

STATE OF MINNESOTA PUBLIC UTILITIES COMMISSION

June 5, 2009

Legislative Reference Library
645 State Office Building
100 Constitution Avenue
St. Paul, Minnesota 55155

Re: In The Matter of the Proposed Rules of the State Public Utilities Commission Governing Minnesota's Telephone Assistance Plan, Minnesota Rules, Chapter 7817; Governor's Tracking #AR 448

Dear Librarian:

The Minnesota Public Utilities Commission intends to adopt amendments to rules governing Minnesota's Telephone Assistance Plan. We plan to publish a Dual Notice Of Intent to Adopt Rules in the June 8, 2009 *State Register*.

The Commission has prepared a Statement of Need and Reasonableness. As required by Minnesota Statutes, sections 14.131 and 14.23, the Commission is sending the Library a copy of the Statement of Need and Reasonableness at the same time we are mailing our Notice of Intent to Adopt Rules.

If you have questions, please contact me at 651-201-2239.

Yours very truly,

A handwritten signature in black ink, appearing to read "Kate Kahlert".

Kate Kahlert
Commission Attorney

Enclosure: Statement of Need and Reasonableness

BEFORE THE MINNESOTA PUBLIC UTILITIES COMMISSION

David C. Boyd
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Chair
Commissioner
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Commissioner

In the Matter of a Possible Rulemaking to
Amend the Telephone Assistance Plan
Provisions of Minnesota Rules Chapter 7817
to Conform With Statutory Changes

ISSUE DATE: June 5, 2009

DOCKET NO. P-999/R-08-1126

STATEMENT OF NEED AND
REASONABLENESS

**I.
INTRODUCTION**

In 1987, the Minnesota Legislature developed the Telephone Assistance Plan (TAP) and directed the Commission to administer the plan and to establish rules. Minn. Stat. § 237.70. The plan, for which the Commission's rules are codified at Minnesota Rules, Chapter 7817, provides credits toward the monthly cost of local phone service to certain low-income residential customers. All local service providers in Minnesota are required to participate in the plan and must issue credits to those who qualify.

The program is funded through a recurring monthly surcharge that appears on customers' phone bills, and the Legislature caps the amount that may be collected from customers at ten cents per line. Minn. Stat. § 237.70, subd. 6. The Commission is charged with reviewing, and if necessary, recalculating, the surcharge and credit levels on an annual basis to prevent an over-collection of revenue or to increase the credit amount. Under the fund, local service providers are reimbursed for administrative costs and credits issued. The funds are also used to reimburse the administrative costs of the Commission.

Since first implementing TAP, the Legislature has amended Minn. Stat § 237.70, most recently in 2003 and 2005, and the Commission's rules need to be amended to incorporate these changes. The three most recent changes do the following: expand eligibility, require applicants to self-certify eligibility, and reassign administrative responsibilities.

Under the first change, eligibility is expanded to include all low-income customers who either participate in a low-income public assistance program or provide proof of income showing they

qualify. Prior to these changes, eligibility was restricted to low-income elderly or disabled customers. The second change requires an applicant to self-certify eligibility by signing a sworn statement that the information provided by the applicant is true. The third change shifts certain administrative responsibilities of the Department of Human Services to the Commission, the Department of Commerce, and to local service providers.

**II.
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**III.
STATUTORY AUTHORITY**

The Commission first established TAP rules pursuant to Minn. Stat. § 237.71 and in accordance with the Administrative Procedure Act, Minn. Stat. Ch. 14. Amendments to the TAP rules will conform the rules to statutory changes. Minn. Stat. § 237.70

**IV.
STATEMENT OF NEED**

The Administrative Procedure Act, Minn. Stat. Ch. 14, requires the Commission to establish the need for the proposed rules by an affirmative presentation of facts. Minn. Stat. §§ 14.14 subd. 2 and 14.23.

In this case, the proposed rules are needed to comply with changes to Minn. Stat. § 237.70, governing the Telephone Assistance Plan.

**V.
STATEMENT OF REASONABLENESS**

The Minnesota Administrative Procedure Act also requires the Commission to establish that the proposed rules are a reasonable solution to the problems they are intended to address, that the Commission relied on evidence in choosing the approach adopted in the rules, and that the evidence relied upon is rationally related to the approach the Commission chose to adopt. Minn. Stat. §§ 14.14, subd. 2 and 14.23. Minn. Rules, part 1400.2070, subp. 1.

A. The Process Used to Develop the Rules Facilitated Informed Decision-making and was the Most Efficient Method for Establishing Reasonable Rules

The proposed rule amendments are a reasonable means of incorporating statutory changes affecting Minnesota's Telephone Assistance Plan. Because the proposed rules are not controversial, no advisory task force was established. The Commission notified all persons that could be identified as potentially interested in or affected by the proposed changes of this rulemaking. After issuing a Request for Comments that resulted in recommendations made by stakeholders, the Commission incorporated several changes that were reasonable, that were responsive to the needs of diverse stakeholders, and that carried out the policy objectives the Commission set forth at the outset of this rulemaking.

B. The Rules' Approach to Implementing Statutory Changes is Reasonable

The Commission has determined that the proposed rules are needed and are the most reasonable way to comply with statutory changes affecting the TAP program. The rules take a reasonable approach to each of the three areas they address: expanding eligibility to all qualifying low-income persons, requiring applicants to self-certify, and shifting administrative duties from the Department of Human Resources to the Commission, Department of Commerce and local service providers, while maintaining the Commission's other administrative responsibilities. The rules' general approach to each area is discussed below; the reasonableness of each rule provision is taken up following that discussion.

1. Expanded eligibility

The primary statutory change to the TAP program expands eligibility from low-income elderly and disabled persons to all qualifying low-income persons. The Legislature made this change by amending Minn. Stat. § 237.70, subd. 4a, which states that eligibility for TAP is based on eligibility for the federal Lifeline plan. The Lifeline plan provides telephone credits to persons who are low-income, according to eligibility criteria set by the federal government that require an applicant to either provide proof of income or certify participation in a qualifying low-income public assistance program.

2. Self-certification

The second major change requires applicants to self-certify that they are eligible for credits by signing a sworn statement, under penalty of perjury, that the information provided by the applicant is true.

3. Administrative responsibilities

The third change shifts the administrative duties of the program from the Department of Human Services to the Department of Commerce and local service providers, with the Commission remaining responsible for establishing program design and parameters and for annually

reviewing and, if necessary, resetting monthly credit and surcharge levels. Under this change, local service providers must determine and verify eligibility, responsibilities previously assigned to the Department of Human Services.

VI. ANALYSIS OF INDIVIDUAL RULES

7817.0100. Definitions.

Subpart 2. Access line.

The Commission proposes to amend subpart 2 as follows.

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

Changes made to Minn. Stat. § 237.70 replace "telephone company" with "local service provider," and the proposed amended rule includes this modification.

Subpart 3a. Department of Administration.

The Commission proposes to repeal subpart 3a.

This rule defines the "Department of Administration." Changes made to Minn. Stat. § 237.70, transfer certain administrative duties from the Department of Administration to the Commissioner of Public Safety. To incorporate this change, the proposed rule amendments do not use the term "Department of Administration," and therefore it is necessary to repeal the definition.

Subpart 4. Department of Human Services.

The Commission proposes to amend subpart 4 as follows.

Subp. 4. ~~Department of Human Services.~~ "~~Department of Human Services~~" means the Minnesota Department of Human Services. Commissioner of Public Safety. "Commissioner of Public Safety" means the Commissioner of the Minnesota Department of Public Safety.

Changes made to Minn. Stat. § 237.70 transfer the TAP administrative duties of the Commissioner of Human Services to other agencies, including the Department of Commerce and the Commission, as well as to local service providers. Because the proposed rule amendments do not use the term, it is necessary to repeal the definition.

Instead, the proposed rule defines the “Commissioner of Public Safety,” who has been assigned certain administrative duties under changes to Minn. Stat. § 237.70. The term is used in the proposed rules when describing the duties of the Commissioner of Public Safety, consistent with the responsibilities assigned under the statute.

Subpart 5a. Disabled.

The Commission proposes to repeal subpart 5a.

Minn. Stat. § 237.70, no longer includes disability as a criterion in determining eligibility for credits under the Telephone Assistance Plan. Because the proposed rules do not use this term, it is necessary to repeal the definition.

Subpart 6. Federal Matching Plan.

The Commission proposes to amend subpart 6 as follows.

Subp. 6. Federal matching plan. "Federal matching plan" means any telephone assistance plan of the Federal Communications Commission, including the federal plan in Code of Federal Regulations, title 47, part ~~69~~ 54, that waives the federal interstate access charge for eligible local telephone subscribers. This federal plan provides matching federal assistance to eligible households receiving assistance through a state telephone assistance plan.

The proposed rule amendment uses the phrase “federal plans” instead of “federal telephone assistance plan” because “telephone assistance plan” is a Minnesota-specific plan and not used in federal law to describe federal plans that provide telephone service discounts. Because federal plans are different from Minnesota’s plan, it is necessary for the rules to accurately distinguish between these plans. And it is reasonable and effective to do so by removing the words “telephone assistance” from the description of federal plans.

The proposed rule also corrects a citation error to the Code of Federal Regulations. The federal plan referred to is the federal Lifeline plan, and the correct citation to the plan is part *54* of title 47, not part *69*.

Subpart 7. Household.

The Commission proposes to amend subpart 7 as follows.

Subp. 7. **Household.** "Household" means ~~a subscriber, a subscriber's spouse, and the minor children with whom a subscriber resides~~ all persons who occupy a housing unit.

Minn. Stat. § 237.70, subd. 4 (a), requires eligibility for TAP to be based on eligibility for the federal Lifeline plan, and eligibility for Lifeline is determined, in part, by measuring the income of all members of a household, according to the Code of Federal Regulations, Title 47, part 54.400 (f). This change ensures that the income of everyone in the household unit will be considered in determining whether a household is eligible for credit, making symmetrical the criteria for an eligible household under both plans.

Subpart 8. Income.

The Commission proposes to repeal subpart 8.

Minn. Stat. § 237.70, subd. 4a states that eligibility for TAP is based on eligibility for the federal Lifeline telephone service discount. And because the federal regulations governing Lifeline set out the income requirements, the proposed rule amendments do not use the term, and therefore it is necessary to repeal the definition.

Subpart 9. Local agency.

The Commission proposes to repeal subpart 9.

Due to changes made to Minn. Stat. § 237.70, local agencies no longer assist in administering the TAP program. Therefore the proposed rule amendments do not use this term, and it is necessary to repeal the definition.

Subpart 10a. Local Service Provider.

The Commission proposes to add this definition.

Subp. 10a. Local Service Provider. "Local service provider" means a service provider of local exchange service.

Minn. Stat. § 237.70 replaces the term "telephone company" with "local service provider." The proposed rule incorporates this statutory change by defining the term "local service provider." And in each rule part where the term "telephone company" is used, the proposed rule uses the term "local service provider." Or, in the case of a rule that uses the term "company" (in reference to "telephone company"), the proposed rule replaces that term with "provider" (in reference to "local service provider").

To incorporate the statutory use of this term, the proposed rule defines a "local service provider" as a provider of "local exchange service," which is defined at subp. 10, as "telephone service provided within local exchange service areas in accordance with telephone company tariffs."

And under Minn. Stat. § 237.70, subd. 2, TAP credits are made available to offset the cost of local exchange service. This definition is broad enough to include all types of carriers yet specific enough to accurately identify the type of service to be covered, which ensures that credits are available to every qualifying low-income customer of local telephone service.

Subpart 12. Public Assistance Program.

The Commission proposes to repeal subpart 12.

Because changes to Minn. Stat. § 237.70 require eligibility for TAP to be based on eligibility for the federal Lifeline plan, the proposed rule amendments do not use this term, and therefore it is necessary to remove the definition.

Subpart 12a. Service order record change charge.

The Commission proposes to amend subpart 12a as follows.

Subp. 12a. **Service order record change charge.** "Service order record change charge" means the fee that a ~~telephone company~~ local service provider charges to a subscriber for making a change in the subscriber's billing record for local service.

Changes made to Minn. Stat. § 237.70 replace "telephone company" with "local service provider," and the proposed rule includes this modification.

Subpart 13. Subscriber.

The Commission proposes to amend subpart 13 as follows.

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

Changes made to Minn. Stat. § 237.70 replace "telephone company" with "local service provider," and therefore the proposed rule includes this modification.

Subpart 13a. TAP enrollment charge.

The Commission proposes to amend subpart 13a as follows.

Subp. 13a. **TAP enrollment charge.** "TAP enrollment charge" means the administrative cost to a ~~telephone company~~ local service provider of enrolling each new participant in the telephone assistance program as determined under part 7817.0300, subpart 5.

Changes made to Minn. Stat. § 237.70 replace "telephone company" with "local service provider," and the proposed rule includes this modification..

Subpart 15. Telephone assistance plan or TAP.

The Commission proposes to amend subpart 15 as follows.

Subp. 15. Telephone assistance plan or TAP. "Telephone assistance plan" or "TAP" means the plan required by Minnesota Statutes, sections 237.69 to ~~237.72~~ 237.711, and set out in this chapter.

This rule defines TAP and references the program's governing statutes. However, Minn. Stat. § 237.72 has been repealed, and therefore the proposed rule removes reference to this section.

Subpart 16. Telephone company.

The Commission proposes to repeal subpart 16.

Changes made to Minn. Stat. § 237.70 replace "telephone company" with "local service provider." To incorporate the statutory change, the proposed rules do not use the term, and therefore it is necessary to repeal the definition.

7817.0200. Purpose and Construction.

The Commission proposes to amend 7817.0200 as follows.

7817.0200 PURPOSE AND CONSTRUCTION.

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

The proposed rule incorporates changes to Minn. Stat. § 237.70 that replace the Department of Human Services with the Department of Commerce.

Changes made to Minn. Stat. § 237.70 replace "telephone company" with "local service provider," and the proposed rule includes this modification.

The proposed rule uses the phrase "federal plans" instead of "federal telephone assistance plan" because "telephone assistance plan" is a Minnesota-specific term and not used in federal law to describe federal plans that provide telephone service discounts. Because federal plans are different from Minnesota's plan, it is necessary for the rules to accurately distinguish between these plans. It is reasonable and effective to do so by removing the words "telephone assistance" from the description of federal plans.

7817.0300. Funding.

Subpart 1. Uniform statewide monthly surcharge.

The Commission proposes to amend subpart 1 as follows.

Subpart 1. Uniform statewide monthly surcharge. The telephone assistance plan must be funded through the assessment of a uniform recurring monthly surcharge, not to exceed ten cents per access line, applicable to all classes and grades of access lines provided by each ~~telephone company~~ local service provider in the state. Each ~~telephone company may assess the surcharge per access line, combine the surcharge with the charges for other programs such as the emergency 911 telephone service, or include the surcharge in existing or future rates. The initial surcharge must be assessed beginning with the first billing cycle occurring immediately after December 29, 1987~~ local service provider or the provider's billing agent shall combine surcharges for the Telephone Assistance Plan, Telephone Access Minnesota and Emergency 911 Service into one amount on billing statements sent to subscribers. The commission shall determine the level of the surcharge on an annual basis ~~no later than November 30 of each year.~~ The recalculated surcharge ~~must~~ shall be effective ~~beginning with the first billing cycle of the next calendar year~~ on a date established by the Commission.

Changes made to Minn. Stat. § 237.70 replace “telephone company” with “local service provider,” and the proposed rule includes this modification.

The proposed rule removes the reference to December 29, 1987 because it is obsolete.

Minn. Stat. § 237.49 requires local service providers to collect an amount per access line that represents the total of certain surcharges, including the TAP surcharge. The proposed rule incorporates this requirement by requiring local service providers to combine the charges for TAP, Telephone Access Minnesota and Emergency 911 Service into one amount on a customer's bill.

The proposed rule removes the November 30 deadline for determining changes to the TAP surcharge and removes the requirement that the change be effective beginning in the next calendar year. The existing requirements constrain Commission decisions, particularly in situations where the Commission makes a change sooner than November, for example, and wants to make the change effective prior to the beginning of the next calendar year.

This is a beneficial change that gives the Commission flexibility in scheduling a review of the TAP surcharge, in conjunction with changes in other fees, such as 911 or TAM (Telephone Access Minnesota), which are required to be combined with the TAP surcharge on customers' bills, under Minn. Stat. § 237.49. This change also provides needed flexibility to the Commission in determining when to conduct a review and when to make changes effective, while continuing to require that a review be made at least annually.

Subpart 2. Collection of surcharge revenues.

The Commission proposes to amend subpart 2 as follows.

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

Changes made to Minn. Stat. § 237.70 replace “telephone company” with “local service provider,” and the proposed amended rule includes this modification.

Subpart 3. Use of surcharge revenues.

The Commission proposes to amend subpart 3 as follows.

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

A. reimburse the telephone assistance credits extended by a ~~telephone company~~ local service provider within 60 days of the deadline for filing the ~~telephone company's~~ local service provider's report under part 7817.0900 or the date the report is filed, whichever occurs later;

B. ~~reimburse the administrative expenses of the Department of Human Services not to exceed the amount specified in Minnesota Statutes, section 237.701;~~

C. reimburse the administrative expenses of the commission not to exceed the amount specified in Minnesota Statutes, section 237.701; and

~~D~~ C. reimburse a ~~telephone company's~~ local service provider's administrative expenses in accordance with subpart 4.

Changes to Minn. Stat. § 237.70 replace “telephone company” with “local service provider,” and the proposed rule includes this modification.

This rule governs remittance of TAP surcharge revenues by local service providers to the Department of Administration. The proposed rule incorporates statutory changes that shift these duties from the Department of Administration to the Department of Public Safety.

The proposed rule repeals item B because it requires that reimbursement be made to the Department of Human Services for administrative costs. Because changes to Minn. Stat § 237.70 no longer require the Department of Human Services to administer the TAP program, eliminating this item is necessary and consistent with that change.

Subpart 4. Reimbursing telephone company expenses.

The Commission proposes to amend subpart 4 as follows.

Subp. 4. Reimbursing ~~telephone company~~ local service provider expenses. The commission shall reimburse ~~telephone company~~ local service provider expenses as provided in items A to E.

A. The commission shall reimburse only with money in the telephone assistance fund.

B. The commission shall not reimburse the expenses of collecting the surcharge.

C. The commission shall not reimburse expenses under this subpart unless the ~~telephone company~~ local service provider has filed a report that complies with part 7817.0900. The commission shall reimburse the ~~telephone company~~ local service provider within 60 days after the deadline for filing its report under part 7817.0900 or the date the report is filed, whichever occurs later.

D. A ~~telephone company~~ local service provider with five or more new TAP participants enrolled during the reporting period for which reimbursement is sought must be reimbursed for expenses actually incurred and claimed up to an amount no greater than the number of new participants enrolled during the reporting period times one of the following:

(1) the ~~company's~~ provider's tariffed service order record change charge; or

(2) the ~~company's~~ provider's tariffed TAP enrollment charge determined under subpart 5.

E. A ~~telephone company~~ local service provider with fewer than five new TAP participants enrolled during the reporting period for which reimbursement is sought must be reimbursed for expenses actually incurred and claimed up to an amount no greater than five times one of the following:

(1) the ~~company's~~ provider's tariffed service order record change charge; or

(2) the ~~company's~~ provider's tariffed TAP enrollment charge determined under subpart 5.

Changes made to Minn. Stat. § 237.70 replace “telephone company” with “local service provider,” and the proposed rule includes this modification. And consistent with this change is the use of the term “provider” in the place of the term “company.”

Subpart 5. TAP enrollment charge.

The commission proposes to amend subpart 5 as follows.

Subp. 5. TAP enrollment charge. A ~~telephone company~~ local service provider may petition the commission to establish a TAP enrollment charge for the ~~company provider~~, which may differ from the ~~company's provider's~~ service order record change charge. The TAP enrollment charge must be determined according to items A and B.

A. A ~~company's provider's~~ petition to establish a TAP enrollment charge must include financial and cost-study information adequate to support the ~~company's provider's~~ proposed TAP enrollment charge. The commission may accept, modify, or reject the ~~company's provider's~~ petition.

B. A TAP enrollment charge must be based exclusively on the cost of one or more of the following ~~company provider~~ activities directly related to administering TAP:

- (1) responding to customer inquiries regarding TAP;
- (2) mailing TAP applications to customers;
- (3) changing manual or computerized customer records and billing systems to reflect the addition or removal of a customer's TAP credit;
- (4) sending annual notice of TAP to all subscribers;
- (5) ~~notifying the Department of Human Services of customers added to or removed from TAP;~~
- (6) ~~removing customers from TAP when declared~~ they are found to be ineligible by the Department of Human Services;
- (7) ~~(6)~~ storing TAP applications;
- (8) ~~(7)~~ remitting surcharge revenues to the ~~Department of Administration~~ commissioner of Public Safety as required by part 7817.0300, subpart 3; and
- (9) ~~(8)~~ reporting to the Public Utilities Commission and Department of Commerce under part 7817.0900, subparts 2 to 4.

Changes made to Minn. Stat. § 237.70 replace “telephone company” with “local service provider,” and the proposed rule includes this modification. And consistent with this change is the use of the term “provider” in the place of the term “company.”

Item B, subitem 5, requires providers to account for the costs they incur to notify the Department of Human Services of changes in customer participation in the TAP program. Because changes to Minn. Stat. § 237.70 have removed administrative responsibilities from the Department of Human Services, it is necessary to repeal this subitem.

Item B, subitem 6, requires providers to account for the cost of removing customers from TAP when they are found to be ineligible by the Department of Human Services. Because changes to Minn. Stat. § 237.70 removes the responsibility for determining eligibility from the Department of Human Services, the proposed rule removes the reference to the Department of Human Services.

The proposed rule change to item B, subitem 8, incorporates the statutory change that transfers certain administrative responsibilities from the Department of Administration to the Department of Public Safety.

Subpart 6. Absence of TAP enrollment service charge.

The Commission proposes to repeal subpart 6.

This subpart governs how the Commission reimburses local service providers for TAP administrative expenses. But this subpart repeats the requirement that a provider use one of the two multipliers found at subpart 4 to calculate reimbursement. Repeating the requirement that is found at subpart 4 is not only unnecessary but can cause confusion over whether subpart 6 provides anything additional than what is required at subpart 4, which it does not. It is reasonable to remove this redundancy and the confusion it can cause.

7817.0400. Eligibility for Telephone Assistance Credits.

Subpart 1. Information provided.

The Commission proposes to amend subpart 1 as follows.

Subpart 1. **Information provided.** Each ~~telephone company~~ local service provider shall annually mail a notice of the availability of the telephone assistance plan to each residential subscriber in a regular billing, as requested by the residential subscriber for delivery of the regular billing. The notice must state the following: ~~You may be eligible for assistance in paying your telephone bill if you meet certain household income limits, and you are 65 years of age or older or are disabled. For more information or an application form please contact~~ **YOU MAY BE ELIGIBLE FOR ASSISTANCE IN PAYING YOUR TELEPHONE BILL IF YOU**

RECEIVE BENEFITS FROM CERTAIN LOW-INCOME ASSISTANCE PROGRAMS. FOR MORE INFORMATION OR AN APPLICATION FORM PLEASE CONTACT On request, the ~~telephone company~~ local service provider shall mail to a person an application form developed by the ~~Department of Human Services commission and the Department of Commerce~~, and a brochure that describes the telephone assistance plan's eligibility requirements and application process.

Changes made to Minn. Stat. § 237.70 replace “telephone company” with “local service provider,” and the proposed rule includes this modification. And consistent with this change is the use of the term “provider” in the place of the term “company.”

The proposed amended rule contains a necessary change that allows providers to send the TAP notice electronically to customers. Because local service providers increasingly send regular monthly bills to customers, at the request of a customer, in a manner other than through U.S. mail, such as web-based delivery methods like e-mail, it is reasonable to allow providers to send the required TAP notice in the same manner. For providers who send regular bills electronically, it is impossible to comply with the requirement that the TAP notice be mailed (via U.S. mail) *in a regular billing* (if regular billing is electronic). If a customer has chosen to receive bills other than through the mail, such as e-mail, it is reasonable to allow a provider to e-mail the notice. This ensures that the customer will receive the notice, along with and in the same format as, the regular billing.

Changes made to Minn. Stat. 237.70, subd. 4 (a) contain new eligibility requirements for the TAP program, and Minn. Stat. § 237.70, subd. 7 (b) requires the annual TAP notice to contain the new information. The proposed rule includes the statute’s notice language.

Changes to Minn. Stat. § 237.70 require the Commission and Department of Commerce to develop a TAP application form and remove that responsibility from the Department of Human Services, and the proposed rule includes this modification.

Subpart 2. Application process.

The Commission proposes to amend subpart 2 as follows.

Subp. 2. Application process. On completing and signing the application certifying under penalty of perjury that the information provided by the applicant is true and that the statutory criteria for eligibility are satisfied, the applicant must return it to the ~~telephone company~~ local service provider for enrollment in the telephone assistance plan. An application may be made by the subscriber, the subscriber's spouse, or a person authorized by the subscriber to act on the subscriber's behalf.

Changes to Minn. Stat. § 237.70 require that TAP applicants sign the TAP form and certify under penalty of perjury that the information provide is true. The proposed change includes this requirement.

Changes made to Minn. Stat. § 237.70 replace “telephone company” with “local service provider,” and the proposed rule includes this modification. And consistent with this change is the use of the term “provider” in the place of the term “company.”

Subpart 3. Documenting, verifying, and reviewing eligibility.

The Commission proposes to repeal subpart 3.

This subpart details the responsibilities of the Department of Human Services in documenting, verifying, and reviewing eligibility. Under changes made to Minn. Stat. § 237.70, the Department of Human Services no longer has those responsibilities. Therefore this subpart is no longer applicable, and it is necessary to repeal it. Requirements for reviewing and verifying eligibility are now placed on local service providers under proposed rule changes to part 7817.0600.

Subpart 4. Eligibility criteria.

The Commission proposes to amend subpart 4 as follows.

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

~~A. the household is not in receipt of assistance for telephone service under any other state public assistance program; be a subscriber who resides in Minnesota or has moved to Minnesota and intends to remain; and~~

~~B. the subscriber is disabled or 65 years of age or older; be eligible for the federal Lifeline telephone service discount.~~

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

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

Changes to Minn. Stat. § 237.70, subd. 4 (a) state that a Minnesota residential household is eligible for TAP credits if that household is eligible for the federal Lifeline telephone service discount. The proposed rule contains this requirement by removing language that makes eligibility contingent upon age or disability and adding language that makes eligibility contingent upon eligibility for the federal Lifeline plan.

The proposed rule retains but relocates the other eligibility requirement that requires an applicant to have the intention of remaining in Minnesota, if not already a resident. This allows an eligible applicant to begin receiving credits as soon as possible after setting up phone service.

Subpart 5. Income.

The Commission proposes to repeal subpart 5.

This subpart governs how the Department of Human Services should determine the income eligibility of a TAP applicant. Because changes to Minn. Stat. § 237.70 remove those responsibilities from the Department of Human Services and require that eligibility be based on eligibility for the federal Lifeline discount, this subpart is no longer applicable and it is necessary to repeal it.

Subpart 6. Agency responsibilities.

The Commission proposes to repeal subpart 6.

This subpart requires the Department of Human Services or a local agency to determine eligibility. Because changes to Minn. Stat. § 237.70 remove this responsibility from the Department of Human Services or a local agency, and instead, require applicants to self-certify eligibility, this subpart is no longer applicable and therefore it is necessary to repeal it.

Subpart 7. Applicant and recipient responsibilities.

The Commission proposes to amend subpart 7 as follows.

Subp. 7 5. Applicant and recipient responsibilities. An applicant shall provide current information about circumstances that permanently permanent changes that affect the applicant's eligibility.

The proposed rule uses the term “permanent changes” that affect eligibility. This term is defined at part 7817.0100, subpart 11 as “changes that are expected to continue for 12 months or more” and that would render the applicant ineligible for TAP credits. In place of “circumstances” the phrase “permanent changes” is used to specifically denote the type of changes an applicant must disclose. This change makes the rule clearer by using a defined term.

Subpart 8. Replace “Notices” with “Local service provider responsibilities.”

The Commission proposes to amend subpart 8 as follows.

Subp. 8 6. Notices Local service provider responsibilities. ~~An applicant or recipient must be notified of the disposition of the application in the following manner:~~

A. A local service provider shall begin providing telephone assistance credits to an applicant in the earliest possible billing cycle but not later than the second billing cycle following the submission of a completed application demonstrating eligibility.

If certified, the ~~telephone company~~ local service provider shall notify the applicant or recipient by, for example, placing telephone assistance credits on the bill.

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

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

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

Changes to Minn. Stat. § 237.70 shift the responsibility for determining eligibility from the Department of Human Services to local service providers. The proposed rule replaces the title of this subpart “Notices” with “Local service provider responsibilities” because the proposed rule change requires local service providers to determine eligibility, to issue credits, and to notify an applicant if the applicant is determined to be ineligible.

And because applicants self-certify eligibility, the administrative burden on providers to determine eligibility is significantly minimized. Therefore, it is reasonable to require a provider to begin issuing credits no later than the second billing cycle after receiving a completed application that demonstrates eligibility.

Because the Department of Human Services is no longer involved in determining eligibility, subpart 8, item B, requires the local service provider to notify the applicant if the applicant is determined to be ineligible. Requirements for reviewing and verifying continued eligibility for a recipient are now placed on local service providers under proposed rule changes to part 7817.0600, and therefore “recipient” is removed from this item.

Subpart 8, item C, requires the Department of Human Services to notify a provider if an applicant is ineligible or becomes ineligible. But because statutory changes remove this responsibility from the Department of Human Services, this item is no longer applicable and therefore it is necessary to repeal it.

Subpart 8, item D, requires the Department of Human Services to notify an applicant of the need to verify eligibility. Because recent statutory changes remove this responsibility from the Department of Human Services and require applicants to self-certify eligibility, this item is no longer applicable and therefore it is necessary to repeal it.

Subpart 9. Ineligibility.

The Commission proposes to repeal subpart 9.

This subpart lists the conditions under which the Department of Human Services may determine that an applicant is ineligible for TAP. Because changes to Minn. Stat. § 227.70 remove this responsibility from the Department of Human Services, this subpart is no longer applicable and therefore it is necessary to repeal it.

7817.0500. Calculation of credits.

The Commission proposes to amend this part as follows.

7817.0500 CALCULATION OF CREDITS.

The commission shall establish the level of telephone assistance plan credits for each ~~telephone company~~ local service provider on an annual basis ~~no later than November 30 of each year to be effective for the subsequent calendar year.~~ The recalculated credit shall be effective on a date established by the Commission. The credits must be calculated based on the following criteria:

- A. the credits must not exceed the amount of credit available under the federal matching plan;
- B. the credits must not exceed ~~more than~~ 50 percent of the weighted average of the local exchange rate charged for local exchange service provided to the household by that household's ~~telephone company~~ local service provider;
- C. the credits must not exceed the level of credits that can actually be funded in accordance with the surcharge limitations in part 7817.0300; and
- D. the level of credits must be uniform for each ~~company~~ provider statewide.

Changes made to Minn. Stat. § 237.70 replace “telephone company” with “local service provider,” and the proposed amended rule includes this modification. And consistent with this change is the use of the term “provider” in the place of the term “company.”

This rule governs how the Commission is to calculate TAP credits, and item B contains an inadvertent misuse of the phrase “more than.” It is unnecessarily redundant to state that credits “must not exceed *more than* 50 percent.” Removing this phrase clarifies the rule.

The proposed amended rule changes the date for determining TAP *credit* levels in the same manner that the proposed rule at part 7817.0300, subpart 1, changes the date for determining TAP *surcharge* levels. The November 30 deadline for determining changes and the requirement that the change be effective beginning in the next calendar year are too restrictive, particularly in situations where the Commission makes a change sooner than November, for example, and wants to make the change effective prior to the beginning of the next calendar year.

And because the surcharge levels and credit levels are ordinarily reviewed in the same proceeding, it makes sense to apply the same standard to both situations by removing the deadline from both rules. This change provides flexibility to the Commission in determining when to make changes, while continuing to require that a review be made at least annually.

7817.0600. Provision and termination of credits.

Subpart 1. Provision of credits.

The Commission proposes to amend subpart 1 as follows.

7817.0600 ~~PROVISION~~ VERIFICATION AND TERMINATION OF CREDITS.

~~Subpart 1. Provision of credits. After a telephone company receives an application for telephone assistance credits, the company shall enroll the applicant in the telephone assistance plan and shall apply telephone assistance credits against monthly charges for each certified household. A telephone company shall apply telephone assistance credits to an applicant's earliest possible billing cycle but no later than the applicant's second billing cycle after certification in the telephone assistance plan.~~ Verification. A local service provider shall verify whether its recipients are eligible to continue receiving telecommunications assistance credits in the same manner that verification of eligibility for the federal Lifeline telephone service discount is determined.

This subpart governs the provision and termination of TAP credits. However, the provision of TAP credits will now be governed by proposed changes to part 7817.0400, subpart 8A. Therefore it is no longer necessary to address the provision of credits in this subpart. And because statutory changes shift the responsibility to verify eligibility from the Department of Human Services to local service providers, proposed changes to this rule require the local service provider to verify eligibility.

Minn Stat. § 237.70, subd. 4a, states that the “telephone assistance plan must provide telephone assistance credit for a residential household in Minnesota that is eligible for the federal Lifeline telephone service discount.” Because the statute forges a binding link between the federal Lifeline plan and TAP, it is reasonable to use the Lifeline verification procedures for verifying continued eligibility for TAP. And, because the majority of local service providers in Minnesota participate in the federal Lifeline plan, most providers are familiar with these procedures and are using them.¹

¹See *In the Matter of the Lifeline Verification Survey Results*, Docket No. P-999/M-08-659 and *In the Matter of the Annual Consideration of Possible Changes in the Telephone Assistance Plan State Credit*, Docket No. P999/CI-08-378, that show the majority of local service providers participate in both the federal Lifeline Plan and TAP.

Subpart 2. Termination of credits.

The Commission proposes to amend subpart 2 as follows.

~~Subp. 2. Termination of credits. After the telephone company enrolls an applicant in the telephone assistance plan, the company shall cease credits when notified by the Department of Human Services that ineligibility has been determined or when local exchange service ends. When so notified, the credit ends with the start of the telephone company's billing cycle beginning in the month after the month in which the company is notified. When a local service provider determines that a recipient is no longer eligible to receive TAP credits, the provider must send written notification to the recipient stating the reasons for finding the recipient ineligible and advising the recipient of the right to appeal. A local service provider may terminate credits if:~~

A. the recipient does not submit an appeal within 60 days of the date of the notice; or

B. the recipient submits an appeal and the Commission determines that the recipient is not eligible.

The proposed rule incorporates the statutory change that shifts administrative responsibilities from the Department of Human Services to local service providers. Under the proposed change, a provider must verify eligibility and give written notification to a recipient who is found to be no longer eligible and to state the reasons for the determination. This allows the recipient the opportunity to review those reasons and to provide a response. And it is reasonable to allow a recipient 60 days to provide a response, the same amount of time given a customer of the federal Lifeline plan to respond to a determination of ineligibility for that program, under Code of Federal Regulations Title 47, part 54.405 (d).

The rules' right to appeal a determination of ineligibility is not new, but it is necessary to refer to it here to ensure that a provider does not terminate credits unless the recipient does not appeal within the allowed time-frame or does appeal, but the Commission finds the recipient ineligible. The appeals process is described in detail at part 7817.1000.

7817.0700. Adjustment to level of surcharge and credits.

The Commission proposes to amend this part as follows.

7817.0700 ADJUSTMENT TO LEVEL OF SURCHARGE AND CREDITS.

When it appears to the commission that the revenue generated by the maximum level of surcharge permitted under part 7817.0300 will be inadequate to fund a particular level of telephone assistance credits, the commission by official order and on 30 days' notice to the ~~telephone companies~~ local service providers, shall reduce the credits to a level that can be adequately funded by the maximum level of surcharge. Similarly, the commission by official order and on 30 days' notice to the ~~telephone companies~~ local service providers, may increase the level of the telephone assistance ~~plan~~ credits

that are available or reduce the surcharge to a level and for a period of time that will prevent an unreasonable overcollection of surcharge revenues.

Changes made to Minn. Stat. § 237.70 replace “telephone company” with “local service provider,” and the proposed rule includes this modification.

And the proposed rule removes the word “plan” from the phrase “telephone assistance plan credits” because it is unnecessary to describe the type of credits. It is more accurate to say “telephone assistance credits,” meaning that credits will be increased, rather than using “plan” to describe the type of credits to be increased.

7817.0800. Federal Telephone Assistance Plans.

The Commission proposes to amend this part as follows.

7817.0800 FEDERAL TELEPHONE ASSISTANCE PLANS.

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

Changes made to Minn. Stat. § 237.70 replace “telephone company” with “local service provider,” and the proposed rule includes this modification.

The proposed rule uses the phrase “federal plans” instead of “federal telephone assistance plan” because “telephone assistance plan” is a Minnesota-specific term and not used in federal law to describe federal plans that provide telephone service discounts. Because federal plans are different from Minnesota’s plan, it is necessary for the rules to accurately distinguish between these plans. It is reasonable and effective to do so by removing the words “telephone assistance” from the description of federal plans.

7817.0900. Company Recording, Reporting Requirements.

Subpart 1. Records to be maintained.

The Commission proposes to amend subpart 1 as follows.

7817.0900 ~~COMPANY~~ PROVIDER RECORDING, REPORTING REQUIREMENTS.

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

Changes made to Minn. Stat. § 237.70 replace “telephone company” with “local service provider,” and the proposed rule includes this modification.

Subpart 2. Reporting Requirements.

The Commission proposes to amend subpart 2 as follows.

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

Changes made to Minn. Stat. § 237.70 replace “telephone company” with “local service provider,” and the proposed rule includes this modification.

Subpart 3. Contents of report.

The Commission proposes to amend subpart 3 as follows.

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

- A. the surcharge revenues collected by the ~~telephone company~~ local service provider;
- B. the number of access lines billed the surcharge;
- C. itemized telephone assistance plan expenses incurred by the ~~company~~ provider;
- D. the amount of reimbursement requested from the telephone assistance fund;
- E. the amount of reimbursement from the federal matching plan applied for or received;
- F. the number of subscribers that received credits under the telephone assistance plan and the number of subscribers that were given waivers under the federal matching plan;

G. the monetary amount of credits extended by the ~~telephone company~~ local service provider under the telephone assistance plan and the monetary amount of waivers given under the federal matching plan; and

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

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

Changes made to Minn. Stat. § 237.70 replace “telephone company” with “local service provider,” and the proposed rule includes this modification. And consistent with this change is the use of the term “provider” in the place of the term “company.”

Subpart 4. Annual Report.

The Commission proposes to amend subpart 4 as follows.

Subp. 4. **Annual report.** No later than 30 days after the end of a calendar year, a ~~telephone company~~ local service provider shall file a year-end report with the commission and the Department of Commerce. A ~~telephone company~~ local service provider with 100 or fewer subscribers that files only an annual report must include the information required by subpart 3 in its annual report. Depending on the reporting option chosen under subpart 2, a cumulative year-end monthly or quarterly report provided under subpart 3 may serve as the annual report. This report must be a financial report and accounting for the ~~telephone company's~~ local service provider's experience under the telephone assistance plan. The report must also be adequate to satisfy the reporting requirements of the federal matching plan.

Changes made to Minn. Stat. § 237.70 replace “telephone company” with “local service provider,” and the proposed rule includes this modification.

7817.1000. Appeals and Complaints.

Subpart 1. Appeal.

The Commission proposes to amend this part as follows.

Subpart 1. **Appeal ~~after termination or denial of eligibility of decision to deny or terminate credits.~~** An applicant or recipient ~~who is denied or terminated telephone assistance credits~~ has the right to appeal a local service provider's decision to deny or terminate credits. The appeal must be in writing and must be received by the Commission or the provider within 60 days of the date the notice is mailed. A local service provider must not terminate credits while the appeal is pending. Appeal hearings must be conducted at a reasonable time, date, and place by ~~an impartial referee employed by the Department of Human Services~~ the commission. An applicant or recipient may introduce evidence relevant to the issues on appeal.

~~Recommendations of an appeals referee to the designee of the commissioner of the Department of Human Services~~ The decision must be based on evidence introduced at the hearing ~~and are not limited to a review of the propriety of a local agency's action.~~

The proposed rule changes the title of this subpart to clarify that an appeal may be made before credits are terminated. And because changes to Minn. Stat. § 237.70 no longer assign administrative duties to the Department of Human Services, it is consistent with that change to shift the responsibility for conducting the appeals hearing from Human Services to the Commission. The Commission, as a quasi-judicial body, has the ability to conduct the hearing as a neutral decision-maker, and has the resources to manage the process, including notice and scheduling.

It is reasonable to require that the appeal be provided in writing to avoid any confusion over whether an appeal has, in fact, been made. And because an applicant or recipient may appeal within 60 days from the date the notice is mailed, there is sufficient time to make an appeal by mail or personal delivery.

It is reasonable to require a provider to continue issuing credits during the appeals process to avoid an unwarranted termination of credits and to ensure full due process to the recipient before termination is effective.

Subpart 2. Complaint procedure.

The Commission proposes to amend subpart 2 as follows.

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

Changes made to Minn. Stat. § 237.70 replace “telephone company” with “local service provider,” and the proposed rule includes this modification.

VII. REGULATORY ANALYSIS

The Administrative Procedure Act requires the statement of need and reasonableness to address the regulatory issues set forth and addressed below.

A. A description of the class of persons who will probably be affected by the proposed rule, including classes that will bear the costs of the proposed rule and classes that will benefit from the proposed rule. Minn. Stat. § 14.131 (1).

The following persons will probably be affected by the proposed rules:

- All local service providers in determining and verifying eligibility
- The Commission in conducting appeals hearings.
- The Department of Commerce in developing the TAP form along with the Commission
- The Department of Public Safety in administering the fund
- Applicants and recipients, who benefit from expanded eligibility

The following persons will probably bear the costs of the proposed rules:

- Local service providers in determining and reviewing eligibility
- The Commission in conducting appeals hearings
- The Department of Commerce in developing the TAP application form
- The Department of Public Safety in administering the fund

B. The probable costs to the agency and to any other agency of the implementation and enforcement of the proposed rule and any anticipated effect on state revenues . Minn. Stat. § 14.131 (2).

The proposed rules will claim resources from the Commission, the Department of Commerce and the Department of Public Safety in administering the plan and the fund. However, the primary changes to the rules affect local service providers, not state agencies. Prior to these changes, the Department of Human Services handled many of the administrative tasks that are now assigned to local service providers, such as the determination and verification of eligibility for credits. The Commission and Department of Commerce will continue to have many of the same responsibilities, although the Commission will have the added duty to conduct appeals hearings, which were previously conducted by the Department of Human Services. And together, the Commission and Department of Commerce oversee development of the TAP application form. The Commission will continue to review the TAP surcharge and credit levels. There does not appear to be a measurable impact on state revenues from this rulemaking.

C. A determination of whether there are less costly methods or less intrusive methods for achieving the purpose of the proposed rule. Minn. Stat. § 141.131 (3).

The proposed rules were developed to comply with statutory changes, precluding exploring less costly or intrusive methods.

D. A description of any alternative methods for achieving the purpose of the proposed rule that were seriously considered by the agency and the reasons why they were rejected in favor of the proposed rule. Minn. Stat. § 141.131 (4)

The Commission concluded that statutory changes required amending the rules to comply with those changes, leaving no possibility for exploring less costly or intrusive approaches.

E. The probable costs of complying with the proposed rules. Minn. Stat. § 14.131. (6)

Most of the costs for complying with the rules are administrative, are sustained by the local service providers and are recouped through the monthly recurring surcharge applied to customers' telephone bills.

F. The probable costs or consequences of not adopting the proposed rule, including those costs or consequences borne by identifiable categories of affected parties, such as separate classes of government units, businesses, or individuals; Minn. Stat. § 14.131. (6)

In the absence of a rule change, the rules do not comply with Minn. Stat. § 237.70, which governs the Telephone Assistance Plan. And without these changes, there could be confusion for telephone companies and TAP customers regarding how the program functions, which agency handles appeals, and how verification should be conducted. Because the verification process is specifically set out in the rules and assigns that responsibility to the Department of Human Services, an agency that no longer has TAP administrative responsibilities under the statute, the rules would not contain clear policy without these changes. In fact, not adopting these amendments hinders the Commission's enforcement of verification and appeals procedures.

G. An assessment of any differences between the proposed rule and existing federal regulations and a specific analysis of the need for and reasonableness of each difference. Minn. Stat. § 14.131 (7)

The Commission is not aware of any differences between the proposed rules and any federal regulations.

**VIII.
CONSIDERATION OF PERFORMANCE BASED REGULATORY SYSTEMS**

Minn. Stat. § 14.002 requires agencies to develop rules and regulatory programs that emphasize superior achievement in meeting regulatory goals while retaining maximum flexibility for agencies and regulated parties in meeting those goals. Minn. Stat. § 14.131 requires agencies to

explain in their statements of need and reasonableness how they have taken this legislative policy into account.

The Commission was guided by performance-based regulatory principles as it developed these rules. Since the rules are largely procedural, however, they are necessarily more prescriptive than rules with more heavily substantive content. Yet the proposed rules extend duties and burdens no further than does the statute, and they are written for the purpose of carrying out already-imposed statutory requirements.

IX. COST OF RULE COMPLIANCE

The Commission has consulted with the Commissioner of Finance, as required by Minnesota Statutes § 14.131, regarding the cost of complying with the proposed rule changes.

While Minnesota Statutes § 14.127 directs agencies to evaluate the cost its rules will impose on small businesses or cities, the proposed rules are exempt from this requirement. See Minnesota Statutes § 14.127, subdivision 4(d).

X. LIST OF WITNESSES

The Commission does not plan to rely on any non-agency witnesses at any rule hearing.

XI. ADDITIONAL NOTICE PLAN

To ensure the public has sufficient notice to participate in a proposed rulemaking, the Administrative Procedure Act requires agencies to take certain prescribed steps to publicize their rulemakings. In addition, Minnesota Statutes § 14.14, subdivision 1a requires agencies to make unspecified additional efforts to notify persons who might be affected by proposed rules, and § 14.131 requires agencies to describe these efforts in their Statements of Need and Reasonableness.

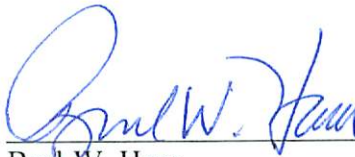
The Commission plans to publicize its proposed rule changes in the following manner:

1. Publishing the Notice of Intent to Adopt Rules, and text of the proposed rule changes, in the *State Register*.
2. Mailing a copy of the Notice of Intent to Adopt Rules to everyone who has requested to receive it pursuant to Minnesota Statutes § 14.14, subdivision 1a.
3. Giving notice to the Legislature as required by Minnesota Statutes § 14.116.

4. Publishing the Notice of Intent to Adopt Rules and this Statement of Need and Reasonableness, including the text of the proposed rules, on the Commission's website at <http://www.puc.state.mn.us>.
5. Mailing the Notice of Intent to Adopt Rules to Minnesota's telephone service providers.
6. Mailing the Notice of Intent to Adopt Rules to social service agencies in the state.
7. Issuing a press release to all newspapers of general circulation throughout the state.

XII. CONCLUSION

For *all the* reasons set forth above, the Commission respectfully submits that the proposed rules are both needed and reasonable.



Burl W. Haar
Executive Secretary