

July 27, 2016

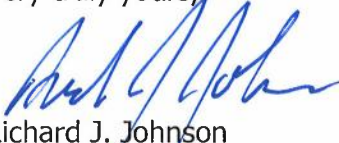
Mr. Daniel P. Wolf
Minnesota Public Utilities Commission
121 Seventh Place East, Suite 350
St. Paul, MN 55101-2147

Re: In the Matter of Telephone Assistance Plan Review
MPUC Docket No. P-999/PR-16-302

Dear Mr. Wolf:

Enclosed via eFiling please find the Comments of Minnesota Telecom Alliance in the above entitled Docket. In addition, enclosed is a Certificate of Service.

Very truly yours,



Richard J. Johnson
Attorney At Law
(612) 877-5275
JohnsonR@moss-barnett.com

RJJ/keb
Enclosures
cc: All parties of record

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STATE OF MINNESOTA

BEFORE THE MINNESOTA PUBLIC UTILITIES COMMISSION

Beverly Jones Heydinger	Chair
Nancy Lange	Commissioner
Dan Lipschultz	Commissioner
Matthew Schuerger	Commissioner
John A. Tuma	Commissioner

In the Matter of Telephone Assistance
Plan Review

MPUC Docket No.: P-999/PR-16-302

INITIAL COMMENTS OF THE MINNESOTA TELECOM ALLIANCE

The Minnesota Telecom Alliance (“MTA”) appreciates the opportunity to submit these Initial Comments as provided in the Commission’s May 25, 2016 Notice of Comment Period. The operation of the Minnesota Telephone Assistance Plan (“TAP”) is a matter of great importance to many Minnesota telephone customers and the MTA supports the Commission’s inquiry and actions to assure ongoing effective and efficient operation of TAP in Minnesota. These Initial Comments will address several issues identified in the Notice. The MTA also intends to continue to participate in this important docket and to file Reply Comments.

1. The Commission should confirm that eligibility for TAP will use the same criteria as the Federal Lifeline Program.

The Commission’s rule currently provides that eligibility for TAP uses the same criteria as the Federal Lifeline plan. Minn. R. 7817.0400, subpart 4 reads in part:

Subpart 4. **Eligibility criteria.** To be eligible for a telephone assistance credit the applicant must:

- A. be a subscriber who resides in Minnesota or has moved to Minnesota and intends to remain; and
- B. be eligible for the federal Lifeline telephone service discount. (Emphasis added.)

Continuing to use the same eligibility criteria remains appropriate (even though the Federal Lifeline supports a broader array of services), and the Commission may wish to clarify in either its rules or in its Order in the proceeding that the TAP eligibility remains the same as the Federal Lifeline plan. Using the same eligibility criteria has worked effectively and efficiently, and the same consideration support continuing to use the same eligibility criteria going into the future.

2. The Minnesota TAP is limited by statute to only Voice Service.

The Notice requested comments regarding “whether TAP funds may be applied to broadband service.” As explained below, Minnesota statutes currently limit Minnesota TAP to voice service only. This conclusion rests on several statutory provisions.

Minn. Stat. § 237.70 expressly limits the TAP to local telephone service providers that provide local exchange service. Minn. Stat. § 237.70, subdivision 2 reads:

Scope. The telephone assistance plan must be statewide and apply to local service providers that provide local exchange service in Minnesota. (Emphasis added.)

“Local service providers” and “local exchange service” are terms that relate specifically to local telephone service (as reflected in Minn. R. Chapter 7817 and Chapters 7811 and 7812). The use of the terms “Local service providers” and “local exchange service” limits payment of TAP support to Local Exchange Carriers.

Minn. Stat. § 237.70 expressly refers to “telephone assistance” and defines that level of assistance available in terms of the rates charged “for local exchange service.” Minn. Stat. § 237.70, subdivision 5 reads in part:

Nature and extent of credits. The telephone assistance plan may provide for telephone assistance credits to eligible households up to the amounts available under the federal matching plan. However, the credits available under the telephone assistance plan may not exceed:

- (1) more than 50 percent of the local exchange rate charged for the local exchange service provided to the household by that household's local service provider; (Emphasis added)

None of these terms would support application of TAP credits to broadband service, much less standalone broadband service even if provided by a Local Exchange Carrier. Providing TAP to support standalone broadband service provided by an entity that was not a Local Exchange Carrier would be even less consistent with these statutes.

Minn. Stat. § 237.70, subd. 2 also limits the scope of the TAP to “local service providers that provide local exchange service in Minnesota.” These terms are not broad enough to support payments to providers of service that are not providing “local exchange service in Minnesota,” including providers of broadband service that are not providing “local exchange service in Minnesota. That limitation of entities who can receive TAP funding is sensible and consistent with the limitation of funding sources to “each local service provider in the state” as set forth in Minn. Stat. § 237.70, subd. 6.

3. There is no statutory requirement to combine TAP to Federal Lifeline if a Customer wants only Voice Service.

The Notice requested comments regarding “whether [the Commission] should offer clarifications as to eligibility for the TAP program effective December 1, 2016” As explained below, the Commission should clarify its rules to provide that customers may continue to receive TAP support for local telephone service provided by local exchange carriers even if: (1) the Federal Lifeline Program were interpreted to require customers to subscribe for broadband service to remain eligible; and (2) the Minnesota customers did not subscribe for broadband service and thus became ineligible for the Federal Lifeline Program.

There is no statutory requirement that customers use Federal Lifeline, although the TAP was required to enable customers to do so. Minn. Stat. § 237.70, subdivision 3 reads:

Subdivision 3. **Federal matching plan.** The telephone assistance plan must contain adequate provisions to enable local service providers to qualify for waiver of the federal interstate access charge and to enable eligible subscribers to take advantage of the federal matching plan. (Emphasis added.)

The absence of a statutory requirement on customers to use the Federal Lifeline program necessarily means that customers are not required to take the steps needed to make themselves eligible for Federal Lifeline, even though TAP was required to enable customers to do so. This means that Minnesota customers were never compelled to accept Federal Lifeline service as a precondition of obtaining TAP support, and there is no basis to impose such an obligation now. Further, this means that customers need not accept broadband service, and should not lose any Minnesota TAP support if they chose not to take broadband service.

It would be appropriate to clarify the Commission's rules as to customers' rights to receive TAP even if the customers do not take advantage of Federal Lifeline because of the phrasing of Minn. R. 7817.0800, which reads in part as follows:

7817.0800 FEDERAL MATCHING PLANS.

The telephone assistance plan must be combined with the existing federal matching plan. Local service providers shall participate in both plans, except that a provider that is not a designated "eligible telecommunications carrier," (citation omitted), is not required to participate in the federal Lifeline plan. If and when other federal matching plans are developed, the commission shall seek outside comment on those plans and review each plan and the comments submitted by interested persons. After appropriate proceedings, the commission shall determine whether to incorporate those plans into the telephone assistance plan and require telephone companies to participate. (Emphasis added.)

The new FCC Lifeline Rules may be an "other federal matching plan," and the Commission may wish to determine whether to "incorporate [that plan] into the telephone assistance plan and require telephone companies to participate." There is no need for the Commission to do so, since all local exchange carriers are required to meet FCC service requirements, including broadband requirements without action by the Commission. The

Commission cannot, however, apply the FCC Lifeline Funding requirements to the separate TAP funding mechanisms and eligibility requirements because Minnesota statutes do not allow TAP funding of broadband, much less broadband provided by entities that are not local exchange carriers.

Given the gap that now exists between the FCC Lifeline funding requirements and the restrictions on funding under the Minnesota TAP, it would be useful for the Commission to amend its Rules to clarify the distinction and that customers can obtain TAP for use only with local exchange service and without needing to obtain broadband service.

It is also significant that the Federal Lifeline plan does not require customers to purchase broadband service, even though it allows them to do so. Thus, there is no conflict between the Federal Lifeline program and TAP even though the two plans allow funding of different services.

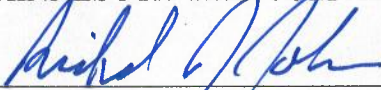
4. Conclusion.

The effective and efficient operation of TAP is a matter of great importance to many Minnesota telephone customers and the MTA supports the Commission's inquiry and actions. As explained in these Initial Comments: (1) Minnesota statutes limit Minnesota TAP to voice service only; (2) Minnesota statutes limit funding to local service providers which matches to sources of funding; and (3) There is no statutory requirement to combine TAP to Federal Lifeline if a Customer wants only Voice Service.

Dated: July 27, 2016

Respectfully submitted

MINNESOTA TELECOM ALLIANCE



By Richard J. Johnson
Moss & Barnett
Its Attorneys

CERTIFICATE OF SERVICE

In the Matter of Telephone Assistance Plan
Review

MPUC Docket No. P-999/PR-16-302

Karen E. Berg certifies that on the 27th day of July, 2016, she filed Initial Comments of the Minnesota Telecom Alliance, by positing it on www.edockets.state.mn.us. Said Comments were also served via U.S. Mail and e-mail as designated on the Official Service List on file with the Minnesota Public Utilities Commission and attached hereto.

/s/ Karen E. Berg

Karen E. Berg

First Name	Last Name	Email	Company Name	Address	Delivery Method	View Trade Secret	Service List Name
Karl	Anderson	ka1873@att.com	AT&T	225 W Randolph St FL 25D Chicago, IL 60606-1838	Electronic Service	No	OFF_SL_16-302_Official
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	Yes	OFF_SL_16-302_Official
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_16-302_Official
Ron	Elwood	relwood@mnlsap.org	Mid-Minnesota Legal Aid	2324 University Ave Ste 101 Saint Paul, MN 55114	Electronic Service	No	OFF_SL_16-302_Official
John	Lindell	agorud.ecf@ag.state.mn.us	Office of the Attorney General-RUD	1400 BRM Tower 445 Minnesota St St. Paul, MN 551012130	Electronic Service	Yes	OFF_SL_16-302_Official
William	Phillips	wphillips@aarp.org	AARP	30 E. 7th St Suite 1200 St. Paul, MN 55101	Electronic Service	No	OFF_SL_16-302_Official
Daniel P	Wolf	dan.wolf@state.mn.us	Public Utilities Commission	121 7th Place East Suite 350 St. Paul, MN 551012147	Electronic Service	Yes	OFF_SL_16-302_Official