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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 Reply 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 Division of Public Utilities (“DPU”) has reviewed the comments filed by the parties in this Docket and provides the following reply comments. Where there are specific suggestions for the proposed rule, the DPU has provided the draft language for the Utah Public Service Commission (“Commission”) to review. Generally, the DPU’s reply comments focus on policy considerations for the Commission as a result of the differing comments.

R746-8-200. Definitions.

URTA Proposed - Lines 78-94

(9) (a) “Group depreciation methodology,” pursuant to 47 C.F.R. Part 32, Subpart 32.2000 (g) (1) (i), means a group plan of accounting in which the loss in aggregate service value of property, except for losses excluded under the definition of depreciation, may be distributed under the straight-line method during the composite service life of the property in the group.

(b) In the event any composite depreciation rate becomes no longer applicable to reflect the composite service life of a group of similar assets, a revised composite depreciation rate shall be computed in accordance with Subsection (9) (a) of this Section.

(c) The provider shall keep such records of property and property retirements as will allow the determination of the service life of property which has been retired, or facilitate the determination of service life indications by mortality, turnover, or other appropriate methods. Such records will also allow the determination of the percentage of salvage

value and cost of removal for property retired from each class of depreciable plant.

Part (a) does not specify how or by whom the composite service life or depreciation rate will be computed. This needs to be clearly identified. DPU recommends the Commission or the DPU contract with an independent consultant for a statewide Depreciation Study every five years to be paid out of UUSF collections. The consultant would determine such things as composite depreciation rates, composite group depreciable life, etc.

DPU Proposed Language

(9) (a) “Group depreciation methodology,” pursuant to 47 C.F.R. Part 32, Subpart 32.2000 (g) (1) (i), means a group plan of accounting in which the loss in aggregate service value of property, except for losses excluded under the definition of depreciation, may be distributed under the straight-line method during the composite service life of the property in the group. *The composite service life and the depreciation rate of each asset group shall be determined by a depreciation study conducted by the Commission every five years or in a general rate proceeding for the specific company.*

R746-8-301

Calculation and Application of UUSF Surcharge

URTA proposes adding language in the rule that requires providers to report to the DPU access lines or connections that are not subject to the UUSF surcharge. The Division agrees that providers should be required report the number of lines/connections omitted from the surcharge

R746-8-302

UUSF Surcharge Remittance

The DPU generally accepts the change submitted by Utah Rural Telecom Association (“URTA”) in this section where “assessments” is replaced with wording that more accurately reflects the change adopted by the Commission that a surcharge is assessed on providers of access lines and connections, rather than on the end-user. The DPU agrees that the rule should be amended to speak in terms of remittance, rather than collections.

In researching and discussing the proposed rule, the DPU concluded the threshold of \$1,000 on the average Utah Universal Service Fund (“UUSF”) surcharge per month to be a very high cut off point for the Commission to adopt. Currently only 7.13% (32/449) of CLEC/RSLR/WRLS providers are at the \$1000 per month average. The DPU recommends a much smaller threshold such as \$100 on the average UUSF surcharge per month. The \$100 threshold would increase the percentage of companies that would be required to remit monthly to 16.7% (75/449).

As discussed in the comments filed by the DPU previously in this Docket, the DPU still supports having a specific dollar amount included in the rule that allows all parties to know explicitly if they are required to remit monthly or every six months.

The DPU has included below proposed language building off of the draft changes from URTA that were filed in November.

URTA Proposed - Lines 213-227

Providers shall remit surcharge assessments to the Commission as follows:

- (1) If, over a period of six months, the average monthly UUSF surcharge assessments total ~~\$1,000~~ \$100 or more, the provider shall remit the funds:
 - (a) On a monthly basis; and
 - (b) Within 45 days of the last calendar day of each month.
- (2) If, over a period of six months, the average UUSF surcharge assessments are less than ~~\$1,000~~ \$100 per month, the provider shall accrue the UUSF surcharge assessments and submit the accrued assessments every six months.
- (3) For providers who are ETCs participating in the Commission Lifeline program the Commission may deduct the per access line UUSF surcharge assessment from the Lifeline support to be paid under Subsection R746-8-403.

R746-8-401(3)(a)(ii)(B)(II)

Rate-of-return regulated Incumbent Providers

URTA Proposed - Lines 278-288

- (3) (b) The provider's depreciation costs shall be calculated through:
 - (i) a single-asset straight-line methodology; or
 - (ii) a group depreciation methodology;
 - (iii) or any other method of depreciation allowed by the FCC.

In the Commission's proposed rules there is specific language in lines 284-288 that URTA deleted in its redline proposal. URTA commented that the deleted language is not consistent with a group depreciation methodology permitted by the FCC. The DPU agrees that group depreciation is allowed by the FCC, but disagrees that the FCC gives specific guidelines as to how a company should do the depreciation.

It appears the section deleted by URTA was intended to keep asset depreciation at a uniform and predictable rate. The DPU feels this uniform and predictable depreciation is vital. Group depreciation methods can be unreasonably used to accelerate or prolong the asset depreciation in order to maximize depreciation expense. If the Commission decides to adopt URTA's submitted changes the DPU recommends adding language to this section that would allow straight-line or

group depreciation using the FCC's group method so long as the depreciation rates and grouping does not result in unreasonably accelerating the depreciation of any assets within the group as compared to the approved depreciable life of those assets, and no single asset may remain in the group beyond its depreciable life.

Finally, the DPU suggests that the term "methodology" is used where "method" is a more correct term for what is being described.

DPU Proposed

(3) (b) (iii) or any other method of depreciation allowed by the FCC *so long as the method used does not accelerate the depreciation of any single asset within the group, and no single asset remains in the group beyond its depreciable life.*

R746-8-403

Lifeline Support

In the DPU's original comments the following was stated:

"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."

The DPU now expands on those original comments. On page 5 of CenturyLink's Comments filed November 16, 2017 it states: "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." This idea is what the DPU was trying to suggest by accepting the two-tier approach. If a Lifeline provider is taking UUSF funds then there should be a direct benefit to Utah telecommunications customers.

The proposed two tier approach suggested by the Commission allowed for Lifeline companies to continue the principle of customers getting more when the UUSF paid more. Before the legislative changes encompassed in the UUSF rule, this added benefit was apparent with landline telecommunications companies providing an additional credit to low-income customers. This added benefit was directly reflected on a customer's monthly bill.

The challenge, which has not been considered before by the Commission, is how to ensure customers of prepaid wireless receive an added benefit for monies received from the UUSF. If a customer is not paying anything monthly to a company, but instead all of the "cost" of service is covered by a Federal and or State subsidy, it is difficult to see an added benefit received by those low-income customers. If the Commission does not adopt some method to ensure an added benefit to these customers then it is plausible that the UUSF disbursements is simply giving a windfall to wireless Lifeline ETCs who do not bill their customers monthly. Such an approach seems to be favoring one type of service over other services.

At first glance, the DPU supported the two tiered approach as an equitable way to solve the quandary the Commission faces. After reviewing the comments filed by CenturyLink and CTIA – The Wireless Association (“CTIA”) indicating the impractical elements of having two different rates for customer classes, the DPU agrees that a tiered approach is administratively burdensome.

The federal program will discontinue standalone voice service on December 1, 2021. In order to be consistent with the federal program the DPU recommends the state Lifeline support level continue at \$3.50 until December 1, 2021 for standalone voice service, or voice service not bundled with broadband meeting the minimum standards set forth in FCC 47 §54.408. Doing so would remove the burden of tracking voice only or voice service bundled with broadband for the state program and not the federal program.

The DPU recommends the same dollar figure for the discount to subscribers whether it be voice, wireless or broadband service. Having multiple tiers between \$3.50 vs \$2.00 is burdensome for the providers and the administrator of the fund. The amount should be the same whether it is all \$3.50 or all \$2.00 for each subscriber. Federal service requirements for wireless minutes and broadband data and speed are being increased over the next year for mobile voice service and next two years for mobile broadband service, to a max of 1000 minutes and 1 gigabytes per month and hotspot capability, respectively. The federal NLAD information and requirements will be used to determine the counts and type of subscribers for reimbursement for the state portion of reimbursement. Maintaining consistency with the federal program will ease the burden for managing and administrating the state Lifeline program as required in Utah law 54-8b-15.

Even though the DPU recommends keeping the subsidy for the UUSF consistent, the DPU echoes the comments of CenturyLink, CTIA and URITA suggesting the prudent approach is to hold workshops. Determining what is the appropriate service level required to receive UUSF is a new wrinkle the Commission has not grappled with before. Holding workshops where all interested parties can discuss what would be the appropriate levels of service the Commission should require for the subsidy received from the UUSF is a workable alternative.

Looking at the State of Utah, it would appear that market forces have been effective in creating a healthy market environment without additional subsidies from the UUSF. There are ten wireless ETCs serving the low-income population with one additional provider waiting Commission approval to serve the citizens of Utah. Customers can choose from a variety of plans depending on their own personal situation. The Commission has done well to allow this marketplace to develop and mature. Moving forward, the Commission should adopt rules that will continue to foster a healthy, competitive market.

R746-8-200(4)

Definition of Eligible Telecommunications Carrier

The wireless carriers filing comments were uncomfortable with the requirement to obtain a Certificate of Public Convenience and Necessity (“CPCN”) to be classified as an ETC that is eligible for UUSF. As discussed by numerous parties, the Commission “may impose reasonable

conditions for providing a distribution to a wireless telecommunications provider under the lifeline program”.

TracFone argued requiring a CPCN “is not a ‘reasonable condition’ because it is inconsistent with both Utah and federal laws applicable to wireless service providers”. TracFone further contended that “the additional burden of complying with this condition would fall solely on wireless carriers, which unlike wireline carriers, are not otherwise required by Utah law to obtain a CPCN.”

CTIA suggested that “wireless and broad-band only providers are not subject to certification under state law, the imposition of CPCN requirements on such providers would be inappropriate”. Additionally, CTIA felt that “there is no apparent benefit to require Lifeline providers in Utah also to obtain CPCNs from the Commission”.

Both TracFone and CTIA pointed out in their comments that the Commission offered no reason for subjecting wireless service providers to the perceived burden of obtaining the CPCN. The DPU believes the benefits to requiring a CPCN are: company specific contact information, ability to track which wireless ETCs are eligible for state UUSF, and potential cost recovery for Administration of the UUSF.

R746-8-403 (3)(e)(iii)

Recertification of Lifeline Subscribers

The proposed rule under R746-8-403 (3)(e)(iii) states “by May 1 of each year, a complete Lifeline subscriber list, as defined by the FCC” be submitted. This requirement was needed for annual recertification of subscribers and should be eliminated. DWS has worked closely with USAC to develop the National Verifier System. Utah is in the first wave of five states for implementation of the National Verifier System. The Commission issued an order on August 24, 2017 and December 5, 2017 (Docket 17-R008-01) directing ETC’s to make the necessary company internal changes to be able to utilize the National Verifier System effective on the hard launch date of March 13, 2018 at this time.

R746-8-403 (3)(e)(ii)

Lifeline Reimbursements to ETCs

The proposed rule under R746-8-403 (3)(e)(ii)(B) states ETCs may be reimbursed for “the total administrative expenses”. The total administrative expenses submitted have varied by ETCs in the past. Administrative costs have ranged from \$10 to \$118.23 per month per company or as low as \$.11 to \$9.47 per subscriber per month, which can be substantially more than the \$3.50 discount per subscriber per month. The DPU recommends the rule include language setting a cap on administrative expenses, perhaps expressed as a percentage of total revenue discounted.

The proposed rule under R746-8-403 (3)(e)(ii)(C) states “ interest accrual amounts on Lifeline funds, if any”. The DPU recommends the language be replaced with “loss of interest income on Lifeline funds, if any, be reported and documented for reimbursement to the ETC.”

It is not clear if outreach costs are reimbursable or a requirement by the provider. The DPU recommends this be a requirement provided at the cost of the provider. Outreach costs include such costs as marketing, advertising, and special mailing expenses to promote the Lifeline program.

For state Lifeline reimbursement purposes, The DPU recommends the state Lifeline discount be based on the Lifeline subscribers enrolled in NLAD as of the first day of each month, multiplied by the rate identified in R746-8-403(2)(a) or (b). No partial or prorated discounts should be considered.

Lifeline Transition When Federal Program Requirements Change

The DPU recommends ETCs under the UUSF program and federal USF programs should continue with the current procedures until federal program changes are effective and state program changes are consistent with federal program changes. The table below shows the current deadlines and procedures.

UUSF Remittance Schedule

UUSF Remittance Liability	Filing Status	Due
\$100.99 or less	Six month filer	January 31 and July 31
\$101.00 or more	Monthly filer	Last day of month following end of period

Request for Lifeline Reimbursements due the last day of the month after the filing period. If a due date falls on a Saturday, Sunday, or legal holiday, the due date is the next business day.

New providers estimate the amount of UUSF remittance when applying for a CPCN and are assigned a filing status. The DPU reviews accounts annually and notifies providers in writing if the filing status changes.