

06/15/16



# Utah Public Telecommunications Service Support Fund (USF)

## Best Way to Fund the USF

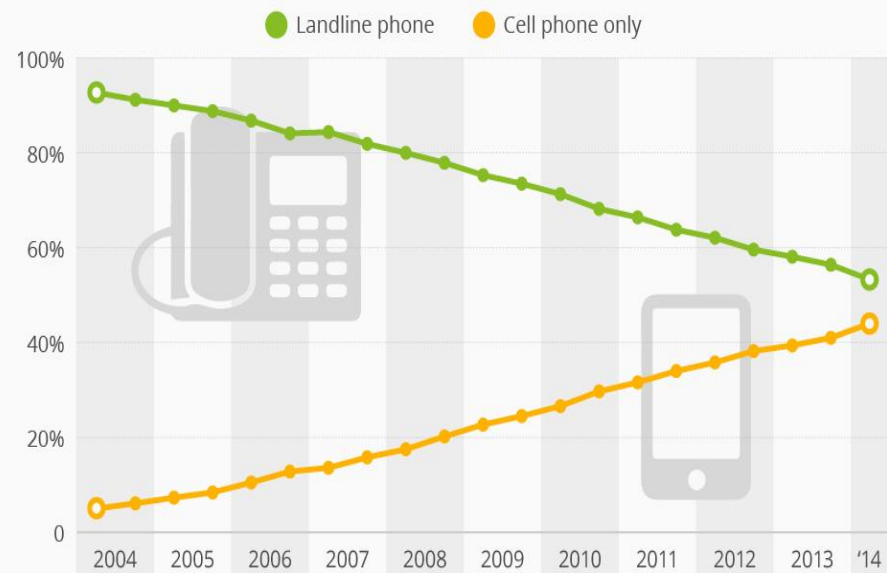
# Current Situation

## USF surcharge revenues declining

- Traditional phone lines continue to decline.
- More customers are changing to wireless and Voice over Internet Protocol (VoIP) for their voice service needs.
  - Wireless pays into the USF and not all VoIP providers pay.
- Wireless payment into the USF is down significantly even though wireless continues to grow as an industry.

### The Landline's Great Decline

% of U.S. household with and without a working landline telephone\*



\* based on the CDC's biannual National Health Interview Survey of ~20,000 U.S. households

Source: CDC



Forbes statista

## PSC USF Rulemaking Proceeding: (Docket No. 16-R360-02)

- Mainly because of declining payments into the USF, the PSC is addressing the need to increase the surcharge to keep the USF adequately funded.
- The PSC stated that the current USF shortfall must be addressed by October 1, 2016.
- PSC has asked parties to address 2 questions:
  - Should the PSC increase the current percentage of revenue based surcharge from 1% to 1.65% to address the shortfall; or
  - Should the PSC change the funding mechanism and go to a per line/per connection surcharge? (Estimated \$.32 per line per month)

# CONTRIBUTION TO THE USF MUST BE NONDISCRIMINATORY AND COMPETITIVELY NEUTRAL

- Existing law and policy requires that the USF be operated in a nondiscriminatory and competitively and technologically neutral manner.

*“Operation of the fund shall 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.” 54-8b-15(5)*

- The Commission has the specific authority to determine the contribution to the USF fund from all corporations that provide intrastate telecommunication services in Utah, and this is exactly what they are doing as part of Docket No. 16-R360-02. 54-8b-15(10)(ii).

# A per line/per connection based surcharge

- In order to satisfy this existing law, the PSC is correct to examine changing the existing USF surcharge methodology to a per line/per connection surcharge.
- The current surcharge methodology is discriminatory and is not competitively neutral.
- A lot of problems with the current surcharge methodology:
  - Inconsistencies between providers, who pays and what they pay etc.
    - Some VoIP providers do not pay the Utah USF, either because they believe they are not required to pay or they do not charge for phone service so it is unclear what should be collected for USF purposes.
  - The current revenue-based methodology does not satisfy existing USF statute requirements, since different companies providing voice service using different technologies may charge very different rates for comparable services, leading to non-equitable surcharge rates that are discriminatory.
- The proposed per line/per connection surcharge methodology is nondiscriminatory and competitively neutral.

## A per line/per connection based surcharge (cont.)

- A per line/per connection surcharge is superior to the current method:
  - Eliminates the impact of revenue shifting between voice and data services.
  - Immune to the effect of downward pressure on wireless rates.
  - More stable thus decreasing the need to continually increase the surcharge.
  - Will ensure that the collection of the UUSF is consistent with the statute.
  - Easier to administer and simpler to audit once implemented.
- Based upon December 2014 FCC data, there are about 3.5 million lines/connections in Utah.

# VoIP should be paying the Utah USF

- All Interconnected VoIP service providers should be paying into the Utah USF.
  - This is consistent with Utah Code Subsection 54-8b-15(5):
- Widening the contribution base will lower the per customer impact of a USF surcharge increase.
- The VoIP statute does not affect, limit or prohibit a “universal service fund fee.” on VoIP Providers. 54-19-103(2)(b).
- Requiring VoIP to pay the USF surcharge does not change the regulatory status of VoIP.

# Summary

- Although CenturyLink believes the Commission can act under existing law, we recognize that there are others who do not take this position, and they question the Commission's jurisdiction to impose a per line/per connection charge, and whether the Commission has the ability to expand the base of those contributing to the fund.
- Where there is no ambiguity is that Utah law requires the fund to be operated in a **nondiscriminatory and competitively and technologically neutral manner. The current fund is not operated in this way!** Quick action is required to comply with this clear legislative directive....whether it is from the Commission or the Legislature.
- If the Commission believes there are ambiguities in the law it should act swiftly in Docket No. 16-R360-02 so these issues are addressed by the Legislature, and avoid unnecessary litigation.
- If this is before the Legislature, we urge the Legislature to take prompt action, and clarify the law in a manner that is consistent with existing law that the fund be operated in a nondiscriminatory and competitively and technologically neutral manner.