

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

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

**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

REPLY COMMENTS OF CENTURYLINK

CenturyLink, Inc., on behalf of its affiliated companies (“CenturyLink”), files these reply comments pursuant to the Commission’s Notice dated April 2, 2014 asking for comments on CenturyLink’s Petition for a Waiver of Minn. R. 7810.5800’s 95% Restoration of Out-of-Service Standard and associated Alternative Form of Regulation (AFOR) service quality standards (“Petition”). Objections to the Petition focus primarily on whether CenturyLink’s request will result in customer harm and whether or not CenturyLink has demonstrated that the current rule and associated AFOR service quality standards impose an undue burden. In response to those comments, CenturyLink offers an affidavit from Patrick Haggerty demonstrating that in practice, the rule provides little or no protection to Minnesota consumers and, because of the decisions it forces CenturyLink to make, serves to undermine, rather than enhance the Commission’s goals of universal service, maintaining quality of service and ensuring that consumer protections are maintained in the transition to a competitive market.¹ To the extent there are any concerns associated with a complete waiver

¹ See Minn. Stat. § 237.011 (1), (5) and (7).

of the standard, CenturyLink believes that most of the problems created by the current standard would be alleviated on a temporary basis by varying the standard from 95% to 85%. CenturyLink respectfully requests that the Commission consider this alternative.

DISCUSSION

Comments filed in this docket raise a number of policy and factual concerns associated with CenturyLink's Petition. Those concerns include:

1. Whether the requested variance comports with the Commission's statutory goal of maintaining or improving quality of service.²
2. Whether CenturyLink has demonstrated that the current rule imposes an excessive burden.³
3. Whether the proposed variance would allow CenturyLink to discriminate in favor of other, more lucrative customers.⁴
4. Whether the proposed variance would have an adverse effect on wholesale services.⁵
5. Whether the proposed variance would interfere with statutory goals contained in Minn. Stat. 237.011 (1, 5 and 7) of supporting universal service, maintaining or improving quality of service, and ensuring consumer protections in the transition to a competitive marketplace.⁶
6. Whether the criteria for meeting a claim for a variance of rule 7810.5800 has been met.⁷

CenturyLink agrees that these concerns are appropriate for the Commission to consider.

CenturyLink believes, however, that these concerns suggest that the Commission should grant CenturyLink's Petition. To the extent the Commission is concerned about taking such a step prior to a rulemaking, the most severe burdens associated with this metric can be addressed by reducing the standard from 95% to 85%. CenturyLink believes it could

² Department of Commerce Comments filed April 30, 2014 ("DOC Comments"), p. 6; Reply Comments of AARP and Legal Services Advocacy Project dated April 25, 2014 ("AARP Comments").

³ DOC Comments, p. 7.

⁴ DOC Comments, p. 7; Comments of Joint CLECs dated April 30, 2014 ("Joint CLECs Comments"), pp. 4-7.

⁵ DOC Comments, p. 8.

⁶ *Id.*, pp. 8-9.

⁷ *Id.*, p. 9.

continue to serve customers well while it is measured against an 85% standard with no harm to the customer.

I. The 95% Metric Provides Little or No Meaningful Protection to Customers.

Comments regarding this Petition express concern about customers stranded without any means of communication. CenturyLink agrees that protecting such customers is critical and prioritizes emergency situations as a matter of common practice. Any time a customer is in such an emergency situation, all the customer needs to do is indicate the situation when placing the service request, and CenturyLink will prioritize that repair and make sure service is restored as quickly as possible.⁸

The likelihood that a customer would be in a position without communication options is extremely rare. On average, approximately 0.27% of customers experienced an out-of-service condition per month in 2014.⁹ Of that small subset of customers, a very small percentage of those customers have no other option for communication other than a wireline telephone.¹⁰ In Minnesota, there are more wireless lines in service than landlines.¹¹ The household that does not have a single wireless line in the house is very rare. Thus, at best, the concern associated with such customers is very isolated.

II. In Practice, the 95% Metric Undermines, Rather than Supports, Commission Concerns About the Quality of Service to Retail Customers, Including Customers that Rely Solely on Wireline Service.

Mr. Haggerty's affidavit describes the manner in which CenturyLink manages technician time to accommodate the daily load of new service installations, repair situations

⁸ See Affidavit of Patrick Haggerty ("Haggerty Affidavit"), ¶ 11.

⁹ *Id.*, ¶ 16.

¹⁰ *Id.*, ¶ 8.

¹¹ *Id.*, ¶ 19.

that do not involve a customer out of service and promptly addresses situations where a customer is out of service.¹² The primary difference between the out-of-service situation as compared to the other categories of work relates to advance notice. CenturyLink is able to schedule installations and non-outage repairs in advance – thereby allowing it to efficiently allocate technician time in a manner appropriate to anticipated load. What CenturyLink cannot predict in advance is the number of out-of-service conditions that will exist and where problems will occur. The pure number of such situations varies significantly from day to day. Moreover, the location of such situations can be anywhere in CenturyLink’s service territory. CenturyLink routinely reserves technician time to address such situations based on its best estimates of that workload, but if it is surprised by a high volume of outages, it cannot maintain the 95% standard while at the same time meeting all of the provisioning and repair appointments it has previously made to other customers. If an event negatively impacts CenturyLink’s performance for even a short period of time, CenturyLink is placed in a situation where it is extremely difficult to again achieve the objective 95% performance level.¹³

A. The Burden Associated with the 95% Metric Has Intensified Because CenturyLink has Successfully Reduced the Number of Customers that Experience Out-of-Service Conditions.

CenturyLink has significantly outperformed Commission metrics related to trouble tickets and held orders. Commission rules require no more than 6.5 trouble tickets per 100 access lines. CenturyLink’s AFOR sets a standard of 2.5 trouble tickets per 100 access lines. CenturyLink’s performance in this area has generally been less than 1% of trouble tickets per

¹² *Id.*, ¶¶ 9-14.

¹³ *Id.*, ¶ 15.

100 access lines and, with respect to out-of-service situations, has reduced the average number from 0.85% of customer lines in 2007 to 0.27% in 2014.¹⁴

This success, however, makes it more difficult for CenturyLink to meet the 95% metric. In 2007, CenturyLink QC had an average of 10,511 out-of-service conditions per month.¹⁵ In 2014, CenturyLink has thus far averaged 1,573 customers out of service per month.¹⁶ The number of misses CenturyLink can experience and still meet the standard has shrunk to very few misses per day.

As matter of math, it is difficult to meet such a slim margin daily. This difficulty is magnified dramatically when, as is normal, a particularly high-volume day results in reduced performance. In such situations, the company must not only exceed the standard each day but do so for a long enough period of time to catch up.

This effect is compounded by geography. Because CenturyLink QC's service territory has remained essentially the same, individual repairs may be located farther away from each other.¹⁷

B. The Metric Disadvantages CenturyLink Because of the Priority it Gives to Emergency Situations.

Most customers have means of communication independent of the landline phone. While not all customers have alternative means of communication, most do.

The 95% metric does not differentiate between customers that are out of service and have no alternative means of communication versus customers where the loss of service is less critical. Prioritizing emergency situations is standard practice at CenturyLink.

¹⁴ *Id.*, ¶¶ 16-18.

¹⁵ *Id.*, ¶ 16.

¹⁶ *Id.*

¹⁷ Haggerty Affidavit, ¶ 18.

However, taking such an approach means deploying technicians in a manner that might not be ideally suited to meeting the metric, which measures all out-of-service situations.

C. The Metric Drives CenturyLink to Delay Scheduled Repairs and Installation of New Service Because of the Possibility Out-of-Service Conditions will Require Resources be Available Elsewhere.

Because out-of-service conditions vary significantly in number and nature from day to day, CenturyLink must keep an appropriate percentage of technician time available to address such situations. Obtaining a new phone line or high speed internet service or having static on the line repaired in a timely fashion are all important to Minnesota customers. Doing so means that CenturyLink must delay installation of new services and other repairs. Such activities might be more important to the customer than restoring an out-of-service landline phone when the out-of-service customer has alternative voice service available. However, the 95% metric discourages the company from prioritizing those activities and delays the time frame in which CenturyLink can complete them, negatively impacting the customer.¹⁸

D. Competition for Customers Increases the Importance of this Petition.

Mr. Haggerty's affidavit illustrates the competitive trends that exist in our industry.¹⁹ These trends mean that the vast majority of customers have an alternative means of placing a call, making out-of-service conditions less critical than they were at one time. The trends also illustrate that if CenturyLink provides service at a level different from its competitors, customers can vote with their feet and move to another provider. Third, CenturyLink has less revenue to use to deploy technicians.

¹⁸ *Id.*, ¶ 22.

¹⁹ *Id.*, ¶¶ 6-8.

The 95% metric exacerbates all of these trends. It places absolute priority on service restoration regardless of whether or not the restoration is critical to a particular customer. It mandates that CenturyLink prioritize out-of-service conditions over provisioning and repair services that might be more critical to a particular customer. To the extent the standard is more stringent than customer needs demand, it provides an advantage to competitors that do not report a similar metric and instead only deal with it in the unlikely event a customer raises a complaint on the issue.

E. Eliminating or Modifying the 95% Standard Will Have Little or No Impact on Wholesale Performance Measurements.

The Joint CLECs provided a chart in their comments that identifies a variety of metrics that it claims will be affected if this Petition were granted.²⁰ The impact over which the Joint CLECs express concern will not be affected significantly, if at all, by this Petition. The first PAP metric listed in the report, MR-5, involves DS1 Loops, DS1 EELs and LIS Trunks. The current 95% is associated with POTS services, making it wholly irrelevant to this standard. The second measure, MR-5 for sub-loops and business single line service, theoretically could be impacted but trouble reports for business lines associated with such services comprises a very small portion of trouble reports overall, making them relatively insignificant in the overall metric results. Sub-loops do use the retail comparative of both residential and business; however, between January and April of 2014, there have only been three repair ticket reports in Minnesota for CLEC sub-loops.

The third metric listed by the Joint CLECs, MR-6 – Mean Time to Restore – involves the time it takes to restore services after an outage is reported. This measurement does not

²⁰ Joint CLECs Comments, p. 7.

correlate to the 24 hour metric and applies to a large number of services not covered in the 24 hour metric. In addition, MR-6 involves both out-of-service situations and other repairs. More than two thirds of the repairs at issue do not involve out-of-service situations and therefore do not relate at all to this Petition. Finally MR-9 – Repair Appointments Met – measures repair appointments, which are not in any way affected by the 24 hour metric.

The concerns raised by the Joint CLECs are without merit.

CONCLUSION

CenturyLink believes that the Commission's goals of ensuring Minnesota customers receive high quality reliable telecommunications service are best served in today's environment by granting its request for a waiver or by exercising its authority to instead grant a variance changing the standard on a temporary basis to 85%. CenturyLink respectfully requests that the Commission take such action.

Dated this 21st day of May, 2014.

CENTURYLINK, INC.

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