Minnesota Legislature in January, 1989. See Laws of Minnesota 1988, chapter 621, subd. 17. Since the companies alone have the necessary data, it is reasonable to require the telephone companies to report on nonpayment to the Commission.

Existing subpart 3 governing the statewide surcharge revenue pool has been deleted and a new subpart 3 governing the telephone assistance fund has been added. These changes are necessitated by the amended TAP legislation which creates a telephone assistance fund handled by the Department of Administration rather than the Commission. See Laws of Minnesota 1988, chapter 621, subd. 16.

Under the new law, telephone companies must remit the surcharge revenues to the Department of Administration. The Department of Administration must deposit the surcharge revenues in the telephone assistance fund. The Commission then uses the money in the fund to reimburse the telephone companies, the Department of Human Services and itself.

The amount of reimbursement is also specified by statute. See Laws of Minnesota 1988, chapter 621, subd. 16. The telephone companies are reimbursed for the TAP credits they extend and for

their expenses, not including the expenses of collecting the surcharge. The Department of Human Services receives up to $90,000 for the period of January 1, 1988 to June 30, 1988. The Commission receives up to $25,000 annually.

Since the above changes result from the new TAP legislation, it is reasonable to amend subpart 3 of the rule accordingly.

7817.0400 ELIGIBILITY FOR TELEPHONE ASSISTANCE CREDITS

Subpart 1 is amended in two respects. First, each telephone company must mail notice of TAP's availability each year to each residential subscriber in a regular billing. The notice must state that the subscriber may be eligible for TAP and who to contact for further information. This amendment is required by Laws of Minnesota 1988, chapter 621, subd. 15. Therefore, it is reasonable to include this requirement in subpart 1 of the rule.

Second, subpart 1 is amended to require the telephone company to mail an application form to persons on request. This change is necessitated by Laws of Minnesota 1988, chapter 621, subd. 15, which requires each telephone company to mail the application form to customers when requested. Therefore, it is reasonable to change the rule to comply with the amended TAP law.

Subpart 2 is amended to reflect the fact that there have been changes in the income guidelines in the new TAP law. See Laws of Minnesota 1988, chapter 621, subd. 13. Income within certain specified guidelines is no longer statutorily required. Other criteria are substituted for these previously required income guidelines. For this reason, the phrase "stating income within the guidelines" has been replaced with the phrase "certifying that the statutory criteria for eligibility are satisfied". The new criteria are contained in subpart 4 and are discussed below.

The amendments in subpart 3 are similar to the amendment in subpart 1, discussed above. Income within certain guidelines is no longer the determining factor for eligibility. Moreover, certification as eligible for TAP is one criteria of eligibility. See Laws of Minnesota 1988, chapter 621, subd. 13. The changes in subpart 3 recognize these facts and, therefore, are reasonable.

There is also a change in subpart 3 which is repeated throughout this rule part. The phrase "the Department of Human Services or" has been added wherever the phrase "local agency" appears.

Under the new TAP legislation, the Department of Human Services need not determine eligibility solely through its various offices and agencies. See Laws of Minnesota 1988, chapter 621, subd. 13. The new TAP legislation refers simply to the Department of Human

Services. The Department has flexibility in administering the program by performing certain tasks itself or through the local agencies. Therefore, to make this flexibility clear, the rule refers to the Department of Human Services or the local agencies. This amendment is also consistent with the Department of Human Service's current internal procedures and, therefore, is reasonable.

The amendments to subpart 4 reflect the changes in the TAP eligibility criteria under Laws of Minnesota 1988, chapter 621, subd. 13. To be eligible for TAP, the applicant must certify that he or she satisfies items A through D in subpart 4. Making these corresponding changes to subpart 4 is reasonable.

Subpart 5 has been amended as a result of the new TAP legislation. First, the income guidelines have changed pursuant to Laws of Minnesota 1988, chapter 621, subd. 13. Therefore, it is reasonable to remove the obsolete income guidelines from subpart 5 and replace them with the new income criteria of the amended TAP law. Under the new income criteria, reference is made to the Federal Register. This reference is reasonable so that readers of the rule will know where to find the federal poverty income guidelines.

In subpart 6, the timeline for redetermining eligibility has been changed from "the end of" every 12-month period to "at least once" in every 12-month period. This change is consistent with Laws of Minnesota 1988, chapter 621, subd. 15, which requires the Department of Human Services to determine eligibility at least annually, rather than on an annual basis as under the prior TAP law.

Subpart 7 has been amended by removing the requirement that the recipient recertify their eligibility every year. This amendment parallels a change in the TAP law. See Laws of Minnesota 1988, chapter 621, subd. 15. Under the new law, the subscriber need not annually complete a new application form. This change is also reasonable because it lessens the burden on the applicant considerably. That is, recipients no longer need to reapply every year for TAP.

The phrase "on an application form" was also removed from subpart 7. This change means that when an applicant provides eligibility information, it need not be on an application form. This change makes the rule consistent with subpart 3, item A, which requires an applicant to supply documentation in support of eligibility. As a clarifying change to ensure internal consistency, this change is reasonable.

Subpart 8 is amended to reflect two changes in the new TAP law. First, under the new law, telephone companies must provide TAP credits to a subscriber after they receive an application form

and the companies must provide TAP credits unless notified that the subscriber is ineligible. See Laws of Minnesota 1988, chapter 612, subd. 15. For this reason, former item A of subpart 8 has been removed. That is, under the new law, telephone companies will only receive notification when a subscriber is found to be ineligible. Moreover, as stated in proposed item A, the telephone companies must notify a subscriber of certification by placing TAP credits on the subscriber's bill.

Second, under the new law, eligibility need not be redetermined every year. See Laws of Minnesota 1988, chapter 612, subd. 15. Therefore, former item E of subpart 8 has been removed to coincide with the amended TAP legislation.

Finally, subpart 8 has been amended by adding a new item D. Item D requires the Department of Human Services or a local agency to allow the recipient at least 30 days to respond to a request for eligibility verification. Verifying eligibility may require documentation in addition to the application form. See Minn. Rules, part 7817.0400, subpart 3, item A. Therefore, it is reasonable to allow the recipient 30 days to respond.

Existing subpart 9 has been replaced with a new subpart 9 to recognize the fact that eligibility no longer depends on the income guidelines of the original TAP statute. Rather, eligibility depends on the criteria of subpart 4 of this rule. See Laws of Minnesota 1988, chapter 621, subd. 13.

Under proposed subpart 9, failure to verify eligibility under item D of subpart 8, discussed above, is another reason for ineligibility. That is, if a recipient does not respond to a request to verify eligibility, the recipient is deemed ineligible. This is reasonable because TAP credits are only available to eligible subscribers. Unless eligibility can be verified, the subscriber is not entitled to receive TAP credits. The Department of Human Services or a local agency cannot verify eligibility without a response from the recipient. Therefore, this is a valid ground for finding ineligibility.

Finally, a subscriber is ineligible under proposed subpart 9 if there are permanent changes in basic eligibility requirements that result in ineligibility. This is the same language found in the existing subpart 9 and, therefore, is reasonable.

7817.0600 PROVISION AND TERMINATION OF CREDITS

Subpart 1 is amended in several ways. First, language is added to reflect the requirement of Laws of Minnesota 1988, chapter 621, subd. 15, that telephone companies provide credits in the earliest possible month after they receive an application form. That is, the telephone companies must enroll applicants in TAP

and provide credits after receipt of an application. This rule amendment is a reasonable means of implementing the statutory requirement.

Second, the sentence stating that credits must be made available within 90 days after the date the surcharge is first assessed has been removed from subpart 1. The surcharge is currently being collected so the need for this sentence no longer exists. The TAP program is up and running and credits are currently available. Therefore, it is reasonable to update the rule in this manner.

Finally, subpart 1 contains a clarifying change in the last sentence. The word "enrollment" has been replaced with the word "certification". An applicant is not enrolled in TAP until the telephone company applies credit against the subscriber's monthly charge. Therefore, a telephone company can not logically apply credits after "enrollment". It is reasonable to use the more accurate word, "certification", to enhance the readability of the rule and prevent confusion.

Subpart 2 has also been amended to coincide with the amendment in Laws of Minnesota 1988, chapter 621, subd. 15, discussed above for subpart 1. Under the new TAP law, the telephone companies must provide credits unless notified by the Department of Human Services that the subscriber is ineligible. The telephone companies must cease providing credits when notified that the subscriber is ineligible. It is reasonable to amend the rule to reflect this statutory change.

Another situation in which credits cease is when local exchange service terminates. If service terminates, the TAP recipient is no longer a subscriber and is unable to receive the TAP credit. Therefore, this amendment is reasonable.

Finally, the 12 month period for termination of credits has been removed from subpart 2. Since eligibility need not be redetermined every year, this requirement is no longer appropriate. See Laws of Minnesota 1988, chapter 621, subd. 15. Therefore, it is reasonable to remove this requirement from subpart 2.

7817.0900 COMPANY RECORDING, REPORTING REQUIREMENTS

Existing subpart 2 has been amended by dividing the requirements of subpart 2 into two subparts. Dividing subpart 2 into a new subpart 2 and 3 is a reasonable means of making the requirements of the rule clearer and easier to understand.

Proposed subpart 2 allows the telephone companies to report either monthly or quarterly. Formerly, the rule required

quarterly reports. The TAP law states that the companies must account to the Commission on a periodic basis on the surcharge revenues, expenses, and credits. See Laws of Minnesota, chapter 621, subd. 15.

Allowing monthly filings prevents a financial hardship on the telephone companies. Under the amended TAP legislation, companies can no longer deduct their expenses and the credits from the surcharge revenues. Instead, they must remit the surcharge revenues to the Department of Administration for deposit in the TAP fund. The Commission then reimburses the companies from the fund after it reviews the companies' reports. See Laws of Minnesota 1988, chapter 621, subd. 15.

If the telephone companies were only allowed to report on a quarterly basis their cash flow may be adversely affected. Whether or not this is true depends on the particular telephone company, the number of subscribers receiving TAP credits, and the amount of the company's expenses. Therefore, it is reasonable to prevent a potential financial hardship by giving companies the option of reporting on a quarterly or monthly basis.

Proposed subpart 3 governs the contents of the report. Item D has been amended to reflect the fact that all surcharge revenues are to be remitted to the Department of Administration and reimbursement must be sought from the Commission. See Laws of Minnesota 1988, chapter 621, subd. 15. Former item E has been removed for the same reason. That is, the appropriate amount to report is no longer the amount of excess surcharge revenues or surcharge revenue deficiency. Rather, the appropriate amount to report is the amount of reimbursement requested from the TAP fund. These amendments are reasonable because they are consistent with the new TAP law.

A new item has also been added to subpart 3. Proposed item H requires the telephone companies to include in their report a list of the subscribers who did not pay the surcharge. As discussed under proposed part 7817.0300, subpart 2, the Commission needs this information for its report to the Minnesota Legislature in January of 1989. See Laws of Minnesota 1988, chapter 621, subd. 17. The Commission is unable to determine the number of subscribers who do not pay the surcharge. However, the companies have access to this data. Therefore, requiring the companies to include the data in their report is a reasonable means of gathering the necessary information.

Finally, proposed subpart 4, governing the annual report, has been amended to coincide with proposed subpart 2. Subpart 4 allows the telephone companies to submit either a cumulative year-end monthly or quarterly report as an annual report. This approach is reasonable because it prevents a financial hardship on the companies and is administratively efficient.

## 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 rule; and

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

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

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

The Commission notes that in Minn. Stat. ch. 237 (1986), it has been authorized by the legislature to regulate telephone companies in Minnesota. Some of the basic tenets of telephone company regulation are that telephone companies are:

- affected with a deep public interest;
- obligated to provide satisfactory service to the entire public on demand; and
- obligated to charge fair, non-discriminatory rates.

A general freedom from substantial direct competition and the opportunity to make a fair return on investment are among the benefits telephone companies receive from regulation. Given this regulatory scheme, it is clear that the legislature views telephone companies differently from other concerns defined as small businesses. The degree of government intervention in the operations of a telephone company is considerably higher than in other types of businesses.

Even if some small telephone companies could be viewed as "small businesses" as that term is defined, they, nevertheless, would be excepted from this statute. Minn. Stat. section 14.115, subd. 7 (1986) establishes exceptions to the general obligations created by the statute and applies to rules promulgated by the Commission. In pertinent part, it states:

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

Telephone companies fall within this broad definition. They are certainly service businesses regulated by government bodies for standards and costs. The words following the phrase "such as" merely provide some examples of government regulated businesses and are not exclusive. For the foregoing reasons, Minn. Stat. section 14.115 (1986) is not applicable to this rulemaking procedure.

However, the Commission has considered the methods listed in Minn. Stat. section 14.115 (1986) for reducing the impact of the rules on small 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 and remit them to the Department of Administration for deposit in the TAP fund. The Commission uses the fund to reimburse telephone companies for certain administrative expenses and for the TAP credits. The Commission anticipates that the result of this legislatively mandated amendment may be that small telephone companies may 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 certain of their reasonable expenses on a monthly or quarterly basis pursuant to proposed part 7817.0900.

Proposed part 7817.0600 governs the provision and termination of TAP credits. This part describes the time periods and procedures for collecting TAP credits, as well as for ceasing the credits. No distinction is made between large and small telephone companies because TAP is a legislatively mandated statewide program. TAP requires the establishment of a uniform and universal system for providing and terminating 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 potential financial burden on the small telephone companies has been lessened by allowing monthly or quarterly reporting. The proposed rule has also been amended by adding a requirement that the companies include in their report a list of the subscribers who do not pay the TAP surcharge. The Commission needs this information from all telephone companies so that it may determine the number of subscribers state-wide who are not paying the surcharge. The Commission needs this information for the report it is required to make to the Minnesota Legislature in January of 1989.

Moreover, the Legislature recognized that the Commission would need the type of information required in proposed part 7817.0900 from all telephone companies. The TAP statute requires all 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. See Laws of Minnesota 1988, chapter 621, subd. 15.

The Commission did not consider method (d) for reducing the impact of the rules on small telephone companies. The proposed rules do not contain design or operational standards.

Method (e) addresses the exemption of small businesses from any or all rule requirements. The essential requirements placed on the small telephone companies by the proposed rule amendments are mandated by Laws of Minnesota 1988, chapter 621, subd. 9 to 20. The law requires the Commission to implement these statutory requirements through rules. The Commission cannot exempt small telephone companies from the requirements contained in the proposed rule amendments. Exempting small telephone companies 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 amendments to Minn. Rules, parts 7817.0100 to 7817.1000 are both needed and reasonable.

Mary Ellen Hennen
Executive Secretary

STATE OF MINNESOTA
PUBLIC UTILITIES COMMISSION

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

DOCKET NO. P-999/R-88-358

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

STATE OF MINNESOTA )
) ss.LIST
COUNTY OF RAMSEY )

Pamela J. Kaiser, being duly sworn says:

I hereby certify that the list of persons and associations who have requested, pursuant to Minn. Stat. sections 14.14, subd. 1a and 14.22 (1986) that their names be placed on the Minnesota Public Utilities Commission's rulemaking mailing list is accurate, complete, and current as of this 1st day of November, 1988.

That on the 1st day of November, 1988, at the City of St. Paul, County of Ramsey, State of Minnesota, I mailed the attached Notice of Intent to Adopt Rules Without a Public Hearing by depositing in the State of Minnesota Central Mail System for United States Mail or in the United States mail a copy thereof, with postage prepaid, to all persons and associations on the aforementioned mailing list.

Pamela J. Kaiser

Subscribed and sworn to before me

this 31st day of January, 1989.

Sharon L. Juen
Notary Public

SHARON L. JUEN
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Rule.tel

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P87-358

Proposed Rule Governing
Telephone Assistance Plan

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

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# Public Utilities Commission

## Proposed Permanent Rules Relating to Telephone Assistance Plan

### 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 rul amendments without a public hearing following the procedures set forth in the Administrative Procedure Act for adopting rule without a public hearing in *Minnesota Statutes* sections 14.22 to 14.28 (1986). The Commission's authority to adopt the rule amend ments is set forth in *Minnesota Statutes* section 237.10 (1986) and *Laws of Minnesota* 1988, chapter 621, subd. 18.

All persons have until 4:30 p.m. on December 14, 1988, to submit comments in support of or in opposition to the proposed rule or any part or 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. PLEASE USE Docket No. P-999/R-87-358 ON ALL CORRESPONDENCE.

Any person may make a written request for a public hearing on the rules within the comment period. If 25 or more person submit a written request for a public hearing within the comment period, a public hearing will be held unless a sufficient numbe withdraw their requests in writing. Any person requesting a public hearing should state his or her name and address, and is encouragec to identify the portion of the proposed rules 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:

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

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

The proposed rules, if adopted, will amend the rules governing the Telephone Assistance Plan. The proposed rules are publishec below. One free copy of the rules is available upon request from the Commission by contacting the Commission's receptionist, Kris Kline, at the above address or by calling (612) 296-7124.

A Statement of Need and Reasonableness that describes the need for and reasonableness of each provision of the proposed rules and identifies the data and information relied upon to support the proposed rules has been prepared and is available from the Commissior by contacting the Commission's receptionist, Kris Kline, at the above address or by calling (612) 296-7124.

You are hereby advised, pursuant to *Minnesota Statutes* Section 14.115 (1986), "Small business considerations in rulemaking," that the proposed rule amendments may effect small telephone companies. The proposed rule amendments require telephone companies to submit certain information in either monthly or quarterly reports. However, the telephone companies are reimbursed for their administrative expenses, not including the expenses of collecting the surcharges.

The adoption of these rule amendments by the Commission will not require the expenditure of public money by local public bodies nor have a direct impact on agricultural land. Therefore, *Minnesota Statutes* section 14.11 (1986) is not applicable to this rulemaking proceeding.

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

Mary Ellen Hennen
Executive Secretary

**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.

## Rules as Proposed

### 7817.0100 DEFINITIONS.

Subpart 1. to 3. [Unchanged.]

Subp. 3a. **Department of Administration.** "Department of Administration" means the Minnesota Department of Administration.

Subp. 4. to 5. [Unchanged.]

Subp. 5a. **Disabled.** "Disabled" has the meaning given it in *Minnesota Statutes*, section 363.01, subdivision 25.

Subp. 6. **Federal matching plan.** "Federal matching plan" means ~~the~~ any telephone assistance plan of the Federal Communications Commission, including the federal plan in *Code of Federal Regulations*, title 47, part 69, that waives the federal interstate 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. to 9. [Unchanged.]

Subp. 10. **Local exchange service.** "Local exchange service" means ~~telecommunication~~ telephone service provided within local exchange service areas in accordance with ~~the~~ telephone company 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. and 12. [Unchanged.]

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

Subp. 14. [Unchanged.]

Subp. 14a. **Telephone assistance fund.** "Telephone assistance fund" means a statewide surcharge revenue pool created by *Laws of Minnesota* 1988, chapter 621, section 16.

Subp. 15. [Unchanged.]

Subp. 16. **Telephone company.** "Telephone company" has the meanings given ~~it~~ in *Minnesota Statutes*, section 237.01, subdivisions 2 and 3, and also means a company 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 exchange service 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, not to exceed ten cents per access line, applicable to all classes and grades of access lines provided by each telephone company in the state. Each telephone company may assess the surcharge per access line, combine the surcharge with the charges for other programs such as the emergency 911 telephone service, or include the surcharge in existing or future rates. 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. The recalculated surcharge must be effective beginning with the first billing cycle of the next 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~~ **Collection 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~~ At the time of reporting under part 7817.0900, subpart 3, item H, a telephone company shall notify the commission if a subscriber does not pay the surcharge.

Subp. 3. **~~Statewide~~ Use of surcharge ~~revenue pool~~ revenues and fund.** ~~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.~~ A telephone company shall remit, under *Minnesota Statutes*, section 403.11, surcharge revenues to the Department of Administration for deposit in the telephone assistance fund. The commission shall use the money in the telephone assistance fund to:

A. reimburse the telephone assistance credits extended by a telephone company and reimburse a telephone company's expenses, not including expenses of collecting the surcharge, within 60 days of receipt of a telephone company's report under part 7817.0900;

B. reimburse the administrative expenses of the Department of Human Services from January 1, 1988 to June 30, 1989, not to exceed $90,000; and

C. reimburse the administrative expenses of the commission not to exceed $25,000 annually.

**7817.0400 ELIGIBILITY FOR TELEPHONE ASSISTANCE CREDITS.**

Subpart 1. **Information provided.** Each telephone company shall annually mail a notice of the availability of the telephone assistance plan to each residential subscriber in a regular billing. The notice must state the following: You may be eligible for assistance in paying your telephone bill if you meet certain household income limits, and you are 65 years of age or older or are disabled. For more information or an application form please contact ..... On request, the ~~local agency~~ telephone company shall ~~offer~~ mail to a person an application form developed by the Department of Human Services and a brochure that describes the telephone assistance plan's eligibility requirements and application process.

Subp. 2. **Application process.** On completing the application ~~stating income within the guidelines~~ certifying that the statutory criteria for eligibility are satisfied, the applicant must return it to the 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.** The Department of Human Services or a local agency shall verify ~~the income of an~~ whether the applicant ~~and the applicant's spouse~~ is eligible.

When a condition of eligibility changes, and at each redetermination of eligibility, the Department of Human Services or a local agency ~~may~~ shall verify ~~income~~ eligibility.

A. In a timely manner, an applicant or recipient shall document income or authorize the Department of Human Services or a local agency to verify the income. The Department of Human Services or a 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 Department of Human Services or a local agency must not be verified again unless the information no longer applies to current circumstances.

B. The Department of Human Services or a 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 without the applicant's or recipient's prior written consent. The Department of Human Services or a 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 Department of Human Services or a 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 the Department of Human

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Services or local 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 Department of Human Services or a 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 the applicant must certify that:

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

B. the subscriber ~~must be~~ is disabled or 65 years of age or older; ~~and~~

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

D. the household income satisfies the criteria in subpart 5.

Subp. 5. **Income.** To determine eligibility, the Department of Human Services or 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.~~

The applicant's household income must be 150 percent or less of the federal poverty income guidelines, as published periodically in the *Federal Register*, or the applicant must be currently eligible for:

A. aid to families with dependent children;

B. medical assistance;

C. general assistance;

D. Minnesota supplemental aid;

E. food stamps;

F. refugee cash assistance or refugee medical assistance;

G. energy assistance; or

H. supplemental security income.

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 Department of Human Services or a local agency shall determine the applicant's eligibility or ineligibility within 120 days. At ~~the end of~~ least once in every 12-month period, the Department of Human Services or a 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 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.** An applicant or recipient must be notified of the disposition of the application in the following manner.

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

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

~~C.~~ B. If an applicant is denied eligibility or a recipient's eligibility is terminated, the Department of Human Services or a 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.~~ C. If an applicant is denied eligibility or a recipient's eligibility is terminated, the Department of Human Services or a 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.~~

D. The Department of Human Services or a local agency shall notify the recipient of the need to verify eligibility and shall allow at least 30 days for the recipient to respond.

Subp. 9. ~~**Denial or termination of eligibility**~~ **Ineligibility.** The Department of Human Services or a local agency shall ~~deny or terminate~~ determine that a recipient is ineligible if (1) the recipient does not meet the eligibility ~~for telephone assistance credits if income limits permanently exceed the maximums described in subpart 5~~ criteria of subpart 4, (2) the recipient does not respond within 30 days to a request for verification under subpart 8, item D, or (3) the Department of Human Services or a local agency is notified of permanent changes in basic eligibility requirements that result in ineligibility.

**7817.0600 PROVISION AND TERMINATION OF CREDITS.**

Subpart 1. **Provision of credits.** After a telephone company receives an application for telephone assistance credits, the company shall enroll the applicant in the telephone assistance plan and shall apply telephone assistance credits against monthly charges for each certified household. ~~Telephone assistance 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~~ certification in the telephone assistance plan.

Subp. 2. **Termination of credits.** After the telephone company ~~receives an application from~~ enrolls an applicant ~~or a termination notice from the local agency~~ in the telephone assistance plan, the ~~telephone~~ company shall ~~proceed according to items A and B.~~

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

~~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~~ or when local exchange service ends. 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.

**7817.0900 COMPANY RECORDING, REPORTING REQUIREMENTS.**

Subpart 1. [Unchanged.]

Subp. 2. ~~**Quarterly report**~~ **Reporting requirements.** ~~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.~~ A telephone company shall file at its option either quarterly or monthly reports with the commission and the Department of Public Service for review. Quarterly reports are due no later than 30 days after the end of each quarter of a calendar year. Monthly reports are due no later than 30 days after the end of each calendar month. The reports must be made on a form prescribed by the commission.

Subp. 3. **Contents of report.** The quarterly ~~report~~ or monthly reports must list~~, quarterly~~ the following items for that reporting period 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~~ reimbursement requested from the telephone assistance fund;

E. ~~the amount of surcharge revenue deficiency;~~

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

~~G.~~ F. 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.~~ G. 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; and

H. a list of the subscribers who did not pay the surcharge.

~~This report~~ These reports must be made on ~~a form~~ forms prescribed by the commission.

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.

Subp. ~~3.~~ 4. **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~~ Depending on the reporting option chosen under subpart 2, a cumulative ~~fourth-quarter~~ year-end monthly or quarterly report provided under subpart ~~2~~ 3 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.

# Adopted Rules

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

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

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

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

# Department of Health

## Adopted Permanent Rules Relating to the WIC Program

The rules proposed and published at *State Register*, Volume 13, Number 8, pages 383-394, August 22, 1988 (13 S.R. 383) are adopted with the following modifications:

### Rules as Adopted

**4617.0100 APPEALS BY VENDORS AND LOCAL AGENCIES.**

~~Subp. 3. Costs. If an adverse action is upheld through contested case procedures under *Minnesota Statutes*, sections 14.57 to 14.62, and the appellant does not seek judicial review, or if the adverse action is upheld through contested case procedures and judicial review, the local agency or vendor shall reimburse the commissioner for all fees and costs of the proceedings, including the costs of services given the commissioner by the Office of the Attorney General, State Office of Administrative Hearings, investigative fees and costs, and court reporter costs.~~

Subp. ~~4.~~ 3. **Burden of proof.** A local agency or vendor that appeals the commissioner's denial of an application to participate has the burden of proving the facts at issue by a preponderance of the evidence. When a local agency or vendor appeals a disqualification or other sanction, the commissioner has the burden of proof.

# Official Notices

Pursuant to the provisions of Minnesota Statutes § 14.10, an agency, in preparing proposed rules, may seek information or opinion from sources outside the agency. Notices of intent to solicit outside opinion must be published in the *State Register* and all interested persons afforded the opportunity to submit data or views on the subject, either orally or in writing.

The *State Register* also publishes other official notices of state agencies, notices of meetings, and matters of public interest.

# Office of the Ombudsman for Mental Health and Mental Retardation

## Notice of Meeting

The Ombudsman for Mental Health and Mental Retardation Agency Committee will conduct a general meeting at 9:00 a.m. on Friday, December 9, 1988. The meeting will be held at the Capitol Holiday Inn, Sibley Room A & B, second floor.

(107)

RESOLUTION AMENDING RULES

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

BE IT RESOLVED, that the Minnesota Public Utilities Commission (Commission) hereby approves and adopts the amendments to rules governing the Telephone Assistance Plan pursuant to the authority vested in the Commission by Minn. Stat. section 237.711 (1988).

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 (1988).

BE IT FURTHER RESOLVED, that the Commission adopts the attached Findings of Fact, Conclusions, and Order Adopting Rule Amendments 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

CERTIFICATE OF RESOLUTION AMENDING 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 (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 Commission duly and properly called and held on the 17th day of January, 1989, that a quorum was present at said meeting, that a majority of those present voted for the resolution and that said resolution will be set forth in the minutes of said meeting and has not been rescinded or modified:

BE IT RESOLVED, that the Minnesota Public Utilities Commission (Commission) hereby approves and adopts the amendments to rules governing the Telephone Assistance Plan pursuant to the authority vested in the Commission by Minn. Stat. section 237.711 (1988).

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 (1988).

BE IT FURTHER RESOLVED, that the Commission adopts the attached Findings of Fact, Conclusions, and Order Adopting Rule Amendments 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 17TH day of January, 1989.

M E Hennen

Mary Ellen Hennen
Executive Secretary

STATE OF MINNESOTA
PUBLIC UTILITIES COMMISSION

| | |
|---|---|
| In the Matter of the Proposed Rule Amendments Governing the Telephone Assistance Plan, Minn. Rules, parts 7817.0100 to 7817.1000. | ISSUE DATE: January 31, 1989<br><br>DOCKET NO. P-999/R-87-358<br><br>FINDINGS OF FACT, CONCLUSIONS, AND ORDER ADOPTING RULE AMENDMENTS |

The above-entitled matter came on for decision before the Minnesota Public Utilities Commission (Commission) on the 17th day of January, 1989. 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 November 14, 1988, 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 (1988) on November 1, 1988.

2. The Statement of Need and Reasonableness was prepared prior to mailing and publication of the notice and was made available to the public on October 28, 1988.

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 December 14, 1988.

4. No requests for public hearing were received during the comment period.

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

6. During the comment period the Commission received written comments from Northwestern Bell Telephone Company and the Minnesota Board on Aging:

a. Northwestern Bell Telephone Company (NWB)

NWB agreed with the proposed TAP rule amendments. NWB also agreed that very small telephone companies should be allowed to file only an annual report. See Finding No. 8.

b. Minnesota Board on Aging (MBA)

The MBA supported the proposed TAP rule amendments.

7. During the comment period the Commission also received oral comments from Teleplus Consulting, Inc. and the Minnesota Department of Human Services:

a. Teleplus called to question whether the proposed amendment to the definition of "telephone company" was intended to include resellers of telephone service in the TAP rules.

The proposed TAP rule amendment states:

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

The TAP rule definition of "telephone company" incorporates the statutory definition of telephone company by reference, as does the TAP law. See Minn. Stat. section 237.69, subd. 4 (1988). The language "and also means a company" was added to the rule to clarify the legislative intent that TAP apply only to telephone companies that provide local exchange service.

The proposed rule amendment also removes the word "telephone" from the phrase "local exchange telephone service". This amendment was necessary to make the phrase consistent with the TAP rule definition of "local exchange service" in proposed part 7817.0100, subpart 10.

The Commission finds that the proposed rule was amended to exclude long distance telephone companies from the TAP rules because the TAP law only applies to local telephone companies. Therefore, long distance resellers are excluded from the TAP rule definition of

"telephone company". Moreover, the proposed TAP rule amendment was not used as an indirect vehicle for regulating resellers of local telephone service as telephone companies.

The resale and sharing of local telephone service is being addressed in rulemaking Docket No. P-999/R-88-357. The Commission formed an Advisory Task Force to examine what types of rules are necessary for resellers and sharers of local telephone service.

One of the issues being considered by the Advisory Task Force is the role of resellers and sharers of local telephone service in TAP. For instance, the Task Force is examining how the cost of providing TAP benefits should be borne by the resellers and sharers of local telephone service and the end use customers.

For this reason, the Commission finds that the proposed TAP rule definition need not be modified to specifically include or exclude resellers and sharers of local telephone service. The role of the resellers and sharers of local telephone service in TAP will be resolved in the Commission's rulemaking proceeding in Docket No. P-999/R-88-357.

b. Department of Human Services (DHS)

The Appeals Division of the DHS called to verify that no amendments to the appeals part of the TAP rules were proposed.

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

At its December 22, 1988 meeting, the Advisory Task Force recommended several modifications to the proposed TAP rule amendments. The Advisory Task Force consists of representatives of the affected state and local agencies, telephone companies, and citizen groups. The recommended modifications are underlined.

7817.0900 COMPANY RECORDING, REPORTING REQUIREMENTS.

Subp. 2. Reporting requirements. A telephone company shall file at its option either quarterly or monthly reports with the commission and the Department of Public Service for review. <u>A telephone company with 100 or fewer subscribers may file an annual report under subpart 4 rather than filing quarterly or monthly reports.</u> Quarterly reports are due no later than 30

days after the end of each calendar month. The reports must be made on a form prescribed by the commission.

Subp. 4. 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. A telephone company with 100 or fewer subscribers that files only an annual report must include the information required by subpart 3 in its annual report. Depending on the reporting option chosen under subpart 2, a cumulative year-end monthly or quarterly report provided under subpart 3 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.

The Commission finds that these modifications are needed because telephone companies with 100 or fewer subscribers collect minimal TAP revenues and, in some cases, have no subscribers eligible for the TAP credit.

For instance, a company with 50 subscribers may collect as little as $60.00 per year in TAP revenues (50 X $0.10 X 12 = $60.00). This same company may have no TAP beneficiaries so it has no incentive to request TAP reimbursements because it is due none. Under the current TAP rules, such a company must file its TAP report quarterly. Quarterly revenues collected would equal only $15.00 ($60.00 / 4 = $15.00). This small sum is hardly worth the time and expense it takes to complete the report form and prepare a check.

Allowing small telephone companies to report only annually is a reasonable way to relieve this unnecessary administrative burden. Telephone companies are required by the TAP law to account to the Commission periodically and provide the Commission and the Department of Public Service with a financial report. See Minn. Stat. section 237.70, subd. 7 (1988). Since a report is necessary, an annual report is reasonable because it fulfills the statutory requirements while still reducing the burden on small telephone companies to report quarterly.

Minn. Rules, part 2010.1000, of the Office of the Attorney General requires it to disapprove a rule that is substantially different from the proposed rule as noticed.

The Commission finds that these modifications do not affect classes of persons who could not reasonably have been expected to comment on the proposed rule as originally noticed because the small telephone companies are affected and they were noticed that they would be affected. Similarly, the issue of how often telephone companies must file reports was raised by the originally noticed rule and, therefore, the modifications does not introduce significant new subject matter. Finally, allowing small telephone companies to file only annual reports is not a major substantive change that was not raised by the proposed rule as originally noticed in such a way as to invite reaction.

For these reasons, allowing small telephone companies to file only an annual report is needed and reasonable and would not result in a substantial change from the proposed rule amendments.

9. 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. 8 above.

10. 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 237.711 (1988).

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 the amendments to 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 Amendments Governing the 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 0729.

Gregory D. Dittrich
Special Assistant
Attorney General

MINNESOTA PUBLIC UTILITIES COMMISSION

RECEIVED
FEB 03 89
ATTORNEY GENERAL'S OFFICE
515 TRANSPORTATION BLDG.
ST. PAUL, MN 55155

February 1, 1989

Ms. Christi Eller, Assistant Attorney General
Office of the Attorney General
515 Transportation Building
John Ireland Boulevard
St. Paul, MN 55155

Re: In the Matter of Proposed Rule Amendments Governing the Telephone Assistance Plan, Minn. Rules, parts 7817.0100 to 7817.1000, Docket No. P-999/R-87-358.

Dear Ms. Eller:

On January 17, 1989, the Minnesota Public Utilities Commission adopted the above-captioned rule amendments 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 Amending Rules and Certificate of Resolution Amending Rules.

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

5. Notice of Intent to Adopt Rules Without a Public Hearing and rules as published (13 S.R. 1185, November 14, 1988).

6. Comments received during the comment period.

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

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

9. Rules as proposed with the Revisor of Statutes certificate of approval for publication.



AMERICAN CENTER BUILDING • KELLOGG AND ROBERT STS • SAINT PAUL, MN 55101

10. Statement of Need and Reasonableness.

11. Declaration of Counsel.

Very truly yours,

Caroline Heil

Caroline Heil
Rules Attorney
(612) 296-9617

Enclosures