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October 22, 2020

Mr. Will Seuffert
Executive Secretary
Minnesota Public Utilities Commission
121 7th Place East, Suite 350
St. Paul, MN 55101

Re: *In the Matter of Telephone Assistance Plan Review*
MPUC Docket No. P999/CI-20-665

Dear Mr. Seuffert:

The Office of the Attorney General – Residential Utilities Division (“OAG”) respectfully submits this letter in response to the Notice of Comment Period on the Telephone Assistance Plan (“TAP”) Budget (“Notice”) issued by the Minnesota Public Utilities Commission (“Commission”) on September 22, 2020.¹ With winter fast-approaching and no signs of the COVID-19 pandemic slowing,² the TAP-Lifeline Advisory Group (“TAP Group”) should be reconvened on an expedited basis to explore potential changes to the TAP credit and surcharge amounts that could increase benefits to Minnesota’s low-income telephone subscribers while simultaneously easing the financial burden on the remaining non-low-income telephone subscribers. In the alternative, and assuming the development of sufficient record evidence in this docket, the Commission could adjust the TAP credit and surcharge amounts immediately but direct the TAP Group to explore the long-term suitability of those changes on an ex post facto basis. Irrespective of the Commission’s decision on the TAP credit and surcharge amounts, the Commission should require Commission Staff to reconvene the TAP Group to discuss the impact of the Commission Consumer Affairs Office’s (“CAO”) outreach and promotional activities and consider the effects of the hard launch of the Lifeline National Eligibility Verifier (“National Verifier”) on Minnesota’s TAP program.

¹ *In the Matter of Telephone Assistance Plan Review*, Docket No. P999/CI-20-665, Notice of Comment Period on TAP Budget (Sept. 22, 2020).

² MPR News, *Latest on COVID-19 in MN: Cases climb, hospital beds fill*, <https://www.mprnews.org/story/2020/10/21/latest-on-covid19-in-mn> (Oct. 21, 2020) (“Newly confirmed cases of COVID-19 are growing faster than testing, an indication that the spread of the disease is not simply the product of more testing. Active, confirmed cases, which last week topped 10,000 and then jumped this week above 12,000 remain at a record in the pandemic.”).

I. THE COMMISSION HAS ALREADY DETERMINED THAT IT IS APPROPRIATE TO RECONVENE THE TAP GROUP

In response to the October 2019 TAP budget notice, the OAG drew the Commission's attention to a continued reduction in TAP enrollment and recommended a re-examination of the TAP credit and surcharge amounts if program participation continued to decline in the July-December 2019 timeframe.³ The Minnesota Department of Commerce ("Department") supported the OAG's recommendation to reconvene the TAP Group, likewise expressing concern about the downward trend in TAP enrollment.⁴ On January 3, 2020, the Commission directed the Executive Secretary to monitor TAP enrollment and to refer questions regarding a potential change to the TAP credit and surcharge amounts to the TAP Group "with a schedule for returning the matter to a future Commission meeting if needed[.]"⁵ Three months later, Minnesota faced the early stages of the COVID-19 pandemic and, to date, the TAP Group has not been reconvened.

II. TAP'S IMPORTANCE IS HEIGHTENED BY THE ONGOING COVID-19 PANDEMIC

TAP is a telephone assistance program that provides monthly bill credits to Minnesota low-income telephone subscribers for landline voice service (excluding cell phones).⁶ The plan is statewide and applies to local service providers that provide local exchange service in Minnesota.⁷ The bill credits are funded by a monthly surcharge on every wireline access line in the state.⁸

The low-income assistance that TAP provides is important for this vulnerable community at any time. But the state has recognized that this support is even more essential during the COVID-19 pandemic, when people are facing unique financial strains while trying to limit in-person contact. As articulated on the state's COVID Financial Assistance webpage, "[t]he uncertainty around the COVID-19 pandemic creates financial instability for many Minnesotans."⁹ Accordingly, "Minnesota has financial assistance programs, resources, and information for those seeking to manage payments and provide for themselves and their families during [the COVID-19] uncertainty."¹⁰ Listed among Minnesota's vital COVID financial resources is the TAP program.¹¹

³ See generally *In the Matter of Telephone Assistance Plan Review*, Docket No. P999/CI-19-539, OAG Letter (Nov. 18, 2019).

⁴ See generally Docket No. P999/CI-19-539, Reply Comments of the Minnesota Department of Commerce (Dec. 2, 2019).

⁵ Docket No. P999/CI-19-539, ORDER at 1 (Jan. 3, 2020).

⁶ See Minn. Stat. § 237.70, subd. 5; Minn. R. 7817.0200.

⁷ See Minn. Stat. § 237.70, subd. 2; Minn. R. 7817.0200.

⁸ See Minn. Stat. § 237.70, subd. 6; Minn. R. 7817.0300.

⁹ Minnesota COVID-19 Response Webpage, Financial Assistance, <https://mn.gov/covid19/for-minnesotans/get-help/financial.jsp> (last visited Oct. 21, 2020).

¹⁰ *Id.*

¹¹ *Id.*

III. THE COMMISSION SHOULD EXERCISE ITS AUTHORITY TO ADJUST THE TAP CREDIT AND SURCHARGE

As the TAP coordinator, the Commission is authorized to establish statewide TAP credit and surcharge levels.¹² The Commission also oversees the remittance of TAP surcharge revenues by local service providers and reimburses them for their TAP expenses and credits.¹³ The Commission most recently adjusted the TAP credit and surcharge in January 2019, when it increased the credit amount to \$7.00 per month and the surcharge level to \$0.10 per month.¹⁴

The OAG preliminarily recommends an increase to the TAP credit and a decrease to the TAP surcharge based on its rough calculations from the most recent TAP report. The TAP fund balance as of December 2019 was \$1,313,619¹⁵ and as of June 2020 was \$2,008,163.¹⁶ This is a six-month increase of \$694,544, or \$115,757 per month. Considering the sustained financial challenges facing low-income Minnesotans due to COVID-19, a TAP surplus of this size is not warranted. A more beneficial use of at least a portion of these funds is to increase the TAP credit and ease the financial burden of low-income Minnesotans during the pandemic. Having a phone could quite literally be a lifeline for low-income Minnesotans that might otherwise have no means to communicate with the outside world in the coming winter months.

Similarly, as of June 2020, the TAP revenues plus interest totaled \$1,079,290, whereas the TAP credit and administrative expenditures totaled \$384,746.¹⁷ Given this \$694,544 difference, a nominal reduction in the TAP surcharge should not compromise the stability of the fund. Moreover, a reduction would provide some, albeit minimal, financial relief to the non-low-income telephone subscribers that pay the surcharge. Furthermore, a surcharge decrease will prevent an unreasonable overcollection of surcharge revenues.¹⁸

Although the OAG does not currently have precise TAP credit increase and surcharge decrease amounts in mind, it does recognize a potential opportunity to provide some relief to some of Minnesota's telephone subscribers. The OAG hopes to supplement its recommendations with further concrete financial information in its next set of comments. If the record does not contain adequate information for the Commission to move forward with the recommended TAP changes by the conclusion of reply comments, however, it should refer the

¹² Minn. Stat. § 237.70, subd. 7(d); Minn. R. 7817.0300, .0500.

¹³ Minn. Stat. § 237.70, subd. 7(d).

¹⁴ See *In the Matter of Telephone Assistance Plan Review*, Docket No. P999/CI-18-112, ORDER SETTING TAP CREDIT AMOUNT AND SURCHARGE LEVEL AND REQUIRING LOCAL SERVICE PROVIDERS TO INCLUDE TAP INFORMATION ON THEIR WEBSITES at 3-4 (Jan. 15, 2019) (“TAP Order”).

¹⁵ See PUC Report, *Telephone Assistance Program (TAP) July through December 31, 2019, Six Month Review*, Docket No. P999/CI-19-539 at 1 (Mar. 4, 2020).

¹⁶ See PUC Report, *Telephone Assistance Program (TAP) January through June 30, 2020, Six Month Review*, Docket No. P999/CI-20-665 at 1 (Sept. 15, 2020).

¹⁷ *Id.*

¹⁸ See Minn. R. 7817.0700 (“[T]he commission by official order and on 30 days’ notice to the local service providers, may increase the level of the [TAP] credits that are available or reduce the surcharge to a level and for a period of time that will prevent an unreasonable overcollection of surcharge revenues.”).

question of the specific credit and surcharge amounts to the TAP Group for further consideration.

IV. A CANDID DISCUSSION OF THE CAO'S TAP OUTREACH AND PROMOTIONAL ACTIVITIES, AS WELL AS THE IMPACTS OF THE NATIONAL VERIFIER ARE ESSENTIAL TO ENSURING THE LONG-TERM SUCCESS OF MINNESOTA'S TAP PROGRAM

The Commission should reconvene the TAP Group to discuss the CAO's outreach and promotional activities. While the Commission approved these expanded efforts more than a year ago, TAP enrollment continues to plummet. Similarly, the transition to the use of the National Verifier to confirm enrollment eligibility may have negatively affected TAP participation. These TAP participant decreases almost assuredly do not reflect the need for this support, and the Commission should take proactive steps to revitalize the program and increase participation.

A. Over One Year Has Passed Since the Commission Approved the CAO's TAP Outreach and Promotional Activities Proposal.

In November 2018, the OAG proposed the use of TAP funds for program outreach and requested that the Commission explicitly direct that outreach and promotional activities be conducted.¹⁹ The Commission responded by instructing Commission Staff and local service providers to engage in defined program outreach efforts.²⁰ The CAO subsequently presented, and the Commission approved, a proposal that sought to "improve public awareness of the TAP . . . program through two broad approaches, one focusing on contact with key government agencies to reach qualified Minnesota residents, and the other focusing on contact with telecom providers."²¹ The proposal also required the development of training and communication materials.²²

B. It Has Been Almost Ten Months Since the Hard Launch of the National Verifier in Minnesota.

Lifeline is a federal program that reduces the monthly cost of phone and internet services to consumers.²³ The National Verifier is the system used by the Universal Service Administrative Company ("USAC") to determine consumer eligibility for the federal Lifeline Program.²⁴ The National Verifier has a soft launch period for testing, which is followed by a

¹⁹ Docket No. P999/CI-18-112, Comments of the Office of the Attorney General at 10-12 (Nov. 2, 2018).

²⁰ *TAP Order* at 3.

²¹ See Docket No. P999/CI-18-112, ORDER ACCEPTING TAP FUND REVIEW AND APPROVING OUTREACH EXPENDITURE at 2 (Aug. 6, 2019).

²² *Id.*

²³ USAC Website, Lifeline - Get Started, <https://www.usac.org/lifeline/get-started/> (last visited Oct. 21, 2020).

²⁴ USAC Website, National Verifier, <https://www.usac.org/lifeline/eligibility/national-verifier/> (last visited Oct. 20, 2020). USAC is the designated administrator of the federal Universal Service programs. 47 C.F.R. § 54.701. As the Universal Service administrator, USAC is tasked with disbursing Lifeline funds and managing the day-to-day aspects of the federal Lifeline Program. *Id.*

hard launch.²⁵ After the hard launch, use of the National Verifier is mandatory to determine consumer eligibility for the federal Lifeline Program.²⁶ Simultaneous with the hard launch, USAC conducts a “reverification” of all of a state’s Lifeline subscribers.²⁷ It is not unusual for the USAC reverification process to result in the de-enrollment of a portion of a state’s Lifeline subscribers for failure to adequately prove their eligibility.²⁸ Reverification also resets a Lifeline subscriber’s annual recertification date. After a hard launch, a subscriber must be recertified each year on the date that they were successfully reverified.²⁹

Because Minnesota law requires a TAP applicant to confirm eligibility for benefits under the federal Lifeline Program as a pre-requisite for TAP eligibility,³⁰ the two programs are inextricably linked. The programs are further intertwined because Minnesota law requires a local service provider to verify the continued eligibility of its TAP recipients using the same verification procedures as those used for the federal Lifeline Program.³¹ Thus, if a subscriber is deemed ineligible or loses its federal Lifeline Program benefits as a result of the National Verifier process, it will likewise be deemed ineligible or lose its TAP benefits. This Commission observed this interdependence between the two programs in a June 2018 TAP order, remarking that:

[T]he Commission will take action to move Minnesota to a position more consistent with the FCC handling of the Lifeline program processes. This will centralize and simplify coordination of the Minnesota [TAP] consistent with the changes in the [f]ederal Lifeline Program. . . . [T]he Commission will require all companies in Minnesota that offer both Lifeline and TAP to enroll voice customers in TAP at the same time the customer is enrolled in Lifeline.³²

The National Verifier hard launch for Minnesota occurred on December 16, 2019.³³ Since that time, it has been mandatory to use the National Verifier to determine the eligibility of

²⁵ USAC Website, National Verifier, <https://www.usac.org/lifeline/eligibility/national-verifier/> (last visited Oct. 20, 2020).

²⁶ *Id.*

²⁷ USAC Website, Reverification, <https://www.usac.org/lifeline/eligibility/national-verifier/reverification/> (last visited Oct. 21, 2020).

²⁸ *Id.*

²⁹ *Id.*

³⁰ See Minn. Stat. § 237.70, subd. 7(a) (requiring TAP applicants to include on their application forms a statement that they are currently eligible for the federal Lifeline Program); Minn. R. 7817.0400, subp. 4 (“To be eligible for a telephone assistance credit the applicant must: A. be a subscriber who resides in Minnesota or has moved to Minnesota and intends to remain; and B. be eligible for the federal telephone service discount.”).

³¹ Minn. R. 7817.0600.

³² *In the Matter of Implementation of Processes for the Minnesota Telephone Assistance Plan Consistent with Changes in the Federal Lifeline Program*, Docket No. P888/CI-18-223, ORDER ESTABLISHING AUTO-ENROLLMENT, USE OF NATIONAL APPLICATION, AND DELEGATION OF IMPLEMENTATION DATE at 3 (June 8, 2018).

³³ USAC Website, National Verifier December 16th 2019 Launch, <https://www.usac.org/lifeline/eligibility/national-verifier/launches/national-verifier-december-2019-launch/> (last visited Oct. 20, 2020).

Lifeline applicants prior to enrolling them in the federal Lifeline Program.³⁴ Beginning in late-April 2020, the FCC issued a series of orders that relaxed Lifeline Program documentation guidelines, paused periodic program integrity reviews, and suspended many of the more stringent de-enrollment and reverification requirements.³⁵ This relief is currently scheduled to remain in effect until November 30, 2020.³⁶

C. The Continued Decrease in TAP Enrollment Signals That It Is Time for the TAP Group to Reassess the Program's Effectiveness.

At the time of the OAG's November 2019 comments, there were 14,970 participants enrolled in the TAP program.³⁷ That number currently sits at 13,067. That means that in the year since the January-June 2019 TAP report was issued, the total number of TAP participants has decreased by 1,903. This unabated decline in TAP participation is a signal that something is wrong. It is unlikely that the need for TAP has diminished. So, logic would suggest that program adjustments need to be made to more closely align the TAP objectives with the program's intended low-income recipients.

Now that we have the benefit of a year's worth (albeit an unusual one due to the COVID-19 pandemic) of knowledge from the CAO's outreach and promotional activities and almost ten (10) months of exposure to National Verifier, the Commission should direct Commission Staff to reassemble the TAP Group. It is time to unpack these experiences and have a candid discussion about whether or how to modify the TAP program to ensure its future success. At a time when Minnesotans are socially distanced, with many facing unprecedented health, personal, and financial challenges, a voice on the other end of a telephone is more important than ever. One call could provide hope, medical care, financial needs assistance, utility service, or emotional encouragement. TAP support has never been more important than it is today, and the failure of the TAP program is simply not an option for Minnesota.

CONCLUSION

For the reasons articulated above, the Commission should reconvene the TAP Group on an expedited basis to explore increasing the TAP credit and reducing the TAP surcharge. In the alternative, and assuming the development of sufficient record evidence in this docket, the Commission could adjust the TAP credit and surcharge amounts immediately but direct the TAP Group to explore the long-term appropriateness of those changes after-the-fact. Notwithstanding the Commission's decision on the TAP credit and surcharge amounts, the Commission should require Commission Staff to reconvene the TAP Group to evaluate the CAO's outreach and

³⁴ See PUC Report, *Telephone Assistance Program (TAP) January through June 30, 2019, Six Month Review*, Docket No. P999/CI-19-529 at 1 (Sept. 10, 2019) ("First 2019 TAP Report").

³⁵ USAC Website, COVID-19 Response, <https://www.usac.org/lifeline/additional-requirements/covid-19-response/> (last visited Oct. 21, 2020).

³⁶ *Id.*

³⁷ See First 2019 TAP Report at 1.

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marketing activities, and consider the impacts of the hard launch of the National Verifier on Minnesota's TAP program.

Sincerely,

/s/ **Kristin Berkland**

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CERTIFICATE OF SERVICE

Re: *In the Matter of Telephone Assistance Plan Review*
MPUC Docket No. P999/CI-20-665

I, JUDY SIGAL, hereby certify that on the 22nd day of October, 2020, I e-filed with eDockets *a Letter of the Office of The Attorney General—Residential Utilities Division* and served a true and correct copy of the same upon all parties listed on the attached service list by e-mail, electronic submission, and/or United States Mail with postage prepaid, and deposited the same in a U.S. Post Office mail receptacle in the City of St. Paul, Minnesota.

/s/ Judy Sigal

JUDY SIGAL

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Generic Notice	Residential Utilities Division	residential.utilities@ag.state.mn.us	Office of the Attorney General-RUD	1400 BRM Tower 445 Minnesota St St. Paul, MN 551012131	Electronic Service	Yes	OFF_SL_20-665_Official
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