

BEFORE THE MINNESOTA PUBLIC UTILITIES COMMISSION

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Chair
Commissioner
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In the Matter of the Telephone Assistance Plan
Credit and Surcharge Levels

ISSUE DATE: July 10, 2013

DOCKET NO. P-999/CI-13-213

ORDER ESTABLISHING NEW CREDIT
AND SURCHARGE LEVELS

PROCEDURAL HISTORY

On April 5, 2013, the Commission solicited comments on how it should exercise its duty to establish the size of the Telephone Assistance Plan (TAP) monthly credit that local service providers offer to low-income households to partially offset the cost of local telecommunications service, and the size of the surcharge designed to finance those credits.

On April 29, 2013, the Commission received comments from --

- Frontier Communications of Minnesota, Inc., and Citizens Telecommunications of Minnesota, LLC, (jointly, Frontier),
- The Minnesota Department of Commerce (the Department), and
- The Minnesota Telecom Alliance (MTA).

On May 30, 2013, the Commission met to review party comments and to consider the appropriate size of the TAP credits and surcharges prospectively.

FINDINGS AND CONCLUSIONS

I. Background

A. Minnesota law

The Legislature established the Telecommunications Assistance Plan to provide a bill credit for low-income households that subscribe to local exchange telephone service.¹ To fund the credit, local service providers collect a monthly surcharge from their customers. Local service providers

¹ Minn. Stat. § 237.69 *et seq.*; Minn. Rules Chap. 7817.

remit surcharge revenues to the Department of Public Safety, which deposits the funds into the state treasury's Telephone Assistance Fund (TAP Fund).²

The Commission administers the TAP Fund to reimburse local service providers for credits issued to eligible subscribers and for administrative expenses. The Commission also sets the amount of the surcharge and the credit.³ By statute, the Commission must not establish a monthly surcharge exceeding ten cents per line, or a monthly credit exceeding 50% of a customer's bill for local service.⁴ Currently the monthly credit is \$2.50 per qualified household, and the monthly surcharge is \$0.06 per access line.⁵

Local service providers must file reports detailing surcharge revenues, state and federal credit reimbursements, and associated expenses.⁶ Each local service provider's TAP report states the number of access lines from which the provider collects a TAP surcharge, the aggregate revenues, the number of subscribers receiving the TAP credit, the aggregate cost of the credits, and the cost of administering the program.

In addition to funding bill credits, the Minnesota Legislature transfers sums from the TAP Fund into the state's general fund from time to time for budgetary reasons.⁷

B. Federal law

Two developments in federal law affect the TAP program.

1. Changes affecting the price of local service

The Federal Communications Commission (FCC) subsidizes telecommunications carriers providing service in areas that are expensive to serve. But on November 18, 2011, the FCC issued an order reducing the subsidies available to carriers with low monthly rates due to concern that these subsidies were creating inequities in the local service market:

[Federal statute] obligates states to share in the responsibility of ensuring universal service. We recognize ... carriers may lack incentives to pursue a rate increase when federal universal service support is available. Based on evidence in the record, however, there are a number of carriers with local rates that are significantly lower

² Minn. Stat. § 237.701.

³ Minn. R. 7817.0300, .0500.

⁴ Minn. Stat. § 237.70, subds. 5, 6.

⁵ See *In the Matter of the Telephone Assistance Plan (TAP)*, Docket No. P-999/CI-10-135, Order Accepting TAP Reports and Setting Benefit and Surcharge Levels (June 7, 2011).

⁶ Minn. Stat. § 237.70, subd. 7(e) and Minn. R. 7817.0900, subp. 4.

⁷ See, for example, Laws of Minnesota, 2011 First Special Session, Chapter 2, Article 2, § 6(a)(3): "[T]he commissioner of management shall transfer \$500,000 the first year [2012] and \$500,000 the second year [2013] to the general fund from the telephone assistance program established in Minnesota Statutes, section 237.69."

than rates that urban consumers pay.... We do not believe that Congress intended to create a regime in which universal service subsidizes artificially low local rates in rural areas when it adopted the reasonably comparable principle in [47 U.S.C.] section 254(b); rather, it is clear from the overall context and structure of the statute that its purpose is to ensure that rates in rural areas not be significantly higher than in urban areas.⁸

As a result, the FCC decided to reduce the subsidies available to carriers that decline to charge their retail customers at least \$10 as of July 1, 2012, at least \$14 as of July 1, 2013, and potentially more thereafter.⁹ Following the FCC's decision, several Minnesota local service providers have elected to raise their local rates above the FCC thresholds.

2. Changes affecting the number of TAP recipients

The FCC has jurisdiction over the federal Lifeline program, which also subsidizes local telecommunications service for low-income households. Local service providers that provide both Lifeline and TAP subsidies use the Lifeline rules to determine eligibility for both programs.¹⁰

In 2012 the FCC began requiring local service providers to dis-enroll subscribers that fail to document their eligibility annually.¹¹ This has reduced subscribership in both programs by approximately 43%.¹²

II. Status of the TAP Fund

The Department projects the number of access lines in Minnesota at 2,100,237. Last year local exchange carriers reported serving 73,659 TAP customers; this year the Department estimates the number to be 40,580.

The record indicates that as of June 30, 2013, the TAP Fund would have the following balance:

⁸ *In the Matter of A National Broadband Plan for Our Future et al.*, Report and Order and Further Notice of Proposed Rulemaking (November 18, 2011), ¶ 235, WC Docket No. 10-90, GV Docket 09-51, WC Docket No. 07-135, WC Docket No. 05-337, CC Docket No. 01-92, CC Docket No. 96-45, WC Docket No. 03-109, and WT Docket No. 10-208 (USF-ICC Order).

⁹ *Id.* at ¶¶ 234-239 and 47 C.F.R. § 54.318.

¹⁰ See Minn. R. 7817.0600.

¹¹ See 47 C.F.R. § 54.410.

¹² See generally *In the Matter of the 2012 Lifeline Re-certification Results*, Docket No. P-999/M-12-1315.

	Receipts	Payments
Carry Forward from July 1, 2012	\$1,951,508	
Revenue Collected (July 1, 2012 – May 9, 2013)	\$1,189,907	
TAP Reimbursement (July 1, 2012 – May 9, 2013)		-\$687,748
Administrative Expenses (July 1, 2012 – May 9, 2013)		-\$22,342
Balance as of May 9, 2013	\$2,431,326	
Amount Encumbered through June 30, 2013		-\$311,020
Projected Balance	\$2,120,306	
Appropriation by Legislature		-\$500,000
Addition to Revenue (May 9 through June 31, 2013) ¹³	\$252,028	
Projected Balance (June 30, 2013)	\$1,872,334	

The Department estimates that this balance would grow to \$2,135,559 by June 30, 2014, if the Commission were to retain the current surcharge and credit levels.

III. Positions of the Parties

The Department, Frontier, and MTA agree that the Commission should reduce the surcharge or increase the credit level, or both.

Frontier and MTA argue that the TAP Fund exceeds the amount needed to fund the current TAP credits. While a large TAP Fund provides resources to cover the cost of credits if subscribership rates climb unexpectedly, MTA argues that a large fund may also prompt the Legislature to allocate the funds for other purposes.

Frontier recommends reducing the surcharge to \$0.04 per access line. MTA recommends both reducing the surcharge level and increasing the credit level, but did not propose specific values.

The Department recommends reducing the monthly surcharge to \$0.04 per line and increasing the monthly credit to \$3.00 per customer, arguing that these changes would benefit payers and recipients alike, while bringing down the TAP Fund balance in a responsible manner. But the Department acknowledges that the TAP Fund could also support reducing the surcharge to \$0.03 per line and increasing the credit to \$3.50 per customer, effective October 1, 2013, as discussed below.

IV. Commission Action

The Commission concurs with the parties that it is appropriate to increase the credit available to low-income households and to reduce the monthly surcharge. As noted above, the need for the credits has grown since changes in federal law prompted many local service providers to increase local rates. Meanwhile, the demands on the TAP Fund have decreased because changes in federal

¹³ 2,100,237 lines x \$0.06/line/month x 2 months.

law have reduced the number of households enrolled in the program. Indeed, the TAP Fund balance would have increased in 2012, but for the Legislature's appropriation of \$500,000 for other purposes. Consequently the Commission will raise the monthly credit to \$3.50 for eligible households, and reduce the monthly surcharge to \$0.03 per access line.

Finally, the Commission notes that the Department of Public Safety has announced that it will alter the access line surcharge it assesses for Emergency 911 service beginning October 1, 2013. In the interest of reducing public confusion triggered by multiple rate changes, the Commission will direct local service providers to implement the TAP changes during the billing cycle beginning October 1, 2013.

The Commission will so order.

ORDER

1. The Commission establishes the TAP monthly surcharge at \$0.03 per access line, to be implemented during the billing cycle beginning October 1, 2013.
2. The Commission establishes the level of monthly credit available to eligible customers at \$3.50, to be implemented during the billing cycle beginning October 1, 2013.
3. This Order shall become effective immediately.

BY ORDER OF THE COMMISSION

Burl W. Haar
Executive Secretary



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