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To: Public Service Commission of Utah (PSC)

From: Chris Parker, Director, Utah Division of Public Utilities
William Duncan, Manager Telecommunications, Utah Division of Public Utilities
Casey J. Coleman, Utility Technical Consultant, Utah Division of Public Utilities

Re: DPU Comments Docket 17-R008-01
In the Matter of the Utah Administrative Code R746-8, Proposing to Repeal R746-360, R746-341, and R746-343

The Utah Division of Public Utilities ("DPU") appreciates the opportunity to comment on the Utah Public Service Commission's ("PSC") proposed rule R746-8 noticed by the PSC on July 5, 2017. The DPU is mindful of the Commission's effort to update and modernize the rules dealing with the Utah Universal Service Fund ("UUSF"). Generally, the DPU supports many of the provisions of the proposed rule and will provide comments only on items that should be expanded or clarified.

R746-8-200(4)
Definition of Eligible Telecommunications Carrier

Defining an eligible telecommunications carrier or ETC as a company that holds a certificate of public convenience and necessity from the commission and is designated as an ETC in accordance with 47 U.S.C Section 214(e) is an appropriate requirement for companies wanting to participate in the UUSF.

The PSC should consider eliminating section R746-8-200(4)(b)(ii). The FCC recently issued a notice of proposed rulemaking that it intends to eliminate the designation of a Lifeline Broadband Provider (LBP). If that order by the FCC is made final there is little reason to have this section in the PSC's rules. The federal and state programs should be reasonably harmonized.

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R746-8-302
<u>UUSF Surcharge Remittance</u>

In the proposed rule the PSC has added specific guidelines for remitting the UUSF surcharge. The change allows companies to accrue their remittance if the dollar amount required by a company would be less than $1,000. Companies who fall into this category would remit payments every six months instead of monthly.

The DPU believes this is a prudent addition to the rules. As a general policy, the DPU has been allowing companies who had smaller remittance amounts to accrue those totals and pay every six months. This addition to the rule gives clarity to the DPU and telecommunications companies on the threshold the PSC accepts as reasonable.

R746-8-401(3)(a)(ii)
<u>Depreciation</u>

The PSC's proposed rule states:

> The provider's depreciation costs shall be calculated through:
> (A) the single-asset straight-line methodology; or
> (B)(I) a group methodology that complies with FCC Part 32, Subpart 32.2000(g)(1)(i); and
> (II) regardless of the methodology used, be calculated so as to depreciate each individual unit within an asset group at an even rate and over the full period of time prescribed in the provider's Commission-approved depreciation schedules.

This section is ambiguous. The FCC approves of mass asset depreciation, which does not always conform to straight-line depreciation methods. The section allows the company to use any method that complies with the FCC so long as it equals the straight line method. The DPU is requesting clarification of how a company would use a mass asset depreciation while maintaining the Commission-approved asset lives.

R746-8-401(4)
<u>Rate-of-return regulated Incumbent Providers</u>

The DPU seeks clarification on the provision that requires the DPU to adjust each provider's monthly UUSF distribution yearly based on (i) the current FCC rate of return, and (ii) the last UUSF review. The DPU has the following concerns:

1. If the PSC defines the last UUSF review to mean the last time the provider's USF distribution was changed based on an adjudicated proceeding, then the DPU sees the following problems:
   a. The last proceeding may have been several years ago. The basis for that USF distribution has likely changed significantly in that time.

b. The USF distribution may have been determined through a negotiated settlement rather than a formulaic calculation. In this case it could be impossible to change one variable to arrive at a new distribution.

2. If the PSC defines the last UUSF review to mean a review of the last annual report submitted by the provider, then the DPU sees the following problems:
    a. The cost reported on the annual report may not be in compliance with earlier provisions of this rule, such as depreciation expense calculation.
    b. Other reported costs may not be prudent, which will be unknown without a DPU audit.

The DPU supports a process that would allow for adjustments to UUSF distributions based on the annual report submitted to the PSC rather than a rate case type of proceeding. Prior to beginning this approach, a provider should be required to have its UUSF distribution set in accordance with the rules established in this docket. The provider should also be subject to regular DPU audits to ensure continued compliance. These audits should be conducted every two to three years.

The PSC should consider requiring a provider to submit a recent depreciation study prior to opting into a formulaic method of UUSF determination. Alternatively, the PSC could sponsor a depreciation study for all companies that would prescribe depreciation rates that the provider would be required to use in a formulaic calculation.

R746-8-402
<u>Non-rate-of-return Regulated Incumbent Providers</u>

The PSC provided a section of the rule to allow parties to discuss how non rate-of-return regulated companies could receive distributions from the UUSF. The Division does not have any specific language to offer at this time in this area but would support developing rules and methods to allow access to all companies who need UUSF support.

The original rules contemplated the PSC developing a cost model or models that would be used to determine the appropriate level of support for carriers. The DPU continues to support moving to a formulaic calculation of UUSF that would use the developed cost models. The calculations could be adjusted annually based on the provider's annual report. Moving to a more formulaic method could allow adjustments and disbursements in a less costly proceeding than a full rate case. To implement such a system would require bi-annual or tri-annual reviews with an initial review prior to the initial UUSF distribution.

R746-8-403
<u>Lifeline Support</u>

The proposed rule outlines a tiered approach to distributions for Lifeline Carriers. The rule maintains the same distribution amount of $3.50 for a company offering voice and broadband service. A lower amount of $2.00 would be provided to a company offering only broadband services.

The Division supports this approach to dealing with companies who might offer only broadband services but still request UUSF Lifeline support. Providing a higher subsidy for a company who allows its customers to use voice and broadband is an equitable choice.

R746-8-404
One-time UUSF Distribution

In the July notice, the PSC requested that interested parties provide draft language regarding circumstances in which a one-time distribution from the UUSF may be granted. Although the DPU does not have specific language dealing with this topic, there are a couple of important points.

First, the current rule has not been effective. In over 15 years of the rule being published, research done by the DPU showed that only two projects were approved by the PSC. That number seems very low for a 15 year period.

Finally, the DPU supports finding a more workable method for one-time-distributions from the UUSF. More in-depth study, perhaps in a group setting, is required to determine what an effective one-time distribution system would be.