

- BEFORE THE PUBLIC SERVICE COMMISSION OF UTAH -

In the Matter of the Utah Administrative
Code R746-8, Proposing to Repeal R746-
360, R746-341, and R746-343

DOCKET NO. 17-R008-01
NOTICE OF PROPOSED
RULEMAKING AND REQUEST FOR
COMMENTS

ISSUED: July 5, 2017

On July 1, 2017, significant changes to Utah Code § 54-8b went into effect. These changes include expanding use of the Utah Universal Service Fund (UUSF) to include in the Utah Lifeline program wireless telecommunications providers and broadband providers. The revised statute requires the Public Service Commission of Utah (PSC) to make rules governing the expanded program. Utah Code § 54-8b-15(3)(b).

The PSC's review of the existing UUSF rules revealed several additional, general concerns:

1. Some of the rule sections needlessly duplicate statutory language.
2. Some of the rule sections do not set forth a requirement, process, or prohibition applicable to public utilities. Rather, these sections provide lengthy explanations of the PSC's internal procedures—for example, the process the Relay Utah staff uses to qualify program participants.
3. In general, the language is unnecessarily complicated, repetitive, and wordy.
4. In general, the numbering system is awkward and inconsistent.

To remedy these concerns, the PSC proposes to repeal Utah Administrative Code R746-360, R746-341, and R746-343, replacing all three with a new UUSF rule, numbered R746-8. To aid affected persons in reviewing and commenting on the proposed new rule, the following documents accompany this notice:

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1. Microsoft Word document titled "r746-8_clean.rtf." This document is a clean copy of the proposed UUSF rules. Changes made to the existing language are not tracked in this document.
2. Microsoft Word document titled "r746-8_old rules included for reference.rtf." This document includes the existing rules and, below each section, the new language dealing with the same issues and topics.
3. Microsoft Word document titled "Change chart - R746-360; 341; 343 to R746-8.docx." This document provides very brief explanations of the proposed edits and revisions. For each substantive section, the chart identifies:
 - the existing rule number;
 - the new rule number;
 - the change; and
 - the reason for the change.

The PSC requests comments regarding the proposal to repeal R746-360, R746-341, and R746-343 and to enact R746-8. Comments may be submitted by **Wednesday, August 2, 2017**, and reply comments may be submitted by **Thursday, August 17, 2017**. The PSC emphasizes the following considerations:

1. The proposed rule incorporates the per-connection UUSF funding mechanism that the PSC proposed through Division of Administrative Rules filing 41644, which is proposed to go into effect on August 1, 2017. The PSC has received several comments about the surcharge rule filing. Any modification made to that language as a result of the comments will be incorporated into the final draft. Therefore, the PSC does not request comments regarding the surcharge mechanism to be submitted under this notice.

2. As drafted, R746-8-403 requires that Lifeline subscribers be verified as eligible through the FCC's national verifier. Therefore, as of the effective date of the rule, ILECs would be able to continue serving existing Lifeline subscribers, but no new subscribers would be allowed to enter the program until the national verifier is operational. As of the date of this notice, it is anticipated that the national verifier will be operational by January 28, 2018. However, that date is not guaranteed.
3. As drafted, R746-8-403 would eliminate the option for potential Lifeline subscribers to demonstrate eligibility by providing income information to the Division of Public Utilities. Eligibility would be restricted to individuals who participate in an FCC-recognized program that offers assistance to low-income households.
4. As drafted, R746-8-403 requires wireless providers and broadband-only providers to obtain a Certificate of Public Convenience and Necessity (CPCN) in order to participate in the state Lifeline program. Currently, the CPCN application includes a \$100 application fee, and a CPCN holder is required to pay a yearly regulatory fee and provide a yearly report to the Division of Public Utilities.
5. The PSC understands that the FCC plans to phase out the requirement that a Lifeline product include a voice component. The PSC would have to operate somewhat independently of the FCC in order to continue offering support for a voice-only product or to offer a higher level of support for a product that includes a voice component along with broadband service. The PSC invites comments as to whether it is likely that there will be a market for such products.

6. While this notice focuses primarily on the Lifeline rules, significant changes have been made in other sections of the UUSF rules. In particular, the PSC requests that ILECs carefully review R746-8-401.
7. No specific language has been drafted regarding the following issues:
 - circumstances in which non-rate-of-return incumbent providers may receive ongoing UUSF support; or
 - circumstances in which a one-time disbursement from the UUSF may be granted.

The PSC requests that interested parties provide draft language regarding these issues.

8. Comments that request the PSC to address a request or a concern, but that do not provide draft language, will likely not be addressed as thoroughly or accurately as those that provide draft language. Persons who desire changes to the current draft or who wish to include new subsections, topics, or language are strongly encouraged to provide a proposed red-line draft.
9. Finally, ensuring that the rule numbers and internal citations are correct is the final step in the process of preparing a draft rule for publication. The PSC has striven for accuracy throughout its drafting, but makes no guarantees at this point. If interested persons notice errors, the PSC welcomes the feedback. However, rule content is the primary focus at this point.

The PSC hopes to finalize the UUSF rules so that they may be filed with the Division of Administrative Rules no later than September 1, 2017.

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DATED at Salt Lake City, Utah, July 5, 2017.

/s/ Jennie T. Jonsson
Administrative Law Judge

Approved and confirmed July 5, 2017 by the Public Service Commission of Utah.

/s/ Thad LeVar, Chair

/s/ David R. Clark, Commissioner

/s/ Jordan A. White, Commissioner

Attest:

/s/ Gary L. Widerburg
Commission Secretary
DW#295118

CERTIFICATE OF SERVICE

I CERTIFY that on July 5, 2017, a true and correct copy of the foregoing was served upon the following as indicated below:

By Electronic-Mail:

Bob Kraut (bob@atcnet.net)
Albion Telephone Company, Inc.

Jenny Prescott (jenny.prescott@allwest.com)
All West Utah, Inc.

Janet McFarland (j.mcfarland@centracom.com)
Bear Lake Communications

Bryan Scott (bscott@beehive.net)
Beehive Telecom, Inc.

Brock Johansen (bjohansen@emerytelecom.com)
Carbon-Emery Telecom Inc.

Blake Madsen (bmad@cut.net)
Central Utah Telephone

Ted Hankins (ted.hankins@centurytel.com)
CenturyTel of Eagle, Inc.

Kirk Lee (kirk.lee@ftr.com)
Citizens Telecommunications Company of Utah

Diane (diane@directcom.com)
Direct Communications Cedar Valley, LLC

J. Frandsen (jfrandsen@emerytelcom.com)
Emery Telephone

Douglas G. Pace (dpace@ftitel.net)
Farmers Telephone Company, Inc.

Kent Sanders (kent@gtelco.net)
Gunnison Telephone Company

D. Woolsey (dwoolsey@emerytel.com)
Hanksville Telecom, Inc.

Dallas Cox (dallasc@mail.manti.com)
Manti Telephone Company

Barbara Saunders (west.consumer.relations@czn.com)
Navajo Communications Company, Inc.

Jim Farr (james.farr@centurylink.com)
Qwest Communication, QC dba CenturyLink QC

Blake Madsen (bmad@cut.net)
Skyline Telecom

Alan Torgersen (alant@socen.com)
South Central Utah Telephone Association, Inc.

Jerilyn Hyder (jhyder@stratanetworks.com)
UBTA-UBET Communications, Inc.

John Woody (jwoody@union-tel.com)
James Woody (jwoody@union-tel.com)
Union Telephone Company

Brett N. Anderson (bretta@blackburn-stoll.com)

Vicki Baldwin (vbaldwin@parsonsbehle.com)

Sharon Bertelsen (bertelsens@ballardspahr.com)

Larry Bowman (larry.bowman@charter.com)

Brian W. Burnett (bburnett@kmclaw.com)

(cflregulatory@chartercom.com)

Eddie L. Cox (ecox@cut.net)

Carl Erhart (carl.erhart@ftr.com)

William J. Evans (bevans@parsonsbehle.com)

James Farr (james.farr@centurylink.com)

Amy Gross (agross@tminc.com)

Alan Haslem (ahaslem@mleainc.com)

Ray Hendershot (ray.hendershot@beehive.net)

William Huber (william.huber@questar.com)

Bill Hunt (williamp.hunt@dish.com)

David R. Irvine (drirvine@aol.com)

Kristin L. Jacobson (Kristin.l.jacobson@sprint.com)

Brock Johansen (bjohansen@emerytelcom.com)

Dawn Kubota (kubotad@ballardspahr.com)

Jasen Lee (jlee@desnews.com)

Shirley Malouf (srmalouf@stoel.com)

Jennifer H. Martin (jhmartin@stoel.com)

Steve Mecham (sfmecham@gmail.com)

Roger Moffitt (roger.moffitt@att.com)

Gregory Monson (gbmonson@stoel.com)

Sharon Mullin (smullin@att.com)

Thorvald Nelson (tnelson@hollandhart.com)

Janice Ono (Janice.ono@att.com)

Sheila Page (spage@utah.gov)

Mike Peterson (mpeterson@utahcooperatives.org)

Pam Pittenger (pam.pittenger@ftr.com)

Jenny Prescott (jenny.prescott@allwest.com)

Bruce Rigby (bruce@ucmc-usa.com)

Gary Sackett (gsackett@joneswaldo.com)

Kira Slawson (kiram@blackburn-stoll.com)

Alan L. Smith (alanakaed@aol.com)

Ted D. Smith (tsmithlaw@earthlink.net)

Kendra Thomas (kthomas@kfrservices.com)

Bruce H. Todd (btodd@stratanetworks.com)

Jake Warner (jakew@beehive.net)

Patricia Schmid (pschmid@agutah.gov)

Justin Jetter (jjetter@agutah.gov)

Steven Snarr (stevensnarr@agutah.gov)

Robert Moore (rmoore@agutah.gov)

Assistant Utah Attorneys General

Erika Tedder (etedder@utah.gov)

Division of Public Utilities

By Hand-Delivery:

Office of Consumer Services
160 East 300 South, 2nd Floor
Salt Lake City, Utah 84111

Administrative Assistant