

Minnesota Public Utilities Commission
Staff Briefing Paper

Meeting Date: July 14, 2016.....*Agenda Item # 1

Companies: Charter Fiberlink CC VIII, LLC

Docket No. P-561/SA-16-375
In the Matter of a Request by Charter Fiberlink CC VIII, LLC to Amend its
Certificate of Authority by Expanding its Service Area

Issues: Should the Commission grant Charter’s request to expand its service area?

Staff: Kevin O’Grady.....651-201-2218

Relevant Documents

Charter Petition April 29, 2016
Comments: DOC..... May 17, 2016
Comments: Charter May 27, 2016
Reply Comments: DOC June 6, 2016
Order Granting Conditional Approval June 8, 2016
Objection: Charter..... June 17, 2016

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Background

On April 29, 2016, Charter petitioned the Commission for approval to expand its service area to include the exchanges of Backus, Hackensack and Altura.

On May 17, 2016, the Minnesota Department of Commerce (DOC) filed comments recommending conditional approval, one such condition requiring Charter to obtain approval of an interconnection agreement (ICA) with CenturyLink (Embarq).

On May 27, 2016, Charter filed a response to DOC indicating that it did not need to obtain approval of an ICA.

On June 6, 2016, DOC filed reply comments agreeing with Charter's assessment of the need for an ICA. DOC recommend the ICA condition be removed.

On June 8, 2016, the Commission issued its *Order Granting Conditional Approval*. That Order was based on the DOC comments of May 17 and did not account for the DOC comments of June 6, wherein DOC agreed with Charter that ICA approval is not required.

On June 17, 2016, Charter objected to the *Order* of June 8 as it did not account for the parties' agreement that ICA approval was not required.

Procedural Issues

The order to which Charter objects was issued via the Commission's consent order process. That process is rooted in Minn. Stat. § 216A.03. Pursuant to § 216A.03, Subd. 8(a) the Commission is empowered to delegate to a subcommittee of at least one Commissioner "any of the commission's legislative, administrative, or quasi-judicial functions" And by the terms of the Commission's consent orders "[u]nless a party, a participant, or a Commissioner files an objection to this decision within ten days of receiving it, it will become the Order of the full Commission under Minn. Stat. § 216A.03, subd. 8 (b)."¹ Charter filed its objection within the ten-day window.

¹ The *Order* contains this language.

Further, Minn. Stat. § 216A.03, subd. 8 (b) dictates that “[u]pon objection by a party, a participant, or a commissioner, a decision by a subcommittee must be referred to the full commission.”

Positions of the Parties

Charter and DOC now agree that Charter is not required to obtain an approval of an ICA. DOC states that Charter’s argument is “consistent with the existing practice of CLEC to CLEC agreements not being submitted to the Commission for approval. With Charter’s explanation the Department wishes to modify its recommendation by deleting the requirement for Charter Fiberlink CC VIII to file an interconnection agreement with Embarq Minnesota.”²

Staff Comment

Staff agrees with DOC’s recommendation that Charter’s request for service area expansion should be approved based on DOC’s analysis in its May 17th comments and, furthermore, that the request be approved without the requirement that Charter obtain ICA approval, as recommended by DOC in its June 6th reply comments.

Commission Options

1. Grant conditional approval of the petition of Charter Fiberlink CC VIII, LLC to expand its service area to include the Backus and Hackensack exchanges of Arvig Telephone Company d/b/a TDS Telecom and the Altura exchange of Embarq Minnesota, Inc. d/b/a CenturyLink. The conditions are as follows: (i) filing any necessary tariff updates, and (ii) filing any necessary updates to the 911 plan.
2. Deny Charter’s petition for service area expansion.

² DOC Reply, June 6, 2016, p.2.

3. Take other action.

Staff recommends option #1.