

STATE OF MINNESOTA
BEFORE THE MINNESOTA PUBLIC UTILITIES COMMISSION

Beverly Jones Heydinger	Chair
David C. Boyd	Commissioner
Nancy Lange	Commissioner
Dan Lipschultz	Commissioner
Betsy Wergin	Commissioner

**In the Matter of the CenturyLink, Inc.
Petition for Waiver of Minnesota Rule
Part 7810.5800**

Docket No. P421/AM-14-255

SUPPLEMENTAL COMMENTS OF JOINT CLECS

Eschelon Telecom of Minnesota, Inc. d/b/a Integra, Integra Telecom of Minnesota, Inc. d/b/a Integra, **tw telecom of minnesota llc**, US Link Inc. d/b/a/ TDS Metrocom, and Velocity Telephone, Inc. (“Joint Competitive Local Exchange Carriers,” or “Joint CLECs”) respectfully submit these supplemental comments in response to CenturyLink’s *Petition for Waiver*.¹

Background

On March 26, 2014, CenturyLink filed a petition for waiver of Minnesota Rule Part 7810.5800 and a request for a rulemaking to review service quality rules. CenturyLink cited changes in the telecommunications industry “over the last several decades”² and increased consumer use of “wireless service”³ as justifications for a review of the service quality rules. The Commission opened dockets P-421/AM-14-256,⁴ to address the petition

¹ *Petition for Waiver of Minnesota Rule Part 7810.5800 and Request for Rulemaking to Modernize Service Quality Rules*, In the Matter of the Petition of CenturyLink, Inc. for Waiver of Minnesota Rule Part 7810.5800, PUC Docket Number 421/AM-14-255, March 26, 2014 (“Petition for Waiver”).

² *Petition for Waiver*, p. 1.

³ *Petition for Waiver*, p. 1.

⁴ In the Matter of the CenturyLink, Inc. Petition for Rulemaking to Revise Service Quality Rules, PUC Docket Number 421/AM-14-256, March 26, 2014.

for rulemaking, and P-421/AM-14-255,⁵ to address the Rule 7810.5800 waiver request, and solicited comments regarding CenturyLink’s petition.⁶ The Joint CLECs and other parties⁷ filed Comments on April 30th,⁸ and CenturyLink filed Reply Comments on May 21st.⁹ In its reply comments CenturyLink asked for a variance to rule 7810.5800 by “changing the standard on a temporary basis to 85%.”¹⁰ The Commission sought supplemental comments from parties on CenturyLink’s request.¹¹

Comments

In its initial comments, the Joint CLECs opposed CenturyLink’s *Request for Waiver* unless and until appropriate conditions are put in place to protect wholesale service quality governed by CenturyLink’s Performance Assurance Plan (“CPAP”),¹² which is part of a participating carrier’s interconnection agreement.¹³

Minnesota Rule Part 7810.5800 is currently as follows:

7810.5800 INTERRUPTIONS OF SERVICE.

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

⁵ *Petition for Waiver.*

⁶ *Notice of Comment Period*, In the Matter of the CenturyLink, Inc. for Waiver of Minnesota Rule Part 7810.5800, P421/AM-14-255, April 2, 2014 .

⁷ The other parties were AARP MN and Legal Services Advocacy Project, and the Department of Commerce.

⁸ *Comments of Joint CLECs*, In the Matter of the CenturyLink, Inc. Petition for Rulemaking to Revise Service Quality Rules, PUC Docket Number 421/AM-14-256, April 30, 2014 (“Joint CLEC Comments”).

⁹ *Reply Comments of CenturyLink*, In the Matter of the CenturyLink, Inc. Petition for Rulemaking to Revise Service Quality Rules, PUC Docket Number 421/AM-14-256, May 21, 2014 (“CenturyLink Reply Comments”).

¹⁰ *CenturyLink Reply Comments*, pp. 2 & 8.

¹¹ *Notice of Supplemental Comment Period*, In the Matter of the CenturyLink, Inc. Petition for Rulemaking to Revise Service Quality Rules, PUC Docket Number 421/AM-14-256, May 23, 2014.

¹² The Minnesota CPAP can be found at <http://www.centurylink.com/wholesale/clecs/nta.html> under Exhibit K.

¹³ *Joint CLEC Comments*, p. 2.

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.¹⁴

In its initial comments, the Joint CLECs expressed concern that removal of the rule in its entirety, without proper wholesale protections, could impact wholesale service quality performance because certain wholesale performance is measured against retail performance associated with this rule.¹⁵ CenturyLink's reply comments requested a limited variance to the rule 7810.5800 by changing the standard on a temporary basis to 85%. Minnesota Rule Part 7810.5800 broadly impacts a number of wholesale performance measures.¹⁶ The portion of the rule requiring "95 percent of all out-of-service troubles within 24 hours of the time such troubles are reported"¹⁷ *directly* influences a single measure (MR-5) within the wholesale performance assurance plan for two wholesale products (resale business service and sub-loops).^{18 19} Both resale business service and sub-loops are currently diagnostic within the Minnesota wholesale

¹⁴ <https://www.revisor.mn.gov/rules/?id=7810.5800>.

¹⁵ *Joint CLEC Comments*, p. 5.

¹⁶ *Joint CLEC Comments*, p. 7, Table 1.

¹⁷ Minnesota Rule Part 7810.5800.

¹⁸ *Joint CLEC Comments*, p. 7, Table 1.

¹⁹ Other products and performance measures are either not measured against retail performance that is not based on the '95% within 24 hour' standard or are benchmarked. However, these products and measures may be indirectly impacted by this standard. For example, Mean Time to Restore (MR-6) for various products could be indirectly impacted by a relaxation of the retail standard if CenturyLink's overall repair times fall as a result of a relaxation in the retail standard. See *Joint CLEC Comments*, p. 7, Table 1.

performance assurance plan,²⁰ which means they are monitored by the parties, but do not have automatic performance payments associated with them. In addition, Minnesota volumes for both of these products are relatively small²¹ and would thus invoke the small volume adjustment from the wholesale performance assurance plan²² that would override the retail performance (which is measured against the 95% retail standard).

Because the retail standard requiring 95% of out of service troubles be resolved within 24 hour directly influences diagnostic wholesale products within a single performance measure, the volumes for these products are low, CenturyLink's request for a waiver in this docket is temporary, and the remaining parts of the rule require "reasonable efforts to prevent interruptions of service"²³ and reestablishment of "service with the shortest possible delay,"²⁴ for the limited purpose of this docket, the Joint CLECs do not oppose CenturyLink's request for a temporary variance changing the 95% standard to 85%. A grant of a temporary variance could provide Joint CLECs time to monitor wholesale performance for all products and measures that are directly and indirectly impacted by a relaxation of this retail standard and thus help inform the Joint CLECs' position regarding any permanent rule changes.

It should be noted, that the Joint CLECs take no position, at this time, on any of the factual claims by CenturyLink in its Reply Comments and accompanying affidavit by Patrick

²⁰ *Joint CLEC Comments*, p. 7, Table 1.

²¹ CenturyLink Performance Results for Minnesota (April 2014 – May 2013), pp. 126, 129 & 130 (Business Resale) and p. 128 (Sub-loop). See [http://www.centurylinkapps.com/wholesale/results/docs/271_exhibit\(14_State_PID\)_AGG_MN_Apr14.pdf](http://www.centurylinkapps.com/wholesale/results/docs/271_exhibit(14_State_PID)_AGG_MN_Apr14.pdf).

²² CenturyLink QC's Performance Assurance Plan, January 1, 2014, § 3.2.2 regarding "one allowable miss." The plan can be found under the Minnesota Exhibit K at <http://www.centurylink.com/wholesale/clecs/nta.html>.

²³ Minnesota Rule Part 7810.5800.

²⁴ Minnesota Rule Part 7810.5800.

Haggerty including the applicability of the metric in today's market, the state of competition in Minnesota, and the impact of the metric on CenturyLink's operations in Minnesota.

Dated this 12th day of June, 2014.

On behalf of the Joint CLECs

A handwritten signature in black ink, appearing to read "Douglas Denney". The signature is fluid and cursive, with a long horizontal stroke extending to the right.

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