



SF 1045  
3/18/05

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March 18, 2005

The Honorable Senator Steve Kelley, Chair  
Subcommittee on Telecommunications and Technology  
Minnesota State Legislature

*RE: Testimony opposing Senate File 1045, increasing the E911 fee*

On behalf of Cingular Wireless, I am writing to oppose Senate File 1045, which would increase the fee paid by our customers for E911 service.

In general, Cingular Wireless does not object to fees paid by our customers to provide for new and valuable wireless location technology. In fact, we feel our customers should help fund a service that will directly benefit them in an emergency. We believe the current rate of 40 cents per month to fund wireless location technology is more than adequate.

We do not support an increase in the fee when it does not appear to go for wireless technology costs, but instead is funding more general emergency communications programs. Since these programs benefit all citizens, funding should come from general fund budgets and taxes paid by the general public.

We are also concerned that at the same time the E911 fee is being increased on wireless customers, the opportunity for wireless carriers to recover federally mandated E911 costs is diminished by Senate File 1045. [Section 1, Subd.1 (g)] We view the provision of wireless location technology as a partnership between the public safety community and the wireless carriers. Both parties must make substantial investments in new technology to offer this life-saving service. This bill would essentially cut wireless carriers out of their share of revenue for these services from E911 fees paid by our customers.

The tax burden on wireless customers in Minnesota is already high. According to a study by economist Scott Mackey<sup>1</sup>, an average Minnesota wireless customer pays 13.58% of their monthly bill in local, state and federal taxes and fees. Adding 25 cents to our customers' bills only adds to an already high tax burden.

<sup>1</sup> Scott Mackey, "The Excessive State and Local Tax Burden on Wireless Telecommunications Service." CTIA, July 19, 2004. Available at <http://files.ctia.org/pdf/Mackey.pdf>.

Before the Minnesota Legislature agrees to a fee increase for E911, we would urge that a comprehensive cost study be conducted by the state to determine program needs and appropriate revenue sources. A 25-cent increase on our customers' monthly bills represents a substantial increase in revenue. Cingular Wireless wants to be assured that any increase in cost will result in direct benefits to our customers, and not general benefits that should be shared by the public.

Thank you for considering our comments.

Respectfully Submitted,

Dan Youmans  
Cingular Wireless

February 16, 2004

## For Comcast, It's About Bundling Services

By SETH SCHIESEL

Is Comcast's bold bid for Disney in fact a conservative move?

"Audacious" seemed to be journalists' favorite word to describe the hostile takeover offer last week. But if the Comcast Corporation, the nation's largest cable provider, succeeds in acquiring the Walt Disney Company, the move could be seen as a way to control costs and ensure adequate inventory for the most mature and slowest-growing part of its cable business: video programming.

Traditional movies, sports, news and television series will surely be a mainstay of the cable industry for years to come. So, Comcast and other cable companies have every motive to control as much of those areas as possible. But for Comcast, the real growth prospects lie in technologies and services - particularly the bundling of high-speed Internet access and cable-based Internet telephone services - that have little to do with an old-line media conglomerate like Disney.

"When we talk about core video, it will still be a really important part of our business," said David N. Watson, executive vice president of marketing for Comcast's cable operation. "But the more rapid growth will come from high-speed data, telephone and digital services."

To be sure, Disney movies and children's television programming could help stimulate the growth of digital services like video-on-demand. And Disney's ESPN sports network, already one of the most popular parts of any cable lineup, could persuade consumers to adopt digital high-definition program packages.

For Comcast or any other modern cable company, though, the real goal is to expand beyond television to become a household's one-stop communications

shop - collecting not only cable television revenue but also money that the consumer might otherwise be paying to a telephone company and an Internet access provider. That is why cable companies have spent tens of billions of dollars in recent years on digitally updating their systems.

For cable companies, new digital services are not just an opportunity, they are an imperative. Overall cable subscribership is basically stagnant, and in some cases it is declining because of heated competition from satellite operators. While most of the largest cable companies have used new services to essentially stabilize their subscriber levels, the satellite industry still appears to be poaching customers from smaller rural cable operators that lack the wherewithal for major digital upgrades.

"There's literally a tug-of-war going on between satellite and cable, and between telephone companies and cable, over how much revenue you can generate from a customer," said Richard Greenfield, a media analyst for Fulcrum Global Partners, an independent research firm. "I think cable is probably the No. 1 model for how bundling retains customers and drives up revenues."

Mr. Greenfield is among the analysts who predict that standard television's contribution to cable operators' revenue will continue to shrink. In perhaps five years, "at best it's 50 percent, and it could easily be below 50 percent, because I think high-speed data and telephone will take a greater percentage of spending."

In the sheer amount of digital information they can convey, modern digital cable networks dwarf local telephone systems. Cable systems far surpass satellites in technical flexibility, especially for Internet access and video-on-demand services. It is cable's power that is causing the local telephone giants and satellite television titans to pursue joint ventures with one another so eagerly.

The shift in the cable industry's revenue model is already under way, and can perhaps be seen most clearly in the financial data of Cox Communications, the nation's No. 4 cable operator. In the first quarter of 2001, video services represented more than 87 percent of the company's residential revenue of \$848 million. In less than three years, in the final quarter of 2003, that figure had fallen to 70 percent, even as total quarterly residential revenue had risen

to \$1.32 billion. In that quarter, 18 percent of Cox's residential revenue came from its cable-modem operation, and another 10 percent came from telephone service.

"Our telephone and high-speed Internet services have been huge growth engines for us," said Pat Esser, Cox's chief operating officer. "We expect that trend to continue as more customers realize the value of our bundled offerings." Similar trends are evident at most of the other big cable operations, including Comcast and Time Warner's cable unit.

For satellite executives, the cable industry's reach beyond video is derided as a sign of desperation.

"If I were a cable operator, I would also be talking about other sorts of services, because they have been flat or down in their core television business," said Bob A. Marsocci, a spokesman for DirecTV, the No. 1 satellite television company, which is now controlled by Rupert Murdoch's News Corporation. Mr. Marsocci said that DirecTV intended to continue expanding its offerings of high-definition television and set-top boxes with digital video recorders. He also said that the company had struck deals with BellSouth, Qwest and Verizon to offer digital subscriber line Internet access.

The entire point of the cable industry's recent upgrades, however, was to offer such a panoply of services over a single integrated system. Local telephone networks simply cannot compete with the information capacity - or bandwidth - of a modern digital cable system. And satellite television systems are not well suited to the two-way communications of video-on-demand and high-speed Internet traffic and telephone calls.

"Cable clearly has a great advantage in terms of getting bandwidth to the home," said Bob Van Orden, vice president for strategy and product management at Scientific-Atlanta, a leading maker of cable-system gear.

The Yankee Group, a technology research company in Boston, estimates that by the end of 2006, 31.9 million United States homes will have video-on-demand over cable, up from 12.5 million at the end of last year. The firm predicts that cable-based Internet access, used by 14.6 million households at the end of last year, will be in 26.5 million homes within three years.

And by the end of 2007, the Yankee Group predicts, more than 10 million homes will receive telephone service via cable, up from fewer than 3 million at the end of last year. Last week, the Federal Communications Commission buoyed the industry's prospects by signaling that it would not heavily regulate such services, potentially speeding their rollout and adoption.

Cable operators, meanwhile, will continue to tune their networks for the next generation of digital applications.

"There are a lot of services we will offer 10 years from now that we still haven't even thought of today," said Dick Green, chief executive of the cable industry's research consortium, known as CableLabs. "Our job is to make the platform flexible and efficient and useful enough so that it can support those ideas."

Looking at a modern cable company like Comcast, it is hard to predict how owning a company like Disney would enhance that digital future. That may be one reason, so far, many Comcast investors are sour on the Disney bid.

February 15, 2004

## Reach Out and Upend an Industry

By MATT RICHTEL

**J**EFFREY A. CITRON, the man who hopes to turn the telephone industry on its ear, works in a cubicle just down the hall from the "Tony Soprano" conference room. Nearby are the "Meadow" and "Uncle Jr." rooms, though if those are full, Mr. Citron's staff could gather in "Dr. Melfi."

The conference rooms at Vonage, an Internet telephone start-up in Edison, N.J., where Mr. Citron is chief executive, are named for characters from "The Sopranos." That hints at Mr. Citron's embrace of the unconventional, a trait that has made him a danger to some of America's most entrenched industries, but also at times to himself.

In the 1990's, he helped to pioneer computerized day-trading, putting a thumb in the eye of Wall Street's biggest companies. He amassed a fortune but wound up leaving the industry after he was charged with illegal trading by the Securities and Exchange Commission. Though admitting no wrongdoing, he agreed to pay a \$22.5 million fine and was banned from the securities business.

Mr. Citron, the Sequel, is no less ambitious. Already one of the nation's wealthiest 30-somethings, he aims to use Vonage's Internet technology to bring fundamental change to the telephone industry, one of the most entrenched and tradition-bound economic sectors. "I'm going to change the world," Mr. Citron, 33, said in an interview last month over lunch at the New York Palace Hotel. "I did it before. Why not again?"

There are plenty of reasons. Mr. Citron's own investors acknowledge that Vonage may be zapped out of existence if it somehow misfires, its customer care problems persist, major rivals provide better service or regulators take steps like insisting that Internet phone companies pay the same fees as the rest

of the industry.

Yet even skeptics credit Mr. Citron with helping to create an inflection point in the telephone industry by turning Internet telephony - which had long been just a great-sounding theory - into a viable product line.

IN a little more than a year, he has signed up 100,000 customers who use his black box to connect their traditional telephone to the Internet. Customers pay a flat fee of around \$35 for unlimited local and long-distance phone service, though that figure does not include the more than \$40 a month that subscribers must also spend for the high-speed Internet access used to transmit the calls.

Industry analysts say Mr. Citron's success has hastened development of the technology by major telephone and cable companies, which are clearly following his lead. AT&T and Time Warner Cable, for instance, have recently announced their own voice-over-Internet strategies; Verizon, Qwest, Cox Cable and others have said they intend to deploy the technology, too.

Their efforts come not only in response to Vonage, but in the larger context of the upheaval in telecommunications. Since the deregulation of Ma Bell, a simmer of competition has turned into a boil. Companies deploying many technologies, from cable to wireless, are vying to create voice infrastructure that they hope will enable them to generate and capture billions of dollars in fees from subscribers.

So Vonage faces competition not just from big telecommunications companies but also from start-ups even tinier than itself. One of them, Skype, makes free software that lets people talk directly over computers - like a voice version of instant messaging - thus bypassing the telephone altogether. Another start-up, Net2Phone, offers Internet phone service directly to consumers (as does Vonage) and works with cable operators to help sell phone service over their lines.

Facing off against them all is a man who, by many accounts, is a study in extreme capitalism, not Harvard Business School niceties. Mr. Citron is not about polite cocktail conversation and low-carb diets; he leans more toward rolled-up sleeves, gut decisions and fast food. At the recent lunch at the Palace hotel, he ordered the salade niçoise, but mispronounced it nih-KO-see.

In other words, he is not the kind of guy who asks for permission slips. Just as he barreled into Wall Street seven years ago, breaking china along the way, he is now barging into the telecom fray. In doing so, he has put himself in position for a great entrepreneurial comeback.

"He's out for redemption; he wants to prove he can do this, and do this properly," said Harry R. Weller, a partner at New Enterprise Associates, a venture capital firm that invested \$12 million last year in Vonage. After Mr. Weller's firm conducted extensive due diligence on Mr. Citron, it decided to forge ahead with the investment, despite what Mr. Weller described as the significant risk inherent in the technology and the man behind it.

That investment was followed last week by a \$40 million round of financing from two other venture firms: 3i Group, based in London, and Meritech Capital Partners, based in Palo Alto, Calif. As part of the deal, the investors have structured the board so that Mr. Citron does not have control over it - in part, Mr. Weller said, to make sure that Mr. Citron is kept within bounds.

Still, Mr. Weller said investors were convinced that it takes a personality like Mr. Citron's to shake the foundations of the telephone industry.

"You need somebody who knows how to disrupt an industry," he said. "You need to have a very, very aggressive entrepreneur. What we have to make sure to do is to take the best of Jeffrey Citron."

Mr. Citron grew up on Staten Island; his parents worked in the insurance business. As a boy, he says he did not know where his interests lay so much as where they did not: in school. He often skipped class, keeping mostly to himself, but he said he scored well enough on tests to offset his absences.

He made a quick transition from high school to Wall Street. In 1988, at the age of 17, he joined Datek Securities, where his father had close connections. By 20, he had made his first million as a trader.

Mr. Citron left Datek in 1991 to start his own firm, where, with a computer whiz named Josh Levine, he built the foundation of a computer-trading network called Island. It let individual traders swap shares inside the system - without help from the big Wall Street firms.

"Island was truly revolutionary," said Bill Burnham, who was an analyst at Piper Jaffray during the dot-com boom and is now a venture capitalist at Softbank Capital Partners. "It allowed individual investors to get direct access to the market to compete and get the same advantages that professional market makers do."

Mr. Citron returned to Datek Securities to create and become chief executive of Datek Online Holdings. Its technology allowed individuals to make their own trades automatically for \$9.99, far less than the fees charged by full-service brokers. Datek Online became the nation's fourth-largest online trading firm.

But to regulators, Mr. Citron and his associates were involved in something far less upstanding. The Securities and Exchange Commission contended that from 1993 to 1998, he and others were involved in a scheme to use automated trading systems to manipulate Nasdaq, exploit loopholes and make millions of dollars.

In October 1999, amid the scrutiny, Mr. Citron agreed to resign as chief executive of Datek Online. The investigations into Mr. Citron and his associates led to the agreement in January 2003 in which seven former executives and traders at Datek paid a total of \$70 million in fines. Regulators said they had created fictitious customer accounts, used them to place their own trades and filed false reports.

The \$22.5 million fine Mr. Citron paid - one of the largest in S.E.C. history - only dented his wealth. In 2000, he sold his stake in Datek to private investors for \$225 million. Today he lives in a mansion in Brielle, N.J., with his wife and two children.

But wealth isn't everything. There is also reputation. And Mr. Citron says he wants his back. What happened at Datek "was 100 percent about being young," he said.

"We were young, we were naïve, we were inexperienced, and, yes, there were backroom dealings," he added. "But that is part of a lot of industries. This time, we are doing it differently." "This time" began with a helicopter ride. Mr. Citron flew from New Jersey to Melville on Long Island in the summer of 2000 to meet with Jeffrey Pulver and the other principals of a company

called Min-X.com. Min-X was trying to create a market where companies could trade excess phone network capacity in blocks of minutes, in much the same way commodities like oil are traded. The principals approached Mr. Citron for financing.

He invested what he calls a "significant portion" of the \$12 million raised in that first round of financing. But it was far from an arm's-length transaction. He took an active role in the company, immediately replacing Mr. Pulver as chief executive and then changing the concept for the business. Mr. Citron said that it was while flying from California to New Jersey in December 2000 that he decided to focus the company on offering Internet-based telephone calls, transforming it into Vonage.

THE quick decision jibes with his overall philosophy that a good business idea does not require endless analysis. "If you can't figure it out in four months, you shouldn't do it," he said. "If you can't figure it out in a week, you shouldn't do it."

The concept of Internet-based calling was not new. It generated much buzz during the dot-com boom and was being pushed heavily by technology companies like Cisco Systems, which wanted to sell equipment that would be used to route calls as data.

The basic idea is to transmit telephone with the same technology used to handle e-mail and other Internet traffic. Calls are digitized and delivered as packets of data, rather than as traditional voice signals.

That may sound simple, but the reality was much more complex, particularly because the existing telecommunications giants had spent a century investing in a different type of technology, called circuit switch.

Mr. Citron was hardly the first person to understand that Internet calls were potentially less expensive than those made using circuit switch - for a variety of reasons. With circuit switch technology, a telephone line is dedicated to a single conversation. But when the packets are sent as data, that line can send many signals at once, making far more efficient use of the telecommunications infrastructure. In addition, Internet equipment is less expensive and gives operators and consumers more control over voice traffic - for instance, allowing people to get an e-mail reminder each time they

receive a voice mail message.

But for all the advantages, and the hype, no one had figured out the basics: how to affordably hook a traditional phone into the Internet, then send a voice stream directly to another telephone. Mr. Citron and a small team spent the first half of 2001 working to solve the problem.

Louis Holder, a co-founder of Min-X who is now in charge of product development at Vonage, said it was a time of voracious fast-food consumption ("Everybody put on 10 pounds") and exhilaration. "Nobody had done this in the consumer space," he said.

The breakthrough came late on a Thursday night in June. Mr. Holder said he, Mr. Citron and two engineers figured out how to send a digitized call from one telephone to another through a firewall, a defense barrier between a computer or network and the wider Internet.

Initially, the company wanted to create partnerships with cable companies to help them in their assault on traditional telephone companies. But there was skepticism. Vonage was regarded by some executives as a leftover from the bubble. Besides, the cable companies were having their own problems, punctuated by the bankruptcy of @Home, which delivered Internet access over cable.

So in April 2002, Vonage started a consumer-based service. Secretly, the company hoped that if cable companies saw that Vonage was successful, they would consider signing partnerships, Mr. Holder said. But then Vonage took on a life of its own. Within 18 months, it has amassed 100,000 customers, and Mr. Holder said the company expects to have 250,000 by the end of this year, and 500,000 by the end of 2005. Vonage says it will be profitable this year.

Blair Levin, former chief of staff to Reed E. Hundt, chairman of the Federal Communications Commission during the Clinton administration, said that Vonage had proved that Internet calling could be done, and that it was forcing a giant industry to follow more quickly than it might have otherwise. "It's going to have a huge historical impact," Mr. Levin said. "Vonage was a match that was put on some pretty dry timber. But it was a match."

But Mr. Levin, like many others, said he wondered whether Vonage would be

a historical footnote or a viable concern. "The question is: What is their defensible asset?" he said, noting that other companies can provide the same kind of service as Vonage, but with the added benefit of having well-known brand names and deep pockets. "They're playing in a world in which, traditionally, economies of scale and scope matter a huge amount."

An executive at a major telephone company, who requested anonymity, said Vonage was not seen as real competition. And the cable companies, which are vying to use their high-speed lines to deliver phone service, say they can do it far better than Vonage. Cox Communications, based in Atlanta, says that its version of Internet-based calling is more stable than Vonage's because it operates the data network, giving it more control. Even Mr. Citron conceded that this was a possibility. "Clearly, there might be some advantages," he said of the cable industry.

INDEED, Vonage acknowledges that it has two overriding challenges. One is the quality of calls made over its network. Customers often complain of having their calls dropped, or of hearing lags. Mr. Holder says that this happens because the high-speed Internet access in subscribers' homes can be spotty, and that when the lines falter, so does the call quality.

A related problem, Mr. Holder said, is insufficient customer service. The company is scrambling to hire and train qualified people to answer customer concerns. Vonage has 70 customer service employees and would like to have 110, he said.

Another major challenge is regulatory. So far, Vonage has been able to keep its costs low because it has been able to avoid the regulations that federal and state governments place on traditional telephone companies. But that may change: The F.C.C. said last Thursday that it intends to study the question of regulating Internet calling over the next year.

Mr. Citron said he hoped regulators would make the rules clear. He also said he did not intend to get into any gray areas, as he did in his first incarnation as a disruptive entrepreneur. But, in one way, he would like to see a similar outcome.

Internet calling, he said, "will be a large and transforming event."

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## Speaking In Ones And Zeros

Share of U.S.  
residential  
Internet phone  
subscribers  
(local and long-  
distance service  
using Internet  
protocol)

As of end  
of 2003

**Vonage 78%**

Time Warner Cable 8%

Cablevision 6%

Packet 8 3%

Other 5%

Source: the Yankee Group

The New York Times

**Senate Counsel, Research,  
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**State of Minnesota**

**S.F. No. 688 - Cable Franchise Regulations**

**Author:** Senator Steve Kelley

**Prepared by:** Matthew S. Grosser, Senate Research (651/296-1890) *MG*

**Date:** March 17, 2005

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The bill repeals current law prohibiting a municipality from granting an additional franchise for cable service in an area on terms or conditions more favorable or less burdensome than those granted to the existing franchise with respect to the area served or public, educational, or governmental access requirements. Repeals current law allowing a municipality to grant an additional franchise on more favorable or less burdensome terms when the existing franchise is not actually providing service in an area. The bill also repeals a municipality's current authority to impose additional terms and conditions on additional franchises.

The bill provides that the grant of an additional cable franchise may include an area similar to that served in an existing franchise or another area that is deemed to be necessary or desirable to reasonably meet the needs of the municipality or its franchise authority. The bill requires that an additional cable franchise must ensure that all subscribers receive the same local public, educational, and governmental access channels with their franchise area as are specified in an existing franchise. Existing franchise providers are required to permit an additional franchise provider to connect to its local public, educational, and governmental channel feeds and provide an additional franchise provider with the programming on those channels, with the cost of connection to be incurred by the additional franchise provider.

An additional franchise provider shall make annual financial contributions equivalent, on a per customer basis, to the public, educational, and governmental access services, equipment, and facilities provided by the existing franchise provider. An additional franchise provider may satisfy its requirements regarding in-kind contributions, such as cameras and production studios, by negotiating with the existing franchise provider and the municipality or its franchise authority so that public, educational, and governmental access and local origination services are improved or increased.

An additional franchise provider must comply with new public, educational, and governmental access and local origination obligations imposed by a cable franchise renewal. It must not be required to displace other programmers to accommodate such uses, but must comply whenever additional capacity becomes available.

A municipality or its franchise authority may not impose public, educational, and governmental access and local origination obligations on the additional franchise provider exceeding those imposed on the existing franchise provider.

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**State of Minnesota**

**S.F. No. 1540 - Basic Service Telephone Regulation**

**Author:** Senator Steve Kelley

**Prepared by:** Matthew S. Grosser, Senate Research (651/296-1890) *YK*

**Date:** March 17, 2005

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The bill provides for an alternative form of telephone regulation to be known as basic service regulation. Basic service is defined as a single unbundled residential or business voice local exchange line with unlimited usage, excluding any state or federally authorized or mandated services. A telephone company may opt into basic service regulation by filing tariffs, including service descriptions, terms and conditions of use, and rates for each basic service, and by giving the Public Utilities Commission at least 30-days written notice.

The Public Utilities Commission is limited to the following authority with respect to basic services regulated companies: the authority to adopt all necessary rules regarding tariff rate changes, withdrawal of service, payment for service, and service quality standards; the authority to administer the telecommunications relay service and telephone assistance plan, as well as the assessments which fund those services; and to investigate complaints to the extent that they relate to the authorities listed.

The bill, as introduced, contains conflicting rate requirements. Section 4, paragraph (d), of the bill, states that initial rates for each basic service may not exceed the highest tariffed rate in effect in a basic service regulated company's service territory and must remain at that rate for a minimum of one year, and may not be raised within one year of a previous rate increase. Section 4, paragraph (b), states that rates may increase for each basic service up to 50 cents per line per month during the first calendar year and for each of the following five years a company operates under basic service regulation. After which time, rate increases are to be pegged to inflation.

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**State of Minnesota**

**S.F. No. 1612 - Basic Service Telephone Regulation**

**Author:** Senator Dan Sparks

**Prepared by:** Matthew S. Grosser, Senate Research (651/296-1890) *MB*

**Date:** March 17, 2005

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The bill provides for an alternative form of telephone regulation to be known as basic service regulation. Basic service is defined as a single unbundled residential or business voice local exchange line with unlimited usage. A telephone company may opt into basic service regulation by filing tariffs for basic service and giving the Public Utilities Commission at least 30-days written notice.

The bill grants the Public Utilities Commission the following authority with respect to companies opting for basic services regulation: the authority to enforce network performance standards, including 911 technical network standards; the authority to review tariffs other than rates; the authority to require notice of rate changes or service withdrawal; the authority to provide for disconnect for nonpayment, and to provide for deposits for customers, including interest; the authority to administer the telecommunications relay service and telephone assistance plan, as well as the assessments for the telecommunications access fund; the authority to enforce provisions relating to rights-of-way and the Underground Utility Damage Prevention Act; the authority to discharge state commission responsibilities under the Federal Telecommunications Act of 1996; and to investigate complaints to the extent that they relate to the authorities listed.

While Section 3 of the bill excludes rate tariffs from the commission's purview, Section 4 requires companies to file rate tariffs with the PUC, as well as tariffs for extended area local calling rates, and tariffs for the network components of its enhanced 911 service, including terms, conditions, and rates.

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**S.F. No. 1045 - 911 Services Provisions**

**Author:** Senator Jane B. Ranum

**Prepared by:** Matthew S. Grosser, Senate Research (651/296-1890)

**Date:** March 18, 2005

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**Section 1** of the bill increases the emergency telecommunications fee from a maximum of 40 cents per month per basic service to a maximum of 65 cents, and requires that the charges be paid pursuant to contract. This section also relieves the Commissioner of Public Safety of the obligation to contract or pay for any service that wire-line and wireless provider is required to provide by federal law.

**Section 2** makes a conforming change.

**Section 3** modifies the certification requirement with respect to the 911 system cost accounting requirements, and permits the Commissioner of Public Safety to reduce the level of service incurring any termination fees for contracts with certified expenses that deviate more than ten percent from their estimates.

**Section 4** increases the portion of the emergency telecommunications fee that is distributed after the payment of administrative costs.

**Section 5** permits the Metropolitan Radio Board to issue revenue bonds to provide money to reimburse local units of government for up to 50 percent of the cost of building a public safety radio subsystem in the southeast or central districts of the State Patrol.

**Section 6** reduces the amount of bond principal that the Metropolitan Radio Board may issue to make improvements to the 800 megahertz radio system from \$18 million to \$8 million and increases the amount of bonds that may be issued to pay for phase three of public safety radio communications system from \$27 million to \$40 million, and places restrictions on the timing of that bond issuance.

This section also authorizes an additional \$9.5 million in new bond proceeds for region-wide mutual aid and emergency medical services communication.

**Section 7** modifies the appropriation to the Commissioner of Public Safety from the 911 emergency telecommunications service account, changing the appropriation from a standing to open appropriation and requiring a specific portion of the appropriation for debt service costs and fund reserves, with a requirement to report any deficiencies to the Legislature.

**Section 8** requires the Commissioner of Public Safety to transmit the amounts needed to cover debt service costs and reserves to the Metropolitan Council.

**Section 9** permits a property tax levy upon all taxable property in a local government unit, which is using phase three, four, five, or six of the public safety radio communications system for any delinquent payments plus interest.

**Section 10** sets forth the appropriations from the 911 emergency telecommunications service account in the special revenue fund to the Commissioner of Public Safety for emergency and public safety communications.

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**State of Minnesota**

**S.F. No. 1647 - Combined Per Number Telephone Fee**

**Author:** Senator Ellen R. Anderson

**Prepared by:** Matthew S. Grosser, Senate Research (651/296-1890) *MG*

**Date:** March 17, 2005

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The bill requires the Public Utilities Commission to establish, by July 1, 2006, a fee that applies to each service provider based upon the amount of numbers allocated for Minnesota assigned by the North American Numbering Plan Administration in use by the provider. The fee must be calculated to generate sufficient revenue necessary to fund the telephone assistance program, the telecommunications access Minnesota program, the 911 emergency and public safety communications program, and the state's telecommunication regulatory activities at 2004-2005 levels.

The bill also makes conforming changes to the Emergency Telecommunications Service Fee in Minnesota Statutes 2004, Section 403.11, subdivision 1, and repeals a provision that permits the Commerce Department or the Public Utilities Commission to impose an assessment upon any company or parties it investigates for reasonable costs attributable to the investigation.

MSG:cs

3/18/05

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**Senate**

**State of Minnesota**

**S.F. No. 1045 - Public Safety Radio System**

**Author:** Senator Jane B. Ranum

**Prepared by:** Peter S. Wattson, Senate Counsel (651/296-3812) *PSW*

**Date:** March 1, 2005

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**S.F. No. 1045** increases the 911 emergency telephone services fee by 25 cents to fund the current deficiency in the costs of operating the 911 telephone system, to pay off prior year obligations of the 911 telephone fund, and to help defray the cost of operating public safety answering points (PSAPs). It authorizes the Commissioner of Public Safety to impose certain cost controls on 911 emergency telephone services contracts. It shortens the time limit for telephone companies to certify to the Commissioner their costs for providing 911 service. It reduces the existing authorization for the Metropolitan Council to sell revenue bonds for the second phase of the 800 MHz public safety radio communication system (in the metropolitan area) and increases its authorization to sell bonds for the third phase (in the areas around Rochester and St. Cloud). It provides a property tax backup for the operating costs of phases three through six of the system (Greater Minnesota). Finally, it sets priorities for payment of debt service costs from the 911 account.

Bonds for these phases of the 800 MHz radio system were previously authorized but not sold. They were authorized by Laws 2002, ch. 401, art. 1, § 7, and Laws 2003, First Sp. Sess. ch. 1, art. 2, §§ 116, and were to be paid for with fee increases totaling nine cents authorized by Laws 2002 ch. 401, art. 1, §§ 3, 8, and Laws 2003, First Sp. Sess. ch. 1, art. 2, §§ 108, 117. The bonds were not sold because the Governor chose to divert the revenue from the nine-cent fee increase to pay operating costs of the telephone service when it became clear in the February 2004 forecast that actual revenue would fall short of the amounts forecast in February 2003.

**Section 1** increases the 911 emergency telephone services fee from 40 to 65 cents a month, limits the payment of telephone company charges for providing 911 service to those costs set forth in the company's contract with the Commissioner of Public Safety, and authorizes the Commissioner not to contract to pay for services required by federal law or regulation.

**Section 2** limits the payment of telephone company charges for providing 911 service to those costs set forth in the company's contract with the Commissioner of Public Safety.

**Section 3** shortens from two years to 90 days the time limit for a telephone company to certify to the Commissioner of Public Safety its charges for providing 911 services and requires each contract to provide that the Commissioner may limit payment of costs to 110 percent of the amount estimated when the contract was signed.

**Section 4** dedicates ten cents of the fee increase to paying the costs of operating public safety answering points and clarifies that, if a greater amount is appropriated, the greater amount must be distributed.

**Section 5** authorizes the proceeds of 911 bonds to be used to reimburse local units of government for up to 50 percent to the cost of building a subsystem in the southeast or central district of the State Patrol.

**Section 6** reduces the bond sale authorization for phase two (building local radio subsystems in the metropolitan area) to \$8 million to reflect the fact that \$13 million of federal Homeland Security money was used for this purpose in 2004, but the addition of Chisago and Isanti Counties to phase two has increased the state share by about \$3 million, as shown in the following table:

#### Phase Two Costs

|  |                |
|--|----------------|
| 2003 Estimate                                | \$18,000,000   |
| 2004 Homeland Security Grant                 | (\$13,000,000) |
| 2004 Addition of Chisago and Isanti Counties | \$3,000,000    |
| <hr/>  |                |
| Total  | \$8,000,000    |

It increases the bond sale authorization for phase three (building the system backbone of transmission towers and related equipment in the Rochester and St. Cloud districts of the State Patrol) to \$44 million, to reflect the 2004 cost estimate made by the Department of Transportation. It authorizes \$9.5 million of 911 bonds to be sold to reimburse local units of government for up to 50 percent to the cost of building a subsystem in the southeast or central district of the State Patrol, as authorized by **section 5**.

**Section 7** provides an open appropriation for the payment of debt service on the bonds once they have been sold, and sets this appropriation as a first priority for the use of all the revenue in the 911 account so as to insure that the debt service will be paid on time. It requires the Metropolitan Council to limit the sale of bonds so that the debt service may be paid by the revenue from a certain number of cents per month of the 911 fee.

**Section 8** changes from monthly to as needed (currently once a year) the time when the Commissioner of Public Safety must transmit to the Metropolitan Council the amount needed to cover debt service costs and bond reserves.

**Section 9** gives to local government units participating in phases three through six of the system outside the metropolitan area the same authority to levy a property tax if necessary to pay their share of operating costs as is now possessed by local government units participating in phases one and two within the metropolitan area.

**Section 10** appropriates to the Commissioner of Public Safety the proceeds of five cents of the 911 fee to pay off prior year obligations of the 911 account. (The amount needed for 2007 is \$480,000 less than five cents a month. That amount is available to support the telephone operating deficiency.) It states the intent of the Legislature to complete paying off those prior year obligations by the next biennium. It appropriates the proceeds of ten cents of the fee to operate public safety answering points and the proceeds of one cent of the fee for grants to the medical resource communication centers that direct incoming ambulances to the appropriate hospital emergency rooms. The proceeds of the remaining nine cents of the fee increase are available to eliminate the deficiency in revenue to pay the operating costs of the 911 telephone system, thus making the previously authorized nine cents available to pay the costs of issuance and debt service on the bonds for the 800 MHz radio system.

### 911 Emergency Telephone System

| Purpose                                | Cents/Month | 2006                | 2007                |
|--|-------------|---------------------|---------------------|
| Telephone Prior Year Obligations       | 5.0         | \$3,442,000         | \$3,064,000         |
| Public Safety Answering Points         | 10.0        | \$6,884,000         | \$7,087,000         |
| Medical Resource Communication Centers | 1.0         | \$688,000           | \$708,000           |
| Telephone Operating Deficiency         | 9.0         | \$6,192,000         | \$6,861,000         |
| <b>Total</b>                           | <b>25.0</b> | <b>\$17,206,000</b> | <b>\$17,720,000</b> |

**Section 11** makes the act effective immediately and applies it to 911 services contracts executed on or after that date.

PSW:ph

cc: Ken Backhus  
Chris Turner  
Don Jorovsky

3/18/05

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January 19, 2005

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**To:** Senator Jane B. Ranum

**From:** Peter S. Wattson, Senate Counsel *PSW*  
651/296-3812

**Subj:** History of 911 Fee

You have asked for a history of the 911 emergency telephone services fee, as authorized by Minnesota Statutes § 403.11.

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The 911 emergency telephone system was created by Laws 1977, ch. 311, which mandated that each metropolitan county have a 911 system by December 15, 1982, and each remaining county have a 911 system by December 15, 1986. Costs of creating and operating the systems was to be paid by appropriations from the general fund, which were \$20,000 for fiscal year 1978 and \$180,000 for fiscal year 1979.

Laws 1985, First Sp. Sess. ch. 13, § 330, for the first time imposed a fee on telephone customers to pay the costs of the 911 emergency telephone systems. The fee was to be set by the Commissioner of Administration at the amount needed to cover all system costs, but no more than 30 cents nor less than eight cents per month. Proceeds of the fee were deposited in a new 911 emergency telephone services account in the special revenue fund. Appropriations to cover operating costs were \$2,748,800 for fiscal year 1996 and \$3,611,500.

Laws 1995, ch. 195, authorized use of the 911 emergency telephone services fee to pay the cost of creating an 800 MHz public safety radio communication system in the metropolitan area. Section 11 of that law, now coded as Minn. Stat. § 403.30, subd. 1, authorized up to four cents a month to pay debt service on bonds of up to \$10 million for that purpose.

Laws 2001, First Sp. Sess. ch. 10, art. 2, § 78, set the total fee at exactly 27 cents per month, rather than within the former range of 8 to 30 cents a month.

Senator Jane B. Ranum

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Laws 2002, ch. 401, art. 1, § 3, restored the concept of a fee range, which it set at 8 to 33 cents a month. Section 8 of that law increased the amount available to pay debt service on bonds for the radio system to 5.5 cents beginning July 1, 2004.

Laws 2003, First Sp. Sess. ch. 1, art. 2, § 108, increased the maximum fee to 40 cents. Section 117 of that law increased the amount available to pay debt service on bonds for the radio system to 13 cents, beginning July 1, 2004.

PSW:ph

15.1 the record.

15.2 (c) The court may not waive payment of the surcharge  
15.3 required under this subdivision. Upon a showing of indigency or  
15.4 undue hardship upon the convicted person or the convicted  
15.5 person's immediate family, the sentencing court may authorize  
15.6 payment of the surcharge in installments.

15.7 (d) The court administrator or other entity collecting a  
15.8 surcharge shall forward it to the commissioner of finance.

15.9 (e) If the convicted person is sentenced to imprisonment  
15.10 and has not paid the surcharge before the term of imprisonment  
15.11 begins, the chief executive officer of the correctional facility  
15.12 in which the convicted person is incarcerated shall collect the  
15.13 surcharge from any earnings the inmate accrues from work  
15.14 performed in the facility or while on conditional release. The  
15.15 chief executive officer shall forward the amount collected to  
15.16 the commissioner of finance.

15.17 Sec. 9. Minnesota Statutes 2004, section 357.021,  
15.18 subdivision 7, is amended to read:

15.19 Subd. 7. [DISBURSEMENT OF SURCHARGES BY COMMISSIONER OF  
15.20 FINANCE.] (a) Except as provided in paragraphs (b), (c), and  
15.21 (d), the commissioner of finance shall disburse surcharges  
15.22 received under subdivision 6 and section 97A.065, subdivision 2,  
15.23 as follows:

15.24 (1) one percent shall be credited to the game and fish fund  
15.25 to provide peace officer training for employees of the  
15.26 Department of Natural Resources who are licensed under sections  
15.27 626.84 to 626.863, and who possess peace officer authority for  
15.28 the purpose of enforcing game and fish laws;

15.29 (2) 39 percent shall be credited to the peace officers  
15.30 training account in the special revenue fund; and

15.31 (3) 60 percent shall be credited to the general fund.

15.32 (b) The commissioner of finance shall credit \$3 of each  
15.33 surcharge received under subdivision 6 and section 97A.065,  
15.34 subdivision 2, to the general fund.

15.35 (c) In addition to any amounts credited under paragraph  
15.36 (a), the commissioner of finance shall credit ~~\$32~~ \$42 of each  
16.1 surcharge received under subdivision 6 and section 97A.065,  
16.2 subdivision 2, and the \$3 parking surcharge, to the general fund.

16.3 (d) If the Ramsey County Board of Commissioners authorizes  
16.4 imposition of the additional \$1 surcharge provided for in  
16.5 subdivision 6, paragraph (a), the court administrator in the  
16.6 Second Judicial District shall withhold \$1 from each surcharge  
16.7 collected under subdivision 6. The court administrator must use  
16.8 the withheld funds solely to fund the petty misdemeanor  
16.9 diversion program administered by the Ramsey County Violations  
16.10 Bureau. The court administrator must transfer any unencumbered  
16.11 portion of the funds received under this subdivision to the  
16.12 commissioner of finance for distribution according to paragraphs  
16.13 (a) to (c).

16.14 Sec. 10. Minnesota Statutes 2004, section 403.11,  
16.15 subdivision 1, is amended to read:

16.16 Subdivision 1. [EMERGENCY TELECOMMUNICATIONS SERVICE FEE.]

16.17 (a) Each customer of a wireless or wire-line telecommunications  
16.18 service provider that furnishes service capable of originating a  
16.19 911 emergency telephone call is assessed a fee to cover the  
16.20 costs of ongoing maintenance and related improvements for  
16.21 trunking and central office switching equipment for 911  
16.22 emergency telecommunications service, plus administrative and  
16.23 staffing costs of the commissioner related to managing the 911  
16.24 emergency telecommunications service program. Recurring charges

16.25 by a wire-line telecommunications service provider for updating  
16.26 the information required by section 403.07, subdivision 3, must  
16.27 be paid by the commissioner if the wire-line telecommunications  
16.28 service provider is included in an approved 911 plan and the  
16.29 charges are made pursuant to tariff, price list, or contract.  
16.30 The fee assessed under this section must also be used for the  
16.31 purpose of offsetting the costs, including administrative and  
16.32 staffing costs, incurred by the State Patrol Division of the  
16.33 Department of Public Safety in handling 911 emergency calls made  
16.34 from wireless phones.

16.35 (b) Money remaining in the 911 emergency telecommunications  
16.36 service account after all other obligations are paid must not  
17.1 cancel and is carried forward to subsequent years and may be  
17.2 appropriated from time to time to the commissioner to provide  
17.3 financial assistance to counties for the improvement of local  
17.4 emergency telecommunications services. The improvements may  
17.5 include providing access to 911 service for telecommunications  
17.6 service subscribers currently without access and upgrading  
17.7 existing 911 service to include automatic number identification,  
17.8 local location identification, automatic location  
17.9 identification, and other improvements specified in revised  
17.10 county 911 plans approved by the commissioner.

17.11 (c) Until June 30, 2006, the fee may not be less than eight  
17.12 cents nor more than ~~40~~ 65 cents a month for each customer access  
17.13 line or other basic access service, including trunk equivalents  
17.14 as designated by the Public Utilities Commission for access  
17.15 charge purposes and including wireless telecommunications  
17.16 services. Effective July 1, 2006, the fee may not be less than  
17.17 eight cents nor more than 50 cents a month for each customer  
17.18 access line or other basic access service, including trunk  
17.19 equivalents as designated by the commission for access charge  
17.20 purposes and including wireless telecommunications services.  
17.21 With the approval of the commissioner of finance, the  
17.22 commissioner of public safety shall establish the amount of the  
17.23 fee within the limits specified and inform the companies and  
17.24 carriers of the amount to be collected. When the revenue bonds  
17.25 authorized under section 403.27, subdivision 1, have been fully  
17.26 paid or defeased, the commissioner shall reduce the fee to  
17.27 reflect that debt service on the bonds is no longer needed. The  
17.28 commissioner shall provide companies and carriers a minimum of  
17.29 45 days' notice of each fee change. The fee must be the same  
17.30 for all customers.

17.31 (d) The fee must be collected by each wireless or wire-line  
17.32 telecommunications service provider subject to the fee. Fees  
17.33 are payable to and must be submitted to the commissioner monthly  
17.34 before the 25th of each month following the month of collection,  
17.35 except that fees may be submitted quarterly if less than \$250 a  
17.36 month is due, or annually if less than \$25 a month is due.  
18.1 Receipts must be deposited in the state treasury and credited to  
18.2 a 911 emergency telecommunications service account in the  
18.3 special revenue fund. The money in the account may only be used  
18.4 for 911 telecommunications services.

18.5 (e) This subdivision does not apply to customers of  
18.6 interexchange carriers.

18.7 (f) The installation and recurring charges for integrating  
18.8 wireless 911 calls into enhanced 911 systems must be paid by the  
18.9 commissioner if the 911 service provider is included in the  
18.10 statewide design plan and the charges are made pursuant to  
18.11 tariff, price list, or contract.

18.12 Sec. 11. Minnesota Statutes 2004, section 403.27, is

18.13 amended by adding a subdivision to read:

18.14 Subd. 1a. [AUTHORIZATION; THIRD PHASE.] The commissioner  
 18.15 of finance, if requested by a vote of at least two-thirds of all  
 18.16 of the members of the Statewide Radio Board, may authorize the  
 18.17 issuance of revenue bonds or other debt instrument for any of  
 18.18 the following purposes to:

18.19 (1) provide funds for the elements of the third phase of  
 18.20 the statewide public safety radio communication system that the  
 18.21 board determines are of regional or statewide benefit and  
 18.22 support mutual aid and emergency medical services communication  
 18.23 including, but not limited to, costs of master controllers of  
 18.24 the backbone;

18.25 (2) provide funds for the third phase of the public safety  
 18.26 radio communication system; and

18.27 (3) refund bonds issued under this section.

18.28 Sec. 12. Minnesota Statutes 2004, section 403.27,  
 18.29 subdivision 3, is amended to read:

18.30 Subd. 3. [LIMITATIONS.] (a) The principal amount of the  
 18.31 bonds issued pursuant to subdivision 1, exclusive of any  
 18.32 original issue discount, shall not exceed the amount of  
 18.33 \$10,000,000 plus the amount the council determines necessary to  
 18.34 pay the costs of issuance, fund reserves, debt service, and pay  
 18.35 for any bond insurance or other credit enhancement.

18.36 (b) In addition to the amount authorized under paragraph

19.1 (a), the council may issue bonds under subdivision 1 in a  
 19.2 principal amount of \$3,306,300, plus the amount the council  
 19.3 determines necessary to pay the cost of issuance, fund reserves,  
 19.4 debt service, and any bond insurance or other credit  
 19.5 enhancement. The proceeds of bonds issued under this paragraph  
 19.6 may not be used to finance portable or subscriber radio sets.

19.7 ~~(c) In addition to the amount authorized under paragraphs~~  
 19.8 ~~(a) and (b), the council may issue bonds under subdivision 1 in~~  
 19.9 ~~a principal amount of \$18,000,000, plus the amount the council~~  
 19.10 ~~determines necessary to pay the costs of issuance, fund~~  
 19.11 ~~reserves, debt service, and any bond insurance or other credit~~  
 19.12 ~~enhancement. The proceeds of bonds issued under this paragraph~~  
 19.13 ~~must be used to pay up to 50 percent of the cost to a local~~  
 19.14 ~~government unit of building a subsystem and may not be used to~~  
 19.15 ~~finance portable or subscriber radio sets. The bond proceeds~~  
 19.16 ~~may be used to make improvements to an existing 800 MHz radio~~  
 19.17 ~~system that will interoperate with the regionwide public safety~~  
 19.18 ~~radio communication system, provided that the improvements~~  
 19.19 ~~conform to the board's plan and technical standards. The~~  
 19.20 ~~council must time the sale and issuance of the bonds so that the~~  
 19.21 ~~debt service on the bonds can be covered by the additional~~  
 19.22 ~~revenue that will become available in the fiscal year ending~~  
 19.23 ~~June 30, 2005, generated under section 403.11 and appropriated~~  
 19.24 ~~under section 403.30.~~

19.25 ~~(d) In addition to the amount authorized under paragraphs~~  
 19.26 ~~(a) to (c), The council commissioner of finance may issue bonds~~  
 19.27 ~~or other debt instrument under subdivision 1 1a in a principal~~  
 19.28 ~~amount of up to \$27,000,000 \$45,000,000, plus the amount the~~  
 19.29 ~~council commissioner of finance determines necessary to pay the~~  
 19.30 ~~costs of issuance, fund reserves, debt service, and any bond~~  
 19.31 ~~insurance or other credit enhancement. The proceeds of bonds~~  
 19.32 ~~issued under this paragraph are appropriated to the commissioner~~  
 19.33 ~~of public safety for phase three of the public safety radio~~  
 19.34 ~~communication system. In anticipation of the receipt by the~~  
 19.35 ~~commissioner of public safety of the bond proceeds, the~~  
 19.36 ~~Metropolitan Radio Board may advance money from its operating~~

20.1 ~~appropriation to the commissioner of public safety to pay for~~  
20.2 ~~design and preliminary engineering for phase three. The~~  
20.3 ~~commissioner of public safety must return these amounts to the~~  
20.4 ~~Metropolitan Radio Board when the bond proceeds are received.~~

20.5 Sec. 13. Minnesota Statutes 2004, section 403.27,  
20.6 subdivision 4, is amended to read:

20.7 Subd. 4. [SECURITY.] The bonds issued under subdivision 1  
20.8 may be secured by a bond resolution or a trust indenture entered  
20.9 into by the council with a corporate trustee within or outside  
20.10 the state which shall define the fee pledged for the payment and  
20.11 security of the bonds and for payment of all necessary and  
20.12 reasonable debt service expenses until all the bonds referred to  
20.13 in subdivision 1 are fully paid or discharged in accordance with  
20.14 law. The pledge shall be a valid charge on the emergency  
20.15 telephone service fee provided in chapter 403. No mortgage of  
20.16 or security interest in any tangible real or personal property  
20.17 shall be granted to the bondholders or the trustee, but they  
20.18 shall have a valid security interest in the revenues and bond  
20.19 proceeds received by the council and pledged to the payment of  
20.20 the bonds as against the claims of all persons in tort,  
20.21 contract, or otherwise, irrespective of whether the parties have  
20.22 notice and without possession or filing as provided in the  
20.23 Uniform Commercial Code, or any other law, subject however to  
20.24 the rights of the holders of any general obligation bonds issued  
20.25 under section 403.32. In the bond resolution or trust  
20.26 indenture, the council may make covenants as it determines to be  
20.27 reasonable for the protection of the bondholders.

20.28 Neither the council, nor any council member, officer,  
20.29 employee, or agent of the council, nor any person executing the  
20.30 bonds shall be liable personally on the bonds by reason of their  
20.31 issuance. The bonds are not payable from, and are not a charge  
20.32 upon, any funds other than the revenues and bond proceeds  
20.33 pledged to their payment. The council is not subject to any  
20.34 liability on the bonds and has no power to obligate itself to  
20.35 pay or to pay the bonds from funds other than the revenues and  
20.36 bond proceeds pledged. No holder of bonds has the right to  
21.1 compel any exercise of the taxing power of the council, except  
21.2 any deficiency tax levy the council covenants to certify under  
21.3 section 403.31, or any other public body, to the payment of  
21.4 principal of or interest on the bonds. No holder of bonds has  
21.5 the right to enforce payment of principal or interest against  
21.6 any property of the council or other public body other than that  
21.7 expressly pledged for the payment of the bonds.

21.8 Sec. 14. Minnesota Statutes 2004, section 403.27, is  
21.9 amended by adding a subdivision to read:

21.10 Subd. 5. [SECURITY.] The bonds or other debt instrument  
21.11 issued under subdivision 1a may be secured by a bond resolution  
21.12 or a trust indenture entered into by the commissioner of finance  
21.13 with a corporate trustee within or outside the state which shall  
21.14 define the fee pledged for the payment and security of the bonds  
21.15 or other debt instrument and for payment of all necessary and  
21.16 reasonable debt service expenses until all the bonds or other  
21.17 debt instruments referred to in subdivision 1a are fully paid or  
21.18 discharged in accordance with law. The pledge shall be a valid  
21.19 charge on the emergency telephone service fee provided in this  
21.20 chapter. The bonds or other debt instrument shall have a valid  
21.21 security interest in the revenues and proceeds received by the  
21.22 commissioner of finance and pledged to the payment of the bonds  
21.23 or other debt instrument as against the claims of all persons in  
21.24 tort, contract, or otherwise, irrespective of whether the

21.25 parties have notice and without possession or filing as provided  
 21.26 in the Uniform Commercial Code, or any other law. In the bond  
 21.27 resolution or trust indenture, the commissioner of finance may  
 21.28 make covenants as may be reasonable for the protection of the  
 21.29 bondholders or other creditor.

21.30 The bonds or other debt instrument are not payable from,  
 21.31 and are not a charge upon, any funds other than the revenues and  
 21.32 bond or other debt instrument proceeds pledged to their  
 21.33 payment. The state of Minnesota is not subject to any liability  
 21.34 on the bonds and the commissioner of finance has no power to  
 21.35 obligate the state of Minnesota to pay or to pay the bonds or  
 21.36 other debt instruments from funds other than the revenues and  
 22.1 debt instrument proceeds pledged. No holder of bonds has the  
 22.2 right to compel any exercise of the taxing power of the state of  
 22.3 Minnesota, except any deficiency tax levy the commissioner is  
 22.4 authorized to certify under section 403.31, or any other public  
 22.5 body, to the payment of principal of or interest on the bonds or  
 22.6 other debt instrument. No holder of bonds has the right to  
 22.7 enforce payment of principal or interest against any property of  
 22.8 the state of Minnesota or other public body other than that  
 22.9 expressly pledged for the payment of the bonds or other debt  
 22.10 instrument.

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

22.13 Subdivision 1. [STANDING APPROPRIATION; COSTS COVERED.]  
 22.14 For each fiscal year beginning with the fiscal year commencing  
 22.15 July 1, 1997, the amount necessary to pay the following costs is  
 22.16 appropriated to the commissioner of public safety from the 911  
 22.17 emergency telecommunications service account established under  
 22.18 section 403.11:

22.19 (1) debt service costs and reserves for bonds issued  
 22.20 pursuant to section 403.27, subdivision 1; and  
 22.21 (2) ~~repayment of the right-of-way acquisition loans;~~  
 22.22 (3) ~~costs of design, construction, maintenance of, and~~  
 22.23 ~~improvements to those elements of the first, second, and third~~  
 22.24 ~~phases that support mutual aid communications and emergency~~  
 22.25 ~~medical services;~~  
 22.26 (4) ~~recurring charges for leased sites and equipment for~~  
 22.27 ~~those elements of the first, second, and third phases that~~  
 22.28 ~~support mutual aid and emergency medical communication services;~~  
 22.29 ~~or~~  
 22.30 (5) ~~aid to local units of government for sites and~~  
 22.31 ~~equipment in support of mutual aid and emergency medical~~  
 22.32 ~~communications services cost authorized under subdivision 1a.~~

22.33 This appropriation shall be used to pay annual debt service  
 22.34 costs and reserves for bonds issued pursuant to section 403.27,  
 22.35 subdivision 1, prior to use of fee money to pay other costs  
 22.36 eligible under this subdivision. In no event shall the  
 23.1 appropriation for each fiscal year exceed an amount equal to  
 23.2 four cents a month for each customer access line or other basic  
 23.3 access service, including trunk equivalents as designated by the  
 23.4 Public Utilities Commission for access charge purposes and  
 23.5 including cellular and other nonwire access services, in the  
 23.6 fiscal year. ~~Beginning July 1, 2004, this amount will increase~~  
 23.7 ~~to 13 cents a month.~~

23.8 Sec. 16. Minnesota Statutes 2004, section 403.30, is  
 23.9 amended by adding a subdivision to read:

23.10 Subd. 1a. [STANDING APPROPRIATION; COSTS COVERED.] (a) For  
 23.11 each fiscal year beginning with the fiscal year commencing July  
 23.12 1, 2005, the amount necessary to pay the following costs is

- 23.13 appropriated to the commissioner of public safety from the 911  
 23.14 emergency telecommunications service account established under  
 23.15 section 403.11:  
 23.16 (1) debt service costs and reserves for bonds or other debt  
 23.17 instrument issued pursuant to section 403.27, subdivision 1a;  
 23.18 (2) repayment of the right-of-way acquisition loans;  
 23.19 (3) costs of design, construction, maintenance of, and  
 23.20 improvements to those elements of the system backbone that  
 23.21 support mutual aid communications and emergency medical  
 23.22 services; and  
 23.23 (4) recurring charges for leased sites and equipment for  
 23.24 those elements of the system backbone that support mutual aid  
 23.25 and emergency medical communication services.  
 23.26 (b) The appropriation in paragraph (a) shall be used to pay  
 23.27 annual debt service costs and reserves for bonds issued pursuant  
 23.28 to section 403.27, subdivision 1a, prior to use of fee money to  
 23.29 pay other costs eligible under this subdivision. In no event  
 23.30 shall the appropriation for each fiscal year exceed an amount  
 23.31 equal to nine cents a month for each customer access line or  
 23.32 other basic access service, including trunk equivalents as  
 23.33 designated by the Public Utilities Commission for access charge  
 23.34 purposes and cellular and other nonwire access services in the  
 23.35 fiscal year, plus any excess amounts made available to the  
 23.36 commissioner under subdivision 1, clause (2).
- 24.1 Sec. 17. Minnesota Statutes 2004, section 403.30,  
 24.2 subdivision 3, is amended to read:  
 24.3 Subd. 3. [~~MONTHLY APPROPRIATION TRANSFERS.~~] ~~Each month,~~  
 24.4 ~~before the 25th day of the month,~~ The commissioner shall  
 24.5 transmit to the Metropolitan Council ~~1/12 of its total from the~~  
 24.6 ~~approved appropriation for the regionwide public safety~~  
 24.7 ~~communication system~~ of funds provided for in section 403.30,  
 24.8 subdivision 1, the amount necessary to meet debt service costs  
 24.9 and reserves for bonds issued by the Metropolitan Council  
 24.10 pursuant to section 403.27, subdivision 1.
- 24.11 Sec. 18. Minnesota Statutes 2004, section 403.30, is  
 24.12 amended by adding a subdivision to read:  
 24.13 Subd. 3a. [APPROPRIATION TRANSFERS.] The commissioner  
 24.14 shall transmit to the commissioner of finance from the approved  
 24.15 appropriation of funds provided for in section 403.30,  
 24.16 subdivision 1a, the amount necessary to meet debt service costs  
 24.17 and reserves for bonds or other debt instrument issued by the  
 24.18 commissioner of finance pursuant to section 403.27, subdivision  
 24.19 1a.
- 24.20 Sec. 19. Minnesota Statutes 2004, section 609.119, is  
 24.21 amended to read:  
 24.22 609.119 [ADDITIONAL COLLECTION OF BIOLOGICAL SPECIMENS FOR  
 24.23 DNA TESTING.]  
 24.24 (a) ~~From July 1, 2003, to June 30, 2005,~~ The court shall  
 24.25 order an offender to provide a biological specimen for the  
 24.26 purpose of future DNA analysis as described in section 299C.155  
 24.27 when:  
 24.28 (1) the court sentences a person charged with committing or  
 24.29 attempting to commit a felony offense not described in section  
 24.30 609.117, subdivision 1, and the person is convicted of that  
 24.31 offense or of any felony offense arising out of the same set of  
 24.32 circumstances; or  
 24.33 (2) the juvenile court adjudicates a person a delinquent  
 24.34 child who is petitioned for committing or attempting to commit a  
 24.35 felony offense not described in section 609.117, subdivision 1,  
 24.36 and is adjudicated delinquent for that offense or any



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SF 688  
3/18/05

Thank you Senator Kelley and members of the Telecom subcommittee for your interest and support in updating our state's outdated cable law. I am writing in support of Senate file 688. I am John Schultz, the General Manager for FTTH Communications, a provider of telephone, internet and television services to the communities of Rosemount, Albertville and Hugo in the Minneapolis/St. Paul metropolitan area. Unlike a lot of other persons you will hear speak on this subject I am not an incumbent cable or telephone company; FTTH competes with companies such as Qwest, Frontier, Sprint, Charter and Comcast. We are a small company with 4 full-time employees focused on providing the best service we can to our customers. It is small companies such as us that drive innovation in the marketplace and create the next generation of telecommunication services. For example unlike other providers you will hear from we provide fiber optic capacity all of the way to our customers' home, one of the few in the country providing such services. Also FTTH built the first Switched Digital Headend using IP services in Minnesota, leading the way in the next generation of television services.

One of the largest hurdles we have had is the implementation of our television services and the franchising process. As a competitive provider we have faced many roadblocks to providing service and SF 688 would put small companies like us on a level playing field. The days of over-builders coming into a market and being able to build an entire city is behind us with the telecom bust of 2000, it is going to take small providers such as ourselves and those with other competing technologies such as incumbent telephone companies to drive competition in the marketplace. To level the playing field we need fair access to the marketplace. You will hear from the cable providers the term cherry picking (that we are taking customers in a limited area); this is no different than what has been happening to the telephone industry since competition was allowed in 1996 and will continue to happen as cable companies begin to roll out voice services. You will not be seeing them reaching out to rural areas of the state where the costs are higher to compete. We are asking that all communications providers be put on the same playing field

regardless of service and to eliminate the stalling tactics that cable companies today utilize to protect their investment and monopoly position. Fair and equal is the cry we hear from the cable companies today but if that is so we have already missed the boat as we do not regulate other video providers such as Direct TV and Dish services by requiring them to make public access and franchise contributions. Also let us not forget that the reason that cable franchising came into being was to allow the cities to enforce right-of-way access of their communities. Companies like FTTH Communications are already a certified competitive local exchange carrier in the state and has access to those rights of way through our Public Utilities Commission approvals. What we are really doing is creating additional sets of barriers to companies who want to provide a triple play of services to the market place.

Especially of interest to me is the ability for new entrants to be able to access the same PEG (Public, Education and Government) channels as are provided by the incumbent cable companies. For instance in Rosemount we have offered to trade signal with the incumbent to allow them access to MCN channel 6, which they are to provide according to state statute, but we are muddled in situation where the cable administrator has no leverage to force such an opportunity and the cable company can do what they typically do in this situation, ignore it. That is not to say that we are being ignored by the incumbent cable companies, in Rosemount for instance we have see aggressive marketing campaigns by Charter to win-back customers, reducing customers costs, which is a win for the entire community even though today we only server a small portion of it. It also allows us flexibility in our arrangements in the cities we serve to offer enhanced services to public institutions. For example in Rosemount we were able to provide the school district direct fiber feeds instead of the typical services that Charter was providing. It created a beneficial new service to the schools.

By allowing smaller and innovative providers the chance to provide services in a limited area of a municipality it allows us to build a business plan with realistic costs and a solid business plan that we can then grow into entire communities as we mature as a company.

The existing barrier to entry from a capital perspective that is perpetuated by the existing franchising rules will stifle any future growth in competitive services.

As I mentioned before FTTH Communications was one of the innovators of IP video technology in the United States and two years after launching our services we are finally seeing large companies such as Verizon and SBC moving down the same path that we have forged. As the debate over the regulation of IP services continues it muddies what really is a cable service and what is not, the leveling of the existing legislation that is being proposed will keep the new innovative providers working with the cities instead of trying to find ways to work around them. As we have seen in the Vonage decision the FCC and federal courts are quite adamant about allowing IP based services to move down the path of deregulation. I believe that there will come a time when IP based services will not have the same regulatory restrictions as the traditional technologies of delivering cable services. Instead of working with cities, IP video providers will instead bypass all of the regulatory hurdles of cable franchising. I believe that SF 688 levels the playing field and reduces need to find innovative ways around the franchising process. This bill will allow Minnesota to move along the path to increased broadband competition and innovation, providing new and innovative services will force all providers to provide better services to our end customers. We must remember that this bill is not a mandate to the cities of Minnesota but instead is an option for cities that allows them to be flexible within their communities.

Thank you for allowing me to express my views and to bring to light some of the important issues that are affecting small businesses such as FTTH Communications. If you are interesting in learning more about us feel free to contact me.

Sincerely,



John R. Schultz  
General Manager-FTTH Communications

Senators Kelley, Ourada, Anderson, Gaither and Sparks introduced--

S.F. No. 688: Referred to the Committee on Jobs, Energy and Community Development.

1                                   A bill for an act  
 2           relating to telecommunications; changing requirements  
 3           for granting additional cable franchises; amending  
 4           Minnesota Statutes 2004, section 238.08, subdivision  
 5           1, by adding a subdivision.

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

7           Section 1. Minnesota Statutes 2004, section 238.08,  
 8           subdivision 1, is amended to read:

9           Subdivision 1. [REQUIREMENT; CONDITIONS.] (a) A  
 10           municipality or its franchise authority shall require a  
 11           franchise or extension permit of any cable communications system  
 12           providing service within the municipality.

13           (b) No municipality shall grant an additional franchise for  
 14           cable service for an area included in an existing franchise on  
 15           terms and conditions more favorable or less burdensome than  
 16           those in the existing franchise pertaining to: ~~---(1)---the-area~~  
 17           ~~served;---(2)---public,---educational,---or---governmental---access~~  
 18           ~~requirements;---or---(3) franchise fees. The-provisions-of-this~~  
 19           ~~paragraph-shall-not-apply-when-the-area-in-which-the-additional~~  
 20           ~~franchise-is-being-sought-is-not-actually-being-served-by-any~~  
 21           ~~existing-cable-communications-system-holding-a-franchise-for-the~~  
 22           ~~area.---Nothing-in-this-paragraph-prevents-a-municipality-from~~  
 23           ~~imposing-additional-terms-and-conditions-on-any-additional~~  
 24           ~~franchises.~~ The grant of an additional franchise may include an  
 25           area for cable service similar to that in an existing franchise

1 or another area that the municipality or its franchise authority  
2 determines is necessary or desirable to reasonably meet the  
3 needs of the municipality or its franchise authority.  
4 Additional franchises must be granted or rejected by a  
5 municipality within 180 days of the notice of application being  
6 published in a newspaper of general circulation unless the date  
7 is extended by mutual agreement of the additional franchise  
8 provider and municipality.

9       Sec. 2. Minnesota Statutes 2004, section 238.08, is  
10 amended by adding a subdivision to read:

11       Subd. 1a. [LOCAL PUBLIC, EDUCATIONAL, AND GOVERNMENTAL  
12 ACCESS CHANNELS.] (a) An additional franchise must ensure that  
13 all subscribers receive local public, educational, and  
14 governmental access channels within the additional franchise  
15 provider's franchise area.

16       (b) An additional franchise must ensure that all  
17 subscribers receive local public, educational, and governmental  
18 access channels and local origination channels as specified in  
19 the existing franchise, and on channels designated within the  
20 existing franchise or actually used for the delivery of public,  
21 educational, and governmental access and local origination. An  
22 additional franchise provider must not be required to provide  
23 any public, educational, and governmental access or local  
24 origination channels not specified in an existing franchise or  
25 in actual use for those purposes.

26       (c) An existing franchise provider must be required to  
27 permit an additional franchise provider to connect with its  
28 local public, educational, and governmental access and local  
29 origination channel feeds and provide an additional franchise  
30 provider with the programming on those channels. An additional  
31 franchise provider and the existing franchise provider may  
32 decide how to accomplish this connection, taking into  
33 consideration the exact physical and technical circumstances of  
34 the systems involved. An agreement must be negotiated between  
35 the additional franchise provider and the existing franchise  
36 provider specifying these requirements.

1       The additional franchise provider may proceed with  
2 providing its services before public, educational, and  
3 governmental access negotiations are completed. If the  
4 additional franchise provider and existing franchise provider  
5 cannot agree on how to accomplish this within three months from  
6 the effective date of the granting of the additional franchise,  
7 the municipality or its franchising authority may adopt a  
8 resolution specifying these requirements. The costs of  
9 connection to the existing franchise provider's public,  
10 educational, and governmental access channel feed must be borne  
11 by the additional franchise provider. The municipality or its  
12 franchise authority may require that the connection occur on  
13 government property or on public rights-of-way.

14       (d) An additional franchise provider shall make financial  
15 contributions that are equivalent annually, on a per customer  
16 basis, to the public, educational, and governmental access  
17 services, facilities, and equipment provided or made available  
18 by the existing franchise provider.

19       (e) For in-kind contributions, such as cameras and  
20 production studios, an additional franchise provider may satisfy  
21 its requirements by negotiating mutually agreeable terms with  
22 the existing franchise provider and the municipality or its  
23 franchise authority so that public, educational, and  
24 governmental access and local origination services to the  
25 community are improved or increased.

26       (f) An additional franchise provider must adjust its  
27 systems to comply with new public, educational, and governmental  
28 access and local origination obligations imposed by a cable  
29 franchise renewal. The additional franchise provider must not,  
30 however, be required to displace other programmers using its  
31 system to accommodate public, educational, and governmental  
32 access and local origination channels. The additional franchise  
33 provider must comply with the public, educational, and  
34 governmental access and local origination obligations whenever  
35 additional capacity is or becomes available, whether it is due  
36 to increased channel capacity or decreased demand for channel

1 capacity.

2 (g) A municipality or its franchising authority may not  
3 impose public, educational, and governmental access or local  
4 origination obligations on the additional franchise provider  
5 that would exceed those imposed on the existing franchise  
6 provider.

7 Sec. 3. [EFFECTIVE DATE.]

8 Sections 1 and 2 are effective the day following final  
9 enactment.

Senators Kelley, Ourada, Sparks and Gaither introduced--

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

1                                   A bill for an act

2           relating to telecommunications; providing for basic

3           services regulation of telephone companies; proposing

4           coding for new law in Minnesota Statutes, chapter 237.

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

6           Section 1. [237.85] [DEFINITIONS.]

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

8 apply to sections 237.85 to 237.88.

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

10 unbundled, single line, unlimited usage, residential voice local

11 exchange telephone services or unbundled, single line, unlimited

12 usage, business voice local exchange telephone services. "Basic

13 services" does not include any state or federally authorized or

14 mandated services.

15           Subd. 3. [BASIC SERVICES REGULATED COMPANY.] "Basic

16 services regulated company" means a telephone company that

17 chooses to operate under basic service regulation under section

18 237.86.

19           Subd. 4. [COMMISSION.] "Commission" means the Public

20 Utilities Commission.

21           Subd. 5. [RETAIL.] "Retail" means provision of local

22 exchange service or interexchange telephone service, or both, to

23 an end user.

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

25           A form of alternative regulation known as "basic services

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

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

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

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

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

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

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

23 (iii) establish service quality standards; and

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

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

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

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

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

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

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

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

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

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

8       Sec. 5. [EFFECTIVE DATE.]

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

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

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

1

A bill for an act

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

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

6

Section 1. [237.85] [DEFINITIONS.]

7

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

8

apply to sections 237.85 to 237.88.

9

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

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more unbundled, single line, unlimited usage, residential voice

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local exchange telephone services or unbundled, single line,

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unlimited usage, business voice local exchange telephone

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services.

14

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

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Utilities Commission.

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

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company" means a local exchange carrier that elects to operate

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under basic services regulation pursuant to section 237.86.

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

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means an entity that holds a certificate of authority to furnish

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local exchange service or interexchange telephone service, or

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

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commission.

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

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exchange service or interexchange telephone service, or both, to

1 an end user.

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

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

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

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

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

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

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

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

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

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

1 withdrawal of tariffed service offerings; and

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

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

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

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

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

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

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

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

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

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

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

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

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

26 Sec. 5. [EFFECTIVE DATE.]

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

**Senators Ranum, Foley, McGinn, Kelley and Senjem introduced--**  
**S.F. No. 1045: Referred to the Committee on Jobs, Energy and Community Development.**

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A bill for an act

relating to public safety; increasing 911 emergency telecommunications service fee; imposing certain restrictions on public subsidy to telephone companies for providing 911 emergency telephone service; increasing distribution to pay costs of public safety answering points; authorizing sale of Metropolitan Council bonds to implement phases two and three of the 800-MHz public safety radio system; providing for levy of property taxes to secure payment of system operating costs; appropriating money; amending Minnesota Statutes 2004, sections 403.11, subdivisions 1, 3, 3a; 403.113, subdivision 1; 403.27, subdivisions 1, 3; 403.30, subdivisions 1, 3; 403.31, subdivision 6.

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

Section 1. Minnesota Statutes 2004, section 403.11, subdivision 1, is amended to read:

Subdivision 1. [EMERGENCY TELECOMMUNICATIONS SERVICE FEE.]

(a) Each customer of a wireless or wire-line telecommunications service provider that furnishes service capable of originating a 911 emergency telephone call is assessed a fee to cover the costs of ongoing maintenance and related improvements for trunking and central office switching equipment for 911 emergency telecommunications service, plus administrative and staffing costs of the commissioner related to managing the 911 emergency telecommunications service program. Recurring charges by a wire-line telecommunications service provider for updating the information required by section 403.07, subdivision 3, must be paid by the commissioner if the wire-line telecommunications service provider is included in an approved 911 plan and the

1 charges are made pursuant to ~~tariff, price list, or~~ contract.  
2 The fee assessed under this section must also be used for the  
3 purpose of offsetting the costs, including administrative and  
4 staffing costs, incurred by the State Patrol Division of the  
5 Department of Public Safety in handling 911 emergency calls made  
6 from wireless phones.

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

19 (c) The fee may not be less than eight cents nor more than  
20 ~~40~~ 65 cents a month for each customer access line or other basic  
21 access service, including trunk equivalents as designated by the  
22 Public Utilities Commission for access charge purposes and  
23 including wireless telecommunications services. With the  
24 approval of the commissioner of finance, the commissioner of  
25 public safety shall establish the amount of the fee within the  
26 limits specified and inform the companies and carriers of the  
27 amount to be collected. When the revenue bonds authorized under  
28 section 403.27, subdivision 1, have been fully paid or defeased,  
29 the commissioner shall reduce the fee to reflect that debt  
30 service on the bonds is no longer needed. The commissioner  
31 shall provide companies and carriers a minimum of 45 days'  
32 notice of each fee change. The fee must be the same for all  
33 customers.

34 (d) The fee must be collected by each wireless or wire-line  
35 telecommunications service provider subject to the fee. Fees  
36 are payable to and must be submitted to the commissioner monthly

1 before the 25th of each month following the month of collection,  
2 except that fees may be submitted quarterly if less than \$250 a  
3 month is due, or annually if less than \$25 a month is due.  
4 Receipts must be deposited in the state treasury and credited to  
5 a 911 emergency telecommunications service account in the  
6 special revenue fund. The money in the account may only be used  
7 for 911 telecommunications services.

8 (e) This subdivision does not apply to customers of  
9 interexchange carriers.

10 (f) The installation and recurring charges for integrating  
11 wireless 911 calls into enhanced 911 systems must be paid by the  
12 commissioner if the 911 service provider is included in the  
13 statewide design plan and the charges are made pursuant to  
14 ~~tariff, price list, or~~ contract.

15 (g) Notwithstanding any provision of this chapter to the  
16 contrary, the commissioner need not contract for or agree to pay  
17 for any services that a wire-line or wireless telecommunication  
18 service provider is required by federal law or federal  
19 regulation to provide.

20 Sec. 2. Minnesota Statutes 2004, section 403.11,  
21 subdivision 3, is amended to read:

22 Subd. 3. [METHOD OF PAYMENT.] (a) Any wireless or  
23 wire-line telecommunications service provider incurring  
24 reimbursable costs under subdivision 1 shall submit an invoice  
25 itemizing rate elements by county or service area to the  
26 commissioner for 911 services furnished under ~~tariff, price~~  
27 ~~list, or~~ contract. Any wireless or wire-line telecommunications  
28 service provider is eligible to receive payment for 911 services  
29 rendered according to the terms and conditions specified in the  
30 contract. Competitive local exchange carriers holding  
31 certificates of authority from the Public Utilities Commission  
32 are eligible to receive payment for recurring 911 services  
33 provided after July 1, 2001. The commissioner shall pay the  
34 invoice within 30 days following receipt of the invoice unless  
35 the commissioner notifies the service provider that the  
36 commissioner disputes the invoice.

1 (b) The commissioner shall estimate the amount required to  
 2 reimburse wireless and wire-line telecommunications service  
 3 providers for the state's obligations under subdivision 1 and  
 4 the governor shall include the estimated amount in the biennial  
 5 budget request.

6 Sec. 3. Minnesota Statutes 2004, section 403.11,  
 7 subdivision 3a, is amended to read:

8 Subd. 3a. [TIMELY CERTIFICATION.] A certification must be  
 9 submitted to the commissioner no later than two-years 90 days  
 10 after commencing a new or additional eligible 911 service. Any  
 11 ~~wireless-or-wire-line-telecommunications-service-provider~~  
 12 ~~incurring-reimbursable-costs-under-this-section-at-any-time~~  
 13 ~~before-January-17-2003,-may-certify-those-costs-for-payment-to~~  
 14 ~~the-commissioner-according-to-this-section-for-a-period-of-90~~  
 15 ~~days-after-January-17-2003,--During-this-period,-the~~  
 16 ~~commissioner-shall-reimburse-any-wireless-or-wire-line~~  
 17 ~~telecommunications-service-provider-for-approved,-certified~~  
 18 ~~costs-without-regard-to-any-contrary-provision-of-this~~  
 19 subdivision Each applicable contract must provide that, if  
 20 certified expenses under the contract deviate from estimates in  
 21 the contract by more than ten percent, the commissioner may  
 22 reduce the level of service without incurring any termination  
 23 fees.

24 Sec. 4. Minnesota Statutes 2004, section 403.113,  
 25 subdivision 1, is amended to read:

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

35 (b) The enhanced 911 service fee must be collected and  
 36 deposited in the same manner as the fee in section 403.11 and

1 used solely for the purposes of paragraph (a) and subdivision 3.

2 (c) The commissioner, in consultation with counties and 911  
3 system users, shall determine the amount of the enhanced 911  
4 service fee. The fee must include at least ~~ten~~ 20 cents per  
5 month to be distributed under subdivision 2. If a greater  
6 amount is appropriated, the greater amount must be distributed.

7 The commissioner shall inform wireless and wire-line  
8 telecommunications service providers that provide service  
9 capable of originating a 911 emergency telephone call of the  
10 total amount of the 911 service fees in the same manner as  
11 provided in section 403.11.

12 Sec. 5. Minnesota Statutes 2004, section 403.27,  
13 subdivision 1, is amended to read:

14 Subdivision 1. [AUTHORIZATION.] (a) After consulting with  
15 the commissioner of finance, the council, if requested by a vote  
16 of at least two-thirds of all of the members of the Metropolitan  
17 Radio Board, may, by resolution, authorize the issuance of its  
18 revenue bonds for any of the following purposes to:

19 (1) provide funds for regionwide mutual aid and emergency  
20 medical services communications;

21 (2) provide funds for the elements of the first phase of  
22 the regionwide public safety radio communication system that the  
23 board determines are of regionwide benefit and support mutual  
24 aid and emergency medical services communication including, but  
25 not limited to, costs of master controllers of the backbone;

26 (3) provide money for the second phase of the public safety  
27 radio communication system;

28 (4) to the extent money is available after meeting the  
29 needs described in clauses (1) to (3), provide money to  
30 reimburse local units of government for amounts expended for  
31 capital improvements to the first phase system previously paid  
32 for by the local government units; or

33 (5) to the extent money is available after meeting the  
34 needs described in clauses (1) to (4), provide money to  
35 reimburse local units of government for up to 50 percent of the  
36 cost of building a subsystem in the southeast or central

1 district of the State Patrol; or

2 (6) refund bonds issued under this section.

3 (b) After consulting with the commissioner of finance, the  
4 council, if requested by a vote of at least two-thirds of all of  
5 the members of the Statewide Radio Board, may, by resolution,  
6 authorize the issuance of its revenue bonds to provide money for  
7 the third phase of the public safety radio communication system.

8 Sec. 6. Minnesota Statutes 2004, section 403.27,  
9 subdivision 3, is amended to read:

10 Subd. 3. [LIMITATIONS.] (a) The principal amount of the  
11 bonds issued pursuant to subdivision 1, exclusive of any  
12 original issue discount, shall not exceed the amount of  
13 \$10,000,000 plus the amount the council determines necessary to  
14 pay the costs of issuance, fund reserves, debt service, and pay  
15 for any bond insurance or other credit enhancement.

16 (b) In addition to the amount authorized under paragraph  
17 (a), the council may issue bonds under subdivision 1 in a  
18 principal amount of \$3,306,300, plus the amount the council  
19 determines necessary to pay the cost of issuance, fund reserves,  
20 debt service, and any bond insurance or other credit  
21 enhancement. The proceeds of bonds issued under this paragraph  
22 may not be used to finance portable or subscriber radio sets.

23 (c) In addition to the amount authorized under paragraphs  
24 (a) and (b), the council may issue bonds under subdivision 1 in  
25 a principal amount of ~~\$18,000,000~~ \$8,000,000, plus the amount  
26 the council determines necessary to pay the costs of issuance,  
27 fund reserves, debt service, and any bond insurance or other  
28 credit enhancement. The proceeds of bonds issued under this  
29 paragraph must be used to pay up to 50 percent of the cost to a  
30 local government unit of building a subsystem and may not be  
31 used to finance portable or subscriber radio sets. The bond  
32 proceeds may be used to make improvements to an existing 800-MHz  
33 radio system that will interoperate with the regionwide public  
34 safety radio communication system, provided that the  
35 improvements conform to the board's plan and technical  
36 standards. The council must time the sale and issuance of the

1 bonds so that the debt service on the bonds can be covered by  
2 the ~~additional~~ revenue ~~that will become available in the fiscal~~  
3 ~~year ending June 30, 2005,~~ generated under section 403.11 and  
4 appropriated under section 403.30.

5 (d) In addition to the amount authorized under paragraphs  
6 (a) to (c), the council may issue bonds under subdivision 1 in a  
7 principal amount of up to ~~\$27,000,000~~ \$44,000,000, plus the  
8 amount the council determines necessary to pay the costs of  
9 issuance, fund reserves, debt service, and any bond insurance or  
10 other credit enhancement. The proceeds of bonds issued under  
11 this paragraph are appropriated to the commissioner of public  
12 safety for phase three of the public safety radio communication  
13 system. In anticipation of the receipt by the commissioner of  
14 public safety of the bond proceeds, the Metropolitan Radio Board  
15 may advance money from its operating appropriation to the  
16 commissioner of public safety to pay for design and preliminary  
17 engineering for phase three. The commissioner of public safety  
18 must return these amounts to the Metropolitan Radio Board when  
19 the bond proceeds are received. The council must time the sale  
20 and issuance of the bonds so that the debt service on the bonds  
21 can be covered by the revenue generated under section 403.11 and  
22 appropriated under section 403.30.

23 (e) In addition to the amount authorized under paragraphs  
24 (a) to (d), the council may issue bonds under subdivision 1 in a  
25 principal amount of up to \$9,500,000, plus the amount the  
26 council determines necessary to pay the costs of issuance, fund  
27 reserves, debt service, and any bond insurance or other credit  
28 enhancement. The proceeds of bonds issued under this paragraph  
29 are appropriated to the commissioner of public safety for the  
30 purpose of subdivision 1, paragraph (a), clause (5), provided  
31 that the proceeds may not be used to finance portable or  
32 subscriber radio sets. The council must time the sale and  
33 issuance of the bonds so that the debt service on the bonds can  
34 be covered by the revenue generated under section 403.11 and  
35 appropriated under section 403.30.

36 Sec. 7. Minnesota Statutes 2004, section 403.30,

1 subdivision 1, is amended to read:

2 Subdivision 1. [~~STANDING OPEN~~ APPROPRIATION; COSTS  
3 COVERED.] ~~For each fiscal year beginning with the fiscal year~~  
4 ~~commencing July 1, 1997,~~ The amount necessary to pay the  
5 following costs is appropriated to the commissioner of public  
6 safety from the 911 emergency telecommunications service account  
7 established under section 403.11:

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

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

11 (3) costs of design, construction, maintenance of, and  
12 improvements to those elements of the first, second, and third  
13 phases that support mutual aid communications and emergency  
14 medical communication services;

15 (4) recurring charges for leased sites and equipment for  
16 those elements of the first, second, and third phases that  
17 support mutual aid and emergency medical communication services;  
18 or

19 (5) aid to local units of government for sites and  
20 equipment in support of mutual aid and emergency medical  
21 communications services.

22 A portion of this appropriation equal to 13 cents a month  
23 for each customer access line or other basic access service,  
24 including trunk equivalents as designated by the Public  
25 Utilities Commission for access charge purposes and including  
26 cellular and other nonwire access services, shall only be used  
27 to pay annual debt service costs and fund reserves for bonds  
28 issued pursuant to section 403.27 prior-to-use-of-fee-money-to  
29 pay-other-costs-eligible-under-this-subdivision. In-no-event  
30 shall The balance of this appropriation may be used to pay  
31 annual debt service costs if the portion equal to 13 cents a  
32 month is insufficient. If a direct appropriation for these  
33 purposes is insufficient to pay all debt service as it comes  
34 due, the commissioner shall notify the Committee on Finance of  
35 the senate and the Committee on Ways and Means of the house of  
36 representatives of the amount of the deficiency and shall then

1 pay the necessary amount under the open appropriation in this  
 2 subdivision.

3 Before each sale of bonds under section 403.27, the council  
 4 shall calculate the amount of debt service payments that will be  
 5 needed on bonds previously issued and shall estimate the amount  
 6 of debt service payments that will be needed on the bonds  
 7 scheduled to be sold. The council shall adjust the amount of  
 8 bonds scheduled to be sold so that the appropriation for each  
 9 fiscal year for the life of the bonds will not exceed an amount  
 10 equal to four 13 cents a month for each customer access line or  
 11 other basic access service, including trunk equivalents as  
 12 designated by the Public Utilities Commission for access charge  
 13 purposes and including cellular and other nonwire access  
 14 services,--in-the-fiscal-year---Beginning-July-17-2004,--this  
 15 amount-will-increase-to-13-cents-a-month.

16 Sec. 8. Minnesota Statutes 2004, section 403.30,  
 17 subdivision 3, is amended to read:

18 Subd. 3. [MONTHLY APPROPRIATION TRANSFERS.] ~~Each-month,~~  
 19 ~~before-the-25th-day-of-the-month,~~ The commissioner shall  
 20 transmit to the Metropolitan Council ~~1/12-of-its-total-approved~~  
 21 ~~appropriation-for-the-regionwide-public-safety-communication~~  
 22 system the amount needed to cover debt service costs and  
 23 reserves for bonds issued under section 403.27.

24 Sec. 9. Minnesota Statutes 2004, section 403.31,  
 25 subdivision 6, is amended to read:

26 Subd. 6. [OPERATING COSTS OF PHASES THREE TO SIX.] (a) The  
 27 ongoing costs of the commissioner in operating phases three to  
 28 six of the statewide public safety radio communication system  
 29 shall be allocated among and paid by the following users, all in  
 30 accordance with the statewide public safety radio communication  
 31 system plan developed by the planning committee under section  
 32 403.36:

- 33 (1) the state of Minnesota for its operations using the  
 34 system;  
 35 (2) all local government units using the system; and  
 36 (3) other eligible users of the system.

1 (b) Each local government and other eligible users of  
 2 phases three to six of the system shall pay to the commissioner  
 3 all sums charged under this section, at the times and in the  
 4 manner determined by the commissioner. The governing body of  
 5 each local government shall take all action that may be  
 6 necessary to provide the funds required for these payments and  
 7 to make the payments when due.

8 (c) If the governing body of any local government using  
 9 phase three, four, five, or six of the system fails to meet any  
 10 payment to the commissioner under this subdivision when due, the  
 11 commissioner may certify to the auditor of the county in which  
 12 the government unit is located the amount required for payment  
 13 of the amount due with interest at six percent per year. The  
 14 auditor shall levy and extend the amount due, with interest, as  
 15 a tax upon all taxable property in the government unit for the  
 16 next calendar year, free from any existing limitations imposed  
 17 by law or charter. This tax shall be collected in the same  
 18 manner as the general taxes of the government unit, and the  
 19 proceeds of the tax, when collected, shall be paid by the county  
 20 treasurer to the commissioner and credited to the government  
 21 unit for which the tax was levied.

22 Sec. 10. [APPROPRIATION.]

23 The sums set forth in this section are appropriated from  
 24 the 911 emergency telecommunications service account in the  
 25 special revenue fund to the commissioner of public safety for  
 26 the purposes indicated in this section, to be available for the  
 27 fiscal year ending June 30 in the years indicated.

|                                      | <u>2006</u>        | <u>2007</u>        |
|--------------------------------------|--------------------|--------------------|
| 29 <u>(a) Prior Year Obligations</u> | <u>\$3,442,000</u> | <u>\$3,064,000</u> |

30 To fund a deficiency due to prior year  
 31 obligations under Minnesota Statutes,  
 32 section 403.11, that were estimated in  
 33 the December 2004 911 fund statement to  
 34 be \$6,504,700 on July 1, 2005. "Prior  
 35 year obligations" means reimbursable  
 36 costs under Minnesota Statutes, section  
 37 403.11, subdivision 1, incurred under  
 38 the terms and conditions of a contract  
 39 with the state for a fiscal year  
 40 preceding fiscal year 2004, that have  
 41 been certified in a timely manner in  
 42 accordance with Minnesota Statutes,

1 section 403.11, subdivision 3a, and  
 2 that are not barred by statute of  
 3 limitation or other defense. The  
 4 appropriations needed for this purpose  
 5 are estimated to be none in fiscal year  
 6 2008 and thereafter.

7 (b) Public Safety Answering Points                    6,884,000                    7,087,000

8 To be distributed as provided in  
 9 Minnesota Statutes, section 403.113,  
 10 subdivision 2.

11 This appropriation may only be used for  
 12 public safety answering points that  
 13 have implemented phase two wireless  
 14 enhanced 911 service or whose  
 15 governmental agency has made a binding  
 16 commitment to the commissioner of  
 17 public safety to implement phase two  
 18 wireless enhanced 911 service by  
 19 January 1, 2008.

20 (c) Medical Resource  
 21 Communication Centers                                    688,000                    709,000

22 For grants to the Minnesota Emergency  
 23 Medical Services Regulatory Board for  
 24 the Metro East and Metro West Medical  
 25 Resource Communication Centers that  
 26 were in operation before January 1,  
 27 2000.

28            Sec. 11. [EFFECTIVE DATE.]

29            Sections 1 to 10 are effective the day following final  
 30 enactment and apply to contracts entered into on or after that  
 31 date.

Senators Anderson, Rosen, Kelley and Gaither introduced--

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

1 A bill for an act

2 relating to telecommunications; providing for a

3 combined per number fee; amending Minnesota Statutes

4 2004, section 403.11, subdivision 1; proposing coding

5 for new law in Minnesota Statutes, chapter 237;

6 repealing Minnesota Statutes 2004, sections 237.295,

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

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

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

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

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

12 subdivision apply to this section.

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

14 means the program governed by chapter 403.

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

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

17 interconnected with the public switched telephone network using

18 numbers allocated for Minnesota assigned by the North American

19 Numbering Plan Administration.

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

21 means the activities of the Department of Commerce and the

22 Public Utilities Commission to oversee the provision of real

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

24 switched telephone network.

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

26 program governed by sections 237.50 to 237.55.

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

1 governed by sections 237.69 to 237.711.

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

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

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

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

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

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

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

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

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

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

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

20 Sec. 3. [REPEALER.]

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

24 Sec. 4. [EFFECTIVE DATE.]

25 Section 1 is effective the day following final enactment.

26 Sections 2 and 3 are effective December 31, 2006.

APPENDIX  
Repealed Minnesota Statutes for 05-0322

**237.295 ASSESSMENT OF REGULATORY EXPENSES.**

**Subdivision 1. Payment for investigation. (a)**

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

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

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

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

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

APPENDIX  
Repealed Minnesota Statutes for 05-0322

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

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

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

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

**237.49 COMBINED LOCAL ACCESS SURCHARGE.**

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

APPENDIX  
Repealed Minnesota Statutes for 05-0322

**237.52 TELECOMMUNICATIONS ACCESS MINNESOTA FUND.**

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

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

**237.70 DEVELOPMENT OF TELEPHONE ASSISTANCE PLAN.**

Subd. 6. **Funding.** The commission shall provide for the funding of the telephone assistance plan by assessing a uniform recurring monthly surcharge, not to exceed ten cents per access line, applicable to all classes and grades of access lines provided by each local service provider in the state.

**403.113 ENHANCED 911 SERVICE COSTS; FEE.**

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

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

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