

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

Beverly Jones Heydinger	Chair
Nancy Lange	Vice Chair
Dan Lipschultz	Commissioner
Matt Schuerger	Commissioner
John Tuma	Commissioner

**In the Matter of Telephone Assistance Plan
(TAP) Review**

Docket No. P999/CI-16-302

VERIZON'S REPLY COMMENTS

Verizon¹ submits its reply comments pursuant to the revised schedule in the Commission's June 23, 2016 "Notice of Extended Comment Period" ("Notice").

AT&T,² the Minnesota Cable Communications Association,³ the Minnesota Department of Commerce⁴ and the Minnesota Telecom Alliance⁵ all agree with Verizon that Minnesota law does not authorize the collection or expenditure of TAP funds to support broadband services. CenturyLink recognizes that action by the Commission and legislature would be required, which would at minimum require rule amendments, if not statutory changes.⁶

Frontier is the lone commenter to assert that the Commission may use TAP funds to support broadband.⁷ While conceding that the relevant statutes "do not give explicit consideration to consumer broadband services," Frontier claims that the Commission could give the law a "fresh reading." Frontier Comments at 2. To support its stance, Frontier offers a

¹ "Verizon" refers to MCImetro Access Transmission Services LLC d/b/a Verizon Access Transmission Services.

² See "Comments of AT&T Corp" (July 21, 2016) at 3 ("AT&T Comments").

³ See "Comments of the Minnesota Cable Communications Association" (July 27, 2016) at 10-11 ("MCCA Comments").

⁴ See "Comments of the Minnesota Department of Commerce" (July 27, 2016) at 4-5 ("DOC Comments").

⁵ See "Initial Comments of the Minnesota Telecom Alliance" (July 27, 2016) at 2-3 ("TAM Comments").

⁶ See "Qwest Corporation dba CenturyLink QC's Comments" (July 27, 2016) at 2 ("CLink Comments").

⁷ See "Comments of Citizens Telecommunications Company of Minnesota, LLC and Frontier Communications of Minnesota, Inc." (July 25, 2016) at 2-3 ("Frontier Comments").

truncated quotation from Minn. Stat. § 237.70, Subd. 3, claiming that “the legislature’s intent here, it seems, is that the state plan be implemented in such a way as to allow subscribers to obtain the maximum advantage from federal Lifeline and state TAP programs.” Frontier Comments at 2. However, Frontier replaces the critical words “local service providers” with an ellipsis, attempting to erase the important statutory limitation in Minn. Stat. § 237.70, Subd. 3 that the Minnesota TAP program is only for *local telephone service*, not broadband service.

Frontier next cites Minn. Stat. § 237.70, Subd. 4a for the proposition that any household eligible for federal Lifeline support is eligible for TAP support, even if the household is not purchasing voice service. However, Frontier again ignores key statutory language that limits TAP program credits to “*telephone* assistance credit.” Minn. Stat. § 237.70, Subd. 4a. (emphasis added). Minn. Stat. § 237.70, Subd. 5 likewise makes clear that the TAP program is limited to local telephone service: “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 *local exchange service* provided to the household by the household’s *local service provider* ...” (emphasis added). These provisions are limited to local voice service, not broadband, and the Commission may not exceed its statutory authority in the manner Frontier proposes. *See Peoples Natural Gas Co., Div. of Inter-North, Inc. v. Minnesota Public Utilities Com.*, 369 N.W.2d 530, 534 (Minn. 1985) (being a creature of statute, Commission has only those powers given by the legislature and may not enlarge its powers beyond that contemplated by the legislature). This is true despite Frontier’s unsupported assertion that TAP credits can be used for purposes other than those outlined in the statute as long as the amount of the credit is tied to the rate for local exchange service. Frontier Comments

at 2-3. Under Frontier’s flawed theory, TAP funds could be used for anything whatsoever as long as the amount doled out is based on local exchange service rates.

Finally, Frontier claims that the final sentence of Commission Rule 7817.0200 – “[t]his chapter is to be liberally construed to further these purposes” – allows the Commission to use TAP funds to subsidize broadband. Frontier Comments at 3. First, the Commission’s rules cannot usurp the statutes they implement, which limit the TAP program to local telephone service. Second, in the sentence quoted by Frontier, “these purposes” refers to the purposes set forth in the preceding sentences, which are limited to local telephone service:

The purpose of this chapter is to develop and implement a statewide *telephone* assistance plan to provide *telephone* assistance credits to reduce the local *telephone* rates of eligible residential households, to be jointly administered by the commission, the Department of Commerce, and the local service providers. The purpose of this chapter is also to permit the implementation of federal matching plans so that the state's *local exchange service telephone* customers are afforded the opportunity to acquire the benefits of these federal matching plans.

Minn. R. 7817.0200 (emphasis added).

In short, Frontier misinterprets the law and the Commission may not collect or disburse TAP funds to support broadband services.

Dated: August 8, 2016

**MCImetro Access Transmission Services LLC
d/b/a Verizon Access Transmission Services**

By: /s/ Deborah Kuhn
Deborah Kuhn
Verizon
205 North Michigan Avenue, 7th Floor
Chicago, Illinois 60601
(312) 894-2354 (telephone)
(301) 282-4710 (facsimile)
deborah.kuhn@verizon.com