

May 16, 2016

Daniel P. Wolf  
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. P5615/SA-16-375

Dear Mr. Wolf:

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

Request by Charter Fiberlink CC VIII, LLC to amend its certificate of authority by expanding its service area.

The petition was filed on April 29, 2016 by:

Kennard B. Woods  
Friend, Hudak & Harris, LLP  
Three Ravinia Dr., Suite 1700  
Atlanta, GA 30346-2117

The Department of Commerce recommends that Charter Fiberlink CC VIII, LLC (Charter Fiberlink CC VIII) receive conditional approval to expand its local service area to include the local exchanges of Backus, Hackensack and Altura. Before providing service in the expanded service area, Charter Fiberlink CC VIII must satisfy the conditions discussed in the attached comments.

Sincerely,

/s/ DIANE DIETZ  
Rate Analyst

DD/lt  
Attachment

BEFORE THE MINNESOTA PUBLIC UTILITIES COMMISSION

COMMENTS OF THE  
MINNESOTA DEPARTMENT OF COMMERCE

DOCKET No. P5615/SA-16-375

**I. BACKGROUND**

**A. PROCEDURAL AND FACTUAL HISTORY**

On August 17, 2009 in Docket No. P5615/M-09-239, the Commission granted Charter Telephone of Minnesota, LLC to change the name on its certificate of authority to Charter Fiberlink CC VIII, LLC (Charter Fiberlink CC VIII) and to amend its certificate of authority to operate as a competitive local exchange provider in the following exchanges and rate centers:

- i. Bemidji, Cass Lake, St. Cloud, St. Joseph, Duluth, Northfield, Twin Cities Metropolitan Service Area, Little Falls, Sauk Centre, Marshall, Montevideo, Willmar, Rochester, Stewartville, Winona, Faribault, Owatonna, Albert Lea, Austin, Brainerd, Glenwood, Nisswa, Park Rapids, Red Wing, Staples, Tracy, Wadena and Fergus Falls, served by Qwest Corporation;
- ii. Cokato, Osseo, Eyota, Benson, Aitkin, Alexandria, Browerville, Crosby, Deerwood, Long Prairie, Lewiston, Rollingstone and Bennetville, served by Embarq Minnesota, Inc. (now Embarq Minnesota, Inc. d/b/a CenturyLink);
- iii. Mound, Byron, Cottonwood, International Falls and Ranier, served by Citizens Telecommunications Company of Minnesota, LLC, d/b/a Frontier Citizens Communications of Minnesota;
- iv. Apple Valley, Rosemount, Lakeville, Fairmount and Farmington, served by Frontier Communications of Minnesota, Inc.;
- v. Mankato, served by Mankato Citizens Telephone Company; and
- vi. Eagle Lake, served by Mid-Communications, Inc. d/b/a HickoryTech.

On June 2, 2010, the Commission approved the request of Charter Fiberlink CC VIII, in Docket No. P5615/M-10-427, to provide facilities based and resold local, interexchange and local niche services in the Dassel exchange where Embarq Minnesota, Inc. is the incumbent local exchange carrier.

On March 21, 2012, the Commission approved the request of Charter Fiberlink CC VIII, in Docket No. P5615/M-12-132, to provide facilities based and resold local, long distance and

local niche services in the Monticello exchange and rate center, which is served by Bridge Wataer Telephone Company d/b/a TDS Telecom.

On May 22, 2012, the Commission approved the request of Charter Fiberlink CC VIII, in Docket No. P5615/M-12-392, to amend its existing certificate of authority to allow the Company to provide facilities based and resold local service and local niche service in the following exchanges:

**Incumbent Carrier**

Ace Telephone Association

Kasson-Mantorville Telephone Company

Mid-State Telephone Company d/b/a TDS Telecom

Windstream Lakedale, Inc.

**Exchange(s)**

La Crescent

Kasson

New London, Spicer

Big Lake and Maple Lake

On January 11, 2016, the Commission approved the petition of Charter Fiberlink CC VIII, in Docket No. P5615/SA-15-85, to amend its existing certificate of authority to allow the Company to provide facilities based and resold local exchange, interexchange and local niche services in the Breezy Point, Ideal Corners, Pequot Lakes and Pine River exchanges of Arvig Telephone Company d/b/a TDS Telecom.

On April 29, 2016, Charter Fiberlink CC VIII filed a petition to amend its certificate of authority to allow the Company to provide facilities based and resold local exchange, interexchange, and local niche services in the Backus and Hackensack exchanges of Arvig Telephone Company d/b/a TDS Telecom and the Altura exchange of Embarq Minnesota, Inc. d/b/a CenturyLink. The petition included documentation showing that notice of the proposal had been served on the affected municipalities in the proposed service area.

**II. STATEMENT OF ISSUES**

1. Whether the Commission should grant Charter Fiberlink CC VIII's petition and authorize its expansion into new local exchange territories.

**III. LEGAL REFERENCES**

Minn. Stat. §237.16, subd. 4 mandates that local service providers must obtain an amended certificate of authority before expanding their service areas. An amended certificate is deemed approved within 20 days of the petition's service date unless the petition involves an acquisition under Minn. Stat. §237.23 or an objection is filed within 20 days of the petition's service date.

Minnesota Rule 7811.0200, Subpart 1 states that no person may provide telecommunications service in areas served by LECs with fewer than 50,000 subscribers in Minnesota without first obtaining a certificate under this part and parts 7811.0300 to 7811.0600.

Minn. Rule 7811.0300, subpt. 5, states that a local service provider (LSP) shall not provide local service in an area for which it does not have a valid certificate under this part or acquire ownership or control of another LSP without first obtaining an amended certificate from the commission applicable to the area into which the LSP proposes to expand.

Minn. Rules pt. 7811.0300, subpt. 5, describes the requirements and the decision criteria for granting an amendment to a certificate of authority for a change in service area.

Minn. Rules pt. 7811.0550, subpt. 1 requires a competitive local exchange carrier to obtain Commission approval of a comprehensive 911 plan before providing local service in an area.

Minn. Rules pt. 7811.0600, subpt. 1 requires local service providers to offer certain basic services enumerated in this section of the rules. Among these basic services is single party service, which must be offered to all customers within the service area of the local service provider.

Minn. Stat. section 237.09 subd. 2 (a) requires that a telephone company that offers or provides a service or services, service elements, features, or functionalities on a separate, stand-alone basis to any customer shall provide that service, service element, feature, or functionality pursuant to tariff to all similarly situated persons, including all telecommunications carriers and competitors.

Minn. Stat. section 237.70 and Minn. Rules pt. 7817.0400, subpt. 8 requires local carriers to collect and remit Telephone Assistance Program (TAP) fees and provide the TAP program to eligible low income customers.

Minn. Stat. section 237.52 requires local carriers to collect and remit Telecommunications Access Minnesota (TAM) fees to the State of Minnesota.

#### **IV. ANALYSIS**

The current service area filing includes a descriptive narrative delineating the petitioner's proposed service area changes and does not involve an acquisition under Minn. Stat. §237.23. In its petition, Charter Fiberlink CC VIII included documentation showing that the Company has provided notice of the service area expansion to the affected municipalities in compliance with the requirements of Minn. Stat. section 237.16, subd. 4 and Minnesota Rules pt. 7812.0200, subpt. 6. Charter Fiberlink CC VIII plans to interconnect with Arvig Telephone Company through an affiliate of Charter Fiberlink CC VIII. The affiliate, Charter Fiberlink CCO, LLC, has received Commission approval of an interconnection agreement with Arvig Telephone Company in the Commission's January 2, 2015 Order in Docket No. P402, 404, 6716/IC-14-1042. Charter Fiberlink CC VIII will need to file any necessary updates to its tariff and to its 911 plan before becoming operational in the expanded service area. Also, before becoming operational in the Altura exchange of Embarq Minnesota, Inc. d/b/a CenturyLink, Charter Fiberlink CC VIII will need to file and receive Commission approval of an

interconnection agreement with Embarq Minnesota. While Charter Fiberlink CC VIII does not have an interconnection agreement with Embarq Minnesota, Charter Fiberlink CC VIII's affiliate (*i.e.*, Charter Fiberlink CCO) received approval of an interconnection agreement with Embarq Minnesota in Docket No. P6716, 430/IC-10-424. Charter Fiberlink CC VIII may make use of this interconnection agreement by filing a letter with the Commission stating that it has formed a competitive local exchange carrier (CLEC) to CLEC agreement with its affiliate.

In its February 5, 2016 comments on the compliance filing of Charter Fiberlink CC VIII (and the other Charter affiliates) in Docket No. P6716, 5615/C-14-383, the Department recommended that the Commission direct the Charter affiliates to comply with certain specified regulatory protections immediately. The regulatory protections described in the Department's February 5, 2016 comments are the basic safeguards that ensure customers receive adequate service. The Department recommends that the Commission act on the recommendations made in the Department's February 5, 2016 comments on Docket No. P6716, 5615/C-14-383 prior to acting on the current service area expansion proposal. If the Commission chooses to act on the current docket prior to acting on the Department's February 5, 2016 comments in Docket No. P6716, 5615/C-14-383, Charter will need to comply with whatever the Commission orders for all of its approved service areas.

## V. ALTERNATIVES

1. Whether the Commission should grant an amended certificate of authority to Charter Fiberlink CC VIII, LLC to expand its service area.
  - A. Grant conditional approval of the petition of Charter Fiberlink CC VIII, LLC to expand its service area to include the Backus and Hackensack exchanges of Arvig Telephone Company d/b/a TDS Telecom and the Altura exchange of Embarq Minnesota, Inc. d/b/a CenturyLink. The conditions are as follows: (i) filing any necessary tariff updates, (ii) filing any necessary updates to the 911 plan. Also, before becoming operational in the Altura exchange of Embarq Minnesota, Inc. d/b/a CenturyLink, Charter Fiberlink CC VIII will need to file and receive Commission approval of an interconnection agreement with Embarq Minnesota.
  - B. Deny the petition of Charter Fiberlink CC VIII, LLC.

## VI. RECOMMENDATION

- A. Grant conditional approval of the petition of Charter Fiberlink CC VIII, LLC to expand its service area to include the Backus and Hackensack exchanges of Arvig Telephone Company d/b/a TDS Telecom and the Altura exchange of Embarq Minnesota, Inc. d/b/a CenturyLink. The conditions are as follows: (i) filing any necessary tariff updates, (ii) filing any necessary updates to the 911 plan. Also, before becoming operational in the Altura exchange of Embarq Minnesota, Inc. d/b/a CenturyLink, Charter Fiberlink CC VIII will need to file and receive Commission approval of an interconnection agreement with Embarq Minnesota.

/lt

## **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. P5615/SA-16-375**

**Dated this 17<sup>th</sup> day of May 2016**

**/s/Sharon Ferguson**

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