

October 22, 2020

Will Seuffert  
Executive Secretary  
Minnesota Public Utilities Commission  
121 7<sup>th</sup> Place East, Suite 350  
St. Paul, Minnesota 55101-2147

RE: **Comments of the Minnesota Department of Commerce**  
Docket No. P999/CI-20-665

Dear Mr. Seuffert:

Attached are the Comments of the Minnesota Department of Commerce in response to the Minnesota Public Utilities Commission's September 22, 2020 Notice of Comment Period on TAP Budget.

Sincerely,

/s/ DIANE DIETZ  
Rate Analyst

DD/ja  
Attachment



Before the Minnesota Public Utilities Commission

Comments of the Minnesota Department of Commerce

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Docket No. P999/CI-20-665

**I. BACKGROUND**

On January 15, 2019, the Minnesota Public Utilities Commission (Commission) issued its *Order Setting TAP Credit Amount and Surcharge Level and Requiring Local Service Providers to Include TAP Information on Their Websites* in Docket Nos. P999/CI-17-677 and P999/CI-18-112. In that Order, the Telephone Assistance Plan (TAP) credit increased from \$3.50 to \$7.00 per month. The monthly TAP surcharge, which funds the TAP program, increased from \$.03 to \$.10 per access line. The changes to the TAP credit and surcharge were implemented on July 1, 2019, or the first billing cycle thereafter. Before the issuance of the January 15, 2019 Order, the TAP surcharge and available credit were last changed by the Commission in its August 10, 2013 Order in Docket No. P999/CI-13-213.

On August 6, 2019, in Docket No. P999/CI-18-112, the Commission issued its Order Accepting TAP Fund Review for the Six-Month period ending on December 31, 2018 and Approving Outreach Expenditure.

On January 3, 2020, the Commission issued its Order in Docket No. P999/CI-19-539, which accepted the TAP Fund six-month reviews submitted on September 10, 2019 and directed the Executive Secretary to monitor TAP enrollment.

On September 22, 2020, the Commission issued a Notice of Comment period in Docket No. P999/CI-20-665 seeking comments on the annual review of TAP revenues and expenditures as listed in the Commission's September 15, 2020 report filed in Docket P999/CI-20-665. The September 15, 2020 report includes data for TAP covering the six-month period from January 1, 2020 through June 30, 2020.

**II. STATUTORY AUTHORITY**

Minnesota Statutes §§ 237.69 - .711 govern the TAP program.

Minnesota Rule 7817 establishes rules for the implementation and operation of the TAP program.

**III. COMMENTS**

*A. INTRODUCTION*

In recent years, the Commission made a significant increase to the TAP credit to accommodate the needs of subscribers. The increase in the TAP credit was made by the Commission in its January 15, 2019 Order in Docket Nos. P999/CI-17-677 and P999/CI-18-112 (pages 2 and 3) wherein the Commission made the following statement:

The OAG [Office of the Attorney General] noted that the number of TAP participants has dropped significantly since 2013, from over 73,000 to fewer than 20,000 stemming from a variety of causes, including that the credit cannot be used for cellular or wireless telephone service and the credit is too low for customers to see the value in applying for the program. The OAG recommended increasing the TAP credit from \$3.50 to \$9.00, increasing the TAP surcharge from \$0.03 to \$0.10, and directing Commission staff to make outreach and promotional efforts without waiting for the TAP/Lifeline Working Group report. . . the Commission believes that the best approach at this time is to increase the credit level awarded per month to \$7.00 per month with an increase in the surcharge level to \$0.10 per month.

The Commission's January 15, 2019 Order largely supported the OAG recommendation, but also recognized the uncertainty that the revised credit and surcharge would have on the TAP fund. This uncertainty appears to have been a consideration when the Commission chose a \$7.00 credit, rather than a \$9.00 credit, as proposed by the OAG.

*B. THE ISSUES CONSIDERED BY THE COMMISSION IN THE JANUARY 15, 2019 ORDER CONTINUE TO BE RELEVANT, ALONG WITH NEW ISSUES.*

In issuing the January 15, 2019 Order in Docket Nos. P999/CI-17-677 and P999/CI-18-112, the Commission considered several issues when it made its determination on the TAP credit and surcharge. These issues included a significant drop in TAP subscribership and federal policies that increased rates to residential consumers. In addition to the issues previously considered by the Commission, which continue to be of concern, several new factors have arisen.

First, among other things, the FCC's Lifeline Modernization Order initiated a process to eliminate a subsidy for voice service to eligible households.<sup>1</sup> Recipients of Lifeline support, whose voice service does not include internet service that meets standards established by the FCC in its March 31, 2016 Order, have seen a reduction in their Lifeline credits from \$9.25 to \$7.25 per month on December 1, 2019; will see a reduction in their Lifeline support to \$5.25 on December 1, 2020; and will see the elimination of the Lifeline benefit for voice service on December 1, 2021, except in areas where this is only one Lifeline provider.<sup>2</sup> The FCC's plan for the gradual reduction and then elimination of Lifeline benefits for voice only customers will result in landline service becoming increasingly unaffordable for otherwise eligible recipients of Lifeline benefits. To the extent that the public interest supports affordable voice service for all Minnesotans, as the Department believes, the FCC's phase out of

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<sup>1</sup> See FCC's March 31, 2016 Third Report and Order, Further Report and Order, and Order on Reconsideration (FCC 16-38).

<sup>2</sup> See FCC's March 31, 2016 News Release entitled "FCC Modernizes Lifeline Program for the Digital Age. Link is at <https://www.fcc.gov/document/fcc-modernizes-lifeline-program-digital-age>. Also see <https://www.fcc.gov/general/lifeline-program-low-income-consumers>

Lifeline's support for voice services leaves the TAP program as the sole vehicle to assist low income customers.

Second, the onset of the Covid-19 pandemic has been met by government directives restricting commercial activity. While these directives have eased in recent months, Covid-19 continues to have a significant impact on employment, particularly for low income individuals. The FCC has recognized the significance of the pandemic on low income households, by establishing and then extending Lifeline waivers governing Lifeline recertification, reverification, general de-enrollment, subscriber usage, income documentation, and documentation requirements for subscribers residing in rural areas and on Tribal lands.<sup>3</sup> Like the FCC, the Commission has also recognized the significant impact of the Covid-19 pandemic by using its website to notify utility customers of their options for resolving economic issues arising from the pandemic. The TAP program is ideally suited to help address the economic needs of low-income customers affected by the Covid-19 pandemic.

Third, on July 1, 2020, Qwest Corporation dba CenturyLink submitted a tariff filing, in Docket No. P421/M-20-571, wherein the carrier increased residential and business local service rates by up to \$2.00 and increased the rates for numerous custom calling features and bundles. As of June 2020, approximately one-third of all households on the TAP program are CenturyLink customers.

The CenturyLink rate increases are consistent with the market regulation provisions, pursuant to Minnesota Statute 237.025, which were approved by the Commission in its May 22, 2017 Order in Docket No. P421/AM-16-496, for all of CenturyLink's exchanges, except Biwabik, Cook, Glenville, Hanover, and Sabin.<sup>4</sup> To obtain market regulation, CenturyLink had to show that at least 60 percent of the households in the exchange can choose voice service from at least one unaffiliated provider. Thus, up to 40% of the households may not have a choice of provider, including wireless providers, and cannot avoid rates increases without dropping service altogether. The market regulation statute allows CenturyLink to increase rates by \$2.00 annually, until rates reach \$25.00. However, on December 31, 2022, there will no longer be a \$25.00 cap on CenturyLink's rates.

Finally, the balance in the TAP fund stands at \$2,008,163 as of June 30, 2020, which is an increase from \$1,313,619 as of December 31, 2019. The significant increase in the balance in the TAP fund is due to several factors working together. The January 15, 2019 decision of the Commission to increase the TAP monthly surcharge from \$.03 to \$.10 per line was intended to finance the coincident increase in the monthly TAP credit and some level of additional TAP subscribership. While the increase in the monthly TAP surcharge significantly raised the TAP fund balance, the increase in the monthly TAP credit, from \$3.50 to \$7.00, did not result in an increase in TAP subscribership as anticipated by the Commission and various parties to the case. Despite efforts by the Commission staff to promote the TAP program

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<sup>3</sup> See the August 17, 2020 FCC Order, DA-20-891, Docket No. 11-42 at <https://www.fcc.gov/document/wcb-extends-lifeline-program-waivers-due-covid-19>

<sup>4</sup> In its September 17, 2020 responsive email message to the Department in the current docket, QC stated that it would reverse the rate increases for the five affected exchanges not approved for market regulation.

to potential beneficiaries through its Outreach program, which the Department supported, TAP subscribership dropped from 14,970 on June 30, 2019 to 13,067 on June 30, 2020.

*C. DEPARTMENT PROPOSAL FOR TAP SURCHARGE AND CREDIT*

The Department prepared Attachment A to provide an estimate of the impact on the fund with various levels of TAP credits and surcharges. There is currently an opportunity to increase the TAP credit and/or reduce the TAP surcharge, and still maintain a significant and sustainable fund balance. The Department believes that it is appropriate for the Commission to increase the monthly TAP credit from \$7.00 to \$10.00 for eligible households, as well as reduce the monthly TAP surcharge from \$.10 to \$.07. The increase in the TAP credit to \$10.00 would help mitigate the impact low income households have experienced, as identified above. Assuming the projected line count, interest revenue and administrative costs stay the same, the TAP fund balance would be approximately \$1,899,784 on June 30, 2022 at these new credit and surcharge levels. The \$10.00 credit and \$.07 surcharge levels would bring the TAP fund balance down each year, which the Department believes is appropriate, given the current balance.

Increasing the TAP credit would help landline service to be more affordable for eligible households that are facing a reduction in Lifeline benefits as of December 1, 2020 and an eventual elimination of Lifeline benefits as of December 1, 2021 (to the extent they do not also subscribe to an eligible broadband service). Also, adoption of a higher TAP credit would make the TAP program more attractive to potential applicants, increasing the probability that they will apply for the program. Although there is no indication that there has been a reduction in eligible households, participation in the TAP program decreased from 14,970 subscribers on June 30, 2019, to 13,592 subscribers on December 31, 2019, to 13,067 subscribers on June 30, 2020.

Finally, increasing the proposed TAP credit supports the Commission in achieving its universal service goals as established in Minnesota Statute section 237.011, which states that “universal service” is a “state goal that should be considered as the commission executives its regulatory duties with respect to telecommunications services.”

**IV. COMMISSION ALTERNATIVES**

1. Maintain the current TAP credit and surcharge levels.
2. Modify the monthly TAP credit to \$10.00 per household and decrease the monthly TAP surcharge to \$.07 per line.
3. Modify the monthly TAP credit and/or surcharge as prescribed by the Commission.

**V. DEPARTMENT RECOMMENDATION**

The Department recommends Commission Alternatives 2.

2. Increase the monthly TAP credit to \$10.00 per household and decrease the monthly TAP surcharge to \$.07 per line.

/ja

## **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. P999/CI-20-665**

Dated this **22<sup>nd</sup>** day of **October 2020**

**/s/Sharon Ferguson**

First Name	Last Name	Email	Company Name	Address	Delivery Method	View Trade Secret	Service List Name
Kristin	Berkland	kristin.berkland@ag.state.mn.us	Office of the Attorney General-RUD	445 Minnesota Street Bremer Tower, Suite 1400 St. Paul, MN 55101	Electronic Service	Yes	OFF_SL_20-665_Official
Scott	Bohler	scott.bohler@fr.com	Frontier Communications Corporation	2378 Wilshire Blvd  Mound, MN 55364-1652	Electronic Service	No	OFF_SL_20-665_Official
Linda	Chavez	linda.chavez@state.mn.us	Department of Commerce	85 7th Place E Ste 280  Saint Paul, MN 55101-2198	Electronic Service	No	OFF_SL_20-665_Official
Brent	Christensen	bchristensen@mnta.org	Minnesota Telecom Alliance	1000 Westgate Drive, Ste 252  St. Paul, MN 55117	Electronic Service	No	OFF_SL_20-665_Official
Generic Notice	Commerce Attorneys	commerce.attorneys@ag.state.mn.us	Office of the Attorney General-DOC	445 Minnesota Street Suite 1400  St. Paul, MN 55101	Electronic Service	Yes	OFF_SL_20-665_Official
Generic Notice	Residential Utilities Division	residential.utilities@ag.state.mn.us	Office of the Attorney General-RUD	1400 BRM Tower 445 Minnesota St St. Paul, MN 551012131	Electronic Service	Yes	OFF_SL_20-665_Official
Will	Seuffert	Will.Seuffert@state.mn.us	Public Utilities Commission	121 7th Pl E Ste 350  Saint Paul, MN 55101	Electronic Service	Yes	OFF_SL_20-665_Official
Jason	Topp	jason.topp@lumen.com	CenturyLink	200 S 5th St Ste 2200  Minneapolis, MN 55402	Electronic Service	No	OFF_SL_20-665_Official