Overview

This bill is the Ventura Administration's bill to update and revise regulation of the telecommunications and cable industries. The bill is based on the Ventura Administration Telecommunications Strategic Plan. The bill includes a new regulatory framework for both telephone companies and cable companies. This bill replaces existing law in chapter 237 and 238 and creates a new chapter of law, chapter 237A.

The bill addresses the following general topics:

General Telecommunications Service Regulation (Article 1)
Local Telephone Service Competition (Article 2)
Consumer Protection (Article 3)
The Public Utilities Commission (PUC) Process and Procedures (Article 4)
Universal Service (Article 5)
Right-of-Way (Article 6)
Cable Regulation (Article 7)
Technical Provisions (Article 8)

Section

Article 1: Telecommunications Service General Regulation

1 Definitions. The following terms are used throughout the bill:
Access line means company-owned facilities of a telecommunications service provider that are furnished to permit switched access to a telecommunications network and that extend from a switching facility to the demarcation point on the property where a telecommunications service subscriber is served.

Cable service means: (1) the one-way transmission to subscribers of video programming or other programming service; and (2) subscriber interaction, if any, that is required for the selection of use of the video programming or other programming service. The content of cable service is controlled by the provider. **Cable service does not include high-speed data transport.**

Facilities-based refers to accessing end-user telecommunications service customers through overbuilding or utilizing leased or purchased network elements.

High-speed data transport means a telecommunications service that uses switched, broadband telecommunications capability: (1) to enable users to subscribe to an information service; or (2) to originate or receive voice, data, graphics, and video information of the subscriber's choosing, regardless of the technology employed, at transmission speeds of 256 kilobits per second or greater.

Incumbent local service provider means any local service provider, that either itself or its predecessors in interest, on January 1, 1985, owned and operated a local public switched telecommunications network in the state.

Information service means the offering of a capability for generating, acquiring, storing, transforming, processing, retrieving, utilizing, or making available information via telecommunications, and includes electronic publishing, but does not include any use of such capability for managing, controlling, or operating a telecommunications system or managing a telecommunications service. **Information service does not include high-speed data transport.**

Local public switched telecommunications network means a collective system of switches, transmission equipment, or other facilities or combination of them by which telecommunications service subscribers can originate, transport, or terminate telecommunications within a discrete geographic area.

Local service means telecommunications service within an area in which calls originate and terminate without a toll charge.

Network element means a facility or equipment, capable of being disaggregated from other network elements, used alone or in combination for providing local service. The term also includes features, functions, and capabilities that are provided by means of such facility or equipment, including subscriber numbers, databases, signaling systems, and information sufficient for billing and collection, or used in the transmission, routing, or other provision of a telecommunications service.

Nonqualified carrier means any local service provider, or its affiliate operating in such local service provider’s territory, which has not demonstrated to the PUC that 25 percent of its statewide residential basic telephone customer base, measured on the basis of access lines, is subject to actual competition, and which the PUC has determined is not in compliance with the competitive checklist under U.S.C., title 47, section 271.

Overbuilder refers to accessing end-user telecommunications service customers substantially through facilities redundant of an incumbent local service provider.

Qualified carrier means any former, nonqualified carrier: (1) who has demonstrated to the PUC either that 25 percent of its statewide residential basic telephone service customers are subject to actual competition, measured on the basis of access lines, or that the carrier offers high-speed data transport throughout its service territory; and (2) who the PUC has determined is in compliance with the competitive checklist under U.S.C., title 47, section 271.
Telecommunications service means the offering of telecommunications for a fee directly to the public, or to such classes of users as to be effectively available directly to the public, regardless of the facilities used, and includes high-speed data transport.

Wholesale telecommunications service means the provision of interconnection, access, unbundled network elements, alone or in combination, or resale to other local service providers. Wholesale telecommunications service also includes any service, term, element, or duty, including collocation, necessary to implement the provision of service under clause (1) or (2).

### Commission authority
Provides that the PUC has the authority to regulate telecommunications services. Includes goals that the PUC shall consider in executing its duties, including: supporting universal service, encouraging deployment of high speed telecommunications services, encouraging competition, maintaining or improving service quality, promoting customer choice, protecting consumers, and discouraging litigation.

### Local telephone service provider entry regulation
Requires a certificate of authority from the PUC to provide local telephone service. To obtain a certificate, a person must demonstrate that the person possess the managerial, operational, technical, and financial resources necessary to provide the proposed local service.

### Local government telecommunications service
Authorizes a local unit of government to provide facilities-based telecommunications service on its own or as part of a joint venture if the PUC determines that there is no actual competition for at least half of the customers within the jurisdiction of the local unit of government and the local service facilities will allow for the provision of wholesale service.

### Long-distance entry
Requires that no person may provide instate long distance without first filing certain information with the PUC. Requires a performance guarantee in an amount determined by the PUC.

### Article 2: Local Competition

1. **Regulation of wholesale services.** Requires all incumbent local service providers to provide high quality wholesale services to any telecommunications service provider. Establishes minimum wholesale service quality requirements. Requires the PUC to adopt rules within one year after the effective date of the bill establishing requirements for wholesale services offered in the state. Establishes prohibited practices for wholesale service providers. Requires interconnection of facilities for reasonable compensation. Provides that the price for wholesale services must be established based on forward looking economic cost methodology.

2. **Telecommunications service areas.** Prohibits a local telephone service provider from unreasonably limiting its telecommunications service offers to particular geographic areas unless the facilities necessary for the service are not available and cannot be made available at reasonable costs.

3. **Uniform telecommunications regulation.** Requires the PUC to adopt or maintain uniform rules and classifications pertaining to the conduct of intrastate telecommunications services. Also, requires the PUC to prescribe and furnish forms for reporting. Requires the PUC to use its best efforts to establish uniform regulation of telecommunications service.

4. **Mergers and acquisitions.** Provides that no person may purchase, acquire, or assume control of the property of a nonqualified or qualified carrier without receiving the prior consent of the PUC. Requires at least 90 days prior notice to affected customers and a public hearing at least 30 days before a PUC decision. Provides that the PUC may not give consent to a transfer unless it finds that the transaction will result in a net benefit to customers affected by the transfer.

5. **Rate regulation of nonqualified carriers.** Provides that all telecommunication services provided by nonqualified carriers, as defined in article 1, section 1, are regulated under this
section. Requires all nonqualified carriers to change and establish rates in accordance with this section.

**Subd. 1. Exclusive regulation.** Provides that a nonqualified carrier may not change a rate except as provided in this section unless the PUC orders otherwise.

**Subd. 2. Rate change notice.** Requires a nonqualified carrier to provide 60 days notice to the PUC of a proposed rate change.

**Subd. 3. Rate change suspension.** Authorizes the PUC, upon objection of the department or the attorney general, to suspend a proposed rate change for up to 10 months.

**Subd. 4. Rate change proceedings.** Governs hearings and proceedings on the proposed rate change. Provides that if the PUC does not make a decision within 10 months of the initial filing date, the proposed change is deemed approved by the PUC except if a settlement has been submitted to and rejected by the PUC, then the proposed change is deemed approved 12 months after the initial filing.

**Subd. 5. Interim rate.** Requires the PUC to order an interim rate schedule into effect no later than 60 days after the initial filing date of the proposed rate change. Unless the PUC finds that exigent circumstances exist, the interim rate schedule must generally be calculated using the proposed test-year cost of capital, rate base, and expenses except that the PUC must take into account some aspects of the existing rate calculation.

**Subd. 6. Refunding excess interim rate.** If the interim rate is higher than the final rate established by the PUC, the company shall order the company to refund the excess amount collected, including interest. If the interim rate is less than the final rate established by the PUC, the PUC shall prescribe a method by which the carrier will recover the difference in revenues.

**Subd. 7. Limitation on interim rate schedule.** Prohibits the PUC from ordering an interim rate schedule in a general rate case until at least four months after it has made a final determination concerning any previously filed rate change or the change has otherwise become effective under subdivision 4 except in limited circumstances.

**Subd. 8. Burden of proof.** Provides that the burden of proof to show the proposed change is just and reasonable is on the nonqualified carrier seeking the rate change.

**Subd. 9. Determination.** Provides that if the PUC finds the proposed rate to be unjust or unreasonable or discriminatory, the PUC shall determine the rates to be charged by the nonqualified carrier.

**Subd. 10. Rate base factors.** Requires the PUC to consider (1) the public need for adequate, efficient, and reasonable service and (2) the need of the nonqualified carrier for revenue sufficient to enable it to meet the cost of furnishing service. Includes limitations on what may be included in the rate base.

**Subd. 11. Discrimination prohibited.** Provides that a nonqualified carrier may not charge any person within a specific service area more or less for any intrastate service rendered by the carrier than it charges other people in the same service area for similar service. In addition, requires a nonqualified carrier that offers a service to a customer on a separate, stand-alone basis within a specific service area to provide that service to all similarly situated customers in the same service area.

**Subd. 12. Filing requirements.** Requires nonqualified carriers to keep rates, rules and classifications for all telecommunications services on file with the department.

**Regulation of qualified carriers.** Establishes the regulatory requirements for qualified carriers, as defined in article 1, section 1.

**Subd. 1. Alternative regulation plans.** Authorizes a qualified carrier to petition the PUC for
approval of an alternative form of regulation (AFOR) plan. All AFOR plans must provide for the establishment of three categories of competitive zones within the qualified carrier's service territory: noncompetitive, actual competition, and effective competition.

**Subd. 2. Noncompetitive zones.** Provides that exchange areas not meeting the requirements for actual or effective competition are considered noncompetitive and subject to the requirements of this subdivision. Prohibits qualified carriers from charging more than the existing approved rate on file with the PUC at the time the AFOR plan is filed for its services in noncompetitive zones. Those rates may not be changed except as provided in subdivisions 3 and 4. The carrier must include retail service quality rules in the AFOR plan for services provided in a noncompetitive zone. Different prices for different customers may be allowed only in limited circumstances. Authorizes promotions in noncompetitive zones for up to 90 days and the service must be priced above the long-run incremental cost of service.

**Subd. 3. Actual competitive zones.** A qualified carrier may lower its rates for business customers in a particular local exchange service area if 50 percent or more of the qualified carrier's business customer base is subject to actual competition (i.e., there are at least two facilities-based local service providers offering the service). Similarly, a qualified carrier may lower its rates for residential customers in a particular local exchange if 50 percent or more of the qualified carrier's residential base is subject to actual competition. The carrier may lower the rates for a service meeting these requirements to any level as long as the carrier's total revenue derived from the exchange facility exceeds economic cost. Retail service quality standards included in a qualified carrier's AFOR plan do not apply to services provided in actual competitive zones. Individual cost-based pricing is allowed in actual competitive zones without justification.

**Subd. 4. Effective competitive zones.** Requires carriers to be deregulated with respect to local services provided within a local service area where 50 percent of a qualified carrier's business and residential customer base in a particular local service area are subject to actual competition, and the PUC finds that at least 25% of the carrier's statewide revenue derived from local service are wholesale revenue. Qualified carriers in either competitive zone may not lower retail rates until wholesale rates have been deaveraged as provided in this bill.

**Qualifying carriers and classifying services.** Provides that all incumbent local service providers are classified as nonqualified carriers unless the PUC has determined otherwise. Includes a process to petition to have a carrier reclassified as either qualified or nonqualified, and for establishing actual and effective competitive zones. Provides that petitions for establishing competitive zones are deemed approved by the PUC unless either the department or the attorney general objects within 30 days of the filing. Provides that existing AFOR plans remain in effect until their expiration date.

**Extended area service.** Establishes the process for establishing or extending a toll-free, basic flat-rate calling area. Requires the PUC to do a traffic study and make a determination on whether a community of interest exists between the areas. If the PUC determines the requisite amount of traffic exists and a community interest exists, then the PUC shall issue an order granting the request for extended area service unless it finds that granting the request is not in the public interest. The PUC is required to determine the rate for the extended area service. The rate may not allow for the recovery of lost access charges and need not guarantee income neutrality.

**Establishment exempt from regulation.** Provides that hotels, motels, restaurants, lodging houses, boarding houses, resorts, and places of refreshment that provide telecommunications service to patrons on the premises of the establishment are not subject to the provisions of this bill except that such establishments shall provide notice of charges and service providers to
patrons and are subject to the procedures of article 3, section 4.

10 **Private shared telecommunications service.** This section provides that persons who own or operate a building where a private shared telecommunications service system is operated shall establish a single demarcation point for services and facilities provided by telecommunications service providers and allow access to providers selected by tenants.

11 **Cross subsidization.** Prohibits qualified and nonqualified companies from subsidizing competitive telecommunications services with revenue from noncompetitive telecommunications services.

### Article 3: Consumer Protection

1 **Retail rules.** Requires the PUC to adopt retail service quality rules applicable to nonqualified carriers relating to emergency service, slamming, tracing of calls, and local service quality.

2 **Disclosure of local service options.** Requires telecommunications service providers to provide information to customers about the terms and conditions of service options. Includes provisions allowing a customer to require notice and authorization before a local service provider may process a change in the customer's long distance service provider. Requires local telephone service providers to advise each residential customer of the availability of call blocking options.

3 **Antislamming.** Includes provisions to preclude the change in a customer's local telephone company or local long-distance company without the customer's consent including a verification process. Includes penalties for unauthorized changes.

4 **Notice and disclosure by long-distance providers.** Requires local long distance providers to provide, when soliciting business or when contacted by a customer, information about the prices of services being offering as well as any minimum volume requirements and special promotions. Requires local long distance providers to give customers specific price, term, and restriction information about any local long distance services the customer has agreed to purchase. Provides that the filing of tariffs is not a defense to any action brought for failure to disclose intrastate prices.

5 **Loading.** Prohibits telecommunications carriers from charging customers for services for which they did not contract except in limited circumstances with regard to per-use charges.

6 **Education program.** Requires the department to establish a telecommunications consumer outreach and education program to ensure that citizens have access to objective information to make intelligent decisions in a competitive market place. Appropriates fund for the same.

7 **PUC Mediation.** Establishes a mediation process for complaints regarding telecommunications service. A customer may request the PUC to mediate a complaint if the customer has already attempted to resolve the dispute with the provider but has been unable to do so. Requires the PUC to notify the department and the attorney general of complaints that have not been successfully mediated. Provides for an expedited proceeding of a complaint filed by the department or attorney general based upon allegations that were the subject of an unsuccessful mediation.

8 **Alarm transmission device.** Governs use of alarm transmission devices attached to telephones.

9 **Tracer.** Requires the PUC to adopt or maintain rules governing how telephone companies respond to requests for tracers by persons who allegedly have received harassing calls.

### Article 4: Commission Process and Procedures

1 **Filed tariffs.** Provides that filing of a tariff or price list approved by the PUC does not remove the terms of the tariff or price list from the requirements of this bill or from rules or orders of the PUC.

2 **Investigation.** Authorizes the PUC to investigate telecommunications service providers for
violations of statutes, rules, or other matters relating to telecommunications service. Establishes hearing process for unresolved factual issues.

3 **Transcribed copy of record, expense.** Requires the PUC to keep a record of formal proceedings.

4 **Appeal.** Authorizes any party to a proceeding or the attorney general to appeal from a PUC order in accordance with Minnesota Statutes, chapter 14.

5 **Order final and conclusive.** Provides that a final order is conclusive if not appealed.

6 **Compelling obedience.** Requires to PUC to file an action to compel obedience if a telecommunications service provider has failed to comply with a final PUC order or final court decision on a PUC order.

7 **Information subject to protective order.** Requires the PUC to take steps, including closing proceedings, to ensure information subject to a protective order is not revealed to unauthorized persons.

8 **Enforcement.** Authorizes enforcement of the provisions of this bill and rules and orders adopted by the PUC pursuant to this bill with any one of a combination of enforcement mechanisms. Provides that a person who knowingly and intentionally violates a provision of this chapter, a rule, or order of the PUC shall pay a penalty in an amount determined by the court. Provides that the attorney general may bring a civil action to recover penalties provided for in this section and section 9.

9 **Competitive enforcement; administrative orders.** Authorizes the PUC to issue administrative penalty orders for knowing and intentional violations of:
   - wholesale service quality requirements;
   - an approved interconnection agreement; or
   - any duty or obligation of an incumbent local service provider imposed by section 251 of the federal Telecommunications Act of 1996 that relates to local service.

   Includes the factors that the PUC must consider in issuing a penalty and provides that the maximum penalty amount is $10,000 per day per violation. Includes the process to be followed by the parties and the PUC in proceedings under this section.

10 **Assessment of regulatory expenses.** Provides that the PUC and the department may assess parties for regulatory expenses of a proceeding and may assess telecommunications and cable providers for their general expenses relating to regulation of those entities.

11 **Expedited proceeding.** Authorizes the PUC to conduct expedited proceedings and provides the process to be followed.

12 **Gross misdemeanor.** Provides that a telecommunications service provider who violates any provision of this chapter, with intent to defraud, is guilty of a gross misdemeanor.

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**Article 5: Universal Service**

1 **Access charges.** Requires the PUC within one year of the effective date of this bill to complete a proceeding to establish access charges to be charged by local service providers. Requires that access charges must be uniform and based upon forward-looking costs of providing access to the local switched public telecommunications network. Provides that a local service provider can not impose an access charge of more than 1 cent per minute until the PUC approves a higher rate. Authorizes a limited exemption process.

2 **Universal service.** Requires the PUC to categorize the state into five cost density zones for purposes of deaveraging prices. Requires the PUC, within 18 months of the effective date of this bill, to calculate the deaveraged cost of providing local telephone service in each local service area of an eligible telecommunications carrier. Provides that the PUC shall consider
whether a wireless network is the most efficient means of providing service.

3 Universal service fund.

Subd. 1. Creation. Establishes the Minnesota universal service fund as a special fund in the state treasury. Provides that the fund is to be administered by the commissioner of administration. Establishes two separate accounts within the fund: the high-cost customer account and the government services account.

Subd. 2. Eligible telecommunications carriers. Provides that the PUC may designate as eligible telecommunications carriers (ETCs) those telecommunications carriers which: (1) are able and willing to provide essential services; and (2) advertise the availability of these services and their charges, using media of general distribution. A telecommunications carrier meeting these requirements is designated an ETC for a service area designated by the PUC. State-eligible telecommunications carriers are eligible to receive state universal service support in accordance with subdivision 4.

For purposes of this section, "essential services" include: voice grade access to the public switched network, local usage, dual tone multifrequency signaling or its functional equivalent capability, single-party service, access to facilities capable of transmitting data at a rate of at least 256 kilobytes per second, access to operator services, toll-free Internet access, equal access, access to emergency services, TACIP services, access to directory services, and toll-blocking.

Subd. 3. Fund revenue. Imposes a charge of 30 percent on the retail price paid for telecommunications service by end users to support the fund. The charge replaces implicit subsidies in rates and the current explicit surcharges for TAP, TACIP, and 911 emergency services.

Subd. 4. High cost customer account. Requires the PUC to establish a statewide benchmark cost of service for universal telecommunications service, based on the forward looking cost of providing service. Provides that the PUC shall adjust the benchmark on an annual basis. Provides that eligible telecommunications carriers whose forward looking costs exceed the statewide benchmark shall receive support from the high-cost account.

Subd. 5. Government services account. Provides that the government services account funds the telephone assistance plan (TAP), the telecommunications assistance of Minnesota program, and 911 services.

4 Unserved areas. Authorizes the PUC to designate a local service provider to provide essential services in areas of the state where currently there is service provider of essential services if a petition signed by 50% of the full-time residents and businesses within a three mile radius of the nearest connection point is filed with the PUC.

5 Relinquishment of universal service. Authorizes the PUC to allow an eligible telecommunications carrier (ETC) to relinquish its designation as an ETC if there is at least one other ETC serving the area.

6 Number conservation. Provides that if the FCC delegates authority to the PUC to implement telephone number conservation measures, the PUC shall adopt such measures within 2 years of the delegation.

7 Number surcharge. Imposes a surcharge of $1 on all telephone numbers assigned to telecommunications service providers. Provides that the surcharge can only be passed on to a customer once the number has been assigned to a specific customer.

-14814 Telecommunications Assistance of Minnesota program. Includes provisions governing eligibility and administration of this program to provide tele-relay services and equipment for communications impaired persons. These sections are substantially similar to the sections
governing the Telecommunications Access for Communications Impaired Persons (TACIP) program included in current law, except that the funding comes from the universal service fund rather than a specific surcharge for the program.

**Telephone Assistance Plan (TAP).** Includes provisions governing eligibility and administration of this program to provide financial assistance to low income elderly and disabled people to assist with the cost of local telephone service. These sections are similar to the sections in current law governing this program, but substantial changes have been made with regard to the funding and the maximum level of financial assistance.

**Article 6: Right-of-Way**

- **Right-of-way.** Governs the use of public rights-of-way by telecommunications providers and other users of public rights-of-way. Sections 1 and 2 are substantially similar to sections 237.162 and 237.163, in existing law. Section 3 is substantially similar to section 237.81, in existing law.

4  **Wire crossing or parallel utility line.** Requires the department to adopt and enforce rules covering the maintenance, operation, nature, location, and construction of telecommunication, electric light, power, or other electric wires of any kind, or any natural gas pipelines, cross or parallel the lines of any railroad, interurban railway, or other similar public service corporation. This section is substantially similar to sections 237.04 and 237.05 of existing law.

**Article 7: Cable**

1  **Definitions.** Defines terms used in sections 237A.71 to 237A.94.

2  **State as cable franchisor.** Provides that the state is the cable franchisor for all cable franchises granted in the state and is substituted as the government-party franchisor in all existing cable franchises. Requires the PUC to adopt rules to be effective January 1, 2003, governing the terms of cable franchises. Requires the department to negotiate with cable companies to conform their existing franchises to the uniform rules. Provides that all franchises entered into after January 1, 2003 must comply with the rules. Requires the commissioner of administration to negotiate cable franchises.

3  **Authority to grant and enforce franchises.** Provides that the PUC has exclusive authority to grant cable franchises and that cable franchises must be nonexclusive. Prohibits the PUC from granting a franchise for a term longer than 15 years and on terms that are more favorable than a franchise previously granted to a person within the franchise area. Provides that a franchise granted by the PUC supersedes all previous ordinances, amendments, or agreements granting a franchise to a cable service provider or any predecessor cable operator. Requires a cable operator to provide cable service to the entire franchise area designated by the PUC in a franchise. Authorizes the PUC to enforce franchises but allows the PUC to delegate its enforcement authority to local units of government unless the local unit of government provides cable through its own facilities.

4  **Rate regulation.** Authorizes the PUC to regulate rates for the provision of cable service and related equipment to extent allowed under federal and state law. Requires cable service providers to keep on file with the PUC and the local government unit a list of current subscriber rates and charges.

5  **Customer service obligations.** Authorizes the department and any local unit of government delegated enforcement authority to require special testing of a location within a franchise area. Authorizes the PUC, upon complaint from the department, any local unit of government delegated enforcement authority, or the attorney general, to enforce any minimum customer service standards promulgated by the FCC. Requires cable service providers to notify the PUC and subscribers in writing of any change in rates, programming services, or channel positions
30 days prior to the change becoming effective.

6 Emergency alert. Requires cable service providers to provide emergency alert override capabilities.

7 Regional channel. Establishes a Twin Cities regional channel to be carried uniformly on VHF channel 6 on cable communications systems operating in the metropolitan area. Provides that the purpose is to provide a broad range of informational, educational, and public service programs and materials to metropolitan area cable subscribers. Requires franchises for cable operations wholly or partially within the metropolitan area to contain a provision designating VHF channel 6 for regional channel usage. Allows the regional channel to be combined with the government access channel until the government access channel is heavily used. This section is substantially similar to section 238.43 in existing law.

8 Public, educational and government (PEG) access. Requires cable service providers to make available at least one PEG access channel in its basic service offering to subscribers. Provides that additional PEG access channels may be required in a franchise based upon a showing of community need. Provides that PEG access channels must be transmitted on the VHF spectrum.

9 Franchise fee. Requires a cable service provider to pay the local governing authority of the franchise area a franchise fee equal to five percent of its gross cable revenue on monthly basis within 30 days of the end of the calendar month. Provides that interest is due on overdue payments and underpayments.

10 Reporting requirements. Requires every cable provider subject to certain sections to make such reports as are required by the department. Provides that the department may inspect the books, records, and files of cable service providers.

11 Franchise or statutory violations. Requires the department or a local government unit with enforcement authority delegated from the PUC to investigate any claimed violation of a franchise. Provides that if the PUC determines after a public hearing, that a cable service provider is in default of any material provision of the franchise, has attempted to evade any material provision of a franchise, or has practiced fraud or deceit upon a subscriber, the PUC may revoke the franchise or order any appropriate relief.

12 Mergers and acquisitions. Requires PUC consent before a person may purchase, acquire, or assume control of (1) a franchise, (2) facilities used to provide cable service, (3) capital stock, bonds, securities, or other obligations, or (4) the rights, privileges, and immunities of a cable service provider. Requires prior notice to subscribers of intent to sell cable assets. Provides that the PUC may not give consent to a transfer unless it finds that the transaction is not likely to result in harm to consumers affected by the transfer. Includes factors to be considered by the PUC in making its determination.

13 Franchise renewal. Provides that all franchise renewal proceedings must be conducted in accordance with federal law.

14 Amendment to franchise. Authorizes the PUC to amend a franchise upon petition by the department, the attorney general, a local governing authority, or the cable service provider holding the franchise and upon a determination by the PUC that the amendment will be in the public interest or is required due to changes in federal or state law.

15 Required contents of franchise. Requires that every franchise granted by the PUC address the following issues:

- specifications of the cable system necessary to meet the cable needs of the subscribers in a franchise area;
- the schedule for any cable system upgrades or rebuilds required under a franchise;
- the number of PEG channels, facilities, and financing arrangements for the channel
Other franchise terms and conditions. Authorizes the PUC to include other terms and conditions in a franchise that it deems appropriate.

Access required. Requires property owners who own multiple dwelling complexes to provide access to any video programming or telecommunications service provider. Provides that residents have the freedom to choose among competing video programming and telecommunications service providers.

Compensation for access. Requires that installation of facilities for video programming or telecommunications services must conform to reasonable conditions necessary to protect the safety, functioning, and aesthetic appearance of the premises, and the convenience and well-being of the property owner and residents. Includes provisions giving the property owner rights regarding installation and relocation facilities on the property and compensation for access.

Use of existing utility easement; restrictions. Authorizes cable service providers to utilize any existing easement in accordance with this section to install, maintain, and remove equipment and facilities without the payment of additional compensation to the owners and occupants of the real estate subject to the easement, other than the owner of the easement. Provides that the cable service provider is subject to the duties and limitations specified in the easement. Requires the cable service provider to restore the easement property to its condition prior to use. This section is substantially similar to section 238.35, subdivisions 2-4, in existing law.

Permit to attach to pole or conduit system. Provides that every agreement between a cable service provider and a public utility regarding use of a public utility's poles or occupying any part of the public utility's conduit system must include a provision requiring the cable service provider to apply and receive a permit from the public utility for that purpose. In granting or denying a permit, the public utility has the right to determine whether a grant of a permit would adversely affect its public services, duties or obligations or have an adverse effect on the economy, safety, and future needs of the public utility. This section is nearly identical to section 238.38, in existing law.

Liability; indemnification. Requires every agreement regarding a cable service provider's use of a public utility's poles or conduits to include an indemnification provision covering damages to property and injury or death to persons relating to the cable service provider's facilities or the acts of the cable service provider. Also requires cable service providers to indemnify the public utility from and against any and all claims and demands:

1. that arise directly or indirectly from the operation of the cable service providers facilities;
2. for claims for damages and losses for infringement of copyright, for libel and slander, for unauthorized use of television broadcast programs, and for unauthorized use of other program material; and
3. for infringement of patents with respect to the manufacture, use, and operation of the cable communications equipment in combination with the public utility company's poles, conduit system, or otherwise. Provides that nothing in the section relieves the public utility from liability for the negligence of the public utility. This section is substantially similar to section 238.40, in existing law.

Insurance for parties to pole agreement. Requires cable service providers to carry insurance to protect the parties to a pole attachment agreement from and against any claims that may arise by reason of loss, injury, claim or damage. This section is similar to section 238.41, in existing law.
Article 8: Technical Provisions

1 **Competitive market share data.** Provides that for purposes of the government data practices act, competitive market share data of a telecommunications service provider included in a petition for reclassification of a service under this act and marked "trade secret" are classified as nonpublic data.

2 **Revisor's instructions.** Requires the Revisor of Statutes, in consultation with the department, to correct cross-references and make the necessary conforming changes to existing law necessitated by this bill.

3 **Repealer.** Repeals sections in chapters 237 and 238 which are superceded by this bill.

4 **Effective date.** Provides that this bill becomes effective July 1, 2000.