

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 R 746-343

Docket No. 17-R008-01
REPLY COMMENTS OF CTIA

CTIA respectfully submits this Reply in response to filings addressing the Utah Public Service Commission’s (“Commission’s”) October 2017 *Request for Comments*¹ establishing a comment cycle for the agency’s July 2017 *Notice of Proposed Rulemaking*² on Utah Universal Service Fund (“UUSF”) reform relating to the Utah Lifeline program.

I. INTRODUCTION AND SUMMARY

CTIA supports the Commission’s objective to reform and simplify the UUSF rules, in part by bringing state regulations closer into concert with the federal Lifeline regime.³ As CTIA’s initial comments explained, such reforms should, at minimum, move the UUSF rules towards mirroring the federal Lifeline rules in order to maximize efficiency, avoid imposing unnecessary burdens on participating carriers (such as monthly reporting), implement a self-effectuating budget mechanism on the high-cost program, and establish a periodic evaluation of the continued need for high-cost support.⁴

Consistent with the logic and spirit of these objectives, and upon review of other parties’ initial comments, CTIA urges the Commission to avoid mandating certification or other barriers for provider

¹ *Utah Administrative Code R746-8, Proposing to Repeal R746- 360, R746-341, and R746-343*, Request for Comments, Utah PSC Docket No. 17-R008-01 (rel. Oct. 11, 2017) (“*RFC*”).

² *Utah Administrative Code R746-8, Proposing to Repeal R746- 360, R746-341, and R746-343*, Notice of Proposed Rulemaking and Request for Comments, Utah PSC Docket No. 17-R008-01 (rel. July 5, 2017) (“*NPRM*”).

³ See Comments of CTIA, Docket No. 17-R008-01 (filed Nov. 16, 2017) (“*CTIA Comments*”). This principle is also discussed in CTIA’s comments in the above-captioned docket’s sister proceeding focused on the UUSF contribution mechanism. CTIA incorporates those comments here by reference. See Reply Comments of CTIA, Docket No. 17-R360-01 (filed May 11, 2017); see also Comments of CTIA, Docket No. 17-R360-01 (filed October 17, 2017).

⁴ See CTIA Comments at 2-3, 3-4, 5.

participants that would interfere with technological neutrality, to reject calls for multiple benefit levels, and to allow new Lifeline subscribers access to the program independent of federal delay.

II. THE COMMISSION SHOULD NOT MANDATE CERTIFICATION ON LIFELINE PROVIDERS OR IMPOSE HEIGHTENED BURDENS ON WIRELESS ETCs

The Commission should reject certain parties' initial filings that endorse raising regulatory burdens for eligible telecommunications carriers ("ETCs") providing Lifeline service in Utah. Specifically, two filers claim the Commission should impose certification requirements on UUSF recipients,⁵ with one of these further arguing wireless ETCs should be forced to undergo a non-technologically neutral public interest showing in order to receive UUSF support.⁶ These calls are misguided. As discussed below, Lifeline providers in Utah are already rigorously vetted. Further, imposing discriminatory regulatory burdens on some similarly-situated market participants but not others defies basic regulatory principles, and the legality of such a move would be questionable. As a result, the Commission should refuse to impose these unnecessary and consumer-unfriendly regulatory obstructions.

As CTIA previously explained,⁷ the Commission already rigorously vets providers when examining whether to grant ETC status,⁸ and this initial vetting is not the agency's only control mechanism. The Commission also possesses continued oversight authority over ETCs operating within its jurisdiction. Given the Commission's preexisting powers, a certificate of public convenience and necessity ("CPCN") mandate would bring no new benefit to Utah consumers, only a substantial new

⁵ Comments of the State of Utah Department of Commerce Division of Public Utilities, Docket No. 17-R008-01, at 1 (filed Nov. 16, 2017) ("DPU Comments"); Comments of the Utah Rural Telecom Association, Docket No. 17-R008-01, at 10 (filed Nov. 16, 2017) ("URTA Comments").

⁶ See URTA Comments at 10.

⁷ See CTIA Comments at 4-5.

⁸ See generally *Lifeline and Link Up Reform and Modernization et al.*, Third Report and Order, Further Report and Order, and Order on Reconsideration, 31 FCC Rcd 3962 (2016).

burden for Lifeline providers, undermining their ability to bring improved and competitive services to low-income Utahans.

Similarly unnecessary are calls for requiring *wireless* Lifeline providers, but not others, to undertake additional demonstrations on top of the Commission's preexisting requirements to serve the people of Utah.⁹ As CTIA's initial comments noted, such measures are inconsistent with legal prohibitions on state regulation of commercial mobile radio service ("CMRS") carriers.¹⁰ This Commission also lacks authority under its own authorizing statutes to impose certification requirements on entities that are not "public utilities," including wireless carriers and ISPs.¹¹

Moreover, such measures also would disserve the public interest. Americans are now, more than ever, reliant on wireless access. There are more wireless voice subscriptions nationwide than there are U.S. citizens,¹² and the number of households choosing to go wireless-only for internet access doubled from one in ten to one in *five* from 2013-15 alone.¹³ Imposing heightened burdens on wireless providers' participation in Utah Lifeline would raise barriers for wireless providers to bring Lifeline service to Utah's most vulnerable populations.

Ultimately, every dollar providers spend satisfying redundant regulations cannot be spent on supplying Utahans with much needed services. The Commission already sits firmly in the driver's seat as to control of Utah Lifeline participation; needlessly driving up ETCs' cost of compliance, especially wireless ETCs' costs, would amount to pulling the parking brake while merging onto the highway.

⁹ See, e.g., URTA Comments at 10.

¹⁰ See CTIA Comments at 5; see also 47 U.S.C. § 332(c), UTAH CODE ANN. §§ 54-2-1(31), 54-8b-9.

¹¹ Utah statute excludes CMRS and "Internet service" from the definition of "telecommunications corporation." UTAH CODE ANN. §§ 54-2-1(31)(b)(i)-(ii). Consequently, CMRS and internet service providers are not "public utilit[ies]" under state law – and are not required to undertake certification. *Id.* § 54-2-1-(21) (defining "public utility"); *id.* § 54-8b-2(4) (defining "certificate[s] of public convenience and necessity" as being issued to "telecommunications corporation[s]").

¹² *Implementation of Section 6002(b) of the Omnibus Budget Reconciliation Act of 1993 et al.*, Twentieth Report, 32 FCC Rcd 8968, 8977-78 ¶ 19 (2017).

¹³ Giulia McHenry, *Evolving Technologies Change the Nature of Internet Use*, NAT'L TELECOMM. & INFO. ADMIN. (Apr. 19, 2016), <https://www.ntia.doc.gov/blog/2016/evolving-technologies-change-nature-internet-use>.

III. THE UTAH LIFELINE PROGRAM SHOULD NOT PROVIDE TWO DIFFERENT BENEFIT LEVELS

Similarly, the Commission should abandon the *NPRM*'s proposal to establish different benefit levels for Utah Lifeline support recipients,¹⁴ and reject calls for a bifurcated benefit structure in the process.¹⁵ As CTIA previously noted, creating service-specific benefit levels is not only likely to substantially burden the Commission, the program Administrator, and participating carriers,¹⁶ it would also push Utah further out of sync with the federal Lifeline program (which offers only a single benefit level while supporting both voice-and-data and data-only plans).¹⁷ As CenturyLink has explained, because the "federal Lifeline program allows for the Lifeline credit to apply to qualifying voice, bundled voice with broadband, or broadband only services," to remain "consistent with the FCC's requirements" the Commission should do the same.¹⁸ Moving Utah Lifeline in a different direction from the federal regime runs directly contrary to the Commission's goal of simplification. Thus, the Commission should maintain its current optimal offering of a single benefit level.

IV. THE COMMISSION MUST NOT CLOSE THE DOOR ON WIRELESS CONSUMERS BY TETHERING UTAH LIFELINE ACCESS TO THE DELAYED NATIONAL VERIFIER

In light of recent federal developments, the Commission should move away from the *NPRM*'s contemplated foreclosure of new subscribers' access to Utah Lifeline until the National Verifier is in place.¹⁹ The *NPRM* proposed this course of action in "anticipat[ion] that the national verifier will be

¹⁴ See *NPRM* Attach. 1 at 5 ("Draft Rules").

¹⁵ See DPU Comments at 3.

¹⁶ See CTIA Comments at 3-4.

¹⁷ See generally 47 C.F.R. § 54.202; see also *NTCA – The Rural Broadband Association and WTA – Advocates for Rural Broadband Petition for Temporary Waiver et al.*, Order, 32 FCC Rcd 232 (clarifying that ETCs must permit Lifeline-eligible customers to apply the federal Lifeline discount to standalone broadband internet access service if the ETC subject to high-cost public interest broadband obligations commercially offers such a standalone service).

¹⁸ Comments of Qwest Corporation d/b/a CenturyLink QC and CenturyLink Communications, LLC, Docket No. 17-R008-01, at 4 (filed Nov. 16, 2017) ("CenturyLink Comments").

¹⁹ *NPRM* at 3 ("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,

operational by January 28, 2018.”²⁰ This assumption has become untenable in light of delays to the National Verifier announced last week.²¹ With the initial six-state “test run” of the National Verifier pushed back, the full rollout appears likely to be delayed even further. Prospective Lifeline recipients in need should not be forced to endure further hardship during this delay.

V. CONCLUSION

For all these reasons, CTIA applauds the Commission’s efforts to streamline and simplify its Lifeline rules and regulations and urges the agency to modify the UUSF programs consistent with these comments.

Respectfully submitted,

By: _____ /s/ _____

Matthew DeTura
Benjamin Aron
CTIA
1400 16th Street NW, Suite 600
Washington, DC 20036
(202) 736-3683
mdetura@ctia.org
baron@ctia.org

Dec. 7, 2017

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 verified will be operational by January 28, 2018. However, that date is not guaranteed.”)

²⁰ *Id.*

²¹ *Wireline Competition Bureau Announces Postponement of Initial Launch Date of the National Lifeline Eligibility Verifier*, Public Notice, DA 17-1167, WC Docket No. 11-42, at 1 (WCB rel. Dec. 1, 2017) (“the launch of the National Lifeline Eligibility Verifier ... originally scheduled for six initial states in December 2017, will be postponed”); Press Release, FCC, Chairman Pai Statement on Ensuring Security for the Lifeline National Verifier (Dec. 1, 2017), *available at* http://transition.fcc.gov/Daily_Releases/Daily_Business/2017/db1201/DOC-348042A1.pdf (“I learned yesterday that the National Verifier will not be able to pass key security checks this year that USAC is responsible for completing. As a result, USAC cannot launch the National Verifier before the end of the year.”)

CERTIFICATE OF SERVICE

I certify that, on December 7, 2017, a true and correct copy of the foregoing Comments of CTIA in Docket No. 17-R008-01 was delivered to the following 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

Torry Somers
(Torry.R.Somers@centurylink.com)

James Farr (James.Farr@centurylink.com)
CenturyLink

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

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

Sharon Bertelsen
(bertelsens@ballardspahr.com)
Jerry Oldroyd (oldroydj@ballardspahr.com)
Comcast

Matthew DeTura (mdetura@ctia.org)
Benjamin J. Aron (baron@ctia.org) CTIA

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@emerytelcom.com)
Hanksville Telecom, Inc.

Lance Brimhall (lbrimhall@jive.com)
Jive Communications, Inc.

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

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

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

Bruce Todd (btodd@stratanetworks.com)
UBTA-UBET Communications, Inc.

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

cflregulatory@chartercom.com

Eddie L. Cox (ecox@cut.net)

Carl Erhart (carl.erhart@ftr.com)

William J. Evans (bevans@parsonsbehle.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 (slmullin@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

Bill Duncan (wduncan@utah.gov)
Chris Parker (cparker@utah.gov)
Erika Tedder (etedder@utah.gov)
Division of Public Utilities

Michele Beck (mbeck@utah.gov)
Cheryl Murray (cmurray@utah.gov)
Office of Consumer Services

_____/s/_____
Matthew DeTura