

Telecommunications Amendments

2025 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Wayne A. Harper

House Sponsor: Ryan D. Wilcox

LONG TITLE

General Description:

This bill modifies provisions related to telecommunications corporations and carrier of last resort obligations.

Highlighted Provisions:

This bill:

- modifies provisions related to pricing flexibility for incumbent telephone corporations;
- provides for the expiration of certain carrier of last resort obligations after July 1, 2025;
- modifies provisions regarding Universal Public Telecommunications Service Support

Fund eligibility;

- requires continued basic residential service to existing locations under certain conditions;

and

- makes technical and conforming changes.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

54-8b-2.3, as last amended by Laws of Utah 2009, Chapter 10

54-8b-3, as last amended by Laws of Utah 2017, Chapter 130

54-8b-15, as last amended by Laws of Utah 2020, Chapter 294

Be it enacted by the Legislature of the state of Utah:

Section 1. Section **54-8b-2.3** is amended to read:

54-8b-2.3 . Pricing flexibility.

- (1)(a) A telecommunications corporation that obtains a certificate to compete with the incumbent telephone corporation in a defined geographic area pursuant to Section 54-8b-2.1 may price any public telecommunications services it is authorized to offer, or any new public telecommunications service, by means of a price list or competitive contract.
- (b) Before the telecommunications corporation begins providing any authorized public telecommunications service, it shall notify the commission of:
- (i) its intent to begin providing the service; and
 - (ii) the defined geographic area in which it will provide the service.
- (2)(a) Notwithstanding other requirements of this chapter relating to pricing flexibility, beginning on May 2, 2005, an incumbent telephone corporation may offer retail end user public telecommunications services by means of a price list or competitive contract in the same manner as a competing telecommunications corporation as provided in Subsection (1)[:]
- [~~(i)~~] if the incumbent telephone corporation:
- [~~(A)~~] (i) is in substantial compliance with rules and orders of the commission issued under Section 54-8b-2.2; and
 - [~~(B)~~] (ii) has more than 30,000 access lines[; and] .
- [~~(ii)~~ except as provided in Subsection (2)(b).]
- (b)[~~(i)~~] The incumbent telephone corporation's pricing flexibility shall be the same as a competing telecommunications corporation's pricing flexibility for all public telecommunications services.
- [~~(ii)~~ The incumbent telephone corporation shall offer basic residential service throughout the area in which the incumbent telephone corporation is authorized by certificate to provide basic residential service.]
- (3) Each price list shall:
- (a) be filed with the commission:
 - (i) electronically; or
 - (ii) by paper copies only if permitted by commission rule;
 - (b) describe the public telecommunications service;
 - (c) set forth the basic terms and conditions upon which the public telecommunications service is offered; and
 - (d) list the prices to be charged for the public telecommunications service or the basis on

which the services will be priced.

(4) Prices, terms, and conditions offered under price lists or competitive contracts that are different from tariff prices, terms, and conditions for the same services are not considered discriminatory under Section 54-3-8 and Subsection 54-8b-3.3(2).

(5) A price list filed with the commission under this section shall take effect five days after it is filed with the commission.

(6)(a) Except as provided in Subsection (6)(b), the prices, terms, and conditions of a public telecommunications service offered by a telecommunications corporation pursuant to a competitive contract with a retail customer need not be filed with the commission.

(b) Notwithstanding Subsection (6)(a), a copy of a competitive contract shall be provided to the commission or division of public utilities if the commission or division of public utilities, pursuant to general investigatory powers, requests a copy of the competitive contract.

(7)(a) Subject to Subsection (7)(b), the commission may, as determined necessary to protect the public interest, set an upper limit on the price that may be charged by telecommunications corporations for public telecommunications services that may be priced by means of a price list or competitive contract in a defined geographic area.

(b) The upper limit on price imposed under Subsection (7)(a) shall be applied to all telecommunications corporations holding a certificate to provide the public telecommunications services in the defined geographic area in a competitively neutral manner.

(8)(a) The commission may revoke the authority of a telecommunications corporation to offer a public telecommunications service pursuant to a price list or competitive contract or the commission may adopt conditions or restrictions on the telecommunications corporation's pricing flexibility if the commission finds:

(i)(A) the telecommunications corporation has materially violated statutes or rules applicable to the specific service;

(B) there has been or there is an imminent threat of a material and substantial diminution in the level of competition; or

(C) competition has not developed; and

(ii) revocation or conditions or restrictions on the telecommunications corporation's pricing flexibility is in the public interest.

(b) The party asserting that revocation or conditions or restrictions on the

telecommunications corporation's pricing flexibility should be imposed shall bear the burden of proof.

(9) The commission shall establish rules or procedures to protect confidential, proprietary, and competitively sensitive information provided to the commission or the division pursuant to this section.

(10)(a) An incumbent telephone corporation serving fewer than 30,000 access lines in the state may petition the commission to be regulated under price regulation rather than traditional rate of return regulation.

(b) In implementing price regulation for an incumbent telephone corporation serving fewer than 30,000 access lines, the commission may modify the requirements of any provision of this section if necessary to the individual circumstances of the incumbent telephone corporation.

(11) An incumbent telephone corporation that is regulated under price regulation under this section rather than traditional rate of return regulation:

(a) is not a carrier of last resort within the incumbent telephone corporation's local exchanges after July 1, 2025; and

(b) shall:

(i) continue to provide basic residential service to each existing location where a customer subscribes to the service on or before July 1, 2025; and

(ii) continue to provide and maintain the basic residential service to existing locations described in Subsection (11)(b)(i) until the commission recognizes and adopts discontinuance findings under Subsection 54-8b-3(8).

(12)(a) The commission may exercise any statutory power pertaining to this section, including reinstating a carrier of last resort obligation for any wire center:

(i) on the commission's own initiative; or

(ii) in response to a request for agency action.

(b) Before taking action under Subsection (12)(a), the commission shall:

(i) provide notice and conduct a hearing; and

(ii) determine that modifying or reinstating carrier of last resort obligations is in the public interest.

(13)(a) Beginning July 1, 2025, a local exchange area that was served by an incumbent telephone corporation regulated under price regulation under this section on June 30, 2025:

(i) is designated as a competitive area; and

(ii) is ineligible for Universal Public Telecommunications Service Support Fund under Section 54-8b-15.

(b) Notwithstanding Subsection (13)(a), funding from the Universal Public Telecommunications Service Support Fund for the lifeline program pursuant to Subsections 54-8b-15(3) and (15) shall remain unchanged.

Section 2. Section **54-8b-3** is amended to read:

54-8b-3 . Exemptions from requirements.

- (1)(a) The commission, on its own initiative or in response to an application by a telecommunications corporation, a public agency, or a user of a public telecommunications service, may, after public notice and a hearing, issue an order exempting any telecommunications corporation or public telecommunications service from any requirement of this title, including any requirement or limitation relating to a telecommunication corporation's earnings, rate base, or pricing of public telecommunications services.
- (b) The commission may issue an order described in Subsection (1)(a), after an informal adjudication, without a hearing if:
- (i) the matter is not a proceeding described in Subsection 54-1-3(2)(a);
 - (ii) a party to an application submitted under Subsection (1)(a) requests an informal adjudication; and
 - (iii) no person opposes the request for informal adjudication before 10 business days after the day on which the party files the request.
- (2) The commission shall specify in the order any requirements, terms, or conditions which may apply to any exemption.
- (3) An exemption may be granted for the entire service territory of a telecommunications corporation or for a specific geographic area of the service territory.
- (4) The commission may issue an order for an exemption only if it finds that:
- (a) the telecommunications corporation or service is subject to effective competition; and
 - (b) the exemption is in the public interest.
- (5) In determining if the telecommunications corporation or service is subject to effective competition, the commission shall consider all relevant factors, which may include:
- (a) the extent to which competing telecommunications services are available from alternative telecommunications providers;
 - (b) the ability of alternative telecommunications providers to offer competing telecommunications services that are functionally equivalent or substitutable and

- 164 reasonably available at comparable prices, terms, quality, and conditions;
165 (c) the market share of the telecommunications corporation for which an exemption is
166 proposed;
167 (d) the extent of economic or regulatory barriers to entry;
168 (e) the impact of potential competition; and
169 (f) the type and degree of exemptions to this title that are proposed.

170 (6) In determining if the proposed exemption is in the public interest, the commission shall
171 consider, in addition to other relevant factors, the impact the proposed exemption would
172 have on captive customers of the telecommunications corporation.

173 (7)(a) The commission shall approve or deny any application for exemption under this
174 section within 240 days, except that the commission may by order defer action for an
175 additional 30-day period.

176 (b) If the commission has not acted on any application within the permitted time period,
177 the application is considered granted.

178 (8) If the Federal Communications Commission permits a telecommunications corporation
179 to discontinue service under 47 U.S.C. Sec. 214(a), the commission shall recognize and
180 adopt the Federal Communications Commission's discontinuance findings.

181 Section 3. Section **54-8b-15** is amended to read:

182 **54-8b-15 . Universal Public Telecommunications Service Support Fund --**
183 **Commission duties -- Charges -- Lifeline program.**

184 (1) For purposes of this section:

185 (a) "Broadband Internet access service" means the same as that term is defined in 47
186 C.F.R. Sec. 8.2.

187 (b) "Carrier of last resort" means~~[-]~~ a rate-of-return regulated:

188 (i) ~~[an-]~~incumbent telephone corporation; or

189 (ii) ~~[a-]~~telecommunications corporation that, under Section 54-8b-2.1:

190 (A) has a certificate of public convenience and necessity to provide local
191 exchange service; and

192 (B) has an obligation to provide public telecommunications service to any
193 customer or class of customers that requests service within the local exchange.

194 (c) "Connection" means an authorized session that uses Internet protocol or a
195 functionally equivalent technology standard to enable an end-user to initiate or
196 receive a call from the public switched network.

197 (d) "Fund" means the Universal Public Telecommunications Service Support Fund

established in this section.

~~[(e) "Non-rate-of-return regulated" means having price flexibility under Section 54-8b-2.3.]~~

~~[(f)]~~ (e) "Rate-of-return regulated" means subject to regulation under Section 54-4-4.

~~[(g)]~~ (f) "Wholesale broadband Internet access service" means the end-user loop component of Internet access provided by a ~~[rate-of-return regulated]~~ carrier of last resort that is used to provide, at retail:

(i) combined consumer voice and broadband Internet access; or

(ii) stand-alone, consumer, broadband-only Internet access.

(2)(a) There is established an expendable special revenue fund known as the "Universal Public Telecommunications Service Support Fund."

(b) The fund shall provide a mechanism for a qualifying carrier of last resort to obtain specific, predictable, and sufficient funds to deploy and manage, for the purpose of providing service to end-users, networks capable of providing:

(i) access lines;

(ii) connections; or

(iii) wholesale broadband Internet access service.

(c) The commission shall develop, by rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, and consistent with this section, policies and procedures to govern the administration of the fund.

(3) Subject to this section, the commission shall use funds in the Universal Public Telecommunications Service Support Fund to:

(a) fund the hearing and speech impaired program described in Section 54-8b-10;

(b) fund a lifeline program that covers the reasonable cost to an eligible telecommunications carrier, as determined by the commission, to offer lifeline service consistent with the Federal Communications Commission's lifeline program for low-income consumers; and

(c) fund, for the purpose of providing service to end-users, a ~~[rate-of-return regulated or non-rate-of-return regulated]~~ carrier of last resort's deployment and management of networks capable of providing:

(i) access lines;

(ii) connections; or

(iii) wholesale broadband Internet access service that is consistent with Federal Communications Commission rules~~[-and]~~ .

232 ~~[(d) fund one-time distributions from the Universal Public Telecommunications Service~~
233 ~~Support Fund for a non-rate-of-return regulated carrier of last resort's deployment and~~
234 ~~management of networks capable of providing:]~~

235 ~~[(i) access lines;]~~

236 ~~[(ii) connections; or]~~

237 ~~[(iii) broadband Internet access service.]~~

238 (4)~~[(a)]~~ A ~~[rate-of-return regulated]~~ carrier of last resort is eligible for payment from the
239 Universal Public Telecommunications Service Support Fund if:

240 ~~[(i)]~~ (a) the ~~[rate-of-return regulated]~~ carrier of last resort provides the services described
241 in Subsections (3)(c)(i) through (iii); and

242 ~~[(ii)]~~ (b) the ~~[rate-of-return regulated]~~ carrier of last resort's reasonable costs, as
243 determined by the commission, to provide public telecommunications service and
244 wholesale broadband Internet access service are greater than the sum of:

245 ~~[(A)]~~ (i) the ~~[rate-of-return regulated]~~ carrier of last resort's revenue from basic
246 residential service considered affordable by the commission;

247 ~~[(B)]~~ (ii) the ~~[rate-of-return regulated]~~ carrier of last resort's regulated revenue derived
248 from providing other public telecommunications service;

249 ~~[(C)]~~ (iii) the ~~[rate-of-return regulated]~~ carrier of last resort's revenue from rates
250 approved by the Federal Communications Commission for wholesale broadband
251 Internet access service; and

252 ~~[(D)]~~ (iv) the amount the ~~[rate-of-return regulated]~~ carrier of last resort receives from
253 federal universal service funds.

254 ~~[(b) A non-rate-of-return regulated carrier of last resort is eligible for payment from the~~
255 ~~Universal Public Telecommunications Service Support Fund for reimbursement of~~
256 ~~reasonable costs as determined by the commission if the non-rate-of-return regulated~~
257 ~~carrier meets criteria that are:]~~

258 ~~[(i) consistent with Subsections (2) and (3); and]~~

259 ~~[(ii) developed by the commission by rule made in accordance with Title 63G,~~
260 ~~Chapter 3, Utah Administrative Rulemaking Act.]~~

261 (5) A ~~[rate-of-return regulated]~~ carrier of last resort that qualifies for funds under this
262 section:

263 (a) is entitled to a rate of return equal to the weighted average cost of capital rate of
264 return prescribed by the Federal Communications Commission for rate-of-return
265 regulated carriers; and

(b) may use any depreciation method allowed by the Federal Communications Commission.

(6)(a) The commission shall determine if a ~~[rate-of-return-regulated]~~ carrier of last resort is correctly applying a depreciation method described in Subsection (5)(b).

(b) If the commission determines under Subsection (6)(a) that a ~~[rate-of-return-regulated]~~ carrier of last resort is incorrectly applying a depreciation method or that the ~~[rate-of-return-regulated]~~ carrier of last resort is not using a depreciation method allowed by the Federal Communications Commission, the commission shall issue an order that provides corrections to the ~~[rate-of-return-regulated]~~ carrier of last resort's method of depreciation.

(7) A carrier of last resort that receives funds from the Universal Public Telecommunications Service Support Fund may only use the funds in accordance with this section within the area for which the carrier of last resort has a carrier of last resort obligation.

(8)(a) Except as provided in Subsection (8)(b), each access line provider and each connection provider shall contribute to the Universal Public Telecommunications Service Support Fund through an explicit charge assessed by the commission on the access line provider or connection provider.

(b) The charge described in Subsection (8)(a) does not apply to a prepaid wireless telecommunications service, as defined in Section 69-2-405, that is subject to the service charge described in Subsection 69-2-405(2)(b).

(9) The commission shall calculate the amount of each explicit charge described in Subsection (8) using a method developed by the commission by rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, that:

(a) does not discriminate against:

(i) any access line or connection provider; or

(ii) the technology used by any access line or connection provider;

(b) is competitively neutral; and

(c) is a function of an access line or connection provider's:

(i) annual intrastate revenue;

(ii) number of access lines or connections in the state; or

(iii) a combination of an access line or connection provider's annual intrastate revenue and number of access lines or connections in the state.

(10) The commission shall develop the method described in Subsection (9) before January

1, 2018.

(11) An access line or connection provider that provides mobile telecommunications service shall contribute to the Universal Public Telecommunications Service Support Fund only to the extent permitted by the Mobile Telecommunications Sourcing Act, 4 U.S.C. Sec. 116 et seq.

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

(13) A person that fails to make a required contribution to the fund created by this section, or that fails to comply with a commission directive concerning the person's books, records, or other information required by the commission to administer this section, is subject to applicable penalties.

(14) Nothing in this section gives the commission the authority:

(a) to regulate broadband Internet access service;

(b) to require a carrier of last resort to provide broadband Internet access service; or

(c) assess a contribution in violation of the Internet Tax Freedom Act, 47 U.S.C. Sec. 151 note.

(15)(a) A facilities-based or nonfacilities-based wireless telecommunication provider is eligible for distributions from the Universal Telecommunications Service Support Fund under the lifeline program described in Subsection (3)(b) for providing lifeline service that is consistent with the Federal Communications Commission's lifeline program for low-income consumers.

(b) Except as provided in Subsection (15)(c), the commission may impose reasonable conditions for providing a distribution to a wireless telecommunication provider under the lifeline program described in Subsection (3)(b).

(c) The commission may not require a wireless telecommunication provider to offer unlimited local calling to a lifeline customer as a condition of receiving a distribution under the lifeline program described in Subsection (3)(b).

(16) The commission shall report to the Public Utilities, Energy, and Technology Interim Committee each year before November 1 regarding:

(a) the contribution method described in Subsection (9);

(b) the amount of distributions from and contributions to the Universal Public Telecommunications Service Support Fund during the last fiscal year;

(c) the availability of services for which Subsection (3) permits Universal Public Telecommunications Service Support Fund funds to be used; and

334 (d) the effectiveness and efficiency of the Universal Public Telecommunications Service
335 Support Fund.

336 Section 4. **Effective Date.**

337 This bill takes effect on May 7, 2025.