



**Jason D. Topp**  
Senior Corporate Counsel - Regulatory  
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April 30, 2014

Dr. Burl W. Haar  
Executive Secretary  
Minnesota Public Utilities Commission  
121 7th Place East, Suite 350  
St. Paul, MN 55101

**Re: In the Matter of the CenturyLink, Inc. Petition for Waiver of Minnesota  
Rule Part 7810.5800  
Docket No. P-421/AM-14-255**

Dear Dr. Haar:

Enclosed for filing please are the Initial Comments of CenturyLink regarding the above-referenced matter.

Very truly yours,

/s/ Jason D. Topp

Jason D. Topp

JDT/bardm

Enclosure

cc: Service List

**STATE OF MINNESOTA  
BEFORE THE MINNESOTA PUBLIC UTILITIES COMMISSION**

Beverly Jones Heydinger	Chair
David Boyd	Commissioner
Nancy Lange	Commissioner
Dan Lipschultz	Commissioner
Betsy Wergin	Commissioner

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AFFIDAVIT OF SERVICE

STATE OF MINNESOTA     )  
  ) ss  
COUNTY OF HENNEPIN     )

Dianne Barthel hereby certifies that on the 30th day of April, 2014, she e-filed a true and correct copy of the Initial Comments of CenturyLink by posting it on [www.edockets.state.mn.us](http://www.edockets.state.mn.us). Said document was also served on the service list via U.S. mail and e-mail as designated with the Minnesota Public Utilities Commission.

/s/ Dianne Barthel  
Dianne Barthel

Subscribed and sworn to before me  
this 30th day of April, 2014.

/s/ LeAnn M. Cammarata  
Notary Public

My Commission Expires Jan 31, 2015

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**STATE OF MINNESOTA  
BEFORE THE PUBLIC UTILITIES COMMISSION**

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**In the Matter of the Petition of  
CenturyLink, Inc., on behalf of its  
Affiliated Companies, for Waiver of  
Minnesota Rule Part 7810.5800**

**Docket No. P-421/AM-14-255**

**INITIAL COMMENTS OF CENTURYLINK**

CenturyLink, Inc., on behalf of its affiliated companies (“CenturyLink”), files these comments in response to the Commission’s notice issued on April 2, 2014.

While the Commission has opened separate dockets to consider CenturyLink’s request for a rulemaking<sup>1</sup> and this request for a waiver,<sup>2</sup> comments filed in the rulemaking proceeding illustrate the need for the temporary relief CenturyLink seeks here.

On April 25, 2014, the Department of Commerce (“Department”) filed comments arguing that the service quality standards set forth in Chapter 7810 of the Minnesota Rules apply to all providers, stating “While large local exchange carriers (ILECs) may, in some ways, be regulated differently from ILECs and CLECs, all ILECs and CLECs are responsible for compliance with the quality of service rules in 7810.”<sup>3</sup>

The positions taken by the parties in that proceeding, however, demonstrate that the fact that companies are “regulated differently” has a very dramatic impact on the burden

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<sup>1</sup> Docket No. P-421/AM-14-255.

<sup>2</sup> Minn. R. 7829.3200 discusses the authority of the Commission to grant a “variance.” The variance CenturyLink seeks in this proceeding is a waiver of the rule so these comments will discuss this request as a request for a waiver.

<sup>3</sup> Department Comments (April 25, 2014), p. 2.

associated with regulatory compliance. CenturyLink asks that it be regulated like its competitors.

CenturyLink agrees that Rule 7810.5800 applies to a “telephone utility,” including cable providers and CLECs.<sup>4</sup> It imposes the same minimum objective of clearing “. . . 95% of all out-of-service troubles within 24 hours . . .” If this requirement truly were enforced for all providers, one would expect providers to generally support CenturyLink’s waiver request.

However, comments filed by the Minnesota Cable Communications Association (“MCCA”) and others in the rulemaking docket<sup>5</sup> illustrate that this requirement has a very different impact on different participants in the Minnesota marketplace. While the MCCA does not take a position as to whether or not the Commission should engage in a rulemaking proceeding, it nevertheless argues that such rules should not be modified until CenturyLink first negotiates “suitable protections” with respect to wholesale service quality. MCCA is clearly attempting to slow down any modifications to the requirement.

At first glance, the MCCA’s position is surprising. Cable companies generally do not rely on wholesale facilities so, compared to other CLECs, concerns related to wholesale outages are significantly less important to cable companies. If the out of service metric truly impacted cable companies, one would expect cable companies would support CenturyLink’s request.

However, cable providers and CLECs generally do not report their performance under Minn. R. 7810.5800 to the Commission or to the Department. CenturyLink does not know

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<sup>4</sup> See Minn. R. 7810.5800 (applying the standard to “telephone utilities”) and Minn. R. 7810.0100, Subp. 37 (defining “Telephone utility” as any firm “engaged in the furnishing of telecommunications service to the public”).

<sup>5</sup> Reply Comments of Minnesota Cable Communications Association filed April 25. See also Comments of the Joint CLECs filed April 14, 2014 in Docket P421/AM-14-256 available at <https://www.edockets.state.mn.us/EFiling/edockets/searchDocuments.do?method=eDocketsResult&userType=public#{763C77D3-E688-4553-9CDC-A120B059EDA4}>.

whether they even track this requirement. CenturyLink has no idea whether or not they meet this objective and believes that neither the Commission nor the Department know how they perform on this metric, or any others for that matter. An unhappy customer or state agency has no factual basis upon which to even allege that such a provider has violated this rule. As a result, cable providers and CLECs are able to effectively ignore this rule in Minnesota. If all providers were effectively required to comply with the Commission's service quality rules, cable companies and other competitors would have an interest in ensuring those rules reflect today's marketplace and would not attempt to exploit them to maintain a competitive advantage.

In today's marketplace, there is no justification for imposing onerous standards on CenturyLink, while effectively ignoring those standards for cable providers. Cable providers have just as many customers as CenturyLink. Customers of cable providers should be no less and no more important to this Commission than customers of CenturyLink. If these service quality standards are important to this state, they should be enforced for all providers over which this Commission has jurisdiction as the rules require.

CenturyLink does not suggest that the Commission extend the onerous requirements of Minn. R. 7810.5800. However, the rule imposes extraordinary costs on CenturyLink and is apparently not needed with respect to other competitors. From all appearances, other providers in the marketplace are able to address customer needs without the burdens associated with this rule. Relief from that standard would even out the competitive landscape between CenturyLink, cable providers, and CLECs and provide the benefits to Minnesota consumers outlined in the petition.

## **RESPONSE TO COMMISSION QUESTIONS**

CenturyLink believes it has addressed the heart of the Commission questions in its petition. Where appropriate, however, it offers brief comment on the Commission's questions contained in its April 2 Notice.

### **A. Questions 1 and 2: Compliance with Statutory Goals**

CenturyLink believes that its request comports with the requirements of Minn. Stat. 237.06 and that it serves the goal of improving service quality by removing inefficient investment and that the competitive environment, as well as the Commission's continuing authority over CenturyLink's services, will act to protect the interests of customers.

### **B. Question 3: Commission Authority to Place Conditions**

CenturyLink is not aware of any quantitative or qualitative evidence that would establish the current 95% metric is the appropriate standard for restoring out of service situations. However, while it believes no conditions are necessary, CenturyLink agrees that the Commission has the authority to place conditions on any variance it orders. Minn. R. 7829.3200, Subp. 2A, provides the Commission with this authority.

### **C. Question 5: What is the maximum period of time the Commission may grant a waiver of its rules?**

CenturyLink asks for the waiver as a temporary stop-gap measure while the Commission contemplates revisions to its rules contained in Minn. R. 7810.4100 through 7810.6100. As long as that proceeding moves forward at a reasonable pace, CenturyLink does not view this waiver request as being in place an inordinately long period of time. Minn. R. 7829.3200 provides the Commission with the discretion to order variances for any period of time it wishes to do so, and it has granted variances for extended periods of time

associated with certain service quality rules as well as CLEC obligations to offer service throughout their service territory.<sup>6</sup>

## CONCLUSION

This Commission has historically worked hard to foster competition in the Minnesota marketplace. In order to continue that role today, the Commission should take action to ensure a fair marketplace that will bring benefit to all Minnesota consumers. CenturyLink's waiver request is a small step this Commission can take immediately. CenturyLink urges the Commission to approve its request.

Dated this 30th day of April, 2014.

CENTURYLINK, INC.

/s/Jason D. Topp

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<sup>6</sup> See *In the Matter of Brooks Fiber Communications of Minnesota, Inc., MCI WorldCom Communications, Inc. and MCImetro Access Transmission Services, Inc. Petition Service Area Deadlines*, MPUC Docket No. P-5487, 3012, 5321/M-03-712; *In the Matter of the Petition of Sprint Communications Company L.P. for a Time Extension and Variance of Commission Rules*, MPUC Docket No. P-466/EM-03-658; and *In the Matter of a Petition by Qwest Corporation for Approval of its Alternative Form of Regulation Plan*, Order Approving Alternative Form of Regulation Plan as Modified dated December 23, 2005, MPUC Docket No. P-421/AR-05-1081.