

Utah's Universal Public Telecommunications Service Support Fund (UUSF)

Utah Code Section 54-8b-15 | November 20, 2019

Overview of the UUSF

Background

What are the goals and objectives of the UUSF?

The Utah Universal Public Telecommunications Service Support Fund (UUSF) is a funding 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 access lines, connections, or wholesale broadband Internet access service.

Who determines and imposes surcharges associated with the UUSF?

The Public Service Commission of Utah (PSC) determines and imposes surcharges associated with the UUSF.

Which Administrative Rules are applicable to the UUSF?

Utah Administrative Rule [R746-8](#) governs the methods, practices, and procedures by which the UUSF is created, maintained, and funded, and by which funds are dispersed from the UUSF to qualifying access line providers.

Which agencies are responsible for administrative functions pertaining to the UUSF?

The PSC and the Division of Public Utilities (DPU) are responsible for administrative functions pertaining to the UUSF. Providers who omit the UUSF surcharge report monthly to the DPU and consent to any audit requested by the PSC or the DPU. The DPU also provides recommendations to the PSC following the Federal Communications Commission's annual rate-of-return changes as to whether a provider's monthly distribution to the UUSF should be adjusted and is in charge of collecting Lifeline subscriber lists from participating telecommunications providers in the Lifeline program, which is also a part of the UUSF.

How is the UUSF funded, and how are the UUSF contributions devised?

The PSC calculates the amount of each explicit charge using a method developed by the PSC by rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, that:

- does not discriminate against:
 - any access line or connection provider; or
 - the technology used by any access line or connection provider;
- is competitively neutral; and
- is a function of an access line or connection provider's:
 - annual intrastate revenue;
 - number of access lines or connections in the state; or
 - a combination of an access line or connection provider's annual intrastate revenue and number of access lines or connections in the state.

Utah Administrative Rule R746-8-300, UUSF Funding et seq., specifies that providers shall remit to the PSC \$0.60 per month per access line that, as of the last calendar day of each month, has a place of

primary use in Utah in accordance with the Mobile Telecommunications Sourcing Act, 4 U.S.C. Sec. 116 et seq.¹

How are the funds from the UUSF used, and how are the UUSF distributions devised?

The PSC uses funds in the UUSF to:

- fund the hearing and speech impaired program (Relay Program) described in [Section 54-8b-10](#);
- fund a lifeline program that covers the reasonable cost to an eligible telecommunications carrier, as determined by the PSC, to offer lifeline service consistent with the Federal Communications Commission's lifeline program for low-income consumers;
- 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:
 - access lines;
 - connections; or
 - broadband Internet access service (BIAS).
- fund one-time distributions from the Universal Public Telecommunications Service Support Fund for a non-rate-of-return regulated carrier of last resort's deployment and management of networks capable of providing:
 - access lines;
 - connections; or
 - broadband Internet access service (BIAS).

Utah Administrative Rule R746-8-400, UUSF Distributions et seq., defines eligibility requirements for:

- individuals receiving Relay Program support through the UUSF;
- providers receiving Lifeline Program support through the UUSF, if the provider is designated as an eligible telecommunications carrier (ETC) by the PSC in accordance with 47 U.S.C. Section 214(e), or, is designated by the FCC as a Lifeline Broadband Provider (LBP);
- non-rate-of-return regulated carrier of last resort providers receiving one-time distributions from the UUSF for the purpose of deploying and managing networks capable of providing access lines, connections, or BIAS; and
- either rate-of-return regulated or non-rate-of-return regulated carrier of last resort providers receiving funding from the UUSF for the purpose of providing service to end-users through that provider's deployment and management of networks capable of providing access lines, connections, or BIAS.

¹ A provider may omit the UUSF surcharge if the access line of that provider generates revenue that is subject to another state's universal service surcharge during that month for which the provider omits the UUSF surcharge and if the access line was not used to access Utah intrastate telecommunications services during said month; or, if that access line receives subsidization through the federal Lifeline program approved by the FCC (<https://rules.utah.gov/publicat/code/r746/r746-008.htm>).

Recent Significant Changes²

2017 General Session

In the 2017 General Session, S.B. 130, Universal Service Fund Amendments, was passed. 2017 S.B. 130 required the PSC, before January 1, 2018, to develop a contribution method that was a function of a provider's annual intrastate revenue, number of access lines or connections in Utah, or some combination of those two methods. Prior to this, since October 1, 2016, the UUSF contribution rate was 1.65% of billed intrastate retail rates. S.B. 130 also required that the Relay Utah Program be rolled into the UUSF beginning in FY 2018, which was previously a separate program with a separate funding surcharge; additionally, the new law expanded which providers were eligible for the distributions coming from the UUSF for Lifeline Program support as well as deploying and maintaining access lines, connections, and broadband internet access service in high-cost service areas.

Post-2017 General Session: PSC Docket 17-R360-01²

Immediately after 2017 S.B. 130 passed, the PSC opened a new docket and began soliciting stakeholder comments on how to structure the contribution method. The PSC considered the comments and decided to move forward with a surcharge method of \$0.36 per month per access line or connection. On December 22, 2017, the new rule implementing the new contribution method went into effect.

2018-2019: PSC Docket 18-999-15²

On January 3, 2019, the PSC issued a Notice and Action Request to the Division of Public Utilities (DPU), explaining the PSC "anticipate[s] a pending need to increase the [Utah Universal Service Fund or "UUSF"] contribution surcharge" as a consequence of several recent dockets that modified disbursements as required by 2017 S.B. 130. The Action Request asked the DPU to provide an updated estimate of the amount at which the surcharge should be set in light of these changes and to presume an effective date of July 1, 2019 for any change to the surcharge. In response to the PSC's Notice and Action Request, the DPU made the following recommendation:

The DPU recommends the PSC increase the UUSF surcharge to \$0.60 per month per access line, explaining that as result of increased costs the UUSF will otherwise incur a substantial monthly deficit with costs significantly exceeding contributions to the fund (see docket for data). Specifically, the DPU estimates the UUSF's annual costs will average \$21,648,861 from 2019 through 2021, after factoring in the increased costs stemming from S.B. 130 and its implementation(see docket for data). On a monthly basis, the average costs are \$1,804,072. Because the UUSF is funded through a monthly surcharge on access lines, monthly contributions to the UUSF are a function of the number of access lines paying the charge and the amount of the surcharge. The DPU represents it has recorded "an average [of] 3,084,787 connections paying into the UUSF each month"(see docket for data). At the current monthly surcharge per access line, \$0.36, the DPU projects monthly contributions to total \$1,110,523, yielding a significant monthly deficit in light of the increased costs (see docket for data). To balance monthly costs with contributions and to meet the legislative goal of maintaining a balance approximately equal to three months' expenses, the DPU recommends a \$0.24 increase in the surcharge. The DPU further recommends the PSC make the new \$0.60 rate effective May 1, 2019 to prevent monthly deficits from excessively eroding the account balance.

² For further information on the Recent Significant Changes section, see GS 2017 S.B. 130 Universal Service Fund Amendments (<https://le.utah.gov/~2017/bills/static/SB0130.html>), PSC docket 17-R360-01 (<https://psc.utah.gov/2017/03/28/docket-no-17-r360-01/>) and PSC docket 18-999-15 (<https://psc.utah.gov/2018/10/09/docket-no-18-999-15/>)

After reviewing stakeholder comments responding to the DPU's recommendation, the PSC issued its Findings, Conclusion, and Notice of Rule Filing, stating:

...the PSC finds and concludes that the existing surcharge of \$0.36 per month per access line is insufficient to cover the costs the UUSF is obliged to pay under Utah Code Ann. § 54-8b-15. The PSC finds increasing the monthly surcharge to \$0.60 per month per access line, consistent with the DPU's Recommendation, is reasonable, appropriate, and necessary to maintain a responsible UUSF balance consistent with legislative goals. The PSC further finds, in light of the monthly deficits being generated under the extant rate, that implementation of the increase as of May 1, 2019 is reasonable, appropriate, and necessary.

November 2019: Summary

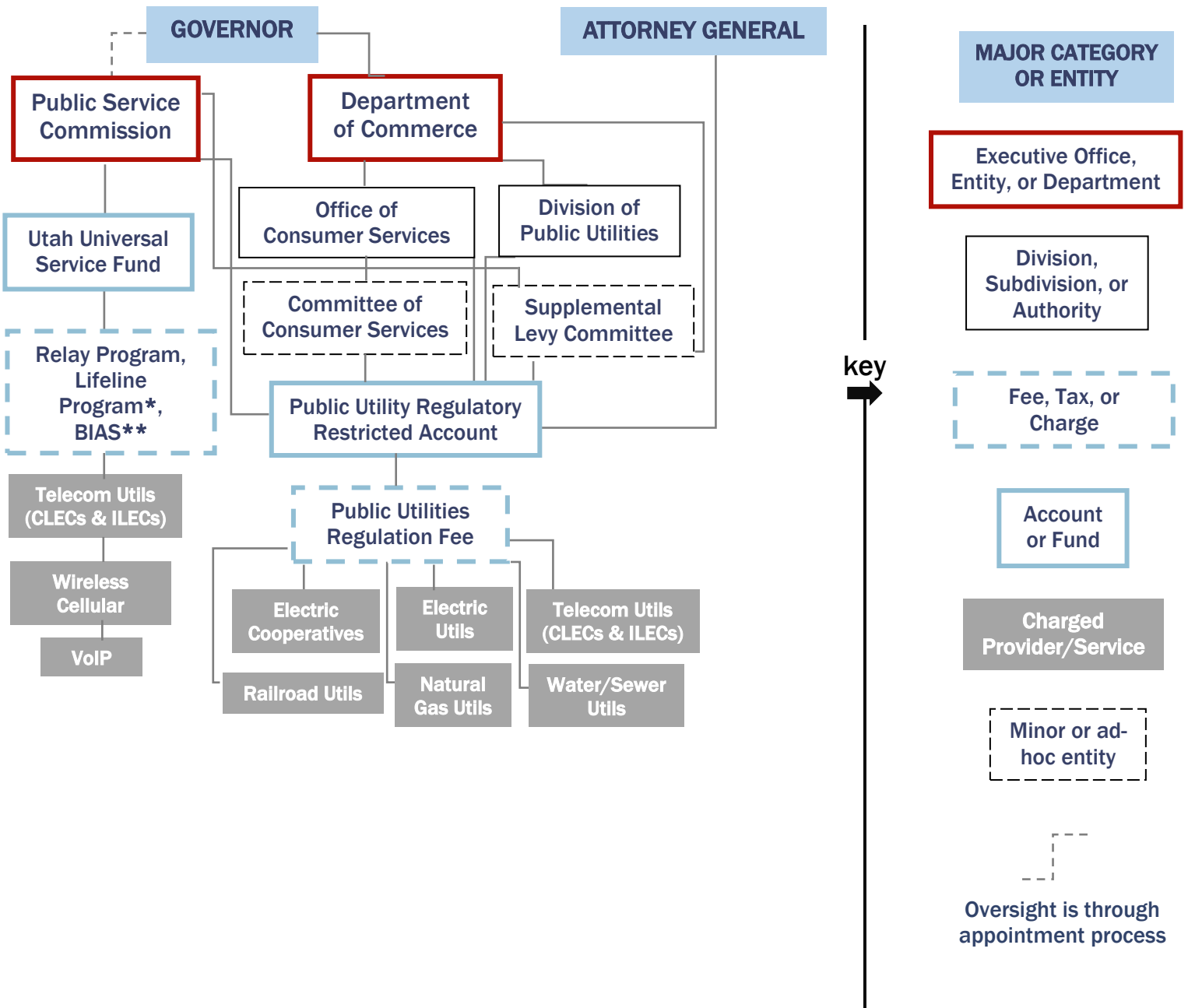
As a result of legislative changes to the UUSF, both the total contributions to the UUSF and the total distributions from the UUSF have increased since 2017. These changes also temporarily increased administrative duties for the PSC and the DPU.

Legislative History of the UUSF

| Year | History of changes | Citation |
|------|--|---------------------------------|
| 1997 | <ul style="list-style-type: none"> • Universal public telecommunications service support fund (UUSF) enacted • Required the Public Service Commission (PSC) to establish an expendable trust fund (the UUSF) for: <ul style="list-style-type: none"> ○ promoting equitable cost recovery of basic telephone service through the imposition of just and reasonable rates for telecommunications access and usage ○ preserving and promoting universal service within the state by ensuring that customers have access to affordable basic telephone service ○ defraying costs, as determined by the PSC, of any qualifying telecommunications corporation in providing public telecommunications services to customers that qualify for a commission-approved lifeline program, as well as those customers residing where the basic telephone service rate considered affordable by the PSC in a particular geographic area is less than the costs of basic telephone service, to the extent the aforementioned telecommunications services are <i>not funded by a federal universal service fund or other federal jurisdictional revenues or by the trust fund established pursuant to Section 54-8b-12</i> • Mandated the phasing out of the Section 54-8b-12 trust fund, requiring the transfer of any remaining balance from said trust fund to the newly enacted UUSF under Section 54-8b-15 by Dec. 31, 1999 • Required each telecommunications corporation that provided intrastate public telecommunication service to contribute to the UUSF on an equitable and nondiscriminatory basis through end-user surcharges determined by the PSC applied to intrastate retail sales, excluding wholesale services, access points, and interconnections | Laws of Utah 1997, Ch. 122, § 3 |

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| | <ul style="list-style-type: none"> Specified that any applicable telecommunications corporation failing to make contributions to the UUSF shall be subject to penalties | |
| 2002 | <ul style="list-style-type: none"> Changed the UUSF from an expendable trust fund to a restricted special revenue fund | Laws of Utah 2002, Ch. 256, § 35 |
| 2002 | <ul style="list-style-type: none"> Amended the UUSF Code to include telecommunications corporations that provide mobile telecommunications services as contributors to the fund only to the extent permitted by the Mobile Telecommunications Sourcing Act, 4 U.S.C. Sec. 116 et seq. | Laws of Utah 2002, Ch. 320, § 2 |
| 2013 | <ul style="list-style-type: none"> Changed the UUSF from a restricted special revenue fund to an expendable special revenue fund | Laws of Utah 2013, Ch. 400, § 28 |
| 2017 | <ul style="list-style-type: none"> Provided that a telecommunications provider that establishes and maintains a network capable of providing access lines, connections, or wholesale broadband Internet access service may qualify for payments from the UUSF for use in carrier of last resort areas Required each access line or connection provider in the state to contribute to the UUSF Requires the PSC to develop a method for calculating the amount of each contribution charge assessed to an access line or connection provider Combined the surcharge and funding for administering the hearing and speech impaired program (Relay Program) with the UUSF/UUSF surcharge Provided for a depreciation method and rate-of-return for a carrier of last resort that receives support from the UUSF Provided that a wireless telecommunications provider is eligible for a distribution from the UUSF for providing lifeline service under certain circumstances Struck language from 1997 defining the UUSF's purpose and refined the UUSF's purpose to be providing 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 access lines, connections, or wholesale broadband Internet access service | Laws of Utah 2017, Ch. 423, § 3 |

UUSF Interfaces & Oversight



*If the provider is designated as an eligible telecommunications carrier (ETC) by the PSC in accordance with 47 U.S.C. Section 214(e), or, is designated by the FCC as a Lifeline Broadband Provider (LBP).

**For one-time distributions from the UUSF for the purpose of deploying and managing networks capable of providing access lines, connections, or BIAS, the provider is a non-rate-of-return regulated carrier of last resort; for the purpose of providing such service to end-users, the provider is either a rate-of-return regulated or non-rate-of-return regulated carrier of last resort.

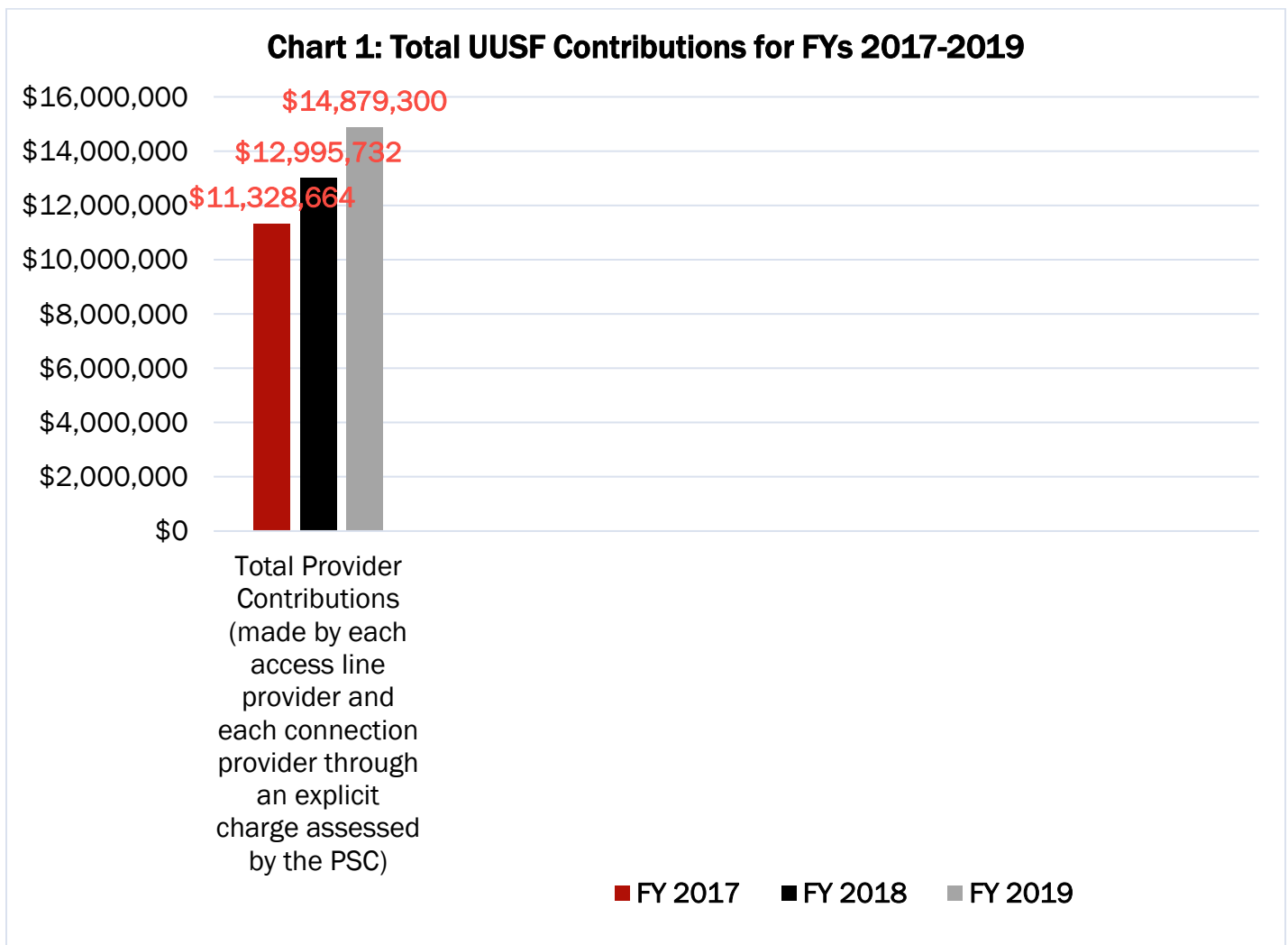
UUSF: 2017–2019 Data on Fund Performance

The Public Service Commission reports annually before November 1 to the Public Utilities, Energy, and Technology Interim Committee regarding:

- the UUSF’s contribution method;
- the amount of contributions to and distributions from the UUSF during the past fiscal year;
- the availability of services pertaining to the UUSF’s required uses (i.e. Relay Program, Lifeline Program, access lines, connections, and wholesale BIAS in high-cost areas); and
- the effectiveness and efficiency of the UUSF.

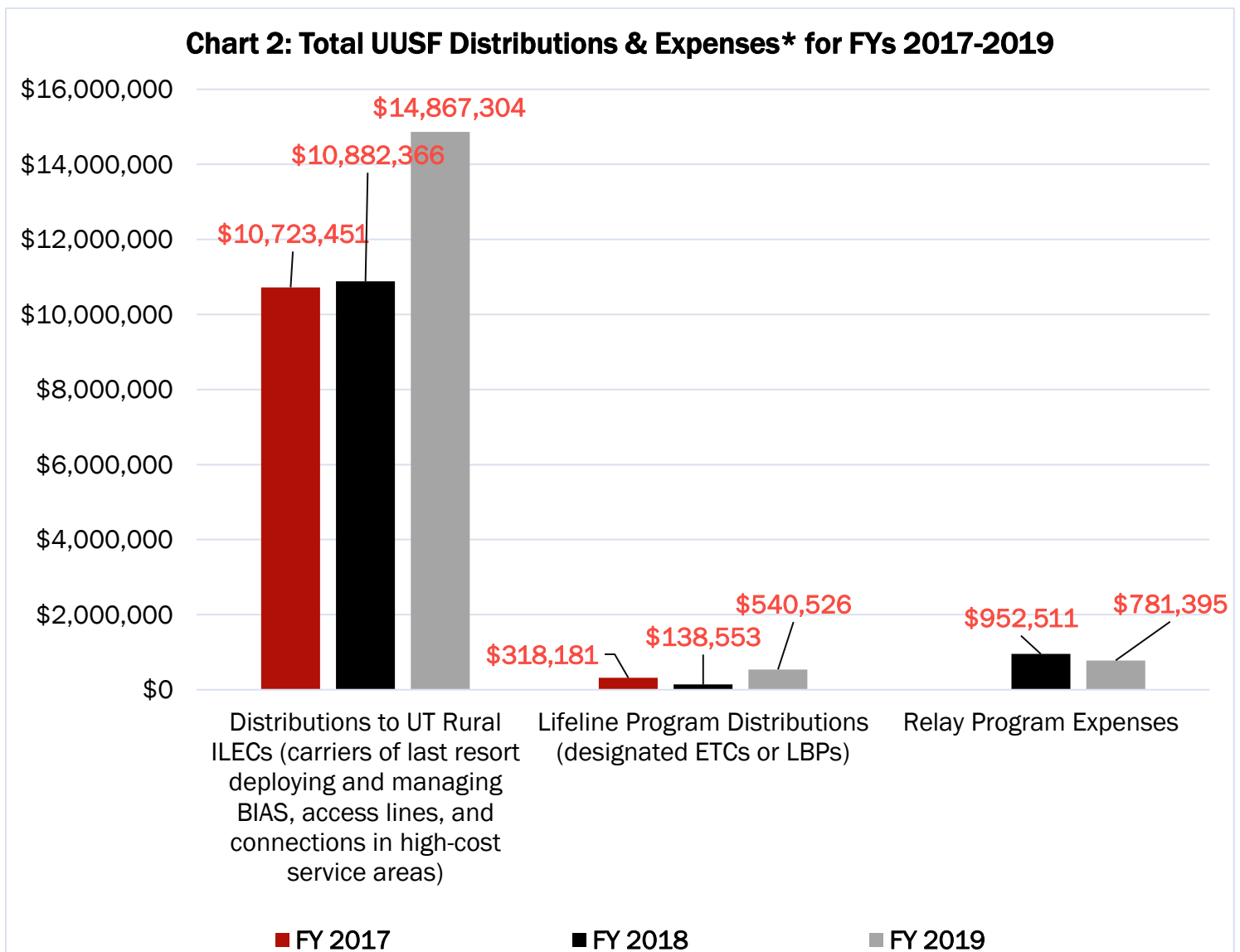
The information from the *UUSF: 2017–2019 Data on Fund Performance* section was sourced from the Public Service Commission of Utah’s annual UUSF reports³.

UUSF Contributions



³ The PSC’s annual statutorily required UUSF reports are located on the PSC’s website (<https://psc.utah.gov/telecom/telecom-information/>) and also on Public Utilities, Energy, and Technology Interim Committee’s webpage (<https://le.utah.gov/asp/interim/Commit.asp?Year=2019&Com=INTPUT>)

UUSF Distributions & Expenses⁴



⁴ *FY 2017 and FY 2018: Lifeline Payment to the Utah Department of Workforce Services (DWS) for administration of Lifeline eligibility verification = \$80,321 (FY 17) and \$66,322 (FY 18). The FCC and NLAD (National Lifeline Accountability Database) maintain a database for verification of eligibility of individual customers for a Lifeline subsidy. It's basically a database that verifies a person receives some government benefit that is based on income eligibility and cuts down fraud and duplicate subsidies. In the past, the National Verifier was used by wireless providers seeking the federal Lifeline subsidy, but wireline providers who were also seeking the state Lifeline subsidy had their income qualification verified through a contract between the PSC and DWS. Those \$80K and \$66K payments were payments from the UUSF to Workforce Services. About the same time the PSC was implementing rules after 2017 S.B. 130, wireless providers were coming in for state Lifeline eligibility, which would have drastically increased the workload and costs for DWS to continue doing that. At the same time, NLAD was rolling out an improved database called National Verifier, and Utah was chosen to be one of the first beta states. Long story short, the PSC let the contract with DWS expire, and in the PSC's administrative rules, required every Lifeline customer to have their eligibility verified through the National Verifier. That has been going on for over a year and a half now, at no cost to the UUSF.

*FY 2019: UUSF Online Remittance System = \$5,000. Until recently, telecommunications providers have been mailing the PSC paper checks for their monthly surcharge remittances into the UUSF. That \$5,000 the PSC paid in FY 2019 was the PSC's payment to Utah Interactive (the company that holds the master state contract for website design and maintenance) to create an online payment portal so that telecom providers can make those remittances electronically, without sending a paper check.

Key Terms & Acronyms

For the purposes of this document only, the following terms and definitions are borrowed from the *Utah Code* to supplement the reader's understanding of the issue. Terms are listed in alphabetical order; underlines point to defined terms that are used to define another term within this same document while * means that the term's definition was adapted utilizing the definition of another term that *is not* listed in this document due to a need for conciseness, but resides in the *Utah Code*.

Access Line (Title 54 definition/UUSF): a circuit-switched connection, or the functional equivalent of a circuit-switched connection, from an end-user to the public-switched network (*Utah Code* Section 54-8b-2).

Broadband Internet Access Service (BIAS): means the same as that term is defined in 47 C.F.R. Sec. 8.2 (*Utah Code* Section 54-8b-15).

Carrier of last resort: an incumbent telephone corporation or a telecommunications corporation that, under Section 54-8b-2.1, has a certificate of public convenience and necessity to provide local exchange service and has an obligation to provide public telecommunications service to any customer or class of customers that requests service within the local exchange. (*Utah Code* Section 54-8b-15).

Certificate: a certificate of public convenience and necessity issued by the commission authorizing a telecommunications corporation to provide specified public telecommunications services within a geographic service territory in the state (*Utah Code* Section 54-8b-2)

***Competitive Local Exchange Carrier (CLEC):** any corporation or person, and their lessees, trustees, receivers, or trustees appointed by any court, owning, controlling, operating, managing, or reselling a public telecommunications service to which the commission *may issue* a certificate authorizing it to compete in providing local exchange services or other public telecommunications services in all or part of the service territory of an incumbent telephone corporation (*Utah Code* Section 54-8b-2.1).

Connection: an authorized session that uses Internet protocol or a functionally equivalent technology standard to enable an end-user to initiate or receive a call from the public switched network (*Utah Code* Section 54-8b-15).

Eligible telecommunications carrier (ETC): a provider that, if seeking to participate in the state Lifeline program is designated as an eligible telecommunications carrier by the PSC in accordance with 47 U.S.C. Section 214(e); or is designated by the Federal Communications Commission as a Lifeline Broadband Provider (R746-8-200. Definitions).

Incumbent Local Exchange Carrier (ILEC): a telephone corporation, its successors or assigns, which, as of May 1, 1995, held a certificate to provide local exchange services in a defined geographic service territory of the state (*Utah Code* Section 54-8b-2).

Local Exchange Service: the provision of telephone lines to customers with the associated transmission of two-way interactive, switched voice communications within the geographic area encompassing one or more local communities as described in maps, tariffs, or rate schedules filed with and approved by the commission (*Utah Code* Section 54-8b-2).

Place of primary use: the street address representative of where the customer's use of the telecommunications service primarily occurs, and is further distinguished in rule R746-8-300 between

providers of mobile telecommunications service and providers of non-mobile telecommunications service (R746-8-300).

Public Switched Network: means the same as that term is defined in 47 C.F.R. Sec. 20.3 (*Utah Code* Sections 54-8b-2 and 69-2-102).

Public Telecommunications Service: the two-way transmission of signs, signals, writing, images, sounds, messages, data, or other information of any nature by wire, radio, light waves, or other electromagnetic means offered to the public generally (*Utah Code* Section 54-8b-2).

Voice Over Internet Protocol (VoIP): any service that enables real time, two-way voice communication originating from or terminating at the user's location in Internet protocol or successor protocol; uses a broadband connection from the user's locations; and permits a user to receive a telephone call that originates on the public switched telephone network and to terminate a call to the public switched telephone network (*Utah Code* Section 54-19-102).

***Wireless Cellular (a.k.a. "cellular phone line," "WRLS," "cellular/mobile telecommunications services," or "wireless telecommunications services"):** is synonymous with "commercial radio communications service" as that term is defined in *Utah Code* Section 69-2-102, which references 47 C.F.R., parts 20, 22, 24, and 90 (note: *Utah Code* Section 54-8b-2 also defines "mobile telecommunications service" as that term is defined in the *Mobile Telecommunications Sourcing Act*, 4 U.S.C. Sec. 124, and 4 U.S.C. Sec. 124 cross-references to "commercial radio communications service" in 47 C.F.R.).