

**Before the
PUBLIC SERVICE COMMISSION OF UTAH**

Investigation into Management of the Utah)	Docket No. 18-999-15
Universal Service Fund Contribution Method)	
)	

COMMENTS OF CTIA

CTIA respectfully submits its comments in response to the Public Service Commission of Utah’s (“Commission’s”) Notice of Comment Period entered January 14, 2019 in the above-captioned docket.

In the present proceeding, the Commission seeks comment on a possible 66% increase to the Utah Universal Service Fund (“UUSF” or “Fund”) surcharge, as proposed by the Division of Public Utilities (“DPU”) in its comments on this proceeding.¹ The Commission intends that, if adopted, a UUSF surcharge increase would go into effect five months from now, on July 1, 2019.

In light of the magnitude of this proposed increase, which would be the latest in a line of recent changes and increases to the surcharge, CTIA, as it has throughout this proceeding, reiterates its serious concerns with the current state of the UUSF program. CTIA again urges the Commission to initiate a comprehensive review of the UUSF program to ensure that the Commission limits the burden on Utah’s consumers, and to institute a cap on the high-cost program to prevent it from becoming unsustainable altogether.

¹ See Recommendation, Utah Division of Public Utilities, Docket No. 18-999-15 (January 11, 2019) (“DPU Comments”) at 5.

I. THE SUGGESTED SURCHARGE INCREASE FURTHER INDICATES THAT THE UUSF PROGRAM REQUIRES A COMPREHENSIVE REVIEW AND A CAP ON THE HIGH-COST PROGRAM

As stated in its Notice of Investigation and Comment Period in this proceeding on October 9, 2018, the Commission previously increased the UUSF contribution rate from 1% of billed intrastate retail rates to 1.65% in 2016, an increase of 65%, and changed the surcharge to \$0.36 per month for each access line or connection in 2018.² Then, on January 11, the DPU filed comments in this proceeding recommending that, in light of increased demands on the Fund, the UUSF surcharge be raised again, to 60 cents per connection per month, a 66% increase to the surcharge. If adopted, the Commission intends this change would go into effect on July 1.³

As the Commission has also noted, the Legislature has expressed a preference for the Commission not to modify the UUSF surcharge more than once every three years.⁴ While the DPU believes that its suggested connection charge is sufficient to meet that goal,⁵ CTIA notes the proposal would be the second increase to the UUSF surcharge for Utah consumers – and for some consumers, the third – in the space of two and a half years, and the UUSF budget continues to grow.⁶ In this proceeding, the Commission has said that “performance measures and targets”

² See *Investigation into Management of the Utah Universal Service Fund Contribution Method*, Notice of Investigation and Comment Period, Docket No. 18-999-15 (October 9, 2018) (“October 2018 Notice”) at 1.

³ See DPU Comments at 5, *Investigation into Management of the Utah Universal Service Fund Contribution Method*, Notice and Action Request to the Division of Public Utilities, Docket No. 18-999-15 (January 3, 2019) (“January 2019 Notice”) at 2.

⁴ See October 2018 Notice at 1.

⁵ See DPU Comments at 2, 5 (“...the [Commission] requested the DPU provide an estimate of the surcharge amount that would sustain the UUSF and mentioned the legislative goals that the rate should maintain three months payments and not be modified more than once every three years. The DPU recommendation attempts to satisfy all of these criteria.”)

⁶ While the change in contributions methodology makes a direct comparison impossible, according to the Commission’s 2018 report on the status of the UUSF, distributions from the Fund rose from \$11.1 million in 2017 to \$12.0 million in 2018 (when the Commission changed the Fund methodology), and contributions rose from \$11.3 million to \$12.9 million. Thus, while the methodology change may not have represented an increase for all contributors, its net effect was an increase to the surcharge for a third consecutive year. See Report from Public Service Commission of Utah (“PSC”) under Utah Code Ann. § 54-8b-15(16) (September 4, 2018) (“2018 UUSF Report”) at 2-3.

such as those laid out by the Legislature “support sound and conservative public policy and fiscal management” and “are necessary for good government, transparency, and accountability.”⁷

CTIA agrees, which is why it is concerned that the UUSF surcharge seems to be increasing at an unsustainable pace nonetheless, with no limits in sight.

While the Commission contends that the suggested increase is necessary due to “multiple dockets modifying both UUSF disbursements to rate of return regulated carriers in Utah and lifeline disbursements to wireless eligible telecommunications carriers,”⁸ the DPU’s analysis confirms CTIA’s previous warnings that the vast majority of UUSF distributions continue to be earmarked for high-cost support, including newly eligible broadband disbursements from the Fund. According to the DPU’s estimates, 83% of the total annual cost of the UUSF will go to fund high-cost support in 2019.⁹ And while it is true that Lifeline disbursements are projected to rise from \$138,553 in 2018 to \$1.34 million in 2019, Lifeline disbursements will only make up a projected 5.88% of total UUSF disbursements in 2019.¹⁰ Rather, it seems that the main stress on the Fund is the addition of broadband eligibility for disbursements. High-cost support is projected to increase from \$10.8 million in 2018 to \$19 million in 2019 – an increase of nearly 75% year-over-year.¹¹

The fact that another massive hike in the UUSF surcharge appears necessary to keep the UUSF solvent re-emphasizes, as CTIA has noted multiple times in this proceeding,¹² that the UUSF program is in dire need of a comprehensive review. As the Commission has recognized, consumers continue to move away from wireline to wireless connections, meaning that wireless

⁷ See January 2019 Notice at 1-2.

⁸ *Id.* at 2.

⁹ See DPU Comments at 4 (estimating \$19.0 million in high-cost support out of a total UUSF annual cost of \$22.8 million).

¹⁰ See *id.*

¹¹ See *id.*

¹² See, e.g., Comments of CTIA, Docket No. 18-999-15 (Nov. 16, 2018) at 3-4.

consumers are taking on more and more of the increasingly massive burden of high-cost support in Utah.¹³ And the burden on retail consumers is exacerbated by the Commission's recent shift from a revenues-based to a connections-based UUSF surcharge, which has clearly not solved the problems inherent in the program, but instead has burdened retail consumers with supporting a higher percentage of the Fund contributions as compared to businesses. These shifts indicate that as the UUSF continues to grow, the distortion it causes in the Utah telecommunications marketplace will only become more severe, unfairly making wireless consumers more fiscally responsible for competitive losses incurred by wireline providers. Further, these repeated and rapid changes to the UUSF surcharge create consumer confusion and rate shock, as consumers will now be adjusting to their fourth different surcharge amount under two different methods over the course of 30 months.

Additionally, the fact that UUSF high-cost support remains uncapped (although the Legislature has expressed a clear preference for a *de facto* three year cap on the Fund) means that there are no guarantees that the UUSF surcharge will not require another increase *again* in the near future, accelerating the program's rapid spiral towards unsustainability.

By raising the UUSF surcharge without an accompanying review of the UUSF program, the Commission would be failing to address the significant problems inherent in the current UUSF structure. Instead, the Commission should, in place of the surcharge increase, initiate a review of the UUSF program to ensure that it is sustainable and the burden on consumers is the minimum necessary to achieve UUSF goals, incorporate the reasonable and prudent guidelines

¹³ See 2018 UUSF Report, at 4.

outlined by CTIA previously in this proceeding, and institute a cap on the high-cost program as a tangible first step towards preventing the surcharge from rising to unsustainable levels.¹⁴

II. CONCLUSION

The fact that stakeholders are once again being called on to discuss a major increase to the UUSF surcharge is further proof that the Commission's move to a connections-based mechanism was not a cure to the numerous, inherent problems with the current UUSF. Until those problems can be addressed completely, the Commission should cap the high-cost program to help ensure that the UUSF does not continue the path towards unsustainability.

Respectfully submitted,

By: /s/
Matthew DeTura

Benjamin Aron
Matthew DeTura
CTIA
1400 16th Street NW
Suite 600
Washington, D.C. 20036
(202) 736-3683

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¹⁴ CTIA suggests that the Commission institute a three-year freeze on funding levels at the current DPU estimates, if such are adopted, and during that time, the Commission can conduct the necessary review of UUSF goals, policies, and procedures. Such a review should also take into account the significant amount of federal support for broadband and voice. According to FCC data, more than \$160 million in federal broadband funding has been allocated for Utah carriers since 2015, via the Connect America Fund ("CAF") and Alternative Cost America Model ("A-CAM"). *See, e.g.,* USAC 2018 4th Quarter Filings, available at <https://www.usac.org/about/tools/fcc/filings/2018/q4.aspx>; FCC, "Connect America Auction to Expand Broadband to 713,176 Rural Locations" (August 28, 2018), available at <https://www.fcc.gov/document/connect-america-auction-expand-broadband-713176-rural-locations>.