

- 28 (c) Section 54-8b-2.2 relating to:
- 29 (i) the interconnection of essential facilities; and
- 30 (ii) the purchase and sale of essential services; and
- 31 (d) the rules made by the Public Service Commission of Utah under Section 54-8b-2.2.
- 32 (3) A municipality may not cross subsidize its cable television services or its public
- 33 telecommunications services with:
 - 34 (a) tax dollars;
 - 35 (b) income from other municipal or utility services;
 - 36 (c) below-market rate loans from the municipality; or
 - 37 (d) any other means.
- 38 (4) (a) A municipality may not make or grant any undue or unreasonable preference or
- 39 advantage to itself or to any private provider of:
 - 40 (i) cable television services; or
 - 41 (ii) public telecommunications services.
- 42 (b) A municipality shall apply without discrimination as to itself and to any private
- 43 provider the municipality's ordinances, rules, and policies, including those relating to:
 - 44 (i) obligation to serve;
 - 45 (ii) access to public rights of way;
 - 46 (iii) permitting;
 - 47 (iv) performance bonding;
 - 48 (v) reporting; and
 - 49 (vi) quality of service.
- 50 (c) Subsections (4)(a) and (b) do not supersede the exception for a rural telephone
- 51 company in Section 251 of the Telecommunications Act of 1996, Pub. L. 104-104.
- 52 (5) In calculating the rates charged by a municipality for a cable television service or a
- 53 public telecommunications service, the municipality:
 - 54 (a) shall include within its rates an amount equal to all taxes, fees, and other assessments
 - 55 that would be applicable to a similarly situated private provider of the same services, including:
 - 56 (i) federal, state, and local taxes;
 - 57 (ii) franchise fees;
 - 58 (iii) permit fees;

- 59 (iv) pole attachment fees; and
- 60 (v) fees similar to those described in Subsections (5)(a)(i) through (iv); and
- 61 (b) may not price any cable television service or public telecommunications service at a
- 62 level that is less than the sum of:
 - 63 (i) the actual direct costs of providing the service;
 - 64 (ii) the actual indirect costs of providing the service; and
 - 65 (iii) the amount determined under Subsection (5)(a).
- 66 (6) (a) A municipality that provides cable television services or public telecommunications
- 67 services shall establish and maintain a comprehensive price list of all cable television services or
- 68 public telecommunications services offered by the municipality.
- 69 (b) The price list required by Subsection (6)(a) shall:
 - 70 (i) include all terms and conditions relating to the municipality providing each cable
 - 71 television service or public telecommunications service offered by the municipality;
 - 72 (ii) be published in a newspaper having general circulation in the municipality; and
 - 73 (iii) be available for inspection:
 - 74 (A) at a designated office of the municipality; and
 - 75 (B) during normal business hours.
 - 76 (c) At least five days before the date a change to a municipality's price list becomes
 - 77 effective, the municipality shall:
 - 78 (i) notify the following of the change:
 - 79 (A) all subscribers to the services for which the price list is being changed; and
 - 80 (B) any other persons requesting notification of any changes to the municipality's price list;
 - 81 and
 - 82 (ii) publish notice in a newspaper of general circulation in the municipality.
 - 83 (d) If there is no newspaper of general circulation in the municipality, the municipality
 - 84 shall publish the notice required by this Subsection (6) in a newspaper of general circulation that
 - 85 is nearest the municipality.
 - 86 (e) A municipality may not offer a cable television service or a public telecommunications
 - 87 service except in accordance with the prices, terms, and conditions set forth in the municipality's
 - 88 price list.
 - 89 (7) A municipality may not offer to provide or provide cable television services or public

90 telecommunications services to a subscriber that does not reside within the geographic boundaries
91 of the municipality.

92 (8) (a) A municipality shall keep accurate books and records of the municipality's:

93 (i) cable television services; and

94 (ii) public telecommunications services.

95 (b) The books and records required to be kept under Subsection (8)(a) are subject to
96 legislative audit to verify the municipality's compliance with the requirements of this chapter
97 including:

98 (i) pricing;

99 (ii) recordkeeping; and

100 (iii) antidiscrimination.

101 (9) ~~[A]~~ Except as provided in Subsection 54-8b-15(13), a municipality may not receive
102 distributions from the Universal Public Telecommunications Service Support Fund established in
103 Section 54-8b-15.

104 Section 2. Section **54-8b-15** is amended to read:

105 **54-8b-15. Universal Public Telecommunications Service Support Fund --**

106 **Established.**

107 (1) For purposes of this section:

108 (a) "Basic telephone service" means local exchange service and may include such other
109 functions and elements, if any, as the commission determines to be eligible for support by the fund.

110 (b) "Fund" means the Universal Public Telecommunications Service Support Fund
111 established in this section.

112 (2) The commission shall establish an expendable trust fund known as the Universal
113 Public Telecommunications Service Support Fund, which is to be implemented by January 1,
114 1998.

115 (3) The commission shall:

116 (a) institute a proceeding within 30 days of the effective date of this section to establish
117 rules governing the administration of the fund; and

118 (b) issue those rules by October 1, 1997.

119 (4) The rules in Subsection (3) shall:

120 (a) include rules governing the mechanics of phasing out the trust fund established under

121 Section 54-8b-12;

122 (b) specify the relationship between the payments made to the trust fund in Section
123 54-8b-12 and the payments made to the fund established in this section; and

124 (c) be consistent with the Federal Telecommunications Act.

125 (5) Operation of the fund shall be nondiscriminatory and competitively and technologically
126 neutral in the collection and distribution of funds, neither providing a competitive advantage for,
127 nor imposing a competitive disadvantage upon, any telecommunications provider operating in the
128 state.

129 (6) The fund shall be designed to:

130 (a) promote equitable cost recovery of basic telephone service through the imposition of
131 just and reasonable rates for telecommunications access and usage; and

132 (b) preserve and promote universal service within the state by ensuring that customers
133 have access to affordable basic telephone service.

134 (7) To the extent not funded by a federal universal service fund or other federal
135 jurisdictional revenues or by the fund established pursuant to Section 54-8b-12, the fund shall be
136 used to defray the costs, as determined by the commission, of any qualifying telecommunications
137 corporation in providing public telecommunications services to:

138 (a) customers that qualify for a commission-approved lifeline program; and

139 (b) customers, where the basic telephone service rate considered affordable by the
140 commission in a particular geographic area is less than the costs, as determined by the commission
141 for that geographic area, of basic telephone service.

142 (8) The fund shall be portable among qualifying telecommunications corporations.

143 Requirements to qualify for funds under this section shall be defined by rules established by the
144 commission.

145 (9) As necessary to accomplish the purposes of this section, the fund shall provide a
146 mechanism for specific, predictable, and sufficient funds in addition to those provided under the
147 federal universal service fund.

148 (10) (a) Each telecommunications corporation that provides intrastate public
149 telecommunication service shall contribute to the fund on an equitable and nondiscriminatory
150 basis.

151 (b) For purposes of funding the fund, the commission shall have the authority to require

152 all corporations that provide intrastate telecommunication services in this state to contribute
153 monies to the fund through explicit charges determined by the commission.

154 (c) Any charge in Subsection (10)(b) ~~shall~~ does not apply to wholesale services,
155 including access and interconnection. Charges associated with being a provider of public
156 telecommunications service shall be in the form of end-user surcharges applied to intrastate retail
157 rates.

158 ~~[(d) In establishing any surcharge under this section, the commission is not limited by the~~
159 ~~restrictions in Subsection 54-8b-12(2).]~~

160 (11) Nothing in this section shall be construed to enlarge or reduce the commission's
161 jurisdiction or authority, as provided in other provisions of this title.

162 (12) ~~[Any]~~ Each telecommunications corporation failing to make contributions to this fund
163 or failing to comply with the directives of the commission concerning its books, records, or other
164 information required to administer this section shall be subject to applicable penalties.

165 ~~[(13) The commission shall have a bill prepared for the 1998 General Session of the~~
166 ~~Legislature to place in statute as much of the regulation implemented by rule pursuant to the act~~
167 ~~the commission believes is practicable.]~~

168 (13) (a) As used in this Subsection (13), "small municipal telecommunications provider"
169 means a third class city or town:

170 (i) that provides public telecommunications service under Title 10, Chapter 18, Municipal
171 Cable Television and Public Telecommunications Services Act;

172 (ii) that began providing public telecommunications service before May 6, 2002;

173 (iii) whose residents who received public telecommunications service from the third class
174 city or town at the time that it began providing public telecommunications service had not
175 previously received local exchange service at their residences within that third class city or town;

176 (iv) that is required by city or town ordinance to provide and does in fact provide public
177 telecommunications service to each person residing within the geographic boundaries of the third
178 class city or town who requests that service; and

179 (v) that consents to being treated for all purposes of this section as though it were a
180 telecommunications corporation.

181 (b) For purposes of this section, each small municipal telecommunications provider shall
182 be considered to be a telecommunications corporation.

183 Section 3. Section **63-55b-154** is amended to read:
184 **63-55b-154. Repeal dates -- Title 54.**
185 (1) Sections 54-7-12.5 and 54-7-12.7 are repealed November 30, 2002.
186 (2) Subsection 54-8b-15(13) pertaining to small municipal telecommunications providers
187 is repealed May 6, 2006.

Legislative Review Note
as of 12-12-01 9:54 AM

A limited legal review of this legislation raises no obvious constitutional or statutory concerns.

Office of Legislative Research and General Counsel

Committee Note

The Public Utilities and Technology Interim Committee recommended this bill.