



State of Utah

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Public Service Commission

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October 30, 2017

Senator Daniel Hemmert, Chair

Representative Stephen G. Handy, Chair

Members of the Public Utilities, Energy, and Technology Interim Committee

Senator David P. Hinkins, Sponsor, S.B. 130, Universal Service Fund Amendments (2017 GS)

Re: Report from Public Service Commission of Utah ("PSC") under Utah Code Ann. § 54-8b-15(16)

Senators and Representatives,

Under Utah Code Ann. § 54-8b-15(16), enacted by S.B. 130 in the 2017 General Session, the PSC is required to report before November 1 each year to the Public Utilities, Energy, and Technology Interim Committee. The report is required to address four items:

1. The contribution method for the Universal Public Telecommunications Service Support Fund, typically referred to as the Utah Universal Service Fund ("UUSF").
2. The amount of distributions from and contributions to the UUSF during the last fiscal year.
3. The availability of services for which Utah law allows UUSF funds to be used.
4. The effectiveness and efficiency of the UUSF.

UUSF Background

The UUSF is a program under which the PSC distributes funds from contributions collected from customers and paid by Utah telephone providers. The statutory purpose of the UUSF is to provide a mechanism for a qualifying carrier of last resort to obtain specific, predictable, and sufficient funds to deploy and manage networks capable of providing end-user services including access lines, connections, or wholesale broadband internet access service. The Legislature has charged the PSC with establishing the contribution method to fund the UUSF through administrative rule, with a statutory mandate that the contribution method be both nondiscriminatory and competitively neutral.

In 2013, the Utah Division of Public Utilities published a report outlining various options for the UUSF going forward. That report, and all the stakeholder comments that preceded it, are available at this website: <https://psc.utah.gov/2016/07/05/docket-no-12-999-10/>.

In March 2015, the Utah State Auditor issued a report examining some of the revenue pressures on the UUSF. That report is available on this website: <http://financialreports.utah.gov/saoreports/2015/PA15-01UtahUniversalServiceFundPublicServiceCommission.pdf>.

During the 2017 General Session, S.B. 130 made significant updates to the UUSF. The bill's long title summarizes those changes as follows:

S.B. 130:

- provides that a telecommunications provider that establishes and maintains a network capable of providing access lines, connections, or wholesale broadband Internet access service may qualify for payments from the UUSF for use in carrier of last resort areas;
- requires each access line or connection provider in the state to contribute to the UUSF;
- requires the PSC to develop a method for calculating the amount of each contribution charge assessed to an access line or connection provider;
- combines a surcharge and funding for administering the hearing and speech impaired program with the UUSF surcharge;
- provides for a depreciation method and rate-of-return for a carrier of last resort that receives support from the UUSF;
- provides that a wireless telecommunications provider is eligible for a distribution from the UUSF for providing lifeline service under certain circumstances; and
- defines terms.

UUSF Contribution Method

Since October 1, 2016, the UUSF contribution rate has been 1.65% of billed intrastate retail rates. S.B. 130 requires the PSC, before January 1, 2018, to develop a contribution method that is a function of a provider's annual intrastate revenue, number of access lines or connections in Utah, or some combination of those two methods. Two days after Governor Herbert signed S.B. 130, the PSC opened a new docket and began soliciting stakeholder comments on how to structure the contribution method. That docket is available at this website:

<https://psc.utah.gov/2017/03/28/docket-no-17-r360-01/>.

Stakeholder comments indicate an axiom that consensus from the various stakeholders in the telecommunications industry on the UUSF contribution method is currently unattainable. The PSC considered the comments and made the decision to move forward with a surcharge method of \$0.36 per month per access line or connection. Once the PSC made that decision, some consensus was possible on secondary issues.

The PSC has made some Administrative Rule amendments effective to modify the contribution method beginning on January 1, 2018, and has another rule amendment in process intended to make further revisions before that implementation date.

Based on this rulemaking process, the PSC anticipates that by January 1, 2018, the relevant administrative rule language will read as follows:

R746-360-4. Application of Fund Surcharges to Customer Billings.

(1)(a) "Access line" is defined at Utah Code Subsection 54-8b-2(1) and is used in this rule, R746-360, to the extent consistent with federal law.

(b) For purposes of applying the statutory definition of "access line," the term "connection" is defined at Utah Code Subsection 54-8b-15(1)(c) and is used in this rule, R746-360, to the extent consistent with federal law.

(c)(i) Providers of access lines and providers of connections are hereafter referred to jointly as "providers."

(ii) Access lines and connections are hereafter referred to jointly as "access lines."

(2) Through December 31, 2017, providers shall remit to the Commission 1.65 percent of billed intrastate retail rates.

(3) As of January 1, 2018, the Utah Universal Public Telecommunications Service Support Fund (UUSF) shall be funded as follows.

(a) Unless Subsection R746-360-4(5) applies, providers shall remit to the Commission \$0.36 per month per access line that, as of the last calendar day of each month, has a place of primary use in Utah in accordance with the Mobile Telecommunications Sourcing Act, 4 U.S.C. Sec. 116 et seq.

(b)(i) "Place of primary use" means the street address representative of where the customer's use of the telecommunications service primarily occurs.

(ii) A provider of mobile telecommunications service shall consider the customer's [primary] place of primary use to be the customer's residential street address or primary business street address.

(iii) A provider of non-mobile telecommunications service shall consider the customer's [primary] place of primary use to be:

(A) the customer's residential street address or primary business street address; or

(B) the customer's registered location for 911 purposes.

(c) A provider may collect the surcharge:

(i) as an explicit charge to each end-user; or

(ii) through inclusion of the surcharge within the end-user's rate plan.

(d) A provider that offers a multi-line service shall apply the surcharge to each concurrent real-time voice communication call session that an end-user can place to or receive from the public switched telephone network.

(e) A provider that offers prepaid access lines or connections that permit access to the public telephone network shall remit to the Commission \$0.36 per month per access line for such service (new access lines or connections, or recharges for existing lines or connections) purchased on or after January 1, 2018.

(4)(a) A provider shall remit to the Commission no less than 98.69 percent of its total monthly surcharge collections.

(b) A provider may retain a maximum of 1.31 percent of its total monthly surcharge collections to offset the costs of administering this rule.

(5)(a) Subject to Subsection R746-360-4(5)(b), a provider may omit the UUSF surcharge with respect to an access line that is described in Subsection R746-360-4(3), and:

(i) generates revenue that is subject to a universal service fund surcharge in a state other than Utah for the relevant month for which the provider omits the UUSF surcharge[.]; or

(ii) for the relevant month for which the provider omits the UUSF surcharge, was not used to access Utah intrastate telecommunications services.

(b) A provider that omits any UUSF surcharge pursuant to Subsection R746-360-5(a) shall:

(i) maintain documentation for at least 36 months that the omission complied with Subsection R746-360-5(a); and

(ii) consent to any audit of the documentation requested by the:

(A) Commission; or

(B) Division of Public Utilities.

Distributions from / Contributions to the UUSF for the Fiscal Year Ended June 30, 2017

For FY 2017, total UUSF contributions to the UUSF were \$11,328,664 and total distributions from the UUSF were \$11,121,953.

Further breakdowns on distributions are listed below. While we recognize a total number of customers for each provider listed below could provide a useful data point when evaluating UUSF distributions, we acknowledge that customer counts might be viewed as commercially sensitive data, so we have not included them in this report.

Total FY2017 UUSF distributions to Utah rural incumbent local exchange carriers

Bear Lake Communications Inc.	\$262,783
Central Utah Telephone Inc.	\$267,568
All West Communications, Inc.	\$2,042,011
Gunnison Telephone Company	\$345,317
Hanksville Telecom Inc.	\$78,554
Skyline Telecom	\$46,308
STRATA Networks (UBTA-UBET Communications Inc.)	\$1,966,396
Union Telephone Company	\$75,861
Direct Communications Cedar Valley, LLC	\$588,300
Carbon Emery Telecom Inc.	\$886,069
South Central Utah Telephone Association, Inc.	\$2,103,288
Manti Telephone Company Inc.	\$950,000
Emery Telephone	\$1,110,996
Total:	\$10,723,451

Total FY2017 UUSF Lifeline (Utah Telephone Assistance Program) distributions

All West Communications Inc.	\$1,229
Bear Lake Communications Inc.	\$740
Beehive Telephone Company Inc.	\$715
Carbon Emery Telecom Inc.	\$13,270
Central Utah Telephone Inc.	\$5,774
Citizens Telecommunications Company of Utah	\$17,104
Direct Communications Cedar Valley, LLC	\$1,876
Emery Telephone	\$4,675

Gunnison Telephone Company	\$2,513
Hanksville Telecom Inc.	\$253
Manti Telephone Company Inc.	\$9,308
Navajo Communications Company, Inc.	\$3,152
Century Link QC	\$230,888
Skyline Telecom	\$4,374
South Central Utah Telephone Association, Inc.	\$10,424
STRATA Networks (UBTA-UBET Communications Inc.)	\$11,823
Union Telephone Company	\$67
Total:	\$318,181

FY2017 UUSF Lifeline (Utah Telephone Assistance Program) payment to the Utah Department of Workforce Services for administration of Lifeline eligibility verification: \$80,321

Availability of Services Receiving UUSF Funds

Wireline Telephone Service

In the past, the Federal Communications Commission (“FCC”) published annual reports of wireline telephone service availability in each state. The report was based on the total number of occupied housing units with access to wireline telephone service.

The last such report issued by the FCC was in September 2010, listing data from years 2001 through 2008. Utah’s availability of wireline telephone service had increased from 97.4 percent of occupied housing units in 2001 to 99.3 percent of occupied housing units in 2008. For the 2008 data, Utah had the highest percentage of all 50 states (while the state with the lowest percentage was 95.7 percent).

The PSC is unaware of a research source with more recent data, although it seems counter-intuitive that wireline telephone service availability would have decreased in any significant manner since 2008. Adoption, of course (as opposed to availability) has decreased significantly as some customers choose wireless telephone service over wireline service.

Broadband Internet Service

In the past, the FCC published a national broadband analysis that included, for each state:

- A percentage of census blocks with Internet availability with download speeds greater than 3 Mbps and upload speeds greater than 0.768 Mbps;
- A percentage of households with broadband internet subscription; and
- A percentage of population with access to download speeds greater than 3 Mbps.

The last such analysis issued by the FCC used data as of June 30, 2014. In that report, Utah had:

- 99.9 percent of census blocks with internet availability with download speeds greater than 3 Mbps and upload speeds greater than 0.768 Mbps;
- 87 percent of households with broadband internet subscription; and
- 93 percent of the population with access to download speeds greater than 3 Mbps.

More recent research and data in a different format is maintained by the Utah Broadband Outreach Center, an office within the Governor's Office of Economic Development. That office maintains an online resource at <https://broadband.utah.gov/map/> allowing a user to enter a street address in Utah and find various broadband Internet options at that location. Additionally, that office published a Utah Broadband Atlas in January 2015 and maintains an online resource showing the availability of broadband Internet service by county. Those two resources are available at the following websites:

<https://broadband.utah.gov/wp-content/uploads/2015/02/Broadband-Atlas-Final-Small-File.pdf>

<https://broadband.utah.gov/resources/maps-and-data/residential-broadband-coverage-statistics-county/>.

Effectiveness and Efficiency of the UUSF

On July 5, 2017, four days after S.B. 130 became effective, we opened a rulemaking docket separate from the contribution method docket. We published a first draft of proposed administrative rule amendments to implement other changes in S.B. 130. That docket is available at this website: <https://psc.utah.gov/2017/07/06/docket-no-17-r008-01/>.

Several stakeholders asked us to delay that rulemaking process until after we complete changes to the UUSF contribution method. No stakeholder opposed that request. In response, we issued an order on July 20, 2017 putting a stay, or hold, on the docket. As we approached the conclusion of our work on the UUSF contribution method, we reopened that docket and comment period, and we should receive comments in November and December.

Because our rulemaking process on those other issues is still in an early stage, we have limited comments or suggestions to make to the Legislature on the effectiveness and efficiency of the UUSF. There are areas where the results of S.B. 130 might put increased pressure on UUSF revenues, but at this point the specific impacts are uncertain. Issues that might pressure UUSF revenues in the future include:

- Lifeline payments to wireless telephone providers;
- Expansion of UUSF one-time distributions;
- Expansion of the uses for which incumbent local exchange carriers may use UUSF distributions;
- UUSF distributions to carriers of last resort whose rate of return is not regulated by the PSC; and
- Modifications to depreciation methods.

We commit to keep the Legislature informed as these issues develop, and our next annual report under Utah Code Ann. § 54-8b-15(16) will outline what financial impacts these issues have on the UUSF during FY 2018.

One issue worth highlighting is whether the Legislature should consider implementing a statutory cap on the UUSF contribution amount. We recognize that it is unusual for the Legislature to delegate to the PSC both the authority to set the contribution amount that creates the revenue flow into the UUSF, and the authority to adjudicate distributions from those revenues. We take those joint responsibilities seriously and pledge to perform them in a deliberate and transparent way. Nevertheless, we believe it should be a conscious legislative decision whether to continue to leave both sides of UUSF administration solely to the regulatory arena, or whether there should ever be a statutory cap on UUSF contribution rates.

We hope this information is helpful. Please reach out to us with any questions or concerns about our administration of the UUSF.

Respectfully submitted,

/s/ Thad LeVar, Chair

/s/ David R. Clark, Commissioner

/s/ Jordan A. White, Commissioner

Public Service Commission of Utah