

STATE OF MINNESOTA
BEFORE THE MINNESOTA PUBLIC UTILITIES COMMISSION

Beverly Jones Heydinger	Chair
Nancy Lange	Commissioner
Dan Lipschultz	Commissioner
John Tuma	Commissioner
Matt Schuerger	Commissioner

In the Matter of
Telephone Assistance Plan (TAP) Review

Docket P999/CI-16-302

**COMMENTS OF
CITIZENS TELECOMMUNICATIONS COMPANY OF MINNESOTA, LLC
AND
FRONTIER COMMUNICATIONS OF MINNESOTA, INC.**

On May 25, 2016, the Minnesota Public Utilities Commission (“Commission”) issued a *Notice of Comment Period* (“Notice”) in this docket seeking input on whether it should offer clarifications as to the eligibility for the Telephone Assistance Plan (“TAP”) program effective December 1, 2016, and in particular, whether TAP funds may be applied to broadband service.

In response, Citizens Telecommunications Company of Minnesota, LLC and Frontier Communications of Minnesota, Inc. (collectively, “Frontier”) submit the following comments.

Lifeline Modernization Order

As the Notice mentioned, the Federal Communications Commission (“FCC”) has recently issued its *Lifeline Modernization Order*. In that Order, the FCC made a number of changes to its Lifeline program. Those changes will be implemented over time in the coming years. However, one notable change will be effective on December 1, 2016, and the Commission should consider the impact of the change on Minnesota and issue clarification for Minnesota Lifeline providers and recipients.

The FCC has decided that customers eligible for the federal Lifeline credit may use the credit for “broadband-only” service, as an alternative to using the credit on a voice service.

That is, customers need not subscribe to traditional local exchange voice service to receive the federal Lifeline credit; rather they may purchase stand-alone broadband service with no voice service component and still receive the Lifeline credit.

Minnesota's Telephone Assistance Plan

The Minnesota statute and Commission rules that created and implemented the TAP program predate the appearance of consumer broadband services. As a result, the statute and rules do not give explicit consideration to broadband services, and certainly do not anticipate the actions taken by the FCC as it modernized its Lifeline program. Thus, it is not immediately clear how this FCC action to expand the Lifeline credit to stand-alone broadband service impacts the corresponding state credit provided under the TAP. However, Frontier suggests that a fresh reading of the statute (and the Commission's rules) under the current FCC approach would allow for the application of the TAP credit to stand-alone broadband service.

Minn. Stat. §237.70, subd. 3 states that "The telephone assistance plan must contain adequate provisions...to enable eligible subscribers to take advantage of the federal matching plan." The legislature's intent here, it seems, is that the state plan be implemented in such a way as to allow subscribers to obtain the maximum advantage from the federal Lifeline and state TAP programs. Extending the state TAP credit to all customers receiving the federal Lifeline credit would satisfy that intent.

Further, Minn. Stat. §237.70, subd. 4a, states that "The telephone assistance plan must provide telephone assistance credit for a residential household in Minnesota that is eligible for the federal Lifeline telephone service discount." Under the FCC's recent action, a stand-alone broadband customer could be eligible for the federal Lifeline credit, and thus should be eligible for the state TAP credit as well.

In earlier comments, the Minnesota Department of Commerce ("Department") noted a couple sections of the Minnesota statute and of the Commission's rules which focused on traditional voice local service as the object of the state TAP credits. As a result, the Department suggested that the Commission was precluded from extending the TAP credit to stand-alone broadband service.

The Department cited Minn. Stat. §237.70, subd. 5, which uses the rate charged for local exchange service as a criteria to be used by the Commission in setting the TAP credit amount.

That is true; however, that does not mean that once the Commission has set that TAP credit amount (currently at \$3.50) the TAP credit cannot be extended to services other than traditional voice local exchange service.

The Department also noted that Rule 7817.0200 states that the purpose of the Commission's Chapter 7817 rules regarding TAP "is to develop and implement a statewide telephone assistance plan to provide telephone assistance credits to reduce the local telephone rates of eligible residential households". It is worth noting, however, that the last sentence of Rule 7817.0200 states, "This chapter is to be liberally construed to further these purposes."

As mentioned previously, the intention of the statute creating the TAP appears to be to allow Minnesota customers to obtain the maximum advantage of the federal Lifeline and state TAP credits, and the Commission wrote the Chapter 7817 rules to carry out and implement that intent. The absence of the concept of stand-alone broadband service in the Commission's TAP rules was not the result of a conscious intention by the Commission to disbar that service from the TAP credit. Rather, stand-alone broadband service simply did not exist when the Commission wrote its rules. Thus, now in 2016, the Rule's admonition that "This chapter is to be liberally construed to further these purposes" argues for the extension of the TAP credit to stand-alone broadband service.

Dated July 25, 2016

Respectfully submitted,

CITIZENS TELECOMMUNICATIONS COMPANY OF MINNESOTA, LLC.
FRONTIER COMMUNICATIONS OF MINNESOTA, INC.

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