

March 9, 2020

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

RE: **Comments of the Minnesota Department of Commerce**
Docket No. P6236/M-20-259

Dear Mr. Seuffert:

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

In the Matter of Broadwing Communications, LLC Discontinuance of Certain Voice and Data Services

The petition was filed on February 7, 2020 by:

Jason D. Topp
Assistant General Counsel
CenturyLink
200 South 5th Street, Room 2200
Minneapolis, MN 55402

The Department recommends **approval** and is available to answer any questions the Commission may have.

Sincerely,

/s/ BRUCE L. LINSCHIED
Financial Analyst

BLL/ja
Attachment



Before the Minnesota Public Utilities Commission

Comments of the Minnesota Department of Commerce

Docket No. P6236/M-20-259

I. BACKGROUND

Broadwing Communications, LLC (Broadwing) obtained facilities-based local telecommunications service authority in Docket No. 03-472 on May 27, 2003. On February 7, 2020, Broadwing filed what it describes as a courtesy letter, stating that it made a filing with the Federal Communications Commission (FCC) pursuant to Section 214 of the 1996 Telecommunication Act that seeks authorization to discontinue certain voice and data services. Broadwing also stated that it has no residential customers and affected business and wholesale customers of the discontinued services were notified by letter dated January 22, 2020.

On February 12, 2020, the Department asked Broadwing if any of the services projected to be discontinued were considered to be a basic local service that connects customers to the Public Switched Telephone Network (network). One of the requirements of obtaining authority to provide facilities-based local telecommunication service is the provision of single party voice-grade service and touch-tone capability to all customers within [the] service area.¹ In addition, the Department asked whether the Department, the Commission, and the Office of Attorney General (AG) would be given 60 days to evaluate the proposed disconnection as required by MinnR. 7812.0600, subp. 6. The Department also asked if Broadwing identified other local service providers available to the customer expected to be disconnected as required by MinnR. 7812.0600, subp. 6.

On February 25, 2020, Broadwing responded to the Department's February 12, 2020 question regarding whether Broadwing had identified other local service providers available to the customer expected to be disconnected. Broadwing stated that it was concerned that its customer notice did not meet the requirement that the notice list additional providers, and in order to comply with the rule, Broadband proposed sending an additional notice with a link to the list of service providers on e-dockets (<https://mn.gov/puc/telecommunications/utility/>).²

¹ Minn. Rule 7812.0600, subp. 1. A. A local service provider (LSP) shall provide, as part of its local service offering, the following to all customers within its service area: A. single party voice-grade service and touch-tone capability.

² February 25, 2020 electronic response by Broadwing in response to the Department's February 12, 2020 question asking if Broadwing identified other local service providers available to the customers expected to be disconnected as required by MinnR. 7812.0600, subp. 6.

On February 26, 2020, Broadwing responded to all of the Department's February 12, 2020 questions and identified eight services projected to be discontinued that connect customers to the network. Broadwing stated that the Department, Commission and AG will be notified at the time the tariff filing is submitted, requesting an effective date 60 days from the date of filing. Broadwing also stated that the notice sent to customers stated:

Our Voice Advancement Team is here to help you through the migration or disconnect process. Contact them at 877-699-3201 or voiceadvancement@centurylink.com. In addition there are other providers in the area, including other CenturyLink affiliates that customers can choose to purchase service to replace the discontinued product offerings.³

On February 27, 2020, in response to Broadwing's February 25, 2020 proposal to comply with the requirement to list additional providers, the Department proposed that Broadwing:

1. Provide a list of customers that have not been transferred to an alternate carrier and would lose their basic business local service if disconnected, along with their contact information;
2. Provide the contact information for the Incumbent Local Exchange Carrier (ILEC) in the area; and
3. Provide a link to the local carrier look-up (<https://mn.gov/puc/telecommunications/utility/>) with language indicating that not all carriers provide service to all classes of customer service, nor to all locations in the identified area.

II. STATEMENT OF ISSUES

- A. Whether Commission approval is required before Broadwing can discontinue a basic local service.
- B. Whether there are any actions the Commission should take prior to Broadwing discontinuing service.
- C. Whether Broadwing needs to seek and obtain a variance of the Commission's rules to retain its certificate of authority if it no longer provides basic business lines service?

III. APPLICABLE LAWS AND RULES

- A. MinnR. 7812.0600, subpart 1 (Local Service Requirements) states:

³ February 26, 2020 electronic reply by Broadwing in response to the Department's February 12, 2020 information request asking questions about Broadwing's proposal to discontinue service of certain voice and data services.

A local service provider (LSP) shall provide, as part of its local service offering, the following to all customers within its service area:

- A. Single party voice-grade service and touch-tone capability;
- B. MinnR. 7812.0600, subpart 6 (Limitation on exit) states:

An LSP [Local Service Provider] shall not withdraw from a service area unless another LSP certified for that area will be able to provide basic local service to the exiting local service provider's customers immediately upon the date the exiting provider discontinues service. An LSP shall not withdraw from its service area until at least 60 days after it has given written notice to the commission, department, Office of Attorney General-Residential Utilities Division (OAG-RUD), and its customers. The notice must identify the other LSPs available to its customers.

- C. MinnR. 7829.3200 (Other Variances) states:

Subpart 1. When granted. The commission shall grant a variance to its rules when it determines that the following requirements are met:

- A. enforcement of the rule would impose an excessive burden upon the applicant or others affected by the rule;
- B. granting the variance would not adversely affect the public interest; and
- C. granting the variance would not conflict with standards imposed by law.

Subp. 2. Conditions. A variance may be granted contingent upon compliance with conditions imposed by the commission.

Subp. 3. Duration. Unless the commission orders otherwise, variances automatically expire in one year. They may be revoked sooner due to changes in circumstances or due to failure to comply with requirements imposed as a condition of receiving a variance.

IV. ANALYSIS

A. WHETHER COMMISSION APPROVAL IS REQUIRED BEFORE BROADWING CAN DISCONTINUE A BASIC LOCAL SERVICE.

MinnR. 7812.0600, subp. 6 appears to allow a LSP to withdraw from a service area without Commission approval if there is another LSP certified for the area and able to provide basic local service immediately upon the date the exiting provider discontinues service. The rules require at least

60 days written notice to the Commission, Department, Office of Attorney General-Residential Utilities Division (OAG-RUD), and customers. The notice must identify the other LSPs available to its customers.

Broadwing has not filed its tariff revisions to withdraw from the provision of certain services. Broadwing's February 7, 2020 "courtesy" letter serves to inform the Commission of its intention to discontinue certain voice and data services to affected business and wholesale customers. Subsequent discovery revealed that:

Customers were first notified in July 2019 and again on January 22, 2020. The January 22, 2020 notice to the customers states that the discontinuances are effective March 20, 2020, or as soon after that date as authorized by the FCC and any other relevant state regulatory commissions. The Department, Commission and AG will be notified at the time the tariff filing is submitted, requesting an effective date 60 days from the date of filing.⁴

Although customers and applicable government agencies are expected to receive the required 60 days' notice, the notice included in Broadwing's January 22, 2020 filing does not identify the other LSPs available to its customers, as required by MinnR. 7812.0600, subp. 6. Broadwing's February 25, 2020 proposal to send an additional notice with a link to the list of service providers on the Department's website could be helpful to some consumers.⁵ The Department recommends the following modification to Broadwing's February 25, 2020 proposal for a more proactive approach, whereby Broadwing provides more assistance to customers in finding an alternate provider. Broadwing should:

1. Provide a list of customers that have not been transferred to an alternate carrier and would lose their basic business local service if disconnected, along with their contact information;
2. Provide the contact information for the Incumbent Local Exchange Carrier (ILEC) in the area; and
3. Provide a link to the local carrier look-up (<https://mn.gov/puc/telecommunications/utility/>) with language indicating that not all carriers provide service to all classes of customer service, nor to all locations in the identified area.

⁴ February 26, 2020 reply by Broadwing in response to the Department's February 12, 2020 information request asking if any of the projected discontinuances are basic local services, and whether the Department, Commission, AG and customers will be given 60 days to evaluate the proposed disconnection as required by MinnR. 7812.0600, subp.6.

⁵ February 25, 2020 electronic response by Broadwing in response to the Department's February 12, 2020 question asking if Broadwing identified other local service providers available to the customers expected to be disconnected as required by MinnR. 7812.0600, subp. 6.

B. DISCONTINUING SERVICE TO AN EXISTING BUSINESS CUSTOMER SHOULD BE AVOIDED.

Broadwing has approximately 17 customers that will be disconnected if they do not obtain an alternate provider.⁶ A service disruption to a business can be severe, and the regulatory agencies currently have no knowledge of who these customers are, and why they have not found an alternative service provider. The Department recommends that Broadwing be required to provide a list of all businesses that have not switched to an alternative provider, including their contact information. The list should be provided no less than 14 days prior to the discontinuance to allow the Commission's Consumer Affairs Office (CAO), or the Department as an alternative, to contact any business in jeopardy of losing service. If it is found that service should not be discontinued to any customer on the date approved by the Commission, the CAO (or Department) could request that Broadwing not discontinue service to that customer so the matter could be quickly brought to the Commission for resolution.

C. BROADWING MUST SEEK A VARIANCE OF MINN. RULE 7812.0600, SUBPART 1 (LOCAL SERVICE REQUIREMENTS) TO RETAIN FACILITIES BASED LOCAL SERVICE AUTHORITY WITHOUT OFFERING BASIC LOCAL BUSINESS LINE SERVICE.

Despite discontinuing its basic local business line service, Broadwing has not requested to discontinue offering telecommunications services in Minnesota. The offering of basic "single party voice-grade service" to customers in its service area is required to function as a facilities-based local service provider.⁷ Broadwing has not sought a variance of Minn. Rule 7812.0600, subp. 1. If Broadwing desires to retain its existing certificate of authority it will need to either provide single party voice-grade service or obtain a variance from the Commission. A variance of Commission Rules is permitted pursuant to Minn. Rule 7829.3200, but such a variance should be sought by Broadwing if it wishes to discontinue offering basic local business line service and to retain its certificate of authority.

V. COMMISSION OPTIONS

- A. Find that Broadwing satisfied the Commission rules to disconnect its basic business line service without prior Commission approval.
- B. Find that Broadwing has not satisfied the Commission rules to disconnect its basic business line service without prior Commission approval. Thus, Commission approval is required.
- C. Require Broadwing to:
 - 1. Provide a list of customers that have not been transferred to an alternate carrier and would lose their basic business local service if disconnected, along with their contact information;
 - 2. Provide the contact information for the Incumbent Local Exchange Carrier (ILEC) in the area; and

⁶ February 27, 2020 conversation between Broadwing and the Department.

⁷ Minn. Rule 7812.0600, subp. 1. A.

3. Provide a link to the local carrier look-up (<https://mn.gov/puc/telecommunications/utility/>) with language indicating that not all carriers provide service to all classes of customer service, nor to all locations in the identified area.
- D. Direct the Consumer Affairs Office to contact the customers on the list provided by Broadwing of the proposed disconnection. The Department may also be requested to make these contacts rather than the Consumer Affairs Office.
- E. If the Consumer Affairs Office or the Department are to contact customers, require Broadwing to continue service, if deemed appropriate by the agency making the contacts. Any such continuances would then be brought to the Commission for resolution.
- F. Require that Broadwing submit a tariff to provide single party voice-grade service if it desires to retain its certificate of authority, unless it seeks and obtains a variance of Minn. Rule 7812.0600, subp. 1.
- G. Other action that the Commission deems appropriate.

VI. DEPARTMENT RECOMMENDATION

The Department recommends Options B, C, D, E and F.

/ja

CERTIFICATE OF SERVICE

I, Sharon Ferguson, hereby certify that I have this day, served copies of the following document on the attached list of persons by electronic filing, certified mail, e-mail, or by depositing a true and correct copy thereof properly enveloped with postage paid in the United States Mail at St. Paul, Minnesota.

Minnesota Department of Commerce
Comments

Docket No. P6236/M-20-259

Dated this **9th** day of **March 2020**

/s/Sharon Ferguson

First Name	Last Name	Email	Company Name	Address	Delivery Method	View Trade Secret	Service List Name
Dianne	Barthel	Dianne.barthel@centurylink.com	Centurylink Communications, LLC	200 South Fifth Street Room 2200 Minneapolis, MN 55402	Electronic Service	No	OFF_SL_20-259_M-20-259
Linda	Chavez	linda.chavez@state.mn.us	Department of Commerce	85 7th Place E Ste 280 Saint Paul, MN 55101-2198	Electronic Service	No	OFF_SL_20-259_M-20-259
Generic Notice	Commerce Attorneys	commerce.attorneys@ag.state.mn.us	Office of the Attorney General-DOC	445 Minnesota Street Suite 1400 St. Paul, MN 55101	Electronic Service	Yes	OFF_SL_20-259_M-20-259
Generic Notice	Residential Utilities Division	residential.utilities@ag.state.mn.us	Office of the Attorney General-RUD	1400 BRM Tower 445 Minnesota St St. Paul, MN 551012131	Electronic Service	Yes	OFF_SL_20-259_M-20-259
Andrew	Schriner	andrew.schriner@centurylink.com	Centurylink Communications, LLC	200 South 5th Street Room 2100 Minneapolis, MN 55402	Electronic Service	No	OFF_SL_20-259_M-20-259
Will	Seuffert	Will.Seuffert@state.mn.us	Public Utilities Commission	121 7th Pl E Ste 350 Saint Paul, MN 55101	Electronic Service	Yes	OFF_SL_20-259_M-20-259
Jason	Topp	jason.topp@centurylink.com	CenturyLink	200 S 5th St Ste 2200 Minneapolis, MN 55402	Electronic Service	No	OFF_SL_20-259_M-20-259