

**10-1-402 Definitions.**

As used in this part:

- (1) "Commission" means the State Tax Commission.
- (2)
  - (a) Subject to Subsections (2)(b) and (c), "customer" means the person who is obligated under a contract with a telecommunications provider to pay for telecommunications service received under the contract.
  - (b) For purposes of this section and Section 10-1-407, "customer" means:
    - (i) the person who is obligated under a contract with a telecommunications provider to pay for telecommunications service received under the contract; or
    - (ii) if the end user is not the person described in Subsection (2)(b)(i), the end user of telecommunications service.
  - (c) "Customer" does not include a reseller:
    - (i) of telecommunications service; or
    - (ii) for mobile telecommunications service, of a serving carrier under an agreement to serve the customer outside the telecommunications provider's licensed service area.
- (3)
  - (a) "End user" means the person who uses a telecommunications service.
  - (b) For purposes of telecommunications service provided to a person who is not an individual, "end user" means the individual who uses the telecommunications service on behalf of the person who is provided the telecommunications service.
- (4)
  - (a) "Gross receipts from telecommunications service" means the revenue that a telecommunications provider receives for telecommunications service rendered except for amounts collected or paid as:
    - (i) a tax, fee, or charge:
      - (A) imposed by a governmental entity;
      - (B) separately identified as a tax, fee, or charge in the transaction with the customer for the telecommunications service; and
      - (C) imposed only on a telecommunications provider;
    - (ii) sales and use taxes collected by the telecommunications provider from a customer under Title 59, Chapter 12, Sales and Use Tax Act; or
    - (iii) interest, a fee, or a charge that is charged by a telecommunications provider on a customer for failure to pay for telecommunications service when payment is due.
  - (b) "Gross receipts from telecommunications service" includes a charge necessary to complete a sale of a telecommunications service.
- (5) "Mobile telecommunications service" is as defined in the Mobile Telecommunications Sourcing Act, 4 U.S.C. Sec. 124.
- (6) "Municipality" means a city or town.
- (7) "Place of primary use":
  - (a) for telecommunications service other than mobile telecommunications service, means the street address representative of where the customer's use of the telecommunications service primarily occurs, which shall be:
    - (i) the residential street address of the customer; or
    - (ii) the primary business street address of the customer; or
  - (b) for mobile telecommunications service, is as defined in the Mobile Telecommunications Sourcing Act, 4 U.S.C. Sec. 124.
- (8) Notwithstanding where a call is billed or paid, "service address" means:

- (a) if the location described in this Subsection (8)(a) is known, the location of the telecommunications equipment:
    - (i) to which a call is charged; and
    - (ii) from which the call originates or terminates;
  - (b) if the location described in Subsection (8)(a) is not known but the location described in this Subsection (8)(b) is known, the location of the origination point of the signal of the telecommunications service first identified by:
    - (i) the telecommunications system of the telecommunications provider; or
    - (ii) if the system used to transport the signal is not a system of the telecommunications provider, information received by the telecommunications provider from its service provider;  
or
  - (c) if the locations described in Subsection (8)(a) or (b) are not known, the location of a customer's place of primary use.
- (9)
- (a) Subject to Subsections (9)(b) and (9)(c), "telecommunications provider" means a person that:
    - (i) owns, controls, operates, or manages a telecommunications service; or
    - (ii) engages in an activity described in Subsection (9)(a)(i) for the shared use with or resale to any person of the telecommunications service.
  - (b) A person described in Subsection (9)(a) is a telecommunications provider whether or not the Public Service Commission of Utah regulates:
    - (i) that person; or
    - (ii) the telecommunications service that the person owns, controls, operates, or manages.
  - (c) "Telecommunications provider" does not include an aggregator as defined in Section 54-8b-2.
- (10) "Telecommunications service" means:
- (a) telecommunications service, as defined in Section 59-12-102, other than mobile telecommunications service, that originates and terminates within the boundaries of this state;
  - (b) mobile telecommunications service, as defined in Section 59-12-102:
    - (i) that originates and terminates within the boundaries of one state; and
    - (ii) only to the extent permitted by the Mobile Telecommunications Sourcing Act, 4 U.S.C. Sec. 116 et seq.; or
  - (c) an ancillary service as defined in Section 59-12-102.
- (11)
- (a) Except as provided in Subsection (11)(b), "telecommunications tax or fee" means any of the following imposed by a municipality on a telecommunications provider:
    - (i) a tax;
    - (ii) a license;
    - (iii) a fee;
    - (iv) a license fee;
    - (v) a license tax;
    - (vi) a franchise fee; or
    - (vii) a charge similar to a tax, license, or fee described in Subsections (11)(a)(i) through (vi).
  - (b) "Telecommunications tax or fee" does not include:
    - (i) the municipal telecommunications license tax authorized by this part; or
    - (ii) a tax, fee, or charge, including a tax imposed under Title 59, Revenue and Taxation, that is imposed:
      - (A) on telecommunications providers; and
      - (B) on persons who are not telecommunications providers.

Amended by Chapter 384, 2008 General Session