

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

**REPLY 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 regarding the eligibility criteria for the Telephone Assistance Plan (“TAP”) program effective December 1, 2016. In particular, the Commission asked for input on whether TAP funds may be applied to broadband service. In response, a number of parties, including Citizens Telecommunications Company of Minnesota, LLC and Frontier Communications of Minnesota, Inc. (collectively, “Frontier”), submitted initial comments.¹ Frontier hereby submits the following reply comments.

Application of TAP credit to broadband service

In initial comments, Frontier urged the Commission to clarify that the TAP credit may be applied in conjunction with an eligible customer’s purchase of broadband service, and

¹ Other parties commenting were: MCImetro Access Transmission Services (“Verizon”); the Minnesota Department of Commerce (“Department”); the Minnesota Cable Communications Association (“MCCA”); Qwest Corporation (“CenturyLink”); the Minnesota Telecom Alliance (“MTA”); and AT&T Corp. (“AT&T”).

specifically with the customer's purchase of stand-alone broadband service. This approach is consistent with that taken by the FCC in its recent Lifeline modernization order.

The FCC 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 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.

In initial comments, a number of parties suggested that the existing state statute and rules do not allow for the application of the TAP credit to broadband services. Parties pointed to several sections of the existing state statute and Commission rules as the basis for their conclusion that the TAP credit may not be applied in this manner. From Frontier's perspective, those objections can be organized into three categories:

- only local service providers may participate in the TAP credit program,
- the TAP credit is computed based on the rate for local telephone service, and
- the goal of the TAP program is stated to be the reduction of local telephone rates.

Frontier does not believe that any of these objections prohibits the Commission from deciding to allow TAP credits to be applied to broadband service.

Only local service providers may participate in the TAP credit program

Verizon, MTA, and AT&T all point to citations in the statute that state that only local service providers may participate in the TAP credit program. Minn. Stat. §237.70 subd. (2) states that, "The telephone assistance plan must be statewide and apply to local service providers that provide local exchange service in Minnesota." Also, Minn. Stat. §237.701 subd. (1) provides that, "Money in the fund may be used only for: (1) reimbursement to local service providers for expenses and credits allowed..."). Frontier agrees that these citations make clear that only local service providers may participate in the TAP credit program. However, most local service providers, such as Frontier, provide both local telephone service and broadband service. The restriction of the TAP program to local service providers, like Frontier, does not

necessarily prohibit the provider from applying the TAP credits to both its voice-only and broadband customers.

The TAP credit is computed based on the rate for local telephone service

The Department, MTA, and AT&T all noted 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. Although this is how the credit is calculated, this provision 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 goal of the TAP program is stated to be the reduction of local telephone rates

The Department and AT&T 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."

The Minnesota statute and the 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. The absence of the concept of broadband service in the Commission's TAP rules was not the result of a conscious intention by the Commission to exclude that service from the TAP credit. Rather, stand-alone broadband service simply did not exist when the Commission wrote its rules.

In fact, the Legislature has subsequently addressed the topic of broadband in legislation enacted more recently. In Minn. Stat. §237.012, subd. (1) and (2), the statute lays out policy goals that "all state residents and businesses have access to high-speed broadband" and that Minnesota would be in "the top five states for broadband access". Clearly, the economic accessibility of broadband to the low income segment of "all state residents" would be advanced by providing the TAP credit to eligible broadband customers.

Conclusion

Minn. Stat. §237.70, subd. (4a) requires 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.

The Legislature’s intention in creating the statute that enabled the TAP program 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. 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 August 8, 2016

Respectfully submitted,

CITIZENS TELECOMMUNICATIONS COMPANY OF MINNESOTA, LLC.

FRONTIER COMMUNICATIONS OF MINNESOTA, INC.

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