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BEFORE THE PUBLIC SERVICE COMMISSION OF UTAH

In the Matter of the Utah Administrative)	Docket No. 17-R360-01
Code R746-360 Universal Public)	
Telecommunications Service Support Fund)	COMMENTS OF UTAH RURAL
)	TELECOM ASSOCIATION IN
)	RESPONSE TO PROPOSED REVISED
)	RULE R746-360-4
)	

Utah Rural Telecom Association (“URTA”) on behalf of its members All West Communications, Inc., Bear Lake Communications, Inc., Beehive Telephone Company, Carbon/Emery Telcom, Inc., Central Utah Telephone, Inc., Direct Communications Cedar Valley, LLC, Emery Telephone, Gunnison Telephone Company, Manti Telephone Company, Skyline Telecom, South Central Utah Telephone Association, Inc., UBTA-UBET Communications Inc. (dba Strata Networks), and Union Telephone Company, hereby files these Comments in response to Utah Public Service Commission’s (“Commission” or “PSC”) Proposed Rule R746-360-4 as set forth in the Notice of Change in Proposed Rule.

I. PROCEDURAL HISTORY

On May 15, 2017, the Commission issued proposed Rule R746-360-4 (“Proposed Rule”) to address the mechanism of assessing and collecting the Utah Universal Service Fund (“UUSF”) as required by SB 130, and the statutory modifications to the UUSF enacted by the legislature. The Commission proposed an assessment of a \$0.36 on access lines and connections in the State, which URTA and CenturyLink support. URTA, in its initial Comments, provided certain modifications to the rule as drafted to add clarity and to better reflect the statutory language and intent. CenturyLink, AT&T, Comcast, and CTIA each filed initial Comments on the Commission’s Proposed Rule, and with the Commission’s permission, Reply Comments. After reviewing the Comments and Reply Comments, the Commission issued a revised proposed rule which was published in the Utah Bulletin on September 1, 2017. Comments on the published rule are due October 2, 2017. URTA submits these Comments to address the Proposed Rule as published in the Utah Bulletin.

II. URTA COMMENTS ON PROPOSED RULE

A. THE PROPOSED RULE IS ACCEPTABLE IF APPLIED TO ALL PROVIDERS AND/OR END USERS

URTA and its members have reviewed the Proposed Rule and believe that the Proposed Rule as published does not discriminate against *any* access line or connection provider, and is technologically neutral as required by Utah Code Ann. §54-8b-15(9).

URTA is concerned, however, that the language utilized by the Commission in its Notice of Change to Proposed Rule and Response to Reply Comments, issued August 14,

2017 (“August 14 Notice”), seems to imply that the Proposed Rule may be interpreted by the Commission in a way that is not technologically neutral, and would illegally discriminate against certain access line and connection providers. Specifically, on page 3 of the Commission’s August 14 Notice, the Commission states:

The PSC is willing to consider all issues concerning prepaid wireless through a separate rule-making docket and/or through legislative action. However, the PSC considers that implementing a per-access line charge cannot be delayed beyond January 1, 2018. That date is mandated by statute, and is also necessary to allow the PSC to move forward on other rulemaking related to the 2017 legislation. Current Utah law does not allow a point-of-sale assessment, and for reasons discussed in this notice the PSC has determined to assess the UUSF charge as an end-user charge, a model into which URTA’s suggestion does not easily fit. However, the PSC invites further comment about URTA’s suggestion during the next phase of the rulemaking required by statute, which the PSC intends to commence after the charge rule is effective.¹

URTA’s “suggestion” referred to in the above-quoted language was that the suggestion that the Commission follow the guidance offered in SB 130 and assess a per access line/per connection assessment on the *providers* of all services that connect to the public switched network. URTA explained this assessment process would include wireline providers, VoIP providers, and wireless providers (both post-paid and prepaid); and that for prepaid wireless providers the assessment would be calculated by identifying the number of prepaid wireless plans that have a positive cash or minute balance as of a specific date each month.² As URTA suggested in its Comments, the prepaid wireless provider would pay \$0.36 for each such plan each month the subscriber had *intrastate access to the public switched network*. No end-user point of sale assessment is required, and the prepaid wireless provider pays the exact same

¹ August 14 Notice, p. 3.

² URTA Reply Comments, dated August 2, 2017, p. 10.

UUSF charge as every other provider—a \$0.36 per month for every subscriber that has intrastate access to the public switched network. Assessing the monthly UUSF assessment to the provider in the manner described is consistent with the specific language of SB 130 and Utah Code §54-8b-15. Moreover, it does not prohibit any provider from collecting revenues—in any manner they see fit—from end-user customers to offset all or a portion of their per access line/per connection assessment.

Further, assessing the UUSF on providers offering intrastate access to the public switched network is consistent with the Federal USF program. The Communications Act of 1934, as amended provides:

Every telecommunications carrier that provides interstate telecommunications services **shall contribute**, on an equitable and nondiscriminatory basis, to the specific, predictable, and sufficient mechanisms established by the Commission to preserve and advance universal service. The Commission may exempt a carrier or class of carriers from this requirement if the carrier’s telecommunications activities are limited to such an extent that the level of such carrier’s contribution to the preservation and advancement of universal service would be de minimis. Any other provider of interstate telecommunications may be required to contribute to the preservation and advancement of universal service if the public interest so requires.³

The federal USF is assessed to providers of telecommunications, not end-users. The FCC *permits* providers to separately charge their federal USF assessment to the end-user, but does not *require* it. 47 C.F.R. §54.712 provides:

(a) Federal universal service contribution costs may be recovered through interstate telecommunications-related charges to end-users. If a contributor chooses to recover its federal universal service contribution costs through a line item on a customer’s bill the amount of the federal universal service line-item charge may not exceed the interstate telecommunications portion of that customer’s bill times the relevant

³ 47 USC §254(d) (emphasis added).

contribution factor.⁴

URTA believes that this Commission should permit providers to separately charge their UUSF assessment to the end-user for intrastate access to the public switched network, but not require that it be charged to the end-user. URTA continues to be of the opinion that the intent of SB 130 was to assess the UUSF charge on providers (as evidenced by the plain language of the legislation), and Section 254(f) of the Communications Act does not preclude assessing the UUSF charge on end-users. However, rather than permitting carriers to act as they see fit with regard to assessing the UUSF charge to end-users, the Commission's Proposed Rule requires an end-user surcharge which the Commission indicates is permissible, relying on dicta from a federal court in 1997. URTA does not dispute that imposing an end-user surcharge is permitted.⁵ Rather, URTA urges the Commission to follow the FCC and permit, but not require, providers to pass the UUSF assessment to their end-users.

In addition to being consistent with the FCC, assessing the UUSF charge on providers would eliminate several logistical challenges for the Commission, the Division of Public Utilities

⁴ 47 CFR §54.712. Just as when the FCC Order implementing this regulation states "A federally prescribed end-user surcharge would dictate how carriers recover their contribution obligations and would violate Congress's mandate and the wish of the state members of the Joint Board" (*Utility Reform Network v. California PUC*, 26 F. Supp. 2d 1208 (U.S. District Court- Northern District of California, July 1, 1997)), this Commission should refrain from mandating a state prescribed end-user surcharge.

⁵ As cited by the Commission, see *Utility Reform Network v. California PUC*, 26 F. Supp. 2d 1208 (U.S. District Court- Northern District of California, July 1, 1997). In this case the court held that the Plaintiff had failed to state a claim upon which relief could be granted, but stated in dicta that Section 254(f) of the Communications Act does not preclude California from financing the state USF by means of an end-user surcharge. In 1997 (over 20 years ago), the court observed that "contribute" does not absolutely confirm a "financial contribution" to universal service programs. Such concerns about the ambiguity of words in the 1997 Act have been sufficiently resolved through twenty-years of state and federal activity. Contributing to federal or state universal service programs means financial contributions for this end and does not address other non-pecuniary matters—such matters are addressed federally through obligations and duties of support recipients. The FCC, acting as the expert agency tasked to interpret the Act, codified 47 CFR §54.712 to fulfill the intent of the Act. This federal regulation expressly ties contributions to financial payments and assesses contributions on providers while allowing providers to recover all or some of these contribution amounts through end-user line-item charges.

(“Division”), and the providers. Therefore, URTA urges the Commission to reconsider this point.

First, focusing the assessment on the providers would allow the providers to determine *whether* to pass the assessment through to their end users. Second, giving providers the *option* to pass the charge through to the end-user is a very efficient method because it puts the onus of determining *how* best to pass the charge through to the end user on the provider; and it is the provider who is in the best position to make that determination. As the Commission is no doubt aware, providers are not uniform in their approach to billing customers. Some providers bill in advance on a monthly basis; some providers bill in arrears on a monthly basis; some providers don’t “bill” at all, rather they sell the service on a prepaid basis; some providers give the service away and only collect for overages; and some providers bill on a flat fee basis inclusive of all fees, taxes, and assessments. In fact, there are likely more ways to bill a customer than there are providers, and providers frequently modify their billing methods. By assessing the UUSF charge on providers, the Commission’s rules do not need to change or adapt as the billing methods of providers change.

Additionally, assessing the UUSF charge on providers makes assessment and collection of the UUSF assessment considerably easier. If the UUSF charge is assessed to the providers, the providers merely need to report the number of access lines/connections they have each month, multiply that by the notified assessment amount (\$0.36), and remit the payment to the Commission—the assessment and the remittance should be fairly stable. On the contrary, when the UUSF charge is assessed to the end-user, the provider is required to report on the number of access lines/connections from which it collected the UUSF charge

each month, multiply that fluctuating number by the amount of the notified assessment (\$0.36), and remit what will undoubtedly be a more variable number. Not only does this affect the stability of the fund, but it makes it more difficult for the Division and the Commission to determine if the fluctuations in remittance are due to changes in the number of access lines or connections, or just fluctuations in payments received from customers.

While the Commission's Proposed Rule incorporates a per access line/connection charge, the Commission's language from its August 14 Notice indicates that the Commission is concerned that assessing the UUSF charge to the providers (rather than the end-users) may raise legal issues. The Commission wants to make it "clear that the UUSF assessment is not revenue based."⁶ However, it is not necessary to assess the UUSF charge to end-users to make it clear the UUSF assessment is not revenue based. The Commission could merely state in R746-360-4(3) the rule:

"As of January 1, 2018, the Utah Universal Public Telecommunications Service Support Fund (UUSF) shall be funded as follows:

- (a) Unless Subsection R746-360-4(5) applies, providers shall be assessed \$0.36 per access line that as of the last calendar day of each month has a primary place of use within the State of Utah."

Further, in the August 14 Notice, the Commission is concerned that "if the UUSF charge is not assessed to end-users, then it inevitably is paid from providers' general revenues, potentially raising legal issues regarding the FCC requirement to separate interstate and intrastate revenues in funding universal service."⁷ However, this concern is unfounded. The requirement to separate interstate and intrastate revenues is a function of the revenue based

⁶ August 14 Notice, p. 2.

⁷ August 14 Notice, p. 3.

contribution system employed by the federal USF program. As the Commission is aware, currently, providers of interstate telecommunications services are required to pay 18.1% of their interstate retail revenues as their required federal USF contribution. Because the federal USF is assessed only on interstate revenues, the providers are required to separate out their interstate revenues from their intrastate revenues. However, the Commission has correctly concluded there is no requirement that a State system for USF contribution be funded from intrastate revenues. Rather, 47 USC §254(f) provides:

(f) State authority

A State may adopt regulations not inconsistent with the Commission's rules to preserve and advance universal service. Every telecommunications carrier that provides intrastate telecommunications services shall contribute, on an equitable and nondiscriminatory basis, in a manner determined by the State to the preservation and advancement of universal service in that State. A State may adopt regulations to provide for additional definitions and standards to preserve and advance universal service within that State only to the extent that such regulations adopt additional specific, predictable, and sufficient mechanisms to support such definitions or standards that do not rely on or burden Federal universal service support mechanisms.⁸

Therefore, the only federal requirements for State universal service programs are: (1) that the telecommunications carrier provide intrastate telecommunications services; (2) that States adopt regulations to provide for additional definitions and standards to preserve and advance universal service within the State only to the extent that such regulations adopt additional specific, predictable, and sufficient mechanisms to support such definition or standards; and, (3) that the State regulations do not rely on or burden Federal universal service support mechanisms. Although Utah has historically received UUSF contributions from intrastate retail revenues, the 2017 legislation gave the Commission the statutory authority to

⁸ 47 USC §254(f).

eliminate a revenue based contribution method and employ a connection/access line based charge, which the Commission had adopted in its Proposed Rule. Thus, intrastate revenues are irrelevant for purposes of UUSF. Rather, the appropriate analysis is whether the provider provides *intrastate access to the public switched network*. If so, the *provider* (or as the Commission proposes, the *end user*) is required to pay the UUSF charge. Such a system cannot burden or rely on the federal support mechanisms because it has no connection to the federal support mechanism or interstate revenue.⁹ Rather it is a monthly intrastate access fee. Whether such fee is paid from a provider's general revenues, or a pass-through assessment to the end-user is irrelevant. In fact, all telecom fees and charges are paid from general revenues that are ultimately either collected from customer payments, or collected from federal government or the State in the form of USF disbursements. The only way a flat-fee State USF assessment could burden the federal USF is if it is paid from federally received USF dollars. However, under FCC regulations, no carrier may use federal support for the payment of State USF, and each carrier must certify annually that it uses its federally received dollars in the manner intended for the federal support.

Further, aside from the rate of return regulated independent local exchange carriers ("ROR ILECS"), the only other carriers under State jurisdiction that receive federal support are CenturyLink and Citizens/Frontier. Both CenturyLink and Citizens/Frontier receive CAF Phase 2 support which is specifically committed to broadband buildout and cannot be used for

⁹ While CTIA and AT&T allege that a flat-rate charge may burden the Federal USF, it is notable they have not provided one example of how or why this may be true. Without substantiation, this position is a red herring and the Commission should give it no weight in its deliberations. Several other states utilize a flat rate charge to fund their state USF, or a portion of their state USF, and the FCC has not, to date, found this methodology to burden the Federal USF program.

other purposes.

Finally, with regard to the ROR ILECs, with the implementation of the benchmark rates set by the FCC and the State of Utah, ROR ILECS, who have historically been the recipients of State (and/or federal) UUSF disbursements are required by State law to charge a Commission determined Affordable Base Rate before being entitled to any distributions from the UUSF. The Commission has currently set the State Affordable Base Rate at \$18.00, which currently coincides with the federal rate floor.¹⁰ By Commission Order, dated June 7, 2016, the Commission indicated that ROR ILECS may choose whether the \$18.00 Affordable Base Rate, as set by rule is inclusive of, or exclusive of, *inter alia* the State UUSF charge. However, before being entitled to any disbursement from the UUSF, ROR ILECS need to establish that they have been charging customers the Affordable Base Rate. Therefore, as a practical matter, ***the UUSF charge will either be included in the \$18.00 Affordable Base Rate, or it will be in addition to the \$18.00, thus ensuring the State UUSF payment is being paid from customer revenues and not federal USF receipts.*** For providers who don't receive federal or State USF, there can be no argument that the UUSF assessment burdens the federal USF mechanism, and thus it is irrelevant whether the bill paid by the end-user is "all-inclusive" of the UUSF charge, as permitted by the Commission's proposed rule, or whether the bill has a line item UUSF charge in addition to the basic rate.

URTA believes the Commission should eliminate the mandatory end-user surcharge for the UUSF contribution, and permit providers to collect the fee from end-users as they see fit. If the Commission adopts this recommendation, the Commission can make the

¹⁰ Utah Administrative Code, R746-360-6.B.1

modification suggested above, and republish the Proposed Rule in the November 1, 2017 State Bulletin so the rule is effective January 1, 2018.

B. PREPAID WIRELESS IS THE SAME AS OTHER WIRELESS SERVICE SO NO SEPARATE RULE IS NEEDED

As demonstrated above, URTA believes the Commission can mitigate many logistical issues by assessing the UUSF on the provider rather than the end user. Nevertheless, if the Commission is intent on assessing the end user, the current Proposed Rule as drafted will permit such assessment to customers of all providers and a separate rule for prepaid wireless is not necessary.

Prepaid wireless service is an “all-inclusive” wireless service and a separate rule to address the potential differences in customer billing is not required. As indicated above, there are myriad ways a customer can be billed for services. The nuances of the customer billing do not require separate rules. Carriers can, and do, figure out how to bill the customers the required fees and charges even in the absence of legislative instruction. The provider is in the best position to determine the method of passing such the UUSF assessment through to the end-user. However, as one example, the prepaid wireless provider could debit the account of the subscriber \$0.36 per month, or the equivalent in minutes, to ensure the UUSF assessment is “paid” by the end-user.¹¹

It is critical, however, that the Commission’s discussion of its Proposed Rule not carve out prepaid wireless. To enact a rule that is not applicable to a set of providers makes the

¹¹ For example, in reviewing the AT&T Prepaid Terms and Conditions, they provide “**Taxes and other fees:** In many jurisdictions, certain recurring fees or taxes will be debited from your account balance as allowed by law. Other taxes, surcharges and fees apply on top of refill denominations.” (from <https://m.att.com/shopmobile/legal/terms/prepaidPlanTerms.html>, accessed 10/2/17, attached as Exhibit 1).

entire rule subject to a discrimination claim.

III. CONCLUSION

URTA urges the Commission to reconsider assessing the UUSF charge to providers, and permitting, but not requiring, providers to pass the charge through to customers in whatever way the provider deems appropriate. Assessing the providers eliminates many of the logistical issues raised by the Commission and the stakeholders, and is very much consistent with both Utah Code §54-8b-15, and the federal rules.

Nevertheless, the Proposed Rule as drafted is technologically neutral and nondiscriminatory against any provider. However, the language used by the Commission in its August 14 Notice needs to be amended to reflect that the Proposed Rule shall be applicable to all providers, including prepaid wireless providers or else the Proposed Rule, as applied will be challenged as discriminatory or not competitively and technologically neutral.

Dated this 2nd day of October, 2017.

BLACKBURN & STOLL, LC



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Association

CERTIFICATE OF SERVICE

I hereby certify that on the 2nd day of October, 2017, I served a true and correct copy of Utah Rural Telecom Association's Comments on Proposed Rule R746-360-4 in the Matter of the Utah Administrative Code R746-360 Universal Public Telecommunications Service Support Fund, Docket No. 17-R360-01 via e-mail transmission to following persons at the e-mail addresses listed below:

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EXHIBIT 1

TO URTA'S COMMENTS

AT&T Prepaid Wireless Terms and Conditions

AT&T PREPAIDSM Plan Terms

AT&T PREPAIDSM service is subject to these Plan Terms and the AT&T PREPAID Terms of Service located in your AT&T PREPAID device packaging or at att.com/prepaidterms (collectively, "AT&T PREPAID Agreement"). Activation and use of AT&T PREPAID service constitutes acceptance of the AT&T PREPAID Agreement.

For details on availability, charges, restrictions, and conditions on all AT&T PREPAID phone plans and Add-Ons, see the AT&T PREPAID brochure or go to att.com/prepaidplans.

- 1. AT&T PREPAID Coverage Map.** The coverage map shows the scope of your coverage area. Map depicts an approximation of outdoor coverage. Actual coverage area may differ substantially from area shown on map, as coverage may be affected by terrain, weather, foliage, buildings and other construction, signal strength, customer equipment and other factors which do not allow AT&T to guarantee coverage or network availability. You must be in the AT&T PREPAID coverage area to place or receive calls. Future coverage, if depicted on map, is based on current planning assumptions but is subject to change and may not be relied upon. Your device's display does not indicate the rate you will be charged.
- 2. Requirements.** Eligible device required. Plans designed for use on eligible devices as specified in these Plan Terms and the AT&T PREPAID brochure. Unless permitted by plans, a plan designed for one type of device may not be used with another type of device by tethering devices together, by SIM card transfer, or any other means. If you: a) use any AT&T PREPAID service excessively, abusively or fraudulently; b) resell or rebill our Services either alone or as part of any other good or service; c) use a plan with a non-designated device or without all of the required elements of the plan, you agree that AT&T may, at its sole discretion: (1) suspend or terminate your AT&T PREPAID service or your AT&T PREPAID account; (2) remove any element of the plan (voice, data or messaging service) from being used on a non-designated device; or (3) place an appropriate plan on any non-complying device. 900 numbers are not available. Plans, charges, rates and services are subject to change at any time.
- 3. Charges.** Voice usage deducted in full-minute increments with partial minutes rounded up to next full minute at end of each call. Additional charges plus airtime apply to Directory Assistance calls. On certain plans, per-minute charges and/or the plan charge applies to calls made using features including Call Waiting, Call Forwarding, 3-Way Calling and voicemail access and retrievals, and standard airtime charges apply to 800, 866, 877 and other toll-free calls. Nationwide calling is included within the 50 United States, Puerto Rico, & U.S. Virgin Islands, and to American Samoa, Guam and Mariana Islands. **Taxes and other fees:** In many jurisdictions, certain recurring fees or taxes will be debited from your account balance as allowed by law. Other taxes, surcharges and fees apply on top of refill denominations. **Free calls:** 611 calls to AT&T automated customer service, calls to inquire about balances, and 911 emergency calls are free. 611 calls may not work in all areas.
- 4. Payment and Cancellation.** You must make a payment to your account within 26 days of activation, or your account will be canceled. **AT&T PREPAID cards and other account payments are nontransferable and nonrefundable.** The *888* command for payment only works with PINS/Cards purchased from AT&T-owned retail stores and select authorized retail locations and may not work on all device types. Amounts deposited into your account expire in accordance with the stated payment denomination expiration period (\$10-\$24 payments expire in 30 days, \$25 to \$99 in 90 days, \$100 or more in 365 days). Unused account balance forfeited upon expiration. If you are on a monthly plan, the applicable plan charge for each renewal period will automatically be deducted from your account balance at the end of the day (11:59pm Central Time) on your plan's payment due date. **Applicable plan charge for any AT&T PREPAID plan is not refundable and not exchangeable, and any unused services of your plan are forfeited if you change to another plan during your plan's period.** If your account balance is insufficient

to pay the applicable plan charge, you will not be able to use your plan services, data services, or any pay-per-use services until you make a payment to your AT&T PREPAID account with the applicable amount or your plan is renewed. AT&T PREPAID accounts for phone plans, except Emergency Phone, will be canceled 60 days after expiration. AT&T PREPAID accounts for data plans and Emergency Phone will be canceled 365 days after expiration. A new wireless phone number is required to reactivate service once account is canceled. Account balance limit is \$500.

5. Monthly Plans and Add-ons. Monthly plans and Add-Ons good for 30 days at applicable charge. Monthly plans expire at 11:59 p.m. C.S.T. on the 30th day. When you first activate a plan, the day that the plan is activated counts as the first full day and counts towards the first 30 days, so your plan may be less than a full thirty days during first month depending on time of plan activation.

6. Voice, Data & Messaging Services for Mobile Phones.

General: Availability of specific services, the time period during which services are available, and eligible devices vary depending on the plan. **Voice:** Nationwide minutes included in plans intended for domestic use only unless on a Monthly plan that includes in-country calls while in Mexico & Canada. Calling from the U.S. includes calling from the 50 United States, Puerto Rico, & U.S. Virgin Islands. Additional charges apply to all other international calls. **Unlimited Messaging:** Unlimited messaging includes unlimited text, picture and video messages within the U.S., Puerto Rico, & U.S. Virgin Islands (and in Mexico and Canada on plans that include calling while in Mexico & Canada (50% usage in U.S. over three month period of service required)) and to select countries. For a list of countries, go to att.com/prepaidIntlText.

Pay-Per-Minute Plan: Voice calls, text messages and data usage charged at then prevailing per minute/per message/per usage rates. Pay-per-use data service available only on basic and messaging phones. If using data service on a pay-per-use basis, account balance must be at least \$5.

Daily Plan: Daily plan includes unlimited nationwide calling and unlimited messaging for a rate charge assessed and paid each day phone is used to make or receive voice calls, including a call to voice mailbox, or send a text or picture/video/sound message. The day for purposes of Daily plan rate charge starts when you make a call, accept an incoming call, or send a message and ends at 11:59 p.m. based on time zone in which you are located when you took action to activate Daily plan. A minimum account balance sufficient to pay Daily plan rate charge required to place or receive first call of the day or send a message. **Data:** Pay-per-use data service automatically available for basic and messaging phones at then prevailing pay-per-use data rate. A Data Add-On is available for an additional charge for all device types. Once Data Add-On is depleted, basic/messaging phone users will automatically revert to pay-per-use data. To continue using data on a smartphone, customer must purchase another Data Add-On or be restricted to Wi-Fi.

Monthly Plans: Monthly plans include unlimited nationwide calling and unlimited messaging. Certain Monthly plans may include data service. For plans including calling and messaging in Mexico and Canada, both the number of texts and number of voice minutes used, made or received while in Mexico and Canada cannot exceed 50% of the total number of texts or voice minutes in a month for any consecutive three month period or service may be terminated. **Data:** Data availability and allotments vary by plan. Certain Monthly plans for smartphones include a high-speed data allowance and, thereafter, unlimited data usage at reduced data speeds of up to 128 Kbps for the rest of the 30-day plan term. Certain Monthly plans for basic and messaging phones include a data allowance at speeds up to 3G and, thereafter, unlimited data usage at reduced data speeds of up to 128 Kbps for the rest of the 30-day plan term. In addition, some AT&T PREPAID data plans may provide data at a maximum speed, as set forth in the plan details. Actual speeds vary by device and location. For specific data allowance and speeds on these plans and other details, see the AT&T PREPAID brochure or go to att.com/prepaidplans. Data Add-On available on certain Monthly plans for an additional cost. Pay-per-use data not available on Monthly plans.

AT&T PREPAID Annual Plan for SpareOne Emergency Phone: SpareOne Emergency Phone device required.

Includes an allotment of nationwide minutes and is good for 365 days upon payment of applicable plan charge. As permitted by law, applicable plan charge for each renewal period is automatically deducted from your account balance at the end of the day (11:59pm Central Time) on your plan's payment due date, which is 365 days from the date service began. Minutes intended for domestic use only. International calls, text messaging, and data service not supported.

7. Data Services for Tablets and Mobile Hotspots.

General: Data plans may only be used with eligible tablets, stand-alone mobile hotspot devices, and Car Connection device. Data plans include specific data allotments. Unused data allowances do not roll over. International data roaming not available.

8. AT&T PREPAID Wireless Home Services.

General: AT&T PREPAID Wireless Home Services include Monthly plans for AT&T PREPAID Wireless Home Phone ("WHP") service and AT&T PREPAID Wireless Home Phone & Internet ("WHPI").

911 calls routed based on wireless network automatic location technology. You should expect to provide your location address to the emergency response center responsible for sending first responders (e.g. police, medical assistance, or fire) to your location. WHP Device and Home Base (as defined below) have battery backup power and will work in the event of a power outage. However, a cordless phone connected to the WHP Device or Home Base will not operate during a power outage. To use backup battery power, you must plug a corded phone into the WHP Device or Home Base. Corded or landline phone equipment is not provided with service. For information on testing, storage, battery replacement, service limitations, and warranties, please refer to the device User Manual available at att.com/prepaidHomeService.

AT&T PREPAID WHP ("AT&T PREPAID WHP") Monthly Plan: AT&T Wireless Home Phone device ("WHP Device") required. AT&T PREPAID WHP service provides voice service only. WHP Monthly plan includes unlimited nationwide calling. Minutes intended for domestic use only. Additional charges apply to international calls. Data service not supported by AT&T PREPAID WHP service. Other compatibility restrictions apply. For details, see AT&T PREPAID Terms of Service.

AT&T PREPAID WHPI ("AT&T PREPAID WHPI") Monthly Plans: AT&T Home Base ("Home Base") required. AT&T PREPAID WHPI service provides voice and data service. AT&T PREPAID WHPI Monthly plans include unlimited nationwide calling and an allotment of data. Other compatibility restrictions apply. For details, see AT&T PREPAID Terms of Service. **Voice:** Minutes included are intended for domestic use only. Additional charges apply to international calls. **Data:** Data allotments vary by plan and allow you to share monthly allotments among up to eleven (11) internet capable devices connected to Home Base. Any unused data allotment does not rollover.

9. Add-ons.

General: Add-ons good for 30 days. Voice, Data and Messaging Add-Ons contain a specific allotment of voice minutes, data usage, or messages. International Calling Add-Ons contain a specific allotment of voice minutes or reduced pay per minute rates. You must have an active (not expired) plan to purchase or renew an Add-On. If your account balance expires before the last day of the Add-On term, Add-On cannot be used and the remaining time on Add-On will continue to run unless you add money to your account during the remaining days of the Add-On period. An Add-On is depleted when you use the entire allotment. Renew an Add-On before its expiration date and any unused allotment will roll over to your renewed Add-On time period. Unlimited Add-Ons and the East Asia/India and Latin America/Caribbean Add-Ons do not roll over. Standard rates apply if Add-On not renewed after 30 days.

Data Add-Ons: **Monthly:** When you add a data Add-On to a Monthly plan that includes a data allotment, the use

of data will be counted first against your data Add-On instead against the data allotment of your plan. If a Monthly plan includes a data allotment, the unused portion of the data allotment in your plan will remain available for use until the last day of your plan term, provided you deplete your data Add-On. Thus, you should not add a data Add-On to a plan that includes a data allotment until your data allotment is about to be depleted. If you renew your plan during the term of your data Add-On, any data remaining in your data Add-On will continue to be used until the data Add-On expires or is depleted. **Daily:** A Data Day Pass Add-On for the Daily plan is available for an additional charge. The Data Day Pass Add-On begins at the time you purchase the Add-On and ends at 11:59 p.m. (C.S.T.) of the day following the day your data Add-On is purchased. After data Add-On expires or is depleted, usage will be charged according to your underlying plan.

Monthly Messaging Add-Ons: Includes an allotment of nationwide messages (voice, picture or video) and may be added only to the Pay-Per-Minute plan.

Monthly International Calling Add-ons: Countries and/or call destinations not included in Add-Ons charged at standard pay-per-use rates for international long distance. For details on pay-per-use charges, go to att.com/prepaidintl. Add-ons with an allotment of minutes may not be purchased more than twice within any 30 day period, or AT&T reserves the right to block international calling and/or suspend or terminate your AT&T PREPAID service. **International Add-on:** Includes an allotment of minutes from the U.S. to landline and/or mobile numbers in specific countries. For a list of countries, see att.com/prepaidintlD. **International Plus Add-on:** Includes an allotment of minutes from the U.S. to landline and/or mobile numbers in specific countries. Can only be added to select monthly plans. For a list of countries and details, see att.com/prepaidintlplus. **East Asia/India Add-on:** Includes unlimited calls from the U.S. to landlines and mobiles in China, India, Hong Kong, Singapore and South Korea plus reduced pay per minute rates to specific countries in the region. For a list of countries, see att.com/prepaidasia. Can only be added to select monthly plans. **Latin America/Caribbean Add-on:** Includes reduced pay per minute rates to specific countries in the region. For a list of countries, see att.com/prepaidlatinamerica. Can only be added to select monthly plans. **Dominican Republic Add-on:** Unlimited calls to landlines and 10¢ per-minute calls to mobile numbers when dialing from the U.S. to the Dominican Republic. Available to select monthly plans only.

AT&T PREPAID WHS International Long Distance Add-on: Contains an allotment of minutes from the U.S. to specific countries. Can only be added to AT&T PREPAID Wireless Home Phone or Wireless Home Phone & Internet Monthly plans. For a list of countries and details, see att.com/prepaidwirelesshome.

Minutes Add-on: Includes an allotment of nationwide minutes and is good for 30 days. Can only be added to Annual Plan for SpareOne Emergency Phone.

10. **Pay-Per-Use Text/Picture/Video Messaging:** You may remove any pay-per-use service by contacting customer service. There is a charge per message sent or received, whether read or unread, solicited or unsolicited.

11. **Data.** The absolute capacity of AT&T's wireless data network is limited; consequently, data services may only be used for permitted activities. Pricing and data allowances for data services are device dependent and based on the capabilities and capacity of each device. Data services are designed for use with one of the following device types: (1) Smartphones, (2) basic and messaging phones, (3) tablets (4) stand-alone mobile hotspot devices, (5) AT&T Home Base and (6) Car Connection device. Data only plans are available for use on tablets, stand-alone mobile hotspot devices, and Car Connection devices only. A data service designed for one type of device may not be used with another type of device. Data services and data plans do not allow access to corporate email, company intranet sites, and other business applications. Data speeds are not guaranteed and subject to your device limitations. AT&T may reduce your data throughput speeds at any time or place if your data usage exceeds an applicable, identified usage threshold during any billing cycle. AT&T will provide you with advance notice of the usage threshold applicable to your data plan, or any changes to the applicable usage threshold either by an email, text message or other appropriate means. Data usage is charged in five-kilobyte increments, and actual transport usage is rounded up to the next five kilobytes. Data charges are based on the location of the site receiving and transmitting service and not your location.

Mobile broadband, 4G and 4G LTE access requires a compatible device. Data usage applies when using Instant Messaging, and downloading ringtones, games and graphics. In some cases, our network will resend data packets to ensure complete delivery. You will be charged for these re-sent packets. For more details on permitted and prohibited uses of data services, see AT&T PREPAID Terms of Service at www.att.com/prepaidterms.

Stream Saver: is included on most AT&T PREPAID plans that have data included or that allow a Data Add-On to be added. Stream Saver allows you to save data by streaming most higher definition video at Standard Definition quality (about 480p) on compatible devices (unless the video provider has opted out). If your plan is eligible for Stream Saver, AT&T will turn it on for you. Check your account online to see if it is turned on. You may then turn it off or back on at any time at att.com/myprepaid. Multi-Line account owners and members manage Stream Saver settings for their own lines. Stream Saver will not recognize all video content. Ability to stream and video resolution may vary and be affected by other factors. See att.com/stream saver for more details.

Unlimited Data: is included with select AT&T PREPAID plans. Unlimited Data is for use in the United States, Puerto Rico and the U.S. Virgin Islands (and in Mexico and Canada on the monthly plans that include calling in Mexico and Canada). For the AT&T PREPAID \$65 plan, after 22GB of any data usage on a line, AT&T may slow the data on that line during periods of network congestion until the next renewal period. See also the discussion of data speed in Section 6.0 above.

Rollover DataSM: Available for mobile phones on select plans only and only if your plan renews on time. Unused high-speed data (or up to 3G speeds on basic/messaging phones) from your monthly plan allowance rounds up to the nearest MB & carries over for one 30-day renewal period. Unused Rollover Data automatically expires after one renewal period or with any plan change (such as changing data amounts, cancellation or balance expiration). Rollover Data is used after your monthly high-speed plan allowance or any Data Add-On.

Data with Wi-Fi Hotspot/Tethering: Tethering is a wireless or wired method in which your AT&T PREPAID mobile device is used as a modem or router to provide an internet access connection to other devices, such as laptops, network, tablets, smartphones, other phones, USB modems, network routers, mobile hotspots and other data-capable devices. Unless otherwise specified, monthly plans enable data Wi-Fi hotspot/tethering on smartphones, and you may use such plans for tethering in the U.S., Puerto Rico & U.S. Virgin Islands (and in Mexico and Canada on the monthly plans that include calling in Mexico and Canada), subject to your device limitations.

12. **International Calling.** Per-minute international long distance charges apply in addition to regular airtime charges unless you purchase an International Calling Add-On with an allotment of minutes or are on a Monthly plan that includes unlimited calling from the U.S. to Mexico and Canada. If on a Monthly plan with an allotment of nationwide minutes, your international long distance calls will not be counted against your voice allotment, but you will be charged 10 cents per minute plus the applicable international long distance charge for your international long distance minutes. See att.com/prepaidintl for a list of available countries, rates and other details.

13. **Unlimited Voice Services.** Unlimited voice services are provided for reasonably uninterrupted live dialogue between two individuals. AT&T may, in its sole discretion, terminate your Service or change your plan to one with no unlimited voice usage if AT&T reasonably determines or has a reasonable basis to believe that you are engaged in any of the following prohibited activities: (1) tethering AT&T PREPAID service except as expressly permitted herein; (2) maintaining an open line of communication to provide dispatch or monitoring services; (3) accessing or providing access to multi-party chat line services (separate calls initiated by you but not bridged together); (4) using the Service with a SIM box or SIM server network to generate or simulate voice calls; (5) transmitting broadcasts; (6) transmitting pre-recorded materials; (7) telemarketing; (8) initiating autodialed calls; (9) initiating any other calls or connections that are not for the purposes of uninterrupted live dialog between individuals; (10) using the Service for any fraudulent purpose; or (11) reselling or rebilling the Service either alone or as part of any other good or service).

14. **Caller Number ID.** Your wireless number may be displayed on outbound calls to other phones with Caller ID

capability. Contact customer service for information on blocking the display of your wireless number.

15. Conference Calling and Call Forwarding. If your use of conference calling, including any variation thereof, or call forwarding exceeds 750 minutes per month, AT&T may, at its option, impose a 25¢ per minute usage charge for all calling over 750 minutes using one or more of these features, terminate your service or change your plan to one with no unlimited usage components. AT&T will provide notice that it intends to take any of the above actions, and you may terminate the AT&T PREPAID service.

16. Off-net Usage. For a listing of available off-net and international roaming locations, where per-minute usage or roaming rates apply, go to att.com/prepaid. For any other off-net usage, AT&T may at its option, impose a per minute usage charge or terminate your service. AT&T will provide notice that it intends to take either of the above actions, and you may terminate your service.

17. AT&T PREPAID Multi-Line. **AT&T PREPAID Multi-Line is subject to the AT&T PREPAID Plan Terms set forth above, the AT&T PREPAID Terms of Service, and these additional terms and conditions in section 17 (collectively, "AT&T PREPAID Multi-Line Agreement"). Activation, acceptance of an invitation to join, and/or use of a AT&T PREPAID Multi-Line Account constitutes acceptance of the AT&T PREPAID Multi-Line Agreement.** In the event of a conflict between the terms and conditions in this section 17 and the terms and conditions of the AT&T PREPAID Plan Terms and Terms of Service, these terms in section 17 will control. In the event the terms and conditions in this section 17 are silent as to any matter, the AT&T PREPAID Plan Terms and Terms of Service will control.

AT&T PREPAID Multi-Line Account: To be eligible to activate or join a AT&T PREPAID Multi-Line Account, you must be an existing AT&T PREPAID customer with a basic or smartphone AT&T PREPAID phone plan, and the Account Owner must select an eligible monthly plan for each line on the Multi-Line Account. For details on availability, charges, restrictions, and conditions on eligible phone plans, go to att.com/multiline. AT&T reserves the right to increase or decrease the number of allowable lines on Multi-Line accounts without notice. One payment due date is established for all lines on the Multi-Line Account. If Account Owner Selects a monthly plan for member line ("Member") that is different from Member's current monthly plan, Member may lose access to Add-Ons or services that Member had with prior plan.

Account Owner: Account Owner is responsible for paying monthly plan charges for all lines on the Multi-Line Account. Account Owner may change the monthly plan for each line on the Multi-Line Account a maximum of one time per line, per plan term.

Member: By joining a Multi-Line Account, the Member consents to the disclosure of their customer proprietary network information (CPNI) to the Account Owner as set forth below. Upon accepting an invitation to join a Multi-Line Account, Member will be un-enrolled from Auto Pay, if applicable. Members continue to select and pay for optional Add-Ons or pay-per-use services out of their own AT&T PREPAID account balance.

Plan data pro-ration: **Upon adding Members to the Multi-Line Account, each Member's renewal date is aligned with the Account Owner's renewal date. When a Member is added to the Multi-Line Account during the plan term, the high-speed data allowance for the Member's plan is pro-rated based on the number of days remaining in the term. The high-speed data allowance is also pro-rated any time the Account Owner changes the monthly plan for any line, including the Account Owner's line, after establishing the Multi-Line Account.**

CONSENT TO DISCLOSE CUSTOMER PROPRIETARY NETWORK INFORMATION (CPNI), INCLUDING PLAN AND OTHER ACCOUNT INFORMATION TO ACCOUNT OWNER: BY ACCEPTING AN INVITATION TO JOIN AN ACCOUNT OWNER'S MULTI-LINE ACCOUNT OR BY USING AT&T PREPAID SERVICES WHILE PART OF A MULTI-LINE ACCOUNT, THE MEMBER CONSENTS TO DISCLOSURE OF CPNI AS DISCUSSED IN THIS PARAGRAPH. CPNI is information that relates to the type of telecommunications

services you currently purchase, how you use them, and the billing information related to those services, including plan, calling details, type of wireless services and other items relating to your wireless telecommunications services. Once a Member joins a Multi-Line account, the Member's AT&T PREPAID account information, including account history, plan information, call detail records, billing information, and voice and data usage information, will be shared with and accessible by the Account Owner of the Multi-Line Account. The Member has the right to restrict the disclosure of the Member's CPNI and other account information to the Account Owner. Restricting disclosure of the Member's CPNI will not affect any other service(s) to which the Member currently subscribes from AT&T, however, it will prevent the Member from being able to join an AT&T PREPAID Multi-Line Account, since this information (CPNI) is necessary for the Account Owner to manage the Multi-Line account. The Member's CPNI authorization is effective until the Member revokes it by removing the Member's line(s) from a Multi-Line Account.

Payment and Balance: Payment is due immediately to activate Account Owner's service on the Multi-Line Account. Upon adding a Member line to the Multi-Line Account, monthly payment will be due immediately to activate Member's service. A pro-rated credit will be issued to the Account Owner's account for the unused plan term for that Member. A prorated credit may also be issued to the Account Owner for unused days of a monthly plan the Member had prior to joining the Multi-Line Account (one credit per 30 days). Applicable plan charge for each line on the Multi-Line Account for each renewal period will be automatically deducted from the Account Owner's account balance at the end of the day (11:59pm Central Time) on the plan renewal date. The total payment due for all lines must be paid in order to renew service. **Applicable plan charge for any AT&T PREPAID plan is not refundable and not exchangeable, and any unused services of the plan are forfeited if the Account Owner changes to another plan during the plan term.** If Account Owner's account balance is insufficient to pay the applicable plan charges for all lines on the Multi-Line account, you will not be able to use your plan services, data services, or any pay-per-use services until Account Owner pays their AT&T PREPAID account with the applicable amount and the plans are renewed on all lines. Account balance limit is \$500 for consumer Multi-Line Accounts and \$500 for small business Multi-Line Accounts. Unused account balance is forfeited upon expiration.

Account Access: You authorize us to provide CPNI and other account information to the Account Owner, and to allow the Account Owner to make changes to the Multi-Line Account, including new or extended service commitments and the purchase of products and/or services, upon the direction of any person able to provide information we deem sufficient to identify the person as the Account Owner. Such access will include, but is not limited to, the ability to view Multi-Line Account information, make changes to the plans under the Multi-Line Account, perform upgrades, view payment information, etc.

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Customer Agreement and Plans - AT&T PREPAIDSM

Wireless

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