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BEFORE THE PUBLIC SERVICE COMMISSION OF UTAH

In the Matter of the Utah Administrative Code) Docket No. 17-R008-01
R746-8, Proposing to Repeal R746-360,)
R746-341 and R746-343) COMMENTS OF UTAH RURAL
) TELECOM IN RESPONSE TO THE
) REVISED R746-8 PUBLISHED IN THE
) UTAH STATE BULLETIN ON
) JANUARY 15, 2018

Utah Rural Telecom Association (“URTA”) on behalf of its members All West Communications, Inc., Bear Lake Communications, Inc., Beehive Telephone Company, Carbon/Emery Telcom, Inc., Central Utah Telephone, Inc., Direct Communications Cedar Valley, LLC, Emery Telephone, Gunnison Telephone Company, Manti Telephone Company, Skyline Telecom, South Central Utah Telephone Association, Inc., UBTA-UBET Communications Inc. (dba Strata Networks), and Union Telephone Company, hereby files these Comments in support of the revised R746-8 that were attached as Exhibit A, to the Utah Public Service Commission’s (“Commission”) Notice of Rule Filing and Notice of Scheduling Conference issued on January 2, 2018 in this docket and the revised rules that were published in the State Bulletin on January 15, 2018. These revised rules propose to create a new Rule R746-8 that will replace three existing rules that are simultaneously being filed for repeal:

R746-341, R746-343, and R746-360.¹

URTA, on behalf of its members, supports the administrative rule revisions contained in R746-8, which were published in the Utah State Bulletin on January 15, 2018.

I. PROCEDURAL HISTORY

On July 5, 2017, the Utah Public Service Commission (“Commission”) issued a Notice of Proposed Rulemaking for Rule R746-8. On July 20, 2017, at the request of several parties, the Commission vacated the comment deadlines. On October 11, 2017, the Commission issued a Request for Comments and Reply Comments on proposed Rule R746-8. On November 16, 2017 Comments were filed by URTA, CenturyLink, CTIA, the Division of Public Utilities (“Division”), and TracFone. On December 7, 2017 Reply Comments were filed by the Division, CTIA, URTA and CenturyLink. On January 2, 2018, the Commission issued a Notice of Rule Filing and Notice of Scheduling Conference, together with a Notice of Proposed Rule for R746-8 (the “Notice”). The Proposed Rule R746-8 (“Proposed Rule”) was published in the Utah State Bulletin on January 15, 2018. Public Comments on the Proposed Rule are due February 14, 2018, with Reply Comments due February 21, 2018.

URTA COMMENTS

URTA provided Exhibit A to its initial Comments filed November 16, 2017 which set forth in detail URTA’s specific proposed modifications to R746-8. Many of URTA’s proposed

¹ R746-360-4 was recently modified by the Commission. The rule changes made effective in that rulemaking are incorporated into the newly proposed R746-8.

modifications were included in the Proposed Rule. These Comments will focus on the issues identified in the Commission's Notice.

I. LIFELINE ISSUES

URTA supports the Commission's Proposed Rule on Lifeline matters as contained in R746-8-403. URTA agrees that additional issues, if any, can be raised in the workshop process as set forth in the Commission's Scheduling Order, dated February 9, 2018, issued in this Docket ("Scheduling Order").

II. UUSF ISSUES NOT RELATED TO LIFELINE

A. Depreciation Calculation for Rate-of-Return Regulated Providers.

One area where the Commission did not incorporate URTA's suggested changes was with regard to the depreciation calculation for rate-of-return regulated providers. The Commission's Proposed Rule refers to the current requirements of Utah Code §§54-8b-15(5) and (6). The Commission further indicated in its Notice:

"Our resolution of depreciation issues and interpretation of [Utah Code §§54-8b-15(5) and (6)] could occur in individual adjudications from providers seeking adjustments to their UUSF distributions. We recognize, though, that time and expense for all parties could be saved if the issue is clarified further in administrative rule. Therefore, while we understand the positions of URTA and the [Division], we see benefit to exploring those positions further in our workshop process to help identify if any further common ground is possible."²

URTA supports clarification of these issues in an administrative rule and agrees that engaging in a workshop process to try to identify issues and to reach common ground, prior to the promulgation of an administrative rule on this issue, will benefit all parties involved. Therefore,

² See Commission Notice of Rule Filing and Notice of Scheduling Conference issued January 2, 2018, p. 7.

URTA supports the language contained in R746-8-401(3)(b), and supports the workshop process and technical conference that has been established by the Commission's Scheduling Order.

B. Annual Review of UUSF Distribution Amount - R746-8-401(4).

URTA, as previously indicated in its various comments filed in this docket, supports a process that reviews the provider's UUSF disbursement based on the FCC's current weighted average cost of capital and the financial information contained in the provider's annual report.

The Commission's Proposed Rule, provides that:

(4) Yearly following a change in the FCC rate-of-return, unless the provider filed with the Commission a petition for review of its UUSF disbursement, the Division shall make a recommendation of whether each provider's monthly distribution should be adjusted according to:

- (a) the current FCC rate-of-return as set forth in R746-8-401(3)(a); and
- (b) the provider's financial information from its last Annual Report filed with the Commission.

In its Notice, the Commission stated "we have included in our proposed rule language based on URTA's proposal, but giving more flexibility to the [Division] to provide recommendations. We hope this language can be clarified further if additional common ground can be discovered during the workshop process." URTA is concerned that the Division has "flexibility" to provide recommendations, but the criteria upon which those recommendations can be based are not identified in the Proposed Rule. URTA feels it is critical to clarify the language contained in the rule to set forth any criteria that will be reviewed by the Division, but agrees that the workshop process and a technical conference will be beneficial to this clarification. Therefore, URTA will support this rule, with the understanding that this issue will be addressed in the workshop process/technical conference identified in the Scheduling Order.

C. Non-Rate-of-Return Regulated Providers.

URTA supports the language contained in R746-8-402 which provides that 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 if such provider is the carrier of last resort and in compliance with Commission orders and rules. URTA further supports the language in the rule that provides that the criteria for such entitlement to, and disbursement of, UUSF funds shall be established in the context of the application.

D. One-Time UUSF Distributions.

URTA supports the language contained in R746-8-404 and believes that the workshop process is the best means of developing this rule further.

E. Frequency of UUSF Contributions.

URTA supports the language contained in Commission's Proposed Rule R746-8-302.

F. Self-Effectuating Budget Mechanism and Evaluation of the Need for High Cost Support.

URTA support's the Commission's declination to establish a cap on the UUSF. The Legislature declined to establish a cap on the UUSF and the Commission rightly concluded that a cap on UUSF revenues or distributions should be a statutory issue.

G. UUSF Contribution Method.

URTA supports the language contained in the Proposed Rule R746-8-301.

III. RULE FILING SCHEDULE

In the Commission's Notice, the Commission specifically requested that anyone who files comments to address whether they are recommending that the Commission: (1) make

their proposed rules effective, and make a new filing if they choose to implement recommendations; or (2) delay the effectiveness of the Proposed Rule. While URTA is not currently recommending any further changes to the Proposed Rule, URTA wants to make it clear that it is supporting the Commission making the Proposed Rule effective immediately. URTA anticipates that changes to the Proposed Rule that may result from the workshop process will be subject to further rulemaking and published at a later date.

IV. CONCLUSION

URTA appreciates the opportunity to work with the Commission and the stakeholders on these rules. URTA supports the Proposed Rule as published and looks forward to participating in workshops or technical conferences to develop further rules related to depreciation calculation for rate-of-return regulated providers, annual review of UUSF distribution amounts, and one-time UUSF distribution, as indicated herein.

Dated this 14th day of February, 2018.

BLACKBURN & STOLL, LC



Kira M. Slawson
Attorneys for Utah Rural Telecom
Association

CERTIFICATE OF SERVICE

I hereby certify that on the 14th day of February, 2018, I served a true and correct copy of URTA Comments in Response to UURS R746-8 Rule Published in the State Bulletin, 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 via e-mail transmission to following persons at the e-mail addresses listed below:

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