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STATEMENT OF NEED AND REASONABLENESS

Under M.S. § 15.0412, subd. 1a, an agency, before it grants a variance to a rule, shall have promulgated rules setting forth procedures and standards by which variances shall be granted and denied. This proposed rule is designed to comply with the requirements of M.S. 15.0412, subd. 1a, by establishing the procedures and standards for granting variances to the Commission's rules.

Variance authority is necessary to permit the efficient functioning of the Commission in the administration of its rules. For example, many of the Commission's rules contain time deadlines, specifying when certain actions must be taken. The Commission, and parties subject to its rules, are at times unable to meet the deadlines of those rules for good cause. The ability to vary its rules would allow the Commission, where it had been shown to be appropriate, to adjust a time deadline.

Further, the Commission at times needs the ability to vary its rules to prevent hardship or economic waste. The Commission's activities, and thus its rules, concern rates, charges, and practices of public utilities. Those rates and practices have a direct and substantial effect upon the citizens of the State. Reasonable protection of those citizens requires the ability of the Commission to vary its rules when circumstances show that harm would otherwise result. In addition, the prudent protection of the investment made in the regulated utilities of the State necessitates the freedom to allow variances where a showing is made of economic loss beyond the reasonable value of the blind application of the rule.

The rule as proposed provides a reasonable framework for the Commission to judge whether a rule should be varied or enforced in its normal fashion. Any such judgement requires the careful balancing of competing factors, and the Commission's proposed rule establishes which factors the Commission may consider. It contains, by its selection of those factors, reasonable limits on the Commission's authority to vary its rules and is sufficient to prevent abuse of the variance ability.