



## State of Utah

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*Lieutenant Governor*

## Public Service Commission

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*Commissioner*

September 12, 2019

Senator Ronald Winterton, Chair  
Representative Carl R. Albrecht, Chair  
Members of the Public Utilities, Energy, and Technology Interim Committee  
Senator David P. Hinkins, Sponsor, S.B. 130, Universal Service Fund Amendments (2017 GS)

Re: Report from the Public Service Commission of Utah (PSC) under Utah Code Ann.  
§ 54-8b-15(16)

Senators and Representatives,

Under Utah Code Ann. § 54-8b-15(16), enacted by S.B. 130 in the 2017 General Session, the PSC is required to report before November 1 each year to the Public Utilities, Energy, and Technology Interim Committee. The report is required to address four items:

1. The contribution method for the Universal Public Telecommunications Service Support Fund, typically referred to as the Utah Universal Service Fund (UUSF).
2. The amount of distributions from and contributions to the UUSF during the last fiscal year.
3. The availability of services for which Utah law allows UUSF funds to be used.
4. The effectiveness and efficiency of the UUSF.

### **UUSF Background**

The UUSF is a program under which the PSC distributes funds from mandatory contributions (“surcharges”) collected from customers and paid into the UUSF by Utah telephone service providers based on their number of access lines and connections. The statutory purpose of the UUSF is to provide a mechanism for a qualifying carrier of last resort to obtain specific, predictable, and sufficient funds to deploy and manage networks capable of providing end-user services including access lines, connections, or wholesale broadband internet access service. The UUSF also funds a program that provides telecommunication access and equipment to deaf, hard of hearing, and speech challenged individuals, and a Lifeline program intended to help make communication services more affordable for low-income customers. The Legislature has charged

the PSC with establishing the UUSF contribution method, which must be both nondiscriminatory and competitively neutral.

### **UUSF Contribution Method**

Prior to S.B. 130, the UUSF contribution rate was 1.65% of billed intrastate retail rates. S.B. 130 required the PSC, before January 1, 2018, to develop a contribution method that is a function of a provider's annual intrastate revenue, number of access lines or connections in Utah, or some combination of those two methods.

The PSC considered the various stakeholder positions and implemented a surcharge of \$0.36 per month for each access line or connection beginning January 1, 2018. Due to an increase in the total amount of UUSF disbursements, the PSC raised the surcharge amount to \$0.60 per month, effective May 1, 2019.

### **Current UUSF Determination Process**

Under Utah Code Ann. § 54-8b-15(4)(a)(ii) rate-of-return regulated carriers of last resort qualify for disbursements from the UUSF if their reasonable costs to provide public telecommunications service and wholesale broadband Internet access service exceed revenue from certain designated sources. Each April these carriers file annual reports accounting for those costs and revenues. The Division of Public Utilities (DPU) audits those reports and may also audit additional records of the carrier. The DPU makes annual recommendations for UUSF distributions after auditing each carrier's reasonable costs and the revenues. If a carrier disagrees with the DPU's recommendation, it may contest the issue in a PSC adjudicatory process.

### **UUSF Distributions and Contributions for the Fiscal Year Ended June 30, 2019**

For FY 2019, total contributions to the UUSF were \$14,879,300 and total distributions from the UUSF were \$16,194,225. Both UUSF collections and disbursements increased in FY 2018 and further in 2019<sup>1</sup> primarily because, pursuant to S.B. 130, the scope of the program has increased.

Further breakdowns on distributions are listed below. While we recognize the total number of customers for each provider listed below could provide a useful data point when evaluating UUSF distributions, we acknowledge that customer counts might be viewed as commercially sensitive data, so we have not included them in this report.

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<sup>1</sup> For FY 2017, total UUSF contributions to the UUSF were \$11,328,664 and total distributions from the UUSF were \$11,121,953. For FY 2018, total UUSF contributions to the UUSF were \$12,995,732 and total distributions from the UUSF were \$12,039,752. We anticipate that for FY 2020 both of these numbers will increase again as the higher disbursement levels to providers and the higher surcharge amount were both in effect for only a portion of FY 2019.

**Total FY 2019 UUSF distributions to Utah rural incumbent local exchange carriers**

All West Communications, Inc.	\$1,830,388
Bear Lake Communications, Inc.	\$131,391
Beehive Telephone Company, Inc.	\$918,332
Carbon/Emery Telcom, Inc.	\$1,434,563
Central Utah Telephone, Inc.	\$465,640
Direct Communications Cedar Valley, LLC	\$1,220,955
Emery Telephone	\$1,038,663
Gunnison Telephone Company	\$271,017
Hanksville Telcom, Inc.	\$68,261
Manti Telephone Company	\$1,040,436
Skyline Telecom	\$23,154
South Central Utah Telephone Association, Inc.	\$3,740,931
STRATA Networks (UBTA-UBET Communications, Inc.)	\$2,645,643
Union Telephone Company	\$37,930
<b>Total:</b>	<b>\$14,867,304</b>

**Total FY 2019 UUSF Lifeline (Utah Telephone Assistance Program) distributions**

All West Communications, Inc.	\$546
Bear Lake Communications, Inc.	\$59
Beehive Telephone Company, Inc.	\$336
Carbon/Emery Telcom, Inc.	\$6,254
Central Utah Telephone, Inc.	\$2,058
Citizens Telecommunications Company of Utah d/b/a Frontier Communications of Utah	\$4,560
Direct Communications Cedar Valley, LLC	\$476
i-wireless, LLC	\$2,461
Emery Telephone	\$2,062
Gunnison Telephone Company	\$980
Hanksville Telcom, Inc.	\$63
Manti Telephone Company	\$3,444
Navajo Communications Company, Inc. d/b/a Frontier Navajo Communications Company	\$305
Q Link Wireless, LLC	\$375,046
Qwest Corporation d/b/a CenturyLink QC	\$81,127
Skyline Telecom	\$1,008
South Central Utah Telephone Association, Inc.	\$3,766
STRATA Networks (UBTA-UBET Communications, Inc.)	\$6,044
Virgin Mobile USA, L.P./Assurance Wireless	\$49,931
<b>Total:</b>	<b>\$540,526</b>

- FY 2019 Relay Utah program expenses: \$781,395.
- FY 2019 UUSF online remittance system: \$5,000.

## **Availability of Services Receiving UUSF Funds**

### Wireline Telephone Service

In the past, the Federal Communications Commission (FCC) published annual reports of wireline telephone service availability in each state. The report was based on the total number of occupied housing units with access to wireline telephone service.

The last such report issued by the FCC was in September 2010, listing data from years 2001 through 2008. Utah's availability of wireline telephone service had increased from 97.4 percent of occupied housing units in 2001 to 99.3 percent of occupied housing units in 2008. For the 2008 data, Utah had the highest percentage of all 50 states (while the state with the lowest percentage was 95.7 percent).

The PSC is unaware of a research source with more recent data, although it seems counter-intuitive that wireline telephone service availability would have decreased in any significant manner since 2008. Adoption (as opposed to availability) has decreased significantly as many customers are now choosing wireless telephone service, or voice over internet protocol service, rather than wireline service.

### Broadband Internet Service

In May 2019, the FCC released the 2019 Broadband Deployment Report. This report evaluates whether advanced telecommunications capability is being deployed to all Americans in a reasonable and timely fashion. The full report is available at the following website:  
<https://www.fcc.gov/reports-research/reports/broadband-progress-reports/2019-broadband-deployment-report>

Highlights of the report's findings for Utah include:

- 94.2% of Utah's population with access to Fixed 25 Mbps/3Mbps (advertised maximum download speed/advertised maximum upload speed);
- 99.7% of Utah's population with access to Mobile LTE 5 Mbps/1 Mbps;
- 88.3% of Utah's population with access to Mobile LTE 10 Mbps/3 Mbps;
- 47.4% of Utah's population living on Tribal Lands with access to Fixed 25 Mbps/3Mbps; and
- 93.3% of Utah's population living on Tribal Lands with access to Mobile LTE 5 Mbps/1 Mbps.

Additionally, data in a different format is maintained by the Utah Broadband Outreach Center, an office within the Governor's Office of Economic Development. That office maintains an online

resource at <https://broadband.utah.gov/map/> allowing a user to enter a street address in Utah and find various broadband Internet options at that location. That office also published a Utah Broadband Atlas in January 2015 and maintains an online resource showing the maximum advertised download speeds by county as well as statewide.

Those two resources are available at the following websites:

<https://broadband.utah.gov/wp-content/uploads/2015/02/Broadband-Atlas-Final-Small-File.pdf>

<https://broadband.utah.gov/resources/maps-and-data/residential-broadband-coverage-statistics-county/>

## **Effectiveness and Efficiency of the UUSF**

### **Administrative Rules**

After we determined a contribution method for the UUSF going forward, we revised the remainder of our UUSF administrative rules to be more consistent with S.B. 130.

Stakeholders have asked us to further clarify our administrative rules in two areas: depreciation methodology and one-time UUSF distributions to carriers of last resort whose rate of return is not regulated by the PSC. Those stakeholders are continuing to engage in discussions and have committed to providing as much consensus rule language as possible to the PSC when those discussions conclude. All mandatory rulemaking from S.B. 130 is complete.

### **Potential Changes to Future UUSF Distributions**

In addition to the increased UUSF collections and distributions since 2017, we anticipate the demand for UUSF disbursements may continue to grow. For example, the legislation allows Lifeline subsidies to wireless telephone customers where those subsidies previously were available only to wireline connections. Five wireless telephone companies were granted permission to receive state Lifeline subsidies for their qualifying customers in 2018 and 2019, and one application is currently pending. As these companies increase their number of customers, the UUSF payments to them are likely to rise. For FY 2019, disbursements to these companies totaled \$427,438.

Potential future one-time distributions to carriers of last resort whose rate of return is not regulated by the PSC could increase UUSF distributions. However, another provision of S.B. 130 ties carriers whose rate of return is regulated by the PSC to the federally approved rate of return.<sup>2</sup> Under current federal precedent, this change will provide a downward trend in distributions to those carriers that should counterbalance some of the issues that are increasing distributions.

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<sup>2</sup> Approved by the Federal Communications Commission.

## Issues for Legislative Consideration

As mentioned in the PSC's 2018 report, two additional issues exist where at least some stakeholders have expressed to the PSC an interest in further legislative changes. Because of our desire to maintain the ability to fulfill our administrative and adjudicative functions without bias, the PSC is not advocating for or against legislative changes on either of these issues. The issues are a potential statutory cap on UUSF contributions or distributions, and authorizing point-of-sale collection of UUSF surcharges for prepaid wireless telephone service.

We recognize it is unusual for the Legislature to delegate to the PSC both the authority to set the contribution amount that creates the revenue flow into the UUSF, and the authority to adjudicate distributions from those revenues. We take those joint responsibilities seriously and pledge to perform them in a deliberate and transparent way. Nevertheless, we believe it should be a conscious legislative decision whether to continue to leave both sides of UUSF administration solely to the regulatory arena, or whether there should be additional statutory checks and balances on the PSC's authority.

Additionally, some stakeholders have indicated to the PSC a desire for statutory authority for a point-of-sale collection of UUSF surcharges from prepaid wireless service. Prepaid wireless service plans are sold directly to customers either by wireless telephone service providers or by third-party retailers on behalf of providers. Customers may purchase additional credits after their initial purchase, but in some instances have no ongoing billing relationship with the provider. The PSC has no jurisdiction over third-party sellers of prepaid wireless service.

Some stakeholders have argued to the PSC that because of the difficulties in collecting UUSF contributions from prepaid wireless service customers, and the irregular intervals at which customers may buy plans or additional credits, the current \$0.60 per access line UUSF surcharge is discriminatory. Those stakeholders asked the PSC to refrain from adopting a flat, monthly UUSF surcharge until after the Legislature authorizes point-of-sale collection from prepaid wireless customers.

Other stakeholders disagreed with those assertions and argued for a different outcome, which the PSC adopted. Under existing PSC administrative rules: "[a] provider that offers prepaid access lines or connections that permit access to the public telephone network shall remit to the [PSC] \$0.60 per month per access line for such service (new access lines or connections, or recharges for existing lines or connections) purchased on or after January 1, 2018." Additional rule language clarifies that "[m]ultiple recharges of a single prepaid access line during a single month do not trigger multiple remittance requirements."

In other words, existing PSC rules place the requirement to collect and remit UUSF surcharges on a wireless telephone service provider, regardless of whether that provider sells prepaid service through a third-party retailer. Some stakeholders find those existing rules adequate; others

consider the rules to be discriminatory and have advocated for legislative authorization to collect UUSF contributions at the point-of-sale.

We hope this information is helpful. We have an ongoing commitment to help inform the legislative process on any issues within our jurisdiction. Please reach out to us with any questions or concerns about our administration of the UUSF.

Respectfully submitted,

/s/ Thad LeVar, Chair

/s/ David R. Clark, Commissioner

/s/ Jordan A. White, Commissioner

Public Service Commission of Utah