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BEFORE THE PUBLIC SERVICE COMMISSION OF UTAH

In the Matter of the Consideration of Potential Changes in the Regulation of the Utah Universal Public Telecommunications Service Support Fund, in Response to Recent Changes in the Federal Universal Service Fund Program	Docket No. 12-999-10
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REPLY COMMENTS OF THE UTAH RURAL TELECOM ASSOCIATION

The Utah Rural Telecom Association (“URTA”) provides these Reply Comments in response to the Comments filed in this docket on behalf of Verizon, CenturyLink, and the Office of Consumer Services addressing potential changes in the regulation of the Utah Universal Service Public Telecommunications Service Support Fund (“UUSF”)¹ in response to changes to the federal Universal Service Fund (“USF”) high cost programs in the above captioned docket.

URTA anticipates that there may be additional participants in this docket who did not file comments in the initial round, such as Comcast² or the Salt Lake Community Action Program.³ To the extent that such comments, or others, are filed, URTA would like the opportunity to respond to such comments, and would request another round of comments. The importance of this docket to rural telecommunications cannot be overstated. Thus, URTA believes it is

¹ Utah Code Ann. Section 54-8b-15

² Comcast filed a Petition to Intervene, but has not filed comments.

³ It is URTA’s understanding that Salt Lake Community Action Program did not receive notice of this docket, and did not file comments, but has an interest in participating.

imperative that participation in this docket be liberally permitted, and that all parties hereto are afforded adequate opportunities to respond to each of the issues.

Additionally, the Request for Comments and Notice of Technical Conference issued by the Public Service Commission on November 2, 2012, indicated that parties wishing to present information at the technical conference or desiring a hearing on the matters under consideration should so indicate. URTA requests permission to present information at any and all technical conferences, and hereby requests that a hearing before the full Public Service Commission be scheduled in this docket.

I. Executive Summary

Based on the comments filed by other parties in this matter, there are several areas that URTA believes warrant additional comment:

1) The economic realities of rural telecommunications finance are not such that once a carrier install facilities, the carrier does not incur any additional costs and expenses. On the contrary, carriers are constantly required to maintain, upgrade and replace facilities at significant cost. The USF should be available to assist with these ongoing costs.

2) Universal Service Policy should be affirmed. Contrary to the position espoused by Verizon in its Comments filed on November 30, 2012 (“Verizon’s Comments”), wireless usage cannot, and will not supplant wireline usage for either voice services, or for broadband, particularly when it comes to business customers. Moreover, while the competitive market may have assisted with the availability of affordable basic voice service in metropolitan and/or urban areas, rural areas have not had the same experience. On the contrary, the rural customers, as well as the wireless carriers, very much depend on the legacy wireline services, albeit as they have

been improved over the years. Utah's universal service policy should continue to support the legacy wireline facilities and the services provided over such facilities. The State of Utah should reaffirm its commitment to providing Universal Service to all of the end users in Utah.

3) Rate of return regulation is an effective and efficient method of regulating UUSF disbursements in rural high cost areas. The rate of return procedure employs accountability and transparency which ensures that the UUSF will not be misused.⁴

4) The Utah USF rules and statutes should provide a reasonable method for one-time grants and/or disbursements for non-rate of return regulated carriers, to assist with high cost builds.

II. Universal Service Policies Should Be Affirmed.

As indicated the URTA members are, by and large, recipients of high cost support from the Utah Universal Service Fund, and have been for several years since the inception of the fund. The URTA members have historically used UUSF funds to provide robust and advanced telecommunications services to rural high cost areas of the state where it would be cost prohibitive to provide such service without universal support. In fact, prior to the implementation of the Federal and State universal service programs, there were substantial areas in the State of Utah that didn't have any telephone service. This is because a business case could not be made for extending telephone service hundreds of miles from the urban centers to service only a few customers. It was cost prohibitive. However, the federal government, and ultimately the State of Utah determined that as a matter of public policy, telephone service should be available and affordable to all residents of the United States (and Utah). Thus, all customers of

⁴ URTA members believe the process for determining UUSF eligibility or disbursements should be streamlined, but that is beyond the scope of this docket.

telephone service in the United States pay a surcharge on their bill which is used to offset the costs of providing telephone service in high cost (typically rural) areas.

Since its inception, company recipients of USF funds (both state and federal), have used USF funds, together with other sources of capital, to construct and maintain their telecommunications network. Thus, all residents of the United States have been able to participate in a robust telecommunications network in which they can call or be called by anyone else in the United States.

In Verizon's Comments, Verizon states that the goal of preserving and promoting universal service within the State of Utah by ensuring that customers have access to affordable basic telephone service has been achieved, and that the program is no longer necessary.⁵ While the universal service policy (and funds), both state and federal, have been very successful in deploying universal telephone service to all corners of the state (and country), the work is not complete. Companies in high cost areas require sufficient sources of revenue to continue to operate; and they require sufficient sources of capital to continue to build, replace and upgrade facilities so they can continue to provide telecommunications services. The Universal service fund supports the companies by providing a source of revenue and capital in high cost areas.

Additionally, as many of the commenters suggest, technology is ever-changing. Customers expect and demand new and improved services. Therefore, as facilities deteriorate, it is often more cost effective for rural telephone companies to replace their aging or deteriorating copper wireline facilities with glass fiber optic cable bundles, rather than copper lines. Fiber optics cables are operationally less expensive, and more importantly, are the new technological standard. However, as pointed out by some of the parties in this docket, fiber optic cables allow telephone companies to use their wireline facilities for applications beyond plain old telephone

⁵ Verizon Comments, page 2.

service. URTA affirms that telephone companies should not forego the future of technology simply because the technology can be used for additional applications. Rather Utah should embrace the new technologies, and should continue to support universal service of those technologies in areas where it is not cost effective for companies to do so with explicit support.

The URTA members believe that the policies behind universal service are just as important today as they were at the inception of the federal and state programs and should be affirmed as the applications expand and move toward future technologies. If Utah rejects universal service as a policy, traditionally high cost areas will be left to the whim of the market. History has shown us that without support high cost areas do not get the same service as urban areas. Thus, without support, Utah will be unable to attract investors and industry to the rural areas in the state of Utah.

Additionally, the URTA members believe that the Public Service Commission and the Legislature should be reminded that much of the industry that the State of Utah relies on for its economic success is located in the traditionally high cost rural areas within the state. For example, a large portion of the coal industry in the state of Utah is located in Carbon and Emery counties. Additionally, the gas and oil industry in the state of Utah is located within the Uintah Basin. These are very rural areas, but nevertheless, the industries require a reliable and robust telecommunications network. Utah's economic future is dependent upon a reliable telecommunications wireline network throughout the state of Utah.

A. Competition and New Technologies Have Not Eliminated the Need for Continued UUSF Support.

1. Wireless Service Cannot Offer a Replacement For Wireline Service.

Verizon, in its Comments, suggests that the market has changed radically since the UUSF was created, including “the rapid rise of competition, technical innovation, and the proliferation of intermodal service providers.”⁶ Verizon states that the widespread and growing availability of wireless, VoIP and broadband services has resulted in greater choice and lower rates for consumers.⁷ While wireless service in Utah has certainly expanded over the course of the past 10 years, there are still numerous areas in the state of Utah where wireless service is non-existent at worst, and spotty at best. It certainly does not offer a reliable alternative to wireline service. Additionally, wireless service doesn’t offer a viable alternative to businesses in rural Utah. Businesses in Utah demand a reliable wireline technology. While in some instances, that can be a VoIP service, VoIP service is dependent on a wireline broadband connection. In many instances, the only broadband connection available in rural areas of the state are provided over local exchange carrier wireline facilities.

Furthermore, while companies such as Verizon like to point out that there has been explosive growth in text messaging as an alternative to voice conversations, and that wireless applications such as voice, text messaging, wireless broadband, offerings are becoming more prevalent in the industry, what Verizon fails to mention is that wireless technology depends on a wireline backbone that backhauls the wireless traffic (voice and data) to and from the wireless tower. Many of those wireline facilities used to backhaul wireless traffic are legacy (copper) facilities, and the broadband that VoIP relies upon is, in many instances provided utilizing the facilities of the rural local exchange carriers. To put it bluntly, without wireline facilities, which in rural Utah are provided solely by the local exchange carriers, there would be no wireless communications or broadband access in these areas.

⁶ Verizon Comments, page 3.

⁷ *Id.*

2. Competition Does Not Warrant Elimination of the Utah USF Fund.

Verizon, in its Comments suggest that the competitive landscape in Utah has changed and that as a result of the rapid rise of competition in Utah, the UUSF is obsolete. Verizon states that “because the competitive market has developed with virtually no financial support from the [UUSF], perpetuating the [UUSF] is not necessary to ensure that Utah consumers have access to affordable voice service.”⁸ However, the competitive landscape that Verizon describes in its Comments is not descriptive of rural Utah. There are very limited instances of competitive local exchange providers operating in the high cost areas of Utah. Contrary to Verizon’s claims,⁹ nowhere near 39% of the landline switched access lines in high cost rural Utah were provided by companies other than the incumbent local exchange provider. On the contrary, in the rural exchanges with fewer than 5,000 subscribers in the state of Utah, there simply is no wireline competition. This is because it is not cost effective to provide service in such rural areas of Utah without explicit universal service support. Stated another way, the costs of providing basic service in rural Utah is likely to be greater than the revenues expected from that basic service. Therefore, elimination of UUSF support in these areas is not warranted. These high cost rural areas of Utah should continue to receive UUSF support if their costs exceed their subscriber revenues as set forth below.

B. Rate of Return Regulation Should Continue.

Because the goal of universal service is to make telecommunications services universally available to everyone at affordable rates, particularly in the high cost areas, the best way to achieve this goal is to continue with rate of return regulation in high cost areas. Under the rate of return regulation policy, companies who offer service in high cost areas are entitled to recoup

⁸ Verizon Comments, p. 3.

⁹ Verizon Comments, p. 4.

their reasonably incurred costs for providing service, plus a reasonable rate of return. This system is subject to the review of the Public Service Commission which ensures that only reasonable costs will be considered. This system offers accountability and transparency and ensures that the funds will not be misused. Additionally, in this time of extreme uncertainty in the federal landscape, continuing with a tried and true method of UUSF disbursement offers an element of stability to companies in an otherwise unstable environment.

URTA would agree with CenturyLink, however, that the Utah Legislature should consider reforming the one-time distribution statutes and rules to provide for grants in certain high cost circumstances, and to provide for greater flexibility with regard to one-time distributions for non-rate of return carriers.

III. Arguments That State Law Limits the Use of the Utah USF Fund Should Be Ignored.

The purpose of this docket is to address potential changes to the Utah Universal Service Fund. Presumably these changes would occur through new legislation, or revision of current statutes and rules. Therefore, any arguments that current Utah law does not permit some suggested use of the UUSF are not well founded, and should be ignored. For example, there is no argument that the *current* state of Utah law does not support explicit use of UUSF disbursements for broadband. However, that is not to say that the Utah law could not be modified to include support of broadband service through this docket and ensuing legislation.

URTA members support the continued investigation of UUSF funds to support broadband. As indicated previously, the continued deployment of technologically advanced telecommunications services in the rural areas of Utah provides schools, libraries, health care facilities, businesses and residential customers with landline telecommunications services and

high speed broadband services, permitting them to connect to other businesses, residents and the internet. The telecommunications network infrastructure provided by URTA's members enables the entire state of Utah to compete as a premier global business destination to attract new companies and industry to Utah thereby promoting economic development throughout the entire state. Maintenance of the UUSF program provides financial support to high cost areas of the state and is critical to the continued economic development of Utah. Therefore, URTA members would urge the Commission and the Legislature to tread slowly in making any radical changes to the UUSF, while the FCC continues to develop its new processes and procedures.

IV. Conclusion

URTA believes that a transition to broadband support by the UUSF is necessary, but strongly recommends that state reforms be delayed until there is clarification from the FCC on the federal USF program.

Respectfully submitted this 21st day of December, 2012.

BLACKBURN & STOLL, LC

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Association

CERTIFICATE OF SERVICE
Docket No. 12-999-10

I hereby certify that on the 21st day of December, 2012, I served a true and correct copy of Utah Rural Telecom Association's Entry of Appearance and Comments via e-mail transmission to the following persons at the e-mail addresses listed below, and was emailed to each individual who received (via email) the PSC Request for Comments and Notice of Technical Conference:

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