

October 17, 2024

Will Seuffert
Minnesota Public Utilities Commission
121 7th Place East, Suite 350
St. Paul, Minnesota 55101-2147

RE: Comments of the Minnesota Department of Commerce
Docket No. P999/CI-24-253

Dear Mr. Seuffert:

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

In the matter of a Notice of the Notice of Comment Period for the Telephone Assistance Plan Budget.

The Department has included an attachment to the comments and the Department is available to answer any questions the Minnesota Public Utilities Commission may have.

Sincerely,

/s/ Peter Wyckoff, Ph.D.
Deputy Commissioner, Division of Energy Resources

DD/AT/LG/ad
Attachment



Before the Minnesota Public Utilities Commission

Comments of the Minnesota Department of Commerce

Docket No. P999/CI-24-253

I. INTRODUCTION

The Department's comments, in the current docket, are filed in response to the Commission's September 30, 2024 Notice of Comment Period on TAP Budget in Docket No. P999/CI-24-253. Docket No. P999/CI-24-253 involves the annual review of TAP Budget revenues and expenditures as listed in the Commission's September 30, 2024 notice.

II. PROCEDURAL BACKGROUND

January 15, 2019 The Minnesota Public Utilities Commission (Commission) issued its *Order Setting TAP Credit Amount and Surcharge Level and Requiring Local Service Providers to Include TAP Information on Their Websites* in Docket Nos. P999/CI-17-677 and P999/CI-18-112. In that Order, the Telephone Assistance Plan (TAP) credit increased from \$3.50 to \$7.00 per month. The monthly TAP surcharge, which funds the TAP program, increased from \$.03 to \$.10 per access line. The changes to the TAP credit and surcharge were implemented on July 1, 2019, or the first billing cycle thereafter. Prior to the issuance of the January 15, 2019 Order, the TAP surcharge and available credit were last changed by the Commission in its August 10, 2013 Order in Docket No. P999/CI-13-213.¹

January 22, 2021 The Commission issued its *Order Modifying Monthly TAP Program Credit and Surcharge and Reconvening Advisory Group* in Docket No. P999/CI-20-665. In that Order, the TAP credit increased from \$7.00 to \$10.00 per month. The monthly TAP surcharge, which funds the TAP program, decreased from \$.10 to \$.07 per access line, to be effective on April 1, 2021.²

¹ Minnesota Public Utilities Commission, *Order Modifying Monthly TAP Program Credit and Surcharge and Reconvening Advisory Group*, (January 22, 2021). Docket No. P999/CI-20-665, (eDockets). [20211-170111-01](#).

² Minnesota Public Utilities Commission, *Order Establishing New Credit and Surcharge Levels*, (July 10, 2013). Docket No. P999/CI-13-213, (eDockets). [20137-88985-01](#).

July 20, 2021	The Commission issued its Order requiring high-cost carriers to implement and report on best practices regarding outreach and advertising to persons eligible for the TAP. Docket P999/CI-20-747 required that companies follow the best practices to the maximum possible extent, and that companies file a narrative of their Lifeline outreach efforts with their FCC Form 481 filings. ³
October 21, 2021	The Commission ordered in its annual certification of high-cost providers that each provider that serves tribal lands to file a detailed plan on how it will engage with all the tribes it serves during the remainder of 2021 and the first half of 2022 (Docket # P-999/PR-21-8). ⁴
December 29, 2022	The Commission issued its <i>Order</i> in Docket No. P999/CI-22-478. In that Order, the TAP credit amount of \$10.00 per month was maintained. The TAP surcharge, which funds the TAP program, decreased from \$.07 to \$.03 per access line, to be effective on April 1, 2022. ⁵
December 6, 2023	The Commission issued its <i>Order</i> in Docket No. P999/CI-23-49. In that Order, the TAP credit amount of \$10.00 per month and TAP surcharge of \$.03 were maintained, to be effective on April 1, 2024. ⁶
September 30, 2024	The Commission issued its Notice of Comment Period on TAP Budget in Docket No. P999/CI-24-253. Docket No. P999/CI-24-253 involves the annual review of TAP Budget revenues and expenditures as listed in the Commission's September 30, 2024 notice. ⁷

Topic(s) open for comment:

- Notice Topic 1: Should the Commission accept the Telephone Assistance Plan (TAP) Fund Review, submitted on September 25, 2024, for the six-month period ending June 30, 2024

III. DEPARTMENT ANALYSIS

A. TAP FUND CREDIT AND SURCHARGE

The Department prepared Attachment A to estimate the impact on the fund balance, through the end of the current fiscal year, of various levels of TAP surcharges assuming the TAP credit of \$10.00 is

³ Minnesota Public Utilities Commission, Order Establishing Best Practices and Requiring Filings, (July 20, 2021). Docket No. P999/CI-20-747, (eDockets). [20217-176339-01](#).

⁴ Minnesota Public Utilities Commission, Order Certifying Eligible Telecommunications Carriers' Use of Federal High-Cost Funds, (October 21, 2021). Docket No. P999/PR-21-8. (eDocket No. [202110-179001-01](#)).

⁵ Minnesota Public Utilities Commission, Order, (December 29, 2022). Docket No. P999/CI-22-478, (eDockets). [202212-191681-011](#).

⁶ Minnesota Public Utilities Commission, Order, (December 6, 2023). Docket No. P999/CI-23-49, (eDockets). [202312-201015-01](#).

⁷ Minnesota Public Utilities Commission, Notice of Comment Period, (September 30, 2024). Docket No. P999/CI-24-253, (eDockets). [20249-210573-01](#).

maintained at the same level. The estimates, included in the spreadsheet, do not account for monthly variations in TAP subscribership, variances between the dates on which carriers collect TAP fees from landline customers and the dates that carriers remit TAP funds to the Minnesota Department of Public Safety, and the dates on which the carrier remittances are placed in the TAP Fund. While the spreadsheet has limitations, it indicates that the fund balance will be reduced over the next year as long as no increase is made to the existing TAP surcharge.

The TAP Fund balance was \$3.5 million as of June 30, 2023. The current balance as of June 2024 is \$3.2 million, this represents an over \$262 thousand increase in available funds (or 5.9 percent), from the \$3.27 million amount in June of 2022. The level of the Fund balance may support a further a reduction in the TAP surcharge.⁸ Even with a \$.01 surcharge, the TAP Fund balance is projected to significantly exceed the threshold level necessary to cover the projected credits and expenses of administering the TAP fund. If no changes are made, it is estimated that the fund balance will decline by approximately \$637,000 by June 30, 2025. According to the Department's estimates, the TAP fund balance would increase through the end of the current fiscal year, if the TAP surcharge is increased to \$.09 to \$.10 per month.

Through the end of the current fiscal year, the TAP fund balance increases as a result of the estimated increase in the interest rate on the TAP fund balance. The interest earned on the TAP fund balance during the fiscal year ending in June 2022 to the 2023 fiscal year has increased from \$10,850 to \$96,470. This jump represents a 789.4 percent increase from year-to-year. The uptick in earned interest is due to increases in interest rates applied the TAP fund balance, which are expected to continue at least through the end of the current fiscal year. The recent increase in the interest rates may be explained by the Federal Reserve's raising of the federal funds rate to stop inflation.⁹

Administrative and other expenses have been relatively constant in recent years. For fiscal years 2022 and 2024, administrative expenses range between 5 and 6 percent of total expenditures. The Department has no concerns with the calculations of administrative and other expenses in the Commission staff's TAP memo of September 25, 2024 for the six-month period ending June 30, 2024.¹⁰

The balance in the TAP Fund is significant enough to sustain approximately two years' worth of TAP credits, at the existing TAP subscribership level, with no TAP surcharge. The Commission was faced with this same situation in Docket P999/CI-22-478 and decided to reduce the TAP surcharge from \$.07 per line to \$.03 per line in its December 29, 2022 Order. The reduction in the TAP surcharge to \$.03 per line then went into effect on April 1, 2023.

⁸ Note that Minn. R. 7817.0500 states that the TAP credits must not exceed the amount of credit available under the federal matching plan, so, in the absence of a waiver, existing Minnesota law does not contemplate an increase in the TAP credit in excess of \$10.00.

⁹ See [Federal Reserve Board - Implementation Note issued July 26, 2023](https://www.federalreserve.gov/newsevents/pressreleases/monetary20230726a1.htm#:~:text=Decisions%20Regarding%20Monetary%20Policy%20Implementation&text=The%20Board%20of%20Governors%20of,%2C%20effective%20July%2027%2C%202023.)

<https://www.federalreserve.gov/newsevents/pressreleases/monetary20230726a1.htm#:~:text=Decisions%20Regarding%20Monetary%20Policy%20Implementation&text=The%20Board%20of%20Governors%20of,%2C%20effective%20July%2027%2C%202023.>

¹⁰ Minnesota Public Utilities Commission, Memorandum on Telephone Assistance Program (TAP) January 1 through June 30, 2024, Six Month Review, (September 25, 2024). Docket No. P999/CI-24-253, (eDockets). [20249-210475-01](#).

Ideally, the combination of TAP credit and surcharge should result in a stable fund balance, but given the size of the current fund balance, consideration could be given to further decreases in the surcharge. However, (1) the projected TAP fund balance is expected to drop significantly by June 30, 2025 if the current credit and surcharge levels are maintained and (2) the total access line count paying surcharges into the TAP fund dropped, significantly, by approximately 8.7% from December 31, 2023 to June 30, 2024 and it is uncertain whether similar reductions will occur in the next year. The Department believes that these two factors are related. Therefore, the Department does not recommend additional reductions in the TAP surcharge until additional time has passed, in order to ascertain whether the total access line count (paying surcharges into the TAP fund) might stabilize.

Therefore, the Department recommends that the Commission maintain the existing TAP fund credit and surcharge.

B. INCREASING THE TAP SUBSCRIBERSHIP THROUGH ADVERTISING AND OUTREACH

A known challenge to increasing subscribership is a need for increased program information to unenrolled eligible individuals. Potential subscribers may be unaware of the TAP, the amount of program benefits available, how they may qualify, and how the TAP intersects with other programs such as Lifeline and the and the Affordable Connectivity Program (ACP). In its October 19, 2022 Comments in Docket No. P999/CI-22-478, the Department discussed how a subscriber receiving benefits from ACP or Lifeline may find no additional benefit to be derived from applying for TAP:¹¹

If a customer qualifies for the ACP, which has broader eligibility criteria and a significantly greater benefit than that of Lifeline, those customers may have less incentive to apply for the Lifeline credit. Customers may receive both the ACP and Lifeline benefits at the same time, but since the ACP eligibility criteria are broader than the Lifeline criteria, there is no auto-enrollment process for ACP subscribers to then be enrolled in Lifeline. To the extent that customers are not enrolled in Lifeline, those customers will not be auto-enrolled in the TAP program. This is particularly applicable for customers on Tribal lands who qualify for a credit of up to \$75 for internet service. If the price of internet service is fully covered by the ACP benefit, customers have no incentive to also apply for the Lifeline benefit for the internet offering. Further, companies have no incentive to encourage customers to apply for the Lifeline benefit if the ACP benefit fully covers the price of internet service. To the extent that carriers choose not to engage in Lifeline outreach efforts, due to focus on the ACP, potentially eligible Lifeline customers may fail to enroll in the Lifeline program and some otherwise eligible customers may thereby be denied the benefits of TAP.

¹¹ Minnesota Department of Commerce Comments, (October 19, 2022). Docket P999/CI-22-478, (eDockets). [202210-189960-01](#), at 3–4.

Irrespective of such choices by carriers to focus on ACP, carriers continue to be legally obligated to engage in Lifeline outreach pursuant to 47 U.S.C. 214 (e)(1) and 47 C.F.R. 54.405, which require Eligible Telecommunications Carriers to make available and advertise Lifeline services.¹² Lifeline outreach efforts may be expected to benefit TAP subscribership, due to the automatic TAP enrollment obligation established by the Commission in its October 11, 2016 Order Clarifying the Relationship between Lifeline and TAP in Docket No. P999/CI-16- 302.¹³ In addition to federal regulations requiring carriers to conduct Lifeline outreach, Minnesota law requires carriers to conduct TAP outreach pursuant to Minn. Stat. §§ 237.69 - .711 and Minn. R. Ch. 7817.

It is especially important to consider focused outreach measures for low-income Minnesotans, particularly to those individuals who choose not to subscribe to Internet service. In addition, outreach on tribal lands may assist with the enrollment uptake of another vulnerable demographic group. The Department is continuing to review ways to increase TAP subscribership through advertising and outreach efforts and will report its recommendations in future comments.

IV. DEPARTMENT RECOMMENDATIONS

The Department recommends that the Commission maintain the current TAP credit at \$10.00 per month per subscriber and maintain the current surcharge at \$.03 per month, per access line.

¹² 47 U.S.C. 214 (e) (1) and 47 C.F.R. 54.405 require ETCs to make available and advertise Lifeline service. 47 C.F.R. 54.405 states: All eligible telecommunications carriers must: (a) Make available Lifeline service, as defined in §54.401, to qualifying low-income consumers. (b) Publicize the availability of Lifeline service in a manner reasonably designed to reach those likely to qualify for the service. (c) Indicate on all materials describing the service, using easily understood language, that it is a Lifeline service, that Lifeline is a government assistance program, the service is non-transferable, only eligible consumers may enroll in the program, and the program is limited to one discount per household. For the purposes of this section, the term “materials describing the service” includes all print, audio, video, and web materials used to describe or enroll in the Lifeline service offering, including application and certification forms. (d) Disclose the name of the eligible telecommunications carrier on all materials describing the service.

¹³ *Order Clarifying the Relationship between Lifeline and TAP*, Minnesota Public Utilities Commission, October 11, 2016, Docket No. P999/CI-16-302 (eDockets) [201610-125580-01](#). In this Order the Commission directed that every customer of the federal Lifeline programs who also subscribes to voice service from a certificated carrier in Minnesota must be auto-enrolled in the TAP program.

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. P999/CI-24-253

Dated this **17th** day of **October 2024**

/s/Sharon Ferguson

First Name	Last Name	Email	Company Name	Address	Delivery Method	View Trade Secret	Service List Name
Thomas	Campbell	tcampbell@otcpas.com	Olsen Thielen	2675 Long Lake Road St. Paul, MN 55309	Electronic Service	No	OFF_SL_24-253_Official 24-253
Brent	Christensen	brentc@mnta.org	Minnesota Telecom Alliance	1000 Westgate Drive, Ste 252 St. Paul, MN 55114	Electronic Service	No	OFF_SL_24-253_Official 24-253
Sheri	Comer	Sheri.comer@ftr.com	Frontier Communications Corporation	1500 MacCorkle Ave SE Charleston, WV 25396	Electronic Service	No	OFF_SL_24-253_Official 24-253
Generic Notice	Commerce Attorneys	commerce.attorneys@ag.state.mn.us	Office of the Attorney General-DOC	445 Minnesota Street Suite 1400 St. Paul, MN 55101	Electronic Service	Yes	OFF_SL_24-253_Official 24-253
Generic Notice	Residential Utilities Division	residential.utilities@ag.state.mn.us	Office of the Attorney General-RUD	1400 BRM Tower 445 Minnesota St St. Paul, MN 551012131	Electronic Service	Yes	OFF_SL_24-253_Official 24-253
Will	Seuffert	Will.Seuffert@state.mn.us	Public Utilities Commission	121 7th PI E Ste 350 Saint Paul, MN 55101	Electronic Service	Yes	OFF_SL_24-253_Official 24-253
Jason	Topp	jason.topp@lumen.com	CenturyLink Communications, LLC	200 S 5th St Ste 2200 Minneapolis, MN 55402	Electronic Service	No	OFF_SL_24-253_Official 24-253
Nicole	Westling	nicole.westling@state.mn.us	Department of Commerce	85 7th Place E Suite 280 St Paul, MN 55001	Electronic Service	No	OFF_SL_24-253_Official 24-253