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April 30, 2014

Burl W. Haar  
Executive Secretary  
Minnesota Public Utilities Commission  
121 7th Place East Suite 350  
St Paul Minnesota 55101-2147

RE: **Comments of the Minnesota Department of Commerce**  
Docket No. P421/AM-14-255

Dear Dr. Haar:

Attached are the comments of the Minnesota Department of Commerce (Department) in the following matter:

In the Matter of CenturyLink, Inc.'s Petition for Waiver of Minnesota Rule Part 78105800.

The Department is available to answer any questions the Commission may have.

Sincerely,

/s/ DIANE DIETZ  
Rate Analyst

/s/ KATHERINE DOHERTY  
Rate Analyst

DD/KD/lt  
Attachment



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BEFORE THE MINNESOTA PUBLIC UTILITIES COMMISSION

COMMENTS OF THE  
MINNESOTA DEPARTMENT OF COMMERCE

DOCKET NO. P421/AM-14-255

**I. BACKGROUND**

On March 26, 2014, CenturyLink, Inc. (CenturyLink), on behalf of its affiliated companies,<sup>1</sup> filed a petition for a waiver of Minn. Rules pt. 7810.5800. In support of its petition, CenturyLink described market trends and changes in market structure.

CenturyLink's March 26, 2014 petition also requested a rulemaking proceeding for a comprehensive review of the service quality rules, or at a minimum Minn. Rules Parts 7810.4100 through 7810.6100. This rulemaking request is being considered in Docket No. P421/AM-14-256.

On April 2, 2014, the Minnesota Public Utilities Commission (Commission) issued a notice soliciting comments on CenturyLink's request for a waiver of Minn. Rules pt. 7810.5800.

**II. LEGAL REFERENCES**

Minn. Stat. section 216A.05 (Commission Functions and Powers), Subd. 1 states that "the functions of the commission shall be legislative and quasi-judicial in nature." Among the Commission's various functions is the authority to prescribe rules.

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<sup>1</sup> CenturyLink's affiliated companies operating in Minnesota include Qwest Corporation dba CenturyLink (CenturyLink QC; Embarq Minnesota dba CenturyLink, CenturyTel of Minnesota dba CenturyLink, CenturyTel of Northwest Wisconsin dba CenturyLink, and CenturyTel of Chester dba CenturyLink.

Minn. Stat. section 237.10 (UNIFORM RULES, CLASSIFICATIONS, PRACTICES; FORMS) states as follows, in part: “It shall be the duty of the commission to prescribe uniform rules and classifications pertaining to the conduct of intrastate telephone business . . .”

Minn. Stat. section 237.06 (Rates and Deposits) states as follows:

It shall be the duty of every telephone company to furnish reasonably adequate service and facilities for the accommodation of the public, and its rates, tolls, and charges shall be fair and reasonable for the intrastate use thereof. All unreasonable rates, tolls, and charges are hereby declared to be unlawful. Any telephone company may include in its charges a reasonable deposit fee for facilities furnished.

Minn. Stat. section 237.011 (Telecommunications Goals) establishes goals that the Commission should consider as it executes its regulatory functions, including the following:

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

Minn. Stat. Section 237.765 (Quality of Service) subpart (a) addresses service quality plans for companies requesting to be regulated via an Alternative Form of Regulation (AFOR) Plan and states that “[f]or an alternative regulation plan to be approved by the commission under sections [237.76](#) to [237.774](#), the plan must contain an existing service quality plan or settlement for retail customers approved by the commission.”

Subpart (c) states:

- c) The terms of an existing service quality plan or settlement approved by the commission must be offered to extend through the duration of an alternative regulation plan filed under this section.

Minn. Stat. Section 237.766 (Plan Duration and Extension) subd. 1 states that:

An alternative regulation plan approved by the commission under section 237.764 must remain in force as approved for the term specified in the plan, which must be for no less than three years

Subd. 3 (b) addresses plan extensions and states:

A telephone company may elect to extend a plan entered into after May 20, 2004, in lieu of proposing a new plan only if the company is in substantial compliance with the plan's service quality provisions and has met its infrastructure obligations under the plan. If the company elects to extend a plan, the rates for price-regulated services shall be capped at the rate levels in effect at the time the extension commences, provided, however, exceptions to a price cap contained in the plan being extended may remain in force. Unless otherwise specified in the plan, all other provisions of the plan shall continue in effect throughout the extension period. A plan may not be extended for less than one year or more than three years, and may only be extended once.

Minn. Rules pt. 7810.5800 (Interruptions of Service) states as follows:

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.

Minn. Rules pt. 7812.0700 (General Service Quality Requirements), Subpt. 1 Service to end-users states that: The local services provided by a local service provider (LSP) must meet the standards in:

- A. applicable commission orders and rules, including parts 7810.0100 to 7810.6100 or their successor parts; and
- B. the local service provider's alternative regulation plan (AFOR), if the provider is operating under an AFOR.

Minn. Rules pt. 7829.3200 (Other Variances) states as follows:

Subpart 1. When granted. The commission shall grant a variance to its rules when it determines that the following requirements are met:

- A. enforcement of the rule would impose an excessive burden upon the applicant or others affected by the rule;
- B. granting the variance would not adversely affect the public interest; and
- C. granting the variance would not conflict with standards imposed by law.

Subp. 2. Conditions. A variance may be granted contingent upon compliance with conditions imposed by the commission.

Subp. 3. Duration. Unless the commission orders otherwise, variances automatically expire in one year. They may be revoked sooner due to changes in circumstances or due to failure to comply with requirements imposed as a condition of receiving a variance.

### **III. COMMENTS**

- A. *DOES A WAIVER OF MINN. RULES PART 7810.5800 COMPORT WITH MINN. STAT. SECTION 237.06?*

In its March 26, 2014 petition, CenturyLink requests that the Commission grant an immediate waiver of Minn. Rule 7810.5800 to all CenturyLink Companies including an alteration of the associated AFOR requirements. CenturyLink focuses its comments on the requirement in Minn. Rules pt. 7810.5800 that CenturyLink must restore out-of-service conditions within 24 hours 95% of the time (*i.e.*, the restoral requirement). CenturyLink expresses concern, generally, that the service restoral requirement in Minn. Rules pt. 7810.5800 is no longer relevant given

dramatic changes in the telecommunications marketplace,<sup>2</sup> and that compliance with the rules is costly and burdensome.<sup>3</sup>

The existing restoral requirement in Minn. Rules pt. 7810.5800 was promulgated in a rulemaking proceeding that comported with the applicable laws including the requirement in Minn. Stat. section 237.06, which states that it is the “duty of every telephone company to furnish reasonably adequate service and facilities for the accommodation of the public.”

Under Minn. Rules pt. 7829.3200, subpt. 1, a waiver may only be granted upon a finding, by the Commission, that three specific requirements, stated in that section of the rules, have been met. The Department will discuss the three requirements for a waiver in the following sections of these comments.

*B. HOW DOES THE PETITION SUPPORT THE COMMISSION’S TELECOMMUNICATION SERVICE GOALS?*

The Commission’s April 2, 2014 Notice of Comment Period asks how the petition for waiver supports the Commission’s telecommunication service goals of a) maintaining or improving quality of service, and b) ensuring consumer protections are maintained in the transition to a competitive market for local telecommunications service?

MN Rule 7810.5800 requires that telephone utilities<sup>4</sup> make reasonable *efforts* to prevent interruptions of service, and that, when interruptions occur, the utility reestablish service with the *shortest possible delay*. The rule establishes a minimum *objective* to clear 95 percent of all out-of-service troubles within 24 hours of the time such troubles are reported, and establishes guidelines that *support* the Commission’s telecommunications service goals of maintaining service quality and ensuring consumer protections are maintained. CenturyLink requests a waiver of the rule in its entirety, and proposes no alternative to complete elimination of these requirements.

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<sup>2</sup> In its March 26, 2014 petition, CenturyLink cites many of the changes that have taken place in the telecommunications industry during the last several decades.

<sup>3</sup> CenturyLink also states on page 4 of its petition that “although the out-of-service in 24 hour service quality metric is applicable to most telecommunications service providers, it is selectively enforced and thus disadvantages only a small number of those providers.” CenturyLink is apparently referring to the fact that CenturyLink QC is required to track and annually report certain service quality results pursuant to its Alternative Form of Regulation (AFOR) Plan. This reporting and tracking requirement stems from the provisions CenturyLink QC agreed to in its AFOR Plan which is currently in force through December 31, 2016. A waiver of the rule will not affect the terms of the AFOR by which CenturyLink QC has elected to be regulated. No other CenturyLink company for whom the waiver is sought is subject to reporting because no other CenturyLink company has elected to be regulated pursuant to an AFOR plan.

<sup>4</sup> “Telephone utility” is defined in MN Rule 7810.0100 subpart 37 as “any person, firm, partnership, cooperative organization, or corporation engaged in the furnishing of telecommunication service to the public under the jurisdiction of the commission.”

A waiver of the rule for CenturyLink affiliates does not appear to comport with the Commission's goals of maintaining or improving quality of service, and would remove, rather than maintain, a protection, applicable in many cases to the most vulnerable consumers, who depend upon reliable local telephone service for their basic communications needs and access to emergency services. Further, to waive the requirement for CenturyLink affiliates when all other local exchange telecommunications carriers subject to the Commission's jurisdiction remain subject to the rule does not comport with the Commission's goal of "encouraging fair and reasonable competition for local exchange telephone service in a competitively neutral regulatory manner."<sup>5</sup>

The variance that CenturyLink requests would be more appropriately addressed in a rulemaking proceeding, as CenturyLink also has requested, in which all affected carriers could participate.

*C. DOES THE COMMISSION HAVE THE AUTHORITY TO PLACE CONDITIONS ON A WAIVER?*

The Commission's April 2, 2014 Notice of comment Period asks whether the Commission has the authority to place conditions on a waiver to allow, for example, incrementally reducing the outage frequency standard and/or incrementally increasing the outage duration standard. If so, what conditions should be placed on the waiver?

Minn. Rules pt. 7829.3200, subpt. 2 allows the Commission to grant a variance to its rule contingent upon compliance with conditions imposed by the Commission. A prerequisite of considering compliance conditions to place upon a waiver is that the Commission must first find that a petition for waiver of a rule meets each of the three requirements listed in Minn. Rules pt. 7829.3200, subpt. 1.

CenturyLink has not proposed modifications to the rule, but seeks a waiver of the rule in its entirety. The Department believes there is insufficient evidence in the record to support revising the current "restoral standard" by replacing it with a different outage duration standard. In its April 14, 2014 comments in Docket P421/AM-14-256, the Department recommended opening a quality of service rulemaking proceeding. Such a proceeding could consider ideas for changing the outage duration standard in Minn. Rules pt. 7810.5800 and for collecting evidence to support revising the current "restoral standard."

*D. SHOULD THE WAIVER BE GRANTED?*

Under Minn. Rules pt. 7829.3200, subpt. 1, the Commission may grant a waiver when the Commission determines that the following three requirements are met:

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<sup>5</sup> Minn. Stat. 237.011(4).

- i. enforcement of the rule would impose an excessive burden upon the applicant or others affected by the rule;
- ii. granting the variance would not adversely affect the public interest; and
- iii. granting the variance would not conflict with standards imposed by law.

Each of the three requirements will be discussed in turn.

- i. Whether enforcement of the rule would impose excessive burden upon the applicant or others.*

In its March 26, 2014 filing, CenturyLink states that it “requires the flexibility to deploy its financial and personnel resources consistent with the demands of its customers.” CenturyLink goes on to “request[] the flexibility to dispatch its technicians to reflect its customer’s stated needs rather than in response to an outdated rule.”<sup>6</sup>

CenturyLink has not fulfilled its burden of proving that enforcement of the rule would impose an excessive burden upon the carrier. In fact, CenturyLink’s March 26, 2014 petition is rife with comments suggesting restoring out-of-service conditions would be a priority of the carrier irrespective of whether or not the restoral requirement were in effect. CenturyLink states, for example, “its wireline customers are important to CenturyLink and restoring an out-of-service condition is a priority,<sup>7</sup> and notes that it does an outstanding job of providing telecommunications service, and its service quality results demonstrate that.”<sup>8</sup>

CenturyLink raises a concern about the significant line loss that it has experienced in recent years, because customers have made the decision to obtain service from competitors, and suggests that the Commission’s response to CenturyLink’s line loss should permit the carrier to prioritize the use of its technicians according to “customer demand.” Despite its statements that restoring an out-of-service condition is a priority and that the standard is unnecessary, CenturyLink states that meeting the standard requires significant use of resources that could otherwise be used to meet customer demand for expanded broadband, enhanced network features, or other investment. CenturyLink states that its “petition carries little risk for the customer, [since] if CenturyLink provides service customers find inadequate, they will move to a competitor.”<sup>9</sup>

CenturyLink’s statements suggest that a waiver of the standard would enable CenturyLink to discriminate against its “dwindling base of customers” that subscribe to basic local exchange service, in some cases because they have no viable option, in favor of meeting other, perhaps more lucrative, customers’ demands for advanced services.

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<sup>6</sup> Pages 5 – 6 of CenturyLink’s March 26, 2014 comments in Docket P421/AM-14-255.

<sup>7</sup> Page 5 of CenturyLink’s March 26, 2014 comments.

<sup>8</sup> Page 6 of CenturyLink’s March 26, 2014 comments.

<sup>9</sup> Page 5 of CenturyLink’s March 26, 2014 comments.



In addition, a waiver of the 95%/24 hour standard in Minnesota 7810.5800 as it applies to retail customers, would affect wholesale service quality as well. The Department notes that Incumbent Local Exchange Carriers, with certain exemptions,<sup>10</sup> have the duty pursuant to Section 251 (c) (2) of the Telecommunications Act of 1996 to provide, for the facilities and equipment of any requesting telecommunications carrier, interconnection with the local exchange carrier's network that is at least equal in quality to that provided by the local exchange carriers to itself.

Pursuant to this principle, and to ensure adequate performance with respect to the competitive local exchange carriers (CLECs) with whom it interconnects, CenturyLink QC is subject to the Minnesota Performance Assurance Plan (MPAP) which measures its performance with respect to certain service quality metrics (Performance Identifiers or PIDs). CenturyLink reports monthly on its performance, to the Commission and to the CLECs themselves. Some of the PIDs are diagnostic in nature, while others impose penalties for sub-standard performance. Some of the PIDs are measured on a "benchmark" basis, which require CenturyLink QC to meet a set standard, and others are measured on a "parity basis" in which CenturyLink must achieve the same level of performance with respect to its wholesale customers' service as it achieves with respect to its own customers.

Minnesota 7810.5800's requirement that CenturyLink clear 95% of out of service condition within 24 hours comports with PID MR-5, which is a parity standard. To the extent that CenturyLink is not held to this standard for its retail customers, or is held to a lesser standard, the parity standard may not provide adequate assurance of wholesale service quality. CLECs and CenturyLink QC may find it necessary to renegotiate benchmark standards for MR-5 to replace the existing parity standards.

*ii. Whether granting the variance would adversely affect the public interest.*

CenturyLink's March 26, 2014 comments state that ". . . Minnesota customers have the ability to select providers and services. In addition, these same customers have selected providers and services from companies that have little or no Commission oversight. Such an environment reduces the importance of public interest considerations associated with measurements."<sup>11</sup>

Minn. Stat. section 237.011 establishes goals "that should be considered as the commission executes its regulatory duties with respect to telecommunications services." In analyzing the effect of the proposed variance on the public interest, the goals of Minn. Stat. section 237.011 should be considered.

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<sup>10</sup> The "Rural Exemption" in Section 251(f)(1)(A) states that "subsection (c) of this section shall not apply to a rural telephone company until (i) such company has received a bona fide request for interconnection, services, or network elements, and (ii) the State commission determines (under subparagraph (B)) that such request is not unduly economically burdensome, is technically feasible, and is consistent with section 254 (other than subsections (b)(7) and (c)(1)(D) thereof)."

<sup>11</sup> Page 7 of CenturyLink's March 26, 2014 comments.

Ensuring that wireline households are adequately served is an important public interest issue given that Minn. Stat. section 237.011 (1, 5 and 7) charges the Commission with the responsibility for supporting universal service, maintaining or improving quality of service and ensuring consumer protections are maintained in the transition to a competitive marketplace.

While many customers have taken advantage of the competitive alternatives to basic regulated telephone service, certain segments of the population, as well as individuals in other segments, are still dependent upon basic regulated telephone service. Recent data reported in the National Health Interview Survey indicates that only 6% of adults aged 65 and over reside in wireless only households.<sup>12</sup> The American Association of Retired Persons recently filed comments with the Federal Communications Commission (FCC) stating, “due to spotty wireless service in rural areas, cord cutting rates are lower in rural areas, indicating that rural households continue to view wireline telephone service as a basic necessity.”<sup>13</sup> The National Health Interview Survey shows that the availability of reliable competitive alternatives to basic telephone service varies significantly by age and location of the end user customers.

*iii. Whether granting the variance would conflict with standards imposed by law.*

A grant of the variance does not comport with Qwest Corporation dba CenturyLink’s (CenturyLink QC) Alternative Form of Regulation (AFOR) Plan and Minnesota statutes applicable to AFOR Plans, as discussed below in answer to Commission question F. The Department is unaware of any legal impediment to the Commission’s granting the variance, but notes that whether or not the Commission grants the requested variance, CenturyLink QC remains subject to the service quality requirements and other terms of its AFOR Plan which remains in force through December 31, 2016.

*E. WHAT IS THE MAXIMUM PERIOD OF TIME FOR WHICH THE COMMISSION MAY GRANT A WAIVER OF ITS RULES?*

Minn. Rules pt. 7829.3200, subpt. 3 (duration) states: “Unless the commission orders otherwise, variances automatically expire in one year. They may be revoked sooner due to changes in circumstances or failure to comply with requirements imposed as a condition of receiving a variance.”

While the rule does not appear to contemplate a maximum time for which a waiver may be granted, the Department believes that a permanent waiver of a rule, currently applicable to all

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<sup>12</sup> Stephen J. Blumberg, Ph.D., and Julian V. Luke. “Wireless Substitution; Early Release of Estimates from the National Health Interview Survey, January – June 2013,” Division of Health Interview Statistics, National Center for Health Statistics. December 2013, Table 3.

<sup>13</sup> David Certner, Legislative Counsel for American Association of Retired Persons, April 15, 2014 Comments in WC Docket No. 10-90, Connect America Fund, Page 2 citing the most recent results of the National Health Interview Survey, 39.5% of adults in metropolitan areas reside in wireless-only households, while the number in non-metropolitan areas is 7.1% lower, at 32.4%. Table 2.

local exchange carriers, is more appropriately undertaken in a rulemaking proceeding (which CenturyLink has also proposed).

*F. ARE THERE IMPEDIMENTS IN STATUTE OR RULE THAT WOULD PREVENT THE COMMISSION FROM ALTERING THE TERMS OF CENTURYLINK'S AFOR PLAN PRIOR TO ITS EXPIRATION IN DECEMBER, 2016?*

Minnesota Stat. §237.765 (a) requires that for an alternative regulation plan to be approved by the commission under sections 237.76 to 237.774, the plan must contain an existing Service Quality Plan or settlement for retail customers approved by the Commission. Subpart (c) of the statute requires that “the terms of an existing service quality plan or settlement approved by the Commission ***must be offered to extend through the duration of an alternative regulation plan filed under this section***” (emphasis added).<sup>14</sup>

Minn. Stat. Section 237.766 (Plan Duration and Extension) subd. 1 states that an alternative regulation plan approved by the commission under section 237.764 ***must remain in force as approved for the term specified in the plan***, which must be for no less than three years (emphasis added). Subd. 3 states that “if the company elects to extend a plan, the rates for price-regulated services shall be capped at the rate levels in effect at the time the extension commences, provided, however, exceptions to a price cap contained in the plan being extended may remain in force. ***Unless otherwise specified in the plan, all other provisions of the plan shall continue in effect throughout the extension period.***” (emphasis added).

Currently, CenturyLink QC is subject to the service quality standards and reporting requirements in the Service Quality Plan contained in its Second Revised AFOR plan, approved by the Commission on December 23, 2009 in Docket No. P421/AR-09-790. On November 13, 2013, the Commission issued an order approving CenturyLink’s request, pursuant to Minn. Stat. §237.766(3)(b), to extend the terms of its AFOR plan (including the Service Quality Plan) through December 31, 2016. As the Commission noted in its order approving the extension, the statute specifically provides that “unless otherwise specified in the plan, all other provisions of the plan shall continue in effect throughout the extension period.”<sup>15</sup>

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<sup>14</sup> CenturyLink cites a Commission Order issued in Docket No. P421/AR-05-1081. Unlike the variance currently requested by CenturyLink which has occurred at a time when CenturyLink QC’s AFOR Plan has been approved by the Commission and which must, by statute, remain in force throughout the duration for which it has been approved, the variance to which CenturyLink refers was requested by CenturyLink QC as part of the required Service Quality Plan in its newly proposed First Revised AFOR Plan. In the context of seeking approval of its AFOR Plan, CenturyLink QC requested a variance of Minn. 7810.5200’s requirement to answer 90% of calls in 20 seconds, and to incorporate instead, in its AFOR Plan, a standard requiring that 100% of calls be answered within 60 seconds. The Commission granted the request as part of the approval of the AFOR Plan, in part reasoning that the alternative suggested by CenturyLink QC (a maximum 60 second wait time) would adequately protect ratepayer interests in prompt customer service. The Commission granted a variance of the rule, not permanently, but for the duration of the AFOR Plan.

<sup>15</sup> Minn. Stat. §237.766 (3)(b)

The Service Quality Plan<sup>16</sup> requires, among other things, that “It shall be [CenturyLink QC’s] objective to clear 95% of out-of-service trouble report conditions within 24 hours of the time such troubles are reported,” and requires that “[c]ompliance with the objective shall be determined by a 12-month annual statewide average performance for the measure. The Service Quality Plan requires that CenturyLink QC report annually to the Commission, the Department, and the Office of the Attorney General its performance in meeting the quality of service standards for the previous year.

There is no provision in the AFOR Plan that permits changes to the Service Quality Plan during the term of the plan. Minnesota Statutes applicable to AFOR Plans, as noted above, as well as the Commission’s prior Orders, prevent the Commission from altering the terms of CenturyLink’s AFOR plan. It was CenturyLink QC’s decision to extend its AFOR plan, rather than propose a new plan<sup>17</sup> which would have allowed for renegotiation of the service quality plan as well as other provisions in the plan that may be outdated or not in the public interest.

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<sup>16</sup> See DOC-Attachment A.

<sup>17</sup> CenturyLink QC’s Second Revised AFOR Plan provides that six months prior to the termination of the plan, CenturyLink QC shall file notice with the Commission of its intent to propose a new plan, extend the current plan, or revert to rate of return regulation.

# **DOC ATTACHMENT A**

**RETAIL QUALITY OF SERVICE****A Standards and Customer Remedies**

During the term of the Revised Plan, Qwest will comply with specific quality of service standards and customer remedies as shown in this Appendix

**B. Service Quality Standards and Customer Remedies Apply to Normal Operating Conditions**

The service quality standards and customer remedies in this Appendix apply only to normal operating conditions and do not establish a level of performance to be achieved where circumstances are beyond Qwest's control. Qwest is exempted from the otherwise applicable individual customer remedies if it is prevented from meeting a quality of service standard because of conditions caused by persons, things, or events outside the reasonable control of Qwest, that Qwest could not have reasonably anticipated and prevented, or circumstances that endanger the safety of Qwest employees or members of the public, including: (1) delays of a local government unit in granting approval for obtaining easements, permits or access to rights-of-way; where Qwest has made a timely application for any permits; (2) the customer, including but not limited to, no access to customer's premises, delays caused by the customer's construction project or lack of facilities or the customer choosing a later appointment than offered; (3) delays caused by a vendor in the delivery of equipment where Qwest has made a timely order or request; (4) other delays outside the control of Qwest, including, but not limited to, acts of God, explosions or fires, floods, frozen ground, tornadoes, severe weather, epidemics, injunction, war, acts of terrorism, strikes or work stoppages, or negligent or willful misconduct by customers or third

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RETAIL SERVICE QUALITY PLAN  
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parties including outages originating from the introduction of a computer virus onto the provider's network. Events caused by Qwest employees or contractors are not outside Qwest's control for the purpose of the Plan.

**C. Substantial Compliance**

Substantial compliance with retail service quality standards is satisfied if Qwest meets 6 out of 7 of its individual service quality standards each year. For purposes of determining substantial compliance, compliance with the individual service quality standards will be measured on an annual statewide basis. Qwest will not be in substantial compliance with the service quality standards if it fails to meet the same individual service quality standards for two consecutive years. Failure to substantially comply with the service quality standards for two consecutive years will require Qwest to meet and confer with the Department and OAG to negotiate a voluntary resolution to the matters. If successful resolution of the matter cannot be negotiated, Qwest will present the Department and OAG with a plan to bring service quality into compliance including specific actions the Company will take to remedy the situation. If the plan is not acceptable to the Department or OAG, the Department or OAG may file a complaint with the Commission for the purpose of determining whether reasonable additional customer remedies or other actions are warranted. Qwest shall not be deemed to be out of substantial compliance if failure to meet a standard is the result of circumstances as set forth in Section **B**.

**D. Annual Service Quality Reports**

Qwest shall report annually to the Commission, the Department, and the OAG its performance in meeting the quality of service standards for the previous year.

**E. Service Quality Standards****1. Installation Terms****a. Application for Service:**

In cases where a construction agreement is not required, an application shall be considered as made when the customer either verbally or in writing requests service. In cases where a construction agreement is requested or payment is required, an application shall be considered as made when the Company receives the applicable construction agreement signed by the Company and by the customer, and the customer has made any advance payment to the Company required by the tariff.

**b. Primary Line Service:**

Primary line service is the first access line to the customer providing local dial tone and local usage necessary to receive a call.

**2. Installation Interval** - Ninety-five percent of residential/business basic primary line service orders will be completed within three business days or on the requested installation date, if later. This will be measured statewide on an annual basis.



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RETAIL SERVICE QUALITY PLAN  
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a. If Qwest is unable to provide primary local exchange service to a customer within three business days, or on the requested installation date, if later, for Company reasons, Qwest shall waive the one-time installation charge for primary line connections.

b. Qwest shall also offer the customer free of charge a telephone number, a directory assistance listing, and the customer's choice of either:

- 1) Free remote call forwarding of that number until service is provisioned; or
- 2) A free voice mailbox to which the customer's calls may be directed until service is provisioned.

c. The company shall give priority installation commitments to customers who identify critical medical situations. Critical medical situations are identified as infants on monitoring systems, individuals on life support systems, or other life threatening emergencies.

d. If the delay is due to customer actions or other force majeure conditions, then no remedy will be required.

**3. Restoration of Out-of-Service** - It shall be the Company's objective to clear 95% of out-of-service trouble report conditions within 24 hours of the time such troubles are reported. Compliance with the objective shall be determined by a 12-month annual statewide average performance for the measure. A service is deemed to be out-of-service if the customer is unable to receive or place calls. This definition includes service affecting troubles such as static severe enough to prevent communications.

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a. If Qwest fails to reinstate basic primary residential service within 48 hours and basic primary business service within 24 hours of the outage or a later date requested by the customer for the repair to be made, for Company reasons, Qwest will provide the customer a pro rata adjustment (i.e., 1/30<sup>th</sup>) of the monthly recurring charge for the first two days (Residential) and one day (Business) that there is a service outage. Qwest shall provide the customer \$5 for each day thereafter that the Residential customer is out-of-service and \$10 for each day the Business customer is out-of-service.

b. The company shall give priority repair commitments to customers who identify critical medical situations. Critical medical situations are identified as infants on monitoring systems, individuals on life support systems, or other life threatening emergencies.

c. If the missed restoration of service is due to events beyond Qwest's reasonable control (e.g., force majeure), then no remedy will be required.

4. **Trouble Report Rates** - The Company shall not exceed 2.5 customer trouble reports per 100 access lines, measured monthly on an exchange basis for each of Qwest's five LATAs. Compliance with the required objective shall be determined by the annual average of the 12 monthly out-of-service trouble report performance metrics by LATA, excluding reports caused by conditions outside Qwest's control (e.g., force majeure events or customer action).

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In the event of a customer trouble report rate of more than 6.5 per 100 telephones per month per exchange for more than three consecutive months, the Department/OAG shall meet and confer with Qwest representatives to negotiate a voluntary resolution to the matter. If successful resolution of the matter cannot be negotiated, Qwest will present the Department and OAG with a plan to bring service quality into compliance. If the plan is not acceptable to the Department or OAG, the Department or OAG may file a complaint with the PUC for the purpose of determining whether reasonable additional customer remedies are warranted. Qwest shall not be deemed to be out of substantial compliance if failure to meet a standard is the result of circumstances as set forth in Section B.

5. **POTS Repeat Trouble Report Rate** - For all customers who report trouble on their access line, no more than 9.0% of total trouble reports may reflect the same trouble on the same line within 30 days of having the first trouble resolved. For instances of the same trouble reported on the same access line within 30 days, Qwest will credit individual residential customer(s) \$5 for each like-occurrence and business customer(s) \$10 for each like-occurrence. Compliance shall be determined by a 12-month annual statewide average of the performance for the measure.

The company shall give priority repair commitments to customers who identify critical medical situations.

Critical medical situations are identified as infants on monitor systems, life support systems, or other life threatening emergencies.

6. **Held Orders** - No more than .005% of primary access line orders where facilities are not available will be held for more than 30 days for Company reasons. Compliance shall be determined by a 12-month annual statewide average of the performance for the measure.

7. **Service Center Access** - Calls to the Service Center will be on hold no more than 60 seconds on the average after the last menu option is selected before being answered by a live service representative. The service representative will accept the information needed to begin processing the call and direct the caller to the appropriate specialized personnel, as appropriate. Compliance shall be determined by a 12-month annual statewide average of the performance for the measure for combined customer, business and repair calls.

8. **POTS Missed Repair Commitments** - Qwest will complete 90% of repair tickets by the commitment date provided to the customer. Compliance shall be determined by a 12-month annual average of the statewide performance for the measure. If the Company misses a commitment to repair service, due to Company reasons, where the customer is required to be at the premises, the Company will make reasonable efforts to adjust-to-satisfy.

a. The company shall give priority repair commitments to customers who identify critical medical situations. Critical medical situations are identified as infants on monitoring systems, individuals on life support systems, or other life threatening emergencies.

b. If the company misses a repair ticket commitment date, and the customer is required to be at the premise, Qwest will provide a remedy to the customer which may include a credit on the bill of the affected customer in the amount of \$10 for a residential customer or \$20 for a business customer for each trouble report. However, if the missed commitment is due to events beyond Qwest's reasonable control (e.g., the customer's failure to provide Qwest with adequate or correct information or failure to arrange for access to the premises, or force majeure events, etc.), then no remedy will be required.

## **CERTIFICATE OF SERVICE**

I, Sharon Ferguson, hereby certify that I have this day, served copies of the following document on the attached list of persons by electronic filing, certified mail, e-mail, or by depositing a true and correct copy thereof properly enveloped with postage paid in the United States Mail at St. Paul, Minnesota.

**Minnesota Department of Commerce  
Comments**

**Docket No. P421/AM-14-255**

Dated this 30<sup>th</sup> day of April 2014

**/s/Sharon Ferguson**

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