

NOTICE OF  
PROPOSED RULE AMENDMENT

- The agency identified below in box 1 provides notice of proposed rule change pursuant to Utah Code Section 63G-3-301.
- Please address questions regarding information on this notice to the agency.
- The full text of all rule filings is published in the Utah State Bulletin unless excluded because of space constraints.
- The full text of all rule filings may also be inspected at the Office of Administrative Rules.

Rule Information

DAR file no: \_\_\_\_\_ Date filed: \_\_\_\_\_  
 State Admin Rule Filing Key: 158934  
 Utah Admin. Code ref. (R no.): R746-360-6

Agency Information

1. Agency: PUBLIC SERVICE COMMISSION - Administration

Room no.:

Building: HEBER M WELLS BLDG

Street address 1: 160 E 300 S

Street address 2:

City, state, zip: SALT LAKE CITY UT 84111-2316

Mailing address 1: PO BOX 45585

Mailing address 2:

City, state, zip: SALT LAKE CITY UT 84111-5585

Contact person(s):

Name:	Phone:	Fax:	E-mail:	Remove:
Sheri Bintz	801-530-6714	801-530-6796	sbintz@utah.gov	
Jennie Jonsson	801-530-6763		jjonsson@utah.gov	

(Interested persons may inspect this filing at the above address or at DAR during business hours)

Rule Title

2. Title of rule or section (catchline):

Universal Public Telecommunications Service Support Fund - Eligibility for Fund Distributions

Notice Type

3. Type of notice: Amendment

Rule Purpose

4. Purpose of the rule or reason for the change:  
To align Utah's affordable base rate with federal standards

Response Information

5. This change is a response to comments by the Administrative Rules Review Committee.  
 No  Yes

Rule Summary

6. Summary of the rule or change:  
This rule section establishes an affordable base rate that certain telecommunications providers are required to charge. Historically, the Public Service Commission has aligned the state affordable base rate with a base rate established by the FCC. The FCC's base rate has been scheduled to increase from \$18 to \$20 per line, effective July 1, 2017. However, the FCC recently voted to freeze the base rate at \$18 per line, at least temporarily. Therefore, this amendment eliminates the existing language that, beginning July 1, 2017, requires affected telecommunications providers to increase their rates to at least \$20 per line.

### Aggregate Cost Information

#### 7. Aggregate anticipated cost or savings to:

##### A) State budget:

Affected:  No  Yes

The telecommunications providers that are affected by R746-360-6 are eligible for distributions from the Utah Universal Service Fund (UUSF). Each provider's distribution is calculated according to the provider's total income, which will no longer be expected to increase as of July 1, 2017. Therefore, the state budget for the UUSF program should not be affected by this rule amendment.

##### B) Local government:

Affected:  No  Yes

Local governments are not required to comply with or administer R746-360-6. No fiscal impact to local government is anticipated.

##### C) Small businesses:

Affected:  No  Yes

("small business" means a business employing fewer than 50 persons)

Had the scheduled rate increase from \$18 to \$20 gone into effect, small businesses that receive distributions from the UUSF might have been required to adjust those distributions in light of their increased income. However, with this amendment, there will not be an automatic increase in income, and no immediate adjustment of UUSF distributions will be needed. Therefore, no fiscal impact to affected small businesses is anticipated.

##### D) Persons other than small businesses, businesses, or local government entities:

Affected:  No  Yes

("person" means any individual, partnership, corporation, association, governmental entity, or public or private organization of any character other than an agency)

Had the scheduled rate increase from \$18 to \$20 gone into effect, customers of affected businesses would have seen their telephone bills go up. However, with this amendment, there will not be an automatic increase in billings.

### Compliance Cost Information

#### 8. Compliance costs for affected persons:

To comply, affected persons (telecommunications providers) must continue to charge a minimum affordable base rate of \$18. There are no anticipated compliance costs, as this rule amendment maintains the status quo.

Department Head Comments

9. A) Comments by the department head on the fiscal impact the rule may have on businesses:

As stated in the rule analysis, this rule amendment eliminates a scheduled increase in the Utah affordable base rate. Where affected business will not be required to change their rates, no fiscal impact is anticipated.

B) Name and title of department head commenting on the fiscal impacts:

Thad LeVar, Public Service Commission Chair

Citation Information

10. This rule change is authorized or mandated by state law, and implements or interprets the following state and federal laws.

State code or constitution citations (required) (e.g., Section 63G-3-402; Subsection 63G-3-601(3); Article IV) :  
54-3-1, 54-4-1, 54-8b-15

Incorporated Materials

11. This rule adds, updates, or removes the following title of materials incorporated by reference (a copy of materials incorporated by reference must be submitted to DAR; if none, leave blank) :

Official Title of Materials Incorporated (from title page)
Publisher
Date Issued (mm/dd/yyyy)
Issue, or version (including partial dates)
ISBN Number
ISSN Number
Cost of Incorporated Reference
Adds, updates, removes-- SELECT ONE --

Comments

12. The public may submit written or oral comments to the agency identified in box 1. (The public may also request a hearing by submitting a written request to the agency. The agency is required to hold a hearing if it receives requests from ten interested persons or from an association having not fewer than ten members. Additionally, the request must be received by the agency not more than 15 days after the publication of this rule in the Utah State Bulletin. See Section 63G-3-302 and Rule R15-1 for more information.)

A) Comments will be accepted until 5:00 p.m. on (mm/dd/yyyy) : 07/17/2017

B) A public hearing (optional) will be held:

On (mm/dd/yyyy): At (hh:mm AM/PM): At (place):

Proposed Effective Date

13. This rule change may become effective on (mm/dd/yyyy): 07/25/2017

NOTE: The date above is the date on which this rule MAY become effective. It is NOT the effective date. After a minimum of seven days following the date designated in Box 12(A) above, the agency must submit a Notice of Effective Date to the Office of Administrative Rules to make this rule effective. Failure to submit a Notice of Effective Date will result in this rule lapsing and will require the agency to start the rulemaking process over.

Indexing Information

14. Indexing information - keywords (maximum of four, one term per field, in lower case, except for acronyms (e.g., "GRAMA") or proper nouns (e.g., "Medicaid")):  
affordable base rate, universal service fund, public utilities, telecommunications

File Information

15. Attach an RTF document containing the text of this rule change (filename):  
There is a document associated with this rule filing.

To the Agency

Information requested on this form is required by Sections 63G-3-301, 302, 303, and 402. Incomplete forms will be returned to the agency for completion, possibly delaying publication in the Utah State Bulletin, and delaying the first possible effective date.

Agency Authorization

Agency head or designee,  
and title:

Jennie Jonsson  
Administrative Law Judge

Date (mm/dd  
/yyyy): 05/23/2017

R746. Public Service Commission, Administration.

R746-360. Universal Public Telecommunications Service Support Fund.

R746-360-6. Eligibility for Fund Distributions.

A. Qualification --

1. To qualify to receive USF support funds, a telecommunications corporation shall be designated an "eligible telecommunications carrier," pursuant to 47 U.S.C. Section 214(e), and shall be in compliance with Commission orders and rules. Each telecommunications corporation receiving support shall use that support only to provide basic telecommunications service and any other services or purposes approved by the Commission.

2. Additional qualification criteria for Incumbent telephone corporations - In addition to the qualification criteria of R746-360-6A.1.,

a. Non-rate-of-return Incumbent telephone corporations, except Incumbent telephone corporations subject to pricing flexibility pursuant to 54-8b-2.3 shall make Commission approved, aggregate rate reductions for public telecommunications services, provided in the State of Utah, equal to each incremental increase in USF distribution amounts received after December 1, 1999.

b. Rate-of-return Incumbent telephone corporations shall complete a Commission review of their revenue requirement and public telecommunications services' rate structure prior to any change in their USF distribution which differs from a prior USF distribution, beginning with the USF distribution for December, 1999.

B. Rate Floor.

1. Unless a petition brought pursuant to Subsection (B)(2) is granted after adjudication, to be eligible for USF subsidization, a telecommunications corporation shall charge, at a minimum, [~~the following Affordable Base Rate~~]\$18 per line for basic telecommunications service[+]

~~----- a. As of July 1, 2016, \$18 per line; and~~

~~----- b. As of July 1, 2017, \$20 per line].~~

2.a. A telecommunications corporation may petition the Commission to deviate from the Affordable Base Rate set forth in this Subsection (B)(1).

b. A telecommunications corporation that files a petition under this Subsection (B)(2)(a) shall:

i. demonstrate that the Affordable Base Rate is not reasonable in the particular geographic area served; or

ii. impute income up to the Affordable Base Rate in calculating the telecommunications corporation's state USF subsidization.

C. Lifeline Requirement -- A telecommunications corporation may qualify to receive distributions from the fund only if it offers Lifeline service on terms and conditions prescribed by the Commission.

D. Exclusion of Resale Providers -- Only facilities-based providers, will be eligible to receive support from the fund. Where service is provided through one telecommunications corporation's resale of another telecommunications corporation's service, support may be received by the latter only.

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

Date of Enactment or Last Substantive Amendment: October 24, 2016  
Notice of Continuation: November 13, 2013  
Authorizing, and Implemented or Interpreted Law: 54-3-1; 54-4-1;  
54-8b-15(8)