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Submitted August 2, 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
)
) **REPLY COMMENTS OF**
) **COMCAST PHONE OF UTAH, LLC**
)

Comcast Phone of Utah, LLC (“Comcast”) hereby submits these reply comments in response to the Commission’s Notice of Rulemaking in the above-referenced matter, which invited reply comments by August 2, 2017.

I. INTRODUCTION

The Commission should retain the current revenue-based contribution methodology and fund the Utah Universal Public Telecommunications Service Support Fund (“UUSF”) through surcharges based on a provider’s revenue.¹ If providers are required to collect the UUSF surcharge based upon access lines or connections, then the Commission should provide specific rules to ensure that every provider counts access lines and connections for their end-user business and residential customers in the same way and collects the surcharge in the same way.

¹ See Comments of Comcast Phone of Utah, LLC, April 26, 2017; Reply Comments of Comcast Phone of Utah, LLC, May 11, 2017.

This will help ensure that the UUSF contribution system is nondiscriminatory and competitively neutral, as mandated by the statute.² Finally, Comcast supports the Commission’s decision to allow more time to review comments, develop the record, and consider changes to Utah Administrative Code R746-360-4 (the “Proposed Rule”).

II. THE COMMISSION SHOULD PROVIDE CLEAR RULES FOR COUNTING ACCESS LINES FOR MULTILINE SERVICES AND APPLYING SURCHARGES

The Commission should establish clear rules for determining how providers count the number of access lines when calculating the total monthly UUSF surcharges for multiline services in order to avoid situations in which providers count access lines and apply UUSF surcharges differently. Given the number of different technologies currently being used by consumers for voice services, requiring providers to follow clear rules for counting access lines will help ensure that the UUSF contribution system is competitively neutral as statutorily mandated. Having clear rules for counting access lines will also result in more predictable assessments and produce records that can be easily audited, if necessary.

An “access line” as defined at Utah Code Subsection 54-8b-2(1), means “a circuit-switched connection, or the functional equivalent of a circuit-switched connection, from an end-user to the public switched network.”³ A “connection” as defined at Utah Code Subsection 54-8b-15(1)(c), means “an authorized session that uses Internet protocol or a functionally equivalent technology standard to enable an end-user to initiate or receive a call from the public switched network.”⁴ The Proposed Rule at Subsection (1)(b) states:

For purposes of applying the statutory definition of “access line,” the “functional equivalent of a circuit-switched connection from an end-user to the public switched network” means equipment or technology that allows an end-user to place or receive a real-time voice communication.

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

³ Utah Code § 54-8b-2 (effective July 1, 2017).

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

The proposed rule as written is open to differing interpretations that could cause similarly situated providers to charge similarly situated customers different amounts. For example, AT&T states correctly that the Proposed Rule leaves open many questions that should be addressed including, “Which lines (as defined by billing address or otherwise) are assessable?” and “How should multiline business service lines be counted?”⁵ Likewise, CTIA has valid concerns that a “per-line or per-connection charge may treat unfairly different connections that have very different values.” For instance, CTIA states that a large business may “buy a single high-capacity data line, over which it could easily support hundreds of voice lines.”⁶

To avoid such confusion, the Commission should count access lines, or the functional equivalent of access lines, based on the number of concurrent real-time voice communication call sessions that an end-user can place to (outbound) or receive from (inbound) the public switched network. This method of counting access lines should be employed for residential and business customers, including those customers with multiline services, and the surcharge should be applied to the maximum number of provisioned call paths. Such a system in which the Commission counts access lines based upon the number of concurrent real-time voice communication calls that can be placed or received is consistent with the definition of “access line” in Utah Code Subsection 54-8b-2(1) and the definition of “connection” in Subsection 54-8b-15(1)(c).⁷

⁵ Comments of AT&T Companies in Response to Notice of Rulemaking, July 3, 2017 (“AT&T Comments to Notice”) at 2, 10.

⁶ Comments of CTIA – The Wireless Association in Response to Notice of Rulemaking, July 3, 2017 (“CTIA Comments to Notice”) at 7.

⁷ See Comments of Comcast Phone of Utah, LLC in Response to Notice of Rulemaking, July 3, 2017 (“Comcast Comments to Notice”) at 3. Comcast asserts that the maximum number of surcharges an end-user may be assessed should not exceed the number of outbound or inbound calls that can be made simultaneously from voice channels activated and enabled. *Id.* at 3-4.

The proposed rule is also written too broadly, purporting to require the Commission to exceed its jurisdiction. Comcast agrees with AT&T, that the Proposed Rule definition of “access line” should refer to “services” and not “equipment or technology” because the Commission does not have jurisdiction to assess equipment or technology.⁸ Comcast further agrees with AT&T that the Commission has jurisdiction to assess interconnected VoIP services, but not the non-interconnected VoIP services, and that the Proposed Rule should be clarified to ensure that end users are not assessed for state USF contributions in more than one state.⁹ Accordingly, as AT&T recommends, the Commission should change the Proposed Rule to provide clear guidance on how to assess services for which the Commission has jurisdiction.¹⁰

By providing clarity upfront, the Commission will better allow the Division of Public Utilities to carry out its responsibility to implement the UUSF surcharge. CTIA and AT&T have concerns that are similar to the concerns of Comcast with regard to the Proposed Rule placing limitations on a provider’s offerings or a customer’s choice and Comcast urges the Commission to consider removing such limitations.¹¹

Until the Commission provides more clarity, there is a risk that providers will not be counting access lines the same way. Regulators often provide guidance on how to count access

⁸ AT&T Comments to Notice at 3. *See also* Comments of Utah Rural Telecom Association (“URTA”) in Response to Notice of Rulemaking, July 3, 2017 at 2.

⁹ AT&T Comments to Notice at 3-4, 6-7. AT&T recommends and Comcast agrees that for interconnected VoIP and mobile wireless services, the location for assessment purposes should be the place of primary use (“PPU”) as defined by the Mobile Telecommunications Sourcing Act (“MTSA”). PPU means “the street address representative of where the customer’s use of the mobile telecommunications service primarily occurs, which must be: (A) the residential street address or primary business street address of the customer; and (B) within the licensed service area of the home service provider.” This is consistent with Senate Bill 130, which requires compliance with the MTSA. *Id.* at 8. This is also consistent with Utah Code § 69-2-402, Emergency service charge. *See also* CTIA Comments to Notice at 10-11.

¹⁰ AT&T Comments to Notice at 4-5.

¹¹ Both AT&T and CTIA argue that providers should not be required to collect the UUSF surcharge “as a separate charge” that is not included in the provider’s rates because the provider may choose to offer all-inclusive, single-rate plans. The provider should be able to choose to pay the per-line assessment on behalf of their end user customers without a separate UUSF charge. AT&T Comments to Notice at 10; CTIA Comments to Notice at 6-7. Comcast agrees that the Commission should not adopt such a requirement.

lines, such as the Federal Communications Commission (“FCC”) in its Form 477 Instructions explains how to count service lines and which lines to report on the FCC Form 477. Not only will clear rules for counting access lines provide clarity to contributors and help ensure that the UUSF contribution system is competitively neutral and administratively efficient, the Commission should clarify its Proposed Rule as a step toward minimizing opportunities for regulatory arbitrage.

III. THE COMMISSION SHOULD ALLOW SUFFICIENT TIME TO DEVELOP THE RECORD AND FULLY CONSIDER CHANGES TO PROPOSED RULE

The record developed in response to the Notice of Rulemaking supports the Commission’s decision to delay the effective date of any rule to implement a per-connection surcharge as the UUSF funding mechanism until January 1, 2018. Some commenters urge the Commission to delay the effective date of the rule until after January 1, 2018. This will allow the Commission to review the comments covering numerous complex issues, develop the record, fully consider changes to the Proposed Rule, and allow providers to make necessary administrative changes.

Both AT&T and CTIA discuss the anticipated administrative burdens, arguing that carriers need sufficient time to provide notice to customers and make modifications to their billing systems. AT&T states that ideally, the Commission would make the new rule effective on January 1, 2018 or later.¹² CTIA points out that Senate Bill 130 requires the rulemaking to be completed by January 1, 2018, but does not impose a deadline for the effective date of the new rule. As such, CTIA argues that implementation of any per-connection surcharge should not occur until the beginning of a fiscal year or quarter that is at least 120 days after publication of

¹² AT&T Comments to Notice at 13.

the final rule.¹³ Comcast agrees with AT&T and CTIA, that a sufficient amount of time is necessary in order to provide customer notice and modify accounting and reporting practices, training materials and billing systems.

IV. CONCLUSION

For the foregoing reasons, Comcast urges the Commission to clarify the Proposed Rule and provide guidelines to ensure that the UUSF surcharge is assessed in an equitable manner for all consumers and businesses, that the Proposed Rule encourages business development, and that the effective date of the final rule allows the providers sufficient time for customer notice and modification of existing systems.

RESPECTFULLY SUBMITTED this 2nd day of August, 2017.

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¹³ CTIA Comments to Notice at 15-16.

CERTIFICATE OF SERVICE

I certify that on August 2, 2017, a true and correct copy of the foregoing Reply Comments of Comcast Phone of Utah, LLC in response to the Notice of Rulemaking in Docket No. 17-R360-01 was delivered to the following by electronic mail:

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