

- BEFORE THE PUBLIC SERVICE COMMISSION OF UTAH -

Utah Administrative Code R746-360 Universal Public Telecommunications Service Support Fund	<u>DOCKET NO. 17-R360-01</u> <u>NOTICE OF RULE FILING</u>
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ISSUED: October 24, 2017

As we have previously indicated, the Public Service Commission of Utah ("PSC") intends to publish one additional Notice of Proposed Rule to further amend R746-360-4, Application of Fund Surcharges to Customer Billings. We have reviewed the two final rounds of comments from October 2 and October 17 filed by the AT&T Companies, CenturyLink, CTIA, and the Utah Rural Telecom Association.

The Notice of Proposed Rule addresses most of the suggestions in those comments with some exceptions. We have declined to accept the suggestion to delay implementation of the \$0.36 per month, per access line, Utah Universal Service Fund ("UUSF") surcharge until such time as the Legislature may choose to implement a point-of-sale requirement for some forms of prepaid wireless service, but we have clarified that those providers are required to remit the UUSF surcharge. We also have declined to accept the suggestion to exempt access lines that receive a Lifeline subsidy from the UUSF surcharge.

The attached rule amendments address consistency with federal law, clarify obligations to providers of prepaid wireless service, modify language under which a provider may (or may choose not to) pass on the surcharge to end-users, and streamline the exemption process by making it a process for providers instead of for end-users.

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We intend to publish the Notice of Proposed Rule in the November 15, 2017 Utah State Bulletin.

DATED at Salt Lake City, Utah, October 24, 2017.

/s/ Thad LeVar, Chair

/s/ David R. Clark, Commissioner

/s/ Jordan A. White, Commissioner

Attest:

/s/ Gary L. Widerburg
PSC Secretary
DW#297551

EXHIBIT A

R746. Public Service Commission, Administration.

R746-360. Universal Public Telecommunications Service Support Fund.

R746-360-4. Application of Fund Surcharges to Customer Billings.

(1)(a) "Access line" is defined at Utah Code Subsection 54-8b-2(1) and is used in this rule, R746-360, to the extent consistent with federal law.

(b) For purposes of applying the statutory definition of "access line," the term "connection" is defined at Utah Code Subsection 54-8b-15(1)(c) and is used in this rule, R746-360, to the extent consistent with federal law.

(c)(i) Providers of access lines and providers of connections are hereafter referred to jointly as "providers."

(ii) Access lines and connections are hereafter referred to jointly as "access lines."

(2) Through December 31, 2017, providers shall remit to the Commission 1.65 percent of billed intrastate retail rates.

(3) 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 ~~[collect from their end-user customers]~~ remit to the Commission \$0.36 per month per access line that, as of the last calendar day of each month, has a [primary place of use within the State of Utah] place of primary use in Utah in accordance with the Mobile Telecommunications Sourcing Act, 4 U.S.C. Sec. 116 et seq.

(b)(i) "~~[Primary place]~~ Place of primary use" means the street address representative of where the customer's use of the telecommunications service primarily occurs.

(ii) A provider of mobile telecommunications service shall consider the customer's ~~[primary]~~ place of primary use to be the customer's residential street address or primary business street address.

(iii) A provider of non-mobile telecommunications service shall consider the customer's ~~[primary]~~ place of primary use to be:

(A) the customer's residential street address or primary business street address; or

(B) the customer's registered location for 911 purposes.

(c)(~~+~~) ~~[The]~~ A provider may collect the surcharge [shall apply as]:

(i) as an explicit charge to each end-user[-]; or

(ii) ~~[A provider may include the surcharge in an all-inclusive]~~ through inclusion of the surcharge within the end-user's rate plan.

(d) A provider that offers a multi-line service shall apply the surcharge to each concurrent real-time voice communication call session that an end-user can place to or receive from the public switched telephone network.

(e) A provider that offers prepaid access lines or connections that permit access to the public telephone network shall remit to the Commission \$0.36 per month per access line for such service (new access lines or connections, or recharges for existing lines or connections) purchased on or after January 1, 2018.

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(4)(a) A provider shall remit to the Commission no less than 98.69 percent of its total monthly surcharge collections.

(b) A provider may retain a maximum of 1.31 percent of its total monthly surcharge collections to offset the costs of administering this rule.

(5)(a) ~~[A] Subject to Subsection R746-360-4(5)(b), a provider may omit the UUSF surcharge [in billing] with respect to an access line that [:~~

~~— (i) — is described in Subsection R746-360-4(3)[;], and;~~

~~[(ii)](i) generates revenue that is subject to a universal service fund surcharge in a state other than Utah for the relevant month for which the provider omits the UUSF surcharge[-]; or~~

~~— (ii) for the relevant month for which the provider omits the UUSF surcharge, was not used to access Utah intrastate telecommunications services.~~

~~[(b)(i) An end-user may petition the Commission for a waiver of the surcharge set forth in Subsection R746-360-4(3). Any such petition shall be adjudicated as an informal administrative proceeding.~~

~~— (ii) An end-user that petitions for a waiver of the surcharge has the burden to provide:~~

~~— (A) call records demonstrating that, at all times and continuously during the six calendar months preceding the date of petition, the access line being assessed was not used to access Utah intrastate telecommunications services; or~~

~~— (B) billing records demonstrating that the access line is assessed a universal service fund surcharge in a state other than Utah.~~

~~— (iii) A provider may not petition the Commission under Subsection R746-360-4(5)(b) for a waiver of the surcharge on behalf of:~~

~~— (A) a customer; or~~

~~— (B) a group of customers.~~

~~— (iv)(A) An exemption granted under Subsection R746-360-4(5)(b) is valid for a period of one calendar year from the date of issuance.~~

~~— (B) Following the expiration of an exemption, and upon notice from the Commission, the end-user's provider shall assess the UUSF surcharge each month, until such time as the provider is notified by the Commission that a renewed exemption has been granted.~~

~~— (C) Any assessment remitted to the Commission between the expiration of an exemption and the approval of a petition for renewal of the exemption shall be non-refundable.~~

~~— (D)(I) The end-user shall bear the sole responsibility to know the expiration date of an exemption granted to the end-user and to ensure that an application for renewal is filed at least 30 days prior to the date of expiration.~~

~~— (II) At any proceeding to review a petition for renewal of an exemption, evidence that the end-user was unaware of the expiration date shall be inadmissible.~~

~~— (III) A petition for renewal of an exemption is deemed granted unless the Commission issues an order of denial within 30 days of the date on which the petition is filed.]~~

(b) A provider that omits any UUSF surcharge pursuant to Subsection R746-360-5(a) shall:

— (i) maintain documentation for at least 36 months that the omission complied with Subsection R746-360-5(a); and

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(ii) consent to any audit of the documentation requested by the:

(A) Commission; or

(B) Division of Public Utilities.

KEY: affordable base rate, public utilities, telecommunications, universal service fund

Date of Enactment or Last Substantive Amendment: 2017

Notice of Continuation: November 13, 2013

Authorizing, and Implemented or Interpreted Law: 54-3-1; 54-4-1; 54-8b-15

CERTIFICATE OF SERVICE

I CERTIFY that on October 24, 2017, a true and correct copy of the foregoing was served upon the following as indicated below:

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