


Staff Briefing Papers

Meeting Date	December 19, 2019	Agenda Item *4
Company	All Local service Providers	
Docket No.	P999/CI-19-539	
	In the Matter of Telephone Assistance Plan Review	
Issues	1. Should the Commission accept the TAP Report - September 2019 Review?	
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 Relevant Documents	Date
Order Accepting TAP Fund Review and Approving Outreach Expenditure (Docket No. 18-112)	August 6, 2019
TAP Report September – September 2019 Review	September 10, 2019
Comments Office of the Attorney General – Residential Utilities and Antitrust Division (OAG)	November 18, 2019
Reply Comments, Department of Commerce	December 2, 2019

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The attached materials are work papers of the Commission Staff. They are intended for use by the Public Utilities Commission and are based upon information already in the record unless noted otherwise.

I. Statement of the Issues

Should the Commission accept the TAP Report - September 2019 Review?

II. Background

The Telephone Assistance Plan (TAP) is a state program that gives financial support to eligible telephone subscribers through discounts or bill credits, currently at \$7.00 per month. TAP is funded through a monthly surcharge, now at \$0.10 per month, collected by local service providers on a per access line basis from their customers.¹ Prior to July 1, 2019, the TAP credit was \$3.50 and the surcharge was \$0.03. These amounts had been unchanged since 2013 when the surcharge was lowered from \$0.06 and the credit raised from \$2.50. Local service providers remit surcharge revenues to the Department of Public Safety, which deposits the funds into the state TAP Fund. Under Minn. Stat. §§ 237.69 -71, the Commission administers the TAP program, reimbursing local service providers for credits issued to subscribers and for reasonable administrative expenses.

TAP complements the similar federal Lifeline program which gives a corresponding monthly credit up to \$9.25 to eligible subscribers² (\$34.25 on tribal lands)³. Lifeline is the low-income component of the federal Universal Service Fund, funded through contributions from Eligible Telecommunications Carriers (ETCs) and which are passed on to their eligible customers. By law, TAP eligibility is identical to Lifeline's. (See Minn. Stat. § 237.70, Subd.3)

The Commission is also charged with determining both the amount of the credit and the amount of the surcharge, subject to statutory maximums. (See Minn. Stat. § 237.70, subd. 7 (d) (1) and (2)). Commission rules require it to examine credit and surcharge levels at least annually (See Minn. R. 7817.0500) and authorize it to adjust those levels at any point on 30 days' notice. (See Minn. R. 7817.0700)

On September 10, 2019 the TAP Administrator filed the TAP Fund update covering the 6-month period ending on June 30, 2019.

On November 18, 2019 the Office of the Attorney General (OAG) filed comments recommending that the Commission "direct the TAP/Lifeline Advisory Group to re-raise and re-examine the three questions from the TAP Docket No. P999/CI-18-122 to allow interested

¹ On January 15, 2019, the Commission issued an Order in Docket No. P-999/CI-18-112 which increased the credit level awarded per month to \$7.00 per month with an increase in the surcharge level to \$0.10 per month. The effective date for the new surcharge and/or credit amount was July 1, 2019.

² Support for stand-alone voice decreases to \$7.25 on Dec. 1, 2019; \$5.25 by Dec. 1, 2020; and no support by Dec. 1, 2021, except in areas where there is only one Lifeline provider.

³ Tribal Lands Lifeline provides a monthly discount of up to \$34.25 off of the cost of telephone service, either wireline or wireless. This discount is currently \$9.25 (which is available to all eligible low-income subscribers across the United States) plus up to an additional \$25 (which is available only to eligible low-income subscribers living on Tribal lands).

parties to refresh their thinking on TAP related charge, surcharge, and marketing issues and, hopefully, stem the tide of what appears to be a systematic decline in TAP enrollment.

On December 2, 2019, the DOC filed reply comments which supports the recommendation made by the OAG in its November 18, 2019 comments.

III. Parties' Comments

Initial Comments

The Office of Attorney General (OAG) was the only party to file initial comments.

OAG: The TAP six month review reports have shown declining numbers of TAP subscribers since at least the January through June 30, 2018 time period, and the current report is no exception. Specifically, TAP enrollment has decreased from 17,625 in the January-June 30, 2018 report to 14,970 in the January-June 30, 2019 report. That is a drop of 2,655 subscribers in one year.

The OAG understands that the CAO proposal has only been in effect since early August 2019, a mere three months ago. Nonetheless, the OAG remains concerned about the continuing decline in TAP enrollment and wants to remain engaged and proactive on this issue. As a result, if the July through December 31, 2019 and/or January through June 30, 2020 TAP six month reports show a continuing decrease in TAP participation, the OAG recommends the Commission direct the TAP/Lifeline Advisory Group to re-raise and re-examine the three questions from TAP Docket P999/CI-18-112. This will allow interested parties to refresh their thinking on TAP related charge, surcharge, and marketing issues and, hopefully, stem the tide of what appears to be a systemic decline in TAP enrollment.

Reply Comments

The Department of Commerce was the only party to file reply comments.

DOC: Based on the September 10, 2019 TAP Administrator's report, the DOC recommends that the Commission retain the existing TAP credit and surcharge levels. The TAP fund balance as of December 31, 2018 was \$1,139,960. The TAP fund balance increased by \$69,364 to \$1,209,324 as of June 30, 2019. Thus, the TAP fund remained fairly stable during the first six months of 2019. The TAP fund is at a level that has declined over the last six years, but remains sufficient for the near term, based upon the most recent TAP surcharge and credit activity reflected in the staff report issued on September 10, 2019.

2019 \$1.2 million (Docket No. 19-539)

2018 \$1.1 million (Docket No. 18-112)

2017 \$1.1 million (Docket No. 17-677)

2016 \$1.1 million (Docket No. 16-302)

2015 \$1.5 million (Docket No. 15-535)

2014 \$2.0 million (Docket No. 14-470)

2013 \$1.9 million (Docket No. 13-213)

While the TAP credit increase to \$7.00 per month is expected to significantly increase the TAP expenditures (i.e., from \$231,511 during the first six months of 2019 to \$648,924 during the last six months of 2019), TAP revenue is likewise expected to increase (i.e., from \$302,702 during the first six months of 2019 to \$882,333 during the last six months of 2019). Overall, the balance in the TAP fund is projected to increase from \$1,209,324 as of June 30, 2019, to \$1,442,733 as of December 31, 2019.

Prospective Changes in the TAP Program that may Affect the TAP Fund

A. The Launch of the National Verifier Program in Minnesota

The Lifeline National Eligibility Verifier (National Verifier) is a federal system administered by the Universal Service Administrative Company (USAC) that determines whether subscribers are eligible for Lifeline. The roll out of the National Verifier program includes a soft launch period, where service providers receive access to the National Verifier pre-production environment to test out the system functionalities and to help consumers apply to the Lifeline Program through the National Verifier service provider portal or by mail.

As a consequence of the close relationship between the TAP and Lifeline programs, a customer who is deemed ineligible for Lifeline benefits or who loses Lifeline benefits through the National Verifier process, will also be deemed ineligible for TAP benefits.

With the launch of the National Verifier program in Minnesota, any resulting de-enrollment in Lifeline or reduction in new enrollment in the Lifeline program will inevitably affect the subscribership in the Minnesota TAP program. Such enrollment declines in the TAP program would likely result in a greater balance in the TAP fund.

B. Minnesota TAP Outreach Program

On August 6, 2019, the Commission approved a proposed outreach plan for the TAP program, in Docket No. P999/CI-18-112. The Outreach plan was proposed by the Commission's Consumer Affairs Office and affirmed by the TAP/Lifeline Advisory Group organized by the Commission.

The planned Outreach program may be occurring at a particularly opportune time given the impending launch of the National Verifier program in Minnesota. The Outreach program may, to some extent, help to ameliorate the adverse impact on Lifeline/TAP subscribership from the launch of the National Verifier program.

C. VoIP providers may no longer contribute to the TAP fund

A recent decision of the US Court of Appeals for the Eighth Circuit has resulted in certain types of Voice over Internet Protocol (VoIP) service providers no longer being subject to the regulatory requirements that apply to certified telecommunications carriers in the State of Minnesota. The Eighth Circuit affirmed the decision of the US District Court for the District of Minnesota, finding Charter's VoIP services to be an "information service" under the Federal Telecommunications Act. To the extent that landline telephone companies transition their voice services so that they are technically equivalent to that of Charter, customers receiving such service may not be able to participate in the TAP program and VoIP customers may not be assessed the TAP surcharge. As such, it is likely that the net impact will be a reduction to the TAP fund, since some of the VoIP providers offering cable telephony were formerly assessed the fee, even though they did not participate in the TAP program to enable their low-income customers to receive the TAP benefit.

Like the OAG, the DOC is also concerned about the downward trend of enrollment in the TAP program and is concerned the enrollment number may further decrease when the National Verifier Program becomes operational in Minnesota. The TAP/Lifeline Advisory Group may be a venue for addressing TAP/Lifeline enrollment issues facing the programs. The Department supports the recommendation made by OAG in its November 18, 2019 comments.

IV. Staff Analysis

Staff thanks the OAG for its engagement in the TAP docket in 2018 and this year⁴, and shares the OAG's concern regarding the continuing decline in TAP enrollment. All parties should remain engaged and proactive on this issue. As the OAG stated, if the July through December 31, 2019 and/or January through June 30, 2020 TAP six month reports show a continuing decrease in TAP participation, it is reasonable for the Commission to direct the TAP/Lifeline Advisory Group to re-raise and re-examine the three questions from TAP Docket P999/CI-18-112.⁵ This will allow interested parties to refresh their thinking on TAP related charge, surcharge, and marketing issues and, hopefully, stem the tide of what appears to be a systemic decline in TAP enrollment.

Staff has included a decision option to reflect the OAG's recommendations, which are supported by the Department. Referral of the matter to the Executive Secretary will allow for transparency and maximum flexibility in monitoring the TAP program.

⁴ In the 2018 TAP docket, the OAG recommended an increase in the TAP credit and surcharge, and also recommended that the Commission direct its staff to conduct outreach as well as review TAP providers websites. See OAG-RUD comments, Docket 18-112, Filed November 2, 2018.

⁵ The Commission issued a Notice of Comment Period on October 8, 2018 which included the following three questions: (1) whether any changes should be made to the TAP credit and surcharge amounts; (2) whether the TAP credit was too low; and (3) whether the Commission should take any other actions related to the effectiveness of the TAP program.

TAP Outreach Activity

The CAO held 39 TAP information meetings throughout the state in 2019. From July to November 2019, CAO received 109 requests for TAP enrollment assistance. From the beginning of 2019 CAO has developed outreach materials that CAO has developed that are being distributed and used by providers, stakeholders and consumers statewide.

In addition, CAO developed and circulated materials (including social media posts) about Life Line Awareness Week which include TAP. CAO has developed a poster to be used for the TAP marketing campaign. In December of 2019, CAO will be running advertising on Metro Transit, the first money that will be spent from the outreach budget This will include: an 8 week run of an informational graphic in St. Paul and Minneapolis light rail stations; an advertising campaign in Sun Newspapers and Seniors Blue Book; and use of KMOJ radio for advertising and/or public service announcements.

CAO is contemplating several more aggressive marketing ideas which include a bill insert to all landline customers advertising TAP. CAO has created the materials would work with the telecom providers to mail these with a bill; working with DHS on having TAP on a DHS web application for MNHCP and SNAP; and working with over age 55 housing complexes as they utilize a landline system in order for visitors to access the buildings and find a good pool of potential enrollees in this type of housing.

V. Decision Options

1. Accept the TAP Fund 6-month reviews submitted on September 10, 2019 for the six month period ending June 30, 2019. OR;
2. Do not accept the TAP Fund 6-month reviews submitted on September 10, 2019 for the six month period ending June 30, 2019.
3. The Executive Secretary shall monitor TAP enrollment, and refer the questions noticed by the Commission in Docket 18-112 to the TAP-Lifeline Advisory Group with a schedule for returning the matter to a future Commission meeting if necessary. *(Staff's interpretation of OAG recommendation, supported by the Department)*

VI. Staff Recommendation

Staff recommends that the Commission adopt option #1 and 3.