

**Before the
PUBLIC SERVICE COMMISSION OF UTAH**

Miscellaneous Correspondence and Reports)	
Regarding Telecommunications Utility)	
Services)	Docket No. 23-999-03
)	
UUSF DPU Recommendations)	
)	

COMMENTS OF CTIA

CTIA¹ submits these comments in response to the Utah Public Service Commission’s (“Commission’s”) Notice of Proposed Rule Amendment issued on September 19, 2023 (“Amendment Notice”).

The Commission invited comments from interested parties regarding the Department of Public Utilities’ (“DPU’s”) recommendation that the Commission effectively double the Utah Universal Service Fund (“UUSF”) surcharge.² Specifically, DPU proposes that the Commission increase the UUSF surcharge from \$0.36 to \$0.71 to cover \$14,565,157 in additional disbursements above the former level of \$21,600,081.³

On behalf of its members, CTIA opposes DPU’s proposal and urges the Commission to insist that DPU provide publicly all information pertinent to its recommendation in a comprehensible and transparent manner. CTIA also urges the Commission to set the UUSF

¹ CTIA – The Wireless Association® (“CTIA”) (www.ctia.org) represents the U.S. wireless communications industry and the companies throughout the mobile ecosystem that enable Americans to lead a 21st century connected life. The association’s members include wireless providers, device manufacturers, suppliers as well as apps and content companies. CTIA vigorously advocates at all levels of government for policies that foster continued wireless innovation and investment. The association also coordinates the industry’s voluntary best practices, hosts educational events that promote the wireless industry and co-produces the industry’s leading wireless tradeshow. CTIA was founded in 1984 and is based in Washington, D.C.

² See Amendment Notice at 3.

³ See Action Request Response, Attachment 1, Docket No. 23-999-03 (September 12, 2023) (“Memorandum”).

surcharge at the minimum level necessary to achieve a balance between universal service requirements and Utah’s broadband policy goals, and to ensure that contributing carriers have adequate time to implement any changes that are ordered.

I. THE COMMISSION SHOULD ENSURE ITS PROCESS FOR SETTING THE UUSF SURCHARGE IS FULLY TRANSPARENT.

DPU’s 2024 UUSF recommendations illustrate that massive proposed funding increases for a handful of UUSF high-cost recipients are driving DPU’s request to double the UUSF surcharge.⁴ Unfortunately, DPU’s Action Request Response provides no explanation regarding the purposes to which the funding will be applied or whether such surcharges are prudent and necessary. DPU indicates that “recommended UUSF distributions are discussed in greater detail in contemporaneously filed dockets,” but does not specify which dockets, does not provide links to such dockets, and provides no details explaining what factors are causing the recommended doubling of the UUSF surcharge.⁵ DPU acknowledges that it has not provided adequate details to support its recommendation by observing that: “the Commission may wish for further analysis....”⁶ Despite this troubling and acknowledged opacity, DPU nevertheless urges the Commission to double the surcharge.

Appropriate transparency is particularly crucial for Utah’s wireless consumers because of the significant economic burden they bear supporting the UUSF. Presently, Utah has the ninth highest state and local tax, fee, and surcharge burden in the nation at 16.32%, which is more than

⁴ See Action Request Response, Exhibit 1, Docket No. 23-999-03 (September 12, 2023).

⁵ See Memorandum at 2.

⁶ Memorandum at 1.

double Utah’s general sales tax burden for other goods and services.⁷ Coupled with the federal burden, Utah consumers’ tax, fee, and surcharge burden totals 27.15%.⁸

II. THE COMMISSION SHOULD TAKE AFFIRMATIVE STEPS TO BALANCE LEGACY NETWORK FUNDING POLICY WITH UTAH’S BROADBAND POLICY.

Utah’s approach to the tax, fee, and surcharge burden on wireless is not only out of step with its general tax policy, it is out of step with Utah’s broadband policy. In establishing Utah’s broadband policy, the Utah Broadband Center (“UBC”) indicates that one means of promoting deployment of broadband networks throughout the Utah is to “facilitate phase-out of legacy copper facilities,”⁹ the very legacy networks that the Commission is funding through the UUSF. UBC is tasked with implementing this policy by funding broadband network deployment with Utah’s Broadband Equity, Access, and Deployment (“BEAD”) funding. CTIA recognizes that Utah’s policy of phasing out legacy networks cannot come to fruition until BEAD networks are constructed, which may not occur until 2028, but DPU’s recommendation to *increase* support for networks that the state of Utah is seeking to replace deserves the utmost of scrutiny and should not be approved based on DPU’s vague filing. UUSF support is extracted from competitive markets and primarily funded by wireless consumers. CTIA urges the Commission to ensure that the UUSF surcharge is set at the absolute minimum level necessary to achieve universal

⁷ Tax Foundation, Excise Taxes and Fees on Wireless Services Drop Slightly in 2023, *available at* <https://taxfoundation.org/wp-content/uploads/2023/11/Excise-Taxes-and-Fees-on-Wireless-Services-Drop-Slightly-in-2023.pdf> at 6, Table 2 (Nov. 2023).

⁸ *Id.*

⁹ BEAD Initial Proposal Volume 1, page 8, Section 4 Challenge Process (Optional Module 2: DSL Modification) (Utah proposes to downgrade any area that receives broadband via Digital Subscriber Line (“DSL”) “because it will facilitate the phase-out of legacy copper facilities...”). CTIA recognizes that the UUSF statute has a broadband funding component, *see e.g.* Utah Code Sec. 54-8b-15(2)(b)(iii), but CTIA believes that support for copper networks remains a major draw, perhaps the major draw, of UUSF funding. The lack of detail in DPU’s proposal prevents further analysis.

service goals. In the case of legacy copper networks, any policy of continuing support should be aligned with Utah's competing policy of discontinuing such networks.

CTIA recognizes that the Commission may feel that its statutory obligations under the UUSF statute are such that it cannot discontinue support for legacy networks without action from the Legislature. To the extent that is the case, CTIA suggests that the Commission explain to the Legislature that UUSF support for legacy networks is at odds with the state's broadband policy of phasing out such networks. The Commission is obligated to report annually to the Legislature on the "effectiveness and efficiency of the" UUSF.¹⁰ If the Commission feels its statutory obligations are at odds with the State's policy of phasing out legacy networks, CTIA urges the Commission to highlight this issue as an inefficient and ineffective use of surcharge derived funds. If the State has identified phasing out legacy copper network as a policy that supports broadband deployment, so too should the State conclude that continuing to fund such networks through surcharges drawn primarily from wireless carriers' customers is poor policy that will inhibit broadband deployment.

¹⁰ Utah Code § 54-8b-15(16)(d).

