
**BEFORE THE MINNESOTA OFFICE OF ADMINISTRATIVE HEARINGS
600 North Robert Street
St. Paul, Minnesota 55101**

**FOR THE MINNESOTA PUBLIC UTILITIES COMMISSION
121 7th Place East
Suite 350
St. Paul, Minnesota 55101-2147**

**MPUC Docket No. P-421/C-20-432
OAH Docket No. 21-2500-38965**

***In the Matter of Formal Complaint Regarding the Services Provided
by the Qwest Corporation d/b/a CenturyLink in Minnesota,
on Behalf of the Communications Workers of America***

**PROPOSED FINDINGS OF FACT AND CONCLUSIONS OF LAW
OF THE OFFICE OF THE ATTORNEY GENERAL—
RESIDENTIAL UTILITIES DIVISION**

February 7, 2024

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**PROPOSED FINDINGS OF FACT AND CONCLUSIONS OF LAW
OF THE OFFICE OF THE ATTORNEY GENERAL**

I. BACKGROUND

1. Many Minnesotans rely upon wireline telephone service.¹ For a good number of Minnesotans, other technologies (e.g. cellular phone service and VoIP) are inaccessible—whether by reason of cost, service offering availability, distance from critical infrastructure, or rugged topography.²
2. Recognizing that for a portion of Minnesotans wireline telephone services remain essential, state statutes and Minnesota Public Utilities Commission’s service quality rules prioritize the preservation of service quality.³ The rules serve as a backstop to ensure all wireline telephone service subscribers receive a threshold standard of service.⁴
3. CenturyLink argues the service quality rules are obsolete. The company has initiated multiple dockets attempting to repeal or weaken the rules.⁵ None of those efforts have succeeded, and at each turn the Commission has reasserted its commitment to ensuring quality service for wireline telephone customers.⁶
4. The service quality rules remain in force, and CenturyLink is obligated to follow them.⁷ The record detailed below demonstrates that CenturyLink has repeatedly and systemically failed to meet the minimum standards enshrined in the service quality rules.

II. THE SERVICE QUALITY RULES EXIST TO PROTECT ALL CONSUMERS.

5. The Commission has promulgated service quality rules. The “Commission has repeatedly affirmed that the rules exist to ensure minimum uniformity for those governed by the rules.”⁸

¹ DOC-1 at 6:10–9:16 (Gonzalez Direct).

² *Id.*

³ Minn. Stat. § 237.011; Minn. Stat. § 237.16; Minn. R. chapter 7810.

⁴ *See id.*

⁵ *See In the Matter of a Petition for a Rulemaking Regarding Minnesota Rules Chapter 7810*, MPUC Docket No. P-421/M-21-381, ORDER DENYING PETITION at 5 (Aug. 5, 2021). *See also In the Matter of the Rulemaking to Consider Possible Amends. to Minnesota Rules, Parts 7810.4100 Through 7810.6100 in the Matter of the CenturyLink, Inc. Petition for Rulemaking to Revise Serv. Quality Rules*, MPUC Docket No. P-421/AM-14-256, ORDER CLOSING RULEMAKING PROCEEDING AND INITIATING STAKEHOLDER WORKGROUP PROCESS at 17 (May 2, 2016).

⁶ *Id.*

⁷ *Id.* *See generally* Minn. R. chapter 7810.

⁸ *See In the Matter of the Rulemaking to Consider Possible Amends. to Minnesota Rules, Parts 7810.4100 Through 7810.6100 in the Matter of the CenturyLink, Inc. Petition for Rulemaking to Revise Serv. Quality Rules*, MPUC Docket No. P-421/AM-14-256, ORDER CLOSING RULEMAKING PROCEEDING AND INITIATING STAKEHOLDER WORKGROUP PROCESS at 17 (May 2, 2016).

6. The service quality rules protect all customers. Specifically, the Commission has determined the rules promote statutory objectives and “protect against situations in which service quality standards are unjustifiably higher or lower for some customers than for others.”⁹
7. In this docket, and in several others, CenturyLink has argued the service quality rules are outdated.¹⁰ In the prior dockets, CenturyLink has explicitly asked the Commission to remove or weaken the service quality rules.¹¹
8. The Commission has rejected each of CenturyLink’s requests to weaken the rules, concluding that “there was ‘no evidence that the market will adequately and uniformly protect customers’”¹² and “[u]nder lower service quality conditions, the health and safety of people, particularly those more reliant on landline service, could be jeopardized.”¹³
9. Rejecting CenturyLink’s request to soften the service quality rules in 2021, the Commission reasoned that the rules are of special importance to the landline customers who remain, since it is “the remaining landline-reliant customers who do not have other options for telecommunications service.”¹⁴
10. The service quality rules remain in place, and the Commission enjoys broad authority to exercise its regulatory duties with respect to telecommunication services to maintain or improve quality of service and to ensure consumer protections are maintained.¹⁵

III. CENTURYLINK HAS REPEATEDLY FAILED TO FOLLOW THE SERVICE QUALITY RULES.

11. CenturyLink is obliged to adhere to the Commission’s service quality rules. The record demonstrates CenturyLink is not meeting to its obligations under the rules.

⁹ *Id.*

¹⁰ See *In the Matter of Rulemaking to Consider Possible Amends. to Minnesota Rules, Parts 7810.4100 Through 7810.6100 in the Matter of the CenturyLink, Inc. Petition for Rulemaking to Revise Serv. Quality Rules*, No. P-421/AM-14-256; *In the Matter of the Petition of CenturyLink, Inc. for a Variance to Minnesota Rules, Part 7810.5800*, No. P-421/AM-14-255; *In the Matter of the Petition for a Rulemaking Regarding Minnesota Rules Chapter 7810*, No. P-421/M-21-381.

¹¹ *Id.*

¹² *In the Matter of the Rulemaking to Consider Possible Amends. to Minnesota Rules, Parts 7810.4100 Through 7810.6100 in the Matter of the CenturyLink, Inc. Petition for Rulemaking to Revise Serv. Quality Rules*, MPUC Docket No. P-421/AM-14-256, ORDER CLOSING RULEMAKING PROCEEDING AND INITIATING STAKEHOLDER WORKGROUP PROCESS at 17 (May 2, 2016).

¹³ *Id.*

¹⁴ *In the Matter of a Petition for a Rulemaking Regarding Minnesota Rules Chapter 7810*, MPUC Docket No. P-421/M-21-381, ORDER DENYING PETITION at 5 (Aug. 5, 2021).

¹⁵ Minn. Stat. § 237.011 (5) & (7).

A. CenturyLink Has Failed to Comply with the Maintenance Obligations Codified at Minnesota Rules 7810.3300.

12. The Commission’s service quality rules require each telephone utility to “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.”¹⁶
13. The rules list specific, required elements of a maintenance program, which include (1) “keeping all plant and equipment in good state of repair consistent with safety and adequate service performance,” (2) repairing or replacing “[b]roken, damaged, or deteriorated parts which are no longer serviceable,” and (3) correcting “electrical faults, such as leakage or poor insulation, noise, induction, cross talk, or poor transmission characteristics.”¹⁷
14. Witness 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.
15. Specifically, the testimony of CenturyLink witnesses suggests that CenturyLink is not providing financially adequate resources to repair its aging infrastructure. CenturyLink witness Mr. Ardoyno described how repairs generally must satisfy a five-year payback threshold for the company to complete them. Any maintenance project that does not meet the five-year payback threshold must be funded out of the local expense budget.¹⁸ But Mr. Ardoyno’s later testimony and the company’s IR responses indicate that CenturyLink simply does not have a local expense budget.¹⁹
16. The consequences of CenturyLink’s inadequate maintenance plan were documented by individuals throughout the State of Minnesota as described in the findings below.
 1. **The record demonstrates CenturyLink’s repeated failures to address “broken, damaged,” “deteriorated” or otherwise unsafe equipment throughout the Twin Cities metropolitan area.**
17. OAG witness Brian Lebens captured 93 pages of images of CenturyLink equipment that is “[b]roken, damaged, or deteriorated.”²⁰ The images, some of which are excerpted below show numerous instances of wires left exposed to the elements, ragged metal exposed on the public right of way, and other unsafe conditions:

¹⁶ Minn. R. 7810.3300

¹⁷ *Id.*

¹⁸ Evidentiary Hearing Transcript 184:18 – 186:12 (Ardoyno); DOC-20.

¹⁹ *Id.*

²⁰ *Id.*



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²¹ OAG-5 at 9 (Lebens Surrebuttal Schedule 6 Part 1).

²² OAG-5 at 14 (Lebens Surrebuttal Schedule 6 Part 1).



20.

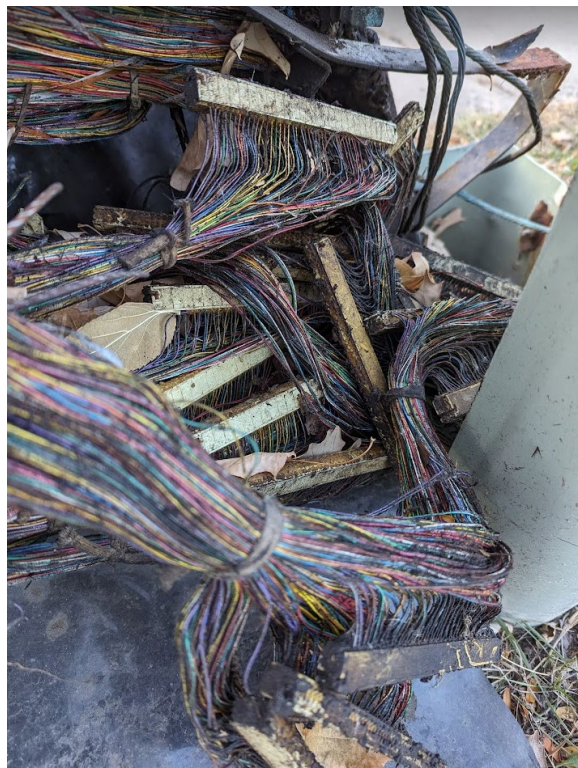
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²³ OAG-6 at 30 (Lebens Surrebuttal Schedule 6 Part 2).



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²⁴ OAG-6 at 26 (Lebens Surrebuttal Schedule 6 Part 2).

²⁵ *Id.*

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²⁶ OAG-6 at 35 (Lebens Surrebuttal Schedule 6 Part 2).

²⁷ *Id.*

24. Mr. Lebens testified he was able to gather the 93 pages of images simply driving around the metro area over the Thanksgiving holiday, which was a few weeks prior to the evidentiary hearing in this matter.²⁸
25. The logos for CenturyLink, along with its predecessors Quest and Bell, is visible in many of Mr. Lebens's photographs.²⁹
26. In several of the photos, exposed wires and pedestals were wrapped in plastic or subject to other quick concealments that cannot be considered a "repair" under any fair reading of the rules.³⁰
27. These photos document instances of CenturyLink being aware of broken, damaged, and deteriorated plant but failing to remediate the problem as required under Minn. R. 7810.3300.³¹

2. CenturyLink has repeatedly failed to remedy broken equipment in greater Minnesota.

28. The record documents more pervasive and repeated failures to remedy broken equipment outside of the metropolitan area.
29. At the Owatonna public hearing, a resident reported that broken CenturyLink equipment is visible throughout his community and creating service quality problems. The customer reported that with "three-quarters of pedestals open to the elements," every time it rains the lines start to crackle and so badly he can "hardly hear anybody."³²
30. Another Owatonna hearing participant reported a "pedestal that's been left open for six to eight months" and a "pit that's been dug to put in underground services that's been left open all through the winter with no safety fences around it."³³
31. In Marshall, hearing participants also reported frequent problems with water getting into the lines because of plant in disrepair.³⁴ One participant questioned why "in the spring of the year when we get rain, or a lot of rain or snow melt, our phone goes out. And sometimes we're without a week, and you ask for a credit on your bill and you get it one month, but the next month they add it so you're paying double."³⁵

²⁸ Evid. Hrg. Tr. at 120-121 (Lebens).

²⁹ See generally OAG-5 (Lebens Surrebuttal Schedule 6 Part 1); OAG-6 (Lebens Surrebuttal Schedule 6 Part 2); OAG-7 (Lebens Surrebuttal Schedule 6 Part 3); OAG-8 (Lebens Surrebuttal Schedule 6 Part 4); OAG-9 (Lebens Surrebuttal Schedule 6 Part 5).

³⁰ *Id.*

³¹ See *id.*

³² Owatonna Pub. Mtg. Tr. at 21-24 (July 27, 2023).

³³ Owatonna Pub. Mtg. Tr. at 19:15-22 (July 27, 2023).

³⁴ See, e.g., Marshall Pub. Mtg. Tr. at 19:8-14 (July 26, 2023).

³⁵ *Id.*

32. Many witnesses described failed efforts to get CenturyLink to complete reliable repairs.³⁶

B. CenturyLink’s Inadequate Recordkeeping and Reactive Maintenance Practices Violate Minnesota Rules 7810.5000.

33. The Commission’s service quality rules require CenturyLink to “continually review[] its operations to assure the furnishing of adequate service” and “maintain records of its operations in sufficient detail as is necessary to permit such review.”³⁷

1. CenturyLink does not “continually review its operations to assure the furnishing of adequate service.”

34. The record demonstrates CenturyLink not “continually . . . assur[ing] the furnishing of adequate service” but instead reacting to every three reports it receives about service issues in a given area.³⁸

35. CenturyLink witness Mr. Ardoyno explained that “CenturyLink doesn’t automatically or systematically run any proactive testing, only as part of an install or repair request.”³⁹ Instead, “the Company’s current program for maintenance of its outside plant is the creation of trouble tickets, whether by customers or internal triggers.”⁴⁰

36. Responding to customer trouble tickets is not continual monitoring to “assure the furnishing of adequate service;” it is episodic triage of arising problems.⁴¹

37. CenturyLink’s absence of a plan to “assure the furnishing of adequate service,” was underscored by CenturyLink’s IR responses: when asked for all documents pertaining to the company’s predictive maintenance program, CenturyLink responded that no such documentation exists.⁴²

2. CenturyLink does not “maintain records of its operations in sufficient detail.”

38. CenturyLink’s trouble ticket monitoring is insufficient to help CenturyLink “continually review[] its operations to assure the furnishing of adequate service.”⁴³ Instead of a comprehensive system to continually monitor and guard against failures, the trouble ticket

³⁶ *Id. See e.g.*, Hibbing Pub. Mt. Tr. at 22:6–25:13 (July 19, 2023) (describing many months of outages and several attempts to secure adequate service); Virtual Pub. Mt. Tr. at 27:6–30:17 (July 21, 2023).

³⁷ Minn. R. 7810.5000.

³⁸ *Id. See* OAG-4 at 8:8-22 (Lebens Surrebuttal) (explaining CenturyLink’s trouble report dispatch system does not generate an item until “three or more tickets are called in on a 100 pair group”).

³⁹ Evidentiary Hearing Transcript 194:18-24 (Ardoyno).

⁴⁰ Evidentiary Hearing Transcript 192:8-12 (Ardoyno).

⁴¹ Minn. R. 7810.5000.

⁴² Evidentiary Hearing Transcript 199:5 – 200:1 (Ardoyno).

⁴³ Minn. R. 7810.5000.

reporting and documentation captured glimpses of incidents where customers repeatedly reported troubles and received no lasting repair from CenturyLink as described below.

39. The OAG asked for information about how CenturyLink’s maintenance practices comply with the rules, and the company claimed its “trouble report rates demonstrate that it has an effective maintenance program in place for keeping its plant in good order.”⁴⁴ But when OAG asked for the trouble report, CenturyLink did not produce it. Instead, CenturyLink responded, “This trouble report *is not . . . any normal report we look at each day*. This is in our dispatch system and tickets are generated when three or more tickets are called in on a 100 pair group.”⁴⁵ CenturyLink does not have any documentation pertaining to predictive maintenance.⁴⁶ Thus, the trouble report is CenturyLink’s principle maintenance report. The fact that CenturyLink is not looking at the report “each day” indicates the company’s failure to continuously review its operations to assure adequate service.⁴⁷
40. This record demonstrates the trouble report approach to maintenance leaves persistent troubles unaddressed: at the evidentiary hearing, CenturyLink Witness Mr. Ardoyno and Department of Commerce discussed several instances of customers experiencing repeat troubles over several years with no resolution.⁴⁸
41. Department of Commerce expert witness testimony further explained how an approach like CenturyLink’s has already been found inadequate in other dockets.⁴⁹

C. CenturyLink’s Failures to Timely Restore Service and Disruptions of Emergency Service Violate Minnesota Rules 7810.5800.

42. The Commission’s service quality rules protect all wireline telephone customers from extended outages and emergency service disruptions.⁵⁰ Specifically, the rules require each telephone utility to “make all reasonable efforts to prevent interruptions of service,” and, when interruptions occur to “reestablish service with the shortest possible delay.”⁵¹
43. The service quality rules further specify that 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”

⁴⁴ OAG-2 (Lebens Direct Schedule D-4 at 1-2) (quoting CenturyLink response to OAG IR 29).

⁴⁵ OAG-4 at 8:8-22 (Lebens Surrebuttal) (emphasis added).

⁴⁶ Evidentiary Hearing Transcript 199:5 – 200:1 (Ardoyno).

⁴⁷ *See id.*

⁴⁸ Evidentiary Hearing Transcript 223:22 – 225:17 (Ardoyno) (describing multiple years of persistent technical issues); Evidentiary Hearing Transcript 211:13 – 214:13 (Ardoyno).

⁴⁹ *See* DOC-4 at 10-16 (Webber Direct) (noting that in the Frontier docket, “relied upon customer reports of outages to engage in “break/fix” maintenance, and this was ultimately found by the Commission to be inadequate”).

⁵⁰ *See* Minn. R. 7810.5800.

⁵¹ *Id.*

and “[e]mergency service shall be available, as required, for the duration of the interruption.”⁵²

44. The record demonstrates CenturyLink is not adhering to the plain text requirements of the service quality rules, and is instead allowing frequent and prolonged service disruptions in some of the state’s remotest areas among some of Minnesota’s most vulnerable customers.⁵³
45. Witnesses presented clear examples of the impact of CenturyLink’s repeated outages. The lead dispatcher for Cook County’s Public Safety Answering Point testified that, in portions of the county, telephone outages are so routine that the locals are habituated to knowing they can drop by the local fire station if their phone service is out and they need an emergency responder.⁵⁴ Keeping the fire station staffed so that locals can physically go there to secure an emergency dispatch is straining local resources.⁵⁵
46. Reports from throughout the state further document CenturyLink’s failure to address recurring outages. The Department of Commerce and the Consumer Affairs Office of the Public Utilities Commission have fielded 530 complaints from CenturyLink customers during the pendency of these proceedings; 46 percent complaints reported service outages.⁵⁶
47. When outages occur, the record demonstrates, CenturyLink fails to timely address the problem. This phenomenon is illustrated in a complaint received by the Department of Commerce. In one instance, the Department received a call from the daughter of an elderly woman living in Anoka whose service had been out for ten days.⁵⁷ The woman was desperate to have service restored, because her mother had a heart condition that required remote monitoring over her landline, but CenturyLink had scheduled and missed five repair appointments during the 10-day outage.⁵⁸

IV. CONCLUSIONS

48. For the foregoing reasons, the Commission should conclude that CenturyLink has violated, and continues to violate, service quality rules 7810.3300, 7810.5000, and 7810.5800.
49. If the Commission determines a service is not being reasonably provided, the Commission has authority under Minn. Stat. 237.081 to “make an order respecting the tariff, regulation, act, omission, practice, or service that is just and reasonable.”
50. Violations of the Commission’s orders and rules are enforceable “by any one or combination of: criminal prosecution, action to recover civil penalties, injunction, action to

⁵² *Id.*

⁵³ *See generally* DOC-1 at 13:6 – 19:17 (Gonzalez Direct).

⁵⁴ Evidentiary Hearing Transcript at 32:5-15 and 38:3 – 39:17 (Mielke Direct).

⁵⁵ *Id.*

⁵⁶ DOC-1 at 13:6 – 14:5 (Gonzalez Direct).

⁵⁷ *Id.* at 15:16-20.

⁵⁸ *Id.*

compel performance, and other appropriate action.⁵⁹ Specifically, a person who knowingly and intentionally violates shall forfeit to the state a penalty between \$100 and \$5000 for each day of violation.⁶⁰

51. CenturyLink has violated, and continues to violate, Minnesota Rules 7810.3300, 7810.5000, and 7810.5800. In order to correct these pervasive and systemic service quality failures going forward, the ALJ recommends the Commission order CenturyLink to complete the following actions:

- a. Fix, replace, or remove all deficient plant and equipment identified by the Department of Commerce's expert or by Mr. Lebens's photographs.
- b. Prohibit CenturyLink from sidelining maintenance projects that do not satisfy the five-year payback.
- c. Implement a "Plant Pride" program.
- d. Reduce repair appointment windows from 8 hours to 4 hours.

⁵⁹ Minn. Stat. § 237.461, subd. 1.

⁶⁰ Minn. Stat. § 237.461, subd. 2.