

## Staff Briefing Papers

Meeting Date    December 19, 2017 Agenda Item \*\*2

Company            Telephone Assistance Plan (TAP)


Docket No.        **P999/CI-17-677**

### **In the Matter of the Telephone Assistance Plan (TAP) Review**

- Issues
1. What changes, if any, should the Commission make to the TAP benefit and/or surcharge levels?
  2. Should the Commission use any of the TAP fund for outreach and promotion of the program, as allowed by Minn. Stat. §237.701, subd. 1(2)?
  3. If the Commission should use TAP funds for outreach, in what amounts should it be expended, and what are the preferred methods of outreach, or organizations which might assist in such outreach?

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 <b>Relevant Documents</b>	<b>Date</b>
Notice Regarding Current TAP Credit and Surcharge Amounts (Docket P999/CI-16-302)	May 1, 2017
TAP Fund Status Report	September 14, 2017
Notice of Comment Period	October 4, 2017
Legal Services Advocacy Project (LSAP) Comments	October 24, 2017
Department of Commerce (Department) Comments	October 31, 2017
CenturyLink Comments	November 10, 2017
Public Comments (“Speak Up”)	December 4, 2017

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## **I. Statement of the Issues**

1. What changes, if any, should the Commission make to the TAP benefit and/or surcharge levels?
2. Should the Commission use any of the TAP fund for outreach and promotion of the program, as allowed by Minn. Stat. §237.701, subd. 1(2)?
3. If the Commission should use TAP funds for outreach, in what amounts should it be expended, and what are the preferred methods of outreach, or organizations which might assist in such outreach?

## **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 \$3.50 per month. TAP is funded through a monthly surcharge, now at \$0.03 per month, collected by local service providers on a per access wireline basis from their customers. 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. (See Attachment A)

TAP complements the similar federal Lifeline program which gives a corresponding monthly credit up to \$9.25 to eligible subscribers (\$25 on tribal lands). 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)

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)

During calendar year 2016, the Commission addressed questions raised regarding extending TAP to internet services as was done in the federal Lifeline program, finding this was not permitted under existing Minnesota law. The Commission also elected to leave the credit and surcharge amounts unchanged in its Orders of June 23, 2016 and October 11, 2016.

On November 14, 2016 the TAP Administrator filed the TAP Fund update covering the 6-month period ending on June 30, 2016 and on April 6, 2017 filed the 6-month update for the period ending on December 31, 2016.

On May 1, 2017 the Commission issued a Notice advising that review of the recent TAP Fund updates indicated that existing credit and surcharge levels were adequate for the TAP Fund to continue meeting requirements at that time. Service providers were also notified in the Notice that Commission staff did not recommend changes to the credit or surcharge level before July 1, 2017.

The Commission has previously considered these matters in Dockets No. P999/CI-16-302, P999/CI-15-535, P999/CI-14-470, P999/CI -13-213, and P999/CI -12-182.

**III. TAP Fund Review**

On September 14, 2017, the TAP Administrator filed the TAP Fund 6-Month Review (Docket No. P999/CI-17-677) for the period ending on June 30, 2017.

Service providers having 100 subscribers or more report TAP information on a monthly or quarterly basis. Providers having fewer than 100 subscribers report at the end of each calendar year. While information from all providers is addressed in the December Annual Report, the mid-year 6-month update relies on new data provided by providers having 100 subscribers or more who report on a quarterly or monthly basis. These providers typically represent in excess of 93 percent of the provider lines and in excess of 98 percent of the TAP subscribers.

The essential outcomes of the September 14, 2017 update are:

- The fund balance as of June 30, 2017, was approximately \$1,096,478.
- The fund balance continues to be reduced, per direction of the Commission, but at an increasingly slower rate. As seen below, from December 2014 to December 2015 the fund declined at a monthly rate of \$26,500 and from December 2015 to December 2016 the fund declined at a rate of \$8,083 per month. In the past 6 months, the fund reduction has occurred at a rate of \$4,666 per month.

**TAP Fund Trends**

	Balance (\$ million)	Revenues (\$ thousands)	Payments (\$ thousands)
2013 December	2.017	1,267	939
2014 December	1.539	702	1,137
2015 June	1.398	331	449
2015 December	1.221	337	496
2016 June	1.101	322	428
2016 December	1.124	371	332
2017 June	1.096	343	355

#### IV. Responses to Notice for Comments

On October 4, 2017 the Commission issued its Notice of Comment Period regarding TAP in Docket No. P999/CI-17-677. In the Notice, the Commission requested comment on the following:

- What changes, if any, should the Commission make to the TAP benefit and/or surcharge levels?”
- Should the Commission use any of the TAP fund for outreach and promotion of the program, as allowed by Minn. Stat. §237.701, subd. 1(2)?
- If the Commission should use TAP funds for outreach, please comment on any recommended amounts that should be expended, preferred methods of outreach, or organizations which might assist in such outreach.

##### A. Legal Services Advocacy Project (LSAP) Comments

The Legal Services Advocacy Project (LSAP) presents seven (7) pages of commentary that is well supported by citations to important reference materials. After affirming the continuing need for TAP/Lifeline in supporting universal service, LSAP asserts that the need to address the “abysmally low” participation rate in Minnesota is the essential issue that must be addressed. In support of this, LSAP states in part:

Disturbingly, participation in TAP is falling precipitously. Equally troubling is the fact that 38 states have higher participation rates than Minnesota does in the federal Universal Service Lifeline Program – TAP’s corollary and interrelated counterpart. Participation in TAP has dropped by 58% between 2011 and 2017 – to 23,400 households. Is the reason due to lack of awareness? Administrative barriers? Business practices that discourage participation? Migration from companies that offer TAP?

Similarly, the participation rate in Lifeline by Minnesota households is a low 17%. According to [USAC] ... there are 589,000 households eligible for Lifeline. Yet fewer than one in five eligible households participate. In contrast, the participation rate in Alaska and Oklahoma exceeds 50%. In seven states and the District of Columbia, it is more than 40%. In 15 states, it is around one-third. What is the reason for the discrepancy in participation when these states are facing the same changes and challenges that are facing Minnesota?

(See LSAP Comments, p. 3-4 including citations to Universal Service Administrative Company, *Lifeline Participation*; at <http://www.usac.org/li/about/process-overview/stats/participation.aspx>)

LSAP states that “the Commission should identify both the reasons for low participation and efficient and effective strategies for maximizing participation” suggesting those will guide future decision-making regarding TAP benefit and/or surcharge levels. In support, LSAP notes:

Consumer surveys show that lack of awareness of the availability of the programs is certainly one reason for low participation. But research also suggests that “variations in the design and administration of [telephone assistance] programs can

[also] have quite consequential impacts on participation levels, significantly altering the ultimate effectiveness of the program in achieving its goals.”

[See LSAP Comments, page 5 including citations to: Lynne Holt & Mark Jamison, *Re-Evaluating FCC Policies Concerning the Lifeline & Link-Up Programs*, 5 J. TELECOMM. & HIGH TECH. L. 393, 404 (2007); and to Mark Burton and John W. Mayo, *Understanding Participation in Social Programs: Why Don't Households Pick up the Lifeline?* (2005).]

The Commission likely has the legal authority to use TAP funds under Minn. Stat. §237.701, subd. 1(2). LSAP notes at page 7 of its Comments that:

... First, the statute expressly contemplates the existence of methods other than those enumerated (e.g., radio or newspaper advertisements) that may be more effective to promote participation in the program expenditure of funds for promotional activities. Second, inherent in the mandate to make TAP available and the express permission to promote it is the notion that promotional activities should be the most effective in achieving participation. To authorize the expenditure of funds on ineffective measures would be an absurd interpretation of the plain language of the statute.

LSAP suggests that, though it is true that the statute does not expressly mention determining what methods are most effective, it may be implied that the expenditure of funds for that purpose is within the existing scope of the law. ...

With regards to the actions to take, LSAP concludes at page 6:

Therefore, LSAP respectfully recommends that the Commission first take or require actions necessary to answer these questions:

- (1) How does TAP and Lifeline fit into the current and changing telecommunications industry landscape and the recent FCC actions?
- (2) Given that 38 states have achieved higher (some dramatically higher) participation rates for Lifeline than Minnesota has in the same industry environments, what outreach, promotion, and other methods have those states used to achieve those results and can those strategies be adopted in Minnesota?
- (3) What -- according to direct service providers, community organizations that serve the TAP- and Lifeline-eligible populations, and the eligible recipients themselves -- are barriers to participation in these programs.

In other words, LSAP urges the Commission take an evaluative step back. The MPUC should examine how the changing landscape impacts the TAP and Lifeline programs; study the outreach, promotion, and other methods that other states have used to achieve dramatically higher participation rates in Lifeline; and reach out statewide to community organizations serving low-income and diverse communities, including consumers themselves, to identify barriers to and suggested best practices to improve participation.

## **B. Department of Commerce Comments**

The Department of Commerce (Department) notes in its attachment that TAP presently supports 23,456 households and shows without elaboration the projected effect on Fund balance if surcharge amounts were raised in one cent increments. The Department recommended leaving the TAP surcharge and credit levels unchanged at this time.

The Department did not explicitly comment on the legal authority to use the TAP Fund for outreach but addressed at page 2 the following:

In its July 26, 2017 Order Initiating Investigation in the matter of a Commission investigation into the appropriate notice and outreach requirements for eligible telecommunications carriers under 47 U.S.C. section 214(3), in Docket No. P999/CI-17-509, the Commission discussed the importance of customer outreach requirements for Eligible Telecommunications Carriers offering Lifeline services in Minnesota and asked the Department to organize a taskforce of stakeholders to develop a proposed list of customer notice and outreach requirements for ETCs offering Lifeline in Minnesota. The initial meeting of the task force was held on October 25, 2017. If desired by the Commission, the ETC stakeholders could address the two questions raised in the Commission notice:

- If any of the TAP fund should be used for outreach and promotion of the TAP program.
- If TAP funds are used for outreach, the amounts that should be expended, preferred methods of outreach, and organizations which might assist in such outreach.

The October 25, 2017 comments filed by LSAP raise several important outreach-related questions that could be addressed by the ETC taskforce established in Docket No. P999/CI-17- 509. Data cited by LSAP indicates that the TAP participation rate in Minnesota is significantly lower than that of most other states. The ETC taskforce should be directed to examine the reason for the low TAP participation rate and formulate efficient and effective outreach strategies targeted at maximizing the TAP participation rate in Minnesota.

The Department recommended:

- A. 1. Maintain the current TAP credit and surcharge levels.
- B. 1. Direct the Taskforce of ETC stakeholders, organized in compliance with the July 26, 2017 Order in Docket No. P999/CI-17-509, to develop responses to the last two questions raised by the Commission in the October 4, 2017 Notice of Comment Period in the current docket.

### **C. CenturyLink Reply Comments**

On November 10, 2017 filed a short letter in reply to the LSAP and Department stating:

... CenturyLink takes no position regarding the Department's recommendation to maintain current surcharge levels. It supports the Department's recommendations that questions about outreach be referred to the [ETC] Taskforce. In reviewing proposed outreach alternatives, the Taskforce can also take a look at participation statistics and consider whether those statistics suggest different approaches are appropriate.

CenturyLink's quick review of differences between states with high and low Lifeline participation rates did not yield a straightforward explanation of differences in those rates. Such differences, however, are unlikely to have anything to do with wireline service. CenturyLink takes the same approach to outreach in Minnesota as it does in other states in which it offers service. Nonetheless, state-wide Lifeline participation statistics vary significantly. This disparity in results is likely because Lifeline statistics reflect very little about wireline service. The overwhelming majority of recipients of Lifeline support are wireless customers. For example, in the first quarter of 2016, USAC reports that wireless carriers receive 89.27% of Lifeline support. Lifeline participation rates are therefore of little value in analyzing a state wireline program designed to support voice, rather than broadband services.

Nonetheless, CenturyLink supports efforts to determine whether or not more should be done to increase participation in Minnesota's TAP program. Accordingly, CenturyLink supports the recommendation that questions about appropriate outreach be referred to the Taskforce.

### **D. Public Comments**

On December 4, 2017 the Commission's Consumer Affairs Office (CAO) posted to the record that no public comments had been received in response questions posed in the October 4, 2017 Notice of Comment Period or more broadly in this docket.

### **V. Staff Analysis**

The Department recommends leaving the TAP surcharges or support levels as they are and the other parties do not take an explicit position. Staff analysis of the TAP Administrator's data indicates that the TAP Fund is sufficient to meet its requirements during upcoming months. No changes in TAP surcharge or support levels are needed at this time.

Staff notes that LSAP, the Department and CenturyLink affirm explicitly or implicitly:

- 1) The need to be more effective reaching and working with those eligible for TAP/Lifeline;
- 2) The need to first discern why present and past effectiveness is so low before constructing remedial initiatives; and

- 3) That this would best be accomplished through an effort that would gather problem solving and remedial action input from stakeholders.

LSAP specifically affirms that the Commission has authority under as allowed by Minn. Stat. §237.701, subd. 1(2) to use TAP funds to improve program effectiveness. Staff concurs with their reasoning.

The Department and CenturyLink defer discussion of the use of TAP Funds and of possible program improvements to the ETC Taskforce in Docket No. P999/CI-17-509.

***The essential difference among the parties is through what group of stakeholders and in what proceeding to explore TAP (and Lifeline) program improvements.***

LSAP suggests this be done by enlisting "... community organizations serving low-income and diverse communities, including customers themselves, to identify barriers to and suggested best practices to improve participation."

The Department and CenturyLink suggest the vehicle for this would be the ETC Taskforce created in Docket No. P999/CI-17-507 (See October 10, 2017 Notice). Its purpose was to "... develop a proposed list of customer notice and outreach requirements for ETCs offering Lifeline in Minnesota." Topics noticed for discussion included: "1) Applications and requirements for ETCs, including handset provision; 2) notification to other agencies and updates to tariffs; 3) requirements for wireless ETC relinquishment; and 4) reports to enable better review by agencies and/or effectiveness of communication plans." These topics grow out of issues addressed in recent dockets, particularly the conditioning of related Commission Orders.

While it appears that the Commission **could** roll the assessment of Lifeline and TAP effectiveness into the ETC Taskforce, it is questionable as to whether the Commission **should** do so. Or more directly, would the challenges and stakeholders set out by the LSAP be so significantly different that those of the ETC Taskforce that those issues of TAP/Lifeline program effectiveness would be better addressed in its own working group?

The ETC Taskforce:

- Was established to address customer disclosure issues in recent ETC proceedings such as the need and means of customer notice when relinquishing a certificate of authority;
- Is focused on wireless service which is not part of the present TAP program;
- Is temporary in nature, with the intent of producing a list of new disclosure requirements for ETCs to implement going forward;
- Stakeholders presently consists of the Department, the Commission and a small number of service providers.



In contrast, a TAP/Lifeline Working Group would:

- Include input from up to 116 non-ETC's supporting TAP (CLECs);
- Focus on input from stakeholders LSAP suggested, including community organizations that serve TAP and Lifeline-eligible populations and those populations themselves;
- Be a permanent workgroup that meets periodically to monitor ongoing outreach efforts and enrollment;
- Address both the TAP/Lifeline program structure and outreach (not just company notices) as possible approaches to improved performance as LSAP urged; and
- Draw upon existing inter-agency relationships among state agencies, CAP agencies and community groups already collaborating in other programs targeting TAP/Lifeline eligible populations (e.g., SNAP; LIHEAP).

To enlist knowledgeable stakeholder participation with a clear purpose, Staff respectfully recommends the Commissioners establish a separate TAP/Lifeline working group to address improving TAP/Lifeline program effectiveness beginning with the questions posed by LSAP.

Staff understands there could be some concern that having two workgroups, at least temporarily, could cause confusion or some duplication. Staff would work with the Department to ensure that when useful, both workgroups coordinate. As listed above, staff anticipates that the ETC workgroup will have an end date and conclude its work, while a TAP outreach workgroup would continue permanently.

Staff also respectfully submits that based upon its initial inquiries to other social service agencies, it is the norm for a social service program to have a permanent, ongoing stakeholder group to ensure the program is meeting the needs of its recipients and to engage other groups in ensuring the success of the program.

## **VI. Decision Options and Recommendations**

### **Options**

#### **A. What changes, if any, should the Commission make to the TAP benefit and/or surcharge levels?**

- A.1 Maintain current TAP credit and surcharge levels.  
*(Recommended by Department & Staff)*
- A.2 Make changes the Commission finds prudent.

**B. Should the Commission use any of the TAP fund for outreach and promotion of the program, as allowed by Minn. Stat. §237.701, subd. 1(2)?**

- B.1 Find that TAP funds are authorized for use in program improvement including outreach and promotion under Minn. Stat. §237.701, subd. 1(2)  
*(Staff, LSAP recommends)*
  
- B.2 Direct the Taskforce of ETC stakeholders, organized in compliance with the July 26, 2017 Order in Docket No. P999/CI-17-509, to develop responses to the last two questions raised by the Commission in the October 4, 2017 Notice of Comment Period in the current docket. *(Department recommended)*

**C. If the Commission should use TAP funds for outreach, in what amounts should it be expended, and what are the preferred methods of outreach, or organizations which might assist in such outreach?**

- C.1 Establish a TAP/Lifeline Working Group to address improving TAP/Lifeline program effectiveness beginning with the questions posed by LSAP. *(Staff recommended)*
  
- C.2 Direct the Taskforce of ETC stakeholders, organized in compliance with the July 26, 2017 Order in Docket No. P999/CI-17-509, to develop responses to the last two questions raised by the Commission in the October 4, 2017 Notice of Comment Period in the current docket. *(Department recommended)*

**Recommendation:** Staff recommends A.1, B.1 and C.1

### TAP Administration

