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BEFORE THE PUBLIC SERVICE COMMISSION OF UTAH	
Investigation into Management of the Utah Universal Service Fund Contribution Method	UTAH RURAL TELECOM ASSOCIATION'S REPLY COMMENTS DOCKET NO. 18-999-15

The Utah Rural Telecom Association (“URTA”), on behalf of itself and URTA members, All West Communications, Inc., Bear Lake Communications, Inc., Beehive Telephone Company, Carbon/Emery Telcom, Inc., Central Utah Telephone, Inc., Direct Communications Cedar Valley, LLC, Emery Telephone, Gunnison Telephone Company, Hanksville Telcom, Inc., Manti Telephone Company, Skyline Telecom, South Central Utah Telephone Association, Inc. UBTA-UBET Communications, Inc. dba Strata Networks, and Union Telephone Company (“Members” or “URTA Members”) hereby files these Comments to address the Comments of CTIA filed February 6, 201 regarding the Division of Public Utilities’ (“Division”) recommendations that the contribution surcharge for the Utah Universal Public Telecommunications Services Support Fund (“UUSF”) be increased from \$.36 per access line/connection per month to \$.60 per access line/connection per month.

URTA REPLY COMMENTS

In response to the Division’s analysis of the UUSF surcharge and recommendation that the UUSF surcharge increase to \$.60 per access line/connection per month, CTIA filed

Comments on February 6, 2019 (“CTIA Comments”). CTIA has not offered any comment contesting the analysis of the surcharge presented by the Division. Nor has CITA suggested that the amount of the surcharge is not warranted under Utah law, or that the amount of the surcharge should be calculated in some other fashion. Rather, all of the arguments raised in CTIA’s Comments relate to policy concerns that CTIA has raised previously in this docket and unsuccessfully with the Legislature in 2017.

Specifically, in its Comments CTIA urges the Commission to “initiate a comprehensive review of the UUSF program to ensure that the Commission limits the burden on Utah’s consumers.”¹ CTIA also requests that the Commission “institute a cap on the high-cost program to prevent it from becoming unsustainable altogether.”² Once again, CTIA’s Comments reveal a fundamental misunderstanding of the Commission’s role in setting universal service policy. As previously indicated in URTA’s Reply Comments in this Docket filed on December 6, 2018, the Commission doesn’t set the policy goals related to the size and scope of the UUSF and the Commission does not have the statutory authority to institute a cap on the high-cost program.

Further, review of the UUSF statute, Utah Code § 54-8b-15 reveals that there is no statutory authority for the Commission to undertake a comprehensive review of the UUSF, and CTIA’s suggestion that the Commission not approve a surcharge increase without such a comprehensive review seems to ignore the fact that the Legislature already did a comprehensive review of the UUSF in 2017. As this Commission is aware, in 2017 the Legislature determined that comprehensive changes to the UUSF were needed for several reasons.

¹ CTIA Comments, p. 1.

² *Id.*

First, in 2016 the Commission identified that the UUSF contributions were declining. Wireless companies were allocating a larger portion of the customers' bills to the interstate jurisdiction. As a result, state UUSF contributions which were based on a percentage of intrastate retail revenues had been declining, even as more and more wireless devices were connecting to the public switched network. To address this decline, the Commission suggested a per line UUSF surcharge in place of a UUSF surcharge based on a percentage of intrastate retail revenue. The Commission correctly predicted this would result in a more stable contribution base.

At the same time, the URTA companies suggested that the statute be updated to reflect the changes in technology. Prior to the comprehensive UUSF review, the UUSF statute spoke only in terms of access lines, which left a gaping loophole for internet-protocol based technology. Many of the "connections" to the public switched telephone network are IP connections. As a result, it didn't make sense for customers using traditional access lines to connect to the PSTN to pay into the UUSF while customer using IP connections to the PSTN to be exempted from contributing to the UUSF. Therefore, the Legislature updated Utah Code § 54-8b-15 (the "UUSF Statute") to clarify that any and all connections to the PSTN, regardless of technology, are subject to the UUSF surcharge.

Finally, the Legislature recognized that distributions from the UUSF were subject to long regulatory proceedings that were costly to the company and to the state in terms of time and resources. There was very little regulatory certainty for companies seeking distributions from the UUSF, and the same issues were litigated over and over at the Commission with varying, often times, unpredictable outcomes. In an effort to provide regulatory certainty and to

streamline the UUSF distribution process, the Legislature adopted the federal rate of return and thus eliminated two routinely litigated matters (capital structure and rate of return).

Consistent with these statutory changes, the Commission adopted rules requiring annual review of each carrier of last resort's annual report to determine UUSF eligibility. This process was first implemented by the Division and the Commission in 2018. The result of that review was an increase in the UUSF for some companies and a decrease in the UUSF for others beginning in 2019. What was clear from the review, however, was that several companies were not receiving the appropriate amount of UUSF prior to the review in 2018. Contrary to the assertions of CTIA, the overall increase in high cost UUSF support in 2019 is a long overdue right-sizing of the UUSF distributions and does not indicate there will be an increase year after year at an unsustainable pace as claimed by CTIA. On the contrary, as the annual reviews continue, it is likely that as the mandated rate of return declines, the UUSF distributions will also decline.

Despite the red herrings contained in CTIA's filed Comments, the Commission is tasked, under Senate Bill 130 (2017) and Utah Code § 54-8b-15(9), with deciding the method of UUSF contribution and determining the amount of the UUSF surcharge. This is precisely what the Commission is doing in this docket – setting the appropriate amount of the surcharge based on the mandates of the Legislature. The Division, at the request of the Commission, has undertaken a review of the mandates of the Legislature contained in Utah Code § 54-8b-15; has estimated the costs of implementing those mandates; and has recommended a UUSF surcharge increase of \$0.60/access line/connection to cover those costs. If the Commission agrees with the Division's analysis, the Commission is squarely within its statutory authority to approve and implement the necessary surcharge.

CONCLUSION

In short, the Commission is statutorily authorized and required to set the UUSF surcharge by Utah Code §54-8b-15(8). The Division has estimated the costs associated with the comprehensive changes to the UUSF and has determined the surcharge should be set at \$0.60/access line/connection per month. CTIA has not offered any analysis or information to dispute the conclusion of the Division. If the Commission agrees with the recommendation of the Division, the Commission should approve the proposed surcharge.

DATED this 20th day of February, 2019.

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CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of URTA's Reply Comments, Docket 18-999-15 was served the 20th of February, 2018 as follows:

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