

August 1, 2017

Daniel P. Wolf
Executive Secretary
Minnesota Public Utilities Commission
121 7th Place East Suite 350
St. Paul, MN 55101-2147

RE: **Comments of the Minnesota Department of Commerce**
Docket No. P,P415/AM-17-65

Dear Mr. Wolf:

Attached are the comments of the Minnesota Department of Commerce (Department) in the following matter:

Local rate increase.

The initial petition was filed on January 20, 2017 by:

Mark Birkholz
Director of Southern Markets
Melrose Telephone Company d/b/a Arvig
150 – 2nd St. SW
Perham, MN 56573

Sincerely,

/s/ JOY GULLIKSON
Rate Analyst

JG/lt
Attachment



Before the Minnesota Public Utilities Commission

Comments of the Minnesota Department of Commerce

Docket No. P,P415/AM-17-65

I. BACKGROUND

On January 20, 2017, Melrose Telephone Company, d/b/a Arvig (Arvig), submitted a tariff filing to increase local service rates. Effective with customer's March billing statements, Arvig raised the rates of local residential service to \$20.00, exclusive of Extended Area Service (EAS) rates. Arvig also increased rates of residential service bundles as well as business rates.

In its notice to customers included in its February, 2017 billing, Arvig stated in part:

In 2011, the Federal Communications Commission (FCC) issued an order requiring that local telephone service rates meet a minimum "rate floor" in order for the telephone service provider to receive the maximum support available from the Federal Universal Service Fund, which helps to offset the cost of providing telephone service and broadband. The rate floor is determined annually by the FCC.

Beginning with your next invoice, the monthly rate for local telephone service will increase to \$20.00 per month (not including state and federal taxes and charges).

In its Notice of Proposed Rulemaking, WC Docket No. 10-90 (released May 19, 2017) the Federal Communications Commission (FCC) reversed a previous decision to set a price floor of \$20 per month on July 1, 2017, and froze the price floor at \$18 per month for residential customers.

II. STATEMENT OF ISSUES

Should the Commission require Melrose Telephone Company, d/b/a Arvig, to issue another customer notice indicating that the \$20 residential rate exceeds the FCC price floor and that customers have the right to petition for an investigation of the higher rates?

III. LEGAL REFERENCES

Minnesota Statute 237.773 subd. 3 (c) allows small telephone companies that have elected to operate under “alternative regulation” to raise rates 60 days after providing notice to affected customers. If within 45 days after such notice the Department receives a petition from five percent or 500 customers, whichever is less, then the department shall investigate to determine if the rates are appropriate in light of rates charged by other local exchange telephone companies.

IV. ANALYSIS

The FCC found that high cost support would be given in its full amount only when local companies priced local service, including EAS, at or above a ‘price floor.’¹ The FCC set that floor at \$10 per month through June 30, 2013, and \$14 per month through June 30, 2014. More recently, the FCC set the price floor at \$18 per month starting July 1, 2016, \$20 per month on July 1, 2017, and \$22 per month on July 1, 2018².

However, in its Notice of Proposed Rulemaking and Order, released May 19, 2017, the FCC stated: “. . . we modify on our own motion the waiver of further increases to the rate floor that the Commission previously issued, freezing the monthly rate floor at \$18”³

The rate increase initiated by Arvig raises two issues. First, the company’s customer notice stated that the increase to a residential \$20 per month rate was required by the FCC in order to receive the maximum support available from the Federal Universal Service Fund. At the time that Arvig provided this notice to customers, the FCC rate floor as of July 1, 2017, was to be \$20. However, the FCC rescinded its requirement for a \$20 per month rate floor and further stated: “This temporary freeze will remain in effect in order to *prevent* further increases that would otherwise take place on July 1, 2017, and July 1, 2018, unless or until the Commission takes further action in this proceeding.”⁴ (Emphasis added)

While many small telephone companies in Minnesota chose to rescind their proposed rate increases as to not exceed the FCC rates floor, Arvig chose to retain the higher rates that it already implemented. Since the notice that customers received indicated that Arvig’s rates are at the price floor, customers may have had little motivation to seek an investigation of the

¹ Companies can choose to have rates below the FCC rate floor, but it will reduce their high cost support from the Universal Service Fund on a dollar for dollar basis.

² See *In the Matter of Connect America Fund*, WC Docket No. 10-90, released May 19, 2017, paras. 1 and 4.

³ *Ibid*, para. 14.

⁴ *Ibid*, para. 14.

increase. Only with a new notice with accurate information will customers be able to make an informed decision on whether or not to petition for an investigation of Arvig's new rates.

Second, in the customer notice the company did not note that the FCC rate floor includes extended area service rates. As a result, customers are paying \$20 per month for residential service, plus EAS Rates.⁵ Thus, for Arvig customers in the Kimball, Melrose and Greenwald exchanges, the rates exceed a \$20 rate floor, even though the notice to customers may reasonably suggest that Arvig is charging no more than the rate floor. As stated above, if customers believe a petition for an investigation has little chance of success, it is more likely that customers will not make the effort to petition for an investigation.

Minnesota Statute 237.773 subd. 3 (c) provides for a process for customers to petition for an investigation after notice of a rate increase. Arvig did provide customers with a notice and there were not 5% or 500 customers, whichever is less, that petitioned for an investigation. Thus, the Commission could reasonably find that no further action is required. However, unless the notice provides accurate information upon which customers may choose to act, it is reasonable for the law to be interpreted to allow customers to petition for an investigation after customers receive an accurate notice.

V. COMMISSION ALTERNATIVES

1. Take no action.
2. Require Melrose Telephone Company, d/b/a Arvig to issue a new customer notice, to be approved by the Executive Secretary, in consultation with the Department of Commerce. The notice shall explain the circumstances regarding the local rate increase and allow customers 45 days from the release of the notice to file a petition for an investigation, pursuant to Minnesota Statute 237.773 subd. 3(c).
3. Require Melrose Telephone Company, d/b/a Arvig to issue a new customer notice to customers in the Kimball, Melrose, and Greenwald exchanges, where EAS was not accounted for when the earlier notice to customers stated the Arvig would be setting rates at the FCC price floor. The notice is to be approved by the Executive Secretary, in consultation with the Department of Commerce. The notice shall explain the circumstances regarding the local rate increase and allow customers 45 days from the release of the notice to file a petition for an investigation, pursuant to Minnesota Statute 237.773 subd. 3(c).

⁵ There is no EAS rate in the exchanges of Grey Eagle and St. Martin. In Kimball, the residence EAS rate is \$2.16 per month; in Melrose and Greenwald, the EAS rate is \$0.60 per month.

VI. DEPARTMENT RECOMMENDATION

The Department recommends alternative 2; Require Melrose Telephone Company, d/b/a Arvig to issue a new customer notice, to be approved by the Executive Secretary, in consultation with the Department of Commerce. The notice shall explain the circumstances regarding the local rate and allow customers 45 days from the release of the notice to file a petition for an investigation, pursuant to Minnesota Statute 237.773 subd. 3(c).

CERTIFICATE OF SERVICE

I, Sharon Ferguson, hereby certify that I have this day, served copies of the following document on the attached list of persons by electronic filing, certified mail, e-mail, or by depositing a true and correct copy thereof properly enveloped with postage paid in the United States Mail at St. Paul, Minnesota.

**Minnesota Department of Commerce
Comments**

Docket No. P415/AM-17-65

Dated this 1st day of August 2017

/s/Sharon Ferguson

First Name	Last Name	Email	Company Name	Address	Delivery Method	View Trade Secret	Service List Name
Julia	Anderson	Julia.Anderson@ag.state.mn.us	Office of the Attorney General-DOC	1800 BRM Tower 445 Minnesota St St. Paul, MN 551012134	Electronic Service	No	OFF_SL_17-65_17-65
Mark	Birkholz	N/A	Melrose Telephone Company	150 Second St. SW Perham, MN 56573	Paper Service	No	OFF_SL_17-65_17-65
Linda	Chavez	linda.chavez@state.mn.us	Department of Commerce	85 7th Place E Ste 280 Saint Paul, MN 55101-2198	Electronic Service	No	OFF_SL_17-65_17-65
Ian	Dobson	Residential.Utilities@ag.state.mn.us	Office of the Attorney General-RUD	1400 BRM Tower 445 Minnesota St St. Paul, MN 551012130	Electronic Service	No	OFF_SL_17-65_17-65
Daniel P	Wolf	dan.wolf@state.mn.us	Public Utilities Commission	121 7th Place East Suite 350 St. Paul, MN 551012147	Electronic Service	No	OFF_SL_17-65_17-65