

Staff Briefing Papers

Meeting Date January 5, 2023 Agenda Item 7**

Company Qwest Corporation d/b/a CenturyLink QC
("CenturyLink")

Docket No. **P-421/C-20-432**

**In the Matter of Formal Complaint Regarding the Services Provided by the
Qwest Corporation, d/b/a CenturyLink in Minnesota, on Behalf of the
Communications Workers of America**

Issues 1. How should the Commission proceed in this Matter?

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Relevant Documents

Date

Initial Filing-Formal Complaint Regarding the Services CenturyLink on Behalf of CWA	April 23, 2020
Withdrawal Letter CWA	May 1, 2020
Commission Letter to CenturyLink	May 18, 2020
Commission Letter to CWA	May 18, 2020
Complaint Letter Exhibits A and B	August 18, 2020
Comments of CenturyLink	September 18, 2020
Comments of the Minnesota Department of Commerce	October 21, 2020

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The attached materials are work papers of the Commission Staff. They are intended for use by the Public Utilities Commission and are based upon information already in the record unless noted otherwise.



Relevant Documents

Date

Comments of the Office of the Attorney General-Residential Utilities Division	October 23, 2020
Comments of the Minnesota Department of Commerce	July 1, 2021
Comments of the Minnesota Office of the Attorney General Residential Utilities Division (OAG-RUD)	July 1, 2021
Comments of the Minnesota Office of the Attorney General Residential Utilities Division (OAG-RUD) Exhibits A (Parts 1 & 2), B, C, and D	July 1, 2021
Four Exhibits to OAG-RUD Comments filed on July 1, 2021	July 9, 2021
Comments of OAG-RUD Combined Letter and Errata	July 9, 2021
Reply Comments of CenturyLink	August 30, 2021
CenturyLink Exhibits 1-5 to Reply Comments	August 30, 2021
Joint Reply Comments and Recommendations of the Minnesota Department of Commerce and OAG-RUD	August 30, 2021
Reply Comments of the Communications Workers of America	August 30, 2021
Letter from Minnesota Department of Commerce Regarding Settlement update and Recommendations for future proceedings	August 16, 2022
CenturyLink Letter in Response to the August 16, 2022, Letter of the Minnesota Department of Commerce	August 24, 2022
Comments of Minnesota Department of Commerce – CWA Complaint Investigation Update	December 9, 2022

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I. Statement of the Issues

How should the Commission proceed in this Matter?

II. Background

On April 23, 2020, the Communication Workers of America (CWA) filed what it termed “a formal complaint.” In its filing, the CWA alleged that Qwest Corporation, d/b/a CenturyLink (CenturyLink) in Minnesota was not meeting the requirements of the following Minnesota 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

In addition to the above in their initial comments, Department staff reviewed possible noncompliance with the following Rules:

- 7810.1100 Complaint Procedures.
- 7810.1200 Record of Complaint.
- 7810.4900 Adequacy of Service.
- 7810.5000 Utility Obligations.
- 7810.5200 Answering Time.

The CWA and CenturyLink entered negotiations soon after the CWA’s original filing, and as a result, on May 1, 2020, the CWA chose to withdraw its complaint. 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 how those service issues have been resolved in order for the complaint to be withdrawn.”¹

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.” The CWA further requested that the Commission expedite the investigation as much as possible. The CWA alleged that CenturyLink may be violating Minn. R. 7810.4900 related to Adequacy of Service in addition to the violations alleged in its April 23, 2020 complaint.

The Commission issued a Notice of Comment Period on August 24, 2020. The Commission sought responses to questions outlined in Minn. R. 7829.1800: whether the Commission had jurisdiction over the matter in question, if there were reasonable grounds to investigate CWA's allegations, and if there were other issues or concerns related to the matter. Comments were

¹ Please see the Commission’s May 18, 2020 Letter to CenturyLink.

filed by CenturyLink on September 18, 2020. The Minnesota Department of Commerce (Department) and the Minnesota Office of the Attorney General Residential Utilities Division (OAG) filed comments on October 21, 2020 and October 23, 2020, respectively.

On November 5, 2020, CenturyLink filed a letter to update the Commission on the anticipated workforce reduction. The letter stated that, after reviewing the technician needs in Minnesota, CenturyLink had reduced the number of involuntary reductions from the original 154 to 36 and that no more reductions were planned at the time.

On December 1, 2020, the Commission issued a Notice of Comment Period, which established the initial comment period closing date as March 1, 2021, and the reply comment closing date as April 1, 2021. The notice requested parties to investigate CenturyLink's compliance with Minnesota statutes, rules, or Commission orders.

On February 19, 2021, the Commission issued a Notice of Extended Comment Period at the Request of the Minnesota Department of Commerce, which extended the Initial comment period to March 31, 2021, and the Reply comment closing date to April 30, 2021. The Commission granted a further extension to July 1, 2021.

DOC, OAG filed comments on July 1, 2021 and an associated errata with exhibits on July 9, 2021. Reply comments were filed by CenturyLink, CWA, and jointly by the Minnesota Department of Commerce and the Office of the Attorney General Residential Utilities Division on August 30, 2021.

This item was scheduled for the Commission's December 22, 2021 Agenda Meeting. Prior to that meeting, the OAG filed a letter on behalf of itself, CWA, CenturyLink, and the DOC (the "Parties") requesting that the Commission delay the December 22, 2021 hearing on this matter to allow the parties to pursue preliminary settlement discussions. The Commission removed this item the December 22, 2021, agenda meeting.

On February 15, 2022, April 15, 2022, July 7, 2022, the parties provided status updates regarding ongoing settlement discussions.

On August 16, 2022, DOC, CWA, and OAG ("Intervenors") provided a status update. In that letter, the Intervenors request that the Commission refer this matter to the Office of Administrative Hearings (OAH) for a series of public hearings.

On August 24, 2022, CenturyLink provided a response to the Intervenor's letter. In the response, CenturyLink indicated that if the Commission advances the current docket, the proceedings must be based on a proper process, including a complaint that satisfies Commission requirements, evidence that is admissible and a proceeding consistent with the parties' due process rights and applicable rules.

Between March 2021 and November 2022, 24 individuals had comments submitted in the record which are summarized in Attachment C to these briefing papers. In addition, during this

period, the Commission's Consumer Affairs Office provided updates in the record for June, August, and September.

Staff notes the Commission has broad authority under Minn. Stat. 216A.05; as well as authority to investigate telephone service quality under Minn. Stat. 237.081. It is disputed in this record whether a proper Formal Complaint has been filed; however, if one has, Minn. Rule 7829.1800; Subp. 1 describes the Commission's initial consideration of a Formal Complaint which is to determine whether:

- the Commission has jurisdiction over the matter; and
- there are reasonable grounds to investigate the allegation.

The Commission shall dismiss the complaint if there is no reasonable basis to investigate the complaint² unless the Commission determines it is in the public interest to investigate the related matters on its own motion.³ If the Commission chooses to proceed with an investigation, the final issue to address is the type of proceeding: a contested case proceeding, informal proceeding, or expedited proceeding.⁴ Minn. Stat. 237.081; Subd. 2(c) requires a contested case unless the complainant, the telephone company, and Commission agree an expedited proceeding is warranted. CenturyLink and others in this record do not suggest an expedited proceeding.

III. Parties' Comments

Staff highlight party comments using the initial consideration of a Formal Complaint; however, this outline is not meant to suggest a determination on whether a proper Formal Complaint exists in this docket.

A. Does the Commission have jurisdiction on this Matter?

CenturyLink

Throughout the record, CenturyLink has maintained that the CWA's letter filed on August 18, 2020, did not meet the requirements for a formal complaint. CenturyLink stated that the required number of subscribers did not complain, rendering the CWA complaint invalid. CenturyLink went on to state that the allegations made by CWA were not supported by sufficient detail to garner violation of the Minnesota Rules. CenturyLink also stated that the network, contrary to CWA allegations, was healthy and that the company makes regular repairs when needed. The company also denied the allegation that it did not maintain customer complaint records. CenturyLink went on to state that, while the PUC has jurisdiction over

² Minn. Rule 7829.1800; Subp. 1

³ Minn. Stat. 237.081; Subd. 1

⁴ Minn. Rule 7829.1900; Subp. 1

quality-of-service matters as they relate to telephone service, it does not have jurisdiction over labor relations matters.

Department

On October 21, 2020, the Department of Commerce (DOC) filed comments stating that numerous complaints from CenturyLink customers had led to a concern about the quality of service. Taken in conjunction with the CWA complaint, the Department stated that CWA technicians, with their unique knowledge of the field, could help identify areas of concern. The Department also stated that the Commission has jurisdiction to investigate CenturyLink's operations, as an incumbent telephone company, for potential violations. Lastly, the Department noted that anecdotal evidence, photos of broken plant, customer complaints, and a reduction in operating force to care for the network, are sufficient factors to warrant an investigation.

OAG

On October 23, 2020, the Office of the Attorney General (OAG) filed comments, which recommended that the Commission find that it has jurisdiction over the CWA complaint. The OAG stated that the Commission is responsible for ensuring that the company remains in compliance with established standards to guarantee acceptable service quality for voice services and noted that CenturyLink conceded in its comments that the Commission has jurisdiction over this matter. The OAG also recommended the Commission find that the CWA complaint complied with the Commission's procedural rules governing complaints because it named the statute and rule alleged to have been violated, described the facts supporting the alleged violation, and stated the relief the CWA was seeking. Additionally, the OAG recommended that the Commission formally investigate the allegations made by the CWA in both complaints because, based on replies to information requests from CenturyLink and from the CWA, the company does not appear to be in compliance with service quality standards. The OAG also stated that other questions beyond the CWA allegations, including customer care records and the condition of the CenturyLink infrastructure, warrant an investigation.

CWA

On August 18, 2020, after withdrawing the first Complaint, CWA again requested the PUC commence a full and complete investigation of CenturyLink and its failures to meet obligations under Minn. Rules Ch. 7810 and stated the Commission has the power and authority to require CenturyLink to take the obligations seriously. CWA did not expressly address the Commission's procedural notice, and next filed comments on August 30, 2021 which are summarized below.

B. Are there reasonable grounds to investigate the allegations?

Below is the Department and OAG's analysis of rules and potential violations and proposed joint recommendations. Staff also summarize CenturyLink and CWA responses. The full language for all relevant rules is provided in Attachment B of this document.

Staff also includes the OAG and Department's Joint Recommendations by topic for the Commission to consider if the Commission determines that: 1) the record in this proceeding is sufficient to determine that CenturyLink is not in compliance with several key Commission service quality standards, 2) CenturyLink's recent investments have not been made to improve the Company's landline service, and 3) CenturyLink is neither maintaining its network nor serving its customers in the manner prescribed by the Minnesota service quality statutes and rules. The joint recommendations are found in Attachment A of the August 30, 2021 OAG/Department joint Reply Comments (and Attachment A of this document). The joint recommendations propose measures intended to ensure that CenturyLink maintains its network and serves its customers as required by the Minnesota service quality statutes and rules. All reports and notices required of CenturyLink should be submitted via eFiling for transparency and to facilitate review by the parties. The OAG and the Department recommend that the Commission adopt the joint proposal in full.

1. Minn. Rule 7810.2800 Delay in Initial Service or Upgrade

Allegation: The OAG alleges that Evidence provided by CenturyLink shows that the Company regularly fails to provide initial telephone service within 30 days of a customer's request.

Department

Inadequate evidence to conclude that CenturyLink violated the rule.

OAG

To the extent that CenturyLink's failure to provide initial telephone service is due to an internal practice, process, or procedure that can be remedied by the Company, the Commission should require CenturyLink to improve its internal operations to ensure the timely provision of initial telephone service within 30 days of a customer's request.

The OAG believes that failure to provide initial telephone service within 30 days of a consumer request can pose health and/or safety risks for Minnesota's elderly, rural, and low-income consumers. The Commission should require CenturyLink to file a report every month that a Minnesota consumer is not provided initial telephone service within 30 days of the consumer's request. That report should provide the reason for the initial service delay and explain how long it took for CenturyLink to install the customer's service. Please see pages 27-29 of the OAG's July 1, 2021 comments for further discussion.

Proposed Joint Recommendation

1. Notify the Commission via eFiling every month that a consumer is not provided initial landline service within 30 days of the consumer's request.
2. Notify the Commission via eFiling every month the number of missed appointments for initial installation or upgrade exceeds 10%. The filing should include an improvement plan to ensure appointments are met.

CenturyLink

CenturyLink did not directly address this item.

2. 7810.1100 Complaint Procedure

Allegation: CenturyLink is not consistently updating customers when a complaint cannot be promptly resolved and lacks qualified personnel to resolve customer inquiries in violation of Minn. R. 7810.1100. Minn. R. 7810.1100, subp. 1, requires CenturyLink to establish procedures that make qualified personnel available to “resolve all customer inquiries, requests, and complaints.” Minn. R. 7810.1100, subp. 2, in turn, requires CenturyLink to contact the customer within five days when his or her complaint cannot be promptly resolved, and provide an update every two weeks thereafter. Based on its review of customer complaints and survey responses, the Department believes that CenturyLink is violating both rule requirements.

Department

CenturyLink is not consistently updating customers when a complaint cannot be promptly resolved which is in violation of Minn. R. 7810.1100. CenturyLink also appears to lack qualified personnel to handle seemingly routine issues related to billing and services outages. This problem is underscored by long hold times and excessive transfers that suggest CenturyLink’s “qualified personnel” problem relates to staffing levels in addition to staff training or procedures.

Please see pages 7-11 of the Department’s July 1, 2021 comments for further discussion.

OAG

The evidence shows that CenturyLink is in violation of two Commission service quality rules concerning timely response to landline consumer inquiries, requests, and complaints.

The OAG indicated that this rule requires CenturyLink to have qualified personnel available during regular business hours to receive and resolve all customer inquiries, requests, and complaints. For any complaint that cannot be promptly resolved, the rule also requires CenturyLink to contact the complaining customer within five business days of the initial complaint, and at least once every 14 calendar days thereafter, to update the customer on the status of the Company’s investigation. This requirement remains in place until the complaint is mutually resolved, the utility informs the customer of the results of the Company’s investigation and final disposition of the complaint, or the customer files a written complaint with the Commission or the courts. If the Commission forwards a customer complaint it has received to CenturyLink, the Company must inform the Commission of the status or disposition of the complaint within five business days.

Please see pages 23-27 of the OAG’s July 1, 2021 comments for further discussion.

Proposed Joint Recommendation

The Commission should clarify for CenturyLink that a complaint should be defined as any customer communication that expresses dissatisfaction with CenturyLink service, whether received directly from a customer or from a third party, placing focus on the substance of the customer communication. Please see Attachment A.

CenturyLink

CenturyLink pointed out that in creating an argument for rule violations, DOC and OAG broaden the definition of a “complaint” far beyond what can be supported by Commission rules or past practice, and then attempt to superimpose “complaint” procedures on ordinary processes to repair customer service. CenturyLink has been transparent with the DOC, OAG and the Commission regarding how it classifies and keeps records of complaints and the Company’s practices meet Minnesota rule requirements.

Please see pages 19-26 of the CenturyLink’s August 30, 2021 reply comments for further discussion.

3. 7810.1200 Record of Complaint

Allegation: CenturyLink is not adequately maintaining customer complaint records as required by Minn. R. 7810.1200. Minn. R. 7810.1200 requires CenturyLink to maintain “a record of all complaints received by it from its customers” and do so “in such a manner as will enable it to review and analyze its procedures and actions.” CenturyLink states that 100% of Customer Care calls are audio recorded. Agents answering Repair Calls generate reports for supervisors to monitor workflow. However, a Department inquiry relating to a customer complaint, revealed that “calls between [Consumer Affairs Group] representatives and customers are not normally recorded.” This systematic practice suggests that the Company is not fully maintaining records of customer complaints. Partial records interfere with CenturyLink’s ability “to review and analyze its procedures and actions,” as required by the rule.

Department

CenturyLink’s apparent practice of maintaining partial records violates Minn. R. 7810.1200. Without access to all complaint records, CenturyLink supervisory personnel cannot adequately “review and analyze its procedures and actions.” It also hampers the ability of regulatory agencies to provide adequate oversight.

Please see pages 11-12 of the Department’s July 1, 2021 comments for further discussion.

OAG

The OAG indicated that the purpose of Chapter 7810 is to establish reasonable service standards so that “adequate and satisfactory service will be rendered to the public.” This is a regulatory function, and regulators, like the Commission, are charged with ensuring that service standards are met. It is obvious that maintaining adequate complaint records would aid regulators, and that this is the purpose of Minn. R. 7810.1200. Keeping these records in a

uniform manner allows regulators to access them when needed. But telephone utilities, like CenturyLink, must also pay attention to these complaints, and the rule ensures that telephone utilities maintain the records in a way that allows the telephone utilities to analyze them as well. The Commission's charge in Minn. R. 7810.1200 goes beyond just perfunctorily requiring CenturyLink to retain its own records so that the Company may review them at its own convenience, for its own purposes, and as the Company sees fit. It ensures that the Commission and other stakeholders can access these records to see if CenturyLink is meeting its service quality obligations.

Please see pages 35-37 of the OAG's July 1, 2021 comments for further discussion.

Proposed Joint Recommendation

1. CenturyLink shall file a plan to improve its complaint procedures within 45 days of the Commission's Order in this matter. The new procedure shall address a process for categorizing customer interactions as: (1) Inquiries; (2) Requests; or (3) Complaints. The complaint procedure improvement plan shall detail how CenturyLink personnel will be trained to use the new procedures. The complaint procedure improvement plan shall be submitted for Commission approval and include a comment period to give interested parties the opportunity to support or recommend changes to the plan. After Commission approval of the complaint procedure improvement plan, CenturyLink shall be required to implement the plan within 60 days, unless CenturyLink receives Commission approval of a different implementation schedule.
2. On a monthly basis after the complaint procedure improvement plan is implemented, CenturyLink shall be required to file a report on its customer interactions that are inquiries, requests, and complaints. The reports should include the name and address for the customer, the complaint codes and other specifics for the type of complaint submitted, the date the complaint was filed, the date the complaint was resolved or addressed, and whether the customer has expressed that they are satisfied with the outcome. Such reporting shall continue until the Commission finds that CenturyLink is satisfactorily complying with its performance obligations on customer complaints. Please see Attachment A.

CWA

Both DOC and OAG recommend the Commission clarify its definition of a complaint so that CenturyLink does not undercount customer complaints. More specifically, CWA urges the Commission to adopt the Joint recommendation regarding the recording of complaints for CenturyLink to provide detailed procedures for improving complaint collection and tracking, for the Commission to accept public comment, and implement improvements within 60 days of Commission approval.⁵

⁵ Please see Page 13 of the CWA's August 30, 2021 reply comments.

CenturyLink

Since Minnesota rules do not define what constitutes a “complaint” versus, for example, an inquiry or a service request, providers must interpret the term before implementing the associated requirements. CenturyLink has made a good faith effort to reasonably define a “complaint” and to implement the other Complaint Rules’ requirements. It has done so, in part, by creating a Customer Advocacy Group that handles matters referred to the Company by State agencies or government officials and handles matters that are escalated by front line customer service representatives. CenturyLink considers a matter a customer “complaint,” for purposes of the Complaint Rules, when it gets to the Customer Advocacy Group through these means.

The Department and the OAG argue that CenturyLink interprets the term “complaint” too narrowly. However, OAG offers no guidance that would distinguish a “complaint” from a routine repair request and DOC suggests that a “complaint” occurs whenever a customer expresses “dissatisfaction or frustration,” regardless of who receives the communication or what prompted that “dissatisfaction or frustration.” Such a vague definition would be impossible to implement with any consistency, as different people may reasonably view the same conversation differently.

Please see pages 20-26 of the CenturyLink’s August 30, 2021 reply comments for further discussion.

4. 7810.5200 Answering Time

Allegation: CenturyLink is violating Minn. Rule. 7810.5200 by failing to meet the objective of answering 90 percent of calls within 20 seconds. Minn. R. 7810.5200 requires that CenturyLink answer 90% of repair calls and other calls within 20 seconds. The rule further defines “answer” as “the operator or representative is ready to render assistance and/or ready to accept information necessary to process the call.” CenturyLink’s performance metrics, however, demonstrate the company struggled to comply with the standard particularly for calls placed to the business office.

Department

CenturyLink does not appear to be complying with Minn. R. 7810.5200. Neither the company’s self-reported data nor experiences shared by customers suggest that CenturyLink is “answering” calls within 20 seconds; namely, by rendering assistance. Instead, customers struggle to connect with customer service representatives and then often experience lengthy delays where no assistance is rendered.

Please see pages 12-15 of the Department’s July 1, 2021 comments for further discussion.

OAG

Evidence provided by CenturyLink shows that the Company routinely fails to timely respond to landline consumer inquiries, requests, and complaints. Extended customer wait times are the norm and the Company lacks robust wait time training and oversight for its customer service

agents. Even using a 60-second response standard, there is significant room for CenturyLink to improve the Company's wait time processes and procedures.

Please see pages 23-26 of the OAG's July 1, 2021 comments for further discussion.

Proposed Joint Recommendation

On a monthly basis, CenturyLink shall report answering time service levels to the Commission until it has reached a 90% answer rate within 20 seconds of the caller's last menu selection, consistently for three months. On a monthly basis, CenturyLink shall also report to the Commission, the number of calls dropped prior to connecting with an agent, and the shortest, longest, and average length of wait time before the calls were dropped. Reporting requirements will apply to Repair Call Center, and residential and commercial Business Offices, and will commence within 60 days of the Commission's Order, unless CenturyLink receives Commission approval of a different implementation schedule. Please see Attachment A.

CWA

DOC recommends the Commission require detailed monthly reporting of answering time service levels, including "the number of calls dropped prior to connecting with an agent, and the shortest, longest, and average length of wait time before the calls were dropped." The OAG recommends that CenturyLink notify the Commission every month that a customer wait time exceeds 60 seconds and provide the actual wait time and the reason for the call. CWA supports the joint recommendations and further recommends that CenturyLink be required to categorize the length of calls lasting between 1-20 seconds, 20-60 seconds, 1-5 minutes, 5-30 minutes, 30-60 minutes, 1-2 hours, and over two hours. Additionally, CenturyLink should report the number of calls dropped prior to connecting with an agent during the above time periods. This will ensure that CenturyLink does not sacrifice customers on hold for long periods by prioritizing new callers to improve its compliance rate.⁶

Please see pages 10-11 of the CWA's August 30, 2021 reply comments for further discussion.

CenturyLink

As evident from the reference to an "operator," this metric is a vestige of the past, dating back several decades. Moreover, this metric is unique to "telephone utilities." CenturyLink is not aware of any other business or organization that has such an exacting standard. For example – and fortunately for them – Minnesota state agencies do not have to meet this metric, as it appears, they do not come close.

Additionally, the Commission has previously approved service quality plans with a significantly relaxed answering time "standard." For example, the Commission approved the following for CenturyLink:

⁶ Please see Pages 14-15 of the CWA's August 30, 2021 reply comments.

Calls to the Service Center will be on hold no more than 60 seconds on the average after the last menu option is selected before being answered by a live service representative. The service representative will accept the information needed to begin processing the call and direct the caller to the appropriate specialized personnel, as appropriate. Compliance shall be determined by a 12-month annual statewide average of the performance for the measure for combined customer, business and repair calls.⁷

Finally, it is important to note that CenturyLink has two organizations that answer customer calls – customer repair, which handles repair tickets, and customer care which handles all other customer contacts – including customers who take only unregulated services.

CenturyLink pointed out that like most organizations, its performance on call answer time declined as the pandemic took hold. Prior to the pandemic, CenturyLink’s call hold times performance was strong. Due to the mandated quarantines coupled with limited in-home internet access for the Company representatives, the Company experienced a substantial decrease in call center representatives. The Company worked to provide computers and adequate access to the internet. By July 2020, the Repair call center performance showed significant improvement. In addition, CenturyLink is experiencing challenges attracting talent, much like every other industry. Efforts to solve this challenge are ongoing but have no quick or easy solution

Please see pages 26-29 of the CenturyLink’s August 30, 2021 reply comments for further discussion.

5. 7810.5800 Interruptions of Service

Allegation: CenturyLink is not restoring 95 percent of reported troubles within 24 hours in violation of Minn. Rule 7810.5800’s minimum objective. The Department concluded that CenturyLink’s performance is inconsistent with Minn. R. 7810.5800. The rule sets a minimum objective of clearing “95 percent of all out-of-service troubles within 24 hours of the time such troubles are reported.” It also requires CenturyLink to mitigate disruptions if line work will cause an outage. This rule has significant implications for customers that depend exclusively on their landline telephone service for their communications, including access to 911 emergency service. In particular, people living in rural areas and elderly people may rely on their landline telephone. CenturyLink was far from meeting the 95 percent service restoration within 24 hours in 2020, with many exchanges not meeting the goal.

Department

CenturyLink is not in compliance with Minn. R. 7810.5800’s minimum objective of clearing 95% of troubles within 24 hours. This conclusion is drawn from CenturyLink’s own data that demonstrates it rarely achieve the 95% in 24 hours standard, even when applying its own methodology that likely overstates the company’s performance.

Please see pages 15-19 of the Department’s July 1, 2021 comments for further discussion.

⁷ Please see CenturyLink’s August 30, 2021 Comments at page 27.

OAG

The OAG indicated that CenturyLink regularly fails to clear 95 percent of landline out-of-service troubles within 24 hours of the time they are reported.

Service interruption data provided by CenturyLink indicates that the Company generally is meeting the 95 percent objective for clearing service outages within 24 hours. But this is because CenturyLink's performance tends to operate at the extremes, with some wire centers suffering bouts of extremely poor service.

The OAG believes the fact that the 95 percent clearing rate in Minn. R. 7810.5800 is the minimum objective and not a mandatory requirement does not make CenturyLink's performance any less disturbing. Customer complaints provided by CenturyLink reveal an alarming pattern of regular and extended landline telephone service outages. Even more upsetting is the fact that many of these outages involve landline-only customers and/or customers that rely on landline service for emergency and medical purposes.

Please see pages 7-13 of the OAG's July 1, 2021 comments for further discussion.

Proposed Joint Recommendation

Within 45 days of the Commission's Order in this matter, CenturyLink shall submit a service restoration improvement plan, which describes in detail practicable steps to achieve compliance with Minn. R. 7810.5800. The plan shall explicitly state when the 24-hour period repair begins, and when the service is recorded as restored, and shall detail how CenturyLink will train personnel to use the new procedures. A comment period shall be allowed after CenturyLink submits its plan for Commission approval to give interested parties the opportunity to support or recommend changes. After Commission approval of the service restoration improvement plan, CenturyLink shall implement the plan within 60 days, unless CenturyLink receives Commission approval of a different implementation schedule. After the service restoration improvement plan is implemented, CenturyLink shall file a monthly report on its service restoration on an exchange-by-exchange basis. Such reporting shall continue until the Commission finds that CenturyLink is satisfactorily complying with its service restoration performance obligations. Please see Attachment A.

CWA

The CWA supports the OAG and the Joint recommendation that CenturyLink notify the Commission "every time its out-of-service clearing rate falls below 70 percent in any month for any wire center. The CWA supports this recommendation and further recommends that the Commission require CenturyLink to also include the length of each out-of-service and trouble report ticket.⁸ The CWA believes this will allow the Commission to identify whether CenturyLink prioritizes more recent customers to the detriment of customers whose resolution deadline has already been missed to falsely improve its compliance rate.

⁸ Please see Page 14 of the CWA's August 30, 2021 reply comments.

Please see pages 13-14 of the CWA's August 30, 2021 reply comments for further discussion.

CenturyLink

CenturyLink indicated that this rule simply does not mandate a performance requirement of clearing 95 percent out-of-service troubles within 24 hours. Rather, it sets an "objective" – an aspiration goal much like the State broadband goals, codified in Minn. Stat. § 237.012.

CenturyLink works to restore service as quickly as practicable, just as the State works to meet the universal access and high-speed objectives set out in statute. CenturyLink has encountered challenges in meeting the rule objective, just as the State has faced challenges in meeting the universal access and high-speed broadband goals set out in statute. But not meeting an objective does not equate to a violation of rule or statute.

CenturyLink pointed out that DOC relies in large part on the "survey" in order to complain about CenturyLink's performance. CenturyLink strongly objects to any consideration of responses to this "survey" currently. All that is currently known about the "survey" is that it included a set of questions sent out by the American Association of Retired Persons (AARP) (and possibly other organizations). The DOC provides zero detail regarding the "survey" methodology. It provides no information as to who drafted the questions, how survey participants were identified, how many people were contacted but declined to participate, if or how the participants were confirmed to be CenturyLink customers, how a third party became enlisted to distribute the questions and to apparently generate and share customer-specific information with a State agency, or anything else related to how this survey was conducted. Moreover, the "survey" respondents have not been identified to CenturyLink, preventing the Company from investigating the issues raised by respondents. Until DOC or AARP address these fundamental issues, the "survey" responses must be excluded from the Commission's review of the record or CenturyLink will be severely prejudiced, as it has no meaningful ability to respond to the DOC's or survey respondents' claims.

Please see pages 16-19 of the CenturyLink's August 30, 2021 reply comments for further discussion.

6. 7810.5900 Customer Trouble Reports

Allegation: The OAG alleges that CenturyLink documentation shows that the Company struggles to provide landline customers in certain exchanges with trouble-free service, failing to meet the 6.5 per 100 telephones per month and 8.0 per 100 telephones per month standards such that corrective action is necessary for those exchanges.

Department

The Department believes CenturyLink is in compliance with Minn. R. 7810.5900. As such, the Department made no recommendation because answering times affected customer trouble reports.

Please see pages 20-21 of the Department's July 1, 2021 comments for further discussion.

OAG

OAG indicated that Minn. R. 7810.5900 states that “[a] customer report trouble 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.” The Commission should require CenturyLink to file a report each month that the Company’s customer trouble report rate exceeds 8.0 in any wire center that explains the reason the trouble rate is 8.0 or higher and provides concrete steps to prevent future trouble rates above 8.0.

Please see pages 14-16 of the OAG’s July 1, 2021 comments for further discussion.

Proposed Joint Recommendation

Notify the Commission via eFiling any time its customer trouble report rate exceeds 8.0 in any month for any wire center. Please see Attachment A.

CWA

The CWA supports the OAG and the Joint recommendation that CenturyLink notify the Commission and “any time its customer trouble report rate exceeds 8.0 in any month for any wire center.”⁹

CenturyLink

CenturyLink pointed out that regarding trouble reports, the relevant rule provides: “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 (sic) on a continuing basis indicates a need for investigative or corrective action.” CenturyLink meets this objective.

Rather than acknowledge this strong performance of the network as shown in the information OAG received, OAG cherry picks four exchanges to highlight and then focuses on one or two months in each exchange to take CenturyLink to task.

In this zeal to find these “violations,” OAG ignores several things. First, the rule does not set a mandatory standard of either 6.5 or 8.0 percent trouble rates. The rule clearly and unequivocally states it’s an objective and it’s an average. As an average, it must have multiple inputs, namely twelve-monthly inputs—one for each month—per exchange. While CenturyLink strives to meet this objective in every exchange and every month, the rule requires no such granular conformity to its stated objective.

Please see pages 9-12 of the CenturyLink’s August 30, 2021 reply comments for further discussion.

7. 7810.3300 Maintenance of Plant and Equipment

⁹ Please see Page 14 of the CWA’s August 30, 2021 reply comments.

Allegation: CenturyLink is not keeping all plant and equipment in a good state of repair as required by Minn. R. 7810.3300. Minn. R. 7810.3300 requires CenturyLink to keep its plant and equipment in a good state of repair. The rule further obligates CenturyLink to “adopt and pursue a maintenance program aimed at achieving efficient operation of its system to permit the rendering of safe and adequate service.... Adjustable apparatus and equipment should be readjusted as necessary when found by preventive routines....” The Department’s review of CenturyLink practices suggest that the company largely relies on an inadequate system of reactive repair work to maintain its network instead of engaging in proactive, preventive care.

Department

Evidence suggests CenturyLink is not in compliance with Minn. R. 7810.3300. Moreover, the firsthand experience of customers and regulatory staff shows that CenturyLink lacks adequate systems for maintaining its plant in good repair. In addition, it appears that the Company may not be making available the resources necessary to meet the Minn. R. 7810.3300 standard.

Please see pages 19-23 of the Department’s July 1, 2021 comments for further discussion.

OAG

Evidence provided by CenturyLink shows that worn or deteriorated plant is a chronic issue for the Company in Minnesota. CenturyLink’s plant remains in disrepair for extended periods of time, either because of deliberate neglect or ineffectual inspection and reporting practices. Worn or deteriorated plant is the cause of many CenturyLink customer complaints, often causing the noise induction and poor transmission characteristics that the Company claims are remnants of the past.

Please see pages 16-22 of the OAG’s July 1, 2021 comments for further discussion.

Proposed Joint Recommendation

1. Within 90 days of the Commission’s Order, CenturyLink shall file a proactive maintenance plan to identify, monitor, evaluate, anticipate, and address: instances of temporary lines, aboveground lines awaiting burial, other exposed lines, broken or damaged pedestals, flooded facilities, broken or damaged poles, or other outside plant concerns, including those reported by customers or that reasonably can be anticipated. The proactive maintenance plan shall include information regarding the training of CenturyLink employees and contractors regarding the process for identifying and reporting outside plant concerns. The plan will be subject to a review and comment period by interested parties.
2. CenturyLink shall notify customers in writing of their ability to report plant concerns and include this information on its website and in any published telephone directory. The notice, website information and the manner it is displayed in the telephone directory shall be submitted for review and comment.
3. CenturyLink shall employ sufficient operations and engineering personnel to assure the furnishing of safe and adequate telephone service.

4. CenturyLink personnel responsible for the proactive maintenance plan shall meet monthly to review and evaluate identified plant issues, and determine what actions are necessary to address the reported issues, including remediation, repair, or replacement of equipment, increases of parts and equipment inventory, and increases of permanent and contract staff levels. Issues that involve impacts to service or safety to the public will take priority.
5. CenturyLink shall provide a quarterly report that: (1) affirms that the monthly meetings identified above have occurred; (2) lists the plant issues identified or addressed in that quarter; (3) lists when the issue was reported or determined, and how CenturyLink learned of the issue; (4) list the determination of remediation, repair, or replacement action to be taken; and (5) list when any action was taken. The quarterly reports shall continue until CenturyLink obtains Commission approval to discontinue the reports.

Additionally, as recommended by the OAG, a special contractor/consultant with maintenance/engineering expertise hired to ensure compliance with the Commission's Order for such items as the proposed improvement plan, if needed. Please see Attachment A.

CWA

DOC recommends a proactive maintenance plan to identify, monitor, evaluate, anticipate, and address maintenance issues, provide written instructions to customers on how to report plant concerns, and file detailed quarterly reports with the Commission. DOC also recommends monthly meeting of CenturyLink personnel responsible for proactive maintenance plans to review, evaluate, and determine necessary action. CWA supports DOC's recommendations and further recommends creation of a dedicated team of technicians responsible for landline preventative maintenance and creation of a central reporting database for field technicians to report maintenance issues.¹⁰

Please see pages 4-10 of the CWA's August 30, 2021 reply comments for further discussion.

CenturyLink

CenturyLink indicated that the OAG and CWA rely on pictures of plant locations (primarily pedestals), taken as early as October of 2019, through a year ago (July 2020). But pictures are sometimes not worth a thousand words. Neither the OAG nor CWA provided any analysis or discussion as to whether the facilities pictured impacted service. Rather, they simply allege that CenturyLink should identify each location pictured and repair the pictured facilities more quickly. Facilities such as telephone pedestals are exposed to weather, snowplows, car accidents, deliberate sabotage and a variety of other factors that can impact their appearance.

Please see pages 13-14 of the CenturyLink's August 30, 2021 reply comments for further discussion.

¹⁰ Please see Page 14 of the CWA's August 30, 2021 reply comments.

8. 7810.4900 Adequacy of Service; 7810.5000 Utility Obligations; Et Al.

Allegation: CenturyLink may not be maintaining an “adequate operating force” to facilitate service as required by Minn. R. 7810.4900. Minn. R. 7810.4900 requires CenturyLink to perform traffic studies and to maintain the necessary records to determine that “sufficient equipment and an adequate operating force” are in use and can provide necessary service. The rule stipulates that equipment and operating force must be sufficient to facilitate service during the “busy hour, busy season.”

CenturyLink may not be continually reviewing its operations to assure adequate service, as required by Minn. R. 7810.5000. Minn. R. 7810.5000 requires CenturyLink to provide telephone service to the public in its service area in accordance with applicable rules and tariffs on file with the Commission. The rule also requires CenturyLink to continually review its operations to assure the furnishing of adequate service. Finally, the rule dictates that CenturyLink must maintain records of its operations in sufficient detail as is necessary to permit such review and such records shall be made available for inspection by the commission upon request at any time within the period prescribed for retention of such records. Given the failures discussed above relating to recordkeeping and maintenance, the Department believes that CenturyLink has failed to meet its obligations under this rule.

Department

CenturyLink does not appear to be in compliance with Minn. R. 7810.4900. The lengthy wait times and delays to speak with customer service representatives, to obtain repair appointments, and the frequency with which CenturyLink must re-schedule appointments suggest it lack adequate staffing to meet customer needs.

CenturyLink is not in compliance with Minn. R. 7810.5000. If the company had been continually reviewing its operations and adjusted accordingly, there would have been no basis for the CWA complaint, CenturyLink’s records would not show deficient service, and there would be fewer customer complaints.

Please see pages 24-25 of the Department’s July 1, 2021 comments for further discussion.

OAG

Minn. R. 7810.4900 compels CenturyLink to use reasonable engineering and administrative procedures to determine that adequate service is being provided to its customers. Minn. R. 7810.5000 requires CenturyLink to continually review its operations to ensure that its customers receive adequate service. Minn. R. 7810.5500 compels CenturyLink to furnish and maintain adequate plant, equipment, and facilities to provide satisfactory transmission of communications between customers in their service areas. Minn. R. 7810.6000 requires CenturyLink to use reasonable care to reduce the hazards to which its customers and the public are subjected.

A failure by CenturyLink’s technicians to follow the Company’s outside plant inspection and reporting practices is a failure of the Company itself. CenturyLink must either improve its

technician training and communication or do a better job of monitoring its plant separate from the inspection and reporting procedures it has created for its technicians.

Please see pages 16-22 of the OAG's July 1, 2021 comments for further discussion.

Proposed Joint Recommendation

If CenturyLink violates the Commission's rules to maintain its network and employ adequate staffing, penalties for violations will be required pursuant to Minn. Stat. §237.461. CenturyLink can be expected to take those actions that are in the economic interest of its shareholders and can be expected to disregard the Commission's rules if there is no consequence for doing so.

Minn. R. 7810.5000 should be considered with any further investigation the Commission may take with respect to the violations of other rules. Please see Attachment A

CenturyLink

CenturyLink believes that the Commission should refer this matter to the Office of Administrative Hearings to develop a complete record regarding whether CenturyLink has violated any Commission rules, and the extent and impact of any such violation.

Please see pages 29-31 of the CenturyLink's August 30, 2021 reply comments for further discussion.

9. Rule Violations

Department

If the Commission determines that there is sufficient cause to find that CenturyLink has violated any rule, the Commission should establish a proceeding to determine the number of violations and the number of days of violations, for referral of the matter to the Office of the Attorney General to pursue civil penalties in district court. If the Commission determines that significant factual issues remain, the Commission may refer the matter to the Office of Administrative Hearings to create a record upon which the Commission may make its determination.

Please see page 28 of the Department's July 1, 2021 comments for further discussion.

OAG

Concurs with the Department's recommendation.

Proposed Joint Recommendation

If the Commission determines that there is sufficient cause to find that CenturyLink has violated any rule, the Commission should establish a proceeding to determine the number of violations and the number of days of violations, for referral of the matter to the Office of the Attorney General to pursue civil penalties in district court. If the Commission determines that significant factual issues remain, the Commission may refer the matter to the Office of Administrative Hearings to create a record upon which the Commission may make its determination. Please see Attachment A.

CWA

CWA also supports consideration of referral for penalties under Minnesota Statutes, section 237.461 if CenturyLink continues to violate Commission rules. Without financial penalties, CenturyLink may not have the economic motivation to comply with Commission standards.¹¹

Please see pages 12-13 of the CWA's August 30, 2021 reply comments for further discussion.

CenturyLink

CenturyLink believes that either the current docket should be closed without further action or the Commission should require a formal process, including referral to the Office of Administrative Hearings (OAH), so that CenturyLink is afforded due process.

Please see pages 29-31 of the CenturyLink's August 30, 2021 reply comments for further discussion.

C. How should the Commission Proceed in this Matter?

If the Commission finds it has jurisdiction and does not dismiss the Complaint or allegations, the Commission should determine how it wishes to proceed with this matter.

CenturyLink

This docket began with a two-page letter from CWA, inviting the Commission to insert itself into a labor dispute and going to the extreme of urging the Commission to seek injunctive relief, preventing CenturyLink from taking actions governed by its collective bargaining agreement with CWA. Neither that letter, nor a subsequent letter from CWA provide a reasonable basis for Commission action.

After the CWA letters, DOC and OAG filed comments alleging an array of Minnesota rule violations. However, those comments lack sufficient specificity and often misstate the facts or the law. CenturyLink argues these comments simply do not merit further process and regulatory resources being devoted to them. Indeed, attempting to act on the jumble of arguments and numbers provided to date would lead to an equally messy and confusing proceeding that will not provide CenturyLink the process, nor the Commission the record, that serious allegations such as these deserve. CenturyLink specifically requests that the survey responses relied upon by DOC be stricken from the record. To the extent the Commission has concerns with CenturyLink's compliance with Minnesota rules, it should direct DOC or OAG to file a proper, formal complaint with sufficient specificity for CenturyLink to respond.

Alternatively, the Commission should refer this matter to the Office of Administrative Hearings for a contested case to develop a complete record regarding whether CenturyLink has violated

¹¹ Please see Page 15 of the CWA's August 30, 2021 reply comments.

any Commission rules. CenturyLink strongly contests the “material facts” on which DOC and OAG base their claims. Moreover, both Minnesota Statutes and Minnesota Rules provide CenturyLink the right to a hearing. Given the serious nature of the allegations, CenturyLink requires a contested case hearing so that it can engage in discovery, present formal evidence and cross-examine adverse witnesses, as necessary. CenturyLink has confidence that any such proceeding will demonstrate no need for Commission action against the Company.

Department (August 16, 2022 Letter)

In addition to these settlement-related issues, the Intervenor is concerned that consumers may be experiencing problems with CenturyLink’s service that are beyond the scope of the originally filed complaint. To create a record reflective of the problems being experienced by consumers, the Intervenor requested that the Minnesota Public Utilities Commission (“Commission”) refer this matter to the Office of Administrative Hearings (“OAH”) for a series of public hearings, similar to the Commission’s approach in Docket No. 18-122 concerning Frontier Communications. The purpose of these hearings would be to solicit comments from CenturyLink consumers, local officials, and other stakeholders regarding the nature, extent, and causes of service quality deficiencies that they have experienced.

The Intervenor also requested that the scope of the proceeding be expanded to include both previously raised issues and any new service quality issues identified through the hearing process. The Intervenor believes that public hearings will help develop a more complete record and ensure that CenturyLink’s Minnesota consumers have an opportunity to share their concerns. In terms of hearing logistics, the Intervenor recommends:

- The Commission order no less than six hearings in areas throughout the state to ensure that the bulk of CenturyLink consumers will have a fair opportunity to participate.
- The Commission order CenturyLink to publicize these meetings by including a notice in its customer bills, sending a notice to governing bodies within its service area, and publishing notices in legal newspapers and newspapers of general circulation. Each type of notice should be designed to alert people about the public meetings at least ten days before the first meeting occurs. The notices should be efiled in advance to give the parties an opportunity to provide input, prior to the Commission’s Executive Secretary approving the notice.
- The Commission request that an Administrative Law Judge be assigned by OAH to organize and preside over the public hearings, to develop a record and written transcripts, and to provide a written summary of what transpires and other observations that the ALJ believes the Commission would find helpful.

The Department believes that following completion of the public hearing process, the Commission and other interested parties would then be in a better position to consider appropriate next steps and possible remedies.

CenturyLink Response to the Department's August 16, 2022, Letter

CenturyLink indicated that the Intervenor request a series of public hearings with an unclear and undefined scope of topics. As a basis for their request, the Intervenor express concern about the pace and scope of settlement negotiations. Public hearings seem likely to slow down, rather than speed up, resolution of this docket.

Since the inception of this matter, CenturyLink believes it has communicated its desire to amicably resolve the Intervenor's concerns without delay. CenturyLink respectfully represents that it has worked to advance the negotiations as expeditiously as possible given the scope and complexity of the issues involved. CenturyLink indicated that it extended its initial settlement proposal in January of 2022 and waited until June of 2022 for any response. CenturyLink continues to believe all parties will be best served by continued discussions and remains interested and available to resolve this matter, regardless of how the Commission chooses to proceed.

Should the Commission wish to advance the current docket, the proceedings must be based on a proper process, including a complaint that satisfies Commission requirements, evidence that is admissible and a proceeding consistent with the parties' due process rights and applicable rules. Public hearings of the nature suggested by the Intervenor would meet none of those requirements.

If the Commission chooses to proceed with public hearings, the scope of those public hearings must be limited to regulated telecommunications services over which the Commission has jurisdiction. Moreover, comments should be limited in time to a period consistent with the allegations in any complaint filed and focus on alleged violations of Minnesota Rules relating to voice services. Hearings without such a defined scope and structure would not only waste scarce Commission resources but would not advance the resolution of those issues over which the Commission has jurisdiction.

OAG

The OAG did not recommend referral to the Office of Administrative Hearings (OAH); rather, the OAG jointly recommends with the Department the actions outlined in Attachment A to these papers.

CWA

The CWA did not recommend referral to the Office of Administrative Hearings (OAH). CWA supports much of the joint recommendations and offered a series of additional recommended requirements for CenturyLink as summarized above and in decision options.

Department December 9, 2022, Comments

In these comments, the Department provided information regarding CenturyLink's outside plant maintenance and adequacy of service:

A. CenturyLink's Repair and Installation-Related Complaints Have Significantly Increased Since 2019.

The Department indicated CenturyLink's own metrics show that repair complaints have steadily increased. Please see pages 3 to 4 of the Department's December 9, 2022, comments for the Department's presentation of data regarding 2021 and 2022 year to date complaint volume by escalation reason and CAO complaints: install/repair delay/outages.

B. CenturyLink is Not Timely Resolving Reported Outages.

The Department indicated CenturyLink is not timely restoring service once customers report outages. Please see pages 4 to 6 of the Department's December 9, 2022, comments for the Department's presentation of the average number of days to resolve repair complaint and repair commitments cleared in 24 hours data.

C. CenturyLink Has Repeatedly Violated the Commission's Trouble Rate Rule.

The Department indicated a trouble report is any oral or written report relating to a physical defect or to difficulty or dissatisfaction with the operation of telecommunications facilities. The rules further provide that CenturyLink should strive to maintain a monthly trouble rate of no more than 6.5 per 100 telephones for each exchange and that a trouble rate exceeding 8.0 troubles indicates a need for investigative or corrective action. Please see pages 6 to 8 of the Department's December 9, 2022, comments for the Department's presentation of data regarding number of months exceeding 6.5 and 8.0 trouble rate by exchange between January 2019 and July 2022.

D. CenturyLink is Dedicating Fewer Resources to Maintain Its Outside Plant as Its Performance Deteriorates.

The Department indicated the company is dedicating fewer resources, both in terms of staffing and financial investment, to maintaining its outside plant. Please see pages 8 to 10 of the Department's December 9, 2022, comments for the Department's presentation of data regarding personnel dedicated to plant rehabilitation, restoration, rehabilitation, and maintenance spending, and missed appointments.

Finally, the Department requests that the Commission adopt the Department and OAG-RUD's August 2021 joint recommendations applicable to the identified plant and maintenance problems. Alternatively, the Commission should order hearings across CenturyLink's service area.

With respect to other areas of concern raised in this proceeding, those matters remain unresolved and in the event the Commission does not order hearings, the parties can separately petition the Commission on how to proceed.

IV. Staff Analysis

Given the dispute over facts, Staff recommends that the Commission decide on a procedural path for the complaint. Parties have proposed distinct options, ranging from dismissal or a contested case proceeding to the Commission deciding that CenturyLink is not complying with several Minnesota service quality standards and adopting proposals to address the alleged non-compliance. Further, public comments, summarized in Attachment C to staff briefing papers, offer examples of loss of service, restoration delays, and service quality concerns; including impacts to the elderly, 911 service, and individuals with medical needs. These individuals did not specifically address the current proceeding.

At this point, Staff does not think dismissal is appropriate given the current state of the record. The Department, CWA and OAG's claims do raise a certain level of concern. Although a contested case would consume party resources, it is also the only way to develop a thorough and complete record when factual disputes must be resolved.

Since parties contest the facts at issue, the option most consistent with the Commission's rules is to refer the alleged rule violations raised by the Department, OAG, and the CWA to the Office of Administrative Hearings (OAH). Staff believes a contested case will develop a complete record regarding whether CenturyLink has violated any Commission rules and the extent and impact of such violations. A contested case proceeding will allow the parties to engage in discovery, present formal evidence and cross-examination of witnesses and develop a robust record fully exploring all the relevant issues.

V. Decision Options

How should the Commission Proceed in this Matter?

1. Refer the matter to the Office of Administrative Hearings (OAH) for a contested case proceeding pursuant to Minn. Stat. 237.081, subd. 1, regarding whether CenturyLink is meeting the requirements of Minnesota Statutes Chapter 237 and Minnesota Rules Chapter 7810. The scope of the hearing shall include whether CenturyLink has violated Minnesota Rules identified in the August 30, 2021 Joint Recommendation of the Department of Commerce and Office of Attorney General and if so, what should be the remedy. (CenturyLink) or
2. Direct DOC and /or OAG to file a formal complaint regarding the specific issues raised. (CenturyLink) or
3. Refer the matter to the Office of Administrative Hearings (OAH) to hold a series of public hearings as outlined by the Intervenor (Department, OAG, CWA). or
4. Proceed with the Department/OAG August 30, 2021 joint recommendations from Attachment A. [*outlined in Decision Options 6-14*] (Department, OAG, CWA)
 - a. Grant CenturyLink's motion to exclude survey responses from the record (if no referral to OAH) (CenturyLink). or
 - b. Deny CenturyLink's motion to exclude survey responses from the record (if no referral to OAH). or
5. Dismiss the matter. (CenturyLink)

If the Commission determines the record in this matter is adequately developed [*Decision Option 4*], the Commission may take any or all of the following action(s): (Joint Department and OAG Recommendations)

6. Adopt the Joint Recommendation regarding Minn. Rule 7810.2800 Delay in Initial Service or Upgrade as found in column three of Attachment A.
7. Adopt the Joint Recommendation regarding Minn. Rule 7810.1100 Complaint Procedure as found in column one (Department Recommendation) of Attachment A.
8. Adopt the Joint Recommendation regarding Minn. Rule 7810.1200 Record of Complaint as found in column one (Department Recommendation) of Attachment A.

9. Adopt the Joint Recommendation regarding Minn. Rule 7810.5200 Answering Time as found in column one (Department Recommendation) of Attachment A.
10. Adopt the Joint Recommendation regarding Minn. Rule 7810.5800 Interruptions of Service as found in column one (Department Recommendation) of Attachment A.
11. Adopt the Joint Recommendation regarding Minn. Rule 7810.5900 Customer Trouble Reports as found in column three of Attachment A.
12. Adopt the Joint Recommendation regarding Minn. Rule 7810.3300 Maintenance of Plant and Equipment as found in column three of Attachment A.
13. Adopt the Joint Recommendation regarding Minn. Rule 7810.4900 Adequacy of Service; and 7810.5000 Utility Obligations as found in column one (Department Recommendation) of Attachment A.
14. Adopt the Joint Recommendation regarding the violation of Commission rules as found in column one (Department Recommendation) of Attachment A.

And, if the Commission determines the record in this matter is adequately developed, the Commission may also take any or all of the following further actions: (CWA)

15. *[In addition to Decision Option 9]* In its monthly reports on answering time service levels, require CenturyLink to categorize the length of calls lasting between 1-20 seconds, 20-60 seconds, 1-5 minutes, 5-30 minutes, 30-60 minutes, 1- 2 hours, and over two hours. Additionally, CenturyLink shall report the number of calls dropped prior to connecting with an agent during the above time periods.
16. *[In addition to Decision Option 10]* Require CenturyLink to also include in its service restoration improvement plan the length of each out-of-service and trouble-report ticket.
17. *[In addition to Decision Option 12]* Require CenturyLink to create a dedicated team of technicians responsible for landline preventative maintenance and a central reporting database for field technicians to report maintenance issues.

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Filed: 8/30/21

Rule or Issue	Department Position and/or Recommendation	OAG Position and/or Recommendation	Proposed Joint Recommendation
7810.2800 Delay in Initial Service or Upgrade	Inadequate evidence to conclude that CenturyLink violated this rule.	<p>CenturyLink did not install service within 30 days a total of 299 times; and did not install service within 60 days a total of 130 times.</p> <p>CenturyLink said that in all but one instance, the reasons for delay were due to failure to assign, facilities or plant issues, insufficient workforce, or problems with work orders.</p> <p><i>1. Improve internal operations to ensure the timely provision of initial telephone service.</i></p> <p><i>2 Notify the Commission every month that a consumer is not provided initial landline service within 30 days of the consumer's request.</i></p>	<p>1. Notify the Commission via eFiling every month that a consumer is not provided initial landline service within 30 days of the consumer's request.</p> <p>2. Notify the Commission via eFiling every month the number of missed appointments for initial installation or upgrade exceeds 10 percent. The filing should include an improvement plan to ensure appointments are met.</p>
7810.1100 Complaint Procedure	Define complaint as any customer communication that expresses dissatisfaction with CenturyLink service, whether received directly from a customer or from a third party, placing focus on the substance of the customer communication.	<i>The Commission should clarify that CenturyLink must keep a record of all landline customer complaints so that the Commission can determine if the Company is providing adequate and satisfactory service to the public and so that the Company can analyze its procedures and actions to determine if it is providing adequate and satisfactory service to its landline customers.</i>	Department recommendation
7810.1200 Record of Complaint	1. Within 45 days, CenturyLink to file a plan to improve its complaint procedure. The new procedure shall address a process for categorizing customer interactions as: (1) Inquiries; (2) Requests; or (3) Complaints. The complaint procedure improvement plan shall	<i>Develop robust landline consumer inquiry, request, and complaint processes and procedures.</i>	Department recommendation

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Rule or Issue	Department Position and/or Recommendation	OAG Position and/or Recommendation	Proposed Joint Recommendation
	<p>detail how CenturyLink personnel will be trained to use the new procedures. The complaint procedure improvement plan shall be submitted for Commission approval and include a comment period to give interested parties the opportunity to support or recommend changes to the plan. After Commission approval of the complaint procedure improvement plan, CenturyLink shall be required to implement the plan within 60 days, unless CenturyLink receives Commission approval of a different implementation schedule.</p> <p>2. On a monthly basis, after the complaint procedure improvement plan is implemented, CenturyLink shall be required to file a report on its customer interactions that are inquiries, requests, and complaints. The reports should include the name and address for the customer, the complaint codes and other specifics for the type of complaint submitted, the date the complaint was filed, the date the complaint was resolved or addressed, and whether the customer has expressed that it is satisfied with the outcome. Such reporting shall continue until the Commission finds that CenturyLink is satisfactorily complying with its performance obligations on customer complaints.</p>		

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Rule or Issue	Department Position and/or Recommendation	OAG Position and/or Recommendation	Proposed Joint Recommendation
7810.5200 Answering Time	On a monthly basis, CenturyLink shall report answering time service levels to the Commission until it has reached a 90% answer rate within 20 seconds of the caller's last menu selection, consistently for three months. On a monthly basis, CenturyLink shall also report to the Commission the number of calls dropped prior to connecting with an agent and the shortest, longest, and average length of wait time before the calls were dropped. Reporting requirements will apply to repair call center and residential and business offices and will commence within 60 days of the Commission's Order in this matter unless CenturyLink receives Commission approval of a different implementation schedule.	<p><i>1. Improve training for, and communications with, customer service agents.</i></p> <p><i>2. Notify the Commission every month that a landline customer's wait time exceeds 60 seconds.</i></p>	Department recommendation
7810.5800 Interruptions of Service	Within 45 days of the Commission's Order in this matter, CenturyLink shall submit a service restoration improvement plan, which describes in detail practicable steps to achieve compliance. The plan shall explicitly state when the 24 hour repair period begins and when the service is recorded as restored and shall detail how CenturyLink will train personnel to use the new procedures. After Commission approval of the service restoration improvement plan, CenturyLink shall implement the plan within 60 days, unless CenturyLink receives Commission approval of a different implementation schedule. After the service restoration plan is implemented CenturyLink shall file a monthly report on its	<i>Notify the Commission every time the Company's out-of-service clearing rate falls below 70 percent in any month for any wire center.</i>	Department recommendation

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Rule or Issue	Department Position and/or Recommendation	OAG Position and/or Recommendation	Proposed Joint Recommendation
	service restoration on a per exchange basis. Such reporting shall continue until the Commission finds that CenturyLink is satisfactorily complying with its service restoration performance obligation.		
7810.5900 Customer Trouble Reports	Department made no recommendation because answering times affected customer trouble reports.	<i>Notify the Commission any time the Company's customer trouble report rate exceeds 8.0 in any month for any wire center.</i>	OAG recommendation with notification to the Commission via eFiling.

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Rule or Issue	Department Position and/or Recommendation	OAG Position and/or Recommendation	Proposed Joint Recommendation
7810.3300 Maintenance of Plant and Equipment	<p>1. Within 90 days of the Commission's Order, CenturyLink shall file a proactive maintenance plan to identify, monitor, evaluate, anticipate, and address: instances of temporary lines, above-ground lines awaiting burial, other exposed lines, broken or damaged pedestals, flooded facilities, broken or damaged poles, or other outside plant concerns, including those reported by customers or that reasonably can be anticipated. The proactive maintenance plan shall include information regarding the training of CenturyLink employees and contractors regarding the process for identifying and reporting outside plant concerns. The plan will be subject to a review and comment period by interested parties.</p> <p>2. CenturyLink shall notify customers in writing of their ability to report plant concerns and include this information on its website and in any published telephone directory. The notice, website information, and the manner it is displayed in the telephone directory shall be submitted for review and comment.</p> <p>3. CenturyLink shall employ sufficient operations and engineering personnel to assure the furnishing of safe and adequate telephone service.</p> <p>4. CenturyLink personnel responsible for the proactive maintenance plan shall meet monthly</p>	<p><i>1. Improve technician training and communications.</i></p> <p><i>2. Analyze plant inspection and reporting procedures and identify areas for improvement.</i></p> <p><i>3. Hire a special contractor to annually inspect the condition of CenturyLink's plant.</i></p> <p><i>4. CenturyLink must keep its existing landline infrastructure in good condition and continue to provide quality services to the Company's landline customers until the Company makes broadband service available and affordable for all customers.</i></p>	<p>Department recommendation, and as recommended by the OAG, a special contractor/consultant with maintenance/engineering expertise hired to ensure compliance with the Commission's Order for such items as the proposed improvement plan, if needed.</p>

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Rule or Issue	Department Position and/or Recommendation	OAG Position and/or Recommendation	Proposed Joint Recommendation
	<p>to review and evaluate identified plant issues, and determine what actions are necessary to address the reported issues, including remediation, repair, or replacement of equipment, increases of parts and equipment inventory, and increases of permanent and contract staff levels. Issues that involve impacts to service or safety to the public will take priority.</p> <p>5. CenturyLink shall provide a quarterly report that: (1) affirms that the monthly meetings identified above have occurred; (2) lists the plant issues identified or addressed in that quarter; (3) lists when the issue was reported or determined, and how CenturyLink learned of the issue; (4) lists the determination of remediation, repair, or replacement action to be taken; and (5) lists when any action was taken. The quarterly reports shall continue until CenturyLink obtains Commission approval to discontinue the reports.</p>		
7810.4900 Adequacy of Service; and 7810.5000 Utility Obligations	<p>If CenturyLink violates the Commission's rules to maintain its network and employ adequate staffing, penalties for violations will be required. The Department anticipates that CenturyLink will act in the economic interest of its shareholders, rather than comply with the</p>	<p><i>1. Improve technician training and communications.</i></p> <p><i>2. Analyze plant inspection and reporting procedures and identify areas for improvement.</i></p>	<p>Department recommendation</p>

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Filed: 8/30/21

Rule or Issue	Department Position and/or Recommendation	OAG Position and/or Recommendation	Proposed Joint Recommendation
	Commission's rules, unless economic consequences are in place. Minn. R. 7810.5000 should be considered with any further investigation the Commission may undertake with respect to the violations of other rules.	<p><i>3. Hire a special contractor to annually inspect the condition of CenturyLink's plant.</i></p> <p><i>4. The Commission should require CenturyLink to keep its existing landline infrastructure in good condition and continue to provide quality services to the Company's landline customers until the Company makes broadband service available and affordable for all customers.</i></p>	
Violations	If the Commission determines that there is sufficient cause to find that CenturyLink has violated any rule, the Commission should establish a proceeding to determine the number of violations and the number of days of violations, for referral of the matter to the Office of the Attorney General to pursue civil penalties in district court. ¹ If the Commission determines that significant factual issues remain, the Commission may refer the matter to the Office of Administrative Hearings to create a record upon which the Commission may make its determination.		Department recommendation

¹ Minn. Stat. § 237.461.

Attachment B Relevant Commission Rules

7810.1100 COMPLAINT PROCEDURES.

Subpart 1. Personnel available to hear inquiries and complaints. The utility shall establish such procedures whereby qualified personnel shall be available during regular business hours to receive and, if possible, resolve all customer inquiries, requests, and complaints.

Subp. 2. Investigation of complaints. If any complaint cannot be promptly resolved, the utility shall contact the customer within five business days and at least once every 14 calendar days thereafter, and advise the customer regarding the status of its investigation until: the complaint is mutually resolved; or the utility advises the customer of the results of its investigation and final disposition of the matter; or the customer files a written complaint with the Public Utilities Commission or the courts.

Subp. 3. Notification to Public Utilities Commission of complaint. When the Public Utilities Commission forwards a customer complaint to the utility, the utility shall notify the commission within five business days regarding the status or disposition of the complaint.

7810.1200 RECORD OF COMPLAINT.

Each utility shall keep a record of all complaints received by it from its customers which shall be classified as directed by the Public Utilities Commission. The record shall show the name and address of the customer, the date and nature of the complaint, and its disposition and date thereof. The utility shall keep records of the customer complaints in such a manner as will enable it to review and analyze its procedures and actions.

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 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.

7810.5000 UTILITY OBLIGATIONS.

Each telephone utility shall provide telephone service to the public in its service area in accordance with its rules and tariffs on file with the commission. Such service shall meet or exceed the standards set forth in this chapter. Each telephone utility has the obligation of continually reviewing its operations to assure the furnishing of adequate service. Each telephone utility shall maintain records of its operations in sufficient detail as is necessary to permit such review and such records shall be made available for inspection by the commission upon request at any time within the period prescribed for retention of such records. Each utility shall make measurements to determine the level of service for each item included in these rules. Each utility shall provide the commission or its staff with the measurements and summaries thereof for any of the items included herein on request of the commission or its staff. Records of these measurements and summaries shall be retained by the utility as specified by the commission.

Where a telephone utility is generally operated in conjunction with any other enterprise, suitable records shall be maintained so that the results of the telephone operation may be determined upon reasonable notice and request by the commission.

7810.5200 ANSWERING TIME.

Adequate forces shall be provided at local manual offices in order to assure that 95 percent of the calls will be answered within ten seconds. Ninety percent of repair service calls, calls to the business office, and other calls shall be answered within 20 seconds. An "answer" shall mean that the operator or representative is ready to render assistance and/or ready to accept information necessary to process the call. An acknowledgment that the customer is waiting on the line shall not constitute an answer.

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.

7810.6000 PROTECTIVE MEASURES.

Each utility shall exercise reasonable care to reduce the hazards to which its employees, its customers, and the general public may be subjected. The utility shall give reasonable assistance to the commission in the investigation of the cause of accidents and in the determination of suitable means of preventing accidents.

Attachment C**Summary of Public Comments**

Alan Lund 3/22/2021 and 4/21/2021 Was given 90 day notice for involuntary separation after 21 years of service. Indicated that CenturyLink has plenty of work.

Ron Refsnider 8/22/2021 CenturyLink service is becoming worse over time. Questionable after the pandemic with so many working and going to school remotely.

Marko Mrkonich July 6, 2022, trying to establish service at a new building site. Many failed appointments.

Terri Knutson July 6, 2022, Bad line service quality with prolonged outages.

Richard Gallagher July 12, 2022 Lose service when the power goes out. Battery back-up is failing. Husband and wife need reliable service due to health concerns.

Susan Miller July 12, 2022, unreliable service repair communications with long delays for repair appointments.

T. Swallow July 7, 2022, Problems with phone service. Missed repair appointments along with difficulty with scheduling appointments.

William A. Ebnet July 18, 2022 Problems with line quality that is worse during rain. Missed appointments and difficulty making and keeping appointments. Can be inconvenient due to health issues and schedules.

Robert F. Waldron August 8, 2022, Deceptive business practices Lower actual rate than the "grandfathered rate".

Richard Gannon August 14, 2022, Lengthy out of service. 911 calls made when phone not in service. Weather is an issue (wind and rain).

Paul Stelmachers on behalf of Benita Stelmachers July 21, 2022, Lengthy out of service with elderly relative.

Mary Fahey July 20, 2022, I also had a lengthy phone outage last summer and have experienced frequent outages especially after heavy rainstorms.

Daniel J. Schultz July 26, 2022, Spontaneous 911 calls from home phone. Service quality problems with phone line.

Lynn Grano August 13, 2022, Service quality problems with phone line.

Richard Gallagher July 20, 2022, Phone out in a power failure. No battery backup.

Julene Hartfiel, September 17, 2022, Service quality problems with phone line. Difficulty in meeting and making appointments to resolve.

Jacky Neville October 1, 2022, New service provision 29 days out. Elderly relative in assisted living.

Jennifer Winkelman October 12, 2022, Phone and internet not working. Failure to resolve in a timely fashion.

Amy Olmscheid October 13, 2022, Phone service not working. Took significant amount of time to remedy. Elderly relative.

Dwight Erickson October 9, 2022, Intermittent phone working and not working. Promises to restore service went unmet.

Bruce Boudia October 17, 2022, Phone service was out for weeks. Difficulty in restoring service.

Janet Leavitt October 19, 2022, Elderly relative. Phone service stopped working. Missed service appointment.

Germaine Gustafson October 20, 2022, Phone service not working. Service was not restored for two weeks.

Gilbert Pellet October 31, 2022, Phone service out for several days. Several missed repair appointments.

Margaret Peterson November 15, 2022, Elderly relative with intermittent phone service issues. Multiple missed appointments.

Judy Boots December 5, 2022, Phone service out several days. Difficult to get ahold of CenturyLink.