

Staff Briefing Papers

Meeting Date **June 20, 2024** **Agenda Item **1**

Company Qwest Corporation d/b/a CenturyLink

PUC Docket No. P-421/C-20-432

OAH Docket No. 21-2500-38965

In the Matter of a Formal Complaint regarding the services provide by the Qwest Corporation, d/b/a CenturyLink in Minnesota, on behalf of the Communications Workers of America (CWA)

- Issues**
1. Has CenturyLink violated the following Minnesota Rules: 7810.3300 (Maintenance of Plant and Equipment), 7810.5000 (Utility Obligations), or 7810.5800 (Interruptions of Service)?
 2. If CenturyLink is found to be in violation of the identified Commission Rules, what are the appropriate remedies?

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 Relevant Documents	Date
Initial Briefs	
Department of Commerce	January 17, 2024
Office of the Attorney General	January 17, 2024
CenturyLink	January 17, 2024

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The attached materials are work papers of the Commission Staff. They are intended for use by the Public Utilities Commission and are based upon information already in the record unless noted otherwise.

✓ Relevant Documents	Date
Reply Briefs	
Department of Commerce	February 7, 2024
Office of the Attorney General	February 7, 2024
CenturyLink	February 7, 2024
Proposed Findings of Fact, Conclusions of Law, and Recommendations	
Department of Commerce	February 7, 2024
Office of the Attorney General	February 7, 2024
CenturyLink	February 7, 2024
Administrative Law Judge Findings of Fact, Conclusions of Law, and Recommendations	
	March 13, 2024
Exceptions	
Office of the Attorney General	April 2, 2024
CenturyLink	April 2, 2024
Reply Exceptions	
Department of Commerce	April 12, 2024
Office of the Attorney General	April 12, 2024

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I. Statement of the Issues

1. Has CenturyLink violated the following Minnesota Rules: 7810.3300 (Maintenance of Plant and Equipment), 7810.5000 (Utility Obligations), or 7810.5800 (Interruptions of Service)?
2. If CenturyLink is found to be in violation of the identified Commission Rules, what are the appropriate remedies?

II. Background of Docket

A. Initial Filing and Negotiations

On April 23, 2020, the Communication Workers of America (CWA) filed a formal complaint.¹ In its filing, the CWA alleged that Qwest Corporation, d/b/a CenturyLink (CenturyLink) was not meeting the requirements of the following Minnesota Rules:

- 7810.2800 Delay in Initial Service
- 7810.3300 Maintenance of Plant and Equipment
- 7810.5500 Transmission Requirements
- 7810.5800 Interruptions of Service
- 7810.5900 Customer Trouble Reports
- 7810.6000 Protective Measures

The CWA and CenturyLink entered negotiations soon after the CWA's original filing, and as a result, on May 1, 2020, the CWA chose to withdraw its complaint.² The Minnesota Public Utilities Commission (Commission or PUC) accepted the withdrawal of the complaint but requested that the CWA and CenturyLink provide the Commission "with information documenting the service issues which compelled the CWA to make its original complaint filing, and how those service issues have been resolved for the complaint to be withdrawn."³

B. Reopening of Investigation

On August 18, 2020, the CWA filed another letter, requesting "that the PUC commence a full and complete investigation of CenturyLink and its failures to meet its obligations immediately."⁴ The CWA further requested that the Commission expedite the investigation as much as possible. The CWA alleged that CenturyLink may be violating Minn. R. 7810.4900 related to Adequacy of Service, in addition to the violations alleged in its April 23, 2020 complaint.

The Commission issued a Notice of Comment Period on August 24, 2020. The Commission

¹ CWA initial filing, April 23, 2020, p. 1.

² CWA withdrawal letter, May 1, 2020.

³ PUC letter to CenturyLink, May 18, 2020, p. 2.

⁴ CWA complaint letter, August 18, 2020, p. 3.

sought responses to questions outlined in Minn. R. 7829.1800: whether the Commission had jurisdiction over the matter in question, if there were reasonable grounds to investigate CWA's allegations, and if there were other issues or concerns related to the matter. Comments were filed by CenturyLink on September 18, 2020. The Minnesota Department of Commerce (Department) and the Minnesota Office of the Attorney General Residential Utilities Division (OAG) filed comments on October 21, 2020 and October 23, 2020, respectively.

On October 21, 2020, the Department of Commerce (Department) filed initial comments.⁵ In addition to the Rules cited by CWA, they reviewed possible non-compliance with the following Rules:

- 7810.1100 Complaint Procedures
- 7810.1200 Record of Complaint
- 7810.4900 Adequacy of Service
- 7810.5000 Utility Obligations
- 7810.5200 Answering Time

On November 5, 2020, CenturyLink filed a letter to update the Commission on the anticipated workforce reduction. The letter stated that, after reviewing the technician needs in Minnesota, CenturyLink had reduced the number of involuntary reductions from the original 154 to 36 and that no more reductions were planned at the time.⁶

On December 1, 2020, the Commission issued a Notice of Comment Period, requesting parties to investigate CenturyLink's compliance with Minnesota Statutes, Rules, or Commission Orders. The Department and the Office of the Attorney General – Residential Utilities Division (OAG) filed comments on July 1, 2021. Reply comments were filed by CenturyLink, CWA, and jointly by the Department and OAG on August 30, 2021.

The Commission met to discuss the matter at the January 5, 2023 agenda meeting. As commemorated in the January 30, 2023 Commission Order, the Commission referred the matter to the Office of Administrative Hearings (OAH) for a contested case proceeding, regarding whether CenturyLink is fulfilling service quality requirements. The Commission ordered that the proceeding address whether CenturyLink has violated Minnesota Rules, and if so, the appropriate remedy. The Commission also asked the OAH's Administrative Law Judge (ALJ) to hold public hearings within CenturyLink's service territory to take public comments on the potential rule violations and other issues.⁷

C. ALJ Proceedings

The ALJ assigned to this case, Kimberly Middendorf, held six public hearings:

⁵ Department initial comments, October 21, 2020, pp. 2-7.

⁶ CenturyLink letter, November 5, 2020, p. 1.

⁷ Commission Order, January 30, 2023, p. 6.

Table 1: 20-432 Public Hearings

Date	Location
July 18, 2023	Thief River Falls
July 19, 2023	Hibbing
July 21, 2023	Virtual
July 24, 2023	Virtual
July 26, 2023	Marshall
July 27, 2023	Owatonna

On September 1, 2023, the Department, OAG, and CenturyLink filed direct testimony. On November 1, 2023, the parties filed rebuttal testimony, and on December 1, 2023, the parties filed surrebuttal testimony. The ALJ held an evidentiary hearing on December 13, 2023.

On January 3, 2023, the parties determined that the only issues remaining in dispute are:

1. Has CenturyLink violated the following Minn. R. 7810.3300 (Maintenance of Plant and Equipment), Minn. R. 7810.5000 (Utility Obligations), or Minn. R. 7810.5800 (Interruptions of Service); and
2. If so, what is the appropriate remedy.⁸

This determination narrowed the scope of the Rules still in question to:

- 7810.3300 Maintenance of Plant and Equipment
- 7810.5000 Utility Obligations
- 7810.5800 Interruptions of Service

The parties filed initial briefs on January 17, 2024 and reply briefs on February 7, 2024. The ALJ's recommendations were filed on March 13, 2024. *The findings of the ALJ's report will be provided throughout the briefing papers.*

III. Has CenturyLink violated the following Minnesota Rules: 7810.3300 (Maintenance of Plant and Equipment), 7810.5000 (Utility Obligations), or 7810.5800 (Interruptions of Service)?

Staff has organized the briefing papers by Minn. Rule, describing each Rule in the appropriate section. Then Staff includes the party positions on whether CenturyLink has violated the Rule and how. Decision Options 1a – 1c determine Rule violation. Decision Option 2 finds that CenturyLink is in compliance with Minn. Rule.

⁸ ALJ Findings of Fact, Conclusions of Law, and Recommendations, March 13, 2024, Finding 9, p. 4.

A. Minnesota Rules 7810.3300 – Maintenance of Plant and Equipment

Minn. R. 7810.3300 mandates that each telephone utility must have a maintenance program in place to maintain efficient system operation so each customer receives safe and adequate service.

7810.3300 MAINTENANCE OF PLANT AND EQUIPMENT.

Each telephone utility shall adopt and pursue a maintenance program aimed at achieving efficient operation of its system so as to permit the rendering of safe and adequate service. Maintenance shall include keeping all plant and equipment in good state of repair consistent with safety and adequate service performance. Broken, damaged, or deteriorated parts which are no longer serviceable shall be repaired or replaced. Adjustable apparatus and equipment shall be readjusted as necessary when found by preventive routines or fault location tests to be in unsatisfactory operating condition. Electrical faults, such as leakage or poor insulation, noise, induction, cross talk, or poor transmission characteristics, shall be corrected to the extent practicable within the design capability of the plant affected.⁹

Department Position

The Department finds that CenturyLink's maintenance is deficient. They cited two reasons for this finding:

- 1) *CenturyLink does not engage in sufficient proactive rehab work despite the size and age of its network.*

The Department says that CenturyLink does little proactive maintenance on its aging network. In most of Minnesota, CenturyLink provides analog voice service over twisted-pair copper cables. The expected lifespan of this type of service – commonly known as Plain Old Telephone Service (POTS) – is 25-30 years. The Department states that CenturyLink is deploying “modern, fiber optic cable in only the most densely populated areas,” rather than making investments in rural areas.¹⁰

The Department says that CenturyLink relies on break/fix maintenance, which it defines as “the practice of waiting until broken, damaged, or deteriorated facilities cause customer service outages or impairments before making repairs.”¹¹ The opposing option would be proactive rehabilitation (or rehab), which they defined as “where processes are established to anticipate the ‘Break’ before it happens and take an appropriate action in advance.”¹²

The Department states that “industry best practices require telephone companies to proactively identify plant and equipment that is likely to fail and make the necessary repairs or

⁹ [Minn. R. 7810.3300 Maintenance of Plant and Equipment.](#)

¹⁰ Department initial brief, January 17, 2024, p. 5.

¹¹ Department Proposed Findings of Fact, Conclusions of Law, and Recommendations, February 7, 2024, Finding 15, p. 6.

¹² Department initial brief, January 17, 2024, p. 5.

replacements necessary to prevent disruption or otherwise poor telephone transmission (crackling, static, muffled calls) performance.”¹³

The Department alleges that CenturyLink does not use data analysis to identify proactive rehab:

Instead, the company relies on a monthly “manual process” to identify potentially high trouble areas. CenturyLink’s regional managers, moreover, receive no regular reporting on service quality or performance problems; company management is only informed on an “as needed” basis. ...its only current program for maintaining its outside plant is creating trouble tickets.¹⁴

The Department views Century’s rehab procedures as mostly ad-hoc, stating that network testing only occurs incidentally when service installations or repairs happen.¹⁵

2) *CenturyLink does not complete the small number of proactive rehab projects that it does identify in a timely manner.*

Between January 2019 and June 2023, CenturyLink’s trouble report data shows that 77% of all problems were due to deteriorating or failing plant or equipment.¹⁶ CenturyLink has only pursued half of the identified potential rehab projects since January 2019.

The Department says that the Company “allowed rehab projects identified by technicians to languish for years.”¹⁷

OAG Position

The OAG says that “CenturyLink has repeatedly failed to adhere to the requirements of Minn. R. 7810.3300.”¹⁸

OAG witness Brian Lebens photographed 93 pages of images of CenturyLink equipment in the Twin Cities metro area that is “broken, damaged, or deteriorated.”¹⁹ Several photos showed exposed wires and pedestals were wrapped in plastic or other quick concealments. In its initial brief, OAG said that decaying equipment could pose a safety hazard to children and animals.

Based on CenturyLink’s testimony and information requests (IRs), the OAG attributed the decaying equipment to:

¹³ Department Proposed Findings of Fact, Conclusions of Law, and Recommendations, February 7, 2024, Finding 41, p. 17.

¹⁴ Department initial brief, January 17, 2024, p. 17.

¹⁵ Department Proposed Findings of Fact, Conclusions of Law, and Recommendations, February 7, 2024, Finding 32, p. 14.

¹⁶ Department Proposed Findings of Fact, Conclusions of Law, and Recommendations, February 7, 2024, Finding, 28, p. 13.

¹⁷ Department Proposed Findings of Fact, Conclusions of Law, and Recommendations, February 7, 2024, Finding 33, p. 15.

¹⁸ OAG initial brief, January 17, 2024, p. 5.

¹⁹ OAG initial brief, January 17, 2024, p. 6.

- 1) The Company only completing repairs that satisfy a five-year payment threshold, which favors highly-populated areas and not rural areas; and
- 2) Maintenance projects being funded out of the local expense budget, which the Company does not have.²⁰

The OAG also pointed to public hearing participants in Owatonna and Marshall who testified to broken equipment, an open pit, and frequent problems with water.²¹

The OAG's interpretation of Minn. R. 7810.3300 is that it requires CenturyLink to replace broken, damaged, deteriorated, unserviceable equipment and render safe and adequate service. However, "[w]itness testimony, public hearing testimony, and public comments in this docket demonstrate CenturyLink is not meeting the requirements of Minn. R. 7810.3300, and customers' service quality is suffering accordingly."²²

CenturyLink Position

CenturyLink argues that the Minn. Telecom Rules are now outdated, stating:

... Minnesota's Telephone Utilities Rules remain in substantially the same form as they appear in January of 1977, years before the first commercially available wireless phone and decades before the advent of VoIP service.²³

CenturyLink presents the challenges with outdated Rules as follows:

- 1) Some of the rules are relics in today's telecommunications and information systems environment and use outdated terms that no longer have meaning.
- 2) The rules do not define several of the relevant terms, leading to potential confusion or misalignment between stakeholders as to what the rules do or do not require.
- 3) Some of the rules do not set specific "standards" or "metrics" that must be reached. Rather, they discuss "objectives."
- 4) Some of these legacy rules have no "measurements" or "objectives," but, instead, use general language and recognize the role of utility judgment.

The three rules still at issue in this proceeding demonstrate these above challenges.

Regarding Minn. R. 7810.3300, CenturyLink says that the plain text of the rule calls for the telephone utility to:

- 1) Achieve efficient operation of its network so that it provides safe and adequate service;

²⁰ OAG initial brief, January 17, 2024, p. 9.

²¹ OAG Proposed Findings of Fact, Conclusions of Law, and Recommendations, February 7, 2024, Findings 29-31, p. 8.

²² Department Proposed Findings of Fact, Conclusions of Law, and Recommendations, February 7, 2024, Finding 14, p. 3.

²³ CenturyLink initial filing, January 17, 2024, p. 10.

and

- 2) Repairing or replacing parts that are no longer serviceable and correcting certain issues to the extent practicable.²⁴

CenturyLink writes that compliance of Minn. R. 7810.3300 requires they meet no specific metrics or objectives and that what is considered *reasonable* or *adequate* should be considered.

Regardless, CenturyLink says that it continues to make combined capital and maintenance investments in Minnesota each year and ensures safe and adequate telephone service to its customers.

CenturyLink's procedure for identifying proactive maintenance projects is the following:

- 1) Technicians are required to identify conditions that are unsafe and/or cannot be corrected immediately.
- 2) Technicians identify potential projects through the Plant Maintenance Request (PMR) tool.
- 3) Technicians may also identify and immediately address maintenance needs through the submission of company demand tickets (which are not the same as customer trouble tickets).
- 4) Third-parties may also call the Company about conditions that they observe, which may also be handled through a company demand ticket.²⁵

However, the Company says that "there could be any number of reasons why a project does not go forward."²⁶

Proactive rehabilitation projects are funded through multiple ways:

- CenturyLink's capital budget;
- CenturyLink's transformation budget; or
- Local expense funds.²⁷

However, CenturyLink does not track all rehab funding. Also, the Company writes that "there is no requirement that a company must spend a certain proportion of its funds on preventative, as opposed to responsive, maintenance."²⁸

The best indication of whether CenturyLink is providing safe and adequate service is its trouble

²⁴ CenturyLink initial filing, January 17, 2024, p. 11.

²⁵ CenturyLink initial brief, January 17, 2024, p. 42.

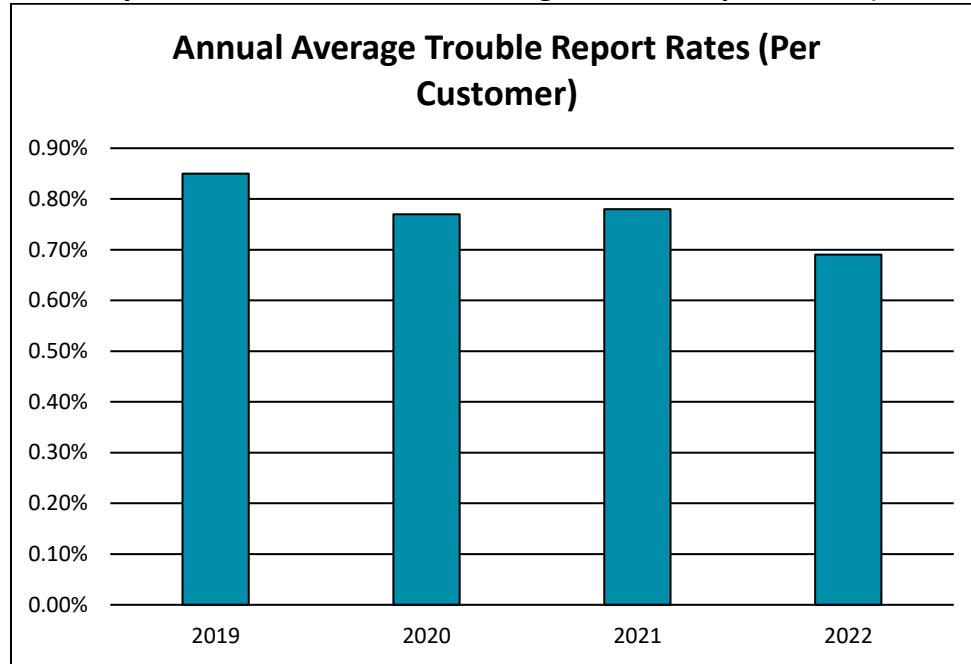
²⁶ CenturyLink Proposed Findings of Fact, Conclusions of Law, and Recommendations, February 7, 2024, Finding 102, p. 28.

²⁷ CenturyLink initial brief, January 17, 2024, p. 43.

²⁸ CenturyLink Proposed Findings of Fact, Conclusions of Law, and Recommendations, February 7, 2024, Finding 111, p. 30.

report rate, which remains low. Since January 2019, the Company has maintained a monthly average of fewer than 6.5 trouble reports per 100 telephones. Across the entire network, this translates to less than 1% of customers reporting trouble with their service annually.

Figure 1: CenturyLink's Statewide Annual Average Trouble Report Rates (Per Customer)²⁹



According to CenturyLink, this “demonstrates that the Company is taking the appropriate steps to maintain its network so that it provides safe and adequate service to its customers.”³⁰

The Company also states that its number of technicians has increased, but that it is challenging to hire more technicians with the skills to work on copper networks.

CenturyLink asks the ALJ to consider the broader picture of the telecommunications marketplace. The Company states that at this time, nearly two-thirds of Minnesota households do not have landline telephone service. As of 2020, 5% of Minnesotans relied exclusively on landline service.³¹ CenturyLink must compete with cable companies, competitive local exchange carriers (CLECs), fixed wireless providers, and satellite service providers for a shrinking customer base, which the Company says has caused a 90% erosion in the state’s line over the last 20 years.

ALJ Finding

About the Rule’s interpretation, the ALJ wrote that “Minn. R. 7810.3300 requires telephone companies to provide each customer with adequate service...”³²

²⁹ CenturyLink reply brief, February 7, 2024, pp. 11-12.

³⁰ CenturyLink initial brief, January 17, 2024, p. 37.

³¹ CenturyLink initial filing, January 17, 2024, p. 16.

³² ALJ Findings of Fact, Conclusions of Law, and Recommendations, February 7, 2024, Finding 85, p. 31.

The ALJ says that while CenturyLink’s overall statewide network is performing satisfactorily, 2% of CenturyLink’s landline customers are not receiving adequate service.

Further, the ALJ finds that CenturyLink has made minimal and insufficient efforts to complete proactive maintenance efforts. The ALJ concurs with the Department that CenturyLink devotes few resources to perform proactive rehabilitation work and “lacks procedures for systematically or comprehensively evaluating the performance of its POTS network” in a timely fashion.³³

B. Minnesota Rules 7810.5000 – Utility Obligations

Minn. R. 7810.5000 requires telephone utilities to provide service that meets or exceeds standards to the public in its service area in accordance with its tariffs that have been approved by the Commission. This includes continually reviewing its operations to ensure that it can furnish adequate service.

7810.5000 UTILITY OBLIGATIONS.

Each telephone utility shall provide telephone service to the public in its service area in accordance with its rules and tariffs on file with the commission. Such service shall meet or exceed the standards set forth in this chapter. Each telephone utility has the obligation of continually reviewing its operations to assure the furnishing of adequate service. Each telephone utility shall maintain records of its operations in sufficient detail as is necessary to permit such review and such records shall be made available for inspection by the commission upon request at any time within the period prescribed for retention of such records. Each utility shall make measurements to determine the level of service for each item included in these rules. Each utility shall provide the commission or its staff with the measurements and summaries thereof for any of the items included herein on request of the commission or its staff. Records of these measurements and summaries shall be retained by the utility as specified by the commission.

Where a telephone utility is generally operated in conjunction with any other enterprise, suitable records shall be maintained so that the results of the telephone operation may be determined upon reasonable notice and request by the commission.³⁴

Department Position

The Department states that CenturyLink is the “carrier of last resort” in many communities, serving “233,000 customer lines in Minnesota, or about 21% of all lines in the state, while the average company has only 5,905 lines.”³⁵

The Department says that CenturyLink is failing to provide at least 4,460 customers with adequate service.³⁶ The Department defines ‘adequate service’ as “near continuous telephone access without repeated disruptions”³⁷ and that it must be determined on an individual basis based on the volume of service issues and whether the provider takes reasonable steps to address the underlying problem.

³³ ALJ Findings of Fact, Conclusions of Law, and Recommendations, February 7, 2024, Finding 87, p. 32.

³⁴ [Minn. R. 7810.5000 Utility Obligations.](#)

³⁵ Department initial brief, January 17, 2024, p. 4.

³⁶ Department initial brief, January 17, 2024, p. 2.

³⁷ Department initial brief, January 17, 2024, p. 10.

In its initial brief, the Department refers to proceedings in other states where “adequate service” was defined:³⁸

- In a customer complaint filed against AT&T, the Public Utilities Commission of Ohio concluded that adequate service was related, but not limited to, the number, severity, and duration of service problems; whether the service could have been corrected; and whether the service problems likely are caused by telephone company facilities.
- In another customer complaint case filed against Verizon, a Pennsylvania ALJ concluded that although occasional outages do not necessarily constitute a violation, losing service on three occasions over 16 months was inadequate service.

In its reply brief, the Department refers to testimony from CenturyLink’s director of network operations at the December 13, 2023 evidentiary hearing, where he stated that he would not consider a customer experiencing multiple disruptions a year to be receiving adequate service.³⁹

OAG Position

The OAG states that CenturyLink does not perform complete recordkeeping.⁴⁰

In fact, when asked for documents relating to CenturyLink’s predictive maintenance program, CenturyLink said that no such documentation exists.

CenturyLink also could not produce a report on trouble report rates, saying that the information is in its dispatch system and tickets are generated when three or more tickets are called in for a 100-pair group. The OAG says that chronic problems slip through the cracks by using this system.⁴¹ As a result, the OAG found that it was difficult for them to get a complete picture as to CenturyLink’s internal operations.

Overall, the OAG says that CenturyLink’s recordkeeping system serves customers poorly and is inadequate under Minn. R. 7810.5000. The Rule’s plain text says that a company “continually review ... to assure the furnishing of adequate service.” However, the OAG says that CenturyLink collects reports of trouble but does nothing to learn from its reports to systematically improve service.⁴²

The OAG encourages the Commission to adopt Judge Middendorf’s findings and recommendations regarding Minn. R. 7810.5000.⁴³

³⁸ Department initial brief, January 17, 2024, pp. 11-12.

³⁹ Department reply brief, February 7, 2024, p. 8.

⁴⁰ OAG initial brief, January 17, 2024, pp. 10-12.

⁴¹ OAG reply to exceptions, April 12, 2024, p. 13.

⁴² OAG reply to exceptions, April 12, 2024, p. 12.

⁴³ OAG exceptions, April 2, 2024, p. 2.

CenturyLink Position

CenturyLink maintains that it provides strong service in Minnesota and prioritizes its POTS customers ahead of other customers.⁴⁴

CenturyLink says that Minn. R. 7810.5000 “discussed the general obligation of providing adequate service.”⁴⁵ However, CenturyLink says that Minn. R. 7810.5000 does not provide specific metrics or objectives to be met.

CenturyLink uses its trouble report rate as the best justification for the Company meeting the standards in Minn. R. 7810.5000, which remains low. Minn. R. 7810.5900 does establish an objective – trouble reports must remain 6.5 or less per 100 telephones per month.⁴⁶ CenturyLink has consistently met this objective.⁴⁷ CenturyLink justifies using Minn. R. 7810.5900 as a threshold for meeting the standards with 7810.5000, saying:

...if the Company was actually failing to meet its responsibilities to maintain its equipment and remain attentive to the quality of service provided by its network, the number of troubles on the network would increase, leading to an increase in the trouble report rate.⁴⁸

CenturyLink also brought up that under Minn. R. 7810.5900, a trouble report rate of more than 8.0 per 100 telephones per month shows a need for investigative or corrective action by the Commission. Since the Company’s trouble report rate is far below 8.0 per 100 telephones per month, it “demonstrat[es] that no corrective action is needed with respect to the Company’s network performance.”⁴⁹

ALJ Finding

The ALJ writes that “adequacy of service must be assessed on a customer-by-customer basis.”⁵⁰

⁴⁴ CenturyLink reply brief, February 7, 2024, p. 2.

⁴⁵ CenturyLink reply brief, February 7, 2024, p. 4.

⁴⁶ [Minn. R. 7810.5900 Customer Trouble Reports](#).

Arrangements shall be made to receive customer trouble reports 24 hours daily and to clear trouble of an emergency nature at all hours, consistent with the bona fide needs of the customer and personal safety of utility personnel.

Each telephone utility shall maintain an accurate record of trouble reports made by its customers. This record shall include appropriate identification of the customer or service affected, the time, date, and nature of the report, the action taken to clear trouble or satisfy the complaint, and the date and time of trouble clearance or other disposition. This record shall be available to the commission or its authorized representatives upon request at any time within the period prescribed for retention of such records.

It shall be the objective to so maintain service that the average rate of all customer trouble reports in an exchange is no greater than 6.5 per 100 telephones per month. A customer trouble report rate of more than 8.0 per 100 telephones per month by repair bureau on a continuing basis indicates a need for investigative or corrective action.

⁴⁷ CenturyLink initial brief, January 17, 2024, p. 34.

⁴⁸ CenturyLink initial brief, January 17, 2024, p. 37.

⁴⁹ CenturyLink initial brief, January 17, 2024, p. 37.

⁵⁰ ALJ Findings of Fact, Conclusions of Law, and Recommendations, February 7, 2024, Finding 84, p. 31.

Customers receive service on an individual, not aggregate, basis. The ALJ finds that use of the trouble report rate to define adequate service is unreasonable. Further, using the standard within Minn. R. 7810.5900 as the standard for a telephone utility to provide adequate service renders “the Commission powerless to ensure adequate landline service for a population that depends upon it.”⁵¹

C. Minnesota Rules 7810.5800 – Interruptions of Service

Minn. R. 7810.5800 states that telephone utilities shall make reasonable efforts to prevent service interruptions. However, when interruptions do occur, it shall reestablish service with the shortest possible delay, in particular, clearing 95% of all out-of-service troubles within 24 hours of the outage report.

7810.5800 INTERRUPTIONS OF SERVICE.

Each telephone utility shall make all reasonable efforts to prevent interruptions of service. When interruptions occur, the utility shall reestablish service with the shortest possible delay. The minimum objective should be to clear 95 percent of all out-of-service troubles within 24 hours of the time such troubles are reported. In the event that service must be interrupted for purposes of working on the lines or equipment, the work shall be done at a time which will cause minimal inconvenience to customers. Each utility shall attempt to notify each affected customer in advance of the interruption. Emergency service shall be available, as required, for the duration of the interruption.

Every telephone utility shall inform the commission, as soon as possible, of any major catastrophe such as that caused by fire, flood, violent wind storms, or other acts of God which apparently will result in prolonged and serious interruption of service to a large number of customers.⁵²

Department Position

Regarding service interruptions, the Department says that “most customers require near continuous telephone access with few disruptions to have their service needs satisfied.”⁵³

The Department says that CenturyLink has not met the 95% objective in recent years.⁵⁴ CenturyLink’s performance declined during the COVID-19 pandemic and does not show signs of recovery.

The Department suggests that the Company’s declining performance is caused by its decision to lay off some of its Minnesota field technician workforce, causing technician workloads to spike since 2021.⁵⁵ The Department believes that there will not be an improvement without Commission intervention.

⁵¹ ALJ Findings of Fact, Conclusions of Law, and Recommendations, February 7, 2024, Finding 84, p. 31.

⁵² [Minn. R. 7810.5800 Interruptions of Service.](#)

⁵³ Department initial findings, January 17, 2024, p. 11.

⁵⁴ Department initial findings, January 17, 2024, p. 23.

⁵⁵ Department Proposed Findings of Fact, Conclusions of Law, and Recommendations, February 7, 2024, Finding 45, p. 19.

The Department particularly draws attention to Cook County residents who experienced approximately 100 service outages between September 2018 and August 2023.⁵⁶ Citizens have come in-person to the local fire station if they need help, because their phone service is out so frequently.

The Department recommends that the Commission find that CenturyLink is violating Minn. R. 7810.5800 by failing to restore service to 95% of its out-of-service customers within 24 hours.

OAG Position

The OAG writes that one of the most important parts of the service quality rules are protections against extended service outages and emergency service disruptions.

The OAG points out that in the past CenturyLink has petitioned the Commission to relax or adjust service quality requirements, which have historically been denied:⁵⁷

- In 2014, CenturyLink petitioned the Commission to grant a variance to Minn. R. 7810.5800 reducing the standard of clearing 95% of all out-of-service troubles within 24 hours to 85%. The Commission denied the variance.⁵⁸
- In 2021, CenturyLink petitioned the Commission to examine, and possibly repeal Minn. Rules 7810.5200 (Answering Time) and 7810.5800 (Interruptions of Service). The Commission denied the petition.⁵⁹

The OAG says that CenturyLink is not performing to the standard in Minn. R. 7810.5800:

The record is replete with information about customers who languish without service for days, county emergency service providers who are repeatedly inconvenienced by outages, and homeowners who have experienced repeated service interruptions only to have a technician report the company will never pay to fix their problem.⁶⁰

CenturyLink is “allowing frequent and prolonged service disruptions in some of the state’s remotest areas among some of Minnesota’s most vulnerable customers.”⁶¹

46% of the complaints to the Department and the Commission’s Consumer Affairs Office (CAO) are regarding service outages.

When outages do occur, the OAG says that CenturyLink fails to address the problem in a timely manner.⁶²

⁵⁶ Department Proposed Findings of Fact, Conclusions of Law, and Recommendations, February 7, 2024, Finding 22, p. 10.

⁵⁷ OAG initial brief, January 17, 2024, pp. 2-4.

⁵⁸ Docket Nos. 14-413, 14-255, and 14-256, August 11, 2014 Commission Order.

⁵⁹ Docket No. 21-381, August 5, 2021 Commission Order.

⁶⁰ OAG initial brief, January 17, 2024, p. 13.

⁶¹ OAG Proposed Findings of Fact, Conclusions of Law, and Recommendations, February 7, 2024, Finding 44, p. 11.

⁶² OAG Proposed Findings of Fact, Conclusions of Law, and Recommendations, February 7, 2024, Finding 47, p. 11.

CenturyLink Position

CenturyLink says that it makes a good faith effort to meet the objective of Minn. R. 7810.5800. CenturyLink's interpretation of Minn. R. 7810.5800 is such:

- 1) The utility is required to reestablish service with the shortest possible delay; and
- 2) The utility must meet a minimum objective of clearing 95% of all out-of-service troubles within 24 hours of reporting.

Additionally, CenturyLink states that the Rule was established when POTS was the industry standard, and every home and business had a landline⁶³ and that the "realities of the current telecommunications landscape ... have effectively moved the goalposts with respect to what is "possible" with respect to the time necessary to restore service in each case, and meeting the objective set forth by the rule has become substantially more difficult."⁶⁴

CenturyLink states that it prioritizes POTS out-of-service tickets in its route optimizer. It has made a commitment to restoring voice services with the shortest possible delays by prioritizing POTS over all other technician work such as installation requests and broadband service repairs. However, it continues to have challenges with restoring service within 24 hours.

CenturyLink insists that this problem cannot be solved by hiring more technicians. First, the route optimizer generates job lists based on a technician's workload, skill set, and location. The route optimizer cannot assign tasks in the most efficient way. Technicians that are located closest to the service outage may not be assigned, because they are already fully booked or do not have the proper skill set. Fewer and fewer POTS customers on CenturyLink's expansive network means a larger and larger geographic dispersion of customers.⁶⁵ CenturyLink's POTS customers have decreased by more than 40% in the last four years.

Table 2: Difference in POTS Customers between 2018 and 2023⁶⁶

<i>Year</i>	<i>Number of Customers</i>
2018	420,000
2023	240,000

Second, the "Company cannot employ technicians to be located at various places in the state, some with a very low number of customers spread out geographically, to simply sit idly waiting for out of service calls."⁶⁷ Further, CenturyLink says that it struggles to hire qualified

⁶³ CenturyLink exceptions, April 2, 2024, p. 29.

⁶⁴ CenturyLink initial brief, January 17, 2024, p. 26.

⁶⁵ CenturyLink Proposed Findings of Fact, Conclusions of Law, and Recommendations, February 7, 2024, Finding 124, p. 34.

⁶⁶ CenturyLink Proposed Findings of Fact, Conclusions of Law, and Recommendations, February 7, 2024, Finding 128, p. 35.

⁶⁷ CenturyLink initial brief, January 17, 2024, pp. 47-48.

technicians with the skills needed to repair the legacy copper network. Few trade schools teach copper networks anymore in favor of fiber, so new employees must learn on the job.⁶⁸

Third, CenturyLink's witness, Mr. Turner, said that "maintaining greater technician counts despite a drop [in] trouble tickets presumes functionally infinite resources that could be invested in multiple strategic directions at once, which ignores the realities of actually operating the Company's business."⁶⁹

ALJ Finding

The ALJ found that a utility failing to meet a minimum objective in a Rule without a variance is both failing to satisfy the Rule's plain language and not providing adequate service.⁷⁰

No parties dispute that CenturyLink's performance has fallen below the 95% minimum objective and has remained below that for all months but June 2023.

The ALJ finds the CenturyLink is in violation of 7810.5800, because it "has not come reasonably close to meeting the minimum standard set forth in the rule."⁷¹ The Rule does not make exceptions for geographic spread or workforce barriers.

The ALJ says that "CenturyLink's argument that it cannot find enough qualified technicians is particularly ironic, given that it laid off about half of its technician workforce at almost the same time its performance dropped."⁷²

IV. Proposed Remedies

There are five proposed remedies in this docket. The first three remedies, which have been proposed by the Department and are supported by the OAG and ALJ, are designed to improve CenturyLink's service quality. Staff has organized this section by the remedy proposal and then provides each parties' position and recommendation. They are represented by Decision Options 2 – 12.

A. Investigate and Rehab Deficient Plant and Equipment Identified by the Department's and/or OAG's Expert Witnesses

The proposal to investigate and rehabilitate deficient plant and equipment are in Decision Options 3 – 6.

⁶⁸ CenturyLink Proposed Findings of Fact, Conclusions of Law, and Recommendations, February 7, 2024, Finding 131, p. 36.

⁶⁹ CenturyLink Proposed Findings of Fact, Conclusions of Law, and Recommendations, February 7, 2024, Finding 133, p. 36.

⁷⁰ ALJ Findings of Fact, Conclusions of Law, and Recommendations, March 13, 2024, Finding 91, p. 33.

⁷¹ ALJ Findings of Fact, Conclusions of Law, and Recommendations, March 13, 2024, Finding 95, p. 34.

⁷² ALJ Findings of Fact, Conclusions of Law, and Recommendations, March 13, 2024, Finding 95, p. 34.

Department Proposal

The Department proposed that the Commission require CenturyLink to review and rehab all outside plant and equipment that serves with four or more deteriorated plant trouble tickets since 2019, as identified by the Department's expert, within 24 months of the final order in this matter (**Decision Option 3**).⁷³ The expert identified 4,460 customers with four or more trouble tickets in the last five years.

The Department also proposed that the Commission require CenturyLink to file quarterly reports on its progress on a customer-by-customer basis (**Decision Option 3a**).

*Staff provides an alternative to Decision Option 3 requiring CenturyLink to review and rehab all outside plant and equipment that serves with four or more deteriorated plant trouble tickets since 2019, as identified by the Department's expert, within 24 months of the order on a customer-by-customer basis, up to a maximum cost for repairs, which is not yet determined (**Decision Option 4**). Accordingly, Staff provides an alternative to Decision Option 3a requiring CenturyLink to file quarterly reports that include details of the cost of each repair (**Decision Option 4a**).*

Related to Decision Option 3, the Department recommended that the Commission require CenturyLink to review and rehab the 210 100-pair cables that the Department's expert identified as driving troubles within 24 months (**Decision Option 5**). The Department says that there is significant overlap between these 100-pair cables and the most effected 4,460 customers. By targeting the 210 100-pair cables, it will result in less work for CenturyLink.⁷⁴

OAG Proposal

In addition to supporting the Department's proposal to make whole the 4,460 customers, the OAG recommends that CenturyLink fix, replace, or remove all deficient plant and equipment identified in photographs taken by the OAG expert witness, Mr. Lebens (**Decision Option 6**).⁷⁵

CenturyLink Position

CenturyLink writes that the Department and OAG are encouraging the ALJ and Commission to apply a new standard of "chronic trouble," defining it as a customer experiencing four or more trouble tickets over the past five years and then applying the standard on a customer-by-customer basis.⁷⁶ The Company says that this standard could actually lead to finding that chronic troubles exist on a line even if there are different kinds of services on the same line.

None of the wire centers where the rehab projects are proposed have an average trouble report rate near the objective of 6.5 troubles or fewer per 100 lines. One of the highlighted

⁷³ Department initial findings, January 17, 2024, p. 26.

⁷⁴ Department initial findings, January 17, 2024, p. 27.

⁷⁵ OAG Proposed Findings of Fact, Conclusions of Law, and Recommendations, March 13, 2024, Finding 51a, p. 12.

⁷⁶ CenturyLink reply findings, February 7, 2024, pp. 16-17.

projects had thousands of impacted customers, but the trouble report rate was less than 0.8 per 100 lines for the wire center at issue.⁷⁷

The Department says that the majority of 4,460 customers are in rural areas without an alternative service provider. However, CenturyLink's witness mapped the customers in questions and found that over half were in urban areas where customers have fiber service available from CenturyLink or its competitors.⁷⁸

Further, CenturyLink does not know the cost of performing this work and says that the Department did not attempt to estimate the cost when making the proposal.⁷⁹ The Department did not perform a cost-benefit analysis, and it cannot be certain that it will resolve any issues.⁸⁰

The Company's expert responded that this could "ultimately create economic waste, requiring the Company to expend significant financial resources to continue augmenting a copper network that is no longer the voice service preference of the vast majority of Minnesotans."⁸¹ This would limit its ability to deploy new technologies and support the State's universal broadband goals.

ALJ Recommendation

The ALJ "recommends that the Commission require CenturyLink to promptly review and remedy equipment and plant serving 4,460 customers who are not receiving adequate service, the equipment identified by the Office of the Attorney General's witness, Mr. Lebens, and the 210 100-pair cables identified as responsible for the most chronic service disruptions."⁸²

The ALJ concludes that the proposed remedies are reasonable and within the Commission's authority:

Minn. Stat. §§ 237.02; 237.081, subd. 4(2)-(3); and .461, subd. 1, grant the Commission ample authority to order a telephone company to fix problems with POTS facilities that are responsible for inadequate service following a contested case hearing.⁸³

B. Discontinue Sidelining Maintenance Projects that Do Not Satisfy the Five-Year Payback Period

The issue of CenturyLink not prioritizing maintenance projects that do not have a five-year payback is covered by Decision Option 7. Note that the Department, CenturyLink, nor the ALJ

⁷⁷ CenturyLink exceptions, April 2, 2024, pp. 33-34.

⁷⁸ CenturyLink exceptions, April 2, 2024, p. 35.

⁷⁹ CenturyLink Proposed Findings of Fact, Conclusions of Law, and Recommendations, March 7, 2024, Finding 141, p. 39.

⁸⁰ CenturyLink Proposed Findings of Fact, Conclusions of Law, and Recommendations, March 7, 2024, Finding 145, p. 40.

⁸¹ CenturyLink reply findings, February 7, 2024, p. 21.

⁸² ALJ Findings of Fact, Conclusions of Law, and Recommendations, March 13, 2024, Finding 112, p. 39.

⁸³ ALJ Findings of Fact, Conclusions of Law, and Recommendations, March 13, 2024, Finding 112, p. 39.

addressed this proposal.

OAG Proposal

Generally, CenturyLink repairs must satisfy a five-year payback period for the work to be completed. The OAG proposes that the Commission prohibit CenturyLink from sidelining any maintenance projects that do not satisfy the five-year payback period (**Decision Option 7**).⁸⁴ The OAG says that this is felt particularly acutely in less dense areas of Minnesota.

C. Use Shorter Repair Appointment Windows

Decision Options 8 – 9 are regarding shorter repair windows.

Department Proposal

The Department recommends that the Commission require CenturyLink to reduce its repair appointment windows from eight hours to four hours (**Decision Option 8**). The Department has received complaints from customers that repair windows comprise entire days and that field technicians repeatedly miss appointments.⁸⁵ *Staff provides an alternative decision option reducing the repair appointment windows from eight hours to six hours (Decision Option 9).*

OAG Position

The OAG supports shorter repair windows as proposed by the Department.⁸⁶

CenturyLink Position

CenturyLink says that the Department's proposal of reducing repair windows from eight hours to four is not obligated by any Rule language. The Company witness said that the requirement would result in adverse effects for customers, specifically:

- More missed repair appointments
- Less efficacy in assigning technicians to repair tickets
- A Minnesota-specific or manual adjustment to the Route Optimizer system would add more complexity to the technician assignments

CenturyLink says that this proposal does not address the main issue of its dwindling POTS customer base and the geographic spread of said customers.⁸⁷

ALJ Recommendation

The ALJ concurs with the Department and the OAG that the repair windows need to be

⁸⁴ OAG initial filings, January 17, 2024, p. 16.

⁸⁵ Department initial findings, January 17, 2024, p. 29.

⁸⁶ OAG reply finding, February 7, 2024, pp. 9-10.

⁸⁷ CenturyLink reply findings, February 7, 2024, pp. 24-25.

shortened from eight hours to four hours, saying that CenturyLink’s customers “should not be forced to spend inordinate amounts of their time waiting for the company to provide the service for which they pay.”⁸⁸

D. Implement a Preventative “Plant Pride” Program

Decision Option 10 (all parts) covers a “Plant Pride” program for CenturyLink.

Department Proposal

The Department recommends that the Commission require CenturyLink to implement a preventative “Plant Pride” program (**Decision Option 10**).⁸⁹

The program is modeled on similar efforts in New York and Pennsylvania, implemented in 2016 and 2017, respectively. The Department says that these programs allow technicians to submit plan conditions needing additional maintenance and require telephone companies to promptly review technician submissions. This has resulted in a decrease in customer complaints in both states.

The Department recommends that the following steps be included in a “Plant Pride” program, which will allow CenturyLink to avoid future backlogs:

- Modify its existing Proactive Rehab Tracking procedures, or create new procedures to “resolve” all plant rehab reports received from field technicians within 90 days (**Decision Option 10a**)
- Define the term “resolve” to mean the repair; replacement; or a reasonable alternative resolution, include the possibility of no action, as determined by CenturyLink in consultation with CWA (**Decision Option 10a(i)**)
- Notify the field technician who initially submitted the report of how the report was ultimately resolved (**Decision Option 10b**)
- Conduct a quarterly meeting between CenturyLink’s director of network service operations for Minnesota and applicable regional leaders and CWA’s area/district leadership to review all reports (**Decision Option 10c**)
- Educate field technicians about the “Plant Pride” program procedures and keep them informed of the results through communications at the garage level, including through dedicated space to post local results, and encourage CWA’s area/district leadership to educate its members on a regular basis about these new procedures and champion robust participation (**Decision Option 10d**)

⁸⁸ ALJ Findings of Fact, Conclusions of Law, and Recommendations, March 13, 2024, Finding 131, p. 43.

⁸⁹ Department initial findings, January 17, 2024, p. 27-28.

OAG Position

The OAG supports the Department’s proposal of a “Plant Pride” program.⁹⁰

CenturyLink Position

CenturyLink says that the Department cannot compare CenturyLink of Minnesota to cases from other jurisdictions that do not provide support for interpretation of Minnesota’s Rules.

Further, the Department and OAG ask the Commission to insert itself between the Company and its collective bargaining power, CWA, for which the Commission does not have authority.⁹¹ Also, the parties have not recognized the interactions that CenturyLink and CWA already have.

ALJ Recommendation

The ALJ recommends that the Commission adopt the Department’s Plant Pride proposal.⁹² The improvement in other states establishes that it will improve CenturyLink’s proactive rehab and reduce customer complaints in time. The ALJ states that this is a modest extension of CenturyLink’s existing practices. Examples are below:

- 1) The Company already has procedures for field technicians to propose proactive rehab projects. The proposal would ensure that definitive action take place within 90 days and notification back to the technicians.
- 2) CenturyLink already meets with CWA on a regular basis. The proposal would formalize the meetings and direct the Company to discuss each proposed rehab project.
- 3) CenturyLink maintains records of proposed rehab projects. The proposal would require that the records be filed with the Commission.

Also, the ALJ finds that establishing a Plant Pride program is within the Commission’s jurisdiction.

E. Consider Whether CenturyLink Should be Subject to Civil Penalties

The possibility of charging CenturyLink civil penalties is in Decision Option 11.

ALJ Proposal

In the ALJ’s report, the idea of civil penalties was introduced. Civil penalties are allowed pursuant to Minn. Stat. § 236.461.⁹³ The ALJ states that the Commission has the authority to

⁹⁰ OAG Proposed Findings of Fact, Conclusions of Law, and Recommendations, February 7, 2024, Finding 51, p. 39.

⁹¹ CenturyLink reply findings, February 7, 2024, p. 24.

⁹² ALJ Findings of Fact, Conclusions of Law, and Recommendations, March 13, 2024, Finding 128, p. 42.

⁹³ [Minn. Stat. § 237.461 Enforcement.](#)

Subdivision 1. Actions. This chapter and rules and orders of the commission adopted under this chapter may be enforced by any one or combination of: criminal prosecution, action to recover civil penalties, injunction, action to compel performance, and other appropriate action.

require CenturyLink to pay civil penalties should they violate a portion of Minnesota Rules. The ALJ provided this recommendation:

The Commission consider whether, having failed to secure a variance from Minn. R. 7810.5800 in 2014, CenturyLink’s subsequent violation of that rule is knowing and intentional, and subject to civil penalties of up to \$5,000 per day of violation.⁹⁴

Staff provides a decision option that refers the matter to the Attorney General’s Office to pursue enforcement action to cover civil penalties under Minn. Stat. § 237.461 (Decision Option 11).

Department Position

The Department did not specifically address the idea of civil penalties; instead, the below was stated in reply exceptions, seemingly supporting the ALJ’s recommendations overall:

In sum, the Commission should order CenturyLink to adopt the remedies recommended by the ALJ.⁹⁵

OAG Position

Likewise, the OAG encouraged the Commission to adopt the ALJ’s recommendations in their entirety but did not directly address the consideration of civil penalties.⁹⁶

CenturyLink Position

CenturyLink is strongly against the proposal of civil penalties, saying that the recommendation from the ALJ suggests that violations committed were “knowing and intentional” per Minn. Stat. § 237.461. CenturyLink says that the recommendation does not have advocacy from the parties and does not consider the record of the Company’s performance in the last ten years. Alternatively, CenturyLink recommends that:

Such considerations should be set aside until the Commission (1) clarifies its interpretation of the rules in dispute; (2) finds the Company in violation of any such further articulation of how the Commission interprets these rules; (3) orders a remedy; and (4) the Company willfully and intentionally chooses to not comply with its order.⁹⁷

Subd. 2. Civil penalty. A person who knowingly and intentionally violates a provision of this chapter or rule or order of the commission adopted under this chapter shall forfeit and pay to the state a penalty, in an amount to be determined by the court, of at least \$100 and not more than \$5,000 for each day of each violation.

Subd. 4. Civil penalty proceeds deposited in treasury. The civil penalties provided for in this section may be recovered by a civil action brought by the attorney general in the name of the state. Amounts recovered under this section must be paid into the state treasury.

⁹⁴ ALJ Findings of Fact, Conclusions of Law, and Recommendations, March 13, 2024, Recommendation 8, p. 46.

⁹⁵ Department reply exceptions, April 12, 2024, p. 11.

⁹⁶ OAG reply exceptions, April 12, 2024, p. 12.

⁹⁷ CenturyLink exceptions, April 2, 2024, p. 40.

V. Staff Analysis

The State of the Telecommunications Industry

The telecommunications industry is a dynamic and ever-changing landscape. More Minnesotan households are “cord-cutting” and instead opting for only mobile phone and broadband service. CenturyLink lost 90% of its access lines in Minnesota between 2000 and 2022. The ALJ says that this is “at least partially driven by unreliable and inadequate landline service.”⁹⁸

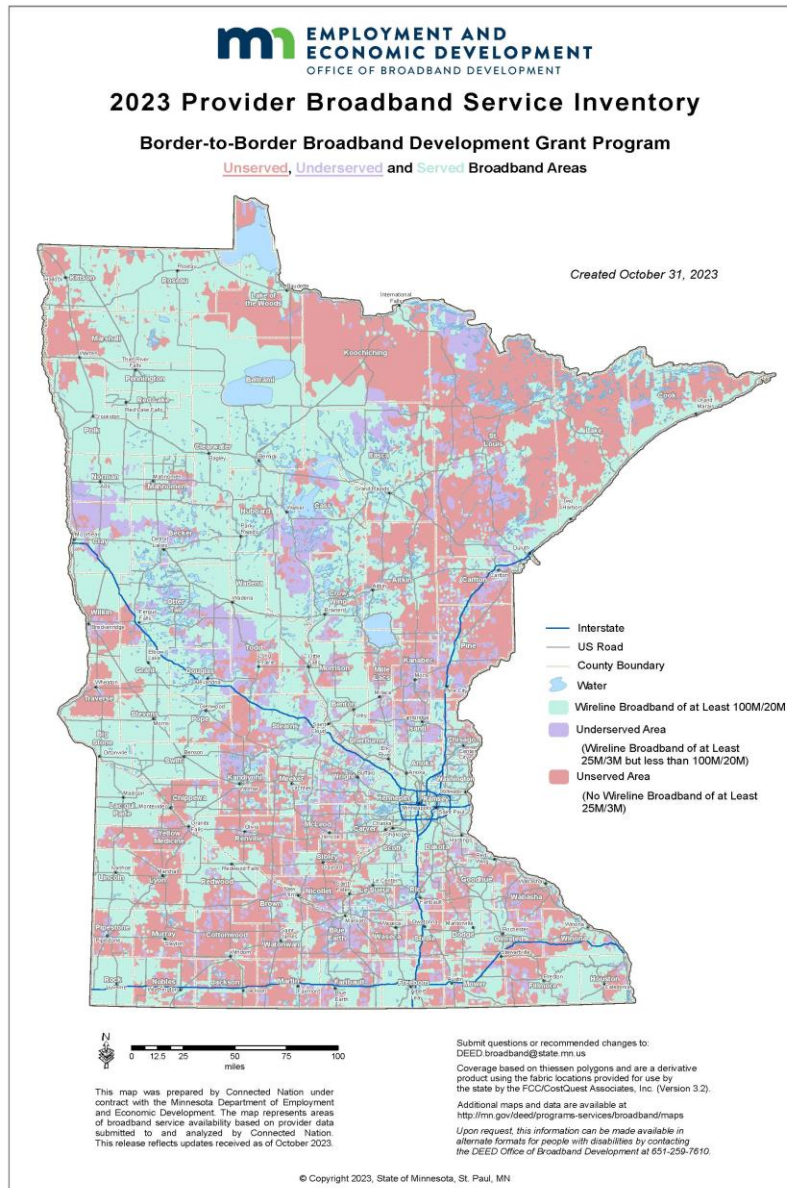
In 2020, 19% of Minnesota’s households had landline service, and 5% relied on it exclusively. Many older and lower-income Minnesotans are still reliant on landline service. In April 2022, the Department contracted with Wilder Research to survey landline users to understand their access to and need for voice service.⁹⁹ 87% of landline customers are most commonly found in rural areas and small towns. The majority of landline customers are ages 65 and older; as of 2021, almost half of landline customers have a household income before taxes of between \$25,000 and \$75,000.

There are two telephone service discount programs available to low-income Minnesotans, the federal Lifeline program and Minnesota’s Telephone Assistance Plan (TAP). The federal Lifeline program offers monthly discounts on landline telephone, cell phone, and/or broadband service. Minnesota’s TAP offers a \$10 monthly discount for landline telephone service. When a CenturyLink customer’s service is out, it essentially renders Lifeline and TAP worthless. Except in the case of a billing error, a customer will not be charged if their service is out, thus causing a gap in access to those discounts.

In addition, according to the Minnesota Department of Employment and Economic Development (DEED), many rural areas still are unserved or underserved with broadband service as of 2023, and therefore, continue to rely on landline service.

⁹⁸ ALJ Findings of Fact, Conclusions of Law, and Recommendations, March 13, 2024, Recommendation 19, p. 7.

⁹⁹ Department Testimony, Gonzalez Direct Testimony, September 1, 2023, Attachment LG-D-2.

Figure 2: Minnesota's 2023 Unserved, Underserved, and Served Broadband Areas¹⁰⁰

The ALJ states that “nothing in the record establishes plans for upgrading the offerings in unserved or underserved rural areas to include broadband or other alternatives.”¹⁰¹ While CenturyLink did not provide details about future upgrades to its broadband service, the Company acknowledged Minnesota’s broadband goals in Minn. Stat. § 237.012, saying that they must be considered in this docket.¹⁰²

¹⁰⁰ https://mn.gov/deed/assets/infrastructure-grant_tcm1045-134198.pdf.

¹⁰¹ ALJ Findings of Fact, Conclusions of Law, and Recommendations, March 13, 2024, Recommendation 26, p. 10.

¹⁰² [Minn Stat. § 237.012 Broadband Goals.](#)

Subdivision 1. Universal access and high-speed goal. It is a state goal that:

The Federal Communication Commission (FCC) and the National Telecommunications and Information Administration (NTIA) offer competitive grant subsidies to telecommunications companies for broadband infrastructure expansion. The NTIA’s upcoming Broadband Equity, Access, and Deployment (BEAD) program has allocated \$651,839,368 for expansion across the country. CenturyLink has stated that greater investments in its legacy copper network means that less funds are available for the Company to meet its broadband goals. Staff notes that neither the FCC’s nor the NTIA’s grant programs award funds to replace or extend copper facilities.

CenturyLink states that “voice service – particularly that provided over copper – is rapidly becoming obsolete.”¹⁰³ CenturyLink plans to continue providing high-quality POTS voice services over its copper network, while also upgrading its network with fiber-based facilities and offering VoIP service as internal funds or state or federal grant funding is made available.

Public Comments and Customer Complaints

The record contains a significant number of public comments. Current and former CenturyLink customers provided comments at the public hearings, as well as 120 public comments filed in the record. The comments contain reports of phone service that is regularly down, slow repairs, repairs that don’t fix the issue, and more. The comments are often from elderly customers or their children, who often live alone and have medical issues. Three other groups filed public comments in the docket, as summarized in the table below:

Table 3: Public Comments from Organizations Filed in 20-432

<i>Date</i>	<i>Organization</i>	<i>Subject of Comments</i>
January 3, 2023	Val-Ed Joint Venture, LLP dba 702 Communications (702)	702 is a CLEC in Kent, MN that uses unbundled loops from CenturyLink. It received a complaint from a customer. After determining it was a facility issue, 702 opened a ticket, which was dispatched, mishandled, escalated, and then forgotten. After filing a complaint with CAO, CenturyLink told 702 that it was not financially advantageous to fix the issue. 702 is asking that CenturyLink be held responsible for serving the address.
August 8, 2023	Northeast Minnesota Emergency	ECB experienced prolonged outages that affect public access to emergency services from 911 calls.

(1) no later than 2022, all Minnesota businesses and homes have access to high-speed broadband that provides minimum download speeds of at least 25 megabits per second and minimum upload speeds of at least three megabits per second; and

(2) no later than 2026, all Minnesota businesses and homes have access to at least one provider of broadband with download speeds of at least 100 megabits per second and upload speeds of at least 20 megabits per second.

¹⁰³ CenturyLink initial filing, January 17, 2024, p. 19.

	Communications Board (ECB)	<p>CenturyLink's current reporting system to inform Public Safety Answering Points (PSAPs) of outages is broad and vague.</p> <p>The City of Hovland (pop: 80) operates with a volunteer Fire Department. The Fire Department was forced to staff its fire hall for 141 hours between 2017 and 2022 to ensure that residents had access to emergency services. This is a significant demand on a small, volunteer service.</p> <p>In Cook County, 7 outages were reported in 2017; 29 in 2022. One resident went 20 days without service.</p>
September 5, 2023	Minnesota Department of Public Safety's Emergency Communication Networks (DPS)	<p>DPS' statutory responsibility is to provide a network supporting delivering 911 calls to more than 100 911 centers in Minnesota. CenturyLink is Minnesota's contracted 911 service provider.</p> <p>When a customer has a service interruption, PSAPs often receive reporting that is incomplete and thus unactionable.</p> <p>CenturyLink's inability to provide uninterrupted 911 access is an example of the Company's inability to meet service quality standards. Despite DPS providing hundreds of thousands of dollars every year to CenturyLink for cost recovery, the Company has not performed basic enhancements and upgrades.</p>

Similarly, there have been many complaints from CenturyLink's customers that have been lodged with the Department and with the PUC's Consumer Affairs Office (CAO). The Department received 530 complaints from CenturyLink customers between January 2021 and June 2023. Most complaints regarded outages, outages that lasted longer than 24 hours, customers incorrectly being told the problem was resolved, missed repair appointments, and other infrastructure issues.¹⁰⁴

CAO filed five CenturyLink customer complaint memos in the docket between June and October 2022. Each memo included a PDF with details of each complaint that month. The memos represent hundreds of customers' complaints. The complaints were categorized as 911 outages; install/repair delays; lines/equipment; miscellaneous customer service issues; miscellaneous telephone service issues; and phone outages. Most of complaints are around phone outages, lines/equipment, install/repair delays.

¹⁰⁴ ALJ Findings of Fact, Conclusions of Law, and Recommendations, March 13, 2024, Table at Finding 38, p. 15.

CAO also provided a report to Staff that CenturyLink had been receiving customer complaints over its social media channels, which in 2022, Commission Legal Counsel determined fell under the definition of “customer trouble report” in Minn. R. 7810.0100, Subp. 13.¹⁰⁵

Possible Rule Violations

The ALJ writes that a preponderance of evidence has been established that CenturyLink has violated Minn. R. 7810.3300, 7810.5000, and 7810.5800. The ALJ agrees with the Department and OAG’s position that Minn. R. 7810.5900 (Trouble Reports) cannot be used as a proxy for adequate service in 7810.3300 and 7810.5000 as CenturyLink argues.¹⁰⁶ Instead, adequacy is determined on a case-by-case basis. The two service standards laid out in Minn. R. 7810.5800 are:

- 1) Reestablish service with the minimum possible delay; and
- 2) Maintain an objective to clear 95% of all out-of-service troubles within 24 hours.¹⁰⁷

The ALJ says that failing to meet these two standards means that the utility is not providing adequate service.

CenturyLink denies that it has violated Minn R. 7810.3300, 7810.5000, or 7810.5800, oft-citing its low trouble report rates.

Possible Remedies

Remedies Proposed by Parties

The Department or OAG recommended four solutions to solve CenturyLink’s alleged inadequate service:

- 1) Investigating and rehabbing deficient plans and equipment (**Decision Options 3 – 6**)
- 2) Discontinuing sidelined maintenance projects (**Decision Option 7**)
- 3) Using shorter repair time windows (**Decision Options 8 – 9**)
- 4) Implementing a “Plant Pride” program (**Decision Option 10**)

The ALJ supports all of the above solutions. CenturyLink does not support any of the proposed

¹⁰⁵ [Minn. R. 7810.0100 Definitions.](#)

Subp. 13. Customer trouble report. "Customer trouble report" means any oral or written report from a subscriber or user of telecommunications service relating to a physical defect or to difficulty or dissatisfaction with the operation of telecommunications facilities. One report shall be counted for each oral or written report received even though it may duplicate a previous report or merely involve an inquiry concerning progress on a previous report. Also, a separate report shall be counted for each telephone or PBX switchboard position reported in trouble when several items are reported by one customer at the same time, unless the group of troubles so reported is clearly related to a common cause.

¹⁰⁶ ALJ Findings of Fact, Conclusions of Law, and Recommendations, March 13, 2024, Finding 83, p. 31.

¹⁰⁷ ALJ Findings of Fact, Conclusions of Law, and Recommendations, March 13, 2024, Finding 91, p. 33.

remedies.

The ALJ also encouraged the Commission to consider requiring CenturyLink to pay a civil penalty for every violation of Minn. R. 7810.5800 of up to \$5,000 per day of violation. (**Decision Option 11**)

Remedy Proposed by Staff

Despite an extensive record, there are still many unknowns in this docket, the principal being that the dollar amount of making permanent repairs to each of the 4,460 customers that the Department identified as having 4,460 customers with four or more trouble tickets in the last five years is still unknown. None of the parties, including CenturyLink, provided an estimated cost for these repairs. Other unknown information includes:

- If the equipment photographed by the OAG's expert is indeed owned by CenturyLink and how much it would cost to perform repairs on an equipment-by-equipment basis;
- How many of the 4,460 customers have a viable and reliable landline alternative, regardless of technology;
- How much it would cost to replace copper lines with fiber-based facilities for the 4,460 customers;
- Whether CenturyLink will be applying for BEAD funding or any other grant funds, and whether new facilities will overlap with the 4,460 customers;
- How much it would cost to repair or replace the 210 100-pair cables and how many customers of the 4,460 customers would have their service improved;
- How many customers have had one, two, three, four, and greater than four deteriorated trouble tickets since 2019;
- How much it would cost to update the Route Optimizer tool or replace it with a newer, more efficient system and whether it would improve timely repairs;
- How recordkeeping of preventative rehab could be modified or improved; and
- How the notification system to field technicians and supervisors could be improved.

Therefore, Staff provides Decision Option 12a – 12j, requiring CenturyLink to file a report providing this information within six months of the Order.

VI. Decision Options

Has CenturyLink violated the following Minnesota Rules: 7810.3300 (Maintenance of Plant and Equipment), 7810.5000 (Utility Obligations), or 7810.5800 (Interruptions of Service)?

1. Find that CenturyLink is in violation of Minn. R.: *(ALJ, Department, OAG)*

[If Decision Option 1 chosen, Decision Options 1a, 1b, and/or 1c must be chosen as well.]

- a. 7810.3300
- b. 7810.5000
- c. 7810.5800

[OR]

2. Find that CenturyLink is in substantial compliance with Minn. R. 7810. *(CenturyLink)*

If CenturyLink is found to be in violation of the Commission Rules identified above, what are the appropriate remedies?

[If the Commission selects any or all of Decision Option 1a, 1b, or 1c, the Commission may consider any or all of Decision Options 3 through 10.]

3. Require CenturyLink to review and rehab all outside plant and equipment that serves customers, who have had four or more deteriorated plant trouble tickets between January 2019 – June 2023, as identified by the Department’s expert, within 24 months of the Order. *(ALJ, Department, OAG)*
 - a. Require CenturyLink to file quarterly reports on its progress on a customer-by-customer basis.

[OR]

4. Require CenturyLink to review and rehab all outside plant and equipment that serves customers, who have had four or more deteriorated plant trouble tickets between January 2019 – June 2023, as identified by the Department’s expert, within 24 months of the Order on a customer-by-customer basis, up to a maximum cost to be determined. *(Staff alternative to Decision Option 3)*
 - a. Require CenturyLink to file quarterly reports on its progress on a customer-by-customer basis with details on the cost of each repair. *(Staff alternative to Decision Option 3a)*

5. Require CenturyLink to review and rehab the 210 100-pair cables that the

Department's expert identified as driving troubles within 24 months. *(ALJ, Department, OAG)*

6. Require CenturyLink to make repairs promptly to all equipment depicted in the OAG's expert's photographs. *(ALJ, Department, OAG)*
7. Require CenturyLink to end its practice of declining to complete maintenance projects for failure to satisfy a five-year payback threshold. *(OAG)*
8. Require CenturyLink to reduce repair appointment windows from eight hours to four hours. *(ALJ, Department, OAG)*

[OR]

9. Require CenturyLink to reduce repair appointment windows from eight hours to six hours. *(Staff alternative to Decision Option 8)*
10. Require CenturyLink to implement a preventative "Plant Pride" program as follows: *(ALJ, Department, OAG)*

[If Decision Option 10 is chosen, Decision Options 10a (with 10a(i)), 10b, 10c, and/or 10d must also be chosen.]

- a. Require CenturyLink to modify its existing Proactive Rehab Tracking procedures or create new procedures to resolve all plant rehab reports received from field technicians within 90 days. *(ALJ, Department, OAG)*

[If Decision Option 10a is chosen, Decision Option 10a(i) must also be chosen.]

- i. Define the term "resolve" to mean the repair, replacement, or a reasonable alternative resolution, including the possibility of no action, as determined by CenturyLink in consultation with the Communications Workers of America.
- b. Require CenturyLink to notify the field technician that initially submitted the report of how it was ultimately resolved. *(ALJ, Department, OAG)*
- c. Require CenturyLink's director of network service operations for Minnesota and applicable regional leaders to meet with the Communications Workers of America's area/district leadership on a quarterly basis to review all reports from the quarter. *(ALJ, Department, OAG)*
- d. Require CenturyLink to educate field technicians about any new "Plant Pride" procedures and keep them informed of the results through communication at the garage level, including through dedicated space to post local results

(i.e. before and after photos). *(ALJ, Department, OAG)*

[If Decision 11 is chosen, Decision Option 1c must also be chosen.]

11. Find that because CenturyLink failed to secure a variance from Minn. R. 7810.5800, its subsequent violation of the rule is knowing and intentional and refer the matter to the Attorney General to pursue an enforcement action to recover civil penalties under Minn. Stat. § 237.461. *(ALJ)*
12. Require CenturyLink to file reporting within six months of the Order including the following components: *(Staff alternative)*

[If Decision Option 12 is chosen, Decision Options 12a, 12b, 12c, 12d, 12e, 12f (with 12f(i)), 12g, 12h, 12i, and/or 12j must also be chosen.]

- a. A cost analysis of performing repairs for the 4,460 customers identified by the Department's expert on a customer-by-customer basis.
- b. A determination of whether the equipment photographed by the OAG's expert is owned by CenturyLink and a cost analysis of performing repairs on an equipment-by-equipment basis.
- c. An analysis of how many of the 4,460 customers have a viable and reliable landline alternative, regardless of technology.
- d. A cost analysis of replacing copper lines with fiber-based facilities for the 4,460 customers.
- e. Detailed plans on whether CenturyLink will be applying for BEAD funding or any other FCC funds. Include the wire centers in which the new facilities will be located and whether the facilities will overlap with the 4,460 customers.
[REPORT AS TRADE SECRET DATA.]
- f. A cost analysis of performing repairs or replacement of the 210 100-pair cables.

[If Decision Option 12f is chosen, Decision Option 12f(i) must also be chosen.]

- i. An assessment of how many of the 4,460 customers would have their service improved by repairing or replacing the 210 100-pair cables.
- g. A determination how many customers have had one, two, three, four, and greater than four deteriorated trouble tickets since 2019, using the Department witness' methodology. Provide the total number of customers for each group. Perform a cost analysis of performing repairs for each group.

- h. A cost-benefit analysis on the possibility of updating the Route Optimizer tool or replacing it with a newer, more efficient system.
- i. A proposal for how recordkeeping of preventative rehab could be modified or improved.
- j. A proposal for how the system of notification to field technicians and their supervisors could be improved.

13. Take no action. (*CenturyLink*)