



April 25, 2018

Daniel P. Wolf
Executive Secretary
Minnesota Public Utilities Commission
121 7th Place East Suite 350
St. Paul, MN 55101-2147

RE: **In the Matter of a Commission Inquiry into CenturyLink's Compliance with TAP Statutes and Rules**
Docket No. P421/C-17-796

Dear Mr. Wolf:

Enclosed for filing are the Minnesota Department of Commerce comments in response to CenturyLink's comments in the above matter.

The Department responds to three items raised by CenturyLink's March 29 reply comments, and concludes with an Amended Recommendation for Commission consideration:

- The "agreement" between the Department and CenturyLink
- CenturyLink's practice of misclassifying "complaints"
- Whether CenturyLink needs to provide its training plan.

Sincerely,

/s/ DIANE DIETZ
Public Utilities Rate Analyst

/s/ JOY GULLIKSON
Public Utilities Rate Analyst

DD/JG/lt
Attachment

cc: Service List



Before the Minnesota Public Utilities Commission

Comments of the Department of Commerce in response to CenturyLink's Comments

Docket No. P421/C-17-796

On November 8, 2017, the Commission opened Docket No. P421/CI-17-796 after the Commission's Consumer Affairs Office (CAO) identified a pattern of complaints being filed regarding subscribers' inability to enroll in the Telephone Assistance Plan (TAP) with CenturyLink. On December 13, 2017, the Minnesota Public Utilities Commission (Commission) issued a Notice of Commission Inquiry into CenturyLink's Compliance with TAP Statutes and Rules in this Docket No. P421/CI-17-796. In its Notice, the Commission requested that the Minnesota Department of Commerce (Department), and if applicable, the Office of the Attorney General, conduct reviews of customer complaints regarding TAP and file with the Commission their recommendations upon completing their reviews.

The Department filed its comments on March 13, 2018. CenturyLink responded with comments dated March 29, 2018. The Department appreciates that many of the Department's recommendations are acceptable to CenturyLink.

The Department responds to three items raised by CenturyLink's March 29 reply comments, and concludes with an Amended Recommendation for the Commission's consideration.

- The "agreement" between the Department and CenturyLink
- CenturyLink's practice of misclassifying "complaints"
- Whether CenturyLink needs to provide its training plan

The Department did not agree with the terms in the letter provided by CenturyLink.

CenturyLink's March 29 reply comments at page 1 admonish the Department for not commenting in this Docket on negotiations that took place during the summer and fall of 2017. In those negotiations, the Department sought to resolve certain TAP-related practices of CenturyLink that three separate CenturyLink subscribers had brought to the attention of the Department.

CenturyLink's reply comments include a letter dated October 19, 2017 signed only by Jason Topp, an attorney for CenturyLink, which included terms that CenturyLink had proposed to the Department. The letter was an effort to memorialize the agreement reached in principal in verbal discussions between CenturyLink and the Department. The letter was not acceptable to

the Department as written, including CenturyLink's proposed term, that "the Department agreed to not file a complaint related to CenturyLink's past practices." The Department believes that it would be unable to fulfill its statutory responsibilities if it agreed with this statement. The Department sought material changes to the letter and provided to CenturyLink on October 24, 2017, a counter proposal, a copy of which is attached hereto as Attachment 1.

Before CenturyLink further responded to the Department's counterproposal, the Commission opened the current Docket. CenturyLink thereafter did not respond to the Department's counterproposal. While CenturyLink and the Department had a verbal agreement in principal, with the intent of reaching an agreement in writing, there was disagreement on the terms of the written agreement.

CenturyLink's Practice of Misclassifying "Complaints" Needs Correction

It is troubling that, in its March 29 reply comments regarding its handling of TAP customer complaints, CenturyLink admits that its practice is to not treat customers' complaints about CenturyLink's practices as "complaints"¹ unless the customer's concern comes to the attention of "CenturyLink executives, outside agencies such as regulatory bodies, elected officials, the Better Business Bureau or the media"² which, CenturyLink states, "are considered complaints."

This practice is plainly inconsistent with, and a violation of, the Commission's long-standing complaint procedures in Minn. Rule 7810.1100 subp. 1, which requires CenturyLink to establish "procedures whereby qualified personnel shall be available during regular business hours to receive and, if possible, resolve all customer inquiries, requests, and complaints. It is plain that the Commission, in adopting this rule, did not mean for a "complaint" to be limited solely to customer dissatisfactions about which third parties -- such as elected officials, the media, the Better Business Bureau, CenturyLink executives, or the Commission—happen to become aware.

CenturyLink's practice of misclassifying "complaints" means that CenturyLink may also routinely violate Minn. Rule 7810.1100 subp. 2, which specifies that, if a "complaint cannot be promptly resolved, the utility shall contact the customer within five business days and at least once every 14 calendar days thereafter, and advise the customer regarding the status of its investigation until: the complaint is mutually resolved; or the utility advises the customer of the results of its investigation and final disposition of the matter; or the customer files a written complaint with the Public Utilities Commission or the courts."

¹ See also, Department's March 13 initial comments at page 6, which noted: "In response to a Department information request, CenturyLink provided information regarding TAP complaints filed with CenturyLink, by Minnesota customers, over the past two years. In its response CenturyLink stated "[i]ssues that require escalation or intervention by CenturyLink executives, outside agencies (such as regulatory bodies, elected officials, the Better Business Bureau or the media) are considered complaints".

² March 29 reply comments at page 7.

CenturyLink's practice of misclassifying complaints also means that CenturyLink may be routinely violating Minn. Rule 7810.1200, which requires CenturyLink to "keep a record of all complaints received by it from its customers . . . [including] the name and address of the customer, the date and nature of the complaint, and its disposition and date thereof" and to "keep records of the customer complaints in such a manner as will enable it to review and analyze its procedures and actions."

CenturyLink's practice of misclassifying complaints means its records may be unreliable for purposes of 7810.0500 subp. 3, which states: "Each utility shall furnish to the commission, at such times and in such form as the commission may require, the results of any tests, summaries, or records. The utility shall also furnish the commission with any information concerning the utility's facilities or operations which may be requested." For example, as the Department noted in its March 13 initial comments, at page 6, CenturyLink refused to provide all such complaints in response to Department Information Request No. 3, which asked: "Please provide documentation describing all the TAP complaints filed by Minnesota customers of CenturyLink over the past two years."³ CenturyLink objected to Information Request 3, and provided a spreadsheet that identified, for each complaint on the list, a "collection point" such as: FCC, Media Relations, PUC, Better Business Bureau, Attorney General, and Executive Offices. None were identified as having been "collected" from the customer.

It is likely that the vast majority of complaints never go to government agencies, the media or the Better Business Bureau. Under CenturyLink's practices, a customer who had been treated inappropriately, such as by being billed for services not supplied, and whose issue was uncorrected by the customer service personnel, would be deemed to have never complained. Similarly, under CenturyLink's practices, if 100 customers reported that they were billed for services not supplied, and customer service personnel corrected the problems, the customers would be deemed to have never complained. Thus, the manner in which CenturyLink is maintaining its records gives the appearance to regulators that there are significantly fewer problems than actually occur.

The Department continues to be concerned, as it stated in its initial comments, that:

CenturyLink's definition of what constitutes a complaint is very narrow and precludes the collection of data that would enable it to review and analyze its procedures and actions. The summary of the

³ CenturyLink's response objected to providing documentation describing all the TAP complaints filed by Minnesota customers on a variety of grounds, including "attorney-client privilege, the attorney work product doctrine, common interest doctrine, joint defense privilege, Customer Proprietary Network Information rules and regulations as defined in 47 U.S.C. § 222, or any other applicable privilege or right." CenturyLink has not provided a log of withheld information nor the basis on which it relies to withhold CPNI from Minnesota regulators.

individual complaints [provided by CenturyLink in response to the Department's IR] contained little detail on which to base a conclusion, and CenturyLink's definition of 'complaint' excludes numerous cases that would constitute complaints under a broader definition.

It is highly unlikely that, when the Commission adopted the above-referenced Minn. Rules 7810.0500, 7810.1100 and 7812.1200, regarding regulated utilities' handling and reporting complaints, that the Commission intended for "complaints" to be limited to circumstances where a customer's concern happened to come to the attention of CenturyLink executives, regulatory bodies, elected officials, the Better Business Bureau or the media. Certainly nothing in the Commission's rules suggest that the term "complaint" should have anything other than its ordinary meaning.⁴

Merriam Webster defines a complaint⁵ as:

- 1: expression of grief, pain, **or dissatisfaction** (emphasis added)
- 2a : something that is the cause or subject of protest or outcry
- b : a bodily ailment or disease
- 3: a formal allegation against a party

While the dictionary definition may be simpler than what is needed for telecommunications complaints, the most important part of the definition is that it is an expression of dissatisfaction.

Furthermore, CenturyLink's practices find no support in Minnesota telecommunications laws. Nowhere in the statutes, or in Minnesota Rules, is awareness by a company executive or third party required before a customer contact expressing dissatisfaction is to be treated as a complaint.

If CenturyLink had believed the Commission's rules were unreasonable, rather than violate them, the company could have filed an Application for relief under Minn. Rule 7810.0200, which specifies that "if unreasonable hardship to a utility or to a customer results from the application of any rule herein prescribed, application may be made to the commission for the modification of the rule or for temporary or permanent exemption from its requirements."

⁴ In Minn. Stats. Ch. 237, the term "complaint" is not expressly defined, so we must look to the common usage of the term. Minn. Stat. § 645.08 states: . . . words and phrases are construed according to rules of grammar and according to their common and approved usage; but technical words and phrases and such others as have acquired a special meaning, or are defined in this chapter, are construed according to such special meaning or their definition. . .

⁵ <https://www.merriam-webster.com/dictionary/complaint>

Century Link should explain its training plans

CenturyLink's Exhibit 1 attached to its March 29 reply comment states that CenturyLink trains its personnel in TAP and Lifeline, and did so between August 14 and August 31 of 2017. Yet, this Commission investigation was initiated due to a pattern of complaints being filed with the Commission regarding subscribers' inability to enroll in the Telephone Assistance Plan.

The Department provided an example on page 6 of its initial comments, which occurred after the August 14 to August 31, 2017 training period. In that example, the CenturyLink representative told a customer that Lifeline and TAP programs were no longer being offered. Clearly, not all CenturyLink personnel working with customers on TAP and Lifeline issues were adequately trained.

Because CenturyLink's March 29 comments continue to provide no plan for training, as the Department recommended in its initial comments, the Department stands by its recommendation that CenturyLink provide its plan for training to demonstrate the adequacy of that training.

RECOMMENDATION

The Department has modified its recommendation to the Commission in this matter as follows:

1. The Department recommends that Qwest Corporation dba CenturyLink be required to take the following actions within 30 days of the Commission's Order:

A. File an explanation of how its employees are trained to ensure that customers are provided accurate information on the TAP program. The explanation should include training materials, which customer service representative groups receive training on the TAP programs, the frequency with which CenturyLink personnel receive ongoing training to ensure the TAP program is understood, and any additional information to demonstrate for the Commission that CenturyLink is taking appropriate step to achieve the statutory goal of making the TAP program available to eligible Minnesotans.

B. File a plan with the Commission to show how it will improve its internal practices to provide TAP credits to customers in the "earliest possible billing cycle."

C. Provide TAP benefits to eligible customers even though they receive the Lifeline benefit from another provider.

D. File a report identifying each eligible Minnesota customer denied TAP benefits over the last two years, due to the customer receiving the Lifeline benefit from another provider. The report should include documentation showing: the length of time in which each affected customer was denied TAP benefits, whether the customer is currently

enrolled in TAP, whether the company has now enrolled the customer or a statement explaining why enrollment is not appropriate and that the Company has provided credit to the customer in the amount of TAP credit that should have been provided had the customer been properly enrolled.

E. File a revised version of the written notice that CenturyLink uses to notify TAP recipients of their right to appeal decisions of CenturyLink to the Commission. In cases where CenturyLink determines that a recipient is no longer eligible to receive TAP credits, the notice must state that CenturyLink will terminate credits if (1) the recipient does not submit an appeal within 60 days of the notice or (2) the recipient submits an appeal and the Commission determines that the recipient is not eligible.

2. The Department believes CenturyLink has violated Minnesota rules by failing to keep a record of all complaints received by it from its customers, and for failing to keep complaint records in such a manner as to enable it to review and analyze its procedures and actions. If the Commission agrees there may have been a violation of Minnesota rules, it should determine whether it has sufficient information to make a finding that there has been a violation, refer the matter to the Office of Administrative Hearings if it believes there needs to be a more robust record on the possible violations, or find that it will take no action on the violations. If the Commission does not believe there has been a violation of its rules, then no action is needed.

3. The Department recommends that the Commission find that CenturyLink's definition of a complaint is unacceptable. CenturyLink limits its definition of complaint to those that come to the attention of third parties such as the FCC, Media Relations, PUC, Better Business Bureau, Attorney General, and Executive Offices. In its March 13, 2018 comments, the Department recommended that the Commission clarify what constitutes a complaint and proposed language that the Commission may adopt. The Department is modifying its recommendation to recognize that the Commission may have an inadequate record to clarify the definition of "complaint." Thus, along with finding that CenturyLink's definition is unacceptable, the Commission should determine how it may best provide clarity to CenturyLink and the rest of the industry what the Commission considers to be a complaint. In the absence of the Commission taking some action, the Department believes company practices will not change and expressed customer dissatisfaction will not be treated as a complaint unless the customer brings the matter to a third party. The Commission may wish to initiate a new docket and solicit comments or take some other action to resolve this matter.

/lt

[letterhead]

October 24, 2017

Ms. Linda S. Jensen
Office of the Minnesota Attorney General 445
Minnesota Street, Suite 1800
St. Paul, MN 55101-2134

Dear Ms. Jensen:

In August of 2017, in response to customer complaints, the Minnesota Department of Commerce ("Department") sought information about the manner in which CenturyLink was handling eligibility for the Minnesota Telephone Assistance Plan (TAP) credit. Specifically, the Department received three complaints from CenturyLink customers who believed they were improperly excluded from the TAP program. Two of the complaints were from customers that were denied the TAP benefit because they were enrolled in the Lifeline program with a wireless provider, and thus, appeared in the National Lifeline Accountability Database (NLAD). CenturyLink believed that because the customer was not eligible for the Lifeline credit with CenturyLink, the customer was not eligible to receive the TAP credit. After conversations with the Department, CenturyLink can agree that a customer that is eligible for Lifeline can receive the TAP credit from CenturyLink, even if the customer does not receive Lifeline from CenturyLink.

In the third complaint the customer reported the loss of TAP and Lifeline benefits during the recertification process because the customer sent in an application form instead of a recertification form. CenturyLink agrees with the Department that the customer should not have been ~~being~~ excluded from the TAP program.

~~CenturyLink disagrees that these concerns are valid. Nonetheless, i~~n order to address the Department's concerns, CenturyLink is taking the following steps on a going forward basis. ~~In exchange, the Department agreed to not file a complaint related to CenturyLink's past practices. If the Commission decided to take action with respect to past practices, the Department reserved the right to support such an effort.~~

Without waiver of any legal rights, CenturyLink agrees to take the following actions for all of its entities offering local telephone service in Minnesota:

1. CenturyLink agrees to offer credits for the customer complaints the Department had identified and provide a TAP credit retroactively to the date nearest their applications. CenturyLink will review other complaints that arise on the merits, and if the complaint is meritorious, it will offer credits in a similar fashion on other issues identified by the Department.

2. Effective September 1, CenturyLink modified its TAP eligibility criteria consistent with the Department's position. That process is attached as Exhibit 1.
3. Between August 14 and August 31, CenturyLink provided training to all service representatives involved with administering TAP and Lifeline for all entities offering local telephone service in Minnesota regarding TAP eligibility and verification procedures.
4. CenturyLink has modified its Lifeline/TAP application consistent with the Department's edits, effective September 21, 2017. Those edits are on the document attached as Exhibit 2. CenturyLink reserves the right to make modifications to this application consistent with future Commission orders in this area.

CenturyLink believes that these actions resolve the concerns raised by the Department. In the event a dispute should arise before the Commission or elsewhere regarding state and federal requirements associated with TAP and/or Lifeline, CenturyLink and the Department reserve all rights to advocate as they see fit.

[Signature block]

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
Revised Reply Comments**

Docket No. P421/C-17-796

Dated this 25th day of April 2018

/s/Sharon Ferguson

First Name	Last Name	Email	Company Name	Address	Delivery Method	View Trade Secret	Service List Name
Linda	Chavez	linda.chavez@state.mn.us	Department of Commerce	85 7th Place E Ste 280 Saint Paul, MN 55101-2198	Electronic Service	No	OFF_SL_17-796_Official PUC
Generic Notice	Commerce Attorneys	commerce.attorneys@ag.state.mn.us	Office of the Attorney General-DOC	445 Minnesota Street Suite 1800 St. Paul, MN 55101	Electronic Service	Yes	OFF_SL_17-796_Official PUC
Ian	Dobson	residential.utilities@ag.state.mn.us	Office of the Attorney General-RUD	1400 BRM Tower 445 Minnesota St St. Paul, MN 551012130	Electronic Service	No	OFF_SL_17-796_Official PUC
Ron	Elwood	relwood@mnlsap.org	Mid-Minnesota Legal Aid	2324 University Ave Ste 101 Saint Paul, MN 55114	Electronic Service	No	OFF_SL_17-796_Official PUC
Jason	Topp	jason.topp@centurylink.com	CenturyLink	200 S 5th St Ste 2200 Minneapolis, MN 55402	Electronic Service	Yes	OFF_SL_17-796_Official PUC
Daniel P	Wolf	dan.wolf@state.mn.us	Public Utilities Commission	121 7th Place East Suite 350 St. Paul, MN 551012147	Electronic Service	Yes	OFF_SL_17-796_Official PUC