

December 12, 2016

PUBLIC DOCUMENT

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

RE: **PUBLIC Responsive Comments of Minnesota Department of Commerce**
Docket Nos. P6716/EP-16-757 and P5615/EP-16-758

Dear Mr. Wolf:

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

Request of Charter Fiberlink CCO, LLC and Charter Fiberlink CC VIII, LLC for approval of proposed 911 plans.

The plans were filed on September 14, 2016 by:

Kennard B. Woods
Friend, Hudak, and Harris, LLP
Three Ravinia Drive
Suite 1700
Atlanta, GA 30346

The Department of Commerce recommends that the Commission approve the proposed 911 plans and is available to answer any questions the Commission may have.

Sincerely,

/s/ DIANE DIETZ
Rate Analyst

DD/ja
Attachment

BEFORE THE MINNESOTA PUBLIC UTILITIES COMMISSION

**PUBLIC RESPONSIVE COMMENTS OF THE
MINNESOTA DEPARTMENT OF COMMERCE**

DOCKET Nos. P6716/EP-16-757 and P5615/EP-16-758

I. BACKGROUND

On September 14, 2016, Charter Fiberlink CCO, LLC and Charter Fiberlink CC VIII, LLC (the Charter Fiberlink companies) filed updates to their facilities based and resale 911 plans.

On September 21, 2016, the Metro Emergency Services Board filed comments recommending approval of the plans.

On October 24, 2016, the 911 Coordinator at the Minnesota Department of Public Safety filed comments recommending approval of the plans.

On November 1, 2016, the Minnesota Department of Commerce (Department) filed comments recommending approval of the plans conditional upon the Charter Fiberlink companies filing their annual Telephone Assistance Plan (TAP) Reporting forms for the years 2014 and 2015.

On November 14, 2016, the Charter Fiberlink companies filed reply comments stating that the companies had filed their annual TAP reporting forms for the years 2014 and 2015 and that the Department failed to acknowledge these filings in its November 1, 2016 comments in the current dockets.

On November 15, 2016, the Department sent an email message to the counsel for the Charter Fiberlink companies requesting copies of the TAP Reporting forms that the Charter Fiberlink companies stated were filed for year-end 2014 and 2015.

On November 17, 2016, Charter Fiberlink companies provided copies of the following TAP reporting forms:

Charter Fiberlink CCO, LLC TAP Reporting Form for 1st quarter, 2014
Charter Fiberlink CCO, LLC TAP Reporting Form for 2nd quarter 2014
Charter Fiberlink CCO, LLC TAP Reporting Form for 3rd quarter 2014

Charter Fiberlink CCO, LLC TAP Reporting Form for 4th quarter 2014
Charter Fiberlink CCO, LLC Annual TAP Reporting Form for 2014
Charter Fiberlink CCO, LLC TAP Reporting Form for 1st quarter 2015
Charter Fiberlink CCO, LLC TAP Reporting Form for 2nd quarter 2015
Charter Fiberlink CC VIII, LLC TAP Reporting Form for 1st quarter 2014
Charter Fiberlink CC VIII, LLC TAP Reporting Form for 2nd quarter 2014
Charter Fiberlink CC VIII, LLC TAP Reporting Form for 3rd quarter 2014
Charter Fiberlink CC VIII, LLC TAP Reporting Form for 4th quarter 2014
Charter Fiberlink CC VIII, LLC Annual TAP Reporting Form for 2014
Charter Fiberlink CC VIII, LLC TAP Reporting Form for 1st quarter 2015
Charter Fiberlink CC VIII, LLC TAP Reporting Form for 2nd quarter 2015

There has not been a TAP reporting form submitted since the 2nd quarter of 2015. With its November 17, 2016 email message, the counsel for the Charter Fiberlink companies stated: **[TRADE SECRET DATA HAS BEEN EXCISED]**

II. DEPARTMENT RESPONSIVE COMMENTS AND RECOMMENDATION

Minnesota Statute § 237.70 subd. 7(e) states:

Each local service provider shall maintain adequate records of surcharge revenues, expenses, and credits related to the telephone assistance plan and shall, as part of its annual report or separately, provide the commission and the Department of Commerce with a financial report of its experience under the telephone assistance plan for the previous year. That report must also be adequate to satisfy the reporting requirements of the federal matching plan.¹

As part of the process for reviewing 911 plans and preparing comments for the Commission, the Department verifies that carriers are in compliance with their duty to file TAP reporting forms. When any carrier fails to file TAP reporting forms, the Department notes the compliance deficiency in comments it files with the Commission on the carrier's annual 911 plan.²

¹ Also see Minnesota Rules 7817.0900 concerning provider recording, reporting requirements for TAP.

² After customers were purportedly transferred from its FiberLink entities to Charter Advanced Services (MN), LLC and Charter Advanced Services VIII (MN), LLC (Charter Advanced Services) in March of 2013, Charter has not collected and remitted fees to support the TAP and Telecommunications Access Minnesota (TAM) programs. The failure to collect and remit TAP and TAM fees is before the Commission in Docket No. P6716, P5615/C-14-383.

Charter Fiberlink companies have stopped submitting TAP reporting forms and did not file the annual TAP Reporting form for the year 2015. The reason why the Charter Fiberlink companies have not complied with Minnesota Statute § 237.70 subd. 7(e) is unclear since there does not appear to be disagreement on whether the Charter Fiberlink companies continue to operate under a certificate of authority granted by the Commission.³

The Department believes Charter's present failure to collect and remit TAM and TAP funds to support access to telecommunications services by low income and disabled Minnesotans, or to file the quarterly or annual TAP reporting forms after the second quarter of 2015 should not delay approval of the proposed 911 plans in the current dockets. It may be reasonable for the Commission to take no action on these failures by the Charter Fiberlink companies pending the conclusion of the federal court litigation.⁴ Upon resolution of the litigation, the Commission can determine what action(s) to take.

/ja

³ End-use customers purportedly transferred to the Charter Advanced Services companies were being reported on Charter Fiberlink's TAP reporting forms until the third quarter of 2015.

⁴ *Charter Advanced Services (MN), LLC v. Heydinger*, Case No. 15-cv-03935-SRN-HB (D. Minn.)

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
Public Responsive Comments**

Docket No. P6716/EP-16-757 and P5615/EP-16-758

Dated this 12th day of December 2016

/s/Sharon Ferguson

First Name	Last Name	Email	Company Name	Address	Delivery Method	View Trade Secret	Service List Name
Julia	Anderson	Julia.Anderson@ag.state.mn.us	Office of the Attorney General-DOC	1800 BRM Tower 445 Minnesota St St. Paul, MN 551012134	Electronic Service	No	OFF_SL_16-757_EP-16-757
Linda	Chavez	linda.chavez@state.mn.us	Department of Commerce	85 7th Place E Ste 500 Saint Paul, MN 55101-2198	Electronic Service	No	OFF_SL_16-757_EP-16-757
Pete	Eggimann	PEGGIMANN@MN-MESB.ORG	Metropolitan Emergency Services Board	2099 University Ave W Ste 201 St. Paul, MN 551043431	Electronic Service	No	OFF_SL_16-757_EP-16-757
Charles	Hudak	chudak@fh2.com	FRIEND, HUDAK & HARRIS, LLP	3 Ravinia Dr Ste 1450 Atlanta, GA 303462131	Electronic Service	No	OFF_SL_16-757_EP-16-757
John	Lindell	john.lindell@ag.state.mn.us	Office of the Attorney General-RUD	1400 BRM Tower 445 Minnesota St St. Paul, MN 551012130	Electronic Service	No	OFF_SL_16-757_EP-16-757
Michael R.	Moore	michael.moore@charter.com	Charter Communications, Inc.	12405 Powerscourt Dr St. Louis, MO 63131	Electronic Service	No	OFF_SL_16-757_EP-16-757
Jason	Topp	jason.topp@centurylink.com	CenturyLink	200 S 5th St Ste 2200 Minneapolis, MN 55402	Electronic Service	No	OFF_SL_16-757_EP-16-757
Dana	Wahlberg	dana.wahlberg@state.mn.us	Department of Public Safety	Town Square Ste 137 444 Cedar St St. Paul, MN 551015126	Electronic Service	No	OFF_SL_16-757_EP-16-757
Daniel P	Wolf	dan.wolf@state.mn.us	Public Utilities Commission	121 7th Place East Suite 350 St. Paul, MN 551012147	Electronic Service	No	OFF_SL_16-757_EP-16-757
Kennard B.	Woods	kwoods@fh2.com	FRIEND, HUDAK & HARRIS, LLP	Suite 1450 Three Ravinia Drive Atlanta, GA 303462117	Electronic Service	No	OFF_SL_16-757_EP-16-757

First Name	Last Name	Email	Company Name	Address	Delivery Method	View Trade Secret	Service List Name
Julia	Anderson	Julia.Anderson@ag.state.mn.us	Office of the Attorney General-DOC	1800 BRM Tower 445 Minnesota St St. Paul, MN 551012134	Electronic Service	No	OFF_SL_16-758_EP-16-758
Linda	Chavez	linda.chavez@state.mn.us	Department of Commerce	85 7th Place E Ste 500 Saint Paul, MN 55101-2198	Electronic Service	No	OFF_SL_16-758_EP-16-758
Pete	Eggimann	PEGGIMANN@MN-MESB.ORG	Metropolitan Emergency Services Board	2099 University Ave W Ste 201 St. Paul, MN 551043431	Electronic Service	No	OFF_SL_16-758_EP-16-758
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John	Lindell	john.lindell@ag.state.mn.us	Office of the Attorney General-RUD	1400 BRM Tower 445 Minnesota St St. Paul, MN 551012130	Electronic Service	No	OFF_SL_16-758_EP-16-758
Michael R.	Moore	michael.moore@charter.com	Charter Communications, Inc.	12405 Powerscourt Dr St. Louis, MO 63131	Electronic Service	No	OFF_SL_16-758_EP-16-758
Jason	Topp	jason.topp@centurylink.com	CenturyLink	200 S 5th St Ste 2200 Minneapolis, MN 55402	Electronic Service	No	OFF_SL_16-758_EP-16-758
Dana	Wahlberg	dana.wahlberg@state.mn.us	Department of Public Safety	Town Square Ste 137 444 Cedar St St. Paul, MN 551015126	Electronic Service	No	OFF_SL_16-758_EP-16-758
Daniel P	Wolf	dan.wolf@state.mn.us	Public Utilities Commission	121 7th Place East Suite 350 St. Paul, MN 551012147	Electronic Service	No	OFF_SL_16-758_EP-16-758
Kennard B.	Woods	kwoods@fh2.com	FRIEND, HUDAK & HARRIS, LLP	Suite 1450 Three Ravinia Drive Atlanta, GA 303462117	Electronic Service	No	OFF_SL_16-758_EP-16-758