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**BEFORE THE PUBLIC SERVICE COMMISSION OF UTAH**

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In the Matter of the Utah Administrative  
Code R746-360 Universal Public                      **DOCKET NO. 17-R360-01**  
Telecommunications Service Support Fund

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**Jive Communications, Inc. Reply Comments**

**I. INTRODUCTION**

Jive Communications, Inc. provides interconnected, nomadic (i.e. “over-the-top”) VoIP phone service to businesses. Jive has prepared these comments to underscore two important points made in the comments of Comcast Phone of Utah, LLC, as filed in the docket stated above.

**II. THE COMMISSION MUST ENSURE THAT ITS METHODOLOGY IS COMPETITIVELY NEUTRAL.**

Competitive neutrality is a major animating principle behind the passage of SB 130. This new law empowers the Public Service Commission to determine a method for calculating Utah Universal Public Telecommunications Service Support Fund (“UUSF”) contribution obligations and directs the Commission to do so in a way that is competitively neutral.<sup>1</sup> Comcast stated the following about the meaning of competitive neutrality:

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; and (2) minimize the possibility that entities with universal service obligations will compete directly with entities

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<sup>1</sup> Utah Code section 54-8b-15(9) (effective July 1, 2017).

without such obligations.<sup>2</sup>

The first point is particularly significant. As the Commission adjusts its method for calculating UUSF contribution obligations and adds VoIP providers to its calculations, the Commission should be mindful of the similarities and differences among VoIP and other communication technologies. Misunderstanding these details could lead to a UUSF regime that inadvertently favors one technology over another – an outcome that is not only bad policy but is contrary to law.

### **III. THE COMMISSION SHOULD CONDUCT A FULL INVESTIGATION OF THE CONTRIBUTION SYSTEM BEFORE UNDERTAKING ANY MODIFICATIONS.**

Comcast made the following statement in support of its plea for significant research before deciding to abandon the current revenue-based method of calculating UUSF obligations:

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.<sup>3</sup>

Jive shares Comcast's desire for careful consideration before changing to a regime based on counts of access lines and connections, but Jive's concerns about competitive neutrality come from a different perspective.

The definitions of "access line" and "connection" in SB 130 both incorporate the concept of functional equivalence. This is consistent with the objective of competitive neutrality that features so prominently in the new law. However, determining functional equivalence is not simple.

For example, consider two hypothetical businesses: Business A has 100 employees, and each has a phone on his or her desk. Business A's employees share 23 analog phone line channels. This means Business A's employees can have, at most, 23 concurrent phone calls – a constraint that has never been a problem for Business A.

Business B also has 100 employees, and each employee also has a phone on his or

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<sup>2</sup> Comments from Comcast Phone of Utah, LLC, section III (internal citations omitted).

<sup>3</sup> *Id.* at section IV.

her desk. But Business B subscribes to hosted VoIP service which can technically accommodate unlimited concurrent calls, subject only to available broadband bandwidth (which is not supplied by Business B's hosted VoIP provider).

If the Commission implements a line- or connection-based UUSF regime, will the phone service providers for these businesses – whose systems are arguably functionally equivalent – face similar UUSF charges? Or will Business B's service provider be charged for 100 access lines or connections while Business A's provider is charged for only 23? This latter situation would not be competitively neutral; it would dramatically disadvantage VoIP providers.

Furthermore, if the Commission interprets "access line" or "connection" in such a way that both service providers would be charged on the basis of 100 phones, how will the service provider for Business A know how many phones Business A has? An analog service provider in this situation would have no way to know how many phones are in place at Business A; it would know only how many lines service Business A.

Jive asks the Commission to consider this hypothetical, and similar hypotheticals that address the unique characteristics of the various communication technologies in the Commission's jurisdiction, when determining whether a particular UUSF regime will be competitively neutral.

#### **IV. CONCLUSION**

Jive does not oppose a change to a UUSF regime based on counts of access lines and connections. However, if the Commission makes such a change, the law requires that the Commission do it in a way that is truly competitively neutral. This, in turn, will require careful consideration of the statutory definitions of "access line" and "connection" and the details of the various technologies at issue.

Respectfully submitted this 11th day of May, 2017.

**Jive Communications, Inc.**

*/s/ Lance Brimhall*

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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 Jive Communications, Inc. in Docket No. 17-R360-01 was delivered to the following by electronic mail:

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