

Senators Sparks, Rosen, Gaither, Metzen and Ourada introduced--

S.F. No. 1612: Referred to the Committee on Jobs, Energy and Community Development.

1

A bill for an act

2

relating to telecommunications; providing for basic
services regulation of telephone companies; proposing
coding for new law in Minnesota Statutes, chapter 237.

3

4

5 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MINNESOTA:

6

Section 1. [237.85] [DEFINITIONS.]

7

Subdivision 1. [SCOPE.] The definitions in this section

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apply to sections 237.85 to 237.88.

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Subd. 2. [BASIC SERVICES.] "Basic services" means one or

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more unbundled, single line, unlimited usage, residential voice

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local exchange telephone services or unbundled, single line,

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unlimited usage, business voice local exchange telephone

13

services.

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Subd. 3. [COMMISSION.] "Commission" means the Public

15

Utilities Commission.

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Subd. 4. [EXEMPT TELEPHONE COMPANY.] "Exempt telephone

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company" means a local exchange carrier that elects to operate

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under basic services regulation pursuant to section 237.86.

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Subd. 5. [LOCAL EXCHANGE CARRIER.] "Local exchange carrier"

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means an entity that holds a certificate of authority to furnish

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local exchange service or interexchange telephone service, or

22

both, and that has an effective tariff on file with the

23

commission.

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Subd. 6. [RETAIL.] "Retail" means provision of local

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exchange service or interexchange telephone service, or both, to

1 an end user.

2 Sec. 2. [237.86] [BASIC SERVICES REGULATION.]

3 A form of alternative regulation known as "basic services
4 regulation" is available to a telephone company that has been
5 issued a certificate of authority by the commission. A
6 telephone company may opt into basic services regulation by
7 giving the commission at least 30 days written notice of its
8 election. Under basic services regulation an exempt telephone
9 company offering local exchange telephone service must file
10 tariffs for basic services. These tariffs must be filed,
11 initially, at least 30 days in advance to become effective on
12 the date the election becomes effective.

13 Sec. 3. [237.87] [COMMISSION AUTHORITY.]

14 (a) The commission has the following authority over exempt
15 telephone companies:

16 (1) receive and investigate complaints against telephone
17 companies to the extent the complaints relate to the authority
18 retained by the commission in this section;

19 (2) enforce the standards of network service necessary to
20 maintain the public health and safety by adopting rules setting
21 network performance standards equally applicable to all
22 telephone companies;

23 (3) enforce the emergency 911 technical network standards
24 by adopting rules equally applicable to all telephone companies;

25 (4) review new and revised tariffs, other than rates, filed
26 by exempt telephone companies to ensure that proposed tariffs
27 will not unreasonably affect any class of exempt telephone
28 company customers and to enforce those tariffs. Tariffs, other
29 than rates, on file with the commission prior to the telephone
30 company electing to become an exempt telephone company may be
31 adopted by the exempt telephone company without notice or review
32 by the commission. The commission must apply the same standard
33 of nonrate tariff review to all new entrant nonrate tariffs;

34 (5) adopt necessary rules that are equally applicable to
35 new entrants that:

36 (i) require customer notice of tariff rate changes or

1 withdrawal of tariffed service offerings; and

2 (ii) provide for disconnection of residential customers for
3 nonpayment of local exchange service, late payment fees, and
4 deposits for customers, including the payment of interest on
5 customer deposits;

6 (6) administer the telecommunications relay service and
7 telephone assistance plan, including the assessment to telephone
8 companies pursuant to sections 237.49, 237.50 to 237.56, and
9 237.69 to 237.711;

10 (7) enforce the Underground Utility Damage Prevention Act
11 pursuant to chapter 216D;

12 (8) enforce the provisions of law relating to rights-of-way
13 affecting telephone companies pursuant to sections 237.162 and
14 237.163;

15 (9) discharge the responsibilities of state commissions
16 under the federal Telecommunications Act of 1996, Public Law
17 104-104, and enforce its lawful orders; and

18 (10) retain authority to require a telephone company opting
19 into basic services regulation to furnish basic services to any
20 person, firm, or corporation in its service area desiring basic
21 services.

22 (b) Notwithstanding any other provision of law, basic
23 services regulation exempts all retail telephone services,
24 including their rates, types, and manner of offering, and
25 service quality, from the jurisdiction of the commission except
26 to the extent specifically provided in this section. The
27 commission has no jurisdiction over the affiliate transactions,
28 equity and debt financing, transfers, or other public utility
29 operations of an exempt telephone company except to the extent
30 specifically permitted in this section. Small telephone
31 companies under section 237.773 are not subject to basic service
32 regulation.

33 Sec. 4. [237.88] [TELEPHONE COMPANY IMPLEMENTATION
34 PROCEDURES; DUTIES.]

35 (a) An exempt telephone company must file and maintain on
36 file with the commission tariffs for its basic services that

1 contain service descriptions and the terms and conditions,
2 including rates, under which the services are offered to the
3 public.

4 (b) An exempt telephone company must also file and maintain
5 on file with the commission tariffs for the network components
6 of its enhanced 911 services that contain terms and conditions,
7 including rates under which services are offered to the public.

8 (c) An exempt telephone company must file and maintain on
9 file with the commission tariffs for extended area local calling
10 rates implemented previously. An exempt telephone company may,
11 at its option, continue to file tariffs for its nonbasic
12 telephone services. Any nonbasic services tariffs filed must
13 contain service descriptions and the terms and conditions,
14 including rates, under which the services are offered to the
15 public. An exempt telephone company filing tariffs for nonbasic
16 services must offer these tariffed telephone services where
17 available throughout its service area at that tariffed rate.
18 However, an exempt telephone company may offer nonbasic services
19 under special promotions and optional customer agreements that
20 contain terms and conditions, including rates that vary from any
21 tariffed terms and conditions.

22 (d) An exempt telephone company must provide basic services
23 at a month tariffed rate where available throughout its service
24 area, except during any transition period described in section
25 237.86.

26 Sec. 5. [EFFECTIVE DATE.]

27 Sections 1 to 4 are effective the day following final
28 enactment.

Senators Anderson, Rosen, Kelley and Gaither introduced--

S.F. No. 1647: Referred to the Committee on Jobs, Energy and Community Development.

1 A bill for an act

2 relating to telecommunications; providing for a

3 combined per number fee; amending Minnesota Statutes

4 2004, section 403.11, subdivision 1; proposing coding

5 for new law in Minnesota Statutes, chapter 237;

6 repealing Minnesota Statutes 2004, sections 237.295,

7 subdivisions 1, 2, 3, 4; 237.49; 237.52, subdivisions

8 2, 3; 237.70, subdivision 6; 403.113, subdivision 1.

9 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MINNESOTA:

10 Section 1. [237.491] [COMBINED PER NUMBER FEE.]

11 Subdivision 1. [DEFINITIONS.] (a) The definitions in this

12 subdivision apply to this section.

13 (b) "911 emergency and public safety communications program"

14 means the program governed by chapter 403.

15 (c) "Service provider" means a provider doing business in

16 Minnesota who provides real time, two-way voice service

17 interconnected with the public switched telephone network using

18 numbers allocated for Minnesota assigned by the North American

19 Numbering Plan Administration.

20 (d) "State's telecommunications regulatory activities"

21 means the activities of the Department of Commerce and the

22 Public Utilities Commission to oversee the provision of real

23 time, two-way voice service interconnected with the public

24 switched telephone network.

25 (e) "Telecommunications access Minnesota program" means the

26 program governed by sections 237.50 to 237.55.

27 (f) "Telephone assistance program" means the program

1 governed by sections 237.69 to 237.711.

2 Subd. 2. [PER NUMBER FEE.] (a) By July 1, 2006, the Public
3 Utilities Commission shall establish a fee that applies to each
4 service provider based upon the amount of numbers allocated for
5 Minnesota assigned by the North American Numbering Plan
6 Administration in use by the provider. The fee must be set at a
7 level calculated to generate only the amount of revenue
8 necessary to fund the telephone assistance program, the
9 telecommunications access Minnesota program, the 911 emergency
10 and public safety communications program, and the state's
11 telecommunications regulatory activities at the levels funded in
12 fiscal years 2004 and 2005.

13 (b) Notwithstanding any law to the contrary, the Public
14 Utilities Commission shall, by order, establish the procedures
15 by which each service provider, to the extent allowed under
16 federal law, shall collect and remit the fee proceeds to the
17 Department of Revenue. The commissioner of revenue shall
18 allocate the fee proceeds to the four funding areas in paragraph
19 (a) in the proportion each area comprised of the total funding
20 for those areas in fiscal years 2004 and 2005, and shall deposit
21 the allocations into the appropriate accounts. The Department
22 of Commerce's allocation must be deposited into the special
23 revenue account established under section 237.30. Once
24 established, a change in the amount of the fee or the allocation
25 of fee revenues may only be made by legislative action.

26 Sec. 2. Minnesota Statutes 2004, section 403.11,
27 subdivision 1, is amended to read:

28 Subdivision 1. [EMERGENCY TELECOMMUNICATIONS SERVICE FEE.]
29 (a) Each customer of a wireless or wire-line telecommunications
30 service provider that furnishes service capable of originating a
31 911 emergency telephone call is assessed a fee under section
32 237.491 to cover the costs of ongoing maintenance and related
33 improvements for trunking and central office switching equipment
34 for 911 emergency telecommunications service, plus
35 administrative and staffing costs of the commissioner related to
36 managing the 911 emergency telecommunications service program.

1 Recurring charges by a wire-line telecommunications service
2 provider for updating the information required by section
3 403.07, subdivision 3, must be paid by the commissioner if the
4 wire-line telecommunications service provider is included in an
5 approved 911 plan and the charges are made pursuant to tariff,
6 price list, or contract. A portion of the fee assessed under
7 this section 237.491 must also be used for the purpose of
8 offsetting the costs, including administrative and staffing
9 costs, incurred by the State Patrol Division of the Department
10 of Public Safety in handling 911 emergency calls made from
11 wireless phones.

12 (b) Money remaining in the 911 emergency telecommunications
13 service account after all other obligations are paid must not
14 cancel and is carried forward to subsequent years and may be
15 appropriated from time to time to the commissioner to provide
16 financial assistance to counties for the improvement of local
17 emergency telecommunications services. The improvements may
18 include providing access to 911 service for telecommunications
19 service subscribers currently without access and upgrading
20 existing 911 service to include automatic number identification,
21 local location identification, automatic location
22 identification, and other improvements specified in revised
23 county 911 plans approved by the commissioner.

24 (c) ~~The fee may not be less than eight cents nor more than~~
25 ~~40 cents a month for each customer access line or other basic~~
26 ~~access service, including trunk equivalents as designated by the~~
27 ~~Public Utilities Commission for access charge purposes and~~
28 ~~including wireless telecommunications services. With the~~
29 ~~approval of the commissioner of finance, the commissioner of~~
30 ~~public safety shall establish the amount of the fee within the~~
31 ~~limits specified and inform the companies and carriers of the~~
32 ~~amount to be collected. When the revenue bonds authorized under~~
33 ~~section 403.27, subdivision 1, have been fully paid or defeased,~~
34 ~~the commissioner shall reduce the fee to reflect that debt~~
35 ~~service on the bonds is no longer needed. The commissioner~~
36 ~~shall provide companies and carriers a minimum of 45 days~~

1 ~~notice-of-each-fee-change.--The-fee-must-be-the-same-for-all~~
2 ~~customers.~~

3 ~~(d)-The-fee-must-be-collected-by-each-wireless-or-wire-line~~
4 ~~telecommunications-service-provider-subject-to-the-fee.--Fees~~
5 ~~are-payable-to-and-must-be-submitted-to-the-commissioner-monthly~~
6 ~~before-the-25th-of-each-month-following-the-month-of-collection,~~
7 ~~except-that-fees-may-be-submitted-quarterly-if-less-than-\$250-a~~
8 ~~month-is-due,-or-annually-if-less-than-\$25-a-month-is-due.~~
9 ~~Receipts-must-be-deposited-in-the-state-treasury-and-credited-to~~
10 ~~a-911-emergency-telecommunications-service-account-in-the~~
11 ~~special-revenue-fund.--The-money-in-the-account-may-only-be-used~~
12 ~~for-911-telecommunications-services.~~

13 ~~(e)~~ This subdivision does not apply to customers of
14 interexchange carriers.

15 ~~(f)~~ (d) The installation and recurring charges for
16 integrating wireless 911 calls into enhanced 911 systems must be
17 paid by the commissioner if the 911 service provider is included
18 in the statewide design plan and the charges are made pursuant
19 to tariff, price list, or contract.

20 Sec. 3. [REPEALER.]

21 Minnesota Statutes 2004, sections 237.295, subdivisions 1,
22 2, 3, and 4; 237.49; 237.52, subdivisions 2 and 3; 237.70,
23 subdivision 6; and 403.113, subdivision 1, are repealed.

24 Sec. 4. [EFFECTIVE DATE.]

25 Section 1 is effective the day following final enactment.
26 Sections 2 and 3 are effective December 31, 2006.

APPENDIX
Repealed Minnesota Statutes for 05-0322

237.295 ASSESSMENT OF REGULATORY EXPENSES.

Subdivision 1. Payment for investigation. (a) Whenever the department or commission, in a proceeding upon its own motion, on complaint, or upon an application to it, considers it necessary, in order to carry out the duties imposed on it, to investigate the books, accounts, practices, and activities of any company, parties to the proceeding shall pay the expenses reasonably attributable to the proceeding. The department and commission shall ascertain the expenses, and the department shall render a bill for those expenses to the parties, at the conclusion of the proceeding. The department is authorized to submit billings to parties at intervals selected by the department during the course of a proceeding.

(b) The allocation of costs may be adjusted for cause by the commission during the course of the proceeding, or upon the closing of the docket and issuance of an order. In addition to the rights granted in subdivision 3, parties to a proceeding may object to the allocation at any time during the proceeding. Withdrawal by a party to a proceeding does not absolve the party from paying allocated costs as determined by the commission. The commission may decide that a party should not pay any allocated costs of the proceeding.

(c) The bill constitutes notice of the assessment and a demand for payment. The amount of the bills assessed by the department under this subdivision must be paid by the parties into the state treasury within 30 days from the date of assessment. The total amount, in a calendar year, for which a telephone company may become liable, by reason of costs incurred by the department and commission within that calendar year, may not exceed two-fifths of one percent of the gross jurisdictional operating revenue of the telephone company in the last preceding calendar year. Direct charges may be assessed without regard to this limitation until the gross jurisdictional operating revenue of the telephone company for the preceding calendar year has been reported for the first time. Where, under this subdivision, costs are incurred within a calendar year that are in excess of two-fifths of one percent of the gross jurisdictional operating revenues, the excess costs are not chargeable as part of the remainder under subdivision 2.

(d) Except as otherwise provided in paragraph (e), for purposes of assessing the cost of a proceeding to a party, "party" means any entity or group subject to the laws and rules of this state, however organized, whether public or private, whether domestic or foreign, whether for profit or nonprofit, and whether natural, corporate, or political, such as a business or commercial enterprise organized as any type or combination of corporation, limited liability company, partnership, limited liability partnership, proprietorship, association, cooperative, joint venture, carrier, or utility, and any successor or assignee of any of them; a social or charitable organization; and any type or combination of political subdivision, which includes the executive, judicial, or legislative branch of the state, a local government unit, an agency of the state or a local government unit, or a combination of any of them.

(e) For assessment and billing purposes, "party" does not include the Department of Commerce or the Residential Utilities Division of the Office of Attorney General; any entity or group instituted primarily for the purpose of mutual help and not conducted for profit; intervenors awarded compensation under

APPENDIX
Repealed Minnesota Statutes for 05-0322

section 237.075, subdivision 10; or any individual or group or counsel for the individual or group representing the interests of end users or classes of end users of services provided by telephone companies or telecommunications carriers, as determined by the commission.

Subd. 2. **Assessment of costs.** The department and commission shall quarterly, at least 30 days before the start of each quarter, estimate the total of their expenditures in the performance of their duties relating to telephone companies, other than amounts chargeable to telephone companies under subdivision 1, 5, or 6. The remainder must be assessed by the department to the telephone companies operating in this state in proportion to their respective gross jurisdictional operating revenues during the last calendar year. The assessment must be paid into the state treasury within 30 days after the bill has been mailed to the telephone companies. The bill constitutes notice of the assessment and demand of payment. The total amount that may be assessed to the telephone companies under this subdivision may not exceed one-eighth of one percent of the total gross jurisdictional operating revenues during the calendar year. The assessment for the third quarter of each fiscal year must be adjusted to compensate for the amount by which actual expenditures by the commission and department for the preceding fiscal year were more or less than the estimated expenditures previously assessed. A telephone company with gross jurisdictional operating revenues of less than \$5,000 is exempt from assessments under this subdivision.

Subd. 3. **Objection.** Within 30 days after the date of the mailing of any bill as provided by subdivisions 1, 2, 5, and 6, the parties to the proceeding, against which the bill has been assessed, may file with the commission objections setting out the grounds upon which it is claimed the bill is excessive, erroneous, unlawful, or invalid. The commission shall within 60 days issue an order in accordance with its findings. The order shall be appealable in the same manner as other final orders of the commission.

Subd. 4. **Interest imposed.** The amounts assessed against any telephone company or other party that is not paid after 30 days after the mailing of a notice advising the telephone company or other party of the amount assessed against it, shall draw interest at the rate of six percent per annum, and upon failure to pay the assessment the attorney general shall proceed by action in the name of the state against the telephone company or other party to collect the amount due, together with interest and the cost of the suit.

237.49 COMBINED LOCAL ACCESS SURCHARGE.

Each local telephone company shall collect from each subscriber an amount per telephone access line representing the total of the surcharges required under sections 237.52, 237.70, and 403.11. Amounts collected must be remitted to the commissioner of public safety in the manner prescribed in section 403.11. The commissioner of public safety shall divide the amounts received proportional to the individual surcharges and deposit them in the appropriate accounts. The commissioner of public safety may recover from the agencies receiving the surcharges the personnel and administrative costs to collect and distribute the surcharge. A company or the billing agent for a company shall list the surcharges as one amount on a billing statement sent to a subscriber.

APPENDIX
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237.52 TELECOMMUNICATIONS ACCESS MINNESOTA FUND.

Subd. 2. **Assessment.** The commissioner of commerce shall annually recommend to the commission an adequate and appropriate surcharge and budget to implement sections 237.50 to 237.56. The Public Utilities Commission shall review the budget for reasonableness and may modify the budget to the extent it is unreasonable. The commission shall annually determine the funding mechanism to be used within 60 days of receipt of the recommendation of the department and shall order the imposition of surcharges effective on the earliest practicable date. The commission shall establish a monthly charge no greater than 20 cents for each customer access line, including trunk equivalents as designated by the commission pursuant to section 403.11, subdivision 1.

Subd. 3. **Collection.** Every telephone company or communications carrier that provides service capable of originating a telecommunications relay call, including cellular communications and other nonwire access services, in this state shall collect the charges established by the commission under subdivision 2 and transfer amounts collected to the commissioner of public safety in the same manner as provided in section 403.11, subdivision 1, paragraph (d). The commissioner of public safety must deposit the receipts in the fund established in subdivision 1.

237.70 DEVELOPMENT OF TELEPHONE ASSISTANCE PLAN.

Subd. 6. **Funding.** The commission shall provide for the funding of the telephone assistance plan by assessing 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 local service provider in the state.

403.113 ENHANCED 911 SERVICE COSTS; FEE.

Subdivision 1. **Fee.** (a) Each customer receiving service from a wireless or wire-line telecommunications service provider is assessed a fee to fund implementation, operation, maintenance, enhancement, and expansion of enhanced 911 service, including acquisition of necessary equipment and the costs of the commissioner to administer the program. The actual fee assessed under section 403.11 and the enhanced 911 service fee must be collected as one amount and may not exceed the amount specified in section 403.11, subdivision 1, paragraph (c).

(b) The enhanced 911 service fee must be collected and deposited in the same manner as the fee in section 403.11 and used solely for the purposes of paragraph (a) and subdivision 3.

(c) The commissioner, in consultation with counties and 911 system users, shall determine the amount of the enhanced 911 service fee. The fee must include at least ten cents per month to be distributed under subdivision 2. The commissioner shall inform wireless and wire-line telecommunications service providers that provide service capable of originating a 911 emergency telephone call of the total amount of the 911 service fees in the same manner as provided in section 403.11.

1 Senator moves to amend S.F. No. 1647 as follows:

2 Page 2, line 8, after "fund" insert ":

3 (1)"

4 Page 2, lines 9 and 10, delete "the 911 emergency and
5 public safety communications program,"

6 Page 2, line 12, after "2005" insert "; and

7 (2) the 911 emergency and public safety communications
8 program at the approved appropriation levels for current fiscal
9 years"

10 Page 2, line 20, delete "fiscal years 2004 and 2005" and
11 insert "paragraph (a)"

12 Page 2, after line 25, insert:

13 "Sec. 2. Minnesota Statutes 2004, section 403.06,
14 subdivision 1a, is amended to read:

15 Subd. 1a. [BIENNIAL BUDGET; ANNUAL FINANCIAL REPORT.] The
16 commissioner shall prepare a biennial budget for maintaining the
17 911 system. By December 15 of each year, the commissioner shall
18 submit a report to the legislature detailing the expenditures
19 for maintaining the 911 system, the 911 fees ~~collected~~ deposited
20 by the Department of Revenue, the balance of the 911 fund, and
21 the 911-related administrative expenses of the commissioner.
22 The commissioner is authorized to expend money that has been
23 appropriated to pay for the maintenance, enhancements, and
24 expansion of the 911 system."

25 Page 2, line 26, delete "2" and insert "3"

26 Page 4, after line 19, insert:

27 "Sec. 4. Minnesota Statutes 2004, section 403.113,
28 subdivision 1, is amended to read:

29 Subdivision 1. [~~FEE GRANT.~~] (a) ~~Each-customer-receiving~~
30 ~~service-from-a-wireless-or-wire-line-telecommunications-service~~
31 ~~provider-is-assessed-a-fee~~ The commissioner shall budget for and
32 provide grants to PSAPs to fund implementation, operation,
33 maintenance, enhancement, and expansion of enhanced 911 service,
34 including acquisition of necessary equipment and the costs of
35 the commissioner to administer the program. ~~The-actual-fee~~
36 ~~assessed-under-section-403-11-and-the-enhanced-911-service-fee~~

1 ~~must-be-collected-as-one-amount-and-may-not-exceed-the-amount~~
 2 ~~specified-in-section-403.117-subdivision-17-paragraph-(e)-~~

3 (b) ~~The-enhanced-911-service-fee-must-be-collected-and~~
 4 ~~deposited-in-the-same-manner-as-the-fee-in-section-403.11-and~~
 5 ~~used-solely-for-the-purposes-of-paragraph-(a)-and-subdivision-3-~~

6 (e) The commissioner, in consultation with counties and 911
 7 system users, shall determine the amount of the enhanced 911
 8 service fee grant. The fee grant must include at least ten
 9 cents-per-month the amount funded in fiscal year 2005 to be
 10 distributed under subdivision 2. ~~The-commissioner-shall-inform~~
 11 ~~wireless-and-wire-line-telecommunications-service-providers-that~~
 12 ~~provide-service-capable-of-originating-a-911-emergency-telephone~~
 13 ~~call-of-the-total-amount-of-the-911-service-fees-in-the-same~~
 14 ~~manner-as-provided-in-section-403.11-~~

15 Sec. 5. Minnesota Statutes 2004, section 403.30,
 16 subdivision 1, is amended to read:

17 Subdivision 1. [STANDING APPROPRIATION; COSTS COVERED.]
 18 For each fiscal year beginning with the fiscal year commencing
 19 July 1, 1997, the amount necessary to pay the following costs is
 20 appropriated to the commissioner of public safety from the 911
 21 emergency telecommunications service account established under
 22 section 403.11:

23 (1) debt service costs and reserves for bonds issued
 24 pursuant to section 403.27;

25 (2) repayment of the right-of-way acquisition loans;

26 (3) costs of design, construction, maintenance of, and
 27 improvements to those elements of the first, second, and third
 28 phases that support mutual aid communications and emergency
 29 medical services;

30 (4) recurring charges for leased sites and equipment for
 31 those elements of the first, second, and third phases that
 32 support mutual aid and emergency medical communication services;
 33 or

34 (5) aid to local units of government for sites and
 35 equipment in support of mutual aid and emergency medical
 36 communications services.

1 This appropriation shall be used to pay annual debt service
 2 costs and reserves for bonds issued pursuant to section 403.27
 3 prior to use of fee money to pay other costs eligible under this
 4 subdivision. In no event shall the appropriation for each
 5 fiscal year exceed an amount equal to ~~four-cents-a-month-for~~
 6 ~~each-customer-access-line-or-other-basic-access-service,~~
 7 ~~including-trunk-equivalents-as-designated-by-the-Public~~
 8 ~~Utilities-Commission-for-access-charge-purposes-and-including~~
 9 ~~cellular-and-other-nonwire-access-services,-in-the-fiscal~~
 10 year 4/40 of the amount collected by the fiscal year 2005 911
 11 fee. Beginning July 1, ~~2004~~ 2005, this amount will increase
 12 to ~~13-cents-a-month~~ 13/40 of the amount collected by the fiscal
 13 year 2005 911 fee."

14 Page 4, line 20, delete "3" and insert "6"

15 Page 4, line 23, delete "; and 403.113, subdivision 1"

16 Page 4, line 24, delete "4" and insert "7"

17 Delete the title and insert:

18 "A bill for an act relating to telecommunications;
 19 providing for a combined per number fee; amending Minnesota
 20 Statutes 2004, sections 403.06, subdivision 1a; 403.11,
 21 subdivision 1; 403.113, subdivision 1; 403.30, subdivision 1;
 22 proposing coding for new law in Minnesota Statutes, chapter 237;
 23 repealing Minnesota Statutes 2004, sections 237.295,
 24 subdivisions 1, 2, 3, 4; 237.49; 237.52, subdivisions 2, 3;
 25 237.70, subdivision 6."

1 Senator moves to amend S.F. No. 1647 as follows:

2 Page 2, after line 25, insert:

3 "Sec. 2. [325F.991] [911 EMERGENCY PHONE SERVICE
4 REPRESENTATIONS.]

5 Subdivision 1. [DEFINITIONS.] For purposes of this
6 section, the terms defined in this subdivision have the meanings
7 given them.

8 (a) "911 emergency telecommunications system" means a
9 dedicated emergency telecommunications system required by
10 section 403.025.

11 (b) "Person" means an individual, corporation, firm, or
12 other legal entity.

13 (c) "Service provider" means a person doing business in
14 Minnesota who provides real time, two-way voice service
15 interconnected with the public switched telephone network using
16 numbers allocated for Minnesota by the North American Numbering
17 Plan Administration.

18 Subd. 2. [REPRESENTATIONS OF 911 SERVICE.] A person shall
19 not advertise, market, or otherwise represent that the person
20 furnishes a service capable of providing access to emergency
21 services by dialing 911 unless the person provides a service
22 that routes 911 calls through the 911 emergency
23 telecommunications system.

24 Subd. 3. [DISCLOSURE.] A service provider must disclose in
25 all advertisements, marketing materials, and contracts whether
26 or not it provides 911 dialing that routes 911 calls through the
27 911 emergency telecommunications system. The disclosure must be
28 in capital letters, in 12-point font, and on the front page of
29 the advertisement, marketing materials, and contracts. For
30 service providers that do route 911 calls through the 911
31 emergency telecommunications system, the disclosure must state:
32 "THIS SERVICE INCLUDES 911 CALLING ROUTED THROUGH THE 911
33 EMERGENCY SYSTEM." For service providers that do not route 911
34 calls through the 911 emergency telecommunications system, the
35 disclosure must state: "THIS SERVICE DOES NOT ROUTE 911 CALLS
36 THROUGH THE 911 EMERGENCY SYSTEM."

1 Subd. 4. [CERTAIN CALLS NOT 911 CALLS.] For purposes of
2 this section, 911 calls routed to the general access number at a
3 public safety answering point do not qualify as being routed
4 through a 911 emergency telecommunications system."

5 Renumber the sections in sequence and correct the internal
6 references

7 Amend the title accordingly

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23 telecommunications system.

24 Subd. 3. [DISCLOSURE.] A service provider must disclose in
25 all advertisements, marketing materials, and contracts whether
26 or not it provides 911 dialing that routes 911 calls through the
27 911 emergency telecommunications system. The disclosure must be
28 in capital letters, in 12-point font, and on the front page of
29 the advertisement, marketing materials, and contracts. For
30 service providers that do route 911 calls through the 911
31 emergency telecommunications system, the disclosure must state:
32 "THIS SERVICE INCLUDES 911 CALLING ROUTED THROUGH THE 911
33 EMERGENCY SYSTEM." For service providers that do not route 911
34 calls through the 911 emergency telecommunications system, the
35 disclosure must state: "THIS SERVICE DOES NOT ROUTE 911 CALLS
36 THROUGH THE 911 EMERGENCY SYSTEM."

1 Subd. 4. [CERTAIN CALLS NOT 911 CALLS.] For purposes of
2 this section, 911 calls routed to the general access number at a
3 public safety answering point do not qualify as being routed
4 through a 911 emergency telecommunications system."

5 Renumber the sections in sequence and correct the internal
6 references

7 Amend the title accordingly

Senators Kelley, Ourada, Sparks and Gaither introduced--

S.F. No. 1540: Referred to the Committee on Jobs, Energy and Community Development.

1 A bill for an act
2 relating to telecommunications; providing for basic
3 services regulation of telephone companies; proposing
4 coding for new law in Minnesota Statutes, chapter 237.
5 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MINNESOTA:
6 Section 1. [237.85] [DEFINITIONS.]
7 Subdivision 1. [SCOPE.] The definitions in this section
8 apply to sections 237.85 to 237.88.
9 Subd. 2. [BASIC SERVICES.] "Basic services" means one
10 unbundled, single line, unlimited usage, residential voice local
11 exchange telephone services or unbundled, single line, unlimited
12 usage, business voice local exchange telephone services. "Basic
13 services" does not include any state or federally authorized or
14 mandated services.
15 Subd. 3. [BASIC SERVICES REGULATED COMPANY.] "Basic
16 services regulated company" means a telephone company that
17 chooses to operate under basic service regulation under section
18 237.86.
19 Subd. 4. [COMMISSION.] "Commission" means the Public
20 Utilities Commission.
21 Subd. 5. [RETAIL.] "Retail" means provision of local
22 exchange service or interexchange telephone service, or both, to
23 an end user.
24 Sec. 2. [237.86] [BASIC SERVICES REGULATION.]
25 A form of alternative regulation known as "basic services

1 regulation" is available to a telephone company that provides
2 local exchange service in Minnesota. A telephone company may
3 opt into basic services regulation by giving the commission at
4 least 30 days written notice of its election. Under basic
5 services regulation a telephone company offering local exchange
6 telephone service must file tariffs for basic services. These
7 tariffs must be filed, initially, at least 30 days in advance to
8 become effective on the date the election becomes effective.

9 Sec. 3. [237.87] [COMMISSION AUTHORITY.]

10 (a) The commission has the following authority over a basic
11 services regulated company:

12 (1) receive and investigate complaints against telephone
13 companies to the extent the complaints relate to the authority
14 retained by the commission in this section;

15 (2) adopt necessary rules that are equally applicable to
16 all providers of telecommunications services that:

17 (i) require customer notice of tariff rate changes or
18 withdrawal of tariffed service offerings;

19 (ii) provide for disconnection of basic services customers
20 for nonpayment of local exchange service, late payment fees, and
21 deposits for customers, including the payment of interest on
22 customer deposits; and

23 (iii) establish service quality standards; and

24 (3) administer the telecommunications relay service and
25 telephone assistance plan, including the assessment to telephone
26 companies pursuant to sections 237.49, 237.50 to 237.56, and
27 237.69 to 237.711.

28 (b) Notwithstanding any other provision of law, basic
29 services regulation exempts all retail telephone services,
30 including their rates, types, and manner of offering, and
31 service quality, from the jurisdiction of the commission except
32 to the extent specifically provided in this section. The
33 commission retains all authority contained elsewhere in this
34 chapter.

35 Sec. 4. [237.88] [IMPLEMENTATION PROCEDURES; DUTIES.]

36 (a) A basic services regulated company must file and

1 maintain on file with the commission tariffs for its basic
2 services that contain service descriptions and the terms and
3 conditions, including rates, under which the services are
4 offered to the public. No telephone company or
5 telecommunications carrier is prohibited from offering customer
6 incentives of the type offered by other telephone companies,
7 telecommunications carriers, or providers of voice or data
8 services.

9 (b) A basic services regulated company offering local
10 exchange telephone service must tariff its monthly rates for
11 each basic service. The basic services regulated company must
12 provide its basic services at its current monthly tariffed
13 rates, except during any transition period described in this
14 section. A basic services regulated company may not increase
15 its rates for each basic service offering by more than 50 cents
16 per month per line during the first calendar year, or portion of
17 a year, it opts into basic services regulation. A basic
18 services regulated company may increase its rates by up to 50
19 cents per line per month for each of the following five calendar
20 years.

21 (c) After five years, the commission shall use the gross
22 domestic Product Price Index, as published by the federal
23 government, for an inflation measure to determine the amount a
24 basic services regulated telephone company may increase its
25 monthly per line prices for its basic service offerings. The
26 commission may adopt by rule a more current measure of inflation
27 for communications services.

28 (d) The initial rates for each basic service of a basic
29 service regulated company may not exceed the highest tariffed
30 rate in effect in its service territory for the corresponding
31 basic service prior to opting into basic service regulation.
32 The rates shall remain in effect for a minimum of one year from
33 its initial effective date. Any subsequent increases in the
34 rates may not be effective until a minimum of 12 months have
35 passed since any previous increase.

36 (e) Nothing in this section prohibits a telephone company

1 or a telecommunications carrier from decreasing its basic
2 service rates. A basic services regulated telephone company or
3 telecommunications carrier may subsequently increase rates, but
4 may not exceed the authorized transitional or inflation adjusted
5 monthly rates. Except as necessary to comply with this section,
6 no basic service may be priced below the total service long-run
7 incremental cost for the service.

8 Sec. 5. [EFFECTIVE DATE.]

9 Sections 1 to 4 are effective the day following final
10 enactment.

1 Senator moves to amend S.F. No. 1540 as follows:

2 Delete everything after the enacting clause and insert:

3 "Section 1. [237.85] [DEFINITIONS.]

4 Subdivision 1. [SCOPE.] The definitions in this section
5 apply to sections 237.85 to 237.89.

6 Subd. 2. [BASIC SERVICE.] "Basic service" means one
7 unbundled, single line, unlimited local usage, residential voice
8 telephone service, or unbundled single line, unlimited local
9 usage, business voice telephone service. Basic service does not
10 include any state or federally authorized or mandated rates.

11 Subd. 3. [BASIC SERVICES REGULATED TELEPHONE COMPANY.] A
12 "basic services regulated telephone company" is a telephone
13 company that elects to operate under basic services regulation
14 as provided in section 237.86.

15 Subd. 4. [COMMISSION.] "Commission" means the Public
16 Utilities Commission.

17 Subd. 5. [RETAIL.] "Retail" means relating to the
18 provision of local exchange or interexchange telephone service,
19 or both, to an end-user.

20 Sec. 2. [237.86] [PURPOSE.]

21 A form of alternative regulation known as basic services
22 regulation is available to any telephone company. A telephone
23 company may opt into basic services regulation by giving the
24 commission at least 30-days written notice of its election. A
25 company electing to operate under basic services regulation must
26 file tariffs for basic services. These tariffs must be filed,
27 initially, at least 30 days in advance to become effective on
28 the same date that the election becomes effective.

29 Sec. 3. [237.87] [COMMISSION AUTHORITY.]

30 Subdivision 1. [BASIC SERVICE REGULATION;
31 EXEMPTION.] Notwithstanding any other provision of law, basic
32 services regulation exempts all retail telephone services,
33 including their rates, types and manner of offering, and service
34 quality, from the jurisdiction of the commission except to the
35 extent specifically provided in this section. In addition and
36 further notwithstanding any other provision of law, the

1 commission shall have no jurisdiction over the affiliate
2 transactions, equity and debt financing, transfers, or other
3 public utility operations of an exempt telephone company except
4 to the extent specifically permitted in this section.

5 Subd. 2. [BASIC SERVICE AUTHORITY.] The commission shall
6 have only the following authority over a basic services
7 regulated company:

8 (1) receive and investigate any complaints against
9 telephone companies to the extent the complaint relates to the
10 authority retained by the commission in this section;

11 (2) enforce the standards of network service necessary to
12 maintain the public health and safety, setting network
13 performance standards equally applicable to all
14 telecommunications carriers;

15 (3) enforce the emergency 911 technical network standards
16 equally applicable to all telephone companies;

17 (4) to enforce rules as they may be necessary and that are
18 equally applicable to all telecommunications carriers that:

19 (i) require customer notice of tariff rate changes or
20 withdrawal of tariffed service offerings; and

21 (ii) proscribe the procedures for disconnection of
22 residential customers for nonpayment of local exchange service,
23 late payment fees, and deposits for customers, including the
24 payment of interest on customer deposits;

25 (5) to administer the telecommunications relay service and
26 telephone assistance plan, including the assessment of telephone
27 companies under sections 237.49; 237.50 to 237.56; and 237.69 to
28 237.711;

29 (6) to enforce the Underground Utility Damage Prevention
30 Act under chapter 216D;

31 (7) to enforce the provisions of law relating to
32 rights-of-way affecting telephone companies under sections
33 237.162 and 237.163;

34 (8) to discharge the responsibilities of state commissions
35 under the federal Telecommunications Act of 1996, Public Law
36 104-104, and to enforce its lawful orders;

1 (9) to retain all authority to require a telephone company
2 opting into basic services regulation to furnish basic services
3 to any person, firm, or corporation in its service area desiring
4 basic services; and

5 (10) to perform duties as required by section 237.88.

6 Sec. 4. [237.88] [IMPLEMENTATION PROCEDURES; DUTIES.]

7 Subdivision 1. [TARIFFS.] A basic services regulated
8 company must file and maintain on file with the commission
9 tariffs for its basic services that contain service descriptions
10 and the terms and conditions, including rates, under which the
11 services are offered to the public. No telephone company or
12 telecommunications carrier is prohibited from offering customer
13 incentives of the type offered by other telephone companies,
14 telecommunications carriers, or providers of voice or data
15 services.

16 Subd. 2. [BASIC SERVICE RATES.] The initial single line
17 flat rated residential and business service rates shall be the
18 corresponding rates charged by the basic service regulated
19 company as of January 1, 2005. The initial basic service
20 residential monthly service rates may be increased by an amount
21 not to exceed \$1 per 12-month period beginning July 1, 2005, and
22 ending June 30, 2008. The initial basic service business
23 monthly service rates may be increased by an amount not to
24 exceed \$2 per 12-month period beginning July 1, 2005, and ending
25 June 30, 2008.

26 Subd. 3. [EXTENDED AREA SERVICE.] Each telephone company's
27 extended area service rates shall not be greater than the
28 corresponding rates charged by the telephone company as of July
29 31, 2005. The commission shall determine a telephone company's
30 extended area service rates for new extended area service
31 established on or after July 31, 2005. This subdivision does
32 not apply to optional extended area calling plans.

33 Subd. 4. [RATE ADJUSTMENTS.] If a telephone company does
34 not impose an allowed rate increase during any 12-month period,
35 the utility may impose the unused increase in any subsequent
36 year. In addition to the rate increases permitted under this

1 section, the telephone utility may adjust its basic service
2 residential and business service rates by a percentage equal to
3 the most recent annual percentage change in the gross domestic
4 product price index as published by the federal government.

5 Subd. 5. [ADDITIONAL RATE ADJUSTMENTS.] In addition to the
6 rate adjustment provisions in subdivisions 1 to 4, the
7 commission may also authorize additional changes in the monthly
8 rates for basic service regulated residential and business
9 services to reflect exogenous factors beyond the control of the
10 telephone company, including, but not limited to, changes in
11 intercarrier compensation or access charges, changes in
12 universal service or funding payments, changes in local, state,
13 or federal taxes, and other government or regulatory mandates.

14 Subd. 6. [COMMISSION RETAIL JURISDICTION.] Effective July
15 1, 2008, the retail rate jurisdiction of the commission shall no
16 longer be applicable to basic services residential and business
17 rates unless the commission during the first six calendar months
18 of 2008 extends its retail rate jurisdiction over basic services
19 residential or business rates provided by a previously basic
20 services regulated telephone company. The commission may extend
21 its jurisdiction under this subdivision for not more than one
22 year and may do so only after a finding that the action is
23 necessary for the public interest.

24 Sec. 5. [237.89] [ANTICOMPETITIVE PRICING.]

25 Subdivision 1. [PROTECTION FROM ANTICOMPETITIVE
26 PRICING.] This section applies to prices governed by section 4.
27 A telephone company must not price its basic services below the
28 lower of total service long-run incremental cost of providing
29 the service or a competitor's price. For the purposes of this
30 subdivision, "telephone company" means any company authorized by
31 the commission to provide voice services to end-user customers,
32 either residential or business, and includes a city utility
33 authorized to provide local exchange services.

34 Subd. 2. [ENFORCEMENT.] (a) The powers and duties granted
35 to the commission by section 237.081 apply to violations or
36 suspected violations of this section. A person aggrieved by a

1 violation of this section may file a complaint as provided in
2 section 237.081, which shall be treated as any other complaint
3 filed under that section. The commissioner of commerce may
4 investigate violations or alleged violations of this section.

5 (b) Sections 237.461 and 237.462 apply to violations of
6 this section.

7 Subd. 3. [PRICE DECREASES.] Nothing in this section
8 prohibits a telephone company from decreasing its basic service
9 rates. Except as necessary to comply with this section, no
10 basic service may be priced below the total service long-run
11 incremental cost for the service.

12 Sec. 6. [EFFECTIVE DATE.]

13 Sections 1 to 5 are effective the day following final
14 enactment."