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April 14, 2014

Burl W. Haar
Executive Secretary
Minnesota Public Utilities Commission
121 7th Place East Suite 350
St. Paul, Minnesota 55101-2147

RE: **Comments of the Minnesota Department of Commerce**
Docket No. P421/AM-14-256

Dear Dr. Haar:

Attached are the comments of the Minnesota Department of Commerce (Department) in the following matter:

In the Matter of Qwest Corp. d/b/a CenturyLink Petition for Rulemaking to Revise Service Quality Rules.

The Department is available to answer any questions the Commission may have.

Sincerely,

/s/ DIANE DIETZ
Rate Analyst

/s/ KATHERINE DOHERTY
Rate Analyst

DD/KD/lt
Attachment



BEFORE THE MINNESOTA PUBLIC UTILITIES COMMISSION

COMMENTS OF THE
MINNESOTA DEPARTMENT OF COMMERCE

DOCKET NO. P421/AM-14-256

I. BACKGROUND

On March 26, 2014, Qwest Corporation d/b/a CenturyLink (CenturyLink) filed a petition for a rulemaking proceeding for a comprehensive review of the service quality rules. In its March 26, 2014 petition, CenturyLink described market trends and changes in market structure as arguments for amending the existing service quality rules.

CenturyLink's March 26, 2014 petition also requested a waiver of Minn. Rules pt. 7810.5800. This waiver request is being considered in Docket No. P421/AM-14-255.

On April 2, 2014, the Minnesota Public Utilities Commission (Commission) issued a notice soliciting comments on CenturyLink's request that the Commission open a rulemaking proceeding to comprehensively review all of its service quality standards, or at a minimum Minn. Rules Parts 7810.4100 through 7810.6100.

II. STATUTORY AUTHORITY

The Commission's statutory authority to adopt rules is set forth in Minn. Stat. §§216A.05 and 216B.08.

The Administrative Procedure Act, Minn. Stat. Ch. 14, requires the Commission to establish the need for the proposed rules by an affirmative presentation of facts. Minn. Stat. §§14.14, subd. 2 and 14.23.

III. COMMENTS

A. IS A RULEMAKING NECESSARY TO ADDRESS CENTURYLINK'S CONCERNS? ARE THERE ALTERNATIVES?

CenturyLink expresses concern, generally, that the Commission's service quality rules¹ are no longer relevant given dramatic changes in the telecommunications marketplace,² and that compliance with the rules is costly and burdensome.

The Department believes that a rulemaking is the appropriate way to address the general concerns expressed by CenturyLink. Although several parts of the service quality rules have been repealed, the rules, in general, have not undergone a detailed examination since they were originally promulgated several decades ago. Several parts of the service quality rules establish general goals that a successful business in any industry would seek to achieve. Other parts of the rules establish detailed statistical telecommunications criteria, which may have become outdated in the decades of technological advancements that have occurred since the rules were first promulgated.

B. HOW DOES THE PETITION COMPORT WITH MINN. ADMINISTRATIVE RULES, PARTS 1400.2040 AND 1400.2500?

Minn. Rules pt. 1400.2040 and 1400.2500 describe the content and procedure for filing a petition for rulemaking with a regulatory agency. Minn. Rules pt. 1400.2040, subpt. 1 lists the general content required for a rulemaking petition; subpt. 2 requires that the petition be filed with the head of the affected regulatory agency; subpt. 3 requires that the affected regulatory agency provide a written response within 60 days of receiving the petition. Minn. Rules pt. 1400.2500 contains a recommended format for a petition for rulemaking.

The Department believes that CenturyLink's March 26, 2014 petition comports with the requirements of Minn. Rules pts. 1400.2040 and 1400.2500.

¹ Minn. Rule 7810.0200 states that the purpose of Chapter 7810 is to "establish reasonable service standards to the end that adequate and satisfactory service will be rendered to the public." The Department believes that the entirety of Chapter 7810 could be considered "service quality" rules.

² In its March 26, 2014 petition, CenturyLink cites many of the changes that have taken place in the telecommunications industry during the last several decades.

C. HOW DOES THE PETITION SUPPORT THE COMMISSION'S TELECOMMUNICATION SERVICE GOALS?

The Commission's April 2, 2014 Notice of Comment Period asks how the petition for rulemaking supports the Commission's telecommunication service goals of a) maintaining or improving quality of service, and b) ensuring consumer protections are maintained in the transition to a competitive market for local telecommunications service?

While many of the general principles in the existing service quality rules are as relevant today as they were when the rules were originally promulgated, the Department believes consumers would benefit from tailoring the existing service quality rules to meet the needs and demands of today's consumers.

D. WHAT SHOULD BE THE SCOPE OF THE RULEMAKING PROCEEDING?

The Department recommends that the Commission open a rulemaking proceeding to undertake a comprehensive examination of Minn. Rules part 7810.

E. WHAT PROCEDURES SHOULD THE COMMISSION ESTABLISH FOR ANY RULEMAKING PROCEEDING?

Minn. Stat. Ch. 14 (Administrative Procedure) provides detailed procedures and standards for promulgating rules and for substantiating the purpose and use of rules through the Statement of Need and Reasonableness. While establishing detailed procedures for promulgating rules, Minnesota law also provides ample room to allow interested properties to comment on proposed rules and reply to the comments of other parties.

F. SHOULD THE COMMISSION APPROVE OR DENY CENTURYLINK'S PETITION?

The Department recommends opening a rulemaking proceeding to consider the arguments and concerns posed by CenturyLink in its March 26, 2014 petition as well as those of the Department and other parties. While CenturyLink's March 26, 2014 petition addresses some of the concerns related to the Commission's service quality rules, a rulemaking proceeding would provide a framework for the Commission to consider the ideas and concerns of other incumbent and competitive carriers as well as those of consumers.

G. ARE THERE OTHER RELATED ISSUES?

The Department is not aware of other issues which should be addressed at this time.

/lt

CERTIFICATE OF SERVICE

I, Sharon Ferguson, hereby certify that I have this day, served copies of the following document on the attached list of persons by electronic filing, certified mail, e-mail, or by depositing a true and correct copy thereof properly enveloped with postage paid in the United States Mail at St. Paul, Minnesota.

**Minnesota Department of Commerce
Comments**

Docket No. P421/Am-14-256

Dated this 14th day of April 2014

/s/Sharon Ferguson

First Name	Last Name	Email	Company Name	Address	Delivery Method	View Trade Secret	Service List Name
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