

**STATE OF MINNESOTA
BEFORE THE PUBLIC UTILITIES COMMISSION**

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**In the Matter of the Petition of
CenturyLink QC to be Regulated
Pursuant to Minn. Stat. § 237.025:
Competitive Market Regulation**

Docket No. P-421/AM-16-496

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Docket No. P-421/AM-16-547

INITIAL BRIEF OF CENTURYLINK QC

March 9, 2017

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INTRODUCTION

Prior to 2016, the most recent significant amendment to Minnesota's telecommunications statutes, Chapter 237, occurred in 1995. That year, the legislature ushered in a new era of competition for local telephone service and simultaneously creating an alternative form of regulation (“AFOR”) for incumbent local exchange carriers.¹ Over the following 21 years, a technological revolution fundamentally changed the telecommunications marketplace—for consumers and providers. Cell phones became ubiquitous and replaced land lines, broadband and fiber deployments exploded, including overbuilds in many communities, voice over internet protocol (“VoIP”) became available and widely used.² In short, the balance of power shifted. Legacy land-line providers no longer dominated the marketplace. Instead, the power shifted to consumers, who now have multiple suppliers vying to serve their telecommunications needs. Meanwhile, the core telecommunications statutes governing legacy providers held static.

In 2016, the Minnesota legislature recognized this new marketplace reality and also recognized that the various telecommunication service providers operated under wildly disparate rules. Legacy providers could operate under AFORs. Competitive local exchange carriers (“CLECs”) operated under a lighter regulatory structure set forth in Commission rules.³ Cell phone and other providers could operate with little or no state oversight or control. At the same time, the legislature recognized the importance of the technological backbone and the need for legacy providers of that backbone to be able to respond rapidly to

¹ 1995 Minnesota Session Laws Chapter 156.

² For example, both the Commission and the Department now use VoIP service.

³ See Minn. R. 7811.2210, 7812.2210 (CLEC rules for large and small competitive local exchange carriers).

competition in order to remain financially viable. Similarly, the legislature recognized the need to ensure certain core consumer protections.

By enacting the Competitive Market Regulation Statute (“Statute”), now codified as Minnesota Statutes § 237.025, Minnesota joined the vast majority of states in reforming its regulatory structure for legacy providers, allowing them to compete on a more level playing field with the other market participants. Given the reality of the marketplace and the maintenance of core consumer protections, the Statute enjoyed broad consensus and was not controversial.

Similarly, this proceeding shows little controversy. While the Petition seeks regulatory relief for 109 exchange service areas across the state, no party has intervened and only the Department of Commerce (“Department”) has filed affidavits providing evidence on the issues. In those comments, the Department appropriately acknowledges that the vast majority of exchange service areas should be approved for Competitive Market Regulation. As discussed below, the record of this proceeding demonstrates that each of the 109 exchange service areas included in CenturyLink QC’s (“CenturyLink” or “Company”) Petition meets the test set forth in the Statute and must be approved for Competitive Market Regulation.

I. BACKGROUND AND APPLICABLE LAW

A. Legislative History

The Competitive Market Regulation Statute did not magically and quickly appear on the scene. The Minnesota legislature vigorously debated telecommunications reform for many years and has long recognized the need to move beyond 1990s regulation. However,

in prior years, these debates failed to achieve a substantial consensus regarding the appropriate path forward.

The 2016 legislature addressed this issue once again—this time with the full and timely involvement of industry, labor, low-income and senior advocates and the administration (through the Department). The Statute as signed by the Governor represented significant compromise and had the support of the Communications Workers of America, the AFL-CIO, Legal Services Advocacy Project (“LSAP”), AARP, the Minnesota Telecomm Alliance (“MTA”), CenturyLink and others. Given this broad consensus, the Statute (then House File 1066) passed 122-6 in the Minnesota House and 60-0 in the Minnesota Senate, before being signed by the Governor on May 19, 2016.⁴

B. The Competitive Market Regulation Statute

At its core, the Statute does two things – it provides that legacy providers will be regulated under the Commission’s CLEC Rules (Minnesota Rules, parts 7811.2210 and 7812.2210, as applicable)⁵ in those exchange areas that meet the Statute’s competitive test and it provides certain core consumer protections.⁶

Regarding the competitive test, the Statute provides two means by which a local exchange carrier can demonstrate the right to relief.⁷ First, under what this Brief will refer to as “Track 1,” a carrier can demonstrate that “it serves fewer than 50 percent of the households in an exchange service area, and at least 60 percent of households in the

⁴ For legislative history, see <https://www.revisor.mn.gov/bills/bill.php?b=house&f=hf1066&ssn=0&y=2016>

⁵ Minn. Stat. § 237.025, subd. 6.

⁶ See, e.g., Minn. Stat. § 237.025, subs. 8 and 9.

⁷ Provided the provider meets either test, the Statute requires that “the Commission *shall* approve” the Petition. *Id.*, subd. 4.

exchange service area can choose voice service from at least one additional unaffiliated competitive service provider.”⁸

Second, under “Track 2,” a carrier can demonstrate that:

- (2) it serves more than 50 percent of the households in an exchange service area, and:
- (i) at least 60 percent of households in the exchange service area can choose voice service from at least one additional unaffiliated competitive service provider;
 - (ii) no significant economic, technological, or other barriers to market entry and exit exist;
 - (iii) no single provider has the ability to maintain prices above competitive levels for a significant period of time or otherwise deter competition; and
 - (iv) the petitioning local exchange carrier will continue to offer basic local service, as defined in subdivision 8, consistent with its tariffs in effect at the time of its petition.⁹

The Company’s Petition seeks relief for the 109 identified local exchange areas exclusively under Track 1, and the Statute places the burden on the Company to demonstrate that these exchange service areas meet the Track 1 test.¹⁰

Provided that the Company has demonstrated that these 109 exchange service areas meet the Track 1 test, the Statute does *not* deregulate the Company’s local services. Rather, the Statute requires that the Company’s local services will be regulated pursuant to the Statute and the Commission’s CLEC Rules. Together, the Statute and CLEC Rules provide a number of consumer protections, including but not limited to:

- Basic local service rates may not be increased until January 1, 2018, with restrictions on the ability to increase rates after that date;¹¹

⁸ *Id.*, subd. 4(1).

⁹ *Id.*, subd. 4(2).

¹⁰ *Id.*, subd. 5.

¹¹ *Id.*, subd. 8(b).

- A provider must maintain uniform prices throughout an exchange area and the CLEC Rules non-discrimination provisions apply;¹²
- Nothing affects the obligation of a local exchange carrier to provide service to customers, when requested, in accordance with Chapter 237, Commission Rules, and the carrier’s duly authorized tariffs;¹³ and
- Carriers will remain subject to complaint jurisdiction.¹⁴

C. Policy and Practical Decisions Made By The Legislature

As demonstrated above, the Statute—and by extension the Company’s Petition—does not “deregulate” CenturyLink’s local services in Minnesota. However, the Statute does set forth a number of policy and practical decisions that have been conclusively made by the legislature. Key policy decisions include:

- Where competition is firmly established and demonstrated traditional (and AFOR) regulation no longer apply.
- There should be a simple, bright line test for the most competitive exchanges (Track 1) and in those exchanges, no further inquiry (e.g. into barriers to entry, market power, etc.) can be required.
- Wireless voice service *is* a substitute for landline voice service.¹⁵
- Providers in competitive local exchange areas should be put on a more equal playing field.
- Certain key consumer protections must be maintained.

Together, the inclusion of both a bright line test to determine competition under Track 1 (a key factor for the legacy providers and labor) and the maintenance of key consumer protections (key factors for LSAP, AARP and the Department) addressed the

¹² *Id.*, subd. 8(c) and Minn. R. 7812.2210, subp. 5.

¹³ Minn. Stat. § 237.025, subd. 9.

¹⁴ Minn. R. 7812.2210, subps. 8 and 17.

¹⁵ Minn. Stat. § 237.025, subd. 1, specifically defines a “competitive service provider” to include “a wireless voice service provider.”

critical policy issues at stake and led to the broad consensus for the Statute. Moreover, by conclusively addressing these issues, the Statute leaves the Commission with a straightforward and non-controversial task and just two issues to address.

II. ISSUES TO BE ADDRESSED

As discussed above, CenturyLink has requested Competitive Market Regulation for each of the 109 exchange service areas set forth in the Petition under “Track 1.” Moreover, Track 1 sets forth a simple two-part test for the Commission to apply in determining whether to grant CenturyLink’s Petition in whole or in part:

1. Has CenturyLink demonstrated that “it serves fewer than 50 percent of the households” in each exchange service area included in its Petition?
2. Has CenturyLink demonstrated that “at least 60 percent of the households in [each exchange service area included in its Petition] can choose voice service from at least one additional unaffiliated competitive service provider?”

The Statute requires that the Commission approve CenturyLink’s Petition for each exchange service area for which the Commission answers these two questions in the affirmative.¹⁶ As discussed below, the record of this proceeding demonstrates that each exchange service area included in the Petition meets both criteria of the “Track 1” test. Therefore, the Commission should grant the Petition in its entirety.

III. THERE IS AGREEMENT IN THE RECORD THAT THE COMMISSION MUST GRANT CENTURYLINK’S PETITION IN THE OVERWHELMING MAJORITY OF THE EXCHANGES INCLUDED IN THE PETITION.

The Department, through the Affidavit of Joy Gullikson (“Gullikson Affidavit”) acknowledges that the Commission must approve this Petition in 96 of the 109 exchanges at issue. Specifically, Ms. Gullikson concludes that “[t]here appears to be sufficient evidence

¹⁶ Minn. Stat. § 237.025, Subd. 4(1). (“The Commission *shall approve* a petition under this section if a petitioning local exchange carrier demonstrates to the commission’s satisfaction that . . .”).

that CenturyLink’s Petition for market regulation to be approved for most of the petitioned exchanges”¹⁷ Ms. Gullikson identified only 13 exchanges, including those she denoted as “marginal exchanges,” as not meeting the criteria,¹⁸ determining that “in light of the flaws identified, there is not sufficient evidence as to exchanges that fail or only marginally appear to satisfy the statutory criteria.”¹⁹

Consistent with the Department’s position, and the lack of evidence provided by any other participant, the exchange service areas listed in Attachment A must be approved. This brief will address general issues associated with the analysis of the Department and CenturyLink but will focus on the questions raised by the Department concerning the remaining 13 exchange service areas.

IV. CENTURYLINK HAS DEMONSTRATED THAT IT SERVES FEWER THAN 50 PERCENT OF THE HOUSEHOLDS IN EACH EXCHANGE SERVICE AREA INCLUDED IN THE PETITION.

To determine if CenturyLink has met the first part of the “Track 1” test, the Commission must simply calculate the following ratio for each exchange service area:

$$\text{Households Served By CenturyLink/Number of Households} \times 100\%$$

Applying this formula, the record establishes that CenturyLink serves less than 50 percent of the households in each exchange service area discussed by the Department.

A. CenturyLink Has Provided Reliable Information Regarding The Number Of Housing Units It Serves In Each Of The 13 Exchange Service Areas Questioned By The Department.

CenturyLink took a conservative approach to this calculation, and therefore overstated its market share in these exchange service areas to varying degrees. To arrive at

¹⁷ Gullikson Affidavit, ¶ 82.

¹⁸ Gullikson Affidavit, ¶ 79.

¹⁹ Gullikson Affidavit, ¶ 82.

these market share figures, CenturyLink took the number of primary residential lines it provides in a given exchange service area and divided it by the number of households in that exchange service area according to the Census Bureau.

However, the Statute asks the Commission to determine whether CenturyLink “serves fewer than 50 percent of the *households*” in each exchange service area (emphasis added). In order to apply this formula, the Commission must first determine the definition of the term “household.” Under Minnesota law, “words and phrases are construed according to rules of grammar and according to their common and approved usage; but technical words and phrases and such others as have acquired a special meaning . . . are construed according to such special meaning or their definition.”²⁰ Both CenturyLink and the Department agree that “household” should be interpreted in the same fashion as the U.S. Census Bureau defines the term:

A household includes all the people who occupy a housing unit (such as a house or apartment) as their usual place of residence. A household includes the related family members and all the unrelated people, if any, such as lodgers, foster children, wards, or employees who share the housing unit. A person living alone in a housing unit, or a group of unrelated people sharing a housing unit such as partners or roomers, is also counted as a household. The count of households excludes group quarters. There are two major categories of households, “family” and “nonfamily.” Household is a standard item in Census Bureau population tables. See: <https://www.census.gov/glossary/>. Households do not include vacant housing units.²¹

A household is distinct from the term “housing unit” which is defined by the Census Bureau as follows:

A house, an apartment, a mobile home or trailer, a group of rooms, or a single room occupied as separate living quarters, or if vacant, intended for occupancy as separate living quarters. Separate living quarters are those in which the occupants live separately from any other individuals in the building and which have direct access

²⁰ Minn. Stat. § 645.08(1).

²¹ Affidavit of Al Lubeck (“First Lubeck Affidavit”) (Nov. 18, 2016), ¶ 6, n4.

from outside the building or through a common hall. For vacant units, the criteria of separateness and direct access are applied to the intended occupants whenever possible.” See <https://www.census.gov/glossary/>.²²

Therefore, “households” are a subset of “housing units.” CenturyLink does not limit its service offerings to “households”—it provides residential service to customers who order such service regardless of whether or not the customer is ordering the service for a primary home or a vacation home.²³ A second or vacation home is not a “household” under the Census Bureau definition, but is counted as a “housing unit.” In order to assure that it was capturing all of its service, Century Link based the 50% calculation on the total number of residential lines provided to any “housing unit” in an exchange area, regardless of whether or not the line was associated with a “household.” That total was then divided by the number of “households” in the area. As a result, Century Link over-counted the percentage of “households” served in a given exchange.

1. CenturyLink Has Properly Provided A Count Of The Number Of Residential Lines It Serves And Has Properly Adjusted That Count In Areas Where There Are A Large Number Of Vacation Homes That Are Not “Households.”

In the 13 exchanges disputed in this proceeding, the calculation discussed above results in a market share percentage of less than 50% with the exception of 3 exchange service areas (denoted by *)—Cook, Tofte and Grand Marais.²⁴

²² First Lubeck Affidavit, ¶ 8, n6.

²³ First Lubeck Affidavit, ¶ 8.

²⁴ First Lubeck Affidavit, Ex. AL-2.

Exchange Service Area	Number of households	Number of primary residential lines	Percentage
[HIGHLY SENSITIVE NOT PUBLIC DATA BEGINS]			
Cook*	1,030		
Tofte*	440		
Grand Marais*	1,463		
Swanville	426		
Biwabik	1,213		
Carlton	1,631		
Isanti	5,183		
Rush City	1,947		
Nashwauk	1,465		
Holdingsford	930		
Marble	687		
Sabin	658		
Staples	2,412		

HIGHLY SENSITIVE NOT PUBLIC DATA ENDS]

The formula used, however, overstates CenturyLink’s residential market share in areas where significant numbers of vacation homes, which are not “households,” exist. The Statute asks the Commission to determine whether CenturyLink “serves fewer than 50 percent of the *households*” in each exchange service area (emphasis added). CenturyLink provides residential service to customers who order such service regardless of whether or not the customer is ordering the service for a primary home or a vacation home.²⁵

In most exchange service areas, it does not make a difference if “households” or “housing units” are used in the calculation, as 94% of the housing units in Minnesota are also households.²⁶ However, the difference between “households” and “housing units” does matter in areas with a significant number of vacation homes. Each of the three exchanges

²⁵ First Lubeck Affidavit, ¶ 8.

²⁶ First Lubeck Affidavit, ¶ 8. Note the wire centers where a significant difference exists between the number of households and housing units. In most cases, the difference does not impact whether CenturyLink serves 50% such as Brainerd (14,609 households v. 17,125 housing units), Battle Lake (1,407 v. 2,761), Detroit Lakes (7,305 v. 9,357), Eveleth (3,500 v. 4,390), Silver Bay (308 v. 627), Hinckley (2,054 v. 3,637), Nisswa (2,084 v. 3,835) and Park Rapids (4,896 v. 8,013). First Lubeck Affidavit, Ex. AL-2.

where the original calculation yields a market share of greater than 50% is a traditional Minnesota vacation or lake cabin area. Not surprisingly, the percentage of housing units that are households in these areas is significantly smaller than the statewide average. In the Cook (45%), Grand Marais (52%) and Tofte (28%) exchange service areas, a small percentage of housing units are actually households. Simply comparing the number of residential lines (which are provided to both households and vacation homes) to the number of households (which includes only primary residences) results in an overstatement of the percentage of households that CenturyLink serves. Mr. Lubeck has therefore suggested that the Commission adjust the number of access lines by the percentage of “housing units” that are considered “households” in such areas. This adjustment results in percentages well below the 50% threshold in all three exchange service areas, and is likely a more accurate calculation of the percentage of “households” served.²⁷

Exchange Service Area	Number of households	Number of Housing Units	Number of primary residential lines	Percentage of households	Adjusted Percentage to reflect large number of housing units that are not households
[HIGHLY SENSITIVE NOT PUBLIC DATA BEGINS]					
Cook	1,030	2,270			
Tofte	440	1,568			
Grand Marais	1,463	2,804			

HIGHLY SENSITIVE NOT PUBLIC DATA ENDS]

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²⁷ First Lubeck Affidavit, Ex. AL-2.

B. The Commission Should Reject the Department's Proposed Adjustments To CenturyLink's Calculations Because They Do Not Conform To The Statutory Test And Lack Record Support.

The Department has proposed three adjustments to CenturyLink's analysis that should be rejected by the Commission.

1. The Commission Should Maintain The Adjustment CenturyLink Has Suggested In Areas Where The Number Of Housing Units Greatly Exceeds The Number Of Households.

First, the Department has suggested that the Commission reject CenturyLink's adjustment in areas where the number of housing units exceeds the number of households. CenturyLink's proposed adjustment is mandated by statute.²⁸ As discussed above, the Statute requires that the Commission calculate a "percentage of households." The Department proposes that the Commission ignore the difference between housing units and households and simply compare the number of lines provided to housing units and divide it by the number of households.²⁹ In areas where CenturyLink provides a large number of primary residential lines to vacation homes, the Department's approach greatly overstates CenturyLink's market share. As a result, the exchange service areas of Cook, Grand Marais and Tofte³⁰ generate a misleading market share percentage that is contrary to the formula set forth in Minn. Stat. § 237.025, Subd. 4(1). The Department's proposed adjustment should be rejected.

²⁸ Gullickson Affidavit, ¶¶ 16-32.

²⁹ Gullickson Affidavit, ¶ 27.

³⁰ Theoretically, the Commission could take other approaches to this calculation. For example, it could take the total number of lines and divide them by the number of housing units. Such a calculation would show a lower market share for CenturyLink but would address this issue as well. Nonetheless, CenturyLink believes its proposed approach is the approach that is consistent with the language of the Statute.

2. The Commission Should Reject The Department’s Suggestion That The Commission Count Wholesale Lines As Served By CenturyLink.

The Department argues that CenturyLink understates its retail market share by failing to include wholesale UNE-P and resale lines.³¹ The Department argues that these lines should be included because they “would not exist if CenturyLink were not providing the plant to households.”³² CenturyLink’s provision of the physical plant for these lines is not relevant, and in fact, the Department’s argument here is contrary to Statute.

Minnesota Statute § 237.025 sets the standard as to whether or not a provider demonstrates “it serves fewer than 50 percent of the households in an exchange service area.”³³ In situations where CenturyLink provides wholesale service, it is providing service to another carrier. It is not providing service to a household. Federal rules related to resale state that they govern “the terms and conditions under which LECs offer telecommunications services to requesting telecommunications carriers for resale.”³⁴ CenturyLink is prohibited from contacting the customer.³⁵ Finally, CLECs that purchase UNE-P typically do so to serve business customers.

This interpretation gains support from the structure of Minn. Stat. § 237.025 which divides providers into three categories: (1) the local exchange carrier filing the petition;³⁶

³¹ Gullikson Affidavit, ¶¶ 33-39. UNE-P (Unbundled Network Element Platform) is the term formerly used for a combination of network elements that comprise all of the elements required for the wholesale provider to provide a service to a customer. UNE-P was eliminated as an unbundling requirement by the FCC but CenturyLink continues to offer the product on a wholesale commercial basis. That product is known as CLSP (CenturyLink Local Service Platform)

³² Gullikson Affidavit, ¶ 35.

³³ Minn. Stat. § 237.025, Subd. 4(1).

³⁴ 47 C.F.R. § 51.601 (2017).

³⁵ Furthermore, 47 C.F.R. § 51.613(c) states: “(c) *Branding*. Where operator, call completion, or directory assistance service is part of the service or service package an incumbent LEC offers for resale, failure by an incumbent LEC to comply with reseller unbranding or rebranding requests shall constitute a restriction on resale.”

³⁶ Minn. Stat. § 237.025, Subd. 1, Subps..2, 4.

(2) “competitive service provider[s]” such as wireless and facilities-based wireline providers³⁷ and (3) other providers that do not count as competitive service providers, such as providers using satellite technology, wireless resellers and over the top voice over internet protocol providers.³⁸ Wireline resellers are specifically included in this third category:

“Competitive service provider” does not include:

- (i) a provider using satellite technology;
- (ii) a wireless voice service provider who resells voice services purchased at wholesale;
- (iii) a competitive local exchange carrier, as defined in Minnesota Rules, parts 7811.0100, subpart 12, and 7812.0100, subpart 12, who does not own a substantial proportion of the last-mile or loop facilities over which they provide local voice service.³⁹

The Statute itself suggests that a competitive local exchange carrier is the provider to the end user and not CenturyLink. Interpreting the Statute as the Department suggests would be inconsistent with this language.

Given that (1) CenturyLink by definition provides service to another carrier, not to a household, (2) CenturyLink has no relationship with the customer, (3) CenturyLink is required to make its facilities available to other carriers at discounted rates and (4) Minn. Stat. § 237.025 recognizes that a competitive local exchange carrier “provide[s] local service” even when it does not own the facilities, the Department’s suggestion that CenturyLink “serves” a customer in situations where it is the wholesale provider is inconsistent with the statute. The Commission should reject the Department’s suggestion that the Commission take such an approach.

³⁷ Minn. Stat. § 237.025, Subd. 1, subp. 4.

³⁸ Minn. Stat. § 237.025, Subd. 1.

³⁹ Minn. Stat. § 237.025, Subd. 1.

3. The Commission Should Ignore The Department's Speculation That Business Lines Affect The Percentage Of Households That CenturyLink Serves.

The Department opines, without evidence, that CenturyLink might provide service to some residential customers over business lines. The Department suggests that such business lines could constitute “voice service” and therefore should be included in the percentage of lines served by CenturyLink.⁴⁰ Further, the Department is unable to identify any particular exchange where inclusion of such lines tips the balance between meeting the 50% component and not meeting it. This argument should be rejected.

There is no evidence in this record that would support a conclusion that these types of lines exist, let alone exist in sufficient numbers to have an impact on the residential line counts at issue in this proceeding. Ms. Gullikson acknowledges “the Department could not estimate the number of home based business that would subscribe to business lines in each of the CenturyLink exchanges.”⁴¹ Even if Ms. Gullikson could determine such an estimate, this theoretical estimate would need to be reduced by the number of households that also purchase a residential line. If a household already purchases a residential line, it is already included in CenturyLink’s market share calculation. In other words, making the adjustment Ms. Gullikson suggests require multiple levels of speculation.

There can be no doubt that the number of households meeting this definition would be very small. The monthly rate for residential flat rated service currently ranges from \$15.96 to \$16.76.⁴² The rates for business services are more than double that amount, ranging from

⁴⁰ Gullikson Affidavit, ¶¶ 33-34.

⁴¹ Gullikson Affidavit, ¶ 34.

⁴² CenturyLink Exchange Access Tariff No. 1, p. 81, §5.2.4.B (excludes charges related to extended area service) available at http://www.centurylink.com/tariffs/mn_qc_ens_t_no_1.pdf.

\$34.61 to \$43.29.⁴³ It is extremely unlikely that a customer would voluntarily choose to purchase the higher-priced service in order to address residential telecommunications needs. Furthermore, wireless remains a viable option for most businesses.⁴⁴ The Commission should not adjust the evidence in light of the remote possibility that some customers have chosen to purchase a business line as its only wireline connection to a household.

V. CENTURYLINK HAS DEMONSTRATED THAT AT LEAST 60 PERCENT OF THE HOUSEHOLDS IN EACH EXCHANGE SERVICE AREA INCLUDED IN ITS PETITION CAN CHOOSE VOICE SERVICE FROM AT LEAST ONE UNAFFILIATED COMPETITIVE SERVICE PROVIDER.

The second portion of the test in Track 1 under Minn. Stat. § 237.025(4) requires that CenturyLink demonstrate that “at least 60 percent of the households in [each exchange service area included in its Petition] can choose voice service from at least one additional unaffiliated competitive service provider.” The record in this proceeding demonstrates convincingly that this test has been met in each of the 109 exchanges.

Because CenturyLink does not have direct knowledge of where exactly competitors offer service, it has looked to several sources to estimate the availability of competitive alternatives. While each of these sources have some advantages and disadvantages, they all consistently point to the same conclusion—that competitive service providers offer voice services in each of the 109 Minnesota exchange service areas.

CenturyLink analyzed the percentage of the market served by wireline and wireless competitors separately. If a wire center (and therefore the corresponding exchange, given that the 13 exchanges identified as not satisfying the criteria are all single-wire center exchanges) meets the criterion either on a wireless or wired basis, the criterion is

⁴³ *Id.*

⁴⁴ See First Lubeck Affidavit, ¶¶ 19-27, and associated Exhibits AL-11 through AL-19.

unquestionably met. Further, as discussed below, if the criteria is met on the basis of availability of wireless and wired competitive options combined, the criteria is met.

Ms. Gullikson claims that: (1) the Cook, Biwabik and Staples wire centers fail the criteria on both the wired and wireless basis; (2) Holdingford and Sabin “marginally” meet the criteria on the basis of wireline but fail the criteria based on the wireless analysis; and (3) Isanti, Nashwauk and Marble “marginally” meet the criteria based on wireless, and fail the criteria based on wireline.⁴⁵ The Statute does not include a “margin” as suggested by the Department—if a wire center meets the 60% criteria on either a wireline or wireless basis, or by wireline and wireless combined, it has met the criteria. Therefore, Holdingford, Sabin, Isanti, Nashwauk, and Marble all unquestionably meet this criteria. Further, the Statute does not require that an exchange meet the 60% threshold on either a solely wireless or solely wireline basis—if CenturyLink can demonstrate to the Commission’s satisfaction that 60% of the customers in an exchange, through a combination of wireline and wireless options, have the opportunity to take non-CenturyLink service, that exchange meets the criteria. Here, there is ample evidence that all of the wire centers (and therefore exchanges) identified in CenturyLink’s Petition meet the 60% criteria.

A. CenturyLink’s Market Share Figures And Porting Data Strongly Suggest That Sixty Percent Of Customers In Each Exchange Can Choose Voice Service From A Competitive Service Provider.

The first indicator that competitive service providers make service available consists of CenturyLink’s market share. If CenturyLink provides service to less than 40% of customers in an exchange service area, it is clear not only that 60% of customers have competitive service available, but also that the customers have actually chosen such service.

⁴⁵ Gullikson Affidavit, ¶¶ 76-77.

The record establishes that, even if one includes wholesale lines, CenturyLink serves less than 40% of households in all but **[HIGHLY SENSITIVE NOT PUBLIC DATA BEGINS HIGHLY SENSITIVE NOT PUBLIC DATA ENDS]** of the 13 exchanges disputed in the testimony filed by the Department.⁴⁶

The Department has objected to this analysis by arguing that it is possible that customers have chosen service from an alternate provider that is not a competitive service provider. While such an alternative is technically possible, there is ample reason to reject such analysis. Porting records that are a part of the record suggest that the percentage of numbers ported out to providers that do not qualify as competitive service providers is low—somewhere in the neighborhood of **[HIGHLY SENSITIVE NOT PUBLIC DATA BEGINS HIGHLY SENSITIVE NOT PUBLIC DATA ENDS]**.⁴⁷ Thus, the vast majority of customers leaving for an alternative are leaving for a competitive service provider.

This conclusion is bolstered by information filed by the Department. As discussed above, in an attempt to attack CenturyLink's market share numbers, Ms. Gullikson urged the commission to include UNE-P and resale lines as a part of CenturyLink's retail market share.⁴⁸ As Mr. Lubeck discussed in his affidavit, this data is helpful to estimate the number of customers served by facilities owned by other providers, such as competitive wireline or wireless providers. If the number of UNE-P lines and resale lines in each exchange are added to the number of CenturyLink's retail lines, one derives the maximum number of customers that are served by CenturyLink facilities, and even that number is likely overstated

⁴⁶ Gullikson Affidavit, Attachment 6 (adjusted for difference between housing units and households).

⁴⁷ Lubeck First Affidavit, Exs. 24-29.

⁴⁸ Gullikson Affidavit, ¶¶ 33-37, Attachment 6.

because UNE-P lines are typically used for business customers. The remaining households in each exchange service area are receiving service from a provider using non-CenturyLink facilities. Looking at Ms. Gullikson’s data in this manner demonstrates that a high percentage of households is receiving service by facilities provided by a provider other than CenturyLink in each exchange the Department has disputed.⁴⁹

Exchange Service Area	Number of households	Number of CenturyLink primary residential lines (*adjusted as recommended by Mr. Lubeck)	Highest possible number of lines served using CTL Facilities (Primary Res + UNE-P + resale)	Minimum Number served by facilities from other providers	Minimum Percentage actually Served by facilities from other providers
HIGHLY SENSITIVE NOT PUBLIC DATA BEGINS					
Cook	1030				
Tofte	440				
Grand Marais	1,463				
Swanville	426				
Biwabik	1,213				
Carlton	1,613				
Isanti	5,183				
Rush City	1,947				
Nashwauk	1,465				
Holdingsford	930				
Marble	687				
Sabin	658				
Staples	2,412				

HIGHLY SENSITIVE NOT PUBLIC DATA ENDS]

Thus, the Department’s own data demonstrates that at least 47% of customers are receiving service over another provider’s facilities in each contested exchange. Of course, market share numbers relate to where the customer *actually* purchases service and, by necessity, understate the number of customers that *can* receive service from a competitive service

⁴⁹ Data from Gullikson Affidavit, Attachment 6, and Second Affidavit of Al Lubeck (“Second Lubeck Affidavit”) (Feb. 23, 2017), Ex. AL-31.

provider. It is highly unlikely that a competitive service provider has successfully cornered all available customers in these exchanges. It is much more likely that the competitive provider offers service to more customers than it actually serves.

In addition, wireless service is available to nearly all customers in CenturyLink's serving areas. It is very common for CenturyLink customers to also have wireless service. According to the Center for Disease Control's survey on Wireless Substitution for 2015, 46% of Minnesota households are wireless only, nearly 47% use both wireless and wireline, and less than 5% are landline only.⁵⁰ Therefore, many households with CenturyLink service also have wireless service, but in the data above CenturyLink and the Department counted them only as wireline households for the 60% test.

Thus, the Commission could reasonably conclude that 60% of customers have the ability to purchase services from a competitive service provider in all of these exchanges based on market share alone. Nonetheless, CenturyLink has presented evidence of the extent of wireless and wireline coverage in each exchange. CenturyLink has undertaken a limited examination of publicly-available wireless coverage data to determine the extent of wireless coverage. For wireline coverage, it has identified the areas the carriers themselves have told regulators they offer broadband service.

1. CenturyLink Provided A Conservative Analysis Of The Wireless Coverage Available In The Exchanges Service Areas Discussed By The Department.

CenturyLink provided two types of data to address wireless coverage in Minnesota. The first set of data derives from reports filed by wireless carriers with the FCC regarding the area in which they offer wireless coverage in Form 477. The FCC 477 data consists of

⁵⁰ https://www.cdc.gov/nchs/data/nhis/earlyrelease/wireless_state_201608.pdf.

shapefiles that depict “the coverage boundaries where, according to providers, users should expect the minimum advertised upload and download data speeds associated with [a] network technology. . . . Providers were also required to certify the accuracy of the data submitted.”⁵¹ The FCC uses this data to determine the appropriate locations for subsidies.

The coverage analysis from the FCC Form 477 Data is conservative in a number of respects. First, it analyzes the area in which wireless data services are available through a wireless network. While the speed available from such a network can vary, it is generally agreed that a wireless network offers many multiples of the speed required for a voice call. It stands to reason that maps depicting such coverage understate the coverage available for a voice call. Mr. Lubeck concludes that “even if we consider only wireless voice service providers, *at least 60 percent of households in all 109 exchange service area[s] can choose voice service from at least one additional unaffiliated competitive service provider.*”⁵² Indeed, the lowest coverage in any wire center is 94%, well above the standard in the Statute. On this basis alone, the Commission would be justified in deciding that the 60% standard is met in every exchange at issue in this proceeding.

In its November 2 Order, the Commission also requested that CenturyLink submit additional information regarding wireless coverage. CenturyLink submitted two affidavits from Adam Nelson of Federal Engineering that describe the availability of wireless service in the 800 MHz frequency, which is one of fifteen frequencies available to provide service in Minnesota. Mr. Nelson’s study is decidedly conservative. It only looks at one technology because public information about the location and size of antennas for other frequencies are

⁵¹ First Lubeck Affidavit, Ex. AL-17, 4, ¶ 7.

⁵² First Lubeck Affidavit, ¶ 21.

not available. It looks solely to two providers, when at least four have certified to the FCC that they offer service to most Minnesota households. It makes assumptions consistent with industry recommendations for Minnesota terrain, signal loss associated with receiving a wireless signal inside a building and takes into account weather factors that vary with time. It makes conservative assumptions about the locations of households, by randomly assigning them to locations within a census block rather than the more likely assumption that more population exists in areas of the census block where more population is present. Mr. Nelson opines that “[i]t is possible that [Federal Engineering’s] coverage model represents a more conservative estimate than that used by commercial wireless carriers, and that the real-world coverage from these 800 MHz cellular systems may be greater than predicted in this assessment.”⁵³

Despite these limitations, Mr. Nelson concludes that wireless voice service is available to at least 60% of the population in 30 of 32 exchange service areas on an outdoor basis, with the exceptions being Cook and Henning.⁵⁴ He concludes that wireless services are available indoors to 60% of the households in 25 of the 32 wire centers, with the exceptions being Biwabik, Cook, Duluth Pike Lake (part of the Duluth exchange service area), Henning, Sandstone and Staples.⁵⁵

Taken together, the FCC Form 477 Data and Mr. Nelson’s affidavits independently provide solid evidence of the availability of wireless service to more than 60% of the customers in all 109 exchange service areas at issue in this Petition. In every single exchange service area, providers have certified to the FCC that they offer wireless data

⁵³ Affidavit of Adam Nelson (“Nelson Affidavit”) (Nov. 21, 2016), Ex. AN-2, 22.

⁵⁴ Nelson Affidavit, Ex. AN-2, 19-20.

⁵⁵ *Id.*

service (and therefore voice service) to at least 94% of the households in each exchange service area. Data derived from publicly available tower information indicates that a separate 800 MHz system makes voice service available to at least 60% of households in nearly every wire center that was studied. Based on this information, the record compels this Commission to conclude that wireless voice service is available to at least 60% of households in every exchange service area at issue in this proceeding.

2. CenturyLink Accurately Represented The Availability of Voice Service From Cable And Other Wireline Providers.

In addition to the wireless data it filed, CenturyLink also provided data regarding the availability of wireline service from competitors. This data consisted of the FCC Form 477 Data filed by cable companies and other wireline competitors.

The FCC requires all broadband service providers, including cable companies, to provide data regarding their deployment of fixed broadband services in each census block in the United States (including the state of Minnesota) via the completion of Form 477 twice each year.⁵⁶ The FCC tabulates the data and makes cable coverage by census block and by provider available to the public on its website.⁵⁷ While the data shows the availability of broadband services, it can be used to measure the availability of voice services because today, where cable companies offer broadband services, they also offer voice services. Because cable companies use their own facilities, they qualify as competitive service providers under the Statute.

⁵⁶ The FCC requires Form 477 to be completed twice a year by (1) Facilities-based Providers of Broadband Connections to End Users, (2) Providers of Wired or Fixed Wireless Local Exchange Telephone Service, (3) Providers of Interconnected Voice over Internet Protocol (VoIP) Service, (4) Facilities-based Providers of Mobile Telephony (Mobile Voice) Service. See FCC Form 477 Instructions, included as Exhibit AL-5, and provided at: <https://transition.fcc.gov/form477/477inst.pdf> Fixed Broadband providers such as cable companies must provide deployment data by census block (see instructions, p. 11).

⁵⁷ See: <https://www.fcc.gov/general/broadband-deployment-data-fcc-form-477>.

Thus, based on the FCC Form 477 Data for cable and other wireline providers, the criteria in Minn. Stat. § 237.025, Subd. 4(1) that “at least 60 percent of households in the exchange service area can choose voice service from at least one additional unaffiliated competitive service provider” has been met in 130 of CenturyLink QC’s 154 wire centers in Minnesota.”⁵⁸

The Department criticizes this data in two ways. First, it argues that the FCC Form 477 Data over-counts the availability of service in a particular census block and identifies one situation where broadband was available in one portion of a census block but not in another portion.⁵⁹ CenturyLink respectfully suggests that the Commission reject this criticism. As Mr. Lubeck explains, CenturyLink does not have access to confidential information about the availability of wireline service. The FCC Form 477 Data is the best data available and notably, the FCC chose to make decisions about billions of dollars of Connect America Fund Phase II support based on the same data CenturyLink cites here.⁶⁰

Furthermore, it is entirely possible that broadband availability understates voice availability. Wireline providers are generally classified a telecommunications carriers under Minnesota law. Minnesota Statute § 237.121 states that a telecommunications carrier may not “fail to provide a service, product, or facility to a consumer . . . in accordance with its applicable tariffs, price lists or contracts . . .”⁶¹ Thus, if a carrier’s tariff covers a large

⁵⁸ First Lubeck Affidavit, ¶¶ 14-18, Exs. AL-2 through AL-10. Multiple wire centers can be included in a single “exchange service area.” In this case, the 24 wire centers not meeting the wireline threshold are all individual exchange service areas, so there are 24 exchange service areas that do not have sufficient wireline coverage to meet the standard. Those exchanges meet the standard through wireless coverage discussed above.

⁵⁹ Gullikson Affidavit, ¶¶ 40-51, Attachment 8.

⁶⁰ Second Lubeck Affidavit, ¶ 24.

⁶¹ Minn. Stat. § 237.121(a)(3).

territory than that in which facilities exist, a customer has a legal right to purchase service and therefore “can choose voice service” from that provider.

Given that the FCC Form 477 Data is the best available data, and given the possibility that it might both overstate and understate the availability of voice service, CenturyLink recommends that the Commission accept the data as a reasonable estimate of the availability of service.

The Department also criticizes CenturyLink’s assumption that where broadband service is available from a competitive service provider, voice service is available as well. The Department identified five instances in which that was not the case. Mr. Lubeck reviewed each of those situations and testified that they have absolutely no impact on the analysis at issue in this case.

Company A and Company B both provide voice service in those areas where they compete with CenturyLink. With respect to Company C, Company D and Company E, because another competitor in those wire centers provides voice services, the fact that these three providers do not provide voice service does not change the analysis.⁶²

Thus, this objection is without merit.

CenturyLink’s analysis of the availability of wireline service from competitive service providers is based on the most accurate data it can identify. The Commission should rely on this data as a third independent basis for finding that at least 60% of households in each exchange service area may purchase voice service from a competitive service provider.

VI. EACH EXCHANGE AREA QUESTIONED BY THE DEPARTMENT SATISFIES TRACK 1.

Reviewing the 13 exchange service areas identified by the Department as potentially not meeting the statutory standard demonstrates why those concerns should be rejected.

⁶² Second Lubeck Affidavit, ¶ 27.

1. COOK

The Cook exchange meets the 50% standard. The Cook Exchange has 1,030 households, which constitutes less than 50% of the 2,270 housing units in the exchange.⁶³ Households exclude vacant housing units. Vacant housing units include vacation housing units. CenturyLink provides [HIGHLY SENSITIVE NOT PUBLIC DATA BEGINS HIGHLY SENSITIVE NOT PUBLIC DATA ENDS] primary residential access lines in the exchange. Primary residential access lines include both households and vacation housing units, but CenturyLink does not track how many primary residential access lines serve households versus vacation housing units. Although [HIGHLY SENSITIVE NOT PUBLIC DATA BEGINS HIGHLY SENSITIVE NOT PUBLIC DATA ENDS] access lines would constitute [HIGHLY SENSITIVE NOT PUBLIC DATA BEGINS HIGHLY SENSITIVE NOT PUBLIC DATA ENDS] of households, such a comparison is inappropriate since access lines include both those serving households and vacation housing units. Customers can purchase a primary access line regardless of whether they are doing so for their primary residence or a vacation home. In order to account for this discrepancy and to meet the requirements of the Statute, the Commission should make an adjustment to account for the percentage of vacation homes in Cook. A straight adjustment by the percentage of housing units to households yields a CenturyLink market share of [HIGHLY SENSITIVE NOT PUBLIC DATA BEGINS HIGHLY SENSITIVE NOT PUBLIC DATA ENDS].

The adjusted market share is more consistent with the presence of competitors in the Cook exchange. The Cook exchange is located in St. Louis County. The Connect Minnesota

⁶³ First Lubeck Affidavit, Ex. AL-2.

county map shows that 83% of the county has access to broadband services of at least 25Mbps download/3Mbps upload. In addition to the services provided by CenturyLink, the Cook exchange has broadband and voice service available from AT&T Mobility and Verizon Wireless.⁶⁴ The Connect Minnesota map in Exhibit AL-11 displays 100% coverage for Cook. Based on the competitive option provided by AT&T Mobility and Verizon Wireless, the 60% availability criterion is clearly met as well.

2. TOFTE

Tofte presents a similar situation to the one that exists in Cook. The Tofte exchange has 440 households, which constitutes just more than 25% of the 1,568 housing units in the exchange.⁶⁵ CenturyLink provides **[HIGHLY SENSITIVE NOT PUBLIC DATA BEGINS HIGHLY SENSITIVE NOT PUBLIC DATA ENDS]** primary residential access lines in the exchange to the 1,568 housing units. Although **[HIGHLY SENSITIVE NOT PUBLIC DATA BEGINS HIGHLY SENSITIVE NOT PUBLIC DATA ENDS]** access lines would constitute **[HIGHLY SENSITIVE NOT PUBLIC DATA BEGINS HIGHLY SENSITIVE NOT PUBLIC DATA ENDS]** of households, such a comparison is inappropriate. Customers can purchase a primary access line regardless of whether they are doing so for their primary residence or a vacation home. In order to account for this discrepancy and to meet the requirements of the Statute, the Commission should make an adjustment to account for the percentage of vacation homes in Tofte. A straight adjustment by the percentage of housing units to households yields a CenturyLink

⁶⁴ Second Lubeck Affidavit, ¶ 39.

⁶⁵ First Lubeck Affidavit, Ex. AL-2.

**PUBLIC DOCUMENT-HIGHLY
SENSITIVE PROTECTED DATA-
HAS BEEN EXCISED**

market share of [HIGHLY SENSITIVE NOT PUBLIC DATA BEGINS HIGHLY SENSITIVE NOT PUBLIC DATA ENDS].

Tofte also meets the 60% standard. The Tofte exchange is located in Cook County. The Connect Minnesota county map shows that 94% of the county has access to broadband services of at least 25Mbps download/3Mbps upload. In addition to the services provided by CenturyLink, Tofte has broadband and voice service available from AT&T Mobility, Verizon Wireless, Sprint and Arrowhead Electric Cooperative, the latter of which has overbuilt CenturyLink service areas with grants, and now offers broadband and voice service everywhere in Cook County under the True North Broadband brand.⁶⁶ Therefore, the Tofte exchange clearly meets the 60% criterion.

3. GRAND MARAIS

Grand Marais presents the third exchange where the presence of vacation homes leads the Department to make the erroneous suggestion that CenturyLink provides service to more than 50% of the households in the exchange. The Grand Marais exchange has 1,463 households, which constitutes just more than 50% of the 2,804 housing units in the exchange.⁶⁷ CenturyLink provides [HIGHLY SENSITIVE NOT PUBLIC DATA BEGINS HIGHLY SENSITIVE NOT PUBLIC DATA ENDS] primary residential access lines in the exchange to the 2,804 housing units. Although [HIGHLY SENSITIVE NOT PUBLIC DATA BEGINS HIGHLY SENSITIVE NOT PUBLIC DATA ENDS] access lines would constitute [HIGHLY SENSITIVE NOT PUBLIC DATA BEGINS HIGHLY SENSITIVE NOT PUBLIC DATA ENDS] of households,

⁶⁶ <http://www.aecimn.com/broadband-project/> where it claims Homes & Businesses EVERYWHERE IN COOK COUNTY are ready for connection to True North Broadband.

⁶⁷ First Lubeck Affidavit, Ex. AL-2.

such a comparison is inappropriate. Customers can purchase a primary access line regardless of whether they are doing so for their primary residence or a vacation home. In order to account for this discrepancy and to meet the requirements of the statute, the Commission should make an adjustment to account for the percentage of vacation homes in Grand Marais. A straight adjustment by the percentage of housing units to households yields a CenturyLink market share of **[HIGHLY SENSITIVE NOT PUBLIC DATA BEGINS HIGHLY SENSITIVE NOT PUBLIC DATA ENDS]**.

Grand Marais also meets the 60% standard. The Grand Marais exchange is also located in Cook County. The Connect Minnesota county map shows that 94% of the county has access to broadband services of at least 25Mbps download/3Mbps upload. In addition to the services provided by CenturyLink, Grand Marais has broadband and voice service available from AT&T Mobility, Verizon Wireless, Sprint and Arrowhead Electric Cooperative, the latter of which has overbuilt CenturyLink service areas with grants, and now offers broadband and voice service everywhere in Cook County under the True North Broadband brand.⁶⁸ Therefore, the Grand Marais exchange clearly meets the 60% criterion.

4. SWANVILLE

The Department disputes Swanville based on its contention that the Commission should include UNE-P and resale lines as a part of CenturyLink's market share. CenturyLink's market share calculation, included in Column L of Ms. Gullikson's Attachment 6, identifies the Swanville market share at **[HIGHLY SENSITIVE NOT PUBLIC DATA BEGINS HIGHLY SENSITIVE NOT PUBLIC DATA ENDS]**.

⁶⁸ <http://www.aecimn.com/broadband-project/> where it claims Homes & Businesses EVERYWHERE IN COOK COUNTY are ready for connection to True North Broadband.

CenturyLink disagrees with the assertion that UNE-P and Resale lines should be added to CenturyLink's retail market share. Based on CenturyLink's market share calculation, Swanville meets the 50% market share criterion.

There can also be no doubt that Swanville meets the 60% standard. The Swanville exchange is located primarily in Morrison County. The Connect Minnesota county map shows that 74% of the county has access to broadband services of at least 25Mbps download/3Mbps upload. In addition to the services provided by CenturyLink, Swanville has broadband and voice service available from AT&T Mobility, Verizon Wireless, Sprint and T-Mobile. Furthermore, a **[HIGHLY SENSITIVE NOT PUBLIC DATA BEGINS**

HIGHLY SENSITIVE NOT PUBLIC DATA ENDS] market share calculation means that **[HIGHLY SENSITIVE NOT PUBLIC DATA BEGINS** **HIGHLY SENSITIVE NOT PUBLIC DATA ENDS]** of Swanville households have chosen a competitive option. If only an additional **[HIGHLY SENSITIVE NOT PUBLIC DATA BEGINS** **HIGHLY SENSITIVE NOT PUBLIC DATA ENDS]** of CenturyLink voice households either have a wireless phone or have an option to subscribe to wireless voice service, CenturyLink also meets the 60% criterion. CenturyLink believes that at least an additional **[HIGHLY SENSITIVE NOT PUBLIC DATA BEGINS** **HIGHLY SENSITIVE NOT PUBLIC DATA ENDS]** of its Swanville households either have a wireless phone in addition to CenturyLink voice service, or have the option to subscribe to wireless voice, which means that Swanville also meets the 60% availability criterion.

5. BIWABIK

It is unclear why the Department disputes relief in the Biwabik exchange. Even if one compares the number of access lines to the number of households, CenturyLink's market

share is [HIGHLY SENSITIVE NOT PUBLIC DATA BEGINS HIGHLY SENSITIVE NOT PUBLIC DATA ENDS]. This share does not even address the fact that Biwabik has 1,213 households but 1,542 housing units. CenturyLink's market share calculation does not account for this discrepancy, but if such an adjustment were made, CenturyLink would be [HIGHLY SENSITIVE NOT PUBLIC DATA BEGINS HIGHLY SENSITIVE NOT PUBLIC DATA ENDS].⁶⁹

The 60% criterion is also met. The Biwabik exchange is located in St. Louis County. The Connect Minnesota county map shows that 83% of the county has access to broadband services of at least 25Mbps download/3Mbps upload. In addition to the services provided by CenturyLink, Biwabik has broadband and voice service available from AT&T Mobility, Verizon Wireless and Mediacom. CenturyLink's market share calculation, included in Column L of Ms. Gullikson's Attachment 6, identifies the Biwabik market share at [HIGHLY SENSITIVE NOT PUBLIC DATA BEGINS HIGHLY SENSITIVE NOT PUBLIC DATA ENDS]. A [HIGHLY SENSITIVE NOT PUBLIC DATA BEGINS HIGHLY SENSITIVE NOT PUBLIC DATA ENDS] market share calculation means that [HIGHLY SENSITIVE NOT PUBLIC DATA BEGINS HIGHLY SENSITIVE NOT PUBLIC DATA ENDS] of Biwabik households have already chosen a competitive option. If only an additional [HIGHLY SENSITIVE NOT PUBLIC DATA BEGINS HIGHLY SENSITIVE NOT PUBLIC DATA ENDS] of CenturyLink voice households either have a wireless phone or have an option to subscribe to wireless voice service, CenturyLink also meets the 60% criterion. CenturyLink believes that

⁶⁹ [HIGHLY SENSITIVE NOT PUBLIC DATA BEGINS HIGHLY SENSITIVE NOT PUBLIC DATA ENDS] residential primary access lines divided by 1,542 housing units.

at least an additional **[HIGHLY SENSITIVE NOT PUBLIC DATA BEGINS
HIGHLY SENSITIVE NOT PUBLIC DATA ENDS]** of its Biwabik households either have a wireless phone in addition to CenturyLink voice service, or have the option to subscribe to wireless voice, which means that Biwabik also meets the 60% availability criterion. Over 60% of the housing units already obtain service from alternative sources.

6. CARLTON

The Department appears to contest the Carlton exchange in error. It concedes that the Carlton exchange meets the 50% criterion.⁷⁰ It also appears to concede the 60% criteria. Carlton is not included in Ms. Gullikson's list of exchanges that it argues fail to have 60% wireless coverage.⁷¹ This viewpoint is supported by the analysis in Section 4.2 of Exhibit 2 to Adam Nelson's first Affidavit, concluding that 65% of households in Carlton have indoor coverage from at least AT&T Mobility or Verizon Wireless in just the 800MHz frequency band. Therefore, the Commission should find that Carlton meets the standard.

7. ISANTI

The Department appears to concede that Isanti meets the standard but appears to include it on its list of contested exchanges because it deems the percentages as close. The Isanti exchange is located in a growing community north of the Twin Cities in Isanti County. In addition to the services provided by CenturyLink, Isanti has broadband and voice service available from AT&T Mobility, Verizon Wireless, Sprint, T-Mobile and Midcontinent Communications. The Connect Minnesota map in Exhibit AL-11 indicates 100% mobile

⁷⁰ Gullikson Affidavit, ¶ 72.

⁷¹ Paragraph 77 of Ms. Gullikson's Affidavit lists the exchanges that did not meet the wireless 60% criterion based on Mr. Nelson's wireless signal strength conclusion (including Carlton). By its absence, the Department concedes that Carlton met the criterion.

broadband coverage in Isanti. Ms. Gullikson's calculations show that CenturyLink's market share is **[HIGHLY SENSITIVE NOT PUBLIC DATA BEGINS HIGHLY SENSITIVE NOT PUBLIC DATA ENDS]**, clearly meeting the 50% market share criterion. A **[HIGHLY SENSITIVE NOT PUBLIC DATA BEGINS HIGHLY SENSITIVE NOT PUBLIC DATA ENDS]** market share calculation means that **[HIGHLY SENSITIVE NOT PUBLIC DATA BEGINS HIGHLY SENSITIVE NOT PUBLIC DATA ENDS]** of the households in the Isanti exchange not only have a competitive option for voice service, they have already chosen a competitive provider for voice services.

Isanti meets the statutory standard. CenturyLink's witnesses have testified that their calculations are conservative and may understate the presence of competition. The fact that those calculations still meet the standard is strong evidence that relief should be granted in this exchange.

8. RUSH CITY

It is unclear why Rush City is in dispute. Rush City is located in a community north of the Twin Cities in Chisago County. Ms. Gullikson's calculation in Column N of her Attachment 6 show that CenturyLink's market share is **[HIGHLY SENSITIVE NOT PUBLIC DATA BEGINS HIGHLY SENSITIVE NOT PUBLIC DATA ENDS]**, clearly meeting the 50% market share criterion. Mr. Nelson analyzed wireless signal strength as covering 90.5% of households in the Rush City exchange have indoor wireless coverage.⁷² Therefore, CenturyLink has met the statutory criteria with respect to Rush City.

⁷² Nelson Affidavit, Ex. 2, 20.

9. NASHWAUK

Nashwauk appears to be contested based on the Department’s position that the Commission should reject CenturyLink’s application in situations where its data “marginally” meets the statutory standards.

The Nashwauk exchange is located in Itasca County. The Department concedes that Nashwauk meets the 50% criterion in paragraph 72 of the Gullikson Affidavit. With respect to the 60% criterion, the evidence also mandates relief. The Connect Minnesota county map indicates that 79% of the county has access to broadband services of at least 25Mbps download/3Mbps upload. In addition to the services provided by CenturyLink, Nashwauk has broadband and voice service available from AT&T Mobility, Verizon Wireless, Sprint, T-Mobile, Paul Bunyan Rural Telephone Cooperative and Mediacom. The Paul Bunyan Rural Telephone Cooperative has overbuilt northern portions of the Nashwauk exchange and now provides both broadband and voice service there. The Gullikson Affidavit admits in paragraph 77 that Nashwauk “marginally” meets the 60% criteria based on wireless availability, thereby conceding that this criterion is achieved. CenturyLink has satisfied both criteria with respect to the Nashwauk exchange.

10. MARBLE

It is unclear why the Marble exchange is in dispute. Ms. Gullikson’s market share calculation in Column N of Attachment 6 shows that CenturyLink’s market share is less than **[HIGHLY SENSITIVE NOT PUBLIC DATA BEGINS HIGHLY SENSITIVE NOT PUBLIC DATA ENDS]** thereby meeting the 50% standard. With respect to the 60% standard, Exhibit AL-16 shows service available in 100% of the exchange from AT&T Mobility, Verizon Wireless and T-Mobile and nearly 100% from Sprint. And the Connect

Minnesota map in Exhibit AL-11 displays 100% coverage for Marble. Mr. Nelson concludes that 63% of the exchange has indoor service available under his analysis. CenturyLink has satisfied both criteria with respect to the Marble exchange.

11. SABIN

With respect to the Sabin exchange, there is no dispute CenturyLink meets the 50% standard. With respect to the 60% standard, Exhibit AL-16 shows service available in 100% of the exchange from AT&T Mobility, Verizon Wireless, T-Mobile and Sprint. And the Connect Minnesota map in Exhibit AL-11 displays 100% coverage for Sabin. When this information is combined with CenturyLink's very small market share, the only reasonable conclusion is that this exchange would meet both the 50% market share loss criterion and the 60% availability criterion because CenturyLink has already lost more than **[HIGHLY SENSITIVE NOT PUBLIC DATA BEGINS HIGHLY SENSITIVE NOT PUBLIC DATA ENDS]** market share. CenturyLink has satisfied both criteria with respect to the Sabin exchange.

12. STAPLES

With respect to the Staples exchange, there is no dispute that CenturyLink meets the 50% standard. Mr. Nelson concludes that 55% of the exchange has indoor service available under his analysis of just the 800MHz frequency band. Furthermore, Exhibit AL-16 shows service available in 100% of the exchange from AT&T Mobility, Verizon Wireless and T-Mobile and nearly 100% from Sprint. And the Connect Minnesota map in Exhibit AL-11 displays 100% coverage for Staples. When this information is combined with CenturyLink's very small market share, the only reasonable conclusion is that this exchange would meet both the 50% market share loss criterion and the 60% availability criterion because more

than [HIGHLY SENSITIVE NOT PUBLIC DATA BEGINS HIGHLY SENSITIVE NOT PUBLIC DATA ENDS] of customers are purchasing service from another provider and that provider is not using CenturyLink's facilities to offer service. CenturyLink has satisfied both criteria with respect to the Staples exchange.

13. HOLDINGFORD

With respect to the Holdingford exchange, there is no dispute that CenturyLink serves less than 50% of residential households. With respect to the 60% standard, Mr. Nelson concludes that 56% of the exchange has indoor service available under his analysis of just the 800MHz frequency band. Furthermore, Exhibit AL-16 shows service available in 100% of the exchange from AT&T Mobility, Verizon Wireless, T-Mobile and Sprint. And the Connect Minnesota map in Exhibit AL-11 displays 100% coverage for Holdingford. When this information is combined with CenturyLink's very small market share, the only reasonable conclusion is that this exchange would meet both the 50% market share loss criterion and the 60% availability criterion because more than [HIGHLY SENSITIVE NOT PUBLIC DATA BEGINS HIGHLY SENSITIVE NOT PUBLIC DATA ENDS] of households obtain service from a provider that offers service without using CenturyLink facilities. In addition, Ms. Gullikson concedes that Holdingford meets the 60% criterion in paragraph 76. CenturyLink has satisfied both criteria with respect to the Holdingford exchange.

CONCLUSION

CenturyLink has presented accurate information about its line counts and the percentage of customers it serves in each local exchange area. It has presented evidence from two different sources regarding the availability of wireless voice service and the best

evidence available regarding the presence of wireline voice service from providers that qualify as competitive service providers. Finally, it has shown that its market share in each exchange service area is low and that most customers obtaining service elsewhere do so through competitive service providers. CenturyLink has demonstrated on an exchange by exchange basis that the objections raised by the Department of Commerce are without merit.

Dated this 9th day of March, 2017.

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Morris
Nicollet
Northfield
Ortonville-Big Stone
Pine City
Red Wing
Rockford
Sauk Centre
St. Charles
St. Paul
Stillwater
Virginia
Waseca
Willmar

Anoka
Avon
Battle Lake
Brainerd
Caledonia
Chatfield
Cold Spring
Crookston
Eagan-Lexington
Faribault
Forest Lake
Glenwood
Hanover
Hibbing
Keewatin
Little Falls
Marshall
Moose Lake
Mountain Iron
Nisswa
Ogilvie
Owatonna
Pipestone
Redwood Falls-Morton
Royalton
Shakopee
St. Cloud
St. Peter
Thief River Falls
Wabasha
Wayzata
Windom

Appleton
Barnum
Bemidji
Buffalo
Cambridge
Chisholm
Coleraine
Detroit Lakes
Elk River
Fergus Falls
Gaylord
Grand Rapids
Hawley
Hinckley
Le Sueur
Luverne
Minneapolis
Mora
Navarre
North Branch
Olivia-Bird Island
Park Rapids
Princeton
Rochester
Sandstone
Silver Bay
St. Joseph
Stewartville
Tracy
Wadena
White Bear Lake
Winona