

1 **Telecommunications Amendments**

2025 GENERAL SESSION

STATE OF UTAH

**Chief Sponsor: Wayne A. Harper**

House Sponsor: Ryan D. Wilcox

3 **LONG TITLE**

4 **General Description:**

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

7 **Highlighted Provisions:**

8 This bill:

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

12 Fund eligibility;

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

14 and

- 15 ▶ makes technical and conforming changes.

16 **Money Appropriated in this Bill:**

17 None

18 **Other Special Clauses:**

19 None

20 **Utah Code Sections Affected:**

21 AMENDS:

22 **54-8b-2.3**, as last amended by Laws of Utah 2009, Chapter 10

23 **54-8b-3**, as last amended by Laws of Utah 2017, Chapter 130

24 **54-8b-15**, as last amended by Laws of Utah 2020, Chapter 294

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

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

28 **54-8b-2.3 . Pricing flexibility.**

29 (1)(a) A telecommunications corporation that obtains a certificate to compete with the  
30 incumbent telephone corporation in a defined geographic area pursuant to Section

31 54-8b-2.1 may price any public telecommunications services it is authorized to offer,  
 32 or any new public telecommunications service, by means of a price list or  
 33 competitive contract.

34 (b) Before the telecommunications corporation begins providing any authorized public  
 35 telecommunications service, it shall notify the commission of:

36 (i) its intent to begin providing the service; and

37 (ii) the defined geographic area in which it will provide the service.

38 (2)(a) Notwithstanding other requirements of this chapter relating to pricing flexibility,  
 39 beginning on May 2, 2005, an incumbent telephone corporation may offer retail end  
 40 user public telecommunications services by means of a price list or competitive  
 41 contract in the same manner as a competing telecommunications corporation as  
 42 provided in Subsection (1)[:]

43 [(+) ] if the incumbent telephone corporation:

44 [(A)] (i) is in substantial compliance with rules and orders of the commission issued  
 45 under Section 54-8b-2.2; and

46 [(B)] (ii) has more than 30,000 access lines[+and] .

47 [(ii) except as provided in Subsection (2)(b).]

48 (b)[(+)] The incumbent telephone corporation's pricing flexibility shall be the same as  
 49 a competing telecommunications corporation's pricing flexibility for all public  
 50 telecommunications services.

51 [(ii) The incumbent telephone corporation shall offer basic residential service  
 52 throughout the area in which the incumbent telephone corporation is authorized by  
 53 certificate to provide basic residential service.]

54 (3) Each price list shall:

55 (a) be filed with the commission:

56 (i) electronically; or

57 (ii) by paper copies only if permitted by commission rule;

58 (b) describe the public telecommunications service;

59 (c) set forth the basic terms and conditions upon which the public telecommunications  
 60 service is offered; and

61 (d) list the prices to be charged for the public telecommunications service or the basis on  
 62 which the services will be priced.

63 (4) Prices, terms, and conditions offered under price lists or competitive contracts that are  
 64 different from tariff prices, terms, and conditions for the same services are not

- 65 considered discriminatory under Section 54-3-8 and Subsection 54-8b-3.3(2).
- 66 (5) A price list filed with the commission under this section shall take effect five days after  
67 it is filed with the commission.
- 68 (6)(a) Except as provided in Subsection (6)(b), the prices, terms, and conditions of a  
69 public telecommunications service offered by a telecommunications corporation  
70 pursuant to a competitive contract with a retail customer need not be filed with the  
71 commission.
- 72 (b) Notwithstanding Subsection (6)(a), a copy of a competitive contract shall be  
73 provided to the commission or division of public utilities if the commission or  
74 division of public utilities, pursuant to general investigatory powers, requests a copy  
75 of the competitive contract.
- 76 (7)(a) Subject to Subsection (7)(b), the commission may, as determined necessary to  
77 protect the public interest, set an upper limit on the price that may be charged by  
78 telecommunications corporations for public telecommunications services that may be  
79 priced by means of a price list or competitive contract in a defined geographic area.
- 80 (b) The upper limit on price imposed under Subsection (7)(a) shall be applied to all  
81 telecommunications corporations holding a certificate to provide the public  
82 telecommunications services in the defined geographic area in a competitively  
83 neutral manner.
- 84 (8)(a) The commission may revoke the authority of a telecommunications corporation to  
85 offer a public telecommunications service pursuant to a price list or competitive  
86 contract or the commission may adopt conditions or restrictions on the  
87 telecommunications corporation's pricing flexibility if the commission finds:
- 88 (i)(A) the telecommunications corporation has materially violated statutes or rules  
89 applicable to the specific service;
- 90 (B) there has been or there is an imminent threat of a material and substantial  
91 diminution in the level of competition; or
- 92 (C) competition has not developed; and
- 93 (ii) revocation or conditions or restrictions on the telecommunications corporation's  
94 pricing flexibility is in the public interest.
- 95 (b) The party asserting that revocation or conditions or restrictions on the  
96 telecommunications corporation's pricing flexibility should be imposed shall bear the  
97 burden of proof.
- 98 (9) The commission shall establish rules or procedures to protect confidential, proprietary,

99 and competitively sensitive information provided to the commission or the division  
100 pursuant to this section.

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

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

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

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

112 (b) shall:

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

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

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

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

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

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

123 (i) provide notice and conduct a hearing; and

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

126 (c) The party requesting modification or reinstatement shall bear the burden of proof in a  
127 hearing described in Subsection (12)(b).

128 (13)(a) Beginning July 1, 2025, a local exchange area that was served by an incumbent  
129 telephone corporation regulated under price regulation under this section on June 30,  
130 2025:

131 (i) is designated as a competitive area; and

132 (ii) is ineligible for Universal Public Telecommunications Service Support Fund

133                   under Section 54-8b-15.

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

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

138           **54-8b-3 . Exemptions from requirements.**

- 139   (1)(a) The commission, on its own initiative or in response to an application by a  
140   telecommunications corporation, a public agency, or a user of a public  
141   telecommunications service, may, after public notice and a hearing, issue an order  
142   exempting any telecommunications corporation or public telecommunications service  
143   from any requirement of this title, including any requirement or limitation relating to  
144   a telecommunication corporation's earnings, rate base, or pricing of public  
145   telecommunications services.
- 146   (b) The commission may issue an order described in Subsection (1)(a), after an informal  
147   adjudication, without a hearing if:
- 148       (i) the matter is not a proceeding described in Subsection 54-1-3(2)(a);  
149       (ii) a party to an application submitted under Subsection (1)(a) requests an informal  
150       adjudication; and  
151       (iii) no person opposes the request for informal adjudication before 10 business days  
152       after the day on which the party files the request.
- 153   (2) The commission shall specify in the order any requirements, terms, or conditions which  
154   may apply to any exemption.
- 155   (3) An exemption may be granted for the entire service territory of a telecommunications  
156   corporation or for a specific geographic area of the service territory.
- 157   (4) The commission may issue an order for an exemption only if it finds that:
- 158       (a) the telecommunications corporation or service is subject to effective competition; and  
159       (b) the exemption is in the public interest.
- 160   (5) In determining if the telecommunications corporation or service is subject to effective  
161   competition, the commission shall consider all relevant factors, which may include:
- 162       (a) the extent to which competing telecommunications services are available from  
163       alternative telecommunications providers;  
164       (b) the ability of alternative telecommunications providers to offer competing  
165       telecommunications services that are functionally equivalent or substitutable and  
166       reasonably available at comparable prices, terms, quality, and conditions;

- 167 (c) the market share of the telecommunications corporation for which an exemption is  
 168 proposed;
- 169 (d) the extent of economic or regulatory barriers to entry;
- 170 (e) the impact of potential competition; and
- 171 (f) the type and degree of exemptions to this title that are proposed.
- 172 (6) In determining if the proposed exemption is in the public interest, the commission shall  
 173 consider, in addition to other relevant factors, the impact the proposed exemption would  
 174 have on captive customers of the telecommunications corporation.
- 175 (7)(a) The commission shall approve or deny any application for exemption under this  
 176 section within 240 days, except that the commission may by order defer action for an  
 177 additional 30-day period.
- 178 (b) If the commission has not acted on any application within the permitted time period,  
 179 the application is considered granted.
- 180 (8) If the Federal Communications Commission permits a telecommunications corporation  
 181 to discontinue service under 47 U.S.C. Sec. 214(a), the commission shall recognize and  
 182 adopt the Federal Communications Commission's discontinuance findings.

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

184 **54-8b-15 . Universal Public Telecommunications Service Support Fund --**

185 **Commission duties -- Charges -- Lifeline program.**

- 186 (1) For purposes of this section:
- 187 (a) "Broadband Internet access service" means the same as that term is defined in 47  
 188 C.F.R. Sec. 8.2.
- 189 (b) "Carrier of last resort" means~~[-]~~ a rate-of-return regulated:
- 190 (i) ~~[an]~~ incumbent telephone corporation; or
- 191 (ii) ~~[a]~~ telecommunications corporation that, under Section 54-8b-2.1:
- 192 (A) has a certificate of public convenience and necessity to provide local  
 193 exchange service; and
- 194 (B) has an obligation to provide public telecommunications service to any  
 195 customer or class of customers that requests service within the local exchange.
- 196 (c) "Connection" means an authorized session that uses Internet protocol or a  
 197 functionally equivalent technology standard to enable an end-user to initiate or  
 198 receive a call from the public switched network.
- 199 (d) "Fund" means the Universal Public Telecommunications Service Support Fund  
 200 established in this section.

- 201       ~~[(e) "Non-rate-of-return regulated" means having price flexibility under Section~~  
 202           ~~54-8b-2.3.]~~
- 203       ~~[(f)]~~ (e) "Rate-of-return regulated" means subject to regulation under Section 54-4-4.
- 204       ~~[(g)]~~ (f) "Wholesale broadband Internet access service" means the end-user loop  
 205           component of Internet access provided by a ~~[rate-of-return regulated]~~ carrier of last  
 206           resort that is used to provide, at retail:
- 207           (i) combined consumer voice and broadband Internet access; or  
 208           (ii) stand-alone, consumer, broadband-only Internet access.
- 209 (2)(a) There is established an expendable special revenue fund known as the "Universal  
 210       Public Telecommunications Service Support Fund."
- 211       (b) The fund shall provide a mechanism for a qualifying carrier of last resort to obtain  
 212           specific, predictable, and sufficient funds to deploy and manage, for the purpose of  
 213           providing service to end-users, networks capable of providing:
- 214           (i) access lines;  
 215           (ii) connections; or  
 216           (iii) wholesale broadband Internet access service.
- 217       (c) The commission shall develop, by rule made in accordance with Title 63G, Chapter  
 218           3, Utah Administrative Rulemaking Act, and consistent with this section, policies and  
 219           procedures to govern the administration of the fund.
- 220 (3) Subject to this section, the commission shall use funds in the Universal Public  
 221       Telecommunications Service Support Fund to:
- 222       (a) fund the hearing and speech impaired program described in Section 54-8b-10;  
 223       (b) fund a lifeline program that covers the reasonable cost to an eligible  
 224           telecommunications carrier, as determined by the commission, to offer lifeline  
 225           service consistent with the Federal Communications Commission's lifeline program  
 226           for low-income consumers; and
- 227       (c) fund, for the purpose of providing service to end-users, a ~~[rate-of-return regulated or~~  
 228           ~~non-rate-of-return regulated]~~ carrier of last resort's deployment and management of  
 229           networks capable of providing:
- 230           (i) access lines;  
 231           (ii) connections; or  
 232           (iii) wholesale broadband Internet access service that is consistent with Federal  
 233           Communications Commission rules~~[-and]~~ .
- 234       ~~[(d) fund one-time distributions from the Universal Public Telecommunications Service~~

235 Support Fund for a non-rate-of-return regulated carrier of last resort's deployment and  
 236 management of networks capable of providing:]

237 [(i) access lines;]

238 [(ii) connections; or]

239 [(iii) broadband Internet access service.]

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

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

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

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

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

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

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

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

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

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

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

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

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



- 269 Commission.
- 270 (6)(a) The commission shall determine if a [~~rate-of-return-regulated~~]carrier of last resort  
271 is correctly applying a depreciation method described in Subsection (5)(b).
- 272 (b) If the commission determines under Subsection (6)(a) that a [~~rate-of-return-regulated~~]  
273 carrier of last resort is incorrectly applying a depreciation method or that the [  
274 ~~rate-of-return-regulated~~]carrier of last resort is not using a depreciation method  
275 allowed by the Federal Communications Commission, the commission shall issue an  
276 order that provides corrections to the [~~rate-of-return-regulated~~]carrier of last resort's  
277 method of depreciation.
- 278 (7) A carrier of last resort that receives funds from the Universal Public  
279 Telecommunications Service Support Fund may only use the funds in accordance with  
280 this section within the area for which the carrier of last resort has a carrier of last resort  
281 obligation.
- 282 (8)(a) Except as provided in Subsection (8)(b), each access line provider and each  
283 connection provider shall contribute to the Universal Public Telecommunications  
284 Service Support Fund through an explicit charge assessed by the commission on the  
285 access line provider or connection provider.
- 286 (b) The charge described in Subsection (8)(a) does not apply to a prepaid wireless  
287 telecommunications service, as defined in Section 69-2-405, that is subject to the  
288 service charge described in Subsection 69-2-405(2)(b).
- 289 (9) The commission shall calculate the amount of each explicit charge described in  
290 Subsection (8) using a method developed by the commission by rule made in accordance  
291 with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, that:
- 292 (a) does not discriminate against:
- 293 (i) any access line or connection provider; or  
294 (ii) the technology used by any access line or connection provider;
- 295 (b) is competitively neutral; and
- 296 (c) is a function of an access line or connection provider's:
- 297 (i) annual intrastate revenue;  
298 (ii) number of access lines or connections in the state; or  
299 (iii) a combination of an access line or connection provider's annual intrastate  
300 revenue and number of access lines or connections in the state.
- 301 (10) The commission shall develop the method described in Subsection (9) before January  
302 1, 2018.

- 303 (11) An access line or connection provider that provides mobile telecommunications  
304 service shall contribute to the Universal Public Telecommunications Service Support  
305 Fund only to the extent permitted by the Mobile Telecommunications Sourcing Act, 4  
306 U.S.C. Sec. 116 et seq.
- 307 (12) Nothing in this section shall be construed to enlarge or reduce the commission's  
308 jurisdiction or authority, as provided in other provisions of this title.
- 309 (13) A person that fails to make a required contribution to the fund created by this section,  
310 or that fails to comply with a commission directive concerning the person's books,  
311 records, or other information required by the commission to administer this section, is  
312 subject to applicable penalties.
- 313 (14) Nothing in this section gives the commission the authority:
- 314 (a) to regulate broadband Internet access service;
  - 315 (b) to require a carrier of last resort to provide broadband Internet access service; or
  - 316 (c) assess a contribution in violation of the Internet Tax Freedom Act, 47 U.S.C. Sec.  
317 151 note.
- 318 (15)(a) A facilities-based or nonfacilities-based wireless telecommunication provider is  
319 eligible for distributions from the Universal Telecommunications Service Support  
320 Fund under the lifeline program described in Subsection (3)(b) for providing lifeline  
321 service that is consistent with the Federal Communications Commission's lifeline  
322 program for low-income consumers.
- 323 (b) Except as provided in Subsection (15)(c), the commission may impose reasonable  
324 conditions for providing a distribution to a wireless telecommunication provider  
325 under the lifeline program described in Subsection (3)(b).
  - 326 (c) The commission may not require a wireless telecommunication provider to offer  
327 unlimited local calling to a lifeline customer as a condition of receiving a distribution  
328 under the lifeline program described in Subsection (3)(b).
- 329 (16) The commission shall report to the Public Utilities, Energy, and Technology Interim  
330 Committee each year before November 1 regarding:
- 331 (a) the contribution method described in Subsection (9);
  - 332 (b) the amount of distributions from and contributions to the Universal Public  
333 Telecommunications Service Support Fund during the last fiscal year;
  - 334 (c) the availability of services for which Subsection (3) permits Universal Public  
335 Telecommunications Service Support Fund funds to be used; and
  - 336 (d) the effectiveness and efficiency of the Universal Public Telecommunications Service

- 337 Support Fund.
- 338 Section 4. **Effective Date.**
- 339 This bill takes effect on May 7, 2025.