

STATE OF MINNESOTA

BEFORE THE MINNESOTA PUBLIC UTILITIES COMMISSION

Beverly Jones Heydinger
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Nancy Lange
Dan Lipschultz
Betsy Wergin

Chair
Commissioner
Commissioner
Commissioner
Commissioner

In the Matter of the CenturyLink Petition for
Rulemaking to Revise Service Quality Rules

P-421/AM-14-256

**COMMENTS OF
CITIZENS TELECOMMUNICATIONS COMPANY OF MINNESOTA, LLC
and
FRONTIER COMMUNICATIONS OF MINNESOTA, INC.**

In an April 2, 2014 *Notice of Comment Period*, in this docket, the Minnesota Public Utilities Commission (“Commission”) sought comments from interested parties regarding the petition of CenturyLink, Inc. (“CenturyLink”) asking the Commission to initiate a rulemaking proceeding for a comprehensive review of service quality rules relating to telecommunications. In this filing, Citizens Telecommunications Company of Minnesota, LLC and Frontier Communications of Minnesota, Inc. (collectively, “Frontier”) submit their comments.

Background

CenturyLink’s petition gives a brief description of the current status of the telecommunications marketplace in Minnesota, and notes the tremendous changes that have occurred in that marketplace since the existing Commission rules regarding service quality were adopted years ago. CenturyLink asserts that those Commission rules regarding service quality (and specifically, 7810.4100 through 7810.6100) are outdated, and ought to be eliminated. CenturyLink urges the Commission to initiate a rulemaking to examine its service quality rules, in light of the current competitive nature of the telecommunications marketplace.

Discussion

Frontier agrees with CenturyLink's depiction of the telecommunication marketplace in Minnesota, and with its call for a rulemaking to examine the propriety and need for the service quality rules.

In the petition, CenturyLink notes that its share of the telecommunication marketplace has dropped significantly. CenturyLink's experience in this regard is not unique. Based on data from the Federal Communications Commission ("FCC"), there are approximately 7.6M telephone access lines of one sort or another in Minnesota.¹ About 1.4M of those lines are provided by traditional "incumbent local exchange carriers" ("ILECs")², such as Frontier, CenturyLink, etc, and that number is shrinking.

Yet, in practice, the Commission's service quality rules are only effectively applied to the ILECs, who now account for only 1/5 of the lines and a dwindling market share. The other players in the market, with 4/5s of the lines and rising, are effectively exempt from the requirements of those service quality rules. This disparate treatment may have been appropriate at the time when the rules were adopted many years ago, and only the ILECs provided local service. But that time is long gone. Today there is a robust competitive marketplace, where customers have choices between several providers for their telecommunications needs. In response to those changed circumstances, the Commission should eliminate its service quality rules that were developed to address a monopoly environment of decades ago.

In fact, retaining those monopoly-era service quality rules in the face of today's competitive marketplace results in some perverse incentives or obligations for ILECs. In general, customers' priorities have shifted. The vast majority of households in Minnesota have a cellphone; in fact a household is more likely to have a cellphone than a landline voice connection. According to the U.S. Department of Health and Human Services, only 5% of

¹ Federal Communications Commission, "Local Telephone Competition: Status as of December 31, 2012", Tables 9 and 18, November 2013.

² Federal Communications Commission, "Local Telephone Competition: Status as of December 31, 2012", Table 9, November 2013.

Minnesota households in 2012 had only a landline for voice communication service.³ That percentage has almost certainly declined by 2014. This means that 95% of households have an alternative voice communication service in the household. The urgency for restoral of wireline service has therefore diminished greatly from when the Commission established the service quality rules. Most customers today are more concerned with their broadband connection than their landline voice connection. Yet, the Commission's current service quality rules require ILECs to put a priority on voice service, rather than broadband service. In other states without service quality standards, Frontier affiliates generally strive to meet most customer needs by prioritizing broadband restoral over voice. In Minnesota, Frontier must prioritize voice ahead of broadband to comply with the existing service quality rules. Hence, a voice service disruption will be addressed before broadband issues; the exact opposite of what most customers actually desire. The perversity is that other carriers are free to prioritize their efforts and resources in line with customers' desires; "Fix my internet".

The need for Commission oversight of telecommunications was driven by the fact that at one time, telecommunications was not an open competitive market, like that of most other products and services. Thus, the Commission's service quality rules functioned as a surrogate for the market forces that shape other markets. Essentially, the Commission guessed what customers desired and valued, and then wrote rules to reflect those assumed customer desires. But, with the coming of the competitive market of today, normal market forces bear on telecommunications providers and require them to conform their practices, prices, and operations to meet customer expectation. If a customer's current provider is not satisfying the customer's desires with respect to services, prices, or service quality, then the customer will move to another provider. The Commission's rules reflecting what the Commission thinks customers desire and value are no longer needed to drive carrier behavior. Rather, customers acting on their desires and values directly through the options available in the telecommunications marketplace make that clear in a much more efficient way.

³ U.S. Department of Health and Human Services, "National Health Statistics Report, No. 70", Table 2, December 18, 2013.

Specific questions

In the *Notice of Comment Period*, the Commission identifies several specific questions to which it invited comment. Frontier addresses those questions below.

1. Is a rulemaking necessary to address CenturyLink's concerns? Address alternatives that can possibly address the Company's concerns without the need for rulemaking.

While there may be other ways to change the Commission's rules, such as through legislation, a Commission rulemaking procedure would be the most appropriate and efficient way to tailor the Commission's rules to achieve appropriate public policy objectives regarding telecommunications.

2. How does CenturyLink's petition comport with Minn. Administrative Rules, specifically Parts 1400.2040 and 1400.2500 relating to the language of the requested rule changes or repeals proposed by the Company?

The petition filed by CenturyLink comports with the requirements identified in 1400.2040 and 1400.2500.

3. How does the Company's petition support 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?

The Commission's telecommunications service goals are much broader than these two items. In full, the Commission's statutory goals are⁴:

- (1) supporting universal service;
- (2) maintaining just and reasonable rates;
- (3) encouraging economically efficient deployment of infrastructure for higher speed telecommunication services and greater capacity for voice, video, and data transmission;
- (4) encouraging fair and reasonable competition for local exchange telephone service in a competitively neutral regulatory manner;
- (5) maintaining or improving quality of service;
- (6) promoting customer choice;
- (7) ensuring consumer protections are maintained in the transition to a competitive market for local telecommunications service; and
- (8) encouraging voluntary resolution of issues between and among competing providers and discouraging litigation.

While it is not certain that the order of items in this list is indicative of the Legislature's priorities, it is noteworthy that the goal of "encouraging fair and reasonable competition for local exchange telephone service in a competitively neutral regulatory manner"

⁴ Minnesota Stat. §237.011

precedes both of the goals identified in this question. And it is the issues of “fair and reasonable competition” and a “neutral regulatory manner” that are adversely impacted by the current service quality rules.

In fact, the period of a “transition to a competitive market for local telecommunications service” has long past. We are now in a competitive market for local telecommunications service. The transition phase is behind us.

The competitive pressures of the market forces currently in place drive carriers to provide the quality of service that customers demand. It is important to note that not all customers have exactly the same “quality of service” expectations. Some customers will choose a lower priced option with lower service quality metrics, because they value price most highly. Other customers may be willing to pay more for a service they perceive to be of high quality. Neither of these customers is right or wrong; they just have different judgments. The competitive market meets those varying desires of customers with varying offerings and different providers. In contrast, the Commission’s current “one size fits all ILECs” service quality rules are a poor (and unnecessary) substitute for the options of an open market.

4. What should be the scope of any rulemaking proceeding?

CenturyLink’s petition identifies Rules 7810.4100 through 7810.6100 as of primary interest. Frontier agrees. Certainly there are other portions of the Commission’s rules that merit a review, but limiting this rulemaking to just the section of rules from 7810.4100 through 7810.6100 would allow for a focused, efficient, and timely process.

5. What procedures should the Commission establish for any rulemaking proceeding?

The Commission normal rulemaking procedures would be appropriate.

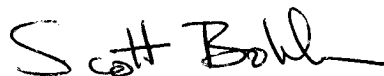
6. Should the Commission approve or deny CenturyLink’s petition for rulemaking?

The Commission should approve CenturyLink’s petition for rulemaking, and embark expeditiously upon a rulemaking docket.

Dated April 14, 2014

Respectfully submitted,

CITIZENS TELECOMMUNICATIONS COMPANY OF MINNESOTA, LLC
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