



CARLA M. BUTLER

November 16, 2017

*Via Electronic Filing Only*

Gary Widerburg  
Commission Administrator  
Utah Public Service Commission  
Heber M. Wells Building, 4<sup>th</sup> Floor  
160 East 300 South  
Salt Lake City, UT 84111  
[psc@utah.gov](mailto:psc@utah.gov)

Re: Docket No. 17-R008-01

Dear Mr. Widerburg:

Attached for filing in the above entitled docket please find CenturyLink's Comments in Response to the October 11, 2017 Request, along with a Certificate of Service.

If you have any questions, please do not hesitate to contact me.

Sincerely,

A handwritten signature in black ink that reads "Carla".

Carla Butler  
Lead Paralegal

Attachment  
cc: Service List

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Attorney for CenturyLink

**BEFORE THE PUBLIC SERVICE COMMISSION OF UTAH**

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Utah Administrative Code R746-8,  
Proposing to Repeal R746-360, R746-341,  
And R746-343

**DOCKET NO. 17-R008-01**

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**COMMENTS IN RESPONSE TO THE OCTOBER 11, 2017 REQUEST**

Qwest Corporation d/b/a CenturyLink QC and CenturyLink Communications, LLC (“CenturyLink”) appreciate the opportunity to file comments in response to the Utah Public Service Commission’s (“Commission”) October 11, 2017 *Request for Comments* (the “October 11 Request”). In the October 11 Request, the Commission stated: “*we are not requesting further comments on the surcharge methodology, but on other aspects of the rules necessary to implement the objectives of S.B. 130.*”<sup>1</sup>

These comments primarily focus on sections 402, 403 and 404 of the Commission’s proposed rules. CenturyLink appreciates the Commission’s desire to enact these rules as soon as possible. However, the Commission is not bound by the statutory time limitations imposed on

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<sup>1</sup> Docket No. 17-R008-01, October 11, 2017 Commission’s Request, page 1. Website link: <https://psc.utah.gov/2017/07/06/docket-no-17-r008-01/>

rules relating to the Utah Universal Service Fund (“UUSF”) surcharge issue.<sup>2</sup> Although expediency is appreciated, given the complexity of the remaining issues, there needs to be sufficient time to properly consider the various issues to ensure that a workable rule is put into place.<sup>3</sup> Many of the issues are complicated and CenturyLink recommends that the Commission hold workshops to discuss and hopefully achieve consensus on the remaining issues. At a minimum, workshops will help narrow and better define the issues, and this will benefit the Commission as it adopts final rules.

**A. R746-8-402. Non-rate-of-return Regulated Incumbent Providers.**

CenturyLink recommends that the title to this section be changed to “*R746-8-402. Non-rate-of-return Regulated Providers*,” to make it consistent with the language and intent of the UUSF statute.<sup>4</sup> It is possible that a non-incumbent provider could qualify to become a carrier of last resort (“COLR”) and potentially qualify for UUSF funds to help support service in high cost areas. CenturyLink believes that for a non-incumbent, non-rate-of-return (“ROR”) provider to be designated a COLR in a geographic area, it would first need to have a Certificate of Convenience of Public Necessity (“CPCN”) granted by the Commission and there can only be one COLR in a geographic area at any given time. A new COLR will need to be willing to take over COLR responsibilities for a geographic area in which they receive UUSF support.

This section of the rule will specify the requirements for Non ROR Regulated Providers to obtain ongoing support from the UUSF. Before the Commission can establish the rules in this

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<sup>2</sup> Utah Statute 54-8b-15 (10): “*The Commission shall develop the method described in Subsection (9) before January 1, 2018.*” Website Link: [https://le.utah.gov/xcode/Title54/Chapter8B/54-8b-S15.html?v=C54-8b-S15\\_2017050920170701](https://le.utah.gov/xcode/Title54/Chapter8B/54-8b-S15.html?v=C54-8b-S15_2017050920170701)

<sup>3</sup> The Commission had many rounds of comments on the UUSF surcharge issue and thoroughly considered that issue. Similar time should be devoted to these remaining issues, and a workshop could streamline these remaining issues.

<sup>4</sup> Utah Statute 54-8b-15(4)(b): “*A non-rate-of-return regulated carrier of last resort is eligible for payment from the Universal Public Telecommunications Service Support Fund for reimbursement of reasonable costs as determined by the commission . . .*” Website Link: [https://le.utah.gov/xcode/Title54/Chapter8B/54-8b-S15.html?v=C54-8b-S15\\_2017050920170701](https://le.utah.gov/xcode/Title54/Chapter8B/54-8b-S15.html?v=C54-8b-S15_2017050920170701)

section, it will first need to undertake a proceeding to determine the cost methodology and requirements for eligibility. The Commission has not initiated a proceeding and no party has petitioned the Commission to do so.<sup>5</sup> CenturyLink recommends the Commission adopt the following language that the Utah Rural Telecom Association (“URTA”) is recommending:

***R746-8-402. Non-rate-of-return Regulated Providers.***

*(1) A non-rate-of-return regulated provider may be eligible for ongoing UUSF support for the deployment and management of networks capable of providing access lines, connections, or broadband internet access, upon application to the Commission, if the provider:*

*(a) is a carrier of last resort;*

*(b) is in compliance with Commission orders and rules.*

*(2) Upon receipt of an application brought under this section, the commission shall establish the appropriate criteria for the entitlement to, and the disbursement of, UUSF funds to non-rate-of-return regulated providers.*

**B. R746-8-403. Lifeline Support.**

In determining the Lifeline rules, the following language from the UUSF statute is relevant.<sup>6</sup>

- *“(b) fund a lifeline program that covers the reasonable costs to an eligible telecommunications carrier, as determined by the commission, to offer lifeline service consistent with the Federal Communications Commission’s lifeline program for low-income consumers.”*
- *“(b) Except as provided in Subsection (15)(c), the commission may impose reasonable conditions for providing a distribution to a wireless telecommunication provider under the lifeline program described in Subsection (3)(b).*

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<sup>5</sup> CenturyLink does not know about the plans of other providers, but CenturyLink currently has no plans to petition for ongoing support from the UUSF.

<sup>6</sup> Utah Statute 54-8b-15(3)(b) and (15) (b and c). Website Link: [https://le.utah.gov/xcode/Title54/Chapter8B/54-8b-S15.html?v=C54-8b-S15\\_2017050920170701](https://le.utah.gov/xcode/Title54/Chapter8B/54-8b-S15.html?v=C54-8b-S15_2017050920170701)

- *“(c) The commission may not require a wireless telecommunications provider to offer unlimited local calling to a lifeline customer as a condition of receiving a distribution under the lifeline program described in Subsection (3)(b).”*

CenturyLink believes it is critical the Commission adopt rules that are consistent with the federal lifeline rules and requirements.<sup>7</sup> For example, CenturyLink believes it is important to eliminate the state eligibility verification process and to formally adopt the national verifier process. The Commission has already made this decision and as of January 1, 2018, the national verifier process is to be used by Utah lifeline providers.<sup>8</sup>

The federal Lifeline program allows for the Lifeline credit to apply to qualifying voice, bundled voice with broadband, or broadband only services, that are consistent with the FCC’s requirements. Over time the FCC is planning to phase out the voice only Lifeline benefit. CenturyLink believes that it is unnecessary for the Commission to also phase down the current \$3.50 voice only Utah lifeline benefit since it is already lower than the planned lowest phased down federal Lifeline benefit, before it is eliminated. However, when the voice only option is no longer available for the federal Lifeline program, then the Utah Lifeline voice only option should also be eliminated so that the Utah program remains consistent with the federal program. When the federal voice Lifeline benefit is finally eliminated, the Utah Legislator and/or Commission will need to make the policy decision about whether the UUSF should continue to fund broadband only Lifeline customers. Regardless, before the federal elimination of voice only Lifeline, the state credit should remain at the \$3.50 level, and remain consistent with the federal regulations.

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<sup>7</sup> Links to FCC documents: March 2016 News Release: [https://apps.fcc.gov/edocs\\_public/attachmatch/DOC-338676A1.pdf](https://apps.fcc.gov/edocs_public/attachmatch/DOC-338676A1.pdf) , 2016 Reform Order: [https://apps.fcc.gov/edocs\\_public/attachmatch/FCC-16-38A1.pdf](https://apps.fcc.gov/edocs_public/attachmatch/FCC-16-38A1.pdf) , Updated minimum standards on June 26, 2017: [https://apps.fcc.gov/edocs\\_public/attachmatch/DA-17-619A1.pdf](https://apps.fcc.gov/edocs_public/attachmatch/DA-17-619A1.pdf).

<sup>8</sup> Docket No. 17-R008-01, August 24, 2017 order: Website Link: <https://psc.utah.gov/2017/07/06/docket-no-17-r008-01/>

The \$3.50 monthly credit per Lifeline customer should be available for all qualified Lifeline customers regardless of whether they have voice only service, bundled voice with broadband service or broadband only service. It creates an administrative burden if broadband only Lifeline customers are treated differently and receive a lower/different credit. Broadband only Lifeline customers can obtain Voice Over the Internet Protocol (VoIP) service from a number of different VoIP providers. The ETCs providing broadband only services to customers, does not know if customers are obtaining VoIP service from competitors.

Regarding the payment of the UUSF charge on a per line/connection basis, providers who are Eligible Telecommunications Carriers (“ETCs”) that participate in the Utah Lifeline program should be given the option to deduct the per access line/connection UUSF charge assessment from the Lifeline support to be paid under Subsection R746-8-403. ETCs should be given this option because it may be an efficient way for the ETC to handle paying the UUSF charge and receiving the Lifeline credit reimbursement.

CenturyLink believes it is important that the \$3.50 per customer per month Utah Lifeline payment to Lifeline providers directly benefit qualified low-income customers. For example, CenturyLink, passes on the Utah Lifeline benefit directly to its Lifeline customers and they receive a \$3.50 discount on their monthly phone service rate as a direct result of the Utah Lifeline program. Since wireless Lifeline ETCs for the most part do not render a bill, it is also important that their Lifeline customers directly benefit from the Utah Lifeline program payment to wireless ETCs, otherwise the Commission is simply giving these ETCs a windfall, without their Lifeline customers receiving a direct benefit from the additional money coming from the Utah Lifeline program. These customers may already be receiving for free a set number of voice minutes. The UUSF statute allows the Commission to “impose reasonable conditions” on the wireless Lifeline

provider in-order for them to receive the Utah Lifeline benefit.<sup>9</sup> In determining what is “reasonable” the Commission should schedule a workshop to discuss what benefit wireless Lifeline providers will need to provide to their Lifeline customers in-order to qualify for the Utah Lifeline credit. Ultimately, the Commission will need to determine if it is in the public interest to provide a wireless Lifeline ETC with the state credit, even if the customer is already getting free service.

**C. R746-8-404. One-time UUSF Distribution.**

The existing UUSF one-time distribution rule is outdated and for all practical purposes cannot be utilized by providers. It has been many years since the Commission last approved a one-time UUSF distribution. Many aspects of the existing rule no longer work, such as the formula for determining the required contribution by providers and customers. It is important for the Commission to undertake the necessary analysis to properly establish a viable one-time UUSF distribution program. CenturyLink is not opposed to the Commission repealing the existing one-time UUSF distribution rule before it establishes the replacement rule since the existing rule is not being used.

Previously when the one-time USF distribution rules were first established and later revised by the Commission, the Commission utilized workshops to better identify issues and seek stakeholder input. Parties in the previous one-time UUSF distribution workshops reached consensus which made it easier for the Commission to adopt/change its rules. In these comments CenturyLink is not at this time proposing specific rule language.

One-time distributions from the UUSF as an aid to construction can be used to incent a COLR to place and maintain facilities, including high-speed internet (“is”) facilities, capable of

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<sup>9</sup> Utah Statute 54-8b-15(15)(b): [https://le.utah.gov/xcode/Title54/Chapter8B/54-8b-S15.html?v=C54-8b-S15\\_2017050920170701](https://le.utah.gov/xcode/Title54/Chapter8B/54-8b-S15.html?v=C54-8b-S15_2017050920170701)

supporting voice service, in a geographic that otherwise is not economical to serve or to upgrade. To receive funding for a project the Commission needs to find that it is in the public interest to approve one-time UUSF support for the project. The Commission will consider various criteria and information in determining whether it will fund a project. The Commission can also use relevant criteria to prioritize the timing of projects when there are more requests than available funding in any given year.

If the Commission schedules a workshop, CenturyLink is willing to file an issues and recommendation list to help focus the discussion during the workshop.

RESPECTFULLY SUBMITTED this 16th day of November 2017.

CENTURYLINK

A handwritten signature in cursive script that reads "Torry Somers". The signature is written in black ink and is positioned above a solid horizontal line.

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Attorney for CenturyLink



**CERTIFICATE OF SERVICE**  
VIA EMAIL TRANSMISSION  
Docket No. 17-R008-01

I hereby certify that on the 16<sup>th</sup> day of November 2017, I caused a true and correct copy of the foregoing COMMENTS IN RESPONSE TO THE OCTOBER 11, 2017 REQUEST to be served upon the following persons via electronic mail at the e-mail addresses shown below.

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