

Staff Briefing Papers

Meeting Date December 23, 2020 Agenda Item *2

Company Local Exchange Carriers

Docket No. **P999/CI-20-665**

In the Matter of Telephone Assistance Plan Review

- Issues
1. Should the Commission accept the Telephone Assistance Plan (TAP) Fund Review submitted on September 15, 2020 for the Six-Month Period Ending June 30, 2020?
 2. Should the Commission modify the TAP Credit and Surcharge?
 3. Should the Commission reconvene the TAP Advisory Group?

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Relevant Documents

Date

Report-Telephone Assistance Program TAP January through June 30 2020	September 15, 2020
Reply Comments of the Office of the Attorney General Residential Utilities Division	October 22,2020
Comments of the Minnesota Department of Commerce	October 22,2020
Comments (Spreadsheet) of the Minnesota Department of Commerce	October 22,2020

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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

Letter from Office of the Attorney General Residential Utilities
Division

November 2, 2020

Comments of the Minnesota Telecom Alliance (MTA)

November 2, 2020

I. Statement of the Issues

1. Should the Commission accept the Telephone Assistance Plan (TAP) Fund Review submitted on September 15, 2020 for the Six-Month Period Ending June 30, 2020?
2. Should the Commission modify the TAP Credit and Surcharge?
3. Should the Commission reconvene the TAP Advisory Group?

II. Background

The Telephone Assistance Plan (TAP) is a state program that gives financial support to eligible telephone subscribers through discounts or bill credits, currently at \$7.00 per month. TAP is funded through a monthly surcharge, now at \$0.10 per month, collected by local service providers on a per access line basis from their customers.¹ Prior to July 1, 2019, the TAP credit was \$3.50 and the surcharge was \$0.03. These amounts had been unchanged since 2013 when the surcharge was lowered from \$0.06 and the credit increased from \$2.50. Local service providers remit surcharge revenues to the Department of Public Safety, which deposits the funds into the state TAP Fund. Under Minn. Stat. §§ 237.69 -71, the Commission administers the TAP program, reimbursing local service providers for credits issued to subscribers and for reasonable administrative expenses.

TAP complements the similar federal Lifeline program which gives a corresponding monthly credit up to \$9.25 to eligible subscribers² (\$34.25 on tribal lands)³. Lifeline is the low-income component of the federal Universal Service Fund, funded through contributions from Eligible Telecommunications Carriers (ETCs) and which are passed on to their eligible customers. By law, TAP eligibility is identical to Lifeline's. (See Minn. Stat. § 237.70, Subd.3)

¹ On January 15, 2019, the Commission issued an Order in Docket No. P-999/CI-18-112 which increased the credit level awarded per month to \$7.00 per month with an increase in the surcharge level to \$0.10 per month. The effective date for the new surcharge and/or credit amount was July 1, 2019. The Commission maintained the credit and surcharge at those levels in its January 3, 2020 Order in Docket No. P-999/CI-19-359.

² Support for stand-alone voice decreased to \$7.25 on Dec. 1, 2019; \$5.25 by Dec. 1, 2020; and no support by Dec. 1, 2021, except in areas where there is only one Lifeline provider.

³ Tribal Lands Lifeline provides a monthly discount of up to \$34.25 off the cost of telephone service, either wireline or wireless. This discount is up to \$9.25 (which is available to all eligible low-income subscribers across the United States) plus up to an additional \$25 (which is available only to eligible low-income subscribers living on Tribal lands).

The Commission is also charged with determining both the amount of the credit and the amount of the surcharge, subject to statutory maximums. (See Minn. Stat. § 237.70, subd. 7 (d) (1) and (2)). Commission rules require it to examine credit and surcharge levels at least annually (See Minn. R. 7817.0500) and authorize it to adjust those levels at any point on 30 days' notice. (See Minn. R. 7817.0700)

On September 15, 2020, the Commission's TAP Administrator filed the TAP Fund update covering the six-month period ending on June 30, 2020.

On October 22, 2020, the Office of the Attorney General (OAG) filed comments recommending that the Commission should reconvene the TAP Advisory Group on an expedited basis to explore increasing the TAP credit and reducing the TAP surcharge. In the alternative, and assuming the development of a sufficient record of evidence in this docket, the Commission could adjust the TAP credit and surcharge amounts immediately but direct the TAP Advisory Group to explore the long-term appropriateness of those changes after-the-fact.

On October 22, 2020, the DOC filed reply comments which recommended that the Commission increase the monthly TAP credit to \$10.00 per household and decrease the monthly TAP surcharge to \$.07 per line.

On November 2, 2020 the Office of the Attorney General (OAG) filed reply comments recommending that the Commission should adopt the Department's proposal to increase the TAP credit to \$10 per month and to decrease the TAP surcharge to \$0.07 per month.

On November 2, 2020 the Minnesota Telecom Alliance filed comments encouraging the Commission (1) to reduce the surcharge applicable to each access line in the state; (2) take note of underlying market trends that are likely driving program results; and (3) reconvene the TAP-Lifeline Advisory Group.

III. Parties' Comments

1. **Should the Commission accept the Telephone Assistance Plan (TAP) Fund Review Submitted on September 15, 2020 for the Six-Month Period Ending June 30, 2020?**

OAG: Did not directly address this question.

DOC: Did not directly address this question.

MTA: Did not directly address this question.

2. **Should the Commission modify the TAP Credit and Surcharge?**

DOC: The Minnesota Department of Commerce (DOC) prepared an Attachment to provide an estimate of the impact on the fund with various levels of TAP credits and surcharges. There is currently an opportunity to increase the TAP credit and/or reduce the TAP surcharge, and still maintain a significant and sustainable fund balance. The DOC believes that it is appropriate for the Commission to increase the monthly TAP credit from \$7.00 to \$10.00 for eligible households, as well as reduce the monthly TAP surcharge from \$.10 to \$.07. The increase in the TAP credit to \$10.00 would help mitigate the impact low income households have experienced, as identified in pages 2 – 3 of the DOC’s October 22, 2020 comments. Assuming the projected line count, interest revenue and administrative costs stay the same, the TAP fund balance would be approximately \$1,899,784 on June 30, 2022 at these new credit and surcharge levels. The \$10.00 credit and \$.07 surcharge levels would bring the TAP fund balance down each year, which the DOC believes is appropriate, given the current balance.

Increasing the TAP credit would help landline service to be more affordable for eligible households that are facing a reduction in Lifeline benefits as of December 1, 2020 and an eventual elimination of Lifeline benefits as of December 1, 2021 (to the extent they do not also subscribe to an eligible broadband service). Also, adoption of a higher TAP credit would make the TAP program more attractive to potential applicants, increasing the probability that they will apply for the program. Although there is no indication that there has been a reduction in eligible households, participation in the TAP program decreased from 14,970 subscribers on June 30, 2019, to 13,592 subscribers on December 31, 2019, to 13,067 subscribers on June 30, 2020.

Finally, increasing the proposed TAP credit supports the Commission in achieving its universal service goals as established in Minnesota Statute section 237.011, which states that “universal service” is a “state goal that should be considered as the commission executives its regulatory duties with respect to telecommunications services.”

OAG: The OAG supports the DOC’s recommendation to increase the Telephone Assistance Plan (“TAP”) credit to \$10 and to decrease the TAP surcharge to \$0.07. The OAG and the DOC agree that the current \$2,008,163 TAP surplus should be used to help Minnesota’s low-income telephone subscribers mitigate the financial challenges related to the COVID-19 pandemic. The OAG believes that increasing the TAP credit will provide much-needed near-term financial assistance to Minnesota’s low-income telephone subscribers. Similarly, decreasing the TAP surcharge will alleviate some of the financial burden experienced by the non-low-income telephone subscribers who pay the surcharge. In addition, the DOC correctly observes that an increase in the monthly TAP credit could be used to offset decreasing support for legacy voice service resulting from the Federal Communications Commission’s Lifeline Modernization Order. The DOC’s calculations clearly demonstrate that a TAP credit increase and surcharge decrease would not undercut the sustainability of the TAP fund.

MTA: MTA supports the proposals of the DOC and the Office of the Attorney General to reduce the per-access-line surcharge. Specifically, MTA supports reducing the surcharge at least to the \$.07/month level recommended by the Department and ideally to an even lower amount per month.

Even with the DOC's proposed reduction of the surcharge to \$.07/month, the balance sitting in the TAP fund would still be approximately \$1.9 million on June 30, 2022, according to the Department's projections. The DOC's Oct. 22, 2020 Comments, page 4 ("Assuming the projected line count, interest revenue and administrative costs stay the same, the TAP fund balance would be approximately \$1,899,784 on June 30, 2022 at these new credit and surcharge levels.") There does not appear to be a policy rationale for maintaining any substantial balance in the TAP fund, let alone a balance of close to \$2 million.

MTA acknowledges that the reduction from \$.10/month to \$.07/month or some lower amount is a relatively small adjustment in the scale of a given household's budget. Nevertheless, reducing the surcharge is appropriate for two reasons. First, it is difficult to justify collecting the funds from consumers when the overall program those customers are funding is not achieving the desired policy outcome. Second, in the aggregate, the Commission's imposition of a surcharge has the effect of removing money from Minnesotans' wallets and putting it into a government-held account at the very time when our shared economic recovery from the COVID-induced recession depends on consumers having more, not less, money in their wallets.

Further, MTA does not object to raising the TAP benefit, but the Commission should take note of the underlying market trends likely driving program results. Based on the observations of MTA's members, it appears that demand for the TAP program is not as strong as policy-makers desire or expect because Minnesotans are choosing to switch from wireline service to wireless service. On Page 4 of the MTA's November 2, 2020 comments, the MTA provided a graph illustrating the consumer's movement away from landline telephone service to wireless service.

Given this sustained continuous drop in the number of customers with landline phones, the MTA encourages the Commission to note that regardless of the level of customer benefit under the TAP program, a continued decrease in utilization of the TAP program will almost certainly continue.

3. Should the Commission reconvene the TAP Advisory Group?

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

The Commission should reconvene the TAP Group to discuss the CAO's outreach and promotional activities. While the Commission approved these expanded efforts more than a year ago, TAP enrollment continues to plummet. Similarly, the transition to the use of the

National Verifier to confirm enrollment eligibility may have negatively affected TAP participation. These TAP participant decreases almost assuredly do not reflect the need for this support, and the Commission should take proactive steps to revitalize the program and increase participation.

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

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

Now that we have the benefit of a year’s worth (albeit an unusual one due to the COVID19 pandemic) of knowledge from the CAO’s outreach and promotional activities and almost ten (10) months of exposure to National Verifier, the Commission should direct Commission Staff to reassemble the TAP Group. It is time to unpack these experiences and have a candid discussion about whether or how to modify the TAP program to ensure its future success.

MTA: MTA supports the recommendation of the Office of the Attorney General to reconvene the TAP/Lifeline advisory workgroup. MTA's President & CEO, Brent Christensen, serves on the workgroup and welcomes the opportunity to continue participating.

DOC: Did not address this in written comments.

IV. Staff Analysis

TAP Credit and Surcharge Levels

As part of their comments in this docket, the DOC filed a spreadsheet providing a multitude of scenarios regarding the levels of the credit and surcharge.⁴ Staff would like to highlight just a few of those scenarios with a \$10 credit assumed on a going forward basis. The Table below provides the various surcharge levels, annual surcharge revenue, Monthly Credit Amounts 6/30/2020 to 6/30/2022, and 6/30/2020 to 6/30/2022 projected fund balance scenarios:

Surcharge Amount	Annual Surcharge Revenue 6/30/2021	Monthly Credit for July 2020 to June 2021		Monthly Credit July 2021 to June 2022	Projected Fund Balance		
		July - Dec	Jan - June		6/30/2020	6/30/2021	6/30/2022
\$0.10	\$ 1,693,617	\$7.00	\$10.00	\$10.00	\$2,008,163	\$2,327,254	\$2,411,140
\$0.09	\$ 1,608,936	\$7.00	\$10.00	\$10.00	\$2,008,163	\$2,242,028	\$2,240,688
\$0.08	\$ 1,524,255	\$7.00	\$10.00	\$10.00	\$2,008,163	\$2,156,802	\$2,070,236
\$0.07	\$ 1,439,574	\$7.00	\$10.00	\$10.00	\$2,008,163	\$2,071,576	\$1,899,784
\$0.06	\$ 1,354,893	\$7.00	\$10.00	\$10.00	\$2,008,163	\$1,986,350	\$1,729,332
\$0.05	\$ 1,270,212	\$7.00	\$10.00	\$10.00	\$2,008,163	\$1,901,124	\$1,558,880
\$0.04	\$ 1,185,532	\$7.00	\$10.00	\$10.00	\$2,008,163	\$1,815,898	\$1,388,428
\$0.03	\$ 1,100,851	\$7.00	\$10.00	\$10.00	\$2,008,163	\$1,730,672	\$1,217,976
\$0.02	\$ 1,016,170	\$7.00	\$10.00	\$10.00	\$2,008,163	\$1,645,446	\$1,047,524
\$0.01	\$ 931,489	\$7.00	\$10.00	\$10.00	\$2,008,163	\$1,560,220	\$877,072

What this shows is that if the Commission increases the TAP credit from the current \$7 to \$10 and decreases the surcharge from the current \$0.10 to \$0.07, the fund balance will safely remain well within the range it was between 2013 and 2019. Staff believes that the two changes are reasonable for at least a couple of reasons. First the reduction in the surcharge from \$0.10 to \$0.07 will provide relief for the funding access lines. At the same time, it provides a reasonable and secure projected fund balance for the next two years.

Second, the increase in the credit from \$7 to \$10 represents the single biggest way for the Commission to increase TAP participation. A \$10 TAP credit stands out significantly and provides a greater incentive for eligible households to subscribe to the TAP program. A \$10 TAP credit will greatly assist all activities the TAP/Lifeline Advisory Group undertakes to grow and promote the program.

⁴ The DOC's analysis assumes that the number of funding access lines will range between 1,428,489 (6/30/2020) and 1,411,347 (6/30/2021), and the number of TAP subscribers will remain constant at 13,067.

TAP/Lifeline Advisory Group

Staff thanks the OAG for its engagement in the TAP dockets the last three years⁵, and understands the OAG's concern regarding the continuing decline in TAP enrollment. In the OAG's October 22, 2020 comments in the current docket, the OAG provided the following effective analysis to persuade the Commission to reconvene the TAP/Lifeline Advisory Group:

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

Now that we have the benefit of a year's worth (albeit an unusual one due to the COVID19 pandemic) of knowledge from the CAO's outreach and promotional activities and almost ten (10) months of exposure to National Verifier, the Commission should direct Commission Staff to reassemble the TAP Group. It is time to unpack these experiences and have a candid discussion about whether or how to modify the TAP program to ensure its future success.....(October 22, 2020 Comments of the Office of the Attorney General-Residential Utilities Division at page 6).

Staff agrees with the OAG's analysis that the Advisory Group is a helpful forum for discussing trends and patterns in the TAP program. As such, Staff agrees that the advisory group should continue to address these issues.⁶ Staff does not oppose the recommendation to convene the TAP Advisory Group to evaluate outreach and marketing activities and consider the impacts of the National Verifier on Minnesota's TAP program.

⁵ In the 2018 TAP docket, the OAG recommended an increase in the TAP credit and surcharge, and also recommended that the Commission direct its staff to conduct outreach as well as review TAP providers websites. See OAG-RUD comments, Docket 18-112, Filed November 2, 2018. In Comments filed on November 18, 2020, the OAG the OAG remains concerned about the continuing decline in TAP enrollment and wants to remain engaged and proactive on this issue. As a result, if the July through December 31, 2019 and/or January through June 30, 2020 TAP six month reports show a continuing decrease in TAP participation, the OAG recommends the Commission direct the TAP/Lifeline Advisory Group to re-raise and re-examine the three questions from TAP Docket P999/CI-18-112. This will allow interested parties to refresh their thinking on TAP related charge, surcharge, and marketing issues and, hopefully, stem the tide of what appears to be a systemic decline in TAP enrollment.

⁶ Staff notes that the Lifeline-TAP advisory group can reconvene with or without a vote at the December 23, 2020 agenda meeting. The advisory group was already formed by the Commission and the authority was delegated to staff to run the group. In this case, staff does not oppose a vote at an agenda meeting, since it helps memorialize the reason for continuing the group's discussions.

V. Decision Options

1. Should the Commission accept the Telephone Assistance Plan (TAP) Fund Review Submitted on September 15, 2020 for the Six-Month Period Ending June 30, 2020?
 - a. Accept the TAP Fund review submitted on September 15, 2020 for the six-month period ending June 30, 2020 (*All Parties implicitly*). OR;
 - b. Do not accept the TAP Fund review submitted on September 15, 2020 for the six-month period ending June 30, 2020.
2. Should the Commission modify the TAP Credit and Surcharge?
 - a. Modify the monthly TAP credit to \$10.00 per household and decrease the monthly TAP surcharge to \$.07 per line (*All Parties*). Delegate authority to the Executive Secretary to issue a notice setting the deadline for the credit and surcharge change on telephone bills. (*Staff*)
 - b. Modify the monthly TAP credit to some other level per household and modify the monthly TAP surcharge to some other level per line.
 - c. Maintain the current TAP credit and surcharge levels.
3. Should the Commission reconvene the TAP Advisory Group?
 - a. Require Commission Staff to reconvene the TAP Group (*OAG and MTA*).
 - b. Do not require Commission Staff to reconvene the TAP Group.

VI. Staff Recommendation

Staff recommends that the Commission adopt options 1a, 2a, and 3a.