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BEFORE THE PUBLIC SERVICE COMMISSION OF UTAH

Request for Rulemaking Regarding Utah Universal Service Fund	Docket No. 21-R008-04 Reply Comments
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Pursuant to Utah Code § 54-4a and Utah Admin. Code r.746-1, the Division of Public Utilities (Division) files these Comments on its July 2, 2021 Request for Rulemaking. The Division’s Comments respond to Comments filed on August 5, 2020 by the Utah Rural Telecom Association (URTA) as well as address some changes in the Division’s recommendations.

INTRODUCTION

On July 2, 2021 the Division filed a Request for Agency Action initiating this docket. The Division requested a rulemaking and submitted proposed rule language amending Utah Admin Code R746-8-200 and R746-8-401. URTA filed comments on August 5, 2021 and the Utah Office of Consumer Services (OCS) filed reply comments on August 19, 2021. The Division requested an extension of time to file reply comments as well as a request to hold a technical conference. On September 13, 2021 the Commission held a technical conference where

additional data and analysis regarding the rates for wholesale broadband was presented by URTA.

The Division files these reply comments in support of its requested rulemaking but proposes some updated language and modifies some positions taken in its initial Request for Agency Action. Division recommends the Commission not set a fixed rate for the bundled wholesale broadband rate at this time. The Division recommends edits to its original proposed rule language that sets a flat imputation rate for wholesale Consumer Broadband Only Loop (CBOL) of \$25 plus the additional ARC fee of approximately \$3 netting approximately \$28 per loop to the regulated company. The financial impact on the UUSF represented by URTA in its presentation during the September 13, 2021 technical conference was calculated using this approach and value. Finally, the Division agrees with URTA's comments regarding a collection of edits to correct erroneous references in the rule.

DISCUSSION

I. Imputed Wholesale Revenue for Bundled Service

The Division recommends that the Commission not set a fixed or minimum wholesale broadband revenue value for bundled service at this time. The Division did not propose a value for the bundled wholesale service rate in its initial filing but included a placeholder for such a rate in the proposed rule language. In its August 5th, 2021, comments URTA proposed \$12 per line for a bundled service wholesale rate when the service is combined with a voice service. The Division has been in discussions with URTA and reviewed the data compiled from its group of companies. The current rates charged by the rate of return regulated ILECs in Utah vary based on the costs of service and the speed of service offered in some cases.

The proposal to set the rate at a fixed \$12 per line would increase the rate for some and decrease it for others. The net result would be an increase in UUSF support that would act to

offset the UUSF fund benefits from the CBOL rates. Lower bundled rates may also result in less incentive for customers to convert to CBOL service offerings by reducing the bundled rate below the current cost. The current cost-based rates charged by the ILECs are largely reasonable and any individual issues may be addressed on a company by company basis. For these reasons, the Division supports the following edits to the proposed language to retain the current cost based wholesale broadband rates for bundled service. The edit to the proposed language is shown in bold.

(1) A rate-of-return regulated provider is eligible for ongoing UUSF support pursuant to Utah Code Section 54-8b-15 if the provider:

(a) is a carrier of last resort;

(b) ~~is in compliance~~ complies with Commission orders and rules;

(c) charges, at a minimum, the affordable base rate of \$18 per access line; unless a petition brought pursuant to Subsection R746-8-401(2) is granted after adjudication, ~~charges, at a minimum, \$18 per access line;~~

(d) includes revenue for purposes of calculating UUSF support a reasonable cost-based value per connection per month for the sale of wholesale broadband internet access service or broadband internet access service if sold in combination with a voice service access line to the same end user; unless:

(i) a petition is brought pursuant to R746-8-401(2)(b) is granted after adjudication; or

(ii) as set forth in Section (3) below.

(e) includes revenue for purposes of calculating UUSF support, at a minimum, \$25 per connection per month for the sale of stand-alone wholesale broadband internet access service or stand-alone broadband internet access service; unless:

(i) a petition is brought pursuant to R746-8-401(2)(b) is granted after adjudication; or

(ii) as set forth in Section (3) below.

(f) offers Lifeline service on terms and conditions prescribed by the Commission;

(g) operates as a facilities-based provider, not a reseller; and

~~(f) in compliance with R746-8-401(3), demonstrates through an adjudicative proceeding that its costs as established in Utah Code Section 54-8b-15 exceed its revenues as established in Utah Code Section 54-8b-15.~~

(h) complies with R746-8-401(4), demonstrating that its costs exceed its revenues as required by Utah Code Section 54-8b-15.

II. Wholesale CBOL Rate

In its Request for Agency Action, the Division recommended that the default rate for wholesale CBOL sales be set at or around \$32 per line per month. The net result after inclusion of the access recovery charge (ARC) of approximately \$3 per line per month would be a wholesale CBOL rate of \$35. URTA has compiled data from its members and its analysis suggests that a rate of \$25 (+ \$3 ARC) would result in a likely benefit (reduction to total support payments) to the UUSF and also allow lower retail rates to be offered to rural broadband customers. The Division supports the URTA proposal to set the CAF BLS companies' CBOL rate to \$25.

III. Correction of Typographical Errors

The Division agrees with the two proposed edits URTA suggested in its initial Comments. On pages 2-3 of UTRA's August 5, 2021 Comments in this docket URTA identified a proposed change to the proposed language in R746-8-401(3) to remove a reference to a subsection that does not apply to the broadband essentials program and a correction of a typographical error in the proposed language of R746-8-401(5) where the word "mode" should be corrected to the word "model". The Division agrees with both edits and recommends that those edits be adopted in the language of the final rule.

CONCLUSION

The Division supports the above-mentioned modifications to its proposed rule.

Submitted this 21st day of September 2021.

/s/ Justin C. Jetter
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CERTIFICATE OF SERVICE

I certify that on September 21, 2021, I caused a true and correct copy of the foregoing to be filed with the Public Service Commission and served by the Utah Division of Public Utilities.

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