

7/22/91

STATE OF MINNESOTA
PUBLIC UTILITIES COMMISSION

In the Matter of the
Proposed Rules Governing
Telephone Filing
Requirements, Minn. Rules,
parts 7810.8100 to 7810.8940

ISSUE DATE:
DOCKET NO. P-999/R-84-648
STATEMENT OF NEED AND
REASONABLENESS

I. INTRODUCTION

The Minnesota Public Utilities Commission (Commission) currently has rules in effect governing telephone utilities. See Minn. Rules, parts 7810.0100 to 7810.8000. These rules relate to items such as customer relations, engineering, lobbying expenditures, and depreciation certification. However, these rules do not govern telephone company filings with the Commission, alternative regulation under Minn. Stat. sections 237.57 to 237.64 (1990), or incentive plans under Minn. Stat. section 237.625 (1990). Minn. Rules parts 7810.8100 through 7810.8940 are new rules proposed by the Commission to state the requirements for telephone company filings, alternative regulation, and incentive plans.

The Commission currently has rules in effect governing filings by gas and electric utilities. See Minn. Rules, parts 7825.3100 to 7825.4600. The gas and electric utility filing rules were used as a starting point for these proposed rules. However, the differences between gas and electric utilities and telephone companies as well as applicable laws require different treatment in their respective filing rules. The enactment of legislation governing alternative regulation for telephone companies also necessitated that the proposed rules address issues unique to telephone companies. See Minn. Stat. sections 237.57 to 237.64 (1990).

The Commission began this rulemaking by preparing draft rules and soliciting outside comment on them in the November 6, 1978 State Register (3 S.R. 991) and the May 13, 1985 State Register (9 S.R.

2477). The Commission received many comments in response to its notices and carefully considered the suggestions it received.

In addition, the Minnesota Department of Public Service (Department) requested, on January 2, 1986, that the Commission initiate rulemaking in this area and submitted suggested rule language. In response, the Commission issued its Disposition of Rulemaking Petition on March 5, 1986, stating its intention to incorporate certain Department suggestions in its telephone filing requirement rules.

The Commission met to consider proposing draft rules shortly after the law governing alternative regulation for telephone companies, referred to above, was enacted by the Minnesota legislature in 1987. At that time, the impact of the law on the draft telephone filing rules was unclear. For that reason, the Commission directed its staff to study the law and incorporate the law into the filing rules.

The Commission met again on January 20, 1988, to review the amended draft rules. At that meeting, the Commission proposed the telephone filing requirement rules.

Before the telephone filing requirement rules were adopted, the 1989 Minnesota legislature enacted several changes to Chapter 237. These changes had a significant impact on the filing rules then under consideration by the Commission and its staff. The Commission directed the staff to incorporate the law into the filing rules once again. The staff did incorporate the law into the filing rules which resulted in additional rules parts.

An Advisory Task Force met periodically to discuss proposed drafts and submit comments to the staff. Members of the Advisory Task Force included representatives from United Telephone Co., U S West Communications Inc., Continental Telephone Co., Central Telephone Co., the Minnesota Telephone Association, Office of the Attorney General (Office of Administration and Residential Utilities and Small Business Division), and the Department. Comments from task force members were carefully considered by the staff and incorporated into the proposed rules where appropriate.

On June 18, 1991, the Commission met to review the proposed rules. At that meeting, the Commission proposed filing requirement rules, Minn. Rules, parts 7810.8100 through 7810.8940.

II. STATEMENT OF COMMISSION'S STATUTORY AUTHORITY

These rules are proposed pursuant to the Commission's statutory authority to:

- make rules pursuant to Minn. Stat. section 237.10 (1990) and Minn. Stat. section 216A.05 (1990);
- review the reasonableness of tariffs and rates pursuant to Minn. Stat. section 216A.05 (1990);
- prescribe the form and manner of filing of tariffs, rates, fares, and charges pursuant to Minn. Stat. section 216A.05 (1990);
- require telephone companies to charge just and reasonable rates and to furnish reasonably adequate service and facilities pursuant to Minn. Stat. section 237.06 (1990);
- require telephone companies to file rate schedules with the Department pursuant to Minn. Stat. section 237.07 (1990);
- require telephone companies to give notice of rate changes pursuant to Minn. Stat. section 237.075 (1990); and
- regulate competitive telephone services pursuant to Minn. Stat. sections 237.57 to 237.64 (1990).

Under these statutes the Commission has the necessary statutory authority to adopt the proposed rules.

III. STATEMENT OF NEED

Minn. Stat. ch. 14 (1990) 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 lack of rules governing the requirements for telephone company filings means that there are no stated standards by which to judge whether a filing is complete and should be accepted for further review and consideration. Without objective criteria, it is difficult to determine whether a filing is satisfactory. This presents a problem for the Commission, the telephone companies, and other participants in the regulatory process such as the Department and the Office of the Attorney General.

Finally, the fact that the gas and electric utilities currently have filing requirement rules further illustrates the need for telephone companies to also have rules. See Minn. Rules, parts 7825.3100 to 7825.4600.

IV. STATEMENT OF REASONABLENESS

The Commission is required by Minn. Stat. ch. 14 (1990) to make an affirmative presentation of facts establishing the reasonableness of the proposed rules. Reasonableness is the opposite of arbitrariness or capriciousness. It means that there is a rational basis for the Commission's proposed action. The reasonableness of the proposed rules is discussed below.

A. Reasonableness of the Rules as a Whole

The overall approach taken by the Commission in drafting the proposed rules was to evaluate other rules, past filings, outside comments, and the laws governing telephone company rate changes.

The Commission compared telephone filings to gas and electric utility filings to determine to what extent the gas and electric utility rules could be applied to telephone companies. The Commission also examined current and past telephone company filings to determine what information was lacking and what information was not necessary.

Moreover, the Commission considered suggestions submitted by the Department in its rulemaking petition as well as comments from members of the Advisory Task Force.

Finally, the Commission examined the law governing rate changes and considered its experience operating under these laws. See Minn. Stat. section 237.075 (1990) and Minn. Stat. sections 237.57 to 237.64 (1990).

Based on the law, its experience, and input from other regulatory participants, the Commission proposed these rules.

B. Reasonableness of Individual Rules

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

Part 7810.8100 . PURPOSE.

This part of the proposed rules explains their purpose by listing the four areas included in the filing requirements. The first

item refers to the filing information regarding charges and new service offerings required under Minnesota Statutes, sections 237.06 (1990) and 237.07 (1990). The second item refers to the filing of rate changes including changes under Minnesota Statutes, section 237.075 (1990); miscellaneous tariff changes under Minnesota Statutes sections 237.075 and 237.63 (1990); and emerging competitive service rate changes under Minnesota Statutes, section 237.60 (1990). The third item refers to filings required for competitive services under Minnesota Statutes, sections 237.59, 237.60, and 237.62 (1990). The fourth item refers to incentive plans filed under Minnesota Statutes, section 237.625 (1990). These four areas fit under the broad category of filing requirements because the proposed rules spell out what must be filed by a telephone company regarding its charges, rate changes, requests for alternative regulation, and incentive plans. This rule part is reasonable because it introduces the reader to the subject matter that is contained in the rules.

Part 7810.8200 DEFINITIONS.

The definitions in this rule part are specific to the filing requirements, and for that reason, have been given their own section independent of existing part 7810.0100, which defines the terms used in other sections of chapter 7810. Therefore, proposed subpart 1 indicates that the scope of this part is parts 7810.8100 through 7810.8940. Subpart 1 is reasonable because it clarifies applicability of the definitions that follow.

This section of the Statement of Need and Reasonableness groups similar or related definitions together for discussion purposes. This approach makes it easier for the reader to follow the reasoning behind the definitions.

Included in the definitions are standard name definitions that are used repeatedly and consistently in other Commission rules. Subpart 2 defines the Attorney General's Office; subpart 6 defines the Department; and subpart 27 defines telephone company or company.

Subpart 3 defines "average" substantially the same as it is defined in the gas and electric utility filing rules. See Minn. Rules, part 7825.3100, subp.2. The only difference is the addition to the telephone filing rules of "an average of 12 monthly averages" as one meaning of the term average. This phrase was added to give telephone companies a choice among three acceptable methods of presenting data to accommodate the differing accounting procedures of regulated telephone companies. A definition of average is necessary to assist telephone companies in complying with the reporting requirements of these rules. The proposed definition is reasonable because it provides

flexibility for telephone companies while standardizing methods of presenting data to facilitate the evaluation of the rate change petition by the Commission and other parties to the proceeding.

Subpart 11 defines "fiscal year" for accounting purposes. Fiscal year means any 12 consecutive months and need not begin in January and end in December. Therefore, a fiscal year may or may not be a calendar year. This definition is necessary to assist companies to comply with the reporting requirements of the proposed rules. It is also reasonable because it is a standard accounting definition.

Subpart 21 defines "previous fiscal year" as the company's most recently completed fiscal year that has an ending date before the end of the proposed test year. Subpart 28 defines "test year" as the period of 12 successive months used for evaluating a need for a change in rates. From these definitions it is clear that the test year is distinct from and ends after a previous fiscal year. These distinctions are necessary so that the companies can correctly interpret other parts of the proposed rule which require various types of financial and accounting data. The proposed definitions are reasonable because they will aid the companies in complying with the proposed rules. These definitions are also reasonable because they are commonly used in the telecommunications industry.

Subpart 4 defines "capital structure" the same as it is defined for gas and electric utilities in Minn. Rules, part 7825.3100, subp. 4. That rule incorporates by reference the language of Minn. Stat. section 216B.49, subd. 2 (1990). This language is standard regulatory vocabulary historically used and accepted. The definition assists companies in complying with the reporting requirements of these rules. The proposed definition is reasonable because it lists items which are considered a standard part of a company's capital structure.

Subpart 30 defines "weighted cost of capital" by similarly incorporating the gas and electric utilities rule language in Minn. Rules, part 7825.3100, subpart 20. However, proposed subpart 30 improves upon that definition by specifying how the weighted cost of capital is calculated. The formula contained in subpart 30 is consistently used in gas, electric, and telephone utility regulation. Therefore, this definition is reasonable.

Subparts 5, 7, 9, 13, and 19 define the terms created by the alternative deregulation law as they are defined in that law. See Minn. Stat. section 237.59 (1990). Subpart 5 defines "competitive service"; subpart 7 defines "effective competition"; subpart 9 defines "emerging competition"; subpart 19 defines "individually priced service"; and subpart 26 defines "noncompetitive service". It is reasonable to use terms that are

consistent with the statute that created them.

Subpart 8 expands the basic definition of embedded cost used in the gas and electric rules, Minn. Rules, part 7825.3100, subp. 5. This subpart clarifies that "average cost" in the energy rules means a weighted average. This definition details how the average is to be calculated so that a uniform method is used by all telephone companies and intervenors. In this way, meaningful comparisons can be made. It is reasonable to define embedded costs as a sum of these percentages so they are uniformly calculated.

Subpart 9 also clarifies the energy utility rule definition of embedded cost by specifying what it means in terms of long-term debt, short-term debt, and preferred stock. It is reasonable to define embedded cost of short-term debt in the same terms as the embedded cost of long-term and preferred stock because this component is often a component of a telephone company's capital structure. It is needed to see the total capital structure.

Subparts 12 and 18 define "general rate change" and "miscellaneous rate change". These definitions are substantially the same as those used in the energy filing rules. See Minn. Rules, part 7825.3100, subparts 6 and 9. Whether a telephone company's or utility's gross revenue requirement needs to be determined is the traditional determining factor as to whether a rate change filing constitutes a general rate change or a miscellaneous rate change. The answer to that question determines how the filing is treated under the proposed telephone filing rules, just as it does under the energy filing rules. In addition, the definition of "miscellaneous rate change" is consistent with Minn. Stat. section 237.63 (1990).

Subpart 16 defines "language change" in two ways: as a price list change under Minn. Stat. section 237.60 (c) (1990)j and as a miscellaneous tariff change under Minn. Stat. section 237.63 (1990). It is reasonable to use terms that are consistent with the statutes that created them.

Subpart 15 defines "jurisdictional"; subpart 17 defines "Minnesota company"; and subpart 39 defines "total company". Jurisdictional refers to a company's Minnesota intrastate operations. That is, the operations that are subject to regulation by the Commission under Minnesota law. See Minn. Stat., chapters 216A and 237 (1990). Minnesota company refers to both the interstate and intrastate operations of a company within Minnesota. Total company refers to the jurisdictional and nonjurisdictional operations of a company. For example, a total company could consist of Minnesota operations and non-Minnesota operations. These definitions are commonly understood by regulated companies and are, therefore, reasonable.

"Rate" is defined in subpart 23 as the amount of compensation, price, charge, toll, tariff, rental, or classification observed, charged, or collected for a service or element of service; and the rules, regulations, and practices that are subject to regulation by the Commission. Subpart 10 defines "final rates" as permanent rates ordered into effect by the Commission in a general rate change proceeding under Minn. Statutes, section 237.075 (1990) and in an earnings investigation under Minn. Statutes, section 237.081 (1990). It is necessary to distinguish between final rates and interim rates because the statutes and the rule recognize and apply different requirements to each of them. "Interim rates" defined in subpart 14 mean temporary rates ordered into effect by the Commission under Minnesota Statutes, section 237.075, subd. 3 (1990).

Subpart 20 states that "present rates" are the Commission-approved rates that are currently in effect, to distinguish them from rates that a company may propose to put into effect. Subpart 24 defines "rate change" or "change in rates" by indicating that a change, elimination, replacement, cancellation, or withdrawal of a rate is a rate change. Finally, subpart 25 defines "rate element" as a telephone service or component of telephone service provided by the telephone company for which there is a separate rate.

The definition of "rate" is substantially the same as the definition of "rate" used in the gas and electric utility filing requirement rules, Minn. Rules, part 7825.3100, subpart 14. The utility rule definition incorporates by reference the statutory definition of rate found in Minn. Stat., section 216B.02, subd. 5 (1990). Therefore, the definitions of "present rates" and "rate" are consistent with the terms used in the gas and electric utility filing requirement rules. These definitions are commonly used in the telecommunications industry as well.

The definition of "rate change" is consistent with the definitions of "present rate" and "rate". It is also commonly understood and used throughout the telecommunications industry. Moreover, the Commission has expressly found that the elimination of a service and the rates charged for that service is a change of rates as contemplated by Minn. Stat. section 237.075, subd. 1 (1990). See Order Suspending Tariff and Initiating Investigation In the Matter of Northwestern Bell Telephone Company's Proposed Tariff to Discontinue Operator Services to Local Exchange Carriers, Docket No. P-421/M-87-815 (December 31, 1987).

Finally, subpart 22 defines "price list" and subpart 26 defines "tariff". A price list is a schedule showing the company's rates, regulations, classifications of services, and practices observed for services subject to emerging competition. A tariff shows a company's rates, prices, regulations, classifications of services, and practices in tabular form for noncompetitive

services. These definitions are also commonly accepted and widely used throughout the industry. Therefore, it is reasonable to use them in the same manner in the proposed rules.

Part 7810.8300 SCOPE.

This rule part provides the scope of the proposed telephone company filing requirement rules. The proposed rules apply to all telephone companies regulated by the Commission under Minn. Stat., chapters 216A and 237 (1990). It is reasonable to apply the rules to telephone companies under the Commission's jurisdiction because the Commission has the statutory responsibility to regulate these companies.

Part 7810.8400 TARIFFS AND PRICE LISTS.

This proposed rule part requires telephone companies to file their tariffs and price lists with the Department. Subparts 1 through 4 set out what information must be contained in a tariff or price list filing. Subpart 5 determines when a tariff schedule is no longer in effect.

The statutory authority for requiring telephone companies to file their tariffs and price lists with the Department is found in Minn. Stat., section 237.07 (1990):

Every telephone company shall keep on file with the department a specific rate, toll, or charge for every kind of service subject to emerging competition, together with all rules and classifications used by it in the conduct of the telephone business including limitations on liability. The filings are governed by Chapter 13. When a company sells services subject to emerging competition on an individually priced basis, it shall file a statement of the charges to its customers with the commission and the department. The department shall require each telephone company to keep open for public inspection, at designated offices, so much of these rates, price lists, and rules as it deems necessary for the public information.

In addition, Minn. Stat., section 237.075, subd. 1 (1990) governing notice of proposed rate changes has a similar requirement:

All proposed changes shall be shown by filing new schedules or shall be plainly indicated upon schedules on file and in force at the time.

Finally, the energy filing requirement rules have this

requirement for gas and electric utilities. See Minn. Rules, part 7825.3600.

The purpose of the rule part is to describe the format for the required schedules and the information they should include. Items A through D of subpart 1 state what information the schedules should contain. In order for the Department, the Commission, and the public to understand the tariffs and price lists, certain basic information is required. Each telephone service must be separately identified, along with the classifications, rates, charges, tolls, rules, regulations, and practices applicable to each service.

The law on alternative regulation provides for services subject to emerging competition. See Minn. Stat., section 237.59, subd. 1 (1990). The Commission may determine that additional services other than those services listed in the statute are subject to emerging competition. See Minn. Stat., section 237.59, subd. 5 (1990). Telephone companies which offer emerging competitive services must file certain information. See Minn. Stat., section 237.07 (1990), and proposed Minn. Rules, part 7810.8510. Identifying in the price list whether a service is subject to emerging competition indicates that the service is subject to different regulatory treatment. In this way, all regulatory participants are on notice that the information required by statute and proposed rule part 7810.8510 must be filed. The information will be standardized for all who may be interested in the application and scope of a telephone company's services.

Minn. Stat., section 237.071 (1990) allows special (individual) pricing for noncompetitive services and for services subject to emerging competition in certain situations. Minn. Stat., section 237.07, subd. 1 (1990) requires filing information regarding any individually priced services. For noncompetitive services, the tariffs should include a description of the services along with a statement that the prices are determined on a contractual basis. For emerging competitive services, the price lists should describe the services and the conditions that relate to each service. Requiring this information is reasonable since it facilitates the Commission's assessment of the appropriateness of the individually priced rates.

Subpart 2 requires telephone companies who offer individually priced services to file related documents along with the tariffs and price lists. For individually priced noncompetitive services, contracts should be filed. For individually priced emerging competitive services statements of charges should be filed. The information included in these documents enables the Commission to judge whether the individually priced services are reasonably priced.

Subpart 3 requires that all proposed rates be filed as new or

revised tariff pages so that the impact of the proposed rates can be fully evaluated. For the same reason, the new or revised tariff pages must show the proposed effective dates for the new rates and be in a format consistent with the current tariff. Finally, in order for a revised page to be easily compared to a current page, the proposed tariff page must contain the revision number and the page number it is revising. All these requirements are needed because they ensure that the tariff books, which contain the tariff pages, will be orderly and easily referenced. In this way, the regulators, other companies, and the public are aware of the currently offered services and rates.

Subpart 4 similarly is needed because it states that rates be shown in dollars and cents per unit. Requiring a uniform, standard format for reporting rates facilitates a meaningful interpretation and comparison of the various services offered by the companies.

Under subpart 5, schedules are in effect until they are superseded by subsequently filed schedules that comply with these rules or are ordered by the Commission. Without this requirement there could be two or more conflicting schedules in effect at the same time or there could be tariffs and price lists on file for services that do not exist.

Part 7810.8401 NEW SERVICE OFFERINGS.

This rule part governs the information that must be filed when a telephone company proposes new service offerings. Minn. Stat., section 237.07 (1990) does not include new service offerings among its filing requirements. However, the Advisory Task Force recommended that new service offerings be included in the filing requirements. Information regarding new service offerings is necessary because new service offerings are an integral part of the telephone services that a telephone company makes available to its customers. Without this information, the information on file with the Commission is incomplete. By standardizing how information regarding new service offerings is filed, the companies will have guidelines as to what should and should not be filed with the Commission. As with the other telephone filing requirements, clearly stated standards are needed for judging the particular filings.

Item A requires filings of new service offerings to identify and describe each new telephone service with the rates for each. It is necessary to require separate descriptions and rates for each service so that the information is specific enough to evaluate the appropriateness of the service and rate. Without specificity, the information is meaningless.

Item B requires new or revised pages to the tariff books or price

list to be consistent in format with the currently filed tariff or price list. Such a requirement is needed so that the impact of the new rates can be evaluated. The new or revised pages must contain the revision number and page number it is revising so it is easy to locate in the company's tariff book and compare it to the current page.

Item C requires information explaining the estimated impact of the new service offering on the company's revenues and expenses. This is needed since it enables the Commission to determine whether the rates charged for the new offerings are reasonable. Also, similar information was required for setting the rates of present offerings. Therefore, information on new service offerings is consistent with what was already filed for present telephone service offerings.

Item D requires new emerging competitive services to include an incremental cost study. This is required by statute for rate increases and decreases for emerging competitive services to ensure that the proposed prices are above incremental cost. See Minn. Stat., section 237.60, subd. 2 (a) and (b) (1990).

GENERAL RATE CHANGES

Part 7810.8600 NOTICE.

This rule part specifies what must be included in a notice for a general rate change. Items A and B are modeled after the filing requirement rules for gas and electric utilities. See Minn. Rules, part 7825.3200, item A, and the following comparison:

- proposed item A corresponds to existing item A(1) by requiring the company to file a petition ("proposal") for a change in rates;
- proposed item B corresponds to existing item A(2) by requiring the company to file modified tariff schedules.

Item C requires a list of tariff and price list page numbers not affected by the proposed change. Providing a list of unaffected tariff and price list pages facilitates Commission review of a request for a change in rates. Absent this list, Commission staff must examine each tariff and price list on the books to determine whether the proposed rate change has an impact on a particular tariff and/or price. Since the company is proposing the change, it is reasonable to assume it has reviewed its tariffs and price lists to determine which pages are affected by its request. To avoid duplication of effort and expense, it is reasonable for the company to provide this information in its notice.

Item D advises the company to file informational requirements that support the general rate change. Item D is modeled after the filing requirement rules for gas and electric utilities. See Minn. Rules, part 7825.3200, item A(4). The informational requirements are explained in parts 7810.8610 through 7810.8690.

Item E requires that the notice include a proposed written notice of the proposed change to the governing body of each municipality and county in the affected area and a list of those municipalities and counties in accordance with existing Minn. Rules, Chapter 7830.3200. This rule part governs utility (defined to include telephone company) practice and procedure. The rule currently applies to all telephone companies that request a change in rates. Therefore, the proposed rule part does not create an additional burden on the company. Item E stems from Minn. Stat., section 237.075, subd. 1 (1990):

The filing telephone company shall give written notice, as approved by the commission, of the proposed change to the governing body of each municipality and county in the area affected.

Likewise, item F requires a proposed customer notice for interim and proposed final rates. Rule part 7830.3200 presently requires a utility (defined to include telephone company) to notify its customers of proposed interim and final rates. This proposed rule part reiterates this requirement.

Part 7810.8605 PETITION.

A general rate change petition filed with the Commission must include the information listed in Items A through J of this rule part. Items A through E are modeled after the gas and electric utility rule governing what must be included in their rate change petitions. See Minn. Rules, part 7825.3500, items A, B, C, and E.

Items A through F require the company to provide basic information about who is requesting the rate change, when the rate change is intended to take effect, a description of the rate change, why that change is requested, and the statutory authority for the proposed change. Without this information, it would be difficult to process and evaluate a rate change request. It is common for companies to provide this information as a normal practice.

Item G requires the company to identify and justify its selection of a proposed test year. Proposed part 7810.8615 governs the two types of test year, historical and projected. Proposed part 7810.8200, subpart 39, defines test year as the twelve (12) successive months used to evaluate a need for a change in rates.

All general rates, including those for gas and electric utilities, are based upon the measure of earnings and investment for a specified period of time to enable the Commission to determine fair and reasonable rates for the test period. This specified period of time is the test year. Therefore, it is reasonable to require the telephone company to identify and justify its selection of the test year as being the most reasonable representation of the test period in its petition for a general rate change.

Proposed item H requires the company to provide information on the effect of the proposed changes in rates expressed both as the total dollar change and the percentage change in the jurisdictional revenue in the test year. Proposed item H is substantially the same as existing item D of part 7825.3500 for gas and electric utility rates which requires a utility to file the effect of the change in rates expressed in gross revenue dollars and as a percentage of test year gross revenue.

It is reasonable to require this information from the telephone company so that the Commission has a general idea of the size of a requested rate change. The size of a rate change can be clearly seen when compared to a company's existing annual revenue. This requirement puts the requested change into its proper context and, therefore, is reasonable.

The size of a rate change can also be clearly seen when broken down into the amount of rate change for each affected service, as required by proposed item I. As with proposed item H, item I puts the requested rate change for each affected service into its proper context. For these reasons, it is reasonable for proposed item I to require information on the total dollar change and percentage change in revenue for major categories of services for which the company is proposing a rate change.

Finally, proposed item J requires that the petition include a jurisdictional financial summary schedule that complies with proposed part 7810.8620, subpart 1. Proposed part 7810.8620 corresponds to existing part 7825.3900 governing jurisdictional financial summary schedules for the gas and electric utility filing requirement rules, and is discussed below. This schedule is required with the petition because it provides a summary of the proposed rate base, income under present rates, proposed rate of return, and magnitude of the proposed rate change.

Part 7810.8610 EXPERT TESTIMONY AND SUPPORTING EXHIBITS.

Minn. Stat., section 237.075, subd. 1 (1990) states that a rate change notice "shall include statements of facts, expert opinions, substantiating documents, and exhibits, supporting the change requested."

This proposed rule part provides guidance to the telephone company on what must be contained in its expert testimony and supporting exhibits for a general rate change.

This rule part is modeled after the gas and electric utility filing rules. See Minn Rules, part 7825.3700 allowing the company in question to use company personnel or other experts to present expert testimony. In addition, the rules require the company to:

- provide expert testimony in support of the rate change by the chief executive officer or other company officer;
- include statements of fact, expert opinion, and explanations of the supporting exhibits;
- provide expert testimony in question and answer format; and
- make supporting exhibits consistent with the information required by other rule parts.

These specifications are reasonable because they establish a uniform standard that is consistent with the format currently used by gas and electric utilities, and by the telephone companies that are using the utility rules as their guide. Experience has shown that these specifications work well for the parties, the Commission, and the Administrative Law Judge assigned to the contested case hearing that typically results from a general rate change request.

This proposed rule part also goes into more detail than the utility rule. For instance, the rule requires the telephone company to:

- identify the preparer of the expert testimony;
- sequentially number the pages of the expert testimony;
- sequentially number each line of the expert testimony, analogous to the format used by the Revisor of Statutes; and
- identify the expert witnesses responsible for the information submitted under these rules.

The Commission has found in prior general rate cases that these details are helpful in reviewing expert testimony and supporting exhibits. Knowing who prepared, or is responsible for, the information in the expert testimony enables the parties to question the appropriate person at the rate hearing. Numbering the pages and lines of testimony similarly helps the parties in

preparing their responses, making reference to the testimony, and revising or deleting portions of the testimony.

Moreover, these details do not place an additional burden on the telephone companies because the requirements represent the traditional format used for expert testimony in any contested case hearing, not just rate hearings. Therefore, this rule part is reasonable.

Supporting exhibits must be consistent with the requirements of proposed rules 7810.8610 to 7810.8650 as well as the accounting requirements in 7810.6200 to 7810.6400. Consistency in reporting format results in greater efficiency in the regulatory process.

Part 7810.8615 TEST YEAR.

A test year is a period of twelve successive months used to evaluate a need for a change in rates. See proposed part 7810.8200, subp. 39. A test year is an integral part of determining whether a company's requested rate change should be approved and, if so, the appropriate amount of rate change. This rule part is needed to acknowledge the importance of the test year, to establish a uniform standard, and to provide guidance to the companies when filing for a rate change.

Subpart 1 recognizes that in order to evaluate a rate change request, the Commission needs to know why the company's proposed test year is appropriate. Subpart 1 also recognizes the fact that there are two types of test year that companies may use - historical and projected. A company is given a choice as to which type of test year it proposes. This approach ensures flexibility for the company by allowing it to select the appropriate time period to present its case.

Subpart 2 prescribes an acceptable historical test year. A historical test year is comprised of at least nine (9) months of actual, historical jurisdictional data and a notice of the company's intention to update the data to twelve (12) months of actual, jurisdictional data. The updated data must be filed once and no later than one hundred days after the original general rate change notice is filed.

"Test period" is defined as the period of time during which the rates based on the test year data are in effect. This concept is used in regulation to recognize that rates are set for the future but based on test year data. Defining this basic rate making principle clarifies the intended use of the test year as a surrogate for the test period.

A historical test year is based on historical financial data as its name implies. The Commission has accepted data comprised of

less than a full year of historical data in prior rate change proceedings. However, that was with the understanding that the utility would update its filing to show twelve months of actual historical data. A cut-off period must be established at some point so that the historical test year data can be verified by other parties. Stating that cut-off point in the rule ensures that all telephone companies will be treated equally and will have advance notice for planning their rate change requests.

Nine months was chosen by the Commission as a reasonable cut off period for accepting historical data because, together with the one hundred days to update the data, it ensures that by the time the case goes to contested hearing, the full twelve months of historical data is available to the parties. It would be unfair to the parties to allow the telephone companies to file additional data after the hearing has begun. Allowing any time greater than one hundred (100) days would most likely hinder the ability of the parties to analyze the data and make recommendations. Absent the timely filing of updated data, the Commission may not have a sufficient record to set just and reasonable rates.

Requiring a telephone company to give notice of its intention to update its information also benefits the other parties in the proceeding by allowing them to plan for the additional analysis. It ensures that the full twelve months of historical data will be available for the parties.

Subpart 2 describes another option for the telephone company. If a historical test year is proposed, the company may use either an average or a year-end rate base. Rate base is a term used in regulation to represent a company's investment upon which a return is allowed. Proposed part 7810.8625, discussed below, addresses what information must be presented in a company's rate base schedules.

For a historical test year, either an average or year-end rate base is permitted. Investment and operating conditions of a telephone company will indicate whether an average or year-end rate base more appropriately reflects the operations that will exist when revised rates become effective. For example, if a large asset addition or retirement is expected by year-end, a year-end rate base may be more appropriate. Alternatively, if operations are static, an average rate base may be more appropriate.

However, in the event that a telephone company opts to use a year-end rate base, subpart 2 requires that a year-end capital structure be used and that the operating income statement be adjusted to the year-end level. Proposed part 7810.8640 governs capital structure and part 7810.8630 governs operating income statements. Both parts are discussed below.

When a year-end rate base is used, a year-end capital structure is required for the sake of consistency. A year-end capital structure is necessary to achieve consistency between the amount of capitalization and the amount of investment. This requirement is reasonable because the results are consistent and economically sound.

Subpart 3 covers the projected test year option. The projected test year is comprised of fewer than nine (9) months of actual, historical jurisdictional data. This subpart prohibits a projected test year from starting later than 61 days after the date the rate change petition is filed.

This 61 day cut-off point for filing projected data is necessary to prevent projections too far into the future. Projections too far into the future become too hypothetical to be of use in setting just and reasonable rates.

Sixty-one days was chosen as a reasonable cut-off point for projected test year data. If interim rates are put into effect, they must take effect no later than 60 days after the initial filing date. See Minn. Stat., section 237.075, subd. 3 (1990). While interim rates are in effect, the proposed permanent rates are being reviewed. During this period actual operating results may become available to confirm or deny the accuracy of projected data. Therefore, limiting the start of a projected test year to sixty-one days after the filing date is consistent and puts a reasonable limit on the future time period that projected data can cover.

Anything other than a historical test year is a projected test year. As its name implies, a projected test year is composed of forecasted data to represent the future. A telephone company may choose a projected test year if it more fairly represents future operations. Therefore, it is reasonable to allow the company flexibility in planning its rate change requests.

Subpart 3 states that if a projected test year is chosen, an average rate base and an average capital structure must be used and an operating income statement may not be adjusted to the year-end level. Year-end rate base, capital structure, and operating income statements are not allowed because of the difficulty of fairly estimating year-end amounts more than fourteen months into the future. A test year that requires less estimating is more reliable for analysis and setting rates. In contrast to a projected test year, year-end data is allowed with a historical test year because actual results are known and more easily analyzed for abnormal or extraordinary items.

Subpart 3 also provides that an average rate base and income statement for a projected test year must be based on the construction and operating budgets approved by the company's

officials for the period encompassed by the projected test year. This requirement is necessary because company prepared budgeted amounts can more readily be relied upon to result in actual expenditures and can be subsequently verified. Furthermore, company officials who approve budget expenditures are accountable for making and controlling those expenditures.

Part 7810.8620 JURISDICTIONAL FINANCIAL SUMMARY SCHEDULES.

Subpart 1 governs financial data that must be filed for a proposed test year when a telephone company requests a general rate change. Similar financial information is required by Minn. Rules Part 7825.3900 for gas and electric utility filings. Telephone companies have filed this data in prior proceedings as well.

The information required by subpart 1, items A through E corresponds to the information required by the gas and electric utility filing rule, Part 7825.3900 items A and C. Items A through E of proposed subpart 1 are the basic financial calculations used to measure a need for a change in rates during a general rate change proceeding. Therefore, it is reasonable to state in the rule that this data must be filed.

Subpart 2 requires the telephone company to file its previous fiscal year data with a general rate change notice. Subpart 2 corresponds to item B of the utility filing rule, part 7825.3900. The same basic elements required under subpart 1 for the test year are required in this subpart for the previous fiscal year. Previous fiscal year information is necessary to evaluate the test year data and the proposed change in rates based upon the test year. Subpart 2 requires unadjusted previous fiscal year data rather than adjusted data for the proposed test year. This is necessary so that actual data for the two periods can be compared for reasonableness.

Subpart 2 also specifies that the operating income requirement must be calculated with the weighted cost of capital for the previous fiscal year, pursuant to proposed part 7810.8640 subpart 1, item B. This requirement ensures consistency between the two rule parts and provides a basis for comparison between the proposed weighted cost of capital and the previous fiscal year's weighted cost of capital.

Part 7810.8625 RATE BASE SCHEDULES.

This proposed rule part explains what must be included in rate base schedules. The information in subparts 1 through 6 must be included in each general rate change notice. Rate base information for interim rate notices and exhibits are governed by

proposed parts 7810.8655 and 7810.8670.

Subparts 1 through 6 contain essentially the same requirements as the corresponding utility filing rule, part 7825.4000. That rule has five items, A through E. The utility filing rule items are included in this proposed rule although the order has been rearranged and greater specificity has been added to some items. As stated earlier, the Commission proposes to model the telephone filing rules after the utility filing rules where appropriate. The rate base information required by this proposed rule has been filed by telephone companies in past rate change filings. The two rules are compared in the discussion that follows.

Subpart 1 lists items A and B that must be included in a summary rate base schedule. These two items correspond to item A of the utility filing rule, part 7825.4000. Item A of the utility rule contains examples of major rate base components. Item A of this proposed rule provides more examples of major rate base components. The examples given are the basic rate base components recognized in all rate cases. An expanded list is used in this rule for completeness and to provide further guidance to the telephone companies. Item B of proposed subpart 1 also corresponds to item A of utility filing rule 7825.4000. Rate base information for the previous fiscal year is necessary to compare with the proposed test year rate base. The items in proposed subpart 1 are necessary because they make it clear what rate base information is required for the various time periods under review. Furthermore, this level of detail is reasonable because it has been commonly used in past telephone rate change filings.

Subpart 2 requires a comparison of the total company and Minnesota company rate base amounts with the jurisdictional rate base amounts. Total and Minnesota company includes both interstate and intrastate company operations. See proposed definitions, part 7810.8200, subparts 24 and 37. Jurisdictional operations are those intrastate operations subject to regulation by the Commission. Comparisons with jurisdictional amounts are needed to determine if the proposed rate base contains items that are appropriate for the Minnesota operations of a company. Comparison is a reasonable means of evaluating the allocations and adjustments proposed by a company.

The comparisons required in item A of subpart 2 are not found in the gas and electric utility filing requirement rules. Item A requires a comparison of unadjusted test year rate base amounts for total company, Minnesota company, and Minnesota jurisdiction. This information is necessary because unadjusted test year data forms the foundation of a company's proposed rate changes. This comparison schedule permits close examination and evaluation of the results of allocations to the Minnesota jurisdiction. Further analysis can be done more effectively because this

schedule will identify significant allocated amounts.

The comparisons in item B of proposed subpart 2 correspond to the comparisons required by item B(1) of the utility filing rule, part 7825.4000. Item B addresses a jurisdictional comparison of the proposed rate base amounts for the test year. Item B requires that the telephone company identify the types of adjustments it has made to arrive at its proposed test year rate base. As explained above for proposed item A, test year information is crucial for evaluating a change in rates and has been filed in previous rate change proceedings.

Proposed item C of subpart 2 corresponds to the comparison required by item B(2) of the utility rule part 7825.4000. This item addresses the unadjusted rate base amounts for the previous fiscal year. Previous fiscal year is defined in proposed part 7810.8200, subpart 28, as the company's latest fiscal year that has an ending date before the end of the proposed test year. Data on the previous fiscal year is useful to test the reasonableness of the proposed test year data selected by the company.

Subpart 3 corresponds to item C of the utility filing rule, part 7825.4000. Subpart 3 requires the company to include schedules that show the development of rate base schedule adjustments required by subpart 2 and information on each adjustment. This requirement is a reasonable means of evaluating the rate base calculations proposed by the company.

Subpart 4 corresponds to item E of the utility filing rule, part 7825.4000. Subpart 4 requires the company to show the separation factors it used in separating the unadjusted total or Minnesota company rate base amounts between interstate and jurisdictional amounts for the test year and previous fiscal year. Separation factors are necessary to conduct a thorough review of the company's requested rate change and to evaluate the adequacy and accuracy of the filing.

Subpart 5 states what must be included in rate base schedules if the telephone company offers both competitive and noncompetitive services and notifies the commission in writing of its decision to be subject to alternative regulation under Minn. Stat., section 237.62 (1990). Under this statute, the company has two alternatives to calculate its revenue requirement. These alternatives are described in Minn. Stat., section 237.62, subd. 1 and 1(a) (1990). Subpart 5 requires that a general rate change notice must include rate base schedules calculated by either of these alternatives. It is reasonable for the telephone company to file information that demonstrates its compliance with the applicable statute.

Finally, subpart 6 corresponds to item D of the utility filing

rule, part 7825.4000. Subpart 6 only applies when a company uses a projected test year. In that event, the company must explain the assumptions and approaches it used in determining the Minnesota and jurisdictional rate base for the test year. It is reasonable to require this information because the company invariably bases its projections upon some sort of assumptions and approaches. With this information, the Commission is able to review and understand the basis for the company's proposed test year rate base.

Part 7810.8630 OPERATING INCOME SCHEDULES.

Operating income is an important component in the calculation of a company's revenue requirement. Operating income schedules identify the revenues and expenses of a telephone company. The net operating income resulting from these revenues and expenses is used in the regulatory formula for setting rates.

Subpart 1 describes the items that are typically found in an operating income schedule. Items A through C are the traditional categories for an operating income schedule -- operating revenues, expenses, and taxes. These items are spelled out in the rule to clarify what the Commission needs to review, to provide additional detail and guidance to the companies, and to facilitate a thorough analysis of operating income.

Items A through C of subpart 1 specify standard categories of data that must be included in revenues, expenses, and taxes. Item A refers to operating revenues and provides examples of operating revenue categories that should be included. The Uniform System of Accounts is referenced as a source for the categories. Under Minn. Rules, part 7810.6400, telephone companies are required to maintain records and accounts with the applicable uniform system of accounts. This rule part reiterates that requirement to promote consistency and standardization in reporting data.

Item B specifies categories of operating expenses and again refers to the Uniform System of Accounts. Operating expenses must also be shown in the specified categories of depreciation, amortization, pension, and employee benefits. These categories are required because they are significant cost amounts and are easily verifiable.

Item C refers to operating taxes specifying current and deferred federal and state income taxes, net investment tax credits, property taxes, gross receipt taxes, and other applicable operating taxes. These are traditional categories of taxes on an operating income statement that are often scrutinized by interested parties. Providing this detail will facilitate the efficient review of the company's financial data.

Item D specifies nonoperating expenses for which the company seeks reimbursement. This item is required because it will identify nonstandard types of expenses and the associated tax treatment that the company is seeking recovery for in rates.

The following subparts 2 through 5 and 8 through 10 correspond to the information required by the gas and electric utility filing requirement rules. See Minn. Rules, part 7825.4100. Subparts 6 and 7 are not found in the utility rules.

Subpart 2 requires summary schedules for the proposed test year, either historical or projected, and the previous fiscal year. Subpart 2 corresponds to item A of the utility filing requirement rule. This requirement allows the Commission and interested parties to compare financial data for two time periods to determine if the test year data appears reasonable and appropriate for setting rates.

Subpart 3 schedules are needed to enable the Commission to examine the results of how jurisdictional revenues and expenses are derived from the total company and Minnesota company. This comparison allows the Commission to judge the appropriateness of the net operating income for the company's Minnesota jurisdiction.

Subpart 3 corresponds to item B of the utility filing requirement rules. Subpart 3, item A requires a schedule showing unadjusted total company, unadjusted Minnesota company, and unadjusted jurisdictional operating income statement amounts for the test year. Subpart 3, item B requires a schedule showing unadjusted jurisdictional amounts, Minnesota state borderline adjustments, if any, company proposed jurisdictional adjustments, and proposed jurisdictional operating income statement amounts for the test year under present rates. As stated earlier, the test year may be either historical or projected. See proposed Minn. Rules, part 7810.8615.

Subpart 3, item C requires a schedule comparing the unadjusted total company and Minnesota company operating income statements for the previous fiscal year with the jurisdictional unadjusted operating income statement for the previous fiscal year. Unadjusted data from the previous fiscal year will be used to compare to unadjusted test year data to facilitate analysis and determine reasonableness of test year data.

Subpart 4 corresponds to item D of the gas and electric utility filing requirement rule, part 7825.4100. The company must file a schedule showing the development of each adjustment in subpart 3. The Commission requires this information to ascertain what adjustments were made and the reason for them. The rule further states that the schedule must contain the title and amount of each proposed adjustment and indicate the operating income

statement components affected by each adjustment. This requirement is necessary to allow a thorough understanding of the adjustment and to simplify the analysis.

Subpart 5 requires the company to file a schedule showing the factors used in separating the unadjusted Minnesota company operating income statement amounts between interstate and jurisdictional amounts for the test year and previous fiscal year. As discussed above for subpart 3, to judge the net operating income, the Commission needs to know how the company's revenues and expenses are separated to arrive at the Minnesota jurisdiction amounts. This requirement also appears in the gas and electric utilities filing requirement rules. See Minn. Rules, part 7825.4100, item F.

Subpart 6 applies to any telephone company who notifies the Commission in writing of its intention to be subject to Minn. Stat., section 237.62 (1990) which permits alternative methods of calculating operating income. This subpart requires that a general rate change notice must include an operating income statement calculated by either of these two alternatives. It is reasonable to incorporate the statutory requirement into this rule.

Subpart 7 requires the company to file a summary schedule of its computation of gross receipts tax expense for the test year and the previous fiscal year. Subpart 7 does not have a counterpart in the utility filing rules because gas and electric utilities do not pay gross receipts tax. Instead of paying gross receipts tax, the gas and electric utilities pay property taxes. The gross receipts tax is a significant operating expense that telephone companies pay. Gross receipts tax rates vary by the community served and change each year. For this reason, it is reasonable to require the telephone company to show the calculation of this expense for the Minnesota company and Minnesota jurisdiction.

Subparts 8 and 9 refer to computation of taxes and tax rates. These subparts do not apply to tax exempt telephone companies. Tax exempt companies include cooperative telephone associations and municipals. These companies file rate change petitions if they elect to be regulated by the Commission. See Minn. Stat., section 237.075, subd. 9 (1990). In the event that any of these companies elect to be rate regulated, they need not file the information required by subparts 8 and 9 because they do not pay the types of taxes referred to in these subparts.

For taxable companies, subpart 8 requires an operating income schedule for the test year and previous fiscal year showing the computation of unadjusted total company, unadjusted Minnesota company, and unadjusted jurisdictional current and deferred federal and state income tax credits and net investment tax

credits. As with the gross receipts tax, these taxes are significant operating expenses and will be treated differently for setting rates depending on whether they are current or deferred.

Subpart 9 requires taxable companies to show in detail the development of the combined federal and state income tax rates. Additional detail is needed to verify the amounts required in subpart 8. Moreover, subparts 8 and 9 have their counterparts in item C of the gas and electric filing requirement rule, part 7825.4100.

Finally, subpart 10 addresses the assumptions and approaches that the company used in establishing its projected test year. The company must file a schedule summarizing the assumptions it made and the approaches it used in projecting each major element of the Minnesota company and jurisdictional operating income statement for the test year. Subpart 10 corresponds to item E of the gas and electric utility filing requirement rule, part 7825.4100.

Requiring this information assists the Commission in evaluating the reasonableness of the projections proposed by the company. Knowing the company's assumptions and approaches will allow the Commission to judge if they are appropriate and whether the calculated projections are consistent with the assumptions and approaches used.

Part 7810.8635 SUPPLEMENTAL FINANCIAL INFORMATION.

Subparts 1 through 8 of this proposed rule part require supplemental financial information for a general rate change notice. The primary purpose of the supplemental financial information is to explain and support other filed information. This supplemental information will also demonstrate whether the telephone companies are in compliance with various statutory and Commission requirements for setting rates.

Subpart 2 requires the telephone company to file workpapers showing how the test year rate base and income statement components and adjustments were determined by the company. Proposed part 7810.8625 covers test year rate base and part 7810.8630 covers test year operating income. Test year data are the foundation for the final rates. Insight into the formation of the test year data is necessary to fully understand the company's proposal. The Commission and intervenors in the proceeding will be able to review the company's workpapers so they can evaluate the data and calculations supporting the company's proposed test year data.

Items A, B, and C of subpart 2 identify which workpapers are

necessary. Item A requires supporting data and calculations for the development of the jurisdictional test year rate base and operating income statement. Item A will be used to explain the basis for the test year amounts in the rate base and operating income statement. Item A also requires jurisdictional information to determine how the test year amounts are divided between jurisdictional and nonjurisdictional operations.

Item B requires supporting data and calculations for the development of each test year adjustment. In this way, each test year adjustment can be reviewed and individually evaluated to determine whether the adjustment is appropriate.

Item C requires calculations for the development of the revenue requirement under Minn. Stat., section 237.62, subd. 1 and 1(a) (1990). A detailed description of the methods used to prepare cost studies, separate costs, and make the appropriate allocations is required. As with item A, this information explains how the test year data has been divided between jurisdictional and nonjurisdictional operations. Because the statute specifies how the company's revenue requirement will be determined, it is reasonable to require the company to provide its supporting calculations.

Taken together, items A, B, and C provide valuable insight to the company's proposed revenue requirement and rate design. They do not create an excessive or unreasonable burden upon the telephone company because the company, in order to comply with the statute, considered this cost information when it developed its rate proposal. That is, the data already exists and requires little additional effort or development by the company.

Finally, subpart 2 requires the company to file its workpapers with the Commission, the Department, and the Attorney General's Office. Each agency has a statutory duty to review the company's proposed rates. See Minn. Stat., sections 237.075 (1990), 216A.07 (1990), and 8.33 (1990). Therefore, each agency needs this information. Each agency needs a different number of copies depending on the size of their operations. For that reason, the rule requires the company to file the number of copies established by the agencies. This is currently a Commission practice and it is reasonable to require it in the proposed rule.

Other parties to the proceeding are also given access to these workpapers. However, other parties must request this information from the company because it is unknown exactly who will need or request this information in a particular case. The number of parties also varies from case to case. Therefore, it is not logical to burden the company unnecessarily by requiring the company to automatically provide a set number of copies in every case. Since other parties do not have a statutory duty to become involved in the case as does the Commission, the Department, and

the Attorney General's Office, it is appropriate to require other parties to request the information they want.

Subparts 3 and 4 governing advertising expenses and organizational dues originate from Statements of Policy issued by the Commission on June 14, 1982. In its policy statements, the Commission recognized that rate cases can be expedited by specifying the data needed on certain issues. The policy statements were issued to explain the filing requirements a telephone company should follow if it desires reimbursement for advertising expenses and organizational dues. Moreover, the Commission recognizes that the policy statements do not have the force or effect of law. Instead, they are an expression of the Commission's general intention to be followed unless the facts or circumstances dictate otherwise.

The Commission proposes to adopt parts of these policy statements as rules so that they will have the force and effect of law. The filing requirements contained in the policy statements have been followed by telephone companies in rate cases without objection. The Commission has not found it necessary to amend the information required by the policy statements. Therefore, the filing requirements contained in the 1982 policy statements are reasonable because they have been scrutinized and because they have stood the test of time.

For subpart 3, governing advertising expenses, some of the information required by the Commission Statement of Policy on Advertising (June 14, 1982) has been incorporated into the proposed rule. The rule requires the company to file a schedule, by category, describing advertising categories and listing Minnesota company dollar amounts of advertising expense for each category in the test year and jurisdictional amounts for advertising category in which the company seeks reimbursement. Sample ads are also required for each category.

Under Minn. Stat., section 237.075, subd. 7 (1990) the company shall not seek reimbursement for institutional advertising. The proposed rule incorporates this statute. The rule defines institutional advertising as costs incurred by a telephone company to promote good will for the telephone company or improve the company's public image.

For subpart 4, governing reimbursement for organizational dues, some of the information required by the Commission Statement of Policy on Organization Dues (June 14, 1982) has been incorporated into the proposed rule. This subpart requires a listing of dues by organization showing the Minnesota company and corresponding jurisdictional dollar amount of dues for the test year.

These items are needed to ensure that the amount and purpose of any expense allowed by the Commission is reasonable and in the

best interests of the company's customers. Subpart 4 is a reasonable requirement to evaluate whether the company's dues are for organizations that are likely to benefit the company's customers.

Subpart 5 governs the information on charitable gifts that must be filed by the company when it requests reimbursement for its contributions in a general rate change notice. Minn. Stat., section 237.075, subd. 8 (1990) states that:

The commission shall allow as operating expenses only those charitable contributions which the commission deems prudent and which qualify under section 290.21 subdivision 3, clause (b) or (e). Only 50 percent of the qualified contributions shall be allowed as operating expenses.

In order to determine which charitable gifts are prudent and which gifts qualify under Minn. Stat., section 290.21, subd. 3(b) or (e) (1990), the Commission needs information on who received the contribution and how much contribution was received. The Commission also needs information from the company to support the company's claim that its expenses for charitable gifts should be reimbursed in its rates.

Subpart 6, item A requires telephone companies to file a schedule showing the development of the gross revenue conversion factor. The gas and electric utility filing requirement rules also have this requirement. See Minn. Rules, part 7825.4400, item B. This information is needed to calculate the change in revenue that will allow the company to earn its authorized rate of return. It is reasonable because the company can easily calculate the factor based on its tax rates.

Subpart 6 item B requires the telephone company to file its annual report to stockholders and the consolidated parent corporation's annual report to stockholders for the latest available fiscal year. The gas and electric filing requirement rules have a similar requirement. See Minn. Rules, part 7825.4400, parts A, C, D, and E. This information is needed because it provides relevant financial information useful for comparison to other filed financial data. This information is reasonable because it is easily produced or publicly available.

Subpart 7 requires explanation of jurisdictional information. If the telephone company has services or activities regulated by the Commission, which have been deregulated by the F.C.C., the company must identify and explain the expenses, investments, and revenues of those services and activities on the jurisdictional rate base and operating income statement for the proposed test year. This information is needed to evaluate whether the appropriate jurisdictional separation has been made. This

information is reasonable because the company must determine the revenues, expenses, and investment for services that have been deregulated by the F.C.C. The rule only requires that the company identify what proportion, if any, is included in the jurisdictional income statement and rate base.

Finally, subpart 8 requires the telephone company to file a schedule showing amounts of affiliated interest transactions for the previous fiscal year and the test year. The schedule must show the total amount for each affiliate for total company and Minnesota jurisdiction. It must also show the total jurisdictional amount of recurring transactions for each affiliate along with a description of the recurring transactions and the method used to value the transactions. Finally, the schedule must list and describe all nonrecurring transactions greater than one-half of one (1) percent of gross jurisdictional revenue totalled by affiliate.

This subpart contains a percentage requirement rather than a fixed amount so that all telephone companies are treated in a uniform manner. This allows all companies to file the same level of information relative to their size.

This information is needed because affiliated interest transactions are not arms-length transactions and therefore require additional scrutiny to determine if the transactions are bona fide and valued correctly. This requirement is reasonable because the company already maintains the records for this information.

"Affiliated interest transaction" is defined as any contract or arrangement providing for the furnishing of management, supervisory, construction, engineering, accounting, legal, or financial services; or for the purchase, sale, lease, or exchange of any property, right, or things; or for the furnishing of any service, property, right, or thing to an affiliated interest as defined in Minn. Stat., section 216B.48, subd. 1 (1990). To define this term, the Commission looked to a statutory definition of the term which governs affiliated interest transactions by regulated gas and electric utilities in Minn. Stat., section 216B.48 (1990). Historically, this definition has proven to be clear and useful in guiding the utilities to provide the appropriate information without incurring unreasonable expense. Therefore, it is reasonable to establish a definition of "affiliated interest transaction" for regulated telephone companies which is similar to that used for regulated gas and electric utilities.

Part 7810.8640 RATE OF RETURN, COST OF CAPITAL SCHEDULES.

This proposed rule part governs the rate of return and cost of

capital filing requirements for a telephone company. Rate of return is the return allowed a telephone company on its investment. The Commission determines the appropriate rate of return for each telephone company. Cost of capital is how much the telephone company pays for different sources of capital. The Commission considers the various sources of capital and associated cost when it establishes a fair rate of return.

Items A and B of subpart 1 require the company to show its calculation of the proposed weighted cost of capital for the test year and the weighted cost of capital for the previous fiscal year. Comparison of what the cost of capital has been with the company proposed cost of capital provides the Commission with valuable insight to the appropriate cost of capital to establish a fair rate of return.

Item A bases the proposed weighted cost of capital for the test year upon the proposed test year capital structure and proposed cost of short-term debt, long-term debt, preferred stock, and common equity. Item B bases the weighted actual cost of capital for the previous fiscal year upon the actual capital structure. The elements in items A and B are traditional components of rate regulation.

Items A and B also appear in the gas and electric utility filing requirement rule, part 7825.4200, item A, governing rate of return and cost of capital schedules. However, the utility filing rule speaks in terms of most recent and projected fiscal years. The proposed telephone company filing rules provide for a test year based upon either historical or projected data. See proposed part 7810.8430. Therefore, the telephone filing rule governing rate of return and cost of capital schedules has been restructured to accommodate the two types of test year.

Subpart 2, item A requires the company to file supporting schedules listing the outstanding issues and showing the calculation of the embedded costs of long-term debt and preferred stock for the test year and the previous fiscal year. Item B requires schedules showing the calculation of and assumptions used to derive the amount and cost of short-term debt for the test year and previous fiscal year. Subpart 2 also has its counterpart in the utility filing requirement rules. See Minn. Rules, part 7825.4200, items B and C.

Proposed subpart 2 requires supporting schedules for the test year and previous fiscal year showing the calculation of embedded costs of long-term debt and preferred stock and the cost of short-term debt. These schedules are needed to verify the numbers proposed by the telephone company in its filing. Therefore, it is reasonable to require supporting schedules when the telephone company proposes its required rate of return.

Subpart 3 requires a schedule showing any adjustments used to arrive at the proposed capital structure if a historical test year is proposed and the proposed capital structure or embedded costs of debt and preferred stock differ from the actuals for the test year. It is reasonable to require a schedule showing any proposed adjustments to historical capital costs and structure so that the Commission can evaluate the reasonableness of the company's proposal.

Subpart 4 requires a schedule summarizing the assumptions made and approaches used in developing the proposed capital structure for a projected test year. It is reasonable to require this information because it assists the Commission in evaluating the reasonableness of the projections proposed by the company. It also demonstrates whether or not there is consistency with prior rate of return and cost of capital data filed by the company.

Subpart 5 addresses the capital structures of the consolidated and unconsolidated parent corporations for the test year and the previous fiscal year. It is reasonable to require this information because it assists the Commission in evaluating the reasonableness of the proposed capital structure and costs for Minnesota ratemaking compared to those of the corporation overall. This information is currently required by item A of the gas and electric utility filing requirement rule, part 7825.4200. Proposed subpart 5 elaborates upon the utility rule by specifying what must be included in the schedules. The capital structures must be shown by major component and must show the embedded cost of each component and the overall cost of capital. It is reasonable to require a breakdown of the capital structure elements because the Commission needs to consider the appropriateness of each element when it determines the appropriate rate of return.

Subpart 6 requires that long-term debt, short-term debt, or preferred stock outstanding for part of a year must be reflected if an average capital structure is used.

Part 7810.8645 RATE STRUCTURE AND RATE DESIGN INFORMATION.

Subpart 1 requires a telephone company to file rate structure and rate design information with its general rate change notice. Rate structure and rate design refers to the different classes of telephone company customers, and the rates those customers pay. For example, residential customers are in a different class and pay different rates from business customers.

The gas and electric utility filing requirement rules also require this information. See Minn. Rules, part 7825.4300. Determining how the rates will be structured and who will pay

them is an important duty of the Commission. Therefore, it is reasonable for the Commission to require the company to file information on rate structure and rate design.

Subpart 2 details the rate structure and design information that must be filed with a general rate change notice. The notice must include a schedule showing the test year revenue-producing units, present rates, proposed rates, present revenue and proposed revenue for each existing and proposed rate element of all services. Subtotals for each major category of revenue such as local network service, network access, long distance network service, and extended area service shall be included on the schedule. Subtotals for each major category are required so that the Commission can evaluate the reasonableness of the rates for specific categories of customers and services.

Without a breakdown into revenue categories, it is impossible to evaluate the reasonableness of rates. Such a breakdown results in a meaningful evaluation of rate structure and design. Similar information is required of the gas and electric utilities in the current utility filing rule, part 7825.4300, items A and B. The categories of rates and charges are different for the telephone company filing requirement rule because telephone companies offer different services than the utilities. The information required allows the Commission to compare present and proposed rate structures and designs. This information is necessary for an adequate review of the company's proposal.

Subpart 3 requires an embedded direct cost study and an incremental cost study for those services generating revenues in excess of the greater of either \$100,000 or one-tenth of 1% of the company's gross revenues for the test year. In addition, the procedures used and underlying reasons for cost and revenue allocations must be identified. The company must also explain why the proposed method is appropriate for ratemaking purposes.

This information is needed because the Commission considers cost an important factor in deciding the appropriateness of rates. Both embedded direct costs and incremental costs are commonly used in setting rates. It is reasonable to require cost studies for services that generate revenues greater than \$100,000 or one-tenth of 1% of annual gross revenues because this is mandated by Minn. Stat., section 237.62, subd. 1a (1990) for electing companies, subject to that section, that provide emerging competitive services. In addition to emerging competitive services, it is reasonable to require the cost studies for noncompetitive services to assess the relative profit contribution for all services of the company.

Part 7810.8650 ADDITIONAL INFORMATION.

Subpart 1 of this proposed rule part requires additional information for a general rate change notice. Subpart 2 requires the telephone company to file any additional information required by previous Commission order. Several years frequently elapse between general rate change proceedings. During this time, the telephone company often appears before the Commission in other types of proceedings. The Commission may also act to investigate a matter on its own motion or on complaint. The result of these proceedings is a Commission order directing or prohibiting the company from taking certain actions. Another result of the Commission orders may be to require the company to file particular information in its next general rate case. Subpart 2 directs the company to file the necessary information and ensures that the Commission will receive the information it ordered.

Subpart 3 states that the Commission may require within a reasonable time additional information it needs to supplement the information filed pursuant to these rules. Subpart 3 has its counterpart in the gas and electric utility filing requirement rules. See Minn. Rules, part 7825.4500. In determining just and reasonable rates, the situation may arise where the Commission needs additional information that is not contemplated at this time. Subpart 3 is reasonable because it provides for the unexpected by allowing the Commission to request the information it needs within a reasonable time.

INTERIM RATE CHANGES

Part 7810.8655 NOTICE.

Interim rates are temporary rates that are in effect while a permanent rate change request is being reviewed by the Commission. Interim rates are governed by Minn. Stat. section 237.075, subd. 3 (1990):

Notwithstanding any order of suspension of a proposed increase in rates, the commission shall order an interim rate schedule into effect not later than 60 days after the initial filing date. The commission shall order the interim rate schedule ex parte without a public hearing. Notwithstanding the provisions of section 216.25 and 237.25, no interim rate schedules ordered by the commission pursuant to this subdivision shall be subject to an application for a rehearing or an appeal to a court until the commission has rendered its final determination.

Under this statute, the Commission must review and determine the appropriate level for interim rates within 60 days of the

company's filing. Second, the interim rates take effect ex parte without a public hearing. Third, the interim rates set by the Commission are not subject to rehearing or court appeal until after the final rates are set. Given the short time period for review, lack of public hearing, and delay of additional review, the Commission needs sufficient information to determine the appropriate level of interim rates.

For the most part, the information required by this rule was adopted by the Commission on June 14, 1982, as a Statement of Policy on Interim Rates. The purpose of the statement was to inform the telephone companies of the expectations of the Commission concerning requests for approval of interim rates. The statement did not have the force or effect of law and was intended as the Commission's general intention to be followed unless circumstances demonstrated the policy to be inappropriate. In each case, the statement was expected to form the starting point of the Commission's decision, but the final decision would depend on the facts of the case.

The Commission has not found it necessary to substantially amend the information required by the policy statement. Therefore, the interim rate petition filing requirements contained in the 1982 policy statement are reasonable because they have been scrutinized and because they have stood the test of time.

This proposed rule part lists the information that must be included with an interim rate change notice. Interim rate change notice requirements cite rule parts that govern interim rates by number so that the reader can easily identify the requirements. Item A references the interim rate petition in rule part 7810.8660. Item B references the tariff and price list information required in rule part 7810.8400, subp. 2. Item C references the informational requirements in rule parts 7810.8665 through 7810.8690. Item D references supporting workpapers showing the development of the interim rate exhibits and proposed interim rates.

Supporting workpapers are required so the Commission can evaluate the data and calculations supporting the company's proposed interim rates. Supporting workpapers provide valuable insight to the company's proposed rates. They do not create an excessive or unreasonable burden upon the telephone company. The telephone company must explain its method in developing its interim rate proposal and show its calculations. The workpapers already exist and do not require significant additional effort or development by the company. Therefore, this requirement is reasonable.

Part 7810.8660 PETITION.

This rule part sets out the requirements for an interim rate

petition. Items A through G require the company to provide basic information about who is requesting the interim rates, when the rates will go into effect, what rate change is requested, why the rate change is requested, and the statutory authority for the proposed change. Without this information, it would be very difficult to process and evaluate the interim rate request.

In addition to the basic requirements, items H and I require financial information that show the effect of the proposed interim rate changes. Item H requires the effect of the proposed interim changes in rates expressed both as the total dollar change and the percentage change in the total jurisdictional revenue in the test year. Item I requires the effect of the proposed interim changes in rates expressed both as the total dollar change and the percentage change in the jurisdictional revenue in the test year for major categories of services for which the company is proposing a rate change. This information is necessary to explain the size of the requested interim rates.

The size of the interim rate change can be clearly seen when compared to a company's jurisdictional revenue. Therefore, item H puts the requested interim rates into their proper context and is reasonable. Similarly, the size of the interim rates can be clearly seen when broken down into the interim rate for each affected service. Item I also puts the requested interim rate for each affected service into its proper context. For these reasons, it is reasonable for proposed item I to require information on the total dollar change and percentage change in revenue for services for which the company is proposing interim rates.

This information is currently requested by the Commission on page two of its Statement of Policy on Interim Rates, issued April 14, 1982. This policy statement informs the telephone companies what the Commission expects them to file in interim rate petitions. To date, the companies have complied with the Commission's requests without objection. Therefore, the proposed requirements are reasonable.

Item J requires a jurisdictional financial summary schedule as prescribed in part 7810.8685. A similar schedule is required with a general rate change petition. This schedule is required with the interim rate petition because it provides a summary of the proposed interim rate base, income under present rates, proposed rate of return and the magnitude of the proposed interim rate change.

Part 7810.8665 EXPERT TESTIMONY AND SUPPORTING EXHIBITS.

The information required by rule parts 7810.8665 through 7810.8690 has its origins in Minn. Stat., section 237.075, subd.

3 (1990) which states in part:

. . . Unless the commission finds that exigent circumstances exist, the interim rate schedule shall be calculated using the proposed test year cost of capital, rate base, and expenses, except that it shall include: (1) a rate of return on common equity for the company equal to that authorized by the commission in the company's most recent rate proceeding; (2) rate base or expense items the same in nature and kind as those allowed by a currently effective order of the commission in the company's most recent rate proceeding; and (3) no change in the existing rate design, except for products and services offered by nonregulated competitors.

This law dictates how interim rates should be calculated. These rule parts reflect the law.

Rule part 7810.8665 describes the information that must be included in an interim rate change notice with respect to expert testimony and supporting exhibits. This same information is required for a general rate change. However, for an interim rate proposal the company's chief executive officer or other company officer is not required to provide expert testimony. Also, written statements, opinions, and explanations may be in either question and answer format or descriptive narrative.

These differences are reasonable because they reflect the differences between the general rate change and the interim rate change review processes. The information requirements are less restrictive for an interim rate change as compared to a general rate change because there is less latitude in what the telephone company can propose for its interim rate change.

This rule part requires compliance with Minn. Stat., section 237.075, subd. 3 (1990) and Minn. Rules, part 7810.6200 through 7810.6400. Applying the accounting requirements of Minnesota Rules 7810.6200 through 7810.6400 to interim rate proposals and supporting exhibits is reasonable since they do not place additional burdens on the companies. The consistency in reporting format results in greater efficiency in the regulatory review process.

Part 7810.8670 RATE BASE SCHEDULES.

Subpart 1 of this proposed rule part requires a schedule showing the development of the proposed jurisdictional rate base for interim rates. The proposed test year rate base information must be filed because Minn. Stat. section 237.075, subd. 3 (1990) requires that interim rates be calculated using the proposed test

year rate base. To comply with Minn. Stat. section 237.075, subd. 3 (1990), the rule part also requires the company to include adjustments so that the interim rate base reflects the rate base allowed by the Commission in the telephone company's most recent general rate change proceeding.

Furthermore, the company is required under subpart 2 to include an accompanying written explanation that cites each issue determined by the Commission in the company's most recent general rate change proceeding, where it appears in the Commission's order, and the adjustment the telephone company has made for the issues cited from the order. The rule does require more detailed information than the policy statement on interim rates. This was added because, by statute, the rate base must be the same in nature and kind as that allowed by a currently effective order of the Commission in the company's most recent general rate change proceeding. The Commission needs this information to determine if the telephone company's proposed rate base meets the statutory requirement.

It is reasonable to require the company to file its information because the company is familiar with its books and how it accounted for rate case issues. Moreover, the company has the burden of proof to demonstrate that its interim rates have been calculated in accordance with Minn. Stat., section 237.075, subd. 3 (1990).

Subpart 3 requires schedules comparing the rate base amounts for the company's most recent general rate change proceeding (item A); the most recent fiscal year for which there is actual data (item B); and the proposed test year (item C). Information in items A and C is required to demonstrate compliance with the statute governing the calculation of interim rates. Item B ensures that the Commission receives actual data in the same categories and with the same modifications to rate base approved in the company's most recent general rate change proceeding. Actual data as required in Item B will provide a basis for determining if the proposed interim rate base is reasonable.

The company is required to explain significant changes in dollar amounts for these comparisons. Comparison of the dollar changes for the items in these three categories is necessary to show how the proposed test year compares with the most recent general rate change proceeding data and the actual data from the most recent fiscal year before the test year. This information provides the Commission with a basis to compare the proposed test year data with the actual data. In this way, the Commission can determine whether the statute governing the setting of interim rates has been satisfied.

A comparison of this information is also requested in the Commission's policy statement. The policy statement differs from

the rule in one respect. The policy statement requests data comparable to the time period of the test year if the test year is projected. However, after reviewing this type of data in numerous interim rate proceedings, the Commission has found that fiscal year data is sufficient whether the test year is projected or historical. There is greater value in reviewing tangible rather than projected changes. Therefore, the rule requires actual rate base data for the most recent fiscal year before the test year.

Part 7810.8675 OPERATING INCOME SCHEDULES.

Subpart 1 of this rule part requires the company to file a schedule showing the development of the proposed jurisdictional operating income statement under present rates. Adjustments or components must be included so that the interim income statement reflects the revenues and expenses allowed by the Commission in the telephone company's most recent general rate change proceeding. These requirements bring the rule into compliance with Minn. Stat., section 237.075, subd. 3 (1990).

The company is required under subpart 2 to include an accompanying written explanation that cites each issue determined by the Commission in the company's most recent general rate change proceeding, where it appears in the Commission's order, and the adjustment the telephone company has made for the issues cited from the order. The Commission notes that this rule requires the companies to file more detailed information than the policy statement on interim rates. However, this requirement was added because, by statute, the expense items must be the same in nature and kind as those allowed by a currently effective order of the Commission in the company's most recent general rate change proceeding. Therefore, the Commission needs this information to determine if expense items are the same in nature and kind in order to fulfill its statutory duty.

It is reasonable to require the companies to file this information because the companies are familiar with their books and how they accounted for these rate case issues. Moreover, the companies have the burden of proof to demonstrate that they have calculated the proposed interim rates consistent with Minn. Stat., section 237.075, subd. 3 (1990).

Subpart 3 requires operating income schedules comparing the operating income statement for the company's most recent rate change proceeding (item A); the most recent fiscal year for which there is actual data (item B); and the proposed test year (item C). The information required by items A and C is necessary to determine compliance with the statutory requirements for setting interim rates in Minn. Stat. 237.075, section 237.075, subd. 3 (1990). Item B requires equivalent actual data for the most

recent fiscal year before the test year. This ensures that the Commission receives actual data in the same categories as the proposed test year which can be compared to the operating income statement approved in the company's most recent general rate change proceeding.

The company is required to explain significant changes in dollar amounts for these comparisons. Comparison of the dollar changes for the items in these three categories is necessary to show how the proposed test year compares with the most recent general rate change proceeding data and the actual data from the most recent fiscal year before the test year. This information provides the Commission with insight to how the proposed data compares with the actual data. In this way, the Commission can determine whether the statute governing the setting of interim rates has been satisfied.

A comparison of this information is also requested in the Commission's policy statement. The Commission's policy statement differs from the rule in one respect. The policy statement requests data comparable to the time period of the test year if the test year is projected. However, after reviewing this type of data in numerous interim rate proceedings, the Commission has found that fiscal year data is sufficient whether the test year is projected or historical. There is greater value in reviewing tangible, rather than projected, changes. Therefore, the rule requires actual income statement data for the most recent fiscal year before the test year.

Part 7810.8680 CAPITAL STRUCTURE AND RATE OF RETURN.

This proposed rule part requires a schedule showing the capital structure and rate of return calculation approved by the commission in the telephone company's most recent general rate change proceeding. Under Minn. Stat. section 237.075, subd. 3 (1990), the proposed test year cost of capital must be used. In addition, the rate of return on common equity must be equal to that authorized in the company's most recent general rate change proceeding.

Moreover, the capital structure schedule must include an explanation of the changes in dollar amounts of the telephone company's most recent general rate case capital structure and the proposed test year capital structure. This requirement is consistent with the policy statement on interim rates. Without an explanation of the differences in capital structure, the Commission lacks sufficient information to determine whether the statutory requirements have been satisfied.

Part 7810.8685 JURISDICTIONAL FINANCIAL SUMMARY SCHEDULE.

A financial summary schedule for interim rates based on test year financial information is required under this rule part. The jurisdictional financial summary is similar to the requirement in part 7810.8620, subpart 1 for a general rate change. Items A through E are the basic elements used to evaluate a change in rates. This information is needed by the commission to determine the appropriate level for interim rates.

Part 7810.8690 RATE DESIGN.

This proposed rule part requires the company to file rate design information with its interim rate change notice. This rate design information must include a schedule showing the test year revenue-producing units, present rates, proposed interim rates, present revenue, and proposed interim revenue for each existing and proposed rate element of all services. The schedule must contain subtotals for each major category of revenue. Examples of revenue categories are included in the rule to serve as a guide.

Without this data, the Commission does not have sufficient information about the source of the company's revenue or the amount of revenue produced by each rate element. Knowing the various revenue sources is important because it indicates which services will be affected most by the rate increases. The rule ensures that the Commission has this information from the company.

This rule part also requires a written explanation of proposed rates that are not the result of increasing the existing rate by the average percentage increase in interim revenues. This requirement is found in the policy statement on interim rates as well as in Minn. Stat., section 237.075, subd. 3 (1990). The law requires that unless there are exigent circumstances, the Commission when setting interim rates may not change the existing rate design, unless competing products and services are offered by nonregulated competitors. The policy statement explains that the Commission interprets the statutory phrase "no change in the existing rate design" to mean that interim rates should consist of the existing rate schedules with an interim rate adjustment equal to the overall requested interim increase percentage. This explanation will assist the Commission in allocating any refund to the customers from when the interim increase was calculated.

Therefore, it is reasonable to state in this rule part that the companies must file a written explanation if the interim rates are not calculated by increasing the existing rate by the average percentage increase in interim revenues. In this way, the Commission's long-standing policy is incorporated into the rule.

The telephone company's written explanation must identify exigent circumstances or competing products or services offered by a nonregulated competitor. Minn. Stat., section 237.075, subd. 3 (1990) prescribes that the Commission must calculate interim rates in a particular way unless there are "exigent circumstances". The Commission cannot determine whether the statutory exceptions apply unless it receives an explanation from the company. Therefore, a written explanation is a reasonable requirement.

OTHER RATE OR TARIFF CHANGES

Part 7810.8700 OTHER RATE CHANGE NOTICE.

This rule part states the requirements for a rate change notice other than a general rate change notice. Requirements include a petition, tariff and price list information, and supporting financial and descriptive information. The numbers are included to direct the reader to the rule parts describing the required information. These requirements are modeled after the filing requirement rules for gas and electric utilities. See Minn. Rules, part 7825.3200, item A. Similar requirements apply to a general rate change notice in part 7810.8605. These rules standardize the filing procedures for all kinds of rate change notices.

Part 7810.8705 OTHER RATE CHANGE PETITION.

This rule part sets out the filing requirements for a petition to change rates other than a general rate change. Items A through F are similar to the requirements for a general rate change petition in part 7810.8605. Again, these items are modeled after the gas and electric utility rule governing what must be included in a rate change petition. See Minn. Rules, part 7815.3500, items A, B, C, and E.

Items A through F require the company to provide basic information about who is requesting the rate change, when the rate change is intended to take effect, what kind of rate change is requested, why the change is requested, and the statutory authority for the proposed change. Without this information, it is impossible to process and evaluate a rate change request.

Part 7810.8710 MISCELLANEOUS TARIFF CHANGE.

This rule part lists requirements for a miscellaneous tariff change for a noncompetitive service. These are in addition to the notice requirements of part 7810.8700. The Commission is charged under Minn. Stat., section 237.63, subd. 4c (1990) to

review a miscellaneous rate change:

Other changes. A tariff change not covered by subdivision 1 to 4b and not requiring a review of a telephone company's gross revenues must be reviewed in accordance with section 237.075, subdivisions 1 and 2, except that the commission may order the company to provide whatever notice to potentially affected customers that the commission considers appropriate.

Items A, C, D, and E require basic information describing the change such as the date the change will go into effect, how the tariff will be changed, and whether the change is an increase or decrease. In addition, items B, F, and G require statements of fact, expert opinions, substantiating documents and exhibits supporting the requested change; the annual revenue impact; and the impact on affected customers. These are needed so that the Commission can carefully evaluate the request and make an informed decision regarding the change.

Part 7810.8715 NONCOMPETITIVE SERVICE - LANGUAGE CHANGE.

This rule part describes what must be included in a notice for a language change for a noncompetitive service. In addition to the requirements of rule part 7810.8700, the notice must include an explanation of why the proposed change does not substantially alter the application of the tariff. This requirement stems from Minn. Stat., section 237.63, subd. 2 (1990):

Language changes. If language describing a rate, term, or condition of service in a tariff is changed, without substantially altering the application of the tariff, the change may take effect upon one-day notice to the public utilities commission.

Part 7810.8720 NONCOMPETITIVE SERVICE - COST INCREASE.

This rule part describes notice requirements for a cost increase in noncompetitive service. In addition to the requirements of part 7810.8700, this part lists two additional requirements: data demonstrating that an actual change in costs has occurred since the last proceeding under Minnesota Statutes, section 237.075 (1990); and the dollar and percentage change in total jurisdictional annual revenues resulting from the proposed change. These requirements stem from Minn. Stat., section 237.63, subd. 3 (1990):

Cost increase. . . . The company requesting this rate increase shall file with its request the cost data it relies upon for the increase. . . In order to qualify

as a change in costs, it must be a cost change related to a particular service rather than a general overall increase applicable to most of the company's services, and an actual change in costs must have occurred rather than the discovery of a change in costs as a result of conducting a new cost study.

It is reasonable to require the company to specify the dollar and percentage change in total jurisdictional annual revenues. This information when compared to the requested rate change puts the rate change into its proper context. Also, this requirement is found in the gas and electric filing requirements. See Minn. Rules 7825.3500, item D.

The definition of "cost increase" is reasonable since it is consistent with the statute that created it.

Part 7810.8725 NONCOMPETITIVE SERVICE - RATE REDUCTION.

This rule part contains notice requirements for a rate reduction of a noncompetitive service. In addition to the requirements in part 7810.8700, a rate reduction notice must include data showing the relationship between proposed rates and the costs of providing the service. Minn. Stat., section 237.63, subd. 4 (1990) authorizes a company to reduce its rates twenty (20) days after filing the reduced rates with the Commission. It is reasonable that the company show the proposed rates and their relationship to costs to determine if new rates are just and reasonable.

"Rate reduction" is defined to be consistent with the statute that created it.

Part 7810.8730 NONCOMPETITIVE SERVICE - SIGNIFICANT CHANGE IN CONDITION OF SERVICE.

This rule part describes notice requirements for a significant change in condition of service for noncompetitive service. In addition to part 7810.8700, the notice must include information demonstrating that the application of the tariff is substantially changed but that the rate is not changed. This requirement stems from Minn. Stat., section 237.63, subd. 4a (1990):

Significant change in condition of service. If the terms or conditions of service in a tariff are changed in a way that substantially changes the application of the tariff, but the price is not changed, the change in the tariff may take effect according to the schedule governing rate reductions in subdivision 4.

The definition in this rule part is consistent with the statute quoted above and therefore reasonable.

Part 7810.8735 INDIVIDUALLY PRICED NONCOMPETITIVE SERVICE.

Notice requirements for a change in individually priced noncompetitive service are included in this part. These are in addition to the notice requirements in part 7810.8700. Minn. Stat., section 237.071 (1990) authorizes a company to offer services on an individually priced basis:

Except as prohibited by section 237.60, subdivision 3, prices unique to a particular customer or group of customers may be allowed for noncompetitive services and for services subject to emerging competition when differences in the cost of providing a service or a service element justifies a different price for a particular customer or group of customers.

Item A requires data demonstrating that differences in the cost of providing a service or service element justifies a different rate for a particular customer or group of customers. The Commission needs this cost data to determine whether the differences in the cost of providing a service or a service element justify a different price for a particular group of customers as required by Minn. Stat., section 237.071 (1990). Item B requires identification of the affected customer or customer groups. Knowing who would be affected by the individually priced service helps the Commission determine whether the special pricing is reasonable and appropriate for the affected customers. Item C requires the estimated revenue impact on the company. This is necessary because it allows the Commission to determine what impact the price change for this service will have. It also determines the potential operating impact.

EMERGING COMPETITIVE SERVICES

Part 7810.8740 RATE INCREASE OR DECREASE.

This rule part lists notice requirements for a rate increase or decrease for an emerging competitive service. These requirements are in addition to the notice requirements in part 7810.8700. Item A requires a statement as to whether the proposed change is an increase or decrease. Item A is reasonable since it informs the Commission of what type of rate change is proposed. Item B requires an incremental cost of service study supporting the increase or decrease showing the proposed rate is above incremental cost. Item B is required under Minn. Stat., section

237.60, subd. 2a (1990):

A company may decrease the rate for a service subject to emerging competition that is listed in the price list, effective ten days after filing a new price list with the commission and the department, along with an incremental cost study demonstrating that the proposed price is above incremental cost.

Likewise, Minn. Stat., section 237.60, subd 2 (b) (1990) requires an incremental cost study for a proposed rate increase demonstrating that the proposed price is above incremental cost. Minn. Stat., section 237.60, subd. 4 (1990) states that the rates charged for competitive services must cover the incremental costs of providing the service.

Item C requires a copy of the notice to customers required under Minn. Stat., section 237.60, subd. 2 (b) (1990). Item D requires the dollar and percentage change in total jurisdictional annual revenues resulting from the proposed price list change. This requirement is modeled after the gas and electric utility rules. See Minn. Rules part 7825.3500, item D. The information gives the Commission a general idea of the size of the requested rate change by comparing it to the company's annual revenue. This requirement puts the requested change into its proper context, and, therefore, is reasonable.

Part 7810.8745 EMERGING COMPETITIVE SERVICE - LANGUAGE CHANGE.

This rule part contains a notice requirement in addition to the requirements of part 7810.8700 for a language change for an emerging competitive service. Minn. Stat., section 237.60, subd. 2(c) (1990) provides for this type of rate change:

Emerging competition. (c) If language describing a rate, term, or condition of service in a price list is changed without substantially altering the application of the price list, the change may take effect upon one day notice to the commission.

This proposed subpart requires an explanation of why the proposed change does not substantially alter the application of the price list. This information is required for noncompetitive service under rule part 7810.8715 which stems from Minn. Stat., section 237.63, subd. 2 (1990). This requirement is reasonable for competitive service rate changes since it ensures that both competitive and noncompetitive service rate changes are treated equally.

Part 7810.8750 EMERGING COMPETITIVE SERVICE - SUBSTANTIAL CHANGE IN APPLICATION OF PRICE LIST.

This rule part contains requirements for a notice for a substantial change in application of the price list for an emerging competitive service. These requirements are in addition to the notice requirements of part 7810.8700. Minn. Stat., section 237.60, subd. 2 (d) (1990) provides for this type of rate change:

Emerging competition. If a term or condition of service in a price list is changed in a way that results in a substantial change in the application of the price list, but the price is not changed, the change in the price list is effective at the same time as a price decrease under paragraph (a).

Item A requires information demonstrating that the application of the price list is substantially changed but that the rate is not changed as required by the statute. The same information is required for noncompetitive service rate changes under subpart 6. This requirement is reasonable for competitive service rate changes since it results in comparable treatment of competitive and noncompetitive service rate changes and the information requirement is not burdensome to the company.

Item B requires the dollar and percentage change in total jurisdictional annual revenues resulting from the proposed change. This requirement is modeled after the gas and electric utility rules. See Minn. Rules part 7825.3500, item D. The information gives the Commission a general idea of the size of the requested rate change by comparing it to the company's annual income. This requirement puts the requested change into its proper context and, therefore, is reasonable.

Part 7810.8755 NEW PRICING PLAN.

This rule part lists requirements in addition to rule part 7810.8700 for a notice of a new pricing plan for an emerging competitive service. Minn. Stat., section 237.60, subd. 2 (3) (1990) provides for this type of rate change:

Emerging competition. If a new pricing plan is proposed for a service that is currently offered by a telephone company, the change in the price list is subject to the same schedules governing a price increase under paragraph (b). For purposes of this paragraph, a new pricing plan is a proposal that bundles rate elements for a service, alters the definition of the rate elements for a service, or includes increases for some rate elements and decreases

for other rate elements.

Items A, B, and C require an identification of the rate elements being combined, an explanation of the change in the definition of the rate elements, and a statement of the increases and decreases in price for the rate elements. These requirements come from the statute quoted above. This information is necessary so that the Commission can determine whether the proposed rates are just and reasonable. In addition, item D requires the dollar and percentage change in total jurisdictional annual revenues resulting from the proposed price list change. A similar requirement is included in the gas and electric utility rules. See Minn. Rules part 7825.3500, item D. This information gives the Commission a general idea of the size of a requested rate change by comparing it to the company's annual revenue. This requirement puts the requested change into its proper context and, therefore, is reasonable.

Part 7810.8760 INDIVIDUALLY PRICED EMERGING COMPETITIVE SERVICE.

Requirements for a notice of individually priced emerging competitive service are included in this part. These requirements are in addition to the requirements in part 7810.8700. Under Minn. Stat., section 237.071 (1990), individual pricing for services subject to emerging competition may be allowed when market conditions indicate a uniform price should not be required. Item A requires data demonstrating the statutory requirement. Item B requires an identification of the affected customer or customer groups. This information is needed by the Commission to determine whether the special pricing is just and reasonable. Item C requires the estimated revenue impact on the company. This information helps the Commission determine what impact this service has in relation to other company services. It also determines the potential operating impact.

COMPETITIVE SERVICES

Part 7810.8800 ELECTION.

Rule parts 7810.8800 through 7810.8815 contain the filing requirements for competitive services. Minn. Stat., sections 237.57 to 237.64 (1990) provide for the regulation of competitive services.

Proposed part 7810.8800 describes how a telephone company notifies the Commission of its election to have its services subject to regulation as competitive services. Subpart 1 states the requirement of a written notice pursuant to Minn. Stat.,

section 237.58, subd. 1 (1990). Subpart 2 describes what must be included in the notice. The notice must be in letter form and addressed to the executive secretary of the Commission. It must contain a list of competitive services provided or to be provided by the telephone company along with the price lists for the services. Revised tariff pages reflecting changes resulting from the classification must also be included with the notice. This information is needed so that accurate tariff information is on file with the Commission. The price lists and tariffs are to conform to rule part 7810.8400.

It is reasonable to require a list of competitive services so that the Commission can evaluate the company's proposal by examining the specific competitive services provided or to be provided by the company. Price lists are statutorily required by Minn. Stat., section 237.07, subd. 1 (1990). Requiring price lists that conform with rule part 7810.8400 ensures consistency in filing tariffs and price lists for noncompetitive and competitive services.

Subpart 3 requires a copy of the notice of election to be served on the Department and the Attorney General's office. The Department is charged with the statutory responsibility for enforcing the Commission's orders, intervening in proceedings before the Commission, and investigating telephone company matters. See Minn. Stat., section 216A.07 (1990). The Attorney General's office has the statutory responsibility to represent consumer and small business interests in proceedings before the Commission. See Minn. Stat., section 8.33 (1990). In recognition of these responsibilities, it is reasonable to ensure that the Department and the Attorney General's office are informed of requests for alternative regulation.

RECLASSIFICATION

Part 7810.8805 SERVICE AS SUBJECT TO EMERGING COMPETITION.

This proposed rule part requires a telephone company to petition the Commission to have a noncompetitive service reclassified as subject to emerging competition and lists the information that must be in the petition.

The requirement in subpart 1 that a telephone company petition for reclassification of a service as subject to emerging competition comes from Minn. Stat., section 237.59, subd. 2 (1990) which states:

A telephone company, or the commission on its own motion, may petition to have a service of that telephone company classified as subject to effective competition or emerging competition. The petition must

be served on the commission, the department of public service, the office of the attorney general, and any other person designated by the commission. The petition must contain at least:

- (1) a list of the known alternative providers of the service available to the company's customers;
- (2) an estimate of the company's current market share;
- (3) identification of barriers to entry or exit from the market for the service; and
- (4) a description of affiliate relationships with any other provider of the service in the company's market.

It is reasonable to state in subpart 1 of the proposed rule that a telephone company must petition to have a service classified as subject to emerging competition. Furthermore, the Commission can determine if statutory requirements have been met if the necessary information is in the petition.

It is also reasonable to include the four items quoted above in the rule. For that reason, items A, B, and D, of subpart 2 of the proposed rule correspond to the four items quoted above.

Moreover, the law recognizes that the Commission may need other types of information when it states that the petition must contain "at least" the information in the statute. Therefore, the proposed rule contains additional items C, E, F, G, H, I, and J. Item B also contains additional information.

Minn. Stat., section 237.59, subd. 5(a) (1990) states:

In determining whether a service is subject to either effective competition or emerging competition from available alternative services, the commission shall consider and make findings on the following factors:

- (1) the number and sizes of alternative providers of service and affiliation to other providers;
- (2) the extent to which services are available from alternative providers in the relevant market;
- (3) the ability of alternative providers to make functionally equivalent or substitute

services readily available at competitive rates, terms, and conditions of service;

(4) the market share, the ability of the market to hold prices close to cost, and other economic measures of market power; and

(5) the necessity of the service to the well-being of the customer.

Items B, C, E, and F of subpart 2 of the proposed rule contain the items quoted above to ensure that the Commission has the information it needs to make the findings required by this law. Given its statutory responsibility, this is a reasonable approach for the Commission to take in the proposed rule.

Item G of subpart 2 also comes from Minn. Stat., section 237.59, subd. 5(c) (1990). Subdivision 5(c) provides that in order for the Commission to find service subject to emerging competition, alternative services must be available to over 20 percent of the company's customers for that service. Item G of the proposed subpart ensures that the Commission will receive the necessary information to make that determination.

Item H of subpart 2 requires the telephone company to include a request for either an expedited hearing or a contested case hearing in its petition. This item is reasonable because it recognizes the company's option under Minn. Stat., section 237.59, subd. 3 (1990) to request either an expedited proceeding or a contested case hearing when it petitions to have a service classified as subject to emerging competition.

Item I requires a statement addressing the need for and means of providing notice to affected customers. Under Minn. Stat., section 237.59 (1990), the company can request an expedited or contested case hearing. In either case, interested persons must be notified and given an opportunity to make statements of facts and argument. See Minn. Stat., section 237.61 (1990). It is reasonable to require the company seeking approval of its proposed petition to determine how to notify its affected customers. Just as required in general rate proceedings for noncompetitive services, notice to customers is required for competitive services. This rule part ensures equal treatment for customers of both noncompetitive and competitive services.

Finally, item J of subpart 2 requires the telephone company to include the proposed price list for the service it wants classified as subject to emerging competition if required by Minn. Stat., section 237.07 (1990). This requirement reiterates the statutory requirement to file a price list for every kind of service subject to emerging competition.

Subpart 3 requires service of the petition on the Department, the Attorney General's office, and any other person designated by the Commission. This requirement incorporates Minn. Stat., section 237.59, subd. 2 (1990) into this rule part. Just as it is reasonable to require service of the notice of election of competitive services on the Department and Attorney General's office, it is reasonable to require that the petition for election of competitive services be served on the Department and Attorney General's office.

Part 7810.8810 SERVICE SUBJECT TO EFFECTIVE COMPETITION.

This proposed rule part contains the requirements for filing a petition to classify a service as subject to effective competition under Minn. Stat., sections 237.57 to 237.64 (1990).

As with part 7810.8805 described above, a petition must be filed with the Commission to classify a service as subject to effective competition. See Minn. Stat., section 237.59, subd. 2 (1990). Therefore, it is reasonable to state this requirement in subpart 1.

Subpart 2 requires a telephone company to include in its petition the information in part 7810.8510 described above for services subject to emerging competition. The information in part 7810.8805 is required by Minn. Stat., section 237.59, subds. 2, 3, 5, and 8 (1990). These statutory requirements apply to petitions for classifying a service subject to effective competition as well. Therefore, it is reasonable to include them in this proposed rule.

Subpart 2 has two additional informational requirements. The petition must include a list of schedules to be cancelled or withdrawn if the Commission grants the petition. This information is necessary to maintain accurate records on file with the Commission. Once the Commission recognizes the service as subject to effective competition, the schedules pertaining to the service as noncompetitive will be accurately withdrawn or cancelled. In order to do so, it is reasonable for the telephone companies to provide a list of the affected schedules to the Commission.

Subpart 3 requires a copy of the petition to be served on the Department, the Attorney General's office and any other person designated by the commission. This statutory requirement is found in Minn. Stat., section 237.59, subd.2 (1990). The Department is charged with the statutory responsibility for enforcing the Commission's orders, intervening in proceedings before the Commission, and investigating telephone company matters. See Minn. Stat., section 216A.07 (1990). The Attorney General's office has the statutory responsibility to represent

consumer and small business interests in proceedings before the Commission. See Minn. Stat., section 8.33 (1990). In recognition of their responsibilities, it is reasonable to ensure that they are informed of petitions for alternative regulation.

Part 7810.8815 NONCOMPETITIVE SERVICE.

This proposed rule part governs the reinstatement of regulation through a reclassification of the service by the Commission. Reinstatement may occur after the Commission has made a prior determination that a service is subject to emerging or effective competition or when the Legislature has determined a service to be subject to emerging or effective competition as in Minn. Stat., section 237.59, subd. 1 (1990). The authority for reinstatement is found in Minn. Stat., section 237.59, subd. 10 (1990):

Subd. 10 **Regulation reinstated.** The commission, on its own motion or upon complaint, shall reclassify a service as noncompetitive or as subject to emerging competition and reinstate, in whole or in part, rate regulation of the service, if, after notice and hearing, the commission finds either:

(1) that the competitive market for that service, on review of the criteria found in subdivision 5, has failed so that rate regulation of that service is necessary to protect the interest of consumers, that it has considered the alternatives to rate regulation, and that the benefits of rate regulation outweigh the burdens of rate regulation; or

(2) that unreasonable discrimination has occurred between different areas of the state.

In any proceeding to reclassify a service the person initiating the complaint has the burden of proving that the existing classification is inappropriate, except the telephone company providing the service has the burden of proving that the classification is appropriate when the proceeding is commenced by the commission on its own motion or when the complainant is the department or the attorney general.

Proposed subpart 1 states that a service that has been classified as subject to emerging or effective competition will remain competitive until the Commission on its own motion or on complaint reclassifies the service as noncompetitive or subject to emerging competition. This subpart incorporates the statute into the rule and is therefore reasonable.

Proposed subpart 2 states what information must be included with a complaint when a complainant files the complaint requesting reinstatement of regulation for a particular service. Under the statute quoted above, the Commission must reinstate regulation, if, after notice and hearing, the Commission makes certain findings. Those findings are that either:

- upon review of the criteria used to determine whether the service was subject to effective or emerging competition, the competitive market has failed so that rate regulation is necessary to protect the consumers and the benefits of rate regulation outweigh the burdens of rate regulation; or
- unreasonable discrimination has occurred between different areas of the state.

In order for the Commission to make the above findings, it needs information on these issues from the person who files a complaint requesting reinstatement of regulation for a particular service. Therefore, subpart 2 of the proposed rule requires that information to be filed by the complainant under item A or B.

Item A allows the individual to give an explanation of why the competitive market for the service has failed so that rate regulation is necessary to protect the consumers. The explanation should include discussion of the criteria in Minn. Stat., section 237.59, subd. 5 (1990). These criteria are required in proposed rule part 7810.8805, subpart 2, items A through F. The explanation must also consider alternatives to rate regulation and the benefits versus the burdens of rate regulation. Item A of the proposed rule part incorporates Minn. Stat., section 237.59, subd. 10, paragraph (1) (1990) into the rule.

Item B of subpart 2 offers an alternative to item A as an explanation for reinstatement of rate regulation. Under this alternative, the explanation must show that unreasonable discrimination has occurred between different areas of the state. This proposed rule part incorporates Minn. Stat., section 237.59, subd. 10, paragraph (2) (1990) into the rule. Requiring an explanation of either of these items is reasonable because it provides the information required by the statute when the Commission makes its findings regarding reinstatement of rate regulation.

Subpart 3 requires the telephone company to submit the information in its answer when the proceeding to reinstate regulation is initiated by the Commission, the Department, or the Attorney General's Office. Under item A, if the service is classified as subject to emerging competition, the company shall file the information listed in rule part 7810.8805, subpart 2,

items A through G. Under item B, if the service is classified as subject to effective competition, the company must file the information listed in rule part 7810.8810, subpart 2. This requirement is consistent with Minn. Stat., section 237.59, subd. 10 (1990) which places the burden on the telephone company of proving that the competitive classification is appropriate when the proceeding is commenced by the Commission on its own motion or when the complainant is the Department or the Attorney General's Office.

INCENTIVE PLANS

7810.8900 REQUIREMENTS, GENERALLY.

Minn. Stat., section 237.625 (1990) allows incentive regulation. Under incentive regulation, the telephone company is given an incentive to operate more economically by allowing it to retain higher earnings. These higher earnings must occur using existing rates and must be shared between the shareholders and ratepayers.

This proposed rule part requires a telephone company to petition the Commission for approval of an incentive plan. Any company that elects alternative regulation of noncompetitive services under Minn. Stat., section 237.62, subd. 1 (1990) or alternative regulation of noncompetitive services and services subject to emerging competition under Minn. Stat., section 237.62, subd. 1(a) (1990) is eligible to present an incentive plan. This requirement is reasonable since it is consistent with the format required when a company wants to change rates, reclassify services as competitive, and use special pricing for individually priced services.

Subpart 2 specifies the scope of this rule part stating that the requirements set out here and in parts 7810.8905 to 7810.8940 are the minimum requirements. The rule part allows a telephone company to file additional information. It is reasonable to state the minimum requirements so that a company knows what is expected by the Commission when considering incentive plans. It is reasonable to allow for additional information to be filed when reviewing incentive plans because each company may have unique market conditions or other situations that require special explanation and documentation.

7810.8905 PETITION.

This rule part lists the the information that must be included in a petition requesting approval of an incentive plan. Items A through F require the company to provide basic information about who is requesting the approval, the proposed effective date of the plan, and the proposed duration of the plan. Without this

information, it would be impossible to process and evaluate a proposal for an incentive plan. Item G requires a brief explanation of why a general rate proceeding is or is not appropriate. This is reasonable since Minn. Stat., section 237.625, subd. 2 (1990) requires the commission to reject a plan if it has substantial reason to believe that existing rates are inappropriate. The burden is on the company to demonstrate that existing rates are not inappropriate.

Item H requires an explanation of whether, and, if so, how the plan will benefit the company's customers. Implicit to the purpose of the plan is the requirement that the plan benefit the customers. Item I requires an explanation of how the proposed incentive plan will allow the company to maintain or improve the quality of its service. This requirement stems from Minn. Stat., section 237.625, subd. 1 (1990):

. . . The purpose of the plan is to provide an incentive to the company to improve its operating efficiency while maintaining or improving the quality of its service.

Items H and I indicate to the Commission how the company proposes to meet the statutory requirement that the company improve its operating efficiency while it maintains or improves the quality of its service. It is reasonable to require this explanation so that the Commission is able to determine whether the plan meets the statutory purpose and should be approved.

Item J requires the proposed notice of the incentive plan to the company's customers. The requirement stems from Minn. Stat., section 237.625, subd. 2 (1990):

. . . The commission shall require the petitioning telephone company to provide notice of the proposed plan to its customers, along with a summary description of the plan provisions and the dates, times, and locations of public meetings scheduled by the commission.

It is reasonable to require that the Commission review the information that the telephone company is required to present to its customers so that the customers receive accurate information. In that way, customers may prepare for public meetings dealing with the proposed incentive plan.

Item K refers to the information required in parts 7810.8910 through 7810.8940. It is reasonable to refer to the additional requirements so that it is clear to the telephone company exactly what information is required with its petition.

7810.8910 RATE BASE SCHEDULES.

Subpart 1 requires a rate base schedule comparing the following jurisdictional amounts: the rate base approved by the Commission in the company's most recent general rate change proceeding (item A) and the corresponding rate base for the most recent fiscal year (item B). The corresponding rate base must incorporate the applicable rate base adjustments and components allowed or required by the Commission in the company's most recent general rate proceeding. This comparison is necessary to fulfill two statutory requirements: (1) to determine whether existing rates are inappropriate and (2) to assist in determination of the degree to which the customers have assumed a risk of rate increases and the company has assumed the risk of earning less than its revenue requirement. Together, these are used to determine the division of increased earnings. See Minn. Stat., section 237.625, subd. 1(b) (1990).

In addition, subpart 2 requires an accompanying written explanation citing each rate base issue determined by the commission in the most recent general rate change proceeding, where it appears in the commission's order, and the adjustment the company has made for the issues cited. Significant changes in dollar amounts for the comparison schedule must also be explained to evaluate if the charges are reasonable and determine if the existing rates are not inappropriate.

7810.8915 OPERATING INCOME STATEMENT.

This part requires an operating income statement schedule comparing the following jurisdictional amounts: the operating income statement approved by the Commission in the company's most recent general rate change proceeding (item A) and the corresponding operating income statement for the most recent fiscal year (item B). The corresponding operating income statement must incorporate the applicable operating income statement adjustments and components allowed or required by the Commission in the company's most recent general rate proceeding. This comparison is needed to determine whether existing rates are inappropriate as well as to determine the degree to which the customers have assumed a risk of rate increases and the company has assumed the risk of earning less than its revenue requirement.

7810.8920 RATE OF RETURN.

This part requires a rate of return schedule comparing three amounts: the rate of return approved by the Commission in the company's most recent general rate change proceeding (item A); the realized rate of return for the most recent fiscal year (item

B); and the required rate of return for the most recent fiscal year (item C). This schedule is needed to determine whether existing rates are inappropriate and assist in the determination of risks borne by the customers and the company.

7810.8925 REVENUE DEFICIENCY OR SURPLUS.

This part requires a determination of revenue deficiency or surplus. A schedule is required comparing the revenue deficiency or surplus amounts calculated by using three calculations: the rate base, operating income statement, and rate of return approved by the Commission in the company's most recent general rate change proceeding (item A); the corresponding rate base, operating income statement, and realized rate of return for the most recent fiscal year (item B); and the corresponding rate base, operating income statement, and required rate of return for the most recent fiscal year (item C). This schedule is needed to determine whether existing rates are inappropriate as well as to determine the degree of risk assumed by the customers and the company.

7810.8930 FINANCIAL MARKET SCHEDULE.

This part requires a financial market schedule showing twelve months of prime interest rates or twelve months of treasury bill rates or other financial market indicators during the test year used as the basis for determining the company's revenue requirements in the most recent general rate change proceeding (item A) and during the company's most recent fiscal year (item B). The financial market schedule indicates relative change in cost of capital which will be useful to determine whether rates are inappropriate.

7810.8935 OPERATING EFFICIENCY.

This part requires information regarding operating efficiency. Item A requires an explanation of how the plan will provide an incentive to the company to improve its operating efficiency. As stated in Minn. Stat., section 237.625, subd. 1 (1990), "... The purpose of the plan is to provide an incentive to the company to improve its operating efficiency... ." This proposed rule part incorporates the requirement from the statute into the rule. Without this explanation, the Commission is unable to approve a proposed plan. Item B requires a projection of which operations the company expects to become more efficient as a result of the proposed incentive plan. This projection is reasonable since it is an extension of item A. It asks for specificity of the

operations that will become more efficient under the plan. Without this information, the plan lacks credibility. Item C requires an explanation of why the operations identified in item B cannot be improved without the proposed incentive plan. It is reasonable to require this explanation so the Commission can judge if the proposed incentive plan complies with the intent of the legislation - to improve a company's operating efficiency.

7810.8940 SHARED EARNINGS.

This part requires the company to include the terms and conditions of the company's proposed incentive plan to share its increased earnings with its customers. This requirement comes from Minn. Stat., section 237.625, subd. 1(b) (1990):

A telephone company shall share increased earnings during the term of the incentive plan with its customers either by giving them credits against bills or by lowering rates. The division of increased earnings between the company and the customers must reflect the degree to which the company has assumed a risk of earning less than its revenue requirement and the degree to which the customers have assumed a risk of rate increases.

This rule part incorporates the statute into the rule. Item A requires an explanation of how increased earnings will be shared. Item B requires a statement whether increased earnings will be shared by giving customers credits against bills or by lowering rates. Item C requires an assessment of the risks borne by the company and those borne by its customers. All three of these requirements comply with the statute quoted above. Without this information, the Commission is not authorized to approve the proposed plan.

Item D requires an explanation of how increased earnings will be measured by the company and periodically reported to the Commission. Minn. Stat., section 237.625, subd. 1(d) (1990) requires:

The incentive plan must provide for periodic reporting to the commission to document that the sharing requirements of the plan are being properly implemented. The company's rates and earnings under the plan are not subject to 237.081, subdivision 2, paragraph (b), except to the extent necessary to enforce the sharing provision of the incentive plan.

This rule part incorporates the provision for periodic reporting from the statute. Item D also requires an explanation of how increased earnings will be measured by the company. In order to

show that the sharing requirements are being properly implemented as required by statute, the company must explain how earnings will be measured. Once earnings reach a specified level, the sharing requirements come into effect. An explanation of how to measure earnings must be set out in the plan so that all parties know when the sharing requirements take effect. This explanation will be used to determine whether the company's proposal is reasonable.

Item E requires a description of proposed pass-through of cost increases and decreases. This requirement is stated in Minn. Stat., section 237.625, subd. 1(e) (1990):

An incentive plan may not permit rate increases except under other provisions in this chapter. The plan may, however, permit the direct pass-through of cost decreases and increases approved or reallocated by a governmental entity, except for changes in intrastate depreciation schedules.

Item E incorporates the statute into the rule and is therefore reasonable.

V. SMALL BUSINESS CONSIDERATIONS IN RULEMAKING

Minn. Stat. section 14.115, subd. 2 (1990) requires the Commission, when proposing rules which may affect small business, to consider certain methods for reducing the impact on small businesses.

Minn. Stat. section 14.115, subd. 1 (1990) defines small business as:

Definition. For purposes of this section, "small business" means a business entity, including farming and other agricultural operations and 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 small businesses that may be affected by the proposed rules are the small independent, cooperative, and municipal telephone companies that are regulated by the Commission. (Note: Small independent, cooperative, and municipal telephone companies are exempt from general rate change requirements in the proposed rules unless they elect to be rate regulated.) Such small businesses are not exempt from Minn. Stat. section 14.115, subd.

2 (1990). Minn. Stat. section 14.115, subd. 7 (1990) states:

Applicability. This section does not apply to:

- (1) emergency rules adopted under sections 14.29 to 14.36;
- (2) agency rules that do not affect small businesses directly, including, but not limited to, rules relating to county or municipal administration of state and federal programs;
- (3) 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, but not including businesses regulated under chapter 216B or 237; and
- (4) agency rules adopted under section 16.085.

Consequently, the Commission must consider the following methods for reducing the impact on small businesses under Minn. Stat., section 14.115, subd. 2 (1990):

- (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 for 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.

Methods (a), (b), and (c) address compliance and reporting requirements. The proposed rules govern the compliance and reporting requirements for telephone company filings with the Commission. The Commission is unable to simplify the rules or make the rules less stringent on those telephone companies that fall within the definition of small business. The information required by these rules includes the least amount of information needed by the Commission to carry out its regulatory responsibility under the statutes.

Nor can the Commission make the compliance requirements themselves less restrictive. These rules as proposed contain the minimum amount of information needed by the Commission. In this way, customers are protected from unnecessary and unreasonable

rate changes.

Method (d) does not apply to the proposed rules because the rules do not contain design or operational standards.

Method (e) addresses the exemption of small businesses from any or all rule requirements. Because rate filings and alternative rate regulation potentially apply to all telephone companies, the Commission could not exempt some of the smaller companies from the rules. Exempting the smaller companies from some of the rule requirements would result in the Commission lacking sufficient information to make well-reasoned decisions on rate changes or classifications for alternative rate regulation. Moreover, exempting the smaller companies would result in discrimination against their customers because those customers would not have the safeguards afforded the customers of large companies. Therefore, the rules apply equally to large and small telephone companies.

LIST OF WITNESSES AND EXHIBITS

A. Witnesses.

In the event that an administrative rulemaking hearing is necessary, this Statement of Need and Reasonableness contains the Commission's verbatim affirmative presentation of the need and reasonableness of the proposed rules.

The following members of the Commission staff and the Office of the Attorney General will be available at the hearing to answer questions about the proposed rules or to briefly summarize all or a portion of this Statement of Need and Reasonableness if requested by the Administrative Law Judge:

1. Mark Oberlander
Telecommunications Manager
2. John Lindell
Financial Analyst
3. Janet Gonzalez
Energy Manager
4. Alanna Moravetz
Staff Attorney
5. Jon Kingstad
Office of the Attorney General
Public Utilities Commission Division

B. Exhibits.

In support of the need and reasonableness of the proposed rules, the following documents will be entered into the hearing record by the Commission:

<u>Exhibit No.</u>	<u>Document</u>
1.	Minn. Rules, parts 7810.0100 to 7810.8000
2.	Minn. Stat. Ch. 237 (1990).
3.	Minn. Stat. Ch. 14 (1990).
4.	Minn. Rules, parts 7825.3100 to 7825.4600
5.	Minn. Stat. section 216B.48 (1990).
6.	Minn. Stat. section 216B.49 (1990).
7.	Minn. Stat. Ch. 216A (1990).
8.	Minn. Stat. section 216B.02 (1990).
9.	Order Suspending Tariff and Initiating Investigation <u>In the Matter of Northwestern Bell Telephone Company's Proposed Tariff to Discontinue Operator Services to Local Exchange Carriers,</u> Docket No. P-421/M-87-815 (December 31, 1987).
10.	Minn. Stat. section 8.33 (1990).
11.	Commission Statement of Policy on Advertising (June 14, 1982).
12.	Commission Statement of Policy on Organization Dues (June 14, 1982).
13.	Minn. Stat. section 290.21 (1990).
14.	Commission Statement of Policy on Interim Rates (April 14, 1982).
15.	Minn. Stat. section 14.115 (1990).

VII. CONCLUSION

Based on the foregoing, the proposed Minn. Rules, parts 7810.8100 through 7810.8940 are both needed and reasonable.

Richard R. Lancaster
Executive Secretary