



CARLA M. BUTLER

June 30, 2017

*Via Electronic Filing Only*

Gary Widerburg  
Commission Administrator  
Utah Public Service Commission  
Heber M. Wells Building, 4<sup>th</sup> Floor  
160 East 300 South  
Salt Lake City, UT 84111  
[psc@utah.gov](mailto:psc@utah.gov)

Re: Docket No. 17-R360-01

Dear Mr. Widerburg:

Attached for filing please find CenturyLink's Comments in Response to Notice of Rulemaking, along with a Certificate of Service.

If you have any questions, please do not hesitate to contact me.

Sincerely,

A handwritten signature in black ink that reads "Carla".

Carla Butler  
Lead Paralegal

Attachment  
cc: Service List

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Attorney for CenturyLink

**BEFORE THE PUBLIC SERVICE COMMISSION OF UTAH**

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In the Matter of the Utah Administrative  
Code R746-360 Universal Public  
Telecommunications Service Support Fund

**DOCKET NO. 17-R360-01**

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**CENTURYLINK COMMENTS IN RESPONSE TO NOTICE OF RULEMAKING**

After reviewing the extensive comments and/or reply comments filed in this docket, on May 16, 2017, the Public Service Commission of Utah (Commission) issued a Notice of Rulemaking.<sup>1</sup> Specifically, the Commission has determined to move forward with a rule change that will fund the Utah Universal Service Fund (UUSF) through a per-connection surcharge rather than through a revenue-based remittance.<sup>2</sup> Qwest Corporation d/b/a CenturyLink QC and CenturyLink Communications, LLC (CenturyLink), support the Commission's proposed rule, as it is consistent with Senate Bill 130 (SB 130), is non-discriminatory, and appropriately resolves the disparity in the payment of the UUSF surcharge for both providers and for end-user customers that has existed for many years.

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<sup>1</sup> Comments and/or Reply Comments were filed by the Utah Division of Public Utilities (Division), Utah Office of Consumer Services (Office), Utah Rural Telecom Association (URTA), AT&T, CTIA – The Wireless Association, Comcast, CenturyLink, and Jive Communications, Inc.

<sup>2</sup> Notice of Rulemaking, P. 4.

## **THE PROPOSED RULE IS COMPETITIVELY NEUTRAL**

Utah law requires that the UUSF surcharge be done in a manner that is competitively neutral and non-discriminatory.<sup>3</sup> As demonstrated in earlier comments, the Commission's existing revenue based UUSF surcharge is not sustainable and is discriminatory. Reported intrastate billed revenues continue to decline, and there is no indication that this trend is going to change.<sup>4</sup> At the same time that revenues are declining, overall lines and connections are increasing as indicated in the Division's earlier comments, and many of the providers with increasing connections are not fairly contributing to the UUSF surcharge.<sup>5</sup> Unlike the revenue based approach, the per line/per connection approach included in the proposed rule is competitively neutral and does not discriminate against providers and customers.

Basing the assessment on intrastate voice revenues permits some providers to allocate bundled service revenues away from voice toward data, which reduces assessable revenues for comparable voice services, and results in disparities between providers and a UUSF surcharge that is not technology neutral.

The per line/per connection based surcharge is disassociated with how a provider allocates bundled service revenues. Wireless handsets, VoIP phones and traditional landline phones are functionally equivalent services; each has equal access to the Public Switched Telephone Network (PSTN), universal calling, number portability and other regulatory and functional capabilities. A customer using a wireless handset or a VoIP phone for voice connections should make the same contribution to the UUSF as a customer who uses a traditional land line phone.

Further, VoIP providers like Ooma, don't charge for base phone service and have not been paying into the UUSF. It is unclear what some VoIP providers should pay under a revenue based

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<sup>3</sup> See, Utah Code §54-8b-15(9).

<sup>4</sup> The reasons for the declining revenues are outlined in CenturyLink's initial comments, Exhibit A.

<sup>5</sup> Division Comments, Chart on page 3 (data from FCC Form 477).

approach since they do not charge for phone service and the only charges on the bill are for taxes, fees and surcharges. Under the connection based approach as proposed in this rulemaking, VoIP providers will now contribute to the UUSF in the same manner as all other providers that access the PSTN.

UUSF surcharge implementation issues raised by Jive Communications, a VoIP provider, can best be addressed in meetings between the Division and providers. The Division has the responsibility for implementing the per line/per connection based surcharge. The Division can ensure consistency and fairness between providers and can provide guidelines to make sure the surcharge is being assessed the same way by all providers.

The Commission should enact the proposed rule imposing a per line/per connection based UUSF surcharge. A per line/per connection based surcharge neither advantages or disadvantages any provider or customer.

### **DELAY WILL CONTINUE TO HARM COMPETITIVE NEUTRALITY**

In an effort to delay the needed surcharge assessment change to the UUSF, AT&T, Comcast, and CTIA made several unsubstantiated allegations earlier in this docket, all ignoring the realities of the UUSF. A change is necessary in order to ensure the UUSF assessment is competitively neutral, and done in a manner that reflects the realities of a declining intrastate voice revenue base, coupled with an increase in connections.

It is alleged that the UUSF needs to remain coordinated with the Federal USF revenue based method. This is not accurate. Utah law specifically gives the Commission the authority to impose the per line/per connection surcharge. Further, there is nothing in federal law that requires the Commission utilize the same funding mechanism used for the Federal USF. Additionally, CenturyLink is not aware that AT&T, Comcast, CTIA or any other provider publicly raised any concerns during the legislative process about the UUSF having to remain coordinated with the Federal USF revenue based method, despite having numerous opportunities to raise this issue.

Detractors to the per line/per connection surcharge also suggest that it will be difficult and costly to implement. In earlier comments, Comcast states that a per line/per connection surcharge has inherent problems. They claim, “it can be difficult, if not impossible, to determine the number of lines or connections.”<sup>6</sup> Comcast’s arguments are discredited by the fact that other programs in Utah are already based on a per line/per connection approach. As indicated in the Division's initial comments, the UTC is currently collecting the E911 surcharge from more than 3.5 million lines and connections, in comparison to the 3.6 million lines and connections reported to the FCC on the Form 477. The UTC has already determined the lines and connections subject to the E911 surcharge and the same lines and connections subject to the E911 are also subject to the UUSF surcharge. This should eliminate any concern that it can be difficult, if not impossible, to determine the number of lines or connections that should be counted. By changing to a per line/per connection method, the Commission is not starting from scratch, especially since it already collects the TRS on a per line and per connection method.

Additionally, concerns about the cost of implementing the new per line/per connection surcharge are not well founded. The Commission provides a mechanism for cost recovery of the implementation and administrative costs of the UUSF. Providers can retain up to 1.31% of the total monthly surcharge collection to offset implementation and administrative costs.<sup>7</sup>

Adopting the per line/per connection approach will create efficiencies. By adopting the per line/per connection assessment mechanism, the Commission is establishing a surcharge mechanism consistent with the collection of the E911 surcharge. As suggested in the Division’s comments, if the Commission, the Division and UTC can coordinate collection efforts, it will create efficiencies in comparison to the current processes.

## **CONCLUSION**

CenturyLink supports the per line/per connection UUSF surcharge as set forth in the proposed rule. Lastly other UUSF and Lifeline issues can be addressed in a later phase of this

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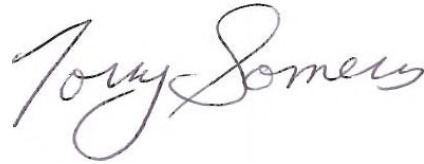
<sup>6</sup> Comcast Comments, page 4

<sup>7</sup> Commissions, “NOTICE OF RULEMAKING AND RESPONSE TO COMMENTS” issued May 15, 2017, page 5.

docket as suggested in the Notice of Rulemaking.

RESPECTFULLY SUBMITTED this 30th day of June 2017.

CenturyLink

A handwritten signature in cursive script that reads "Torry Somers".

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Attorney for CenturyLink

**CERTIFICATE OF SERVICE**  
VIA EMAIL TRANSMISSION  
Docket No. 17-R360-01

I hereby certify that on the 30<sup>th</sup> day of June, 2017, I caused a true and correct copy of the foregoing CENTURYLINK'S COMMENTS IN REPLY TO NOTICE OF RULEMAKING to be served upon the following persons via electronic mail at the e-mail addresses shown below.

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[psc@utah.gov](mailto:psc@utah.gov)

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CENTURYLINK



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