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June 19, 2017

VIA ELECTRONIC FILING

Daniel P. Wolf
Executive Secretary
Minnesota Public Utilities Commission
121 Seventh Place East, Suite 350
Saint Paul, Minnesota 55101

Re: In the Matter of the Application of Charter Fiberlink CC VIII, LLC for an Amended Certificate of Authority to Provide Facilities-Based Local Exchange Services, Resold Local Exchange Services, Interexchange Services and Local Niche Services in Additional Exchanges; MPUC Docket No. P5615/SA-17-408

Dear Mr. Wolf:

Enclosed are the Reply Comments of Charter Fiberlink CC VIII, LLC in connection with the above-referenced matter. Please file these Reply Comments in your usual fashion.

If you have any questions regarding the foregoing, please contact the undersigned.

Sincerely,

/s/ Joel L. Thomas
Counsel for Charter Fiberlink CC VIII, LLC

JLT/jh

Enc.

cc: Charter Fiberlink CC VIII, LLC
(with enclosure)
Charles A. Hudak, Esq.
(without enclosure)

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

Nancy Lange	Chair
Matt Schuerger	Commissioner
Katie Sieben	Commissioner
Dan Lipschultz	Commissioner
John Tuma	Commissioner

In the Matter of the Application of Charter Fiberlink CCO, LLC for an Amended Certificate of Authority to Provide Facilities-Based Local Exchange Services, Resold Local Exchange Services, Interexchange Services and Local Niche Services in Additional Exchanges

MPUC Docket No.: P6716/SA-17-407

In the Matter of the Application of Charter Fiberlink CC VIII, LLC for an Amended Certificate of Authority to Provide Facilities-Based Local Exchange Services, Resold Local Exchange Services, Interexchange Services and Local Niche Services in Additional Exchanges

MPUC Docket No.: P5615/SA-17-408

**REPLY COMMENTS
OF CHARTER FIBERLINK CCO, LLC AND CHARTER FIBERLINK CC VIII, LLC**

In accordance with Minn. R. 7829.1400, subpart 4, Charter Fiberlink CCO, LLC (“Charter Fiberlink CCO”) and Charter Fiberlink CC VIII, LLC (“Charter Fiberlink CC VIII”) (collectively, “Charter Fiberlink”) submit these Reply Comments in support of the above-referenced applications and in response to the Comments of the Minnesota Department of Commerce (the “Department”), filed June 7, 2017.

I. SUMMARY OF CHARTER FIBERLINK’S POSITION

The Department’s comments filed in these proceedings are the Department’s fourth attempt in the past three years to defer or delay the Commission’s approval of applications by Charter Fiberlink to expand its authority to provide service in Minnesota or to otherwise obtain regulatory approval. In the earlier proceedings, the Department made substantially the same arguments; *e.g.*, that Charter Fiberlink fails to (a) satisfy Minnesota’s requirements for a local service provider by failing to provide single party service to customers, (b) collect or remit Telecommunications Access Minnesota (“TAM”) and Telephone Assistance

Program (“TAP”) fees, and (c) provide the TAP program to eligible low income customers. In the earlier proceedings the Department also argued that the Commission should act on the Department’s recommendations in Commission Docket No. P6716, 5615/C-14-383, which concerns the issue of whether the Commission has the jurisdiction to regulate VoIP, before acting on Charter Fiberlink’s requests. In each of the previous proceedings, however, the Department withdrew its objections or the Commission approved Charter Fiberlink’s requested relief over the Department’s objections.

The Department’s present arguments attempt to rehash the same arguments. Accordingly, the Commission should, as it has done in the past, reject the Department’s present objections to Charter Fiberlink’s applications and proceed to approve Charter Fiberlink’s applications. Any further delays due to the Department’s objections prevent consumers from receiving competitive services in the areas that are the subject of this Application.

II. BACKGROUND

A. The Department’s VoIP Services Complaint Case, Docket No. P6716, 5615/C-14-383

Before March, 2013, Charter Fiberlink provided interconnected voice over Internet protocol (“VoIP”) service as a retail service to subscribers in Minnesota. In March, 2013, Charter Fiberlink assigned its interconnected VoIP service customers to affiliated entities, respectively, Charter Advanced Services (MN), LLC and Charter Advanced Services VIII (MN), LLC (collectively “Charter Advanced Services”), which are not certificated by the Commission. The Department responded by filing a complaint with the Commission on September 26, 2014, alleging that Charter Fiberlink and Charter Advanced Services (collectively, “Charter”) were in violation of Minnesota statutes applicable to telecommunications carriers, including those that – the Department asserted – would require Charter Advanced Services to collect and remit TAP and TAM fees from end users.

On July 28, 2015, the Commission issued its *Order Finding Jurisdiction and Requiring Compliance Filing* in the Matter of the Complaint of the Minnesota Department of Commerce Against the Charter Affiliates Regarding Transfer of Customers. On September 24, 2015, the Commission denied Charter’s petition for reconsideration of its order. In comments filed February 5, 2016, the Department detailed its

recommendations for regulating Charter's service, including, among other things, requiring Charter to place TAP and TAM funds into escrow immediately; make retroactive fee remittances; ensure that qualifying customers receive the TAP credit; provide information about TAP on its website (and make an application available to download online); comply with annual reporting requirements; and pay any regulatory assessments.

Charter Advanced Services, however, had commenced an action in the United States District Court for the District of Minnesota, seeking a declaratory ruling that state regulation of its VoIP service offerings is preempted by federal law, and injunctive relief prohibiting the Commission from seeking to regulate such service offerings. On May 8, 2017, the District Court granted summary judgment to and entered final judgment in favor of Charter Advanced Services, holding that Charter Advanced Services' VoIP offering is an information service not subject to Commission regulation.¹ On June 7, 2017 – the same date the Department filed its Comments in the instant proceedings – the Commission filed a Notice of Appeal with the United States Circuit Court for the Eighth Circuit.

B. Previous Department Objections to Charter Fiberlink's Applications

Commission Docket Nos. P6716/SA-15-84 and P5615/SA-15-85.

On January 21, 2015, Charter Fiberlink filed applications for authority to provide facilities-based local exchange services, resold local exchange services, interexchange services and local niche services in the Arvig Telephone Co. d/b/a TDS Telecom exchanges and rate centers of Breezy Point, Ideal Corners, Pequot Lakes, and Pine River. On February 6, 2015, the Department filed comments in Charter Fiberlink CCO's application proceeding, Docket No. P6716/SA-15-84 (but not in Charter Fiberlink CC VIII's application proceeding, Docket No. P5615/SA-15-85), recommending rejection of the application because the Department's complaint in Docket No. P6716, 5615/C-14-383 was pending. The Department also stated:

¹ See *Charter Advanced Services (MN), LLC v. Lange*, No. 15-cv-3935, 2017 WL 1901414 (D. Minn. May 8, 2017)(order on summary judgment).

[Charter Fiberlink CCO] does not satisfy Minnesota requirements of a local service provider. It fails to provide single party service to customers. It does not collect or remit Telecommunications Access Minnesota (TAM) and Telephone Assistance Program (TAP) fees. It does not provide the TAP program to eligible low income customers. It is not in the public interest to grant the petition of [Charter Fiberlink CCO] to serve in new areas if [Charter Fiberlink CCO] does not comply with Minnesota Statutes and Commission rules pertaining to the provision of local service, including [Charter Fiberlink CCO's] existing service areas.

On November 25, 2015, the Department withdrew its objections to Charter Fiberlink CCO's application, declaring that the Commission's orders in P6716, 5615/Docket No. C-14-383 had addressed the concerns of the Department regarding service area expansion. The Department stated that "*Any concerns with Charter's compliance with the Commission Order in Docket No. [P6716,] P5615/C-14-383 can be addressed in the 14-383 Docket.*" (Emphasis added.)

On January 11, 2016, the Commission approved Charter Fiberlink CCO's and Charter Fiberlink CC VIII's applications for expanded authority.

Commission Docket Nos. P6716/SA-16-376 and P5615/SA-16-375.

On April 29, 2016, Charter Fiberlink filed applications for authority to provide facilities-based local exchange services, resold local exchange services, interexchange services and local niche services in the Arvig Telephone Co. d/b/a TDS Telecom's exchanges and rate centers of Backus and Hackensack and in the Embarq Minnesota, Inc. d/b/a CenturyLink's exchange and rate center of Altura. On May 16, 2016, the Department filed comments in both application proceedings, stating:

In its February 5, 2016 comments on the compliance filing of Charter Fiberlink CCO (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 [applications] 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.

Charter Fiberlink responded on May 27, 2016, filing reply comments opposing the Department's recommendation that the Commission act in Docket No. P6716, 5615/C-14-383 before acting in the pending application proceedings, but agreeing that Charter Fiberlink would abide by the ultimate result in Charter's litigation in federal court.

On June 8, 2016, the Commission approved Charter Fiberlink's applications. The Commission's conditions for approval were simply as follows: (i) filing any necessary tariff updates; and (ii) filing any necessary updates to Charter Fiberlink's 911 plans.²

Commission Docket Nos. P6716/SA-16-598 and P5615/SA-16-599.

On July 18, 2016, Charter Fiberlink filed applications for authority to provide facilities-based local exchange services, resold local exchange services, interexchange services and local niche services in the Embarq Minnesota d/b/a CenturyLink exchange and rate center of Hastings and the Citizens Telecommunications Company of Minnesota exchange and rate center of Kandiyohi. The Department filed comments stating, as it had in Docket Nos. P6716/SA-16-376 and P5615/SA-16-375, that:

[i]n its February 5, 2016 comments on the compliance filing of Charter Fiberlink CCO (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.

Charter Fiberlink again opposed the Department's recommendation that the Commission act in Docket No. P6716, 5615/C-14-383 before acting on the pending applications. On September 9, 2016, the Commission approved Charter Fiberlink's applications. The Commission's conditions for approving the

² There were further proceedings, discussed below, related to Charter Fiberlink CC VIII's interconnection arrangements.

applications once again were simply as follows: (i) filing any necessary tariff updates; and (ii) filing any necessary updates to the 911 plans.

Commission Docket Nos. P6716/EP-16-757 and P5615/EP-16-758.

On September 14, 2016, Charter Fiberlink filed annual 911 plan updates with the Commission. The Department's responsive comments recommended approval of the annual 911 plan filings, contingent, however, upon Charter Fiberlink's filing of TAP Reporting Forms for the year 2014 or 2015 within the deadline established by the TAP rules.

On November 14, 2016, Charter Fiberlink filed comments stating that it in fact had filed TAP Reporting Forms in both 2014 and 2015. Charter Fiberlink also stated that the Department's real objection was not that Charter Fiberlink failed to file TAP Reporting Forms, but that the TAP Reporting Forms did not identify any services to customers who were subject to the TAP surcharge, and that in Docket No. P6716, 5615/C-14-383 the Department had argued that Charter Fiberlink's forms (and remittances) should account for and reflect the interconnected VoIP services provided by Charter Advanced Services.

On December 12, 2016, the Department replied, stating:

Charter Fiberlink companies have stopped submitting TAP reporting forms and did not file the annual TAP Reporting form for the year 2015. The reason why the Charter Fiberlink companies have not complied with Minnesota Statute § 237.70 subd. 7(e) is unclear since there does not appear to be disagreement on whether the Charter Fiberlink companies continue to operate under a certificate of authority granted by the Commission.

The Department believes Charter [Fiberlink]'s present failure to collect and remit TAM and TAP funds to support access to telecommunications services by low income and disabled Minnesotans, or to file the quarterly or annual TAP reporting forms after the second quarter of 2015 *should not delay approval* of the proposed 911 plans in the current dockets. It may be reasonable for the Commission to take no action on these failures by the Charter Fiberlink companies pending the conclusion of the federal court litigation. Upon resolution of the litigation, the Commission can determine what action(s) to take.

(Emphasis added; footnotes omitted.) Based on the foregoing comments, the Commission Staff filed briefing papers recommending approval, and the Commission approved the 911 plans on February 8, 2017.

C. The Present Proceeding

On May 19, 2017, Charter Fiberlink CCO and Charter Fiberlink CC VIII filed applications to amend their certificates of authority to provide facilities-based local exchange services, resold local exchange services, interexchange service and local niche services in the following exchanges and rate centers:

<u>Incumbent Carrier</u>	<u>Exchange(s) and Rate Centers</u>
Albany Mutual Telephone Association	Albany
Consolidated Telephone Company	Mission
Eagle Valley Telephone Company	Clarissa
Great Plains Communications	Kerkhoven, Murdock and Pennock
Melrose Telephone Company	Melrose
Osakis Telephone Company	Osakis
Pine Island Telephone Company	Oronoco
Zumbrota Telephone Company	Zumbrota

On June 5, 2017, Charter Fiberlink CCO and Charter Fiberlink CC VIII filed letters supplementing the applications, to correctly identify Mid-State Telephone Company d/b/a TDS Telecom, not Great Plains Communications, as the incumbent local exchange carrier in the State of Minnesota for the exchanges of Kerkhoven, Murdock and Pennock.

On June 7, 2017, the Department filed comments, stating:

- There is no evidence that Charter Fiberlink either currently serves, or will serve, retail customers, including for local exchange service.
- All retail customers are served by Charter Advanced Services companies, which maintain they are not subject to the Commission’s jurisdiction and have no obligation to collect or remit TAM and TAP fees.
- Charter Fiberlink does not collect TAM, TAP or 911 fees and files no fee remittance reports with the Department of Public Safety. The Charter Advanced Services companies collect and remit 911 fees, but TAM and TAP fees are neither assessed nor remitted.

The Department recommends that the Commission grant approval of Charter Fiberlink CCO’s and Charter Fiberlink CC VIII’s applications:

conditioned upon Charter Fiberlink [] not providing service to any retail customers. Should Charter Fiberlink CCO, LLC [and Charter Fiberlink CC VIII] wish to provide retail service, the following conditions apply: (i) filing any necessary tariff updates, (ii) filing any necessary updates to the 911 plan, (iii) filing and receiving Commission approval of interconnection agreements with Albany Mutual Telephone Association, Consolidated Telephone Company, Eagle Valley Telephone Company, Melrose Telephone Company, Osakis Telephone Company, Pine Island Telephone Company, and Zumbrota Telephone Company.³

These are substantially the same arguments the Department made in the four prior proceedings discussed above. The Department merely rehashes arguments either settled or determined to be irrelevant by the Commission in the previous proceedings. While the Department might seem to add a new argument – that Charter Fiberlink does not serve retail customers and that it is not clear that Charter Fiberlink will meet state requirements to provide local exchange services – this is merely the Department’s latest spin on its previous argument that Charter Fiberlink “does not satisfy Minnesota requirements of a local service provider [and] fails to provide single party service to customers.” Moreover, Charter Fiberlink has retail customers and, by way of example, currently provides tariffed services to certain retail business customers. As discussed in more detail below, the Commission should reject the Department’s recommendation to condition the grant of Charter Fiberlink’s Applications on prohibiting Charter from providing service to any retail customers. In addition, and as discussed below, Charter Fiberlink CC VIII should not be required to obtain Commission approval of interconnection agreements.

III. DISCUSSION

A. The Department Rehashes Arguments that Do Not and Have Not Prevented Approval of Charter Fiberlink’s Expansion Applications

The Department states that Charter Fiberlink does not collect and remit TAM, TAP or 911 fees (and does not file a report for such fees with the Department of Public Safety).⁴ Notwithstanding this objection, in the previous proceedings, the Commission nevertheless approved Charter Fiberlink’s

³ The Department did not mention Mid-States Telephone Company d/b/a TDS Telecom, but we assume that was an omission.

⁴ The Department acknowledges elsewhere in the comments, however, that the Charter Advanced Services companies collect and remit the necessary and appropriate 911 fees.

applications. Most recently, when the Department raised this argument in the proceeding to approve the 2016 update to Charter Fiberlink's 911 plan, Commission Staff simply stated, "[the Department] did not raise any objection as to the sufficiency of the Plans."⁵

The Commission has the authority to adopt rules applicable to all telephone companies and telecommunications carriers required to obtain, or having obtained, a certificate to provide telephone service.⁶ Acting on that authority, the Commission, in Minn. R. 7812.0200, promulgated its general certification requirements. Nowhere in its regulations does the Commission require providers to pay TAM or TAP fees, which are the subject of pending litigation, before the Commission will grant certification or expansion of service.

Further, the federal courts have already ruled that VoIP service, which is what Charter provides, is outside the Commission's jurisdiction.⁷ In an earlier Commission proceeding, the Department did recognize that it "may be best to wait for . . . Litigation to conclude" before demanding that the Charter entities make various alterations to its business practices.⁸ In that proceeding, the Charter entities argued that "collecting [TAM and TAP] fees from Charter's subscribers that may ultimately be deemed beyond the Commission's jurisdiction in the Litigation raises complicated issues about how such fees could be returned to Charter's customers in the event that Charter prevails in the Litigation."⁹ On May 8, 2017, the United States District Court granted summary judgment to Charter Advanced Services, holding that Charter

⁵ See Staff Briefing Paper, Docket Nos. P-6716EP-16-757 and P-5615/EP-16-758, Minnesota Public Utilities Commission, Agenda Item No. 6 (Feb. 2, 2017).

⁶ Minn. Stat. Section 237.16.

⁷ See *Charter Advanced Services (MN), LLC v. Lange*, No. 15-cv-3935, 2017 WL 1901414 (D. Minn. May 8, 2017)(order on summary judgment). See also *Vonage Holdings Corp. v. The Minnesota Public Utilities Commission*, 290 F.Supp. 2d 993 (D. Minn. 2003).

⁸ See Reply Comments of the Department, *Complaint by The Minnesota Department of Commerce Against the Charter Affiliates Regarding Transfer of Customers*, Docket No. P6716, P5615/C-14-383, Minnesota Public Utilities Commission p. 4 (Dec. 4, 2015).

⁹ See Reply Comments of the Charter Affiliates, *Complaint by The Minnesota Department of Commerce Against the Charter Affiliates Regarding Transfer of Customers*, Docket No. P6716, P5615/C-14-383, Minnesota Public Utilities Commission p. 5 (Jan. 8, 2016).

Advanced Services' VoIP offering is an information service and therefore state regulation of that offering is preempted by federal law.¹⁰

At present, the District Court's decision is on appeal to the U.S. Court of Appeals for the Eighth Circuit. Appeal notwithstanding, to the extent that the Department argues that the Charter entities should collect and remit TAM and TAP fees on its VoIP services, the issues regarding those fees are to be resolved in the litigation and should not be the subject of the present certificate expansion proceedings.

B. Charter Fiberlink Provides Retail Services, Including Local Exchange Services, and the Department's Recommendation that Charter Fiberlink Not Provide Service to any Retail Customer is Unacceptable.

The Department's recommendation to prohibit Charter Fiberlink from providing retail service to any customer is unacceptable and should be denied by the Commission. As the basis of its recommendation the Department states in the instant proceedings as follows: "there is no evidence that Charter Fiberlink, either currently serves, or will serve, retail customers," and that "it is not clear that . . . Charter will ever provide retail local exchange services" There are several problems with the Department's statements.

First, the Department erroneously states that Charter Fiberlink does not currently have "retail" customers. However, Charter Fiberlink does have retail customers and currently offers tariffed retail services for certain private line, interexchange and business class services. As stated in Charter's Answer to the Department's Complaint in proceeding C-14-383, "[a]lthough Charter Fiberlink no longer serves retail voice customers in Minnesota, it continues to provide wholesale interconnection and transit services, data WAN and private line services to business customers, and local origination and termination services to other carriers."¹¹

Second, the Department appears to equate "local exchange services" with local dial-tone. "Local exchange services," however, encompass private line services and other services in addition to basic local service. "Local exchange services" means:

¹⁰ *Charter Advanced Services (MN), LLC v. Lange*, No. 15-cv-3935, 2017 WL 1901414 (D. Minn. May 8, 2017)(order on summary judgment).

¹¹ *Complaint by The Minnesota Department of Commerce Against the Charter Affiliates Regarding Transfer of Customers*, Docket No. P6716, P5615/C-14-383, Minnesota Public Utilities Commission (Dec. 18, 2014).

telecommunication service provided within local exchange service areas in accordance with the tariffs. It includes the use of exchange facilities required to establish connections between stations within the exchange and between stations and the toll facilities serving the exchange.¹²

Moreover, “telecommunications service” is not limited to offering dial-tone, but instead “means the offering of telecommunications for a fee directly to the public or to such classes of users as to be effectively available to the public regardless of the facilities used.”¹³

Last, the scope of local facilities-based certification in Minnesota is broad. Pursuant to Minn. R. 7811.0200, Subp. 2, and 7812.0200, Subp. 2, “[a] certificate to provide local facilities-based service authorizes the provision of *all forms of local service, interexchange service, and local niche service* in Minnesota.” Minn. R. 7811.0300, Subp. 1, and 7812.0300, Subp. 1 state:

A certificate to provide local facilities-based service authorizes the provision of telecommunications services in Minnesota within the area identified in the applicant's petition. This includes authority to provide local service through the resale of a local exchange carrier's services, the purchase and recombination of a local exchange carrier's network elements, or the use of the local service provider's own facilities.

Charter Fiberlink clearly meets the qualifications for approval of its applications for certification, as set forth by these Commission rules.

C. While Certain of the Department’s Conditions Are Acceptable, Charter Fiberlink CC VIII Need Not Enter Into Interconnection Agreements.

The Department states that, before becoming operational in the expanded service area, normal conditions would be placed on Charter Fiberlink’s service area expansion to include: (i) filing of any necessary tariff updates; (ii) filing of any necessary 911 plan updates; and (iii) receiving Commission approval of interconnection agreements with the incumbent local exchange carriers, or providing a statement of how interconnection will be achieved through a third party with an interconnection agreement. From the time that Charter Fiberlink sought its first authorization for expansion, Charter Fiberlink has

¹² Minn. R. 7810.0100, Subp. 23.

¹³ Minn. Stat. Section 237.01, Subd. 6a.

always complied with the applicable rules of the Commission, and, with one caveat, has always met those conditions that the Department has identified as “normal” to service expansion.

Charter Fiberlink agrees to update its tariff as necessary, update its 911 plan as necessary, and to provide the Commission with the necessary interconnection agreements before offering service to end-users in the affected service areas. However, as explained in detail in previous applications for service area expansion,¹⁴ Charter Fiberlink CCO is affiliated and shares a common management team with Charter Fiberlink CC VIII, and Charter Fiberlink CCO arranges for interconnection on behalf of itself *and* Charter

¹⁴ In Docket No. P5615/SA-16-375, the Department stated:

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. . . .

The Department also recommended:

[B]efore 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.

Charter Fiberlink CCO and Charter Fiberlink CC VIII responded on May 27, 2016, by filing reply comments, taking issue with the Department’s recommendation that Charter Fiberlink CC VIII needs its own ICA or that the Charter Fiberlink entities should be required to form a formal written agreement with one another in order to exchange traffic.

On June 6, 2016, the Department filed comments withdrawing its recommendation that Fiberlink CC VIII file an interconnection agreement with Embarq Minnesota.

On June 8, 2016, the Commission approved the applications. The conditions for both companies were as follows:

- (i) filing any necessary tariff updates
- (ii) filing any necessary updates to the 911 plan.

However, as to Charter Fiberlink CC VIII, the Commission added:

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.

On June 17, 2016, Charter Fiberlink CC VIII filed an Objection and Referral to the Full Commission, requesting (1) the Order be referred to the full Commission, and (2) the full Commission reissue the Order but strike the sentence: “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.”

On July 25, 2016, the Commission issued an order approving Charter Fiberlink CC VIII’s application, without the sentence to which Charter Fiberlink CC VIII had objected.

Fiberlink CC VIII (in addition to Charter Advanced Services). As such, Charter Fiberlink CC VIII does not itself enter into interconnection agreements, and will not file, or seek to obtain approval from the Commission of, any interconnection agreements. Consistent with those earlier applications, Charter Fiberlink CC VIII has shown in the present applications before the Commission that it continues to share a common management team with Charter Fiberlink CCO and that it will obtain interconnection through Charter Fiberlink CCO in the areas subject to expansion. The Department and the Commission have found this arrangement acceptable in the past,¹⁵ and there is no reason for it to raise concerns now. The applications presently before the Commission set forth Charter Fiberlink's intentions to exchange traffic in a manner consistent with the foregoing description.

IV. CONCLUSION

The Commission should grant Charter Fiberlink's applications for service expansion under the same criteria that the Commission has used when approving Charter Fiberlink's earlier applications. The Commission should determine, just as it has in the previous proceedings, that the Department's comments concerning the pending litigation, TAP and TAM are beyond the scope of Charter Fiberlink's applications for service area expansion. The Commission should also deny the Department's recommendation that Charter Fiberlink's service area expansion be subject to the condition that it not provide service to any "retail" customers, because this is merely a recasting of the Department's previous arguments and, contrary to the Department's statements, Charter Fiberlink provides retail service. The Commission should also reject the Department's recommendation to require Charter Fiberlink CC VIII to obtain interconnection agreements when Charter Fiberlink CCO already does so on behalf of Charter Fiberlink CC VIII. The Department's objections merely present additional and unnecessary obstacles for Charter to expand services into new areas in Minnesota. There is no benefit to customers from requiring Charter to change its current practices and delay service in the expanded areas that are the subject of these Applications.

¹⁵ See discussion in footnote 11, *supra*.

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

Nancy Lange	Chair
Matt Schuerger	Commissioner
Katie Sieben	Commissioner
Dan Lipschultz	Commissioner
John Tuma	Commissioner

Request by Charter Fiberlink CCO, LLC to)
amend its certificate of authority by)
expanding its service area.) Docket No. P6716/SA-17-407

Request by Charter Fiberlink CC VIII, LLC to)
amend its certificate of authority by)
expanding its service area.) Docket No. P5615/SA-17-408

CERTIFICATE OF SERVICE

STATE OF GEORGIA)
)ss
COUNTY OF DEKALB)

Joel L. Thomas, being first duly sworn, hereby states that on the 19th day of June, 2017, the foregoing Reply Comments were served on the attached list of persons by electronic mail or by depositing a true and correct copy thereof via U.S. Mail, first class postage prepaid.

/s/ Joel L. Thomas

SWORN TO BEFORE ME this
19th day of June, 2017

/s/ Mary R. Wells

NOTARY PUBLIC

My Commission Expires: December 28, 2018

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