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54-8b-10 Imposing a surcharge to provide hearing and speech impaired persons with telecommunication devices -- Definitions -- Procedures for establishing program -- Surcharge -- Administration and disposition of surcharge money.

(1) As used in this section:

- (a) "Certified deaf or severely hearing or speech impaired person" means any state resident who:
 - (i) is so certified by:
 - (A) a licensed physician;
 - (B) an otolaryngologist;
 - (C) a speech language pathologist;
 - (D) an audiologist; or
 - (E) a qualified state agency; and
 - (ii) qualifies for assistance under any low income public assistance program administered by a state agency.
- (b) "Certified interpreter" means a person who is a certified interpreter under Title 35A, Chapter 13, Part 6, Interpreter Services for the Deaf and Hard of Hearing Act.
- (c)
 - (i) "Telecommunication device" means any mechanical adaptation device that enables a deaf or severely hearing or speech impaired person to use the telephone.
 - (ii) "Telecommunication device" includes:
 - (A) telecommunication devices for the deaf (TDD);
 - (B) telephone amplifiers;
 - (C) telephone signal devices;
 - (D) artificial larynxes; and
 - (E) adaptive equipment for TDD keyboard access.

(2) The commission shall hold hearings to establish a program whereby a certified deaf or severely hearing or speech impaired customer of a telecommunications corporation that provides service through a local exchange or of a wireless telecommunications provider may obtain a telecommunication device capable of serving the customer at no charge to the customer beyond the rate for basic service.

- (3)
- (a) The program described in Subsection (2) shall provide a dual party relay system using third party intervention to connect a certified deaf or severely hearing or speech impaired person with a normal hearing person by way of telecommunication devices designed for that purpose.
 - (b) The commission may, by rule, establish the type of telecommunications device to be provided to ensure functional equivalence.

- (4)
- (a) The commission shall impose a surcharge on each residential and business access line of each customer of local-exchange telephone service in this state, and each residential and business telephone number of each customer of mobile telephone service in this state, not including a telephone number used exclusively to transfer data to and from a mobile device, which shall be collected by the telecommunications corporation providing public telecommunications service to the customer, to cover the costs of:
 - (i) the program described in Subsection (2); and
 - (ii) payments made under Subsection (5).

- (b) The commission shall establish by rule the amount to be charged under this section, provided that:
 - (i) the surcharge does not exceed 20 cents per month for each residential and business access line for local-exchange telephone service, and for each residential and business telephone number for mobile telephone service, not including a telephone number used exclusively to transfer data to and from a mobile device; and
 - (ii) if the surcharge is related to a mobile telecommunications service, the surcharge may be imposed, billed, and collected only to the extent permitted by the Mobile Telecommunications Sourcing Act, 4 U.S.C. Sec. 116 et seq.
 - (c) The telecommunications corporation shall collect the surcharge from its customers and transfer the money collected to the commission under rules adopted by the commission.
 - (d) The surcharge shall be separately identified on each bill to a customer.
- (5)
- (a) Money collected from the surcharge imposed under Subsection (4) shall be deposited in the state treasury as dedicated credits to be administered as determined by the commission.
 - (b) These dedicated credits may be used only:
 - (i) for the purchase, maintenance, repair, and distribution of telecommunication devices;
 - (ii) for the acquisition, operation, maintenance, and repair of a dual party relay system;
 - (iii) to reimburse telephone corporations for the expenses incurred in collecting and transferring to the commission the surcharge imposed by the commission;
 - (iv) for the general administration of the program;
 - (v) to train persons in the use of telecommunications devices; and
 - (vi) by the commission to contract, in compliance with Title 63G, Chapter 6a, Utah Procurement Code, with:
 - (A) an institution within the state system of higher education listed in Section 53B-1-102 for a program approved by the Board of Regents that trains persons to qualify as certified interpreters; or
 - (B) the Utah State Office of Rehabilitation created in Section 35A-1-202 for a program that trains persons to qualify as certified interpreters.
 - (c)
 - (i) The commission shall make rules under Title 63G, Chapter 3, Utah Administrative Rulemaking Act, for the administration of money under Subsection (5)(b)(vi).
 - (ii) In the initial rulemaking to determine the administration of money under Subsection (5)(b)(vi), the commission shall give notice and hold a public hearing.
 - (d) Money received by the commission under Subsection (4) is nonlapsing.
- (6)
- (a) The telephone surcharge need not be collected by a telecommunications corporation if the amount collected would be less than the actual administrative costs of the collection.
 - (b) If Subsection (6)(a) applies, the telecommunications corporation shall submit to the commission, in lieu of the revenue from the surcharge collection, a breakdown of the anticipated costs and the expected revenue from the collection, showing that the costs exceed the revenue.
- (7) The commission shall solicit the advice, counsel, and physical assistance of severely hearing or speech impaired persons and the organizations serving them in the design and implementation of the program.