



CARLA M. BUTLER

December 15, 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 in the above entitled docket please find Joint Comments in Response to the Revised UUSF Rules Published in the State Bulletin on November 15, 2017, 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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Attorneys for Utah Rural Telecom  
Association

**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**  
JOINT COMMENTS OF CENTURYLINK  
AND UTAH RURAL TELECOM  
ASSOCIATION

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**JOINT COMMENTS IN RESPONSE TO THE REVISED UUSF RULES PUBLISHED IN  
THE STATE BULLETIN ON NOVEMBER 15, 2017**

Qwest Corporation d/b/a CenturyLink QC and CenturyLink Communications, LLC  
("CenturyLink") together with Utah Rural Telecom Association ("URTA") on behalf of its  
members, All West Communications, Inc., Bear Lake Communications, Inc., Beehive Telephone  
Company, Carbon/Emery Telecom, 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, appreciate the opportunity to file comments. These comments are in response to the revised Utah Universal Service Fund (“UUSF”) rules that were attached as Exhibit A, to the Utah Public Service Commission’s (“Commission”) October 24, 2017 Order in this proceeding<sup>1</sup> and the revised UUSF rules that were published in the state bulletin on November 15, 2017.<sup>2</sup> These revised rules propose changes to the UUSF surcharge rules that were previously made effective<sup>3</sup> by the Commission in this proceeding. CenturyLink and URTA believe the Commission has substantially improved the UUSF rule with the changes included in the November 15, 2017 published UUSF rule.

**A. Providers pay the UUSF charge.**

The proposed rule clarifies that providers are required to pay the UUSF charge, rather than mandating an end-user surcharge. Providers are not required to collect the UUSF charge from their customers. Providers are permitted to determine how they will recover the UUSF charge that they are required to pay on a per line/connection basis. The new rule language resolves any concerns that prepaid wireless providers may not be paying into the UUSF, and the concern that additional legislation would be needed to collect the surcharge from prepaid wireless customer through a point of sale (“POS”) process. With the change in the rule, if a provider wants an end-user surcharge for UUSF on the bill, it can do so.

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<sup>1</sup> PSC website link to this docket: <https://psc.utah.gov/2017/03/28/docket-no-17-r360-01/>

<sup>2</sup> Utah State Bulletin, Number 2017-22, November 15, 2017:  
Website link: <https://rules.utah.gov/publications/utah-state-bull/>

<sup>3</sup> Commission’s October 11, 2017 notice that it made the previously published rule effective.  
Website link: <https://psc.utah.gov/2017/03/28/docket-no-17-r360-01/>

Similarly, under the amended rule providers who offer prepaid services are also required to pay UUSF on a per line/connection basis, but the providers can determine the collection methodology. For example, if a provider offers a prepaid service through retail channels,<sup>4</sup> the provider can set up a POS process on their own through contractual arrangements with the retailers, as one way to recover the UUSF charge. Because this is a business arrangement that a prepaid wireless provider can arrange on its own, statutory modifications are not required.

The Commission's proposed rule is consistent with the statute<sup>5</sup> and negates the need for the legislature to add a POS contribution process to the UUSF statute because the Commission is requiring providers to pay the UUSF charge, and is not mandating an end-user surcharge, thus avoiding unnecessary complications. This helps to ensure that the assessment of the UUSF charge does not discriminate against any provider or technology used by a provider for lines/connections, and is competitively neutral consistent with the statute.<sup>6</sup>

#### **B. Other changes to the rules.**

In the revised rules, the Commission has also addressed other concerns raised in previous comments that have been filed in this proceeding. For example, concerns that the definition of access lines and connections in the rule may be inconsistent with how federal law and the FCC define access lines and connections has been addressed. By adding, "*to the extent consistent with federal law*" ensures that access lines and connections are defined consistent with the FCC and federal law. Another change was made to ensure that the place of primary use is "*in accordance with the Mobile Telecommunications Sourcing Act, 4 U.S.C. Sec. 116 et seq.*"

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<sup>4</sup> Such as Walmart, Best Buy, etc.

<sup>5</sup> 54-8b-15 (8): "Each access line provider and each connection provider shall contribute to the Universal Public Telecommunications Service Support Fund through an explicit charge assessed by the commission on the access line provider or connection provider."

<sup>6</sup> Utah Statute 54-8b-15 (9) (a) and (b). Website Link:

[https://le.utah.gov/xcode/Title54/Chapter8B/54-8b-S15.html?v=C54-8b-S15\\_2017050920170701](https://le.utah.gov/xcode/Title54/Chapter8B/54-8b-S15.html?v=C54-8b-S15_2017050920170701)

**C. The Commission’s Proposed Rule is Consistent with the UUSF Statute and Federal Law.**

Throughout this proceeding, the Commission has demonstrated its willingness to consider necessary changes to the rules to ensure they are implemented in a manner consistent with the UUSF statute and federal law. Although throughout this rulemaking process, beginning with the initial comments that were filed on April 26, 2017, some parties have continued to advocate that the Commission not change to a per line/connection based UUSF charge, after multiple rounds of comments the Commission has selected and made effective a per line/connection based UUSF charge. The Commission adopted per line/connection method of contribution for UUSF is fully consistent with the UUSF statute,<sup>7</sup> fully consistent with federal law, and was adopted within the authority expressly granted to the Commission by the Utah Legislature.

Nevertheless, CTIA continues to oppose this and recently filed an application requesting that the Commission reconsider and stay the decision to adopt a per line/connection UUSF charge.<sup>8</sup> These arguments have no merit and the Commission has rightly denied rehearing.<sup>9</sup>

Throughout this proceeding CTIA asserts the per line/connection approach will burden the federal Lifeline program. CTIA’s analysis is incorrect. As stated in numerous earlier rounds of comments, the per line/connection approach is not based on revenues, rather, it is based solely on

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<sup>7</sup> 54-8b-15(9)(c): Website link:

[https://le.utah.gov/xcode/Title54/Chapter8B/54-8b-S15.html?v=C54-8b-S15\\_2017050920170701](https://le.utah.gov/xcode/Title54/Chapter8B/54-8b-S15.html?v=C54-8b-S15_2017050920170701)

<sup>8</sup> November 13, 2017 CTIA’s Application for Rehearing and Request for Stay. Website link: <https://psc.utah.gov/2017/03/28/docket-no-17-r360-01/><sup>9</sup> See the Commissions’ November 30, 2017 Notice Application for Rehearing Will Be Denied by Operation of Statute and Order Denying Stay. Website link: <https://pscdocs.utah.gov/Rules/17R36001/29817817R36001nafrwdbboosaodrf11-30-2017.pdf>

<sup>9</sup> See the Commissions’ November 30, 2017 Notice Application for Rehearing Will Be Denied by Operation of Statute and Order Denying Stay. Website link: <https://pscdocs.utah.gov/Rules/17R36001/29817817R36001nafrwdbboosaodrf11-30-2017.pdf>

the access line or connection being able to place or receive calls to or from the public switched network in Utah. A lifeline provider who decides not to charge more than the federal subsidy is not burdening the federal surcharge mechanism if it is required to pay Utah a UUSF charge per access line/connection. On the contrary, the lifeline provider, like all providers, is required to pay the UUSF per line/connection charge, and the lifeline provider makes the choice what it wants to charge for lifeline service, and how it chooses to collect the per line/connection charge.

If wireless ETCs give their customers “free” Lifeline service, requiring the wireless ETC to pay \$0.36 for that line/connection is not a burden on the federal USF. The UUSF charge does not result in increased payments by the federal USF (Lifeline) to wireless ETCs. When the wireless ETCs start to pay the \$0.36 per line/connection, they will continue to receive \$9.25 per month per Lifeline customer from the federal USF. The federal USF support will not increase to cover the UUSF charge.

**D. Providers should report any exclusions, detailed by each specific situation.**

In the published rule, R746-360-4(5), the Commission identifies two situations/categories where providers can “omit” lines/connections from the reported lines/connections subject to the UUSF surcharge, as specified in the following rule language:

*R746-360-4*

*(5)(a) Subject to Subsection R746-360-4(5)(b), a provider may omit the UUSF surcharge with respect to an access line that is described in Subsection R746-360-4(3), and:*

- (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.*

CenturyLink and URTA recommend that each of the exemptions identified in R746-360-4(5)(a)(i) and (ii) be reported separately to the Division and have its own line item on the monthly report

that is used by providers to report and pay the UUSF surcharge to the Commission.<sup>10</sup> This way the DPU can monitor the number of exemptions being claimed, and will be able to focus on the specific exemption category in the event the DPU determines further information or audit is needed related to a providers exclusions of lines/connections from the UUSF charge.

### **Conclusion**

CenturyLink and URTA appreciate the opportunity to file comments and believe that the Commission published rules resolves any legitimate remaining issues and concerns. These rules are now crafted in a manner to accomplish the requirements of the UUSF statute, by requiring all providers of lines/connections to pay the UUSF surcharge in a competitively and technology neutral manner. The rules are non-discriminatory and do not provide an advantage or disadvantage to any provider in the provision of access lines and connections to the public switched network in Utah. The Commission should make these published rules effective.

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<sup>10</sup> It is CenturyLink' and URTA's understanding that the DPU is working on a reporting form.

RESPECTFULLY SUBMITTED this 15th day of December 2017.

CENTURYLINK



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

I hereby certify that on the 15<sup>th</sup> day of December, 2017, I caused a true and correct copy of the foregoing JOINT COMMENTS OF CENTURYLINK AND UTAH RURAL TELECOM ASSOCIATION to be served upon the following persons via electronic mail at the e-mail addresses shown below.

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