

October 21, 2020

William Seuffert
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. P421/C-20-432

Dear Mr. Seuffert:

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

In the Matter of Formal Complaint regarding services provided by the Qwest Corporation d/b/a CenturyLink in Minnesota, on behalf of the Communications Workers of America.

Sincerely,

/s/ JOY GULLIKSON
Telecommunications Analyst

/s/ LISA GONZALEZ
Telecommunications Analyst

JG/LG/ja
Attachment



Before the Minnesota Public Utilities Commission

Comments of the Minnesota Department of Commerce

Docket No. P421/C-20-432

I. INTRODUCTION

The Communications Workers of America (CWA) requests that the Minnesota Public Utilities Commission (Commission) investigate CenturyLink's compliance with various service quality rules. The CWA stated that it is imperative for CenturyLink to retain its technician workforce to keep wait times for repair reasonable, to keep the number of service tickets from increasing, and to keep the network running properly.¹ The Department considers the CWA to be a sophisticated party whose concerns come from a place of industry knowledge and practice.

The Department's comments respond to the questions posed by the Commission and the comments of CenturyLink.

II. BACKGROUND OF EVENTS

Original filing. On April 23, 2020, the CWA filed its initial letter, intended "... to serve as a formal complaint" with the Commission. In that letter, the CWA alleged that Qwest Corporation, d/b/a CenturyLink in Minnesota was not meeting the requirements in each of the following rules:

- 7810.2800. DELAY IN INITIAL SERVICE
- 7810.3300 MAINTENANCE OF PLANT AND EQUIPMENT
- 7810.5500 TRANSMISSION REQUIREMENTS
- 7810.5800 INTERRUPTIONS OF SERVICE
- 7810.5900 CUSTOMER TROUBLE REPORTS
- 7810.6000 PROTECTIVE MEASURES

As part of its complaint, the CWA provided pictures of outside plant in various states of disrepair. The CWA stated that CenturyLink's proposed layoff of outside technicians would exacerbate CenturyLink's failure to comply with the Commission's quality of service requirements.

Withdrawal. The CWA and CenturyLink entered negotiations soon after CWA's original filing, and as a result, CWA chose to withdraw its complaint.² The Commission accepted the withdrawal of the complaint, but requested that the CWA and CenturyLink provide the Commission with information documenting the service issues which compelled the CWA to make its original complaint filing, and

¹ CWA letter to the Public Utilities Commission, dated August 18, 2020.

² CWA withdrawal letter filed May 1, 2020, Document No. 20204-162752-01

how those service issues have been resolved in order for the complaint to be withdrawn.”³ Both CenturyLink and the CWA responded to the Commission’s request for additional information, but not with any detail to facilitate the Commission’s understanding of either the service issues which compelled the complaint or how the issues were resolved.

CWA Request for Investigation. On August 18, 2020, the CWA filed another letter, requesting “. . . that the PUC commence a full and complete investigation of CenturyLink and its failures to meet its obligations immediately.”⁴ The CWA further requested that the Commission expedite the investigation as much as possible.⁵ The CWA alleged that CenturyLink may be violating Minn. R. 7810.4900 in addition to the violations alleged in its April 23, 2020 complaint.

Commission Notice of Comment Period. The Commission issued a Notice of Comment Period on August 24, 2020, in which it sought responses to the following questions:

- a. Does the complaint by CWA include the statute, rule, tariff, or Commission order alleged to have been violated; the facts constituting the alleged violation; and the relief sought by complainant, as required by Minn. Rules 7829.1700, subpart 1?⁶
- b. Does the Commission have jurisdiction over the matters alleged in the complaint?
- c. Are there reasonable grounds to investigate the allegation?
- d. Are there other issues or concerns related to this matter?

CenturyLink responded on September 18, 2020.

III. DEPARTMENT COMMENTS REGARDING COMMISSION QUESTIONS AND RESPONSE TO CENTURYLINK

- a. *Does the complaint by CWA include the statute, rule, tariff, or Commission order alleged to have been violated; the facts constituting the alleged violation; and the relief sought by complainant, as required by Minn. Rules 7829.1700, subpart 1?*

The CWA’s original complaint (withdrawn) and subsequent request for inquiry on August 18, 2020 provide anecdotal information about what it perceives as unacceptable delays in the initial provision of service and subsequent repair of service. CWA stated:

³ Commission letter to CenturyLink, May 18, 2020. Document No. 20205-163301-02.

⁴ CWA letter filed August 18, 2020, p. 3, Document No. 20208-165981-01.

⁵ *Ibid.*

⁶ 7829.1700 FORMAL COMPLAINT. Subpart 1. Content. A formal complaint must include the following information: the name and address of the complainant; the name and address of complainant's counsel, if any; the name and address of respondent; the name and address of respondent's counsel, if known; the statute, rule, tariff, or commission order alleged to have been violated; the facts constituting the alleged violation; and the relief sought by complainant.

. . . in the observation of Technicians, there has been no decrease in waiting times for customer repairs or installations, and the Company as previously alleged remains out of compliance with the legally mandated service standards of Minnesota's Administrative Rules 7810.5800 and 7810.5900 among others. For example, one Technician explained that in response to a request for service made on July 30, customers were provided with an earliest possible repair appointment date of August 6 -- a full seven days later. Other technicians verified that this lag time is now typical.⁷

In response to the first part of the Commission's question, between the original complaint and subsequent request for investigation, the CWA has raised possible violations of the following Minnesota Rules. Bold text is used where the rule contains a specific requirement for recordkeeping.

7810.2800 DELAY IN INITIAL SERVICE OR UPGRADE.

During such periods of time as telephone utilities may not be able to supply initial telephone service to an applicant or upgrade existing customers within 30 days after the day applicant desires service, **the telephone utility shall keep a record by exchanges showing the name and address of each applicant for service, the date of application, date service desired, the class and grade of service applied for, together with the reason for the inability to provide the new service or higher grade to the applicant.**

When, because of shortage of facilities, a utility is unable to supply main telephone service on dates requested by applicants, first priority shall be given to furnishing those services which are essential to public health and safety. In cases of prolonged shortage or other emergency, the commission may require establishment of a priority plan subject to its approval for clearing held orders, and may request periodic reports concerning the progress being made. Ninety percent of the utility's commitments to customers as to the date of installation of regular service orders shall be met excepting customer-caused delays and acts of God.

7810.3300 MAINTENANCE OF PLANT AND EQUIPMENT.

Each telephone utility shall adopt and pursue a maintenance program aimed at achieving efficient operation of its system so as to permit the rendering of safe and adequate service. Maintenance shall include keeping all plant and equipment in good state of repair consistent with safety and adequate service performance. Broken, damaged, or deteriorated parts which are no longer serviceable shall be repaired or replaced. Adjustable apparatus and equipment shall be readjusted as necessary when found by preventive routines or fault location tests to be in unsatisfactory operating condition. Electrical faults, such as leakage or poor insulation, noise, induction, cross talk, or poor transmission

⁷ CWA letter of August 18, 2020. EDOCS No. 20208-165981-01.

characteristics, shall be corrected to the extent practicable within the design capability of the plant affected.

7810.4900 ADEQUACY OF SERVICE.

Each utility shall employ reasonable engineering and administrative procedures to determine the adequacy of service being provided to the customer. **Traffic studies shall be made and records maintained to the extent and frequency necessary to determine that sufficient equipment and an adequate operating force are provided during the busy hour, busy season.** Each telephone utility shall provide emergency service in all exchanges operated in which regular service is not available at certain periods during the 24 hours of the day. When service is not continuous for the full 24-hour day, proper arrangements shall be made for handling emergency calls during the off-periods by the use of alarms maintained in proper conditions with someone conveniently available so that emergency calls will be given prompt attention.

Each utility shall employ adequate procedures for assignment of facilities. **The assignment record shall be kept up to date and checked periodically to determine if adjustments are necessary to maintain proper balance in all groups.**

7810.5500 TRANSMISSION REQUIREMENTS.

Telephone utilities shall furnish and maintain adequate plant, equipment, and facilities to provide satisfactory transmission of communications between customers in their service areas. Transmission shall be at adequate volume levels and free of excessive distortion. Levels of noise and cross talk shall be such as not to impair communications.

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 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.

7810.5900 CUSTOMER TROUBLE REPORTS.

Arrangements shall be made to receive customer trouble reports 24 hours daily and to clear trouble of an emergency nature at all hours, consistent with the bona fide needs of the customer and personal safety of utility personnel.

Each telephone utility shall maintain an accurate record of trouble reports made by its customers.

This record shall include appropriate identification of the customer or service affected, the time, date, and nature of the report, the action taken to clear trouble or satisfy the complaint, and the date and time of trouble clearance or other disposition. This record shall be available to the commission or its authorized representatives upon request at any time within the period prescribed for retention of such records.

It shall be the objective to so maintain service that the average rate of all customer trouble reports in an exchange is no greater than 6.5 per 100 telephones per month. A customer trouble report rate of more than 8.0 per 100 telephones per month by repair bureau on a continuing basis indicates a need for investigative or corrective action.

With respect to facts supporting the alleged violations, the CWA included photos of damaged outside plant in both its original and renewed filings and provided anecdotal information about delayed installations and repairs.

On October 15, 2020, the Department received a call from Ms. B in Bovey, MN, who was concerned about why the temporary line that had been placed in November of 2019, but still not buried, despite repeated calls to CenturyLink. Apparently, CenturyLink closed the ticket without resolution. The Department has been told that burial will take up to another two weeks. The issue raised by Ms. B, including her repeated calls placed to CenturyLink to have a temporary line buried, may illustrate the experience of many CenturyLink customers, supporting the need for some level of inquiry into CenturyLink's provision of adequate service. The Commission's Consumer Affairs Office (CAO) may be an excellent source the Commission can use to assess whether CenturyLink customers have been receiving satisfactory service. While the Department does not have direct access to the details of the complaints filed with the CAO, the Department understands that approximately 20 complaints were made during the 2nd Quarter of 2020, and 45 complaints during the 3rd Quarter of 2020, which concerned CenturyLink's network. A more detailed review of the complaints received by the CAO may help determine if there are systemic problems with CenturyLink's compliance with the service quality rules.

As will be discussed in response to Commission question b, the allegations of failure to meet service quality standards are an allegation made by a sophisticated party.

CWA is not in a position to systematically identify violations; however, CWA is in a position to observe the behavior of CenturyLink. The point of an investigation would be use state investigative tools to assess the veracity of the CWA's claims. If the potential violations alleged by the CWA are of sufficient concern to the Commission, an investigation is the appropriate response.

b. Does the Commission have jurisdiction over the matters alleged in the complaint?

Yes, the Commission has jurisdiction over potential violations of the rules concerning service quality and has exerted that authority on numerous occasions.⁸ CenturyLink is an incumbent telephone company and generally subject to most of Minnesota Stat. 237 and its associated rules. Minn. Stat. 237.11 requires the telephone company "to make reports to the department as it shall from time to time require".

Minn. R. 7810 contains the service quality rules that local providers must follow. Generally, a local company must keep records such that the Commission can determine if it is performing adequately. Minn. R. 7810.0400, Retention of Records, states in part: "Each telephone utility shall maintain records of its operations in sufficient detail to permit review of its service performance, and such records shall be made available to the commission upon request."

Several rules within chapter 7810 have specific requirements to keep records, as reflected in bold print in the rules listed above. Because the rules require record keeping, it should not be a hardship for CenturyLink to demonstrate that it is providing service to all customers, but particularly the basic voice customers, in a manner that is within the service quality parameters established by the Commission.

c. Are there reasonable grounds to investigate the allegation?

The CWA's anecdotal information regarding CenturyLink's alleged failures to follow Commission rules⁹ raises enough red flags for the Commission to order an investigation. While the pictures of broken pedestals and damaged plant are not dispositive, they do lend credence to the possibility that CenturyLink is not adequately maintaining its plant, warranting further investigation. In its September 18, 2020, response to the Commission's Notice, CenturyLink offered a blanket denial of CWA's charges with no specific evidence to the contrary. Complaints, such as the one filed by Ms. B of Bovey, MN, also lend credence to the possibility that, with its current staffing levels, CenturyLink is not providing adequate service.

⁸ Most recently, for example, the Commission approved the Modified Settlement Agreement between the Department and Frontier Communications in Docket No. P405,407/CI-18-122.

⁹ CWA letter of August 18, 2020. EDOCS No. 20208-165981-01.

In its September 18, 2020 comments in this matter, CenturyLink noted that the CWA withdrew its complaint when CenturyLink announced it would not follow through on technician cuts, but that when CenturyLink started a new three-month process of reducing Minnesota technician headcount, coinciding with an annual reduction in work volumes over the winter months, the CWA filed another letter with the Commission. “This course of events suggests that the CWA’s real concern is the reduction in technician headcount rather than the issues raised in its complaint.”¹⁰ Whether the CWA’s motivations are self-serving is irrelevant for the purpose of enforcing Minnesota’s service quality rules and statutes. The relevant inquiry is whether there is a basis for an investigation.

CenturyLink argues that a technician headcount reduction is warranted by declines in the voice market.¹¹ However, CenturyLink offers a variety of services in addition to voice service. CenturyLink does not devote technicians exclusively to voice services. Instead, the Department understands that the technicians who repair voice telephony plant also repair internet plant. CenturyLink’s argument that it needs fewer technicians to achieve adequate service for its total suite of offerings to customers is not persuasive. Rather, whether CenturyLink fulfills the requirement to maintain adequate staffing levels, as required by Minn. R. 7810.4900, is dependent on whether or not it is providing adequate service, as required by the service quality rules.

In addition, Minn. Stat. § 237.011 provides the State goals the Commission should consider as it executes its regulatory duties with respect to telecommunications services, including “(3) encouraging economically efficient deployment of infrastructure for higher speed telecommunication services and greater capacity for voice, video, and data transmission.” As the Commission executes its regulatory duty to ensure CenturyLink maintains adequate staffing levels for telecommunications service, since the same technicians are used for both telephone and internet installations, maintenance, and repair, the Commission will be helping to achieve this statutory goal.

d. Are there other issues or concerns related to this matter?

The Department is raising no issues or concerns other than what is discussed above.

IV. CONCLUSION

The Department recommends that the Commission open an investigation and require CenturyLink to provide information that demonstrate compliance with the Commission’s service quality rules, including the following information:

¹⁰ CenturyLink response to Commission Notice, September 18, 2020. EDOCS No. 20209-166678-01.

¹¹ Ibid, p3.

1. Demonstrate that CenturyLink is complying with Minn. R. 7810.2800, Delay in Initial Service. Demonstrate how CenturyLink will continue to comply with the rule following technician reduction on September 29, 2020.
2. For each photo provided in the CWA letter of August 18, 2020, provide the location, the days to repair, the services provided from the pedestal or junction box. Provide a detailed explanation of how CenturyLink complies with Minn. R. 7810.3300 and will comply after September 29, 2020.
3. Provide records pursuant to Minn. R. 7810.4900 demonstrating that adequate service is being provided to customers.
4. Demonstrate that the failure to bury the temporary line of Ms. B, discussed above, is an isolated case by providing the records showing CenturyLink's timely installation of temporary lines.
5. Provide the monthly trouble reports by exchange for the period March 2020 through October 2020. For each exchange showing greater than 6.5 troubles per 100, provide an explanation and a plan of amelioration.
6. Demonstrate how CenturyLink is complying with 7810.5900, taking trouble reports 24 hours daily and clearing trouble of an emergency nature at all hours.

/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. P421/C-20-432

Dated this **21st** day of **October 2020**

/s/Sharon Ferguson

First Name	Last Name	Email	Company Name	Address	Delivery Method	View Trade Secret	Service List Name
Patricia	Beety	pbeety@lmc.org	League of Minnesota Cities	145 University Ave W Saint Paul, MN 55103	Electronic Service	No	OFF_SL_20-432_C-20-432
Gary	Carlson	gcarlson@lmc.org	League Of Minesota Cities	145 University Avenue West St. Paul, MN 55103	Electronic Service	No	OFF_SL_20-432_C-20-432
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_20-432_C-20-432
Brent	Christensen	bchristensen@mnta.org	Minnesota Telecom Alliance	1000 Westgate Drive, Ste 252 St. Paul, MN 55117	Electronic Service	No	OFF_SL_20-432_C-20-432
John	Coffman	john@johncoffman.net	AARP	871 Tuxedo Blvd. St. Louis, MO 63119-2044	Electronic Service	No	OFF_SL_20-432_C-20-432
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_20-432_C-20-432
Ron	Elwood	relwood@mnlsap.org	Mid-Minnesota Legal Aid	2324 University Ave Ste 101 Saint Paul, MN 55114	Electronic Service	No	OFF_SL_20-432_C-20-432
Craig	Johnson	cjohnson@lmc.org	League of Minnesota Cities	145 University Ave. W. Saint Paul, MN 55103-2044	Electronic Service	No	OFF_SL_20-432_C-20-432
Jeff S	Lacher	jlacher@cwa-union.org	Communications Workers of America	7600 Parklawn Ave Ste 412 Minneapolis, MN 55435	Electronic Service	No	OFF_SL_20-432_C-20-432
Susan L.	Naughton	snaughton@lmc.org	League Of Minnesota Cities	145 University Avenue West St. Paul, MN 551032044	Electronic Service	No	OFF_SL_20-432_C-20-432

First Name	Last Name	Email	Company Name	Address	Delivery Method	View Trade Secret	Service List Name
William	Phillips	wphillips@aarp.org	AARP	30 E. 7th St Suite 1200 St. Paul, MN 55101	Electronic Service	No	OFF_SL_20-432_C-20-432
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_20-432_C-20-432
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_20-432_C-20-432
Jason	Topp	jason.topp@lumen.com	CenturyLink	200 S 5th St Ste 2200 Minneapolis, MN 55402	Electronic Service	No	OFF_SL_20-432_C-20-432