



State of Utah

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Public Service Commission

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September 4, 2018

Senator Daniel Hemmert, Chair

Representative Stephen G. Handy, Chair

Members of the Public Utilities, Energy, and Technology Interim Committee

Senator David P. Hinkins, Sponsor, S.B. 130, Universal Service Fund Amendments (2017 GS)

Re: Report from Public Service Commission of Utah (“PSC”) under Utah Code Ann. § 54-8b-15(16)

Senators and Representatives,

Under Utah Code Ann. § 54-8b-15(16), enacted by S.B. 130 in the 2017 General Session, the PSC is required to report before November 1 each year to the Public Utilities, Energy, and Technology Interim Committee. The report is required to address four items:

1. The contribution method for the Universal Public Telecommunications Service Support Fund, typically referred to as the Utah Universal Service Fund (“UUSF”).
2. The amount of distributions from and contributions to the UUSF during the last fiscal year.
3. The availability of services for which Utah law allows UUSF funds to be used.
4. The effectiveness and efficiency of the UUSF.

UUSF Background

The UUSF is a program under which the PSC distributes funds from mandatory contributions (“surcharges”) collected from customers and paid into the UUSF by Utah telephone providers. The statutory purpose of the UUSF is to provide a mechanism for a qualifying carrier of last resort to obtain specific, predictable, and sufficient funds to deploy and manage networks capable of providing end-user services including access lines, connections, or wholesale broadband internet access service. The Legislature has charged the PSC with establishing the UUSF contribution method, which must be both nondiscriminatory and competitively neutral.

UUSF Contribution Method

Prior to S.B. 130, the UUSF contribution rate was 1.65% of billed intrastate retail rates. S.B. 130 required the PSC, before January 1, 2018, to develop a contribution method that is a function of a provider's annual intrastate revenue, number of access lines or connections in Utah, or some combination of those two methods. The PSC spent the second half of 2017 conducting a docket soliciting stakeholder comments on how to structure the contribution method. That docket is available at the following website: <https://psc.utah.gov/2017/03/28/docket-no-17-r360-01/>

Consensus from the various telecommunications industry stakeholders on a new UUSF contribution method was not reached. The PSC considered the various stakeholder positions and made the decision to implement a surcharge of \$0.36 per month for each access line or connection. That contribution method has been in place since January 1, 2018. Following the decision on a contribution method, some consensus was achieved on secondary issues.¹

UUSF Distributions and Contributions for the Fiscal Year Ended June 30, 2018

For FY 2018, total contributions to the UUSF were \$12,995,732 and total distributions from the UUSF were \$12,039,752. Both of these numbers increased in FY 2018² because pursuant to S.B. 130, beginning with FY 2018, the Relay Utah program³ that was previously a separate program with a separate funding surcharge was rolled into the UUSF.

Further breakdowns on distributions are listed below. While we recognize the total number of customers for each provider listed below could provide a useful data point when evaluating UUSF distributions, we acknowledge that customer counts might be viewed as commercially sensitive data, so we have not included them in this report.

¹ In April 2018, CTIA – The Wireless Association® filed a lawsuit in federal court alleging that various aspects of the administrative rules enacted by the PSC violate federal law. After the filing of the lawsuit, the PSC made an additional rule change to streamline the compliance process for telephone service providers whose customers receive a federal Lifeline subsidy. Following enactment of that rule change, both parties to the federal lawsuit stipulated to its dismissal in July 2018.

² For FY 2017, total UUSF contributions to the UUSF were \$11,328,664 and total distributions from the UUSF were \$11,121,953.

³ This program provides telecommunications devices and services to income qualifying individuals who are deaf, hard of hearing, or speech impaired.

Total FY 2018 UUSF distributions to Utah rural incumbent local exchange carriers

All West Communications, Inc.	\$2,042,011
Bear Lake Communications, Inc.	\$262,783
Carbon/Emery Telcom, Inc.	\$1,044,984
Central Utah Telephone, Inc.	\$267,568
Direct Communications Cedar Valley, LLC	\$588,300
Emery Telephone	\$1,110,996
Gunnison Telephone Company	\$345,317
Hanksville Telcom, Inc.	\$78,554
Manti Telephone Company	\$950,000
Skyline Telecom	\$46,308
South Central Utah Telephone Association, Inc.	\$2,103,288
STRATA Networks (UBTA-UBET Communications, Inc.)	\$1,966,396
Union Telephone Company	\$75,861
Total:	\$10,882,366

Total FY 2018 UUSF Lifeline (Utah Telephone Assistance Program) distributions

All West Communications, Inc.	\$721
Bear Lake Communications, Inc.	\$296
Beehive Telephone Company Inc.	\$312
Carbon/Emery Telcom Inc.	\$6,770
Central Utah Telephone, Inc.	\$2,768
Citizens Telecommunications Company of Utah d/b/a/ Frontier Communications of Utah	\$2,559
Direct Communications Cedar Valley, LLC	\$354
Emery Telephone	\$2,412
Gunnison Telephone Company	\$1,254
Hanksville Telcom, Inc.	\$96
Manti Telephone Company	\$4,587
Navajo Communications Company, Inc. d/b/a/ Frontier Navajo Communications Company	\$161
Qwest Corporation d/b/a Century-Link QC	\$103,170
Skyline Telecom	\$1,778
South Central Utah Telephone Association, Inc.	\$4,850
STRATA Networks (UBTA-UBET Communications, Inc.)	\$6,423
Union Telephone Company	\$42
Total:	\$138,553

- FY 2018 UUSF Lifeline payment to the Utah Department of Workforce Services for administration of Lifeline eligibility verification: \$66,322.
- FY 2018 Relay Utah program expenses: \$952,511.

Availability of Services Receiving UUSF Funds

Wireline Telephone Service

In the past, the Federal Communications Commission (“FCC”) published annual reports of wireline telephone service availability in each state. The report was based on the total number of occupied housing units with access to wireline telephone service.

The last such report issued by the FCC was in September 2010, listing data from years 2001 through 2008. Utah’s availability of wireline telephone service had increased from 97.4 percent of occupied housing units in 2001 to 99.3 percent of occupied housing units in 2008. For the 2008 data, Utah had the highest percentage of all 50 states (while the state with the lowest percentage was 95.7 percent).

The PSC is unaware of a research source with more recent data, although it seems counter-intuitive that wireline telephone service availability would have decreased in any significant manner since 2008. Adoption (as opposed to availability) has decreased significantly as many customers are choosing wireless telephone service over wireline service.

Broadband Internet Service

In February 2018, the FCC released the 2018 Broadband Deployment Report. This report evaluates whether advanced telecommunications capability is being deployed to all Americans in a reasonable and timely fashion. The full report is available at the following website: <https://www.fcc.gov/reports-research/reports/broadband-progress-reports/2018-broadband-deployment-report>

Highlights of the report’s findings for Utah include:

- 96.6% of Utah’s population with access to Fixed 25 Mbps/3Mbps (advertised maximum download speed/advertised maximum upload speed);
- 99.4% of Utah’s population with access to Mobile LTE 5 Mbps/1 Mbps;
- 75.3% of Utah’s population with access to Mobile LTE 10 Mbps/3 Mbps;
- 41.2% of Utah’s population living on Tribal Lands with access to Fixed 25 Mbps/3Mbps; and
- 90.8% of Utah’s population living on Tribal Lands with access to Mobile LTE 5 Mbps/1 Mbps.

Additionally, data in a different format is maintained by the Utah Broadband Outreach Center, an office within the Governor’s Office of Economic Development. That office maintains an online resource at <https://broadband.utah.gov/map/> allowing a user to enter a street address in Utah and find various broadband Internet options at that location. That office also published a Utah Broadband Atlas in January 2015 and maintains an online resource showing the maximum advertised download speeds by county as well as statewide.

Those two resources are available at the following websites:

<https://broadband.utah.gov/wp-content/uploads/2015/02/Broadband-Atlas-Final-Small-File.pdf>

<https://broadband.utah.gov/resources/maps-and-data/residential-broadband-coverage-statistics-county/>

Effectiveness and Efficiency of the UUSF

Administrative Rules

After we determined a contribution method for the UUSF going forward, we revised the remainder of our UUSF administrative rules to be more consistent with S.B. 130. Those rules are now effective, and the docket is available at the following website:

<https://psc.utah.gov/2017/07/06/docket-no-17-r008-01/>

Stakeholders have asked us to further clarify our administrative rules in two areas: depreciation methodology and one-time UUSF distributions. Those stakeholders are continuing to engage in discussions of potential rule drafts and have committed to providing as much consensus rule language as possible to the PSC when those discussions conclude. While those issues are still pending, all mandatory rulemaking from S.B. 130 is complete.

Potential Increased UUSF Distributions

Some of the changes from S.B. 130 could increase pressure on UUSF distributions going forward. For example, the legislation allows Lifeline subsidies to wireless telephone customers where those subsidies previously were available only to wireline connections. Multiple wireless telephone companies have filed applications to receive state Lifeline subsidies for their qualifying customers, and hearings are scheduled in late 2018 and early 2019 to adjudicate those requests. Following the conclusion of those proceedings, the PSC will be able to provide the Legislature additional data on the impact to the UUSF from the broadened Lifeline policy.

Potential future rulemaking on depreciation methods and UUSF one-time distributions also could impact total UUSF distributions going forward. Negotiations on those issues are continuing among interested stakeholders. Additionally, S.B. 130 expanded the uses for which incumbent local exchange carriers may use UUSF funds, and allowed UUSF distributions to carriers of last resort whose rate of return is not regulated by the PSC. No providers have yet made an application to the PSC using those two statutory provisions, so they have not yet impacted UUSF distributions.

Issues for Legislative Consideration

Two additional issues exist where at least some stakeholders have expressed to the PSC an interest in further legislative changes. Because of our desire to maintain the ability to fulfill our administrative and adjudicative functions without bias, the PSC is not advocating for or against legislative changes on either of these issues. The issues are a potential statutory cap on UUSF

contributions or distributions, and authorizing point-of-sale collection of UUSF surcharges for prepaid wireless telephone service.

We recognize it is unusual for the Legislature to delegate to the PSC both the authority to set the contribution amount that creates the revenue flow into the UUSF, and the authority to adjudicate distributions from those revenues. We take those joint responsibilities seriously and pledge to perform them in a deliberate and transparent way. Nevertheless, we believe it should be a conscious legislative decision whether to continue to leave both sides of UUSF administration solely to the regulatory arena, or whether there should be additional statutory checks and balances on the PSC authority.

Some stakeholders also have indicated to the PSC a desire for statutory authority for a point-of-sale collection of UUSF surcharges from prepaid wireless service. Prepaid wireless service plans are sold directly to customers either by wireless telephone service providers or by third-party retailers on behalf of providers. Customers may purchase additional credits after their initial purchase, but in some instances have no ongoing billing relationship with the provider. The PSC has no jurisdiction over third-party sellers of prepaid wireless service.

Some stakeholders have argued to the PSC that because of the difficulties in collecting UUSF contributions from prepaid wireless service customers, and the irregular intervals at which customers may buy plans or additional credits, the current \$0.36 per access line UUSF surcharge is discriminatory. Those stakeholders asked the PSC to refrain from adopting a flat, monthly UUSF surcharge until after the Legislature authorizes point-of-sale collection from prepaid wireless customers.

Other stakeholders disagreed with those assertions and argued for a different outcome, which the PSC adopted. Under existing PSC administrative rules: “[a] provider that offers prepaid access lines or connections that permit access to the public telephone network shall remit to the [PSC] \$0.36 per month per access line for such service (new access lines or connections, or recharges for existing lines or connections) purchased on or after January 1, 2018.” Additional rule language clarifies that “[m]ultiple recharges of a single prepaid access line during a single month do not trigger multiple remittance requirements.”

In other words, existing PSC rules place the requirement to collect and remit UUSF surcharges on a wireless telephone service provider, regardless of whether that provider sells prepaid service through a third-party retailer. Some stakeholders find those existing rules adequate; others consider the rules to be discriminatory and have advocated for legislative authorization to collect UUSF contributions at the point-of-sale.

We hope this information is helpful. To maintain our ability to perform our administrative and adjudicatory functions without bias, we generally do not advocate for or against legislative changes. However, we have an ongoing commitment to help inform the legislative process on any issues within our jurisdiction. Please reach out to us with any questions or concerns about our administration of the UUSF.

Respectfully submitted,

/s/ Thad LeVar, Chair

/s/ David R. Clark, Commissioner

/s/ Jordan A. White, Commissioner

Public Service Commission of Utah