

**STATE OF MINNESOTA
BEFORE THE PUBLIC UTILITIES COMMISSION**

Beverly Jones Heydinger	Chair
David C. Boyd	Commissioner
Nancy Lange	Commissioner
Dan Lipschultz	Commissioner
Betsy Wergin	Commissioner

In the Matter of the Complaint by the
Minnesota Department of Commerce
Against the Charter Affiliates Regarding
Transfer of Customers

Docket No. P-6716, 5615/C-14-383

**Reply Comments of
Legal Services Advocacy Project and the Minnesota Community Action Partnership**

Introduction

On January 23, 2015, the Minnesota Public Utilities Commission (the Commission) issued a *Notice of Extended Reply Comment Period* in the above-captioned docket, establishing a January 30, 2015 deadline. The Legal Services Advocacy Project and the Minnesota Community Action Partnership (MinnCAP) respectfully submit the following reply comments in this docket.

The Legal Services Advocacy Project is a statewide division of Mid-Minnesota Legal Aid, and has been representing Legal Aid and the interests of low-income Minnesotans through legislative and administrative advocacy, research, and community education activities for the past 38 years. The Minnesota Community Action Partnership is a nonprofit, membership organization representing Community Action Agencies across the state that provide a range of

services to families in need to help them move toward economic independence, growth, well-being and opportunity.

Overview

Many of Legal Aid’s clients and many of the individuals and families served by the Minnesota Community Action Partnership member agencies are recipients of the Telephone Assistance Plan (TAP) and Telecommunications Access Minnesota (TAM). TAP and TAM are critically important programs to fulfill the state’s telecommunications goal of universal service, as set forth in Minnesota law,¹ and keep our clients, who include elders and persons with disabilities, connected to their physicians, their families, and their communities. These programs enable our clients to fully participate in our society and the economy, and access emergency and other services when required.

Responsibility to support these programs is – and should be – shared among the telecommunications service providers offering service to Minnesota’s telecommunications customers. The startling and disquieting allegations by the Minnesota Department of Commerce (the Department) and their substantiation by the Department in its comments compel Legal Aid and the Minnesota Community Action Partnership to intercede in this docket.

¹ Minn. Stat. § 237.011 (listing “supporting universal service” as the very first of the enumerated “state goals that should be considered as the commission executes its regulatory duties with respect to telecommunication services”).

Reply Comments

I. Charter's Attempt to Transfer Customers is Disturbing

The Department's allegation that Charter attempted to offload customers to "what it apparently hoped might one day be found to be an 'unregulated' subsidiary" is especially disturbing.² The Department has supported its allegation by its revelation that Charter "boasted of its nonpayment of fees and taxes, unlike its wireline competitors" and that "communications to customers and prospective customers did not disclose that the 'tax-and-fee-reductions' also reduced support for services of subscribers' disabled and low income neighbors."³

The Department further proves, through the test calls by one of its own staff, that while telling the Commission it offers TAP credits, Charter was telling consumers that it does not offer the credit.⁴ Further, the Department credibly asserts that Charter has failed, in response to information requests from the Department, to substantiate its claim that it offers TAP credits.⁵

II. The Department Has Persuasively Argued that the Commission is Not Preempted

The Department has persuasively argued that the Commission is not preempted from regulating Charter like every other carrier.⁶ Importantly, the Department points to Minnesota PUC v. FCC, 483 F.3d 570 (8th Cir. 2007) to give lie to Charter's assertion that "[e]very court to decide the question has held that interconnected VoIP is an information service, a conclusion

² In the Matter of the Complaint by the Minnesota Department of Commerce Against the Charter Affiliates Regarding Transfer of Customers, Docket No. P-6716, 5615/C-14-383, *Comments of the Minnesota Department of Commerce* (filed January 20, 2015), at 4.

³ Id.

⁴ Id., at 15-16.

⁵ Id., at 17.

⁶ Id., at 5.

following directly from the plain text of the Communications Act.”⁷ The Department further successfully assaults Charter’s claims by pointing out that the Federal Communications Commission “has on its meeting agenda for February 26, 2015, a Notice of Proposed Rulemaking [to determine] whether broadband internet access facilities and services such as Charter’s should be classified as ‘telecommunications services’ and therefore subject to Title II and State regulation or as ‘information services’ that may not be subject to certain Federal and State regulations.”⁸

Conclusion and Recommendation

The Department has substantiated its Complaint. The Department’s comments, filed on January 20, 2015, provide sufficient evidence to support its allegations and refute Charter’s assertions.

Charter’s shocking behavior should not be condoned. LSAP urges the Commission to: (1) find that the Department has successfully met its burden of proof in the Complaint; and (2) adopt the Department’s recommendations.⁹

January 30, 2015

Respectfully Submitted,

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Arnie Anderson, Executive Director
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⁷ Id. (citing Docket No. P-6716, 5615/C-14-383, Charter’s Answer to Complaint (Answer) at 9).

⁸ Id., at 6 (citation omitted).

⁹ See Id., pps. 25 – 30.

