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Submitted April 26, 2017

BEFORE THE PUBLIC SERVICE COMMISSION OF UTAH

In the Matter of the Utah Administrative Code R746-360 Universal Public Telecommunications Service Support Fund) Docket No. 17-R360-01
)
) **COMMENTS OF COMCAST**
) **PHONE OF UTAH, LLC**
)

Comcast Phone of Utah, LLC (“Comcast”) hereby submits these comments in response to the Request for Comments issued by the Public Service Commission of Utah (“Commission”) in the above captioned proceeding.¹

I. INTRODUCTION

Utah Senate Bill 130 allows the Commission to fund the Utah Universal Public Telecommunications Service Support Fund (“UUSF”) through a surcharge that is based upon (i) a provider’s intrastate revenue, (ii) the number of access lines or connections maintained by a provider in the state, or (iii) a combination of the two methodologies.² The statute mandates a contribution system that is nondiscriminatory and competitively neutral. At this early juncture, there does not appear to be any need for a new contribution methodology. If the Commission is

¹ *In the Matter of the Utah Administrative Code R746-360 Universal Public Telecommunications Service Support Fund*, Docket No. 17-R360-01, Request for Comments (issued Mar. 27, 2017).

² Utah Code § 54-8b-15 (effective July 1, 2017).

contemplating changes to the existing system, it should conduct a full investigation before making such changes to ensure that the methodology is effective and efficient, limits the burden on consumers, and minimizes interference with marketplace forces.

II. THE COMMISSION MUST ENSURE THAT ITS METHODOLOGY IS CONSISTENT WITH THE STATUTE

Utah Code Section 54-8b-15 requires contributions to be assessed on a nondiscriminatory basis and the Commission's methodology must be fair and competitively neutral.³ To satisfy the statutory competitive neutrality requirement, the Commission should (1) ensure that the contribution method does not unfairly advantage or disadvantage one provider or technology over another;⁴ and (2) minimize the possibility that entities with universal service obligations will compete directly with entities without such obligations.⁵

III. THE COMMISSION SHOULD ENSURE THAT ITS METHODOLOGY IS CONSISTENT WITH POLICY OBJECTIVES

The new law includes the ability for a telecommunications provider that maintains a wholesale broadband Internet access service to qualify for UUSF support. The rules implementing the statute should promote broadband adoption and broadband investment in unserved areas, and not create an economic disincentive for unsubsidized providers to build infrastructure with private capital.

The rules that implement the new law should be sustainable in an industry characterized by rapid technological change, eliminating the need to update the rules frequently. For the system to be sustainable, the reforms should not increase the size of the UUSF. The Commission

³ See 47 U.S.C. § 254(d) (Federal USF assessment must be “on an equitable and nondiscriminatory basis”).

⁴ See, e.g., *Rural Cellular Association v. FCC*, 588 F.3d 1095, 1104 (D.C. Cir. 2009) (Competitive neutrality requires that “universal service support mechanisms and rules neither unfairly advantage nor disadvantage one provider over another, and neither unfairly favor nor disfavor one technology over another”) (quoting *Federal-State Joint Board on Universal Service*, Report and Order, 12 FCC Rcd 8776 para. 47 (1997)).

⁵ See *Federal-State Joint Board on Universal Service*, Report and Order, 12 FCC Rcd 8776 para. 783 (1997).

should investigate the minimum amount of funding necessary to achieve its universal service goals, establish a budget to deliver the necessary funding, and when possible, take measures to decrease the surcharge in order to decrease the financial burden of the UUSF contributions on consumers and businesses.

Moreover, the Commission should minimize the impact on economic decisions made by providers and their customers. The Commission should adopt rules that, to the maximum extent possible, permit marketplace forces to operate free of unnecessary regulatory interference or other distortions that can alter economic decisions by consumers and providers. At the same time, the Commission should avoid taking any action that may potentially have the negative effect of distorting consumer demand or depressing a provider's incentive to innovate and invest.

IV. THE COMMISSION SHOULD CONDUCT A FULL INVESTIGATION OF THE CONTRIBUTION SYSTEM BEFORE UNDERTAKING ANY MODIFICATIONS

The Commission should not modify the existing contribution system before conducting a full investigation. As an initial matter, the existing revenues-based contribution methodology satisfies the new law's requirements and the Commission's policy objectives. Moreover, it would be time consuming and expensive to change the mechanisms that providers currently use to implement the revenues-based collection methodology. These mechanisms are premised upon well-established accounting principles that produce accurate revenue allocations and can be easily audited. It would be simpler, substantially less expensive and less of an administrative burden to continue with the existing collection process and adjust the amount of the assessment rather than develop a whole new set of rules to implement a new methodology.

The problems associated with changing contribution methodologies could be compounded if the Commission were to alter the existing revenue-based system before changes are made at the federal level. As this Commission is aware, the Federal Communications

Commission (“FCC”) has been considering universal service fund contribution reforms for years and the revenues-based method is still being used for calculating federal contributions. In any event, the Commission and the consumers who are burdened with supporting the UUSF could benefit from recommendations of the FCC and the FCC’s Federal-State Universal Service Joint Board.

Moreover, the per-line or per-connection surcharge methodologies suffer from inherent problems. Under these methodologies, it can be difficult, if not impossible, to determine the number of lines or connections afforded by certain services. For example, many services, such as IP trunk-based services, offer capabilities that are defined dynamically by the customer; in many instances, the jurisdictional nature of the capabilities is also customer-defined. Under these methodologies, it is difficult to ensure that all competitors are counting lines or connections in the same way, and this can upset competitive neutrality. Additionally, the Commission will be challenged to apply a connections or access-line based contribution scheme in an auditable, competitively neutral manner that captures all providers. Either of these mechanisms may allow non-facilities-based service providers, such as over-the-top VoIP services, to avoid contributing to the UUSF.

V. CONCLUSION

The Commission should ensure that its contribution methodology reduces the economic and compliance burdens on consumers, assesses contributions in a competitively neutral manner, increases transparency, is administratively simple, adapts to market changes, promotes broadband deployment, minimizes economic distortions, and is effective and efficient. For the foregoing reasons, Comcast believes that the Commission should continue to use the existing revenues-based methodology to advance these objectives.

RESPECTFULLY SUBMITTED this 26th day of April, 2017.

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CERTIFICATE OF SERVICE

I certify that on April 26, 2017, a true and correct copy of the foregoing Comments of Comcast Phone of Utah, LLC in Docket No. 17-R360-01 was delivered to the following by electronic mail:

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