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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 **REPLY COMMENTS OF COMCAST PHONE OF UTAH, LLC**

Comcast Phone of Utah, LLC ("Comcast") hereby submits these reply comments in response to the Request for Comments issued by the Public Service Commission of Utah ("Commission" or "PSC") in the above captioned proceeding.[1]

I. INTRODUCTION

As Comcast explained in its initial comments, it is essential for the Commission to conduct a full investigation and analysis before making any changes to the Utah Universal Public Telecommunications Service Support Fund ("UUSF") contribution system. The Commission must ensure that the contribution system is competitively neutral, effective and efficient, protects consumers, promotes broadband adoption and broadband investment in unserved areas, and is consistent with the federal universal service support mechanisms.[2]

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[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] *See* Comments of Comcast Phone of Utah, LLC ("Comcast Comments") at 2-3.

The record developed in response to the Request for Comments demonstrates that any change in the contribution methodology would be premature at this juncture. As required by Utah Senate Bill 130, the Commission opened this docket to initiate a rulemaking proceeding to calculate the amount of the UUSF surcharge and to develop a method through which it will be applied.[3] The new law allows the Commission to fund the 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.[4] Some commenters request a change from the existing revenues-based contribution methodology to a new per-line or per-connection contribution methodology. Not only is the record lacking evidence to demonstrate the need for a new contribution methodology, the record demonstrates that prematurely adopting such a methodology could be problematic (e.g., premature adoption might result in improper funding levels). As such, Comcast strongly urges the Commission to retain the current revenues-based contribution methodology.

II. THE COMMISSION SHOULD CONDUCT A COMPREHENSIVE ANALYSIS OF THE UUSF BEFORE CHANGING THE CONTRIBUTION METHODOLOGY

The record in this proceeding indicates that the Commission should conduct a comprehensive analysis of the UUSF before making any changes to the contributions system. As part of the analysis, the Commission should evaluate the size and scope of the UUSF, and consider the direction of the UUSF program in light of the federal universal support mechanisms. Comcast agrees with CTIA, that the contribution mechanism is only one piece of the reform process and that it "makes little sense to consider significant changes to the UUSF contribution

3 S.B. 130, Lines 375-388, amending Utah Code § 54-8b-15(9)-(10) (effective July 1, 2017). Senate Bill 130 requires the Commission to develop the contribution method before January 1, 2018.

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

mechanism until the PSC considers questions about the size and scope of the UUSF fund."[5] The Commission should determine the level of universal support needed and the appropriate size of the fund before establishing a new contribution system.

According to CTIA, "[t]he Commission has not conducted a comprehensive review of how much state universal service support actually is necessary, and the language in S.B. 130 effectively invites the Commission to do so."[6] As Comcast pointed out in its comments, "[t]he Commission 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."[7] Comcast and other commenting parties agree that any changes to the UUSF process implemented by the Commission should occur only after a comprehensive analysis has been completed, and the reforms should ensure that the UUSF is no larger than necessary, and should reduce compliance and consumer burdens.

AT&T also raises concerns about increasing the size of the fund. "The push for a change in contribution methodology appears to presume without evidence that there is a need to grow the fund and without acknowledging that Utah consumers ultimately bear the cost of any increase in UUSF contributions."[8] If the push to change the methodology is to increase the size of the fund, it is not clear to AT&T that growing the fund is necessary to fulfill the objectives of the universal service program, including the availability of services at affordable rates.[9] AT&T explained that when the Commission evaluates whether and to what extent the UUSF should be

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5 Comments of CTIA – The Wireless Association ("CTIA Comments") at 3.

6 CTIA Comments at 6.

7 Comcast Comments at 2-3.

8 Comments of AT&T Companies ("AT&T Comments") at 2.

9 AT&T Comments at 7, citing 47 U.S.C. § 254(b)(1).

enlarged, it should account for the federal support that is allotted to Utah's carriers.[10] Comcast agrees with AT&T, that the Commission should take into account the federal universal service support currently received and future support to be received by Utah carriers when the Commission is determining the appropriate size of the fund, because the contribution burdens of the UUSF impose costs on consumers and businesses.[11]

Regarding the time and expense for providers to change to a new collection process, Comcast reiterates its position that the Commission should continue with the current UUSF revenues-based collection procedures which are premised upon well-established accounting principles that produce accurate revenue allocations and can be easily audited. Rather than developing a whole new set of rules to implement a new methodology, the existing collection procedures represent a much more efficient and much less burdensome mechanism to fund the UUSF.[12] CTIA and AT&T also addressed the anticipated administrative burdens in their comments. According to CTIA, "premature changes to the State contribution methodology would place a costly and wasteful burden on carriers to make significant changes to their billing and accounting systems more than once – first when the PSC revises the UUSF rules, and again when the FCC later revises its rules."[13] AT&T made similar observations, stating that a change in the UUSF contribution methodology would "impose a heavy administrative burden on telecommunications providers who would be forced to overhaul their operations in support of the new Utah-specific methodology."[14] This would include modifying accounting and reporting practices, UUSF recovery charges, customer materials, training, and billing systems.[15]

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10 AT&T Comments at 8.
11 AT&T Comments at 12; *see also* CTIA Comments at 7.
12 Comcast Comments at 3.
13 CTIA Comments at 5.
14 AT&T Comments at 6.
15 *Id*.

There is no compelling need for the Commission to adopt a new contribution methodology until after it conducts a full investigation of the existing UUSF system, focusing on ways to limit the size of the fund and improvements that would limit the burdens on consumers and businesses.

III. THE COMMISSION SHOULD ENSURE THAT ITS METHODOLOGY IS CONSISTENT WITH THE FEDERAL CONTRIBUTION MECHANISM

As the Commission is aware, the Federal Communications Commission ("FCC") calculates federal universal service fund ("USF") contributions based upon interstate telecommunications revenues and has been considering USF reforms for years. Comcast explained in its initial comments that the problems associated with changing the UUSF contribution methodology could be compounded if the Commission alters the existing revenue-based system before changes are made at the federal level. The Commission's UUSF reforms should be consistent with the federal USF reforms to ensure that both the federal and state USF assessments remain within the appropriate jurisdictional scope. As such, the Commission should postpone any decisions on its contribution methodology pending recommendations from the FCC and the FCC's Federal-State Joint Board on Universal Service.

AT&T strongly urges the Commission to retain its current revenue-based contribution methodology for UUSF and wait for FCC guidance.

> Comprehensive USF contribution methodology reform should first be addressed nationally by the Federal-State Joint Board on Universal Service and the FCC, and state USF programs should then be harmonized with FCC requirements to ensure the greatest possible consistency across states and with the federal program and to avoid an undue administrative burden on telecommunications carriers.[16]

AT&T is concerned that if Utah changes to a connection-based contribution methodology without guidance from the FCC, there is a risk of a later determination by the FCC that Utah's

[16] AT&T Comments at 2.

assessment mechanism is impermissible.[17] CTIA has similar concerns, that if the Commission changes the UUSF contribution methodology prematurely and the FCC subsequently changes the federal contribution mechanism, then Utah would have to make further changes to ensure its consistency with the federal mechanism. As CTIA points out:

> the FCC has made major changes to its support mechanisms for rural and high-cost areas, including the adoption of CAF Phase II model-based support for price cap ILECs, the CAF Phase II competitive bidding process for areas in which CAF support has not been accepted, the outline for the Remote Areas Fund ("RAF"), and reform of support mechanisms for rate-of-return carriers.[18]

AT&T also explains that the Commission's rules should "ensure that the high-cost component of the UUSF complements, and does not duplicate, funding provided by the Connect America Fund or any other federal infrastructure program."[19] Comcast agrees with the recommendations of AT&T and CTIA, that the Commission should assess the FCC's recently increased federal support, ensure that support is available only for carriers extending service to unserved areas in which broadband service is not expected to be provided within a reasonable period of time, and ensure that the Commission's new rules are consistent with the FCC's universal service rules.[20]

IV. THE COMMISSION SHOULD NOT CHANGE THE CONTRIBUTION METHODOLOGY BASED ON THE DIVISION'S ESTIMATES BECAUSE THE NUMBER OF CONNECTIONS ARE UNRELIABLE

The Commission should not modify the existing contribution methodology based upon the data filed by the Division of Public Utilities (the "Division") because the Division's estimates on the number of connections that are subject to the surcharge are unreliable.

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17 AT&T Comments at 5-6.

18 CTIA Comments at 6, citing *Connect America Fund, et al.*, Report and Order, 29 FCC Rcd 15644 (2014), Report and Order and Further Notice of Proposed Rulemaking, 31 FCC Rcd 5949 (2016), Report and Order, Order on Reconsideration, and Further Notice of Proposed Rulemaking, 31 FCC Rcd 3087 (2016).

19 AT&T Comments at 9.

20 *See* CTIA Comments at 6-7 ("The PSC must assess whether, in light of this substantial and recently increased federal support, UUSF support for ILECs remains necessary at all, or should be reduced."); *see also* AT&T Comments at 9-10 ("Given the significant CAF support earmarked for Utah, the UUSF's rules should disallow recipients from 'double dipping,' drawing from both state and federal funds to subsidize the same network facilities in the same geographic areas.").

The Division estimates that the total access lines or connections in Utah that are subject to the surcharge total approximately 3.5 to 3.6 million; however, the Division also cites one source that indicates that there are approximately 2.9 million lines in service.[21] The variation in the number of access lines is substantial. The Division's estimates are based upon data from three sources: (1) the FCC Voice Telephone Services Report, compiled from FCC Form 477 data submitted to the FCC by individual providers in 2015, and from a worksheet on the FCC website providing data on filers by state; (2) the Telecommunications Relay Services ("TRS") Fund, compiled from monthly contributions from 2016, and (3) the Utah State Tax Commission, compiled from monthly 911 fees submitted by providers in 2016, which according to the Division, "likely includes many VoIP connection providers."[22] The Division mentions two initiatives it has undertaken to attempt to identify all of the access line or connection providers in Utah, both involving correspondence to companies to determine whether the entity would be subject to the surcharge in Utah. Unfortunately, the variation in the access line numbers indicates that the estimates submitted by the Division are unreliable, and the initiatives involving correspondence are also unreliable. As such, the Commission should not make a decision on amendments to the UUSF contribution rules based upon this data.

V. CONCLUSION

For the foregoing reasons, Comcast believes that the Commission should conduct a full investigation before making any changes to the current UUSF revenue-based contribution mechanism in order to ensure consistency with statutory requirements, to ensure that UUSF assessments remain coordinated with the federal USF assessments, and to advance policy objectives.

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21 Comments of the Division of Public Utilities ("Division Comments") at 2-4.

22 Division Comments at 3.

RESPECTFULLY SUBMITTED this 11th day of May, 2017.

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CERTIFICATE OF SERVICE

I certify that on May 11, 2017, a true and correct copy of the foregoing Reply 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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