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DEPARTMENT OF COMMERCE  
Office of Consumer Services

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To: Utah Public Service Commission  
From: Office of Consumer Service  
Michele Beck, Director  
Cheryl Murray, Utility Analyst  
Date: May 31, 2016  
Subject: In the Matter of the Utah Affordable Base Rate for Telecommunications Services. Docket No. 16-R746-360

### Introduction and Background

On March 4, 2016, the Public Service Commission (Commission) issued a Request for Comments. The Commission noted that “[E]ffective July 1, 2016, the Federal Communications Commission (FCC) will require Utah’s rural telecommunications providers to charge a base rate of \$18 in order to remain eligible for subsidization through the Universal Service Fund.” The Commission requested comments from affected telecommunications providers regarding whether Utah’s base rate should be changed accordingly and, if so, how the change should be accomplished.

On March 25, 2016, AT&T Companies and the Utah Rural Telecom Association each filed comments responding to the Commission’s request.

On April 18, 2016 the Commission issued a Notice of Requirement to File a Petition to Amend Tariff or to Deviate from the Utah Affordable Base Rate.

In that notice the Commission said that the rule amendment necessary to modify the Utah affordable base rate would be published in the *Utah State Bulletin* on May 1, 2016. Public comment period on the amendment would continue through May 31, 2016 and a public hearing would be conducted on May 31, 2016. The Commission intends to make the rule effective on June 7, 2016.

The Commission further stated:

“A telecommunications provider must petition the Commission for approval to revise its tariff in order to increase its rate(s). Such petition must be filed at least seven (7)

days prior to the date on which the telecommunications provider proposes to begin charging the new rate(s). The Commission will adjudicate any petition that is filed pursuant to this notice in an informal proceeding,<sup>1</sup> without hearing, provided that:

1. The requested effective date of the increased rate(s) is on or after June 1, 2016.<sup>2</sup>
2. The requested rates do not exceed \$18 per residential line and \$27.50 per business line.
3. No other changes are made to the tariff.

A telecommunications provider that does not wish to adopt the Utah affordable base rates may petition the Commission to deviate from those rates. See Utah Administrative Code R746-100-15. The telecommunications provider has the burden to demonstrate that the Utah affordable base rates are not reasonable in the particular geographic area served. See Utah Code § 54-8b-15(7)(b). Any such petition will be adjudicated in a formal proceeding. A telecommunications provider that does not file a revised tariff risks losing its UUSF subsidy unless a petition to deviate is on file with the Commission by June 7, 2016.

After adjudicating a petition to adopt the Utah affordable base rate, the Commission will require the Division of Public Utilities (Division) to examine the telecommunications provider's finances in order to determine whether the increased revenue requires a reduction in UUSF subsidization. Should the Division recommend a reduction, the matter will be subject to a formal adjudication before the Commission.”

On May 25, 2016, URTA filed additional comments on the proposed rule amendments R476-360-6. In those comments URTA, among other things, requested that a separate Affordable Base Rate for business customers be discontinued as it is inconsistent with the federal rate floor benchmark, which does not have a separate business rate floor.

### **Office of Consumer Services (Office) Proposal**

The Office agrees with URTA that a separate Affordable Base Rate for business customers be discontinued, at least temporarily, unless the Commission has evidence that the cost to serve business customers is different than the cost to serve residential

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<sup>1</sup> Utah Code § 63G-4-202(3) provides that a formal proceeding may be converted to an informal proceeding if (a) conversion is in the public interest; and (b) conversion does not unfairly prejudice the rights of any party. The Commission finds that these standards are met. Specifically, it is in the public interest to allow telecommunications providers to comply with federal requirements for ongoing support without incurring costs to litigate the process. The loss of federal support would likely result in the need to increase both rates and the UUSF surcharge. Using an informal process to avoid that outcome does not prejudice any party's rights.

<sup>2</sup> In order to approve a rate increase prior to the June 7, 2016 effective date of the amendment to Utah Administrative Code R746-360-6(B), the Commission will deviate from the rule. See Utah Administrative Code R746-100-15

customers. The Office recommends that the Commission investigate the need for a separate business line rate. The Office proposes this could be accomplished through a technical conference or other proceeding wherein the appropriateness of a separate rate structure for business lines based on the cost to serve that class of customers could be established.

Until such an investigation can be concluded the Office recommends that the Commission adjust the Affordable Base Rate per business line to \$18.00 to mirror the proposed residential line rate.