

September 20, 2016

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

RE: In the Matter of the Application of Mobilitie Management, LLC for a Certificate of Authority to Provide Local Niche Services
Docket No. P6966/NA-16-607

Dear Mr. Wolf:

Applications for certificates of authority may be approved without hearing under Minn. Stat. § 216A.03, subd. 7. The Public Utilities Commission's (Commission's) Order designating certain applications for certificates of authority as being subject to a standing Order was issued on August 25, 2000 in Docket No. P999/CI-00-634. The use of a standing Order is to apply to filings submitted on or after September 1, 2000.

As required by the Commission's August 25, 2000 Order, the Department of Commerce (Department) has reviewed and analyzed the current filing. Attached is the Department's checklist for processing applications for certificates of authority. The checklist reflects the Department's analysis of the issues relating to the requirements of Minnesota law and the Commission's rules.

The application for certification was filed on July 22, 2016.

The application was filed by:

Keenan P. Adamchak
Marashlian and Donahue, PLLC
1420 Spring Hill Road, Suite 401
McLean, Virginia 221012

The application requested the following type of certification: Certificate of Authority to provide local niche services.

In Attachment 5.E, the application describes the provision of interconnected Voice over Internet Protocol (VoIP) services by Mobilitie Management, LLC. The Department informed the applicant that, in the Commission's July 28, 2015 Order Finding Jurisdiction and Requiring Compliance Filing in the matter of the Complaint of the Minnesota Department of Commerce against the Charter affiliates regarding transfer of customers, in Docket No. P6716, 5615/C-14-383, the Commission found that fixed, interconnected VoIP service is a telecommunications service subject to the Commission's authority under Minnesota Statute

Chapter 237 and related Commission rules. In its August 31, 2016 email message to the Department, the applicant states that “Mobilitie Management does not have current plans to provide fixed VoIP services or even nomadic VoIP, and will seek CLEC authorization when it has plans to provide facilities based VoIP services.” Mobilitie Management, LLC has been notified of its regulatory responsibilities should it decide to begin offering fixed, interconnected VoIP services.

The applicant, Mobilitie Management, LLC is an affiliate of another carrier, Mobilitie, LLC, which currently holds a certificate of authority to provide local niche services in Minnesota. In response to numerous calls from Minnesota municipalities, the Department recently sent a letter to Mobilitie, LLC informing the Company that, irrespective of its certification as a local niche carrier, the Company is still subject to municipality ordinances and requirements concerning rights of way. Following the receipt of that letter by Mobilitie, LCC, on August 10, 2016, the Department and Commission staff met with Company representatives to discuss the Company’s position on compliance with municipal right-of-way ordinances. The Department and Commission staff continue to work with Mobilitie, LLC to reduce confusion on the authority of a municipality to enforce its right-of-way ordinances for a carrier certified by the Commission to operate in Minnesota.

Recommended Action:

The Department’s analysis finds that the Application for Certification complies with the Commission’s requirements as indicated on the attached checklists. The Department recommends that the Commission approve the request of Mobilitie Management, LLC to provide local niche services on a statewide basis. Approve the proposed tariff as filed on July 22, 2016 and revised on August 9, 2016. The Department checklist for the application for certification is attached to this letter.

The Department is submitting this memorandum recommending that the Commission approve the Application for Certification either at a Commission hearing or by way of the standing order process approved by the Commission on August 25, 2000.

Sincerely,

/s/ DIANE DIETZ
Rate Analyst

DD/lt
Attachment

CHECKLIST FOR PROCESSING APPLICATIONS FOR CERTIFICATES OF AUTHORITY

Key

X: Analyst has reviewed this item and found item to be compliant with law, or confirming information is contained in the filing.

NC: Analyst has reviewed this item and found non-compliance with law.

W: Noncompliance with Rules, but Waiver Requested. Recommendation section will state if waiver is supported by DOC.

NA: Not Applicable, or does not describe characteristic of filing or applicant.

Blank space: Spaces may be left blank if there is noncompliance (as delineated in the cover letter), if subparts are inapplicable to a checklist item, or if only one of several choices is to be selected.

I. TYPE OF CERTIFICATION REQUESTED BY APPLICANT

- A. Facilities-based local exchange company (Note, Minn. Rules pt. 7812.0200, subpt. 2 states that a certificate to provide facilities-based local exchange service authorizes the provision of all forms of local service, interexchange service, and local niche service in Minnesota)
 - i. Conditional certificate of authority
 - ii. Operational certificate of authority (not subject to August 25, 2000 standing Order in Docket No. P999/CI-00-634)

- B. Resale of local exchange service
 - i. Conditional certificate of authority
 - ii. Operational certificate of authority

- C. Long Distance Service
 - i. Conditional certificate of authority
 - ii. Operational certificate of authority

- D. Local Niche Service
 - i. Conditional certificate of authority
 - ii. Operational certificate of authority

II. GEOGRAPHIC AREA OF CERTIFICATION

- A. Facilities-based local exchange company
 - a. Exchanges served by Citizens Telecommunications of Minnesota, Inc.
 - statewide
 - other (specify exchanges) _____
 - b. Exchanges served by Qwest Corporation
 - statewide
 - other (specify exchanges) _____
 - c. Exchanges served by Embarq Minnesota
 - statewide
 - other (specify exchanges) _____
 - d. Exchanges served by Frontier Communications of Minnesota
 - statewide
 - other (specify exchanges) _____
 - e. Exchanges served by the following incumbent local exchange companies: _____
 - statewide
 - other (specify exchanges) _____

- B. Resale of local exchange service
 - a. Exchanges served by Citizens Telecommunications of Minnesota Inc.
 - statewide
 - other (specify exchanges) _____
 - b. Exchanges served by Qwest Corporation
 - statewide
 - other (specify exchanges) _____
 - c. Exchanges served by Embarq Minnesota
 - statewide
 - other (specify exchanges) _____
 - d. Exchanges served by Frontier Communications of Minnesota
 - statewide
 - other (specify exchanges) _____
 - e. Exchanges served by the following incumbent local exchange companies: _____
 - statewide
 - other (specify exchanges) _____

- C. Long Distance Service
 - i. Statewide
 - ii. Other (specify)

- D. Local Niche Service
 - i. Statewide
 - ii. Other (specify)

III. APPLICATION REQUIREMENTS OF THE APPLICANT

Minn. Stat. §237.16, subd. 1(b) and §237.74, subd. 12 mandate that companies obtain a certificate of authority prior to offering regulated telecommunications services in Minnesota. A conditional certificate of authority is permitted under Minn. Rules pts. 7812.0300, subpt. 4 and 7812.0350, subpt. 4 when the submission and Commission approval of tariffs and interconnection agreements is a prerequisite for providing the services identified in the applicable petition for certification. The requirements for certification for providers of facilities-based local exchange service, resellers of local exchange service, long distance service, and local niche services are listed in Minn. Rules pt. 7812.0300, 7812.0350, 7812.0400, and 7812.0500 respectively.

Minn. Rules pt. 7812.0300, subpt. 2 (parts A through N) describe the application requirements and the decision criteria for granting a certificate of authority. Companies applying for certification to provide long distance, local niche, or resale of local service must meet A to L of the filing requirements, except for the information, relevant to facilities-based local exchange service providers, which is identified in Minn. Rules pt. 7812.0300, subpt. 2, items G and K.

The application requirements of Minn. Rules pt. 7812.0300, subpt. 2 (A through N) are as follows:

- A. All applications must include the applicant's full legal name and address, including the address of the applicant's place of business; if a corporation, the names, addresses, telephone numbers, and business experience of its officers; if a partnership or limited liability partnership, the names, addresses, telephone numbers, and business experience of persons authorized to bind the partnership; or, if a limited liability company, the names, addresses, and telephone numbers of its managers;
- B. All applications must include the name and email address of the applicant's contact person;
- C. All applications must include a description of the applicant's organizational structure, including documentation identifying the petitioner's legal status, for example, sole proprietorship, partnership, limited liability partnership, company, limited liability company, corporation, and so forth; a copy of its articles of incorporation; and, a list of shareholders, partners, or members owning ten percent or more of the interest in the business;
- D. All applications must include a list of the applicant's affiliates, subsidiaries, and parent organizations, if any;
- E. All applications must include a description of the nature of the applicant's business, including a list of the services it provides. Note: Applicants that intend to provide prepaid local service must include a statement indicating that they have reviewed Minnesota Rules part 7810.1800-7810.2300 and that their proposed service complies with these Rules. Specifically, these Rules do not allow a carrier to disconnect an end user until the end user has received a

disconnect notice. Disconnect notices may not be issued until after an event listed under Minnesota Rules 7810.1800 (A)-(H) has occurred.

- F. All applications must include a description of the applicant's business history, including: (1) the date the business was first organized, the dates of subsequent reorganizations, and the date the applicant started providing telephone or other telecommunications services; and (2) the applicant's experience providing telephone company services or telecommunications services in Minnesota and other jurisdictions, including the types of services provided, the dates and nature of state or federal authorization to provide those services, the length of time it has provided those services, and pending or completed criminal, civil, or administrative action taken against the applicant by a state or federal authority, including any settlements, in connection with the applicant's provision of telephone company services or telecommunications services;

- G. All applications must include a financial statement of the applicant, for the most recent fiscal year and the financial statement must consist of a balance sheet, an income statement, notes to the financial statement, and, if available, an annual report:
 - (i) Positive equity (required for facilities-based authority)
 - (ii) Company has the financial capacity necessary for the proposed undertaking

- H. Applications for facilities-based authority must include a list and description of the types of services the applicant seeks authority to offer: (1) including the classes of customers the applicant intends to serve; (2) indicating the extent to which it intends to provide service through use of its own facilities, the purchase of unbundled network elements, or resale; (3) identifying the types of services it seeks authority to provide by reference to the general nature of the service, for example, voice, custom calling, signaling, information, data, and video; and (4) listing the technology that will be used to deliver the service, for example, fiber-optic cable, digital switches, or radio;

- I. All applications must include a proposed price list or tariff setting forth the rates, terms, and conditions of each service offering, unless the applicant is seeking a conditional certificate under subpart 4 and has not yet developed the information listed in this item;
 - (i) Tariff checklist is satisfactory

- J. Applications for authority to provide local exchange service must include a service area map providing the information required under part 7810.0500, subpart 2, and narrative description of the area for which the applicant is seeking certification, except that if the applicant does not have the necessary agreements or tariffs to serve the entire area for which certification is sought, a map providing the information required under part 7810.0500, subpart 2, and a narrative delineating specifically those areas in which the applicant is currently prepared to provide service. A list of each of the exchanges for which the company is seeking certification will be accepted as the service area map where the entire exchange is served and each exchange is individually identified. Note also that applications for authority to provide local niche service must include a narrative description of the area for which the applicant is seeking certification;

Given that the applicant requested statewide certification to provide local exchange services, the Department did not request a service area map or listing of exchanges.

- K. All applications must include the date by which the applicant expects to offer local service to the entire service area for which the applicant is seeking certification, including the applicant's estimated timetable for providing at least some of its services through use of its own network facilities;
- L. Applications for facilities-based authority must include a description of the applicant's policies, personnel, and equipment or arrangements for customer service and equipment maintenance, including information demonstrating the applicant's ability to respond to customer complaints and inquiries promptly and to perform maintenance necessary to ensure compliance with the quality requirements set forth in the Commission's rules;
- M. All applications must include a copy of the applicant's certificate to conduct business from the Minnesota Secretary of State;
- NA N. An application for facilities-based authority must include a description of the applicant's technology and facilities, as well as the location or proposed location of those facilities;
 - NA i. Description of end users' connection to the network:
 - Connection to network will be made through ILEC's local loop.
 - Broadband connection will be used to access the network:
 - 1. Connecting signal will be integrated into the end user's connection with the Internet.
 - 2. Connecting signal will be a separate connection on the same facility.
 - 3. Connecting signal will be on a separate facility from the end user's Internet access. Explain:

 - Connection to network will be made through a facility other than LEC's local loop or broadband connection.
 - NA ii. Description of method to provision transport between different local calling areas:
 - transport provisioned via public switched network.
 - transport provisioned via public Internet backbone.
 - transport provisioned via private IP network.
 - transport provisioned via other method. Explain

 - NA iii. Description of location of switches or soft-switches that the applicant will use to provide the facilities based local services.
 - NA iv. Description of the availability of nomadic connection to network:
 - Nomadic connection available (i.e. service can be used from more than one location).
 - Nomadic connection not available.

NA v. Description of whether the facilities based local service permits a Minnesota end user to be assigned a telephone number associated with a rate center in which the end user is not physically located.

NA vi. Description of scope of facilities based local service offering:

Service to be offered on retail basis.

Service to be offered on wholesale basis.

NA vii. Description of target market for facilities based local services:

Individual residential households.

Small business customers.

Large business/large organization customers.

Other CLECs and ILECs.

0. Other information needed to demonstrate that the applicant has the managerial, technical, and financial ability to provide the services it intends to offer consistent with the requirements of this chapter and applicable law including the following:

i. All applicants must have a toll-free number required pursuant to Minn. Rules pt. 7812.0300, subpt. 3(G).

Toll free number has been called.

1. Toll-free number is operational.

2. Toll-free number is not operational. Explain:

Company states that toll free number will appear on customer bills.

ii. All applications must include a description of the extent to which the applicant has had any civil, criminal, or administrative action against it in connection with the applicant's provision of telecommunications services.

NA iii. All applications for authority to provide local service must be served on the Department, the OAG-RUD, the Department of Administration, persons certified to provide telecommunications service within the petitioner's designated service area, and the city clerk, or other official authorized to receive service or notice on behalf of the municipality, of all municipalities within the petitioner's designated service area in compliance with Minn. Rules pt. 7812.0200, subpt. 6.

NA iv. Applicants requesting authority to provide local exchange service must file a 911 plan that complies with the requirements of Minn. Rules pt. 7812.0550.

911 checklist is satisfactory

NA v. Applicants requesting authority to provide local exchange service must file and receive Commission approval of an Interconnection Agreement (ICA) with each Incumbent Local Exchange Carrier in the applicant's service area..

ICA checklist is satisfactory

NA vi. Applicants requesting authority to provide local exchange service must agree to offer the following services to all customers pursuant to Minn. Rules pt. 7812.0600 (basic service requirements):

single party voice-grade service and touch-tone capability;

911 or enhanced 911 access;

- 1 + intraLATA and interLATA presubscription and code-specific equal access to interexchange carriers subscribing to its switched access service;
- access to directory assistance, directory listings, and operator services;
- toll and information service-blocking capability without recurring monthly charges as provided in the Commission's ORDER REGARDING LOCAL DISCONNECTION AND TOLL BLOCKING CHARGES, Docket No. P999/CI-96-38 (June 4, 1996), and its ORDER GRANTING TIME EXTENSIONS AND CLARIFYING ONE PORTION OF PREVIOUS ORDER, Docket No. P999/CI-96-38 (September 16, 1996);
- one white pages directory per year for each local calling area, which may include more than one local calling area, except where an offer is made and explicitly refused by the customer;
- a white pages and directory assistance listing, or, upon customer request, a private listing that allows the customer to have an unlisted or unpublished telephone number;
- call-tracing capability according to chapter 7813;
- tariff language on blocking capability according to the Commission's ORDER ESTABLISHING CONDITIONS FOR THE PROVISION OF CUSTOMER LOCAL AREA SIGNALING SERVICES, Docket No. P999/CI-92-992 (June 17, 1993) and its ORDER AFTER RECONSIDERATION, Docket No. P999/CI-92-992 (December 3, 1993). Specifically, these Orders require companies offering CLASS services to offer per call business blocking to certain businesses (*i.e.*, businesses which meet special criteria), anonymous call rejection, and per call unblocking of blocked lines without a separate charge. Businesses that meet special criteria include law firms and medical offices. Residential customers must be offered per line and per call blocking. There must be no recurring charges for blocking of caller identification services. A one-time cost-based installation fee maybe applied to customers who request line blocking after an initial period of at least 90 days; and
- Telecommunications relay service capability or access necessary to comply with state and federal regulations.
- A Separate flat rate service offering. At a minimum, each local service provider (LSP) shall offer the services identified in Minn. Rules pt. 7812.0600, subpt. 1 as a separate tariff or price list offering on a flat rate basis. An LSP may also offer basic local service on a measured rate basis or in combination with other services. An LSP may impose separate charges for the services set forth in subpart 1 only to the extent permitted by applicable laws, rules, and Commission Orders.
- Service area obligations: A LSP shall provide its local services on a nondiscriminatory basis, consistent with its certificate under part 7812.0300 or 7812.0350, to all customers who request service and whose premises fall within the carrier's service area boundaries or, for an interim period, to all requesting customers whose premises fall within the

operational areas of the local service provider's service area under part 7812.0300, subpart 4, or 7812.0350, subpart 4. The obligation to provide resale services does not extend beyond the service capability of the underlying carrier whose service is being resold. The obligation to provide facilities-based services does not require an LSP that is not an eligible telecommunications carrier (ETC) to build out its facilities to customers not abutting its facilities or to serve a customer if the local service provider cannot reasonably obtain access to the point of demarcation on the customer's premises.

- Service disconnection. An LSP may disconnect a customer's basic local service as allowed under parts 7810.1800 to 7810.2000, except that it shall not disconnect basic local service for nonpayment of toll or information service charges or any service other than basic local service.
 - A competitive local exchange carrier shall offer each end user at least one flat rate calling area that matches the flat rate calling area offered that customer by the local exchange carrier under Minn. Rules pt. 7812.0900, subpt. 1, including any applicable extended area service (pursuant to Minn. Rules pt. 7812.0800, subpt. 1).
 - Other issues (specify)
-
-

NA P. Applicants for local service authority must confirm that they will be collecting the Commission approved surcharge for the Telephone Assistance Plan (TAP) and will file TAP reports with the Commission verifying their remittance of this surcharge. Applicants must also list the name of the person that will be responsible for submitting these reports.

Q. All applications must be accompanied by a \$570 filing fee.

IV. RECOMMENDATION OF THE DEPARTMENT

A. Find that applicant possesses the managerial, technical, and financial abilities required under Minnesota law to provide telecommunications services.

B. Grant a conditional certification of authority to provide the following services:

- A. Facilities-based local exchange company
 - a. Exchanges served by Citizens Telecommunications of Minnesota, Inc.
 - statewide
 - other (specify exchanges) _____
 - b. Exchanges served by Qwest Corporation
 - statewide
 - other (specify exchanges) _____
 - c. Exchanges served by Embarq Minnesota
 - statewide

- other (specify exchanges) _____
- d. Exchanges served by Frontier Communications of Minnesota
 - statewide
 - other (specify exchanges) _____
- e. Exchanges served by the following incumbent local exchange companies: _____
 - statewide
 - other (specify exchanges) _____

- ii. Resale of local exchange service
 - a. Exchanges served by Citizens Telecommunications of Minnesota, Inc.
 - statewide
 - other (specify exchanges) _____
 - b. Exchanges served by Qwest Corporation
 - statewide
 - other (specify exchanges) _____
 - c. Exchanges served by Embarq Minnesota
 - statewide
 - other (specify exchanges) _____
 - d. Exchanges served by Frontier Communications of Minnesota
 - statewide
 - other (specify exchanges) _____
 - e. Exchanges served by the following incumbent local exchange companies: _____
 - statewide
 - other (specify exchanges) _____

- iii. Long Distance Service
 - a. Statewide
 - b. Other (specify)
- iv. Local Niche Service
 - a. Statewide
 - b. Other (specify)

C. Grant an operational certificate of authority to provide the following services:

- i. Facilities-based local exchange company (not subject to standing Order)
 - a. Exchanges served by Citizens Telecommunications of Minnesota
 - statewide
 - other (specify exchanges) _____
 - b. Exchanges served by Qwest Corporation
 - statewide
 - other (specify exchanges) _____
 - c. Exchanges served by Embarq Minnesota
 - statewide
 - other (specify exchanges) _____
 - d. Exchanges served by Frontier Communications of Minnesota

- statewide
- other (specify exchanges) _____

e. Exchanges served by the following incumbent local exchange companies:

- statewide
- other (specify exchanges) _____

ii. Resale of local exchange service

a. Exchanges served by Citizens Telecommunications of Minnesota

- statewide
- other (specify exchanges) _____

b. Exchanges served by Qwest Corporation

- statewide
- other (specify exchanges) _____

c. Exchanges served by Embarq Minnesota

- statewide
- other (specify exchanges) _____

d. Exchanges served by Frontier Communications of Minnesota

- statewide
- other (specify exchanges) _____

e. Exchanges served by the following incumbent local exchange companies:

- statewide
- other (specify exchanges) _____

iii. Long Distance Service

- a. Statewide
- b. Other (specify)

iv. Local Niche Service

- a. Statewide
- b. Other (specify)

D. Require the applicant to fulfill the following conditions for approval of operational certification:

- 1. Filing of tariff
- 2. Commission approval of interconnection agreement
- 3. Commission approval of 911 plan
- 4. Filing of certificate from Minnesota Secretary of State
- 5. Filing of service area map
- 6. Filing of narrative description of service area
- 7. Filing of toll-free number
- 8. Filing of the following information: _____

9. Filing containing the following tariff revisions: _____

CHECKLIST FOR PROCESSING ORIGINAL TARIFFS OR PRICE LISTS

I. TYPE OF TARIFF OR PRICE LIST

- A. Local Exchange Tariff/Price List
- B. Access Services Tariff/Price List
- C. Long Distance Tariff/Price List
- D. Local Niche Services Tariff/Price List

II. REGULATORY REQUIREMENTS THAT ONLY APPLY TO THE TARIFFS OR PRICE LISTS OF LOCAL EXCHANGE CARRIERS

The regulatory requirements of Minn. Rules Ch. 7810 and Minn. Rules pt. 7812.0600 are as follows:

- A. The tariffs or price lists of local exchange carriers must offer the following services to all customers pursuant to Minn. Rules pt. 7812.0600 (basic service requirements):
 - single party voice-grade service and touch-tone capability;
 - 911 or enhanced 911 access;
 - 1 + intraLATA and interLATA presubscription and code-specific equal access to interexchange carriers subscribing to its switched access service;
 - access to directory assistance, directory listings, and operator services;
 - toll and information service-blocking capability without recurring monthly charges as provided in the commission's ORDER REGARDING LOCAL DISCONNECTION AND TOLL BLOCKING CHARGES, Docket No. P999/CI-96-38 (June 4, 1996), and its ORDER GRANTING TIME EXTENSIONS AND CLARIFYING ONE PORTION OF PREVIOUS ORDER, Docket No. P999/CI-96-38 (September 16, 1996). These Orders state that no telecommunications providers may disconnect local exchange service for nonpayment of toll service. These Orders also require local exchange carriers to offer toll blocking and bill screening services with no monthly charge;
 - one white pages directory per year for each local calling area, which may include more than one local calling area, except where an offer is made and explicitly refused by the customer;
 - a white pages and directory assistance listing, or, upon customer request, a private listing that allows the customer to have an unlisted or unpublished telephone number;
 - call-tracing capability according to chapter 7813;

- (i) call Trace provisions in tariff mirror Commission's tariff templates.
 - blocking capability according to the Commission's ORDER ESTABLISHING CONDITIONS FOR THE PROVISION OF CUSTOMER LOCAL AREA SIGNALING SERVICES, Docket No. P999/CI-92-992 (June 17, 1993) and its ORDER AFTER RECONSIDERATION, Docket No. P999/CI-92-992 (December 3, 1993). These Orders require local exchange carriers, who offer class services, to offer CLASS trace services and per call and residential per line blocking of CLASS services with no monthly charge. These Orders also require local exchange carriers, who offer CLASS services, to also educate their customers regarding their options with respect to CLASS services and blocking options. In addition, these Orders require companies offering CLASS services to offer per call business blocking to certain businesses (*i.e.*, businesses which meet special criteria) without a monthly charge and anonymous call rejection without a separate charge. Businesses that meet special criteria include law firms and medical offices. Residential customers must be offered per line and per call blocking. A one-time cost-based installation fee maybe applied to customers who request line blocking after an initial period of at least 90 days; and
 - telecommunications relay service capability or access necessary to comply with state and federal regulations.
- B. A Separate flat rate service offering is required pursuant to Minn. Rules pt. 7812.0600, subpt. 2. At a minimum, each local service provider (LSP) shall offer the services identified in Minn. Rules pt. 7812.0600, subpt. 1 as a separate tariff or price list offering on a flat rate basis. An LSP may also offer basic local service on a measured rate basis or in combination with other services. An LSP may impose separate charges for the services set forth in subpart 1 only to the extent permitted by applicable laws, rules, and commission orders.
- C. Service area obligations under Minn. Rules pt. 7812.0600, subpt. 3: An LSP shall provide its local services on a nondiscriminatory basis, consistent with its certificate under part 7812.0300 or 7812.0350, to all customers who request service and whose premises fall within the carrier's service area boundaries or, for an interim period, to all requesting customers whose premises fall within the operational areas of the local service provider's service area under part 7812.0300, subpart 4, or 7812.0350, subpart 4. The obligation to provide resale services does not extend beyond the service capability of the underlying carrier whose service is being resold. The obligation to provide facilities-based services does not require an LSP that is not an eligible telecommunications carrier (ETC) to build out its facilities to customers not abutting its facilities or to serve a customer if the local service provider cannot reasonably obtain access to the point of demarcation on the customer's premises.

- D. Service disconnection requirements under Minn. Rules pt. 7812.0600, subpt. 7: An LSP may disconnect a customer's basic local service as allowed under parts 7810.1800 to 7810.2000, except that it shall not disconnect basic local service for nonpayment of toll or information service charges or any service other than basic local service.
- E. A competitive local exchange carrier shall offer each end user at least one flat rate calling area that matches the flat rate calling area offered that customer by the local exchange carrier under Minn. Rules pt. 7812.0900, subpt. 1, including any applicable extended area service (pursuant to Minn. Rules pt. 7812.0800, subpt. 1).
- F. Local exchange companies must comply with the requirements of Minn. Stat. § 237.73 before disconnecting local exchange services in cases of fraud. Minn. Stat. § 237.73 generally requires a local exchange carrier to obtain a temporary restraining order or injunction before disconnecting local exchange services in cases of fraud.
- G. Local exchange carriers who propose to include provisions in their tariffs or price lists allowing for individual case based (ICB) pricing of local exchange services must comply with the Commission's applicable policies and Orders.
- H. Local exchange carriers that are Eligible Telecommunications Carriers (ETCs) must offer the Lifeline Program.
 - (i) Lifeline provisions in tariff mirror Commission's tariff templates.
 - (ii) Carrier is not an ETC and is not required to offer Link-Up.
- I. All local exchange carriers who introduce promotions must file the appropriate notices with their promotions pursuant to the requirements of Minn. Stat. § 237.626. Minn. Stat. § 237.626 states that "The notice must identify customers to whom the promotion is available and include cost information demonstrating that the revenue from the service covers incremental cost, including cost of the promotion." The notice must include information showing the number of units projected to be sold during the promotion and the projected revenue to be derived during the promotion less the cost of the promotion (including the cost of the charge that is being waived and the administrative cost of carrying out the promotion) to derive the net value of the promotion.
- J. Local exchange carriers may not withhold number portability from customers whose accounts are in arrears. Docket Nos. P5692, 421/M-99-196; P5669, 430/M-99-701.
- K. Local service providers must offer the Telephone Assistance Plan (TAP).
 - (i) TAP provisions in tariff mirror Commission's tariff templates.
- L. Local exchange carriers that file tariffs imposing termination charges on wireless carriers must abide by the Commission's Orders in Docket No. P511/M-03-811.

- M. Local exchange carriers who provide directory assistance service to their customers for a fee must provide immediate credit to a customer who informs them that they have been provided incorrect information for which a DA rate has been charged. A local exchange carrier must notify its customers of the right to the immediate credit for incorrect directory assistance. The notice must be in a writing labeled "NOTICE OF RIGHT TO INCORRECT DIRECTORY ASSISTANCE CREDIT." The notice must be given to a new customer within 45 days of commencing service and at least annually thereafter. The notification print must be of sufficient size to be clearly legible. See Minn. Stat. §237.155.
- N. Local exchange carriers must assess TAM, TAP, and 911 surcharges at the rates established in the February 20, 2009 Order in Docket No. P999/CI-07-617. Pursuant to this Order, TAM, TAP, and 911 surcharges must be assessed at the following rates: (i) one charge per line on single and multiple lines, (ii) 2 surcharges per line for ISDN BRI, (iii) 24 surcharges per line for ISDN – PRI and T1/DS1, and (iv) one surcharge per NAR for Blocked Centrex. Other requirements for surcharges are listed in the February 20, 2009 Order including the Equivalency Table attached to that Order.

III. REGULATORY REQUIREMENTS THAT APPLY ONLY TO THE TARIFFS OR PRICE LISTS OF LONG DISTANCE CARRIERS

The regulatory requirements of Minn. Rules Ch. 7810, Minnesota law, and applicable Commission Orders are as follows:

- A. Minn. Stat. § 237.74, subd. 2 prohibits discrimination with respect to long distance services and states as follows: "No telecommunications carrier shall offer telecommunications service within the state upon terms or rates that are unreasonably discriminatory. No telecommunications carrier shall unreasonably limit its service offerings to particular geographic areas unless facilities necessary for the service are not available and cannot be made available at reasonable costs. The rates of a telecommunications carrier must be the same in all geographic locations of the state unless for good cause the commission approves different rates. A company that offers long-distance services shall charge uniform rates and charges on all long-distance routes and in all geographic areas in the state where it offers the services. However, a carrier may offer or provide volume or term discounts or may offer or provide unique pricing to certain customers or to certain geographic locations for special promotions, and may pass through any state, municipal, or local taxes in the specific geographic areas from which the taxes originate."
- B. Federal law prohibits IXCs from deaveraging interstate rates based on differing access charges and preempts inconsistent state law on intrastate rates that might otherwise permit such deaveraging.¹

¹ Policy and Rules Concerning the Interstate, Interexchange Marketplace, "Report and Order," 1996 WL 444636, 11 F.C.C.R. 9564, 11 FCC Rcd. 9564 (Aug. 07, 1996) (No. CC 96-61, FCC 96-331) at ¶¶38, 46.

- C. With respect to those carriers who bill for uncompleted calls, the Commission's October 16, 1987 Notice to All Long Distance Carriers requires carriers to notify their customers regarding policies relating to billing for uncompleted telephone calls and the policies regarding the availability and procedures for providing refunds of those billed amounts.

IV. REGULATORY REQUIREMENTS THAT APPLY TO THE TARIFFS OR PRICE LISTS OF ALL TELECOMMUNICATIONS CARRIERS

The regulatory requirements of Minn. Rules Ch. 7810, Minnesota law, and applicable Commission Orders are as follows:

- A. The disconnection requirements in Minn. Rules pt. 7810.1800 through 7810.2200 apply to all telephone companies. Minn. Rules pt. 7810.1800 specifies the permissible reasons to disconnect service with notice. Minn. Rules pt. 7810.1900 specifies permissible reasons to disconnect service without notice. Minn. Rules pt. 7810.2000 specifies nonpermissible reasons to disconnect service. Minn. Rules pt. 7810.2100 requires that service shall not be disconnected on any Friday, Saturday, Sunday, or legal holiday, or any time when the utility's business offices are not open to the public, except where an emergency exists. Minn. Rules pt. 7810.2200 states that a utility shall not charge a reconnect fee for disconnection of service without notice pursuant to Minn. Rules pt. 7810.1900 (B).
- (i) Disconnection provisions in tariff mirror Commission's tariff templates.
- B. Notices sent out pursuant to Minn. Rules Ch. 7810 must comply with the notice requirements of Minn. Rules pt. 7810.2300. The notice requirements under Minn. Rules pt. 7810.2300 require, among other things, that notice must precede the action to be taken, such as disconnection, by at least five days excluding Sundays and legal holidays.
- C. All telephone companies operating in Minnesota must comply with the Commission's deposit and guarantee requirements in Minn. Rules pt. 7810.1500 through 7810.1700. Minn. Rules pt. 7810.1500 states that deposits can only be based on a customer's utility credit rating. Minn. Rules pt. 7810.1600 requires that deposits be refunded after 12 months of prompt payment of bills to a given telephone company. Minnesota Statutes §325E.02 requires interest to be paid on deposits over \$20 at the rate set by the Commissioner of the Department of Commerce, and posted on the Department's website at www.commerce.state.mn.us. Minn. Rules pt. 7810.1700 covers guarantee of payment.
- (i) Deposit provisions in tariff mirror Commission's tariff templates.
- (ii) No deposit required.
- D. All telephone companies who apply a returned check charge must comply with the requirements of Minn. Stat. § 604.113. Minn. Stat. § 604.113 states that "a service charge of up to \$30, may be imposed immediately on any dishonored check by the payee or holder of the check, regardless of mailing a notice of dishonor, if notice of the service charge was

conspicuously displayed on the premises when the check was issued. Only one service charge may be imposed under this paragraph for each dishonored check. The displayed notice must also include a provision notifying the issuer of the check that civil penalties may be imposed for nonpayment.” To satisfy this requirement, local service providers must list the returned check charge in their annual notice of customer rights required under Minn. Rules 7812.1000 and in their tariffs. Long distance providers must list the charge in their tariffs.

- E. Telephone companies are not allowed to disconnect service in cases of insolvency or bankruptcy that are unrelated to the payment of services to a given telephone company. Minn. Rules. pt. 7810.1500 states that "no utility shall use any credit reports other than those reflecting the purchase of utility services to determine the adequacy of a customer's credit history without the permission in writing of the customer." Minn. Rules pt. 7810.1800 does not allow for disconnection of services in general cases of bankruptcy and insolvency which are unrelated to the use of the utility's services.
- F. The Commission requires telephone companies who require advance payments from some, but not all, subscribers of a given service to comply with the Commission's deposit rules with respect to these advance payments. This requirement was established pursuant to the Commission's Order of April 1, 1993 for Docket No. P999/CI-92-868.
- G. Telecommunications carriers may not include "forum selection" clauses in their tariffs or contracts which requires customers to litigate in an out-of-state forum. Docket No. P5358, 5381/C-97-1197, Order issued December 29, 1997.
- H. Telecommunications carriers may not include mandatory arbitration provisions in their tariffs. Customers must have the option of filing complaints with the Commission or filing a claim in court in lieu of arbitration. Docket No. P3073/TC-97-1326, Order Issued February 25, 1998.
- I. All telephone companies must comply with the Commission's dial service requirements. Minn. Rules pt. 7810.5300 requires complete dialing of called numbers on at least 97 percent of telephone calls.
- J. All telephone companies operating in Minnesota are required, under the tariff filing requirements of Minn. Stat. § 237.07 and § 237.74, subd. 1 to submit tariff or price list filings for individual promotions. Although telephone companies may include general language in their tariffs or price lists indicating that they offer promotions, the companies should be aware that individual tariff or price list filings must be filed and the filings must describe the individual promotions in detail.
- K. All telephone and telecommunications carriers should include, in their tariffs, the Commission's template on "Customer Complaints and/or Billing Disputes." Inclusion of this template in the tariff is an informal

requirement of the Commission's staff. Failure to include the template in the tariff may result in a processing delay.

- L. Other issues (specify) _____

V. RECOMMENDATION OF THE DEPARTMENT

- A. Approve the proposed tariff/price list as filed by the Company.
- B. Approve the proposed tariff/price list as filed by the Company and revised on the following date(s): See cover letter.
- C. Approve the proposed tariff/price list contingent upon the Company filing the following tariff revisions within 30 days of the date of issuance of the Order in this case:

CERTIFICATE OF SERVICE

I, Linda Chavez, hereby certify that I have this day served copies of the following document on the attached list of persons by electronic filing, 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 Nos. **P6966/NA-16-607**

Dated this **20th** day of **September, 2016**.

/s/Linda Chavez

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