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Submitted June 4, 2013

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**BEFORE THE PUBLIC SERVICE COMMISSION OF UTAH**

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In the Matter of the Consideration of Potential ) Docket No. 12-999-10  
Changes in the Regulation of the Utah )  
Universal Public Telecommunications Service ) **COMMENTS ON THE DRAFT**  
Support Fund, in Response to Recent Changes ) **REPORT OF THE DIVISION OF**  
in the Federal Universal Service Fund Program ) **PUBLIC UTILITIES**

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**COMMENTS OF COMCAST PHONE OF UTAH, LLC**

Comcast Phone of Utah, LLC (“Comcast”), hereby submits its comments to the draft report of the Division of Public Utilities (“Division”) filed on April 25, 2013, with the Public Service Commission of Utah (“PSC”) in the above-captioned matter concerning potential changes in the regulation of the Utah Universal Public Telecommunications Service Support Fund (“UUSF”), in response to recent changes in the Federal Universal Service Fund (“FUSF”) Program by the Federal Communications Commission (“FCC”).

## **I. INTRODUCTION**

The PSC opened this Docket as a result of a request from the Utah State Legislature to consider actions the State may take to address changes in the FUSF Program initiated by the FCC in its order on USF reform, released November 18, 2011.<sup>1</sup> Following the comment period and a technical conference, the Division prepared its draft report and submitted it to the PSC on April 25, 2013. On May 20, 2013, the PSC issued a Notice of Filing and Comment Period inviting interested parties to submit comments on the Division's draft report by June 4, 2013. Comcast submits these comments to correct a statement on page 16 of the Division's draft report which summarizes Comcast's position on the contribution base for the UUSF.

## **II. THE PSC SHOULD CORRECT COMCAST'S POSITION IN THE DIVISION'S DRAFT REPORT.**

The Division's draft report addresses the contribution base of the UUSF and summarizes the positions of Comcast and Verizon together on page 16 as follows:

Comcast and Verizon argued that because the purpose of the Fund is to support only basic local exchange telephone service, there is no reasonable basis for requiring broadband and VOIP customers and companies to fund those local exchange telephone services. They contend broadband services and the customers that use them should not be subject to new fees solely to support traditional voice services and the historical analog voice business model.

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<sup>1</sup> *Connect America Fund, A National Broadband Plan for Our Future, Establishing Just and Reasonable Rates for Local Exchange Carriers, High-Cost Universal Service Support, Developing an Unified Intercarrier Compensation Regime, Federal-State Joint Board on Universal Service, Lifeline and Link-Up, Universal Service Reform – Mobility Fund*, WC Docket No. 10-90, GN Docket No. 09-51, WC Docket No. 07-135, WC Docket No. 05-337, CC Docket No. 01-92, CC Docket No. 96-45, WC Docket No. 03-109, WT Docket No. 10-208, Report and Order and Further Notice of Proposed Rulemaking, 26 FCC Rcd 17663 (2011); *pets. for review pending sub nom. In re: FCC 11-161*, No. 11-9900 (10th Cir. filed Dec. 8, 2011).

The above quote from the Division's draft report references portions of Verizon's comments. Comcast's reply comments also reference portions of Verizon's comments,<sup>2</sup> however, Comcast does not agree with the above quote from the Division's draft report as it relates to voice over Internet protocol ("VoIP") service providers and customers. To correct the record, Comcast respectfully requests that the PSC delete the reference to Comcast in the above quoted paragraph which appears on page 16 of the Division's draft report.

The FCC has statutory authority to assess universal service contributions on revenues generated from interstate and international calls from interconnected VoIP service providers.<sup>3</sup> The FCC has ruled that a state may impose their universal service contribution obligations on interconnected VoIP service providers based on intrastate revenues, so long as that state's contribution rules are consistent with the FCC's universal service contribution rules and that state does not apply its contribution rules to intrastate revenues that are attributable to services in other states.<sup>4</sup> In making this determination, the FCC concluded that the application of state universal service contribution requirements to interconnected VoIP service providers could promote federal policies, including the principle of competitive neutrality. *Id.* at 15658.

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<sup>2</sup> Comcast Reply Comments at 8, citing to Verizon Comments at 15-16.

<sup>3</sup> See 47 C.F.R. § 54.706; see also *Universal Service Contribution Methodology*, WC Docket Nos. 06-122 and 04-36; CC Docket Nos. 96-45, 98-171, 90-571, 92-237, 99-200, 95-116, and 98-170; NSD File No. L-00-72; Report and Order and Notice of Proposed Rulemaking, 21 FCC Rcd 7518, 7538-43, (2006), *aff'd in part, vacated in part, Vonage Holdings Corp. v. FCC*, 489 F.3d 1232 (D.C. Cir. 2007). Interconnected VoIP services "(1) enable real-time, two-way voice communications; (2) require a broadband connection from the user's location; (3) require IP-compatible customer premises equipment; and (4) permit users to receive calls from and terminate calls to the PSTN." *Id.* at 7526; 47 C.F.R. § 9.3.

<sup>4</sup> See *Universal Service Contribution Methodology; Petition of Nebraska Public Service Commission and Kansas Corporation Commission for Declaratory Ruling or, in the Alternative, Adoption of Rule Declaring that State Universal Service Funds May Assess Nomadic VoIP Intrastate Revenues*, WC Docket No. 06-122, Declaratory Ruling, 25 FCC Rcd 15651 (2010). "Interconnected VoIP services may be fixed or nomadic. A fixed interconnected VoIP service can be used at only one location, whereas a nomadic interconnected service may be used at multiple locations." *Id.* at 15652.

Comcast's position is that any reform resulting in competing services being treated differently for contribution purposes would be inconsistent with federal and state laws and policies.<sup>5</sup>

### III. CONCLUSION

For the foregoing reasons, the PSC should delete the reference to Comcast in the above quoted paragraph which appears on page 16 of the Division's draft report.

Respectfully Submitted,

**Comcast Phone of Utah, LLC**

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<sup>5</sup> See Utah Code Ann. § 54-8b-15(5) (The UUSF must "be nondiscriminatory and competitively and technologically neutral in the collection and distribution of funds, neither providing a competitive advantage for, nor imposing a competitive disadvantage upon, any telecommunications provider operating in the state.")

**CERTIFICATE OF SERVICE**

I hereby certify that on June 4, 2013, an original, five (5) true and correct copies, and an electronic copy of the foregoing COMMENTS OF COMCAST PHONE OF UTAH, LLC ON THE DRAFT REPORT OF THE DIVISION OF PUBLIC UTILITIES were electronically mailed and hand-delivered to:

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