

Effective 7/1/2017

Superseded 1/1/2021

54-8b-15 Universal Public Telecommunications Service Support Fund -- Commission duties -- Charges -- Lifeline program.

(1) For purposes of this section:

- (a) "Broadband Internet access service" means the same as that term is defined in 47 C.F.R. Sec. 8.2.
- (b) "Carrier of last resort" means:
 - (i) an incumbent telephone corporation; or
 - (ii) a telecommunications corporation that, under Section 54-8b-2.1:
 - (A) has a certificate of public convenience and necessity to provide local exchange service; and
 - (B) has an obligation to provide public telecommunications service to any customer or class of customers that requests service within the local exchange.
- (c) "Connection" means 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.
- (d) "Fund" means the Universal Public Telecommunications Service Support Fund established in this section.
- (e) "Non-rate-of-return regulated" means having price flexibility under Section 54-8b-2.3.
- (f) "Rate-of-return regulated" means subject to regulation under Section 54-4-4.
- (g) "Wholesale broadband Internet access service" means the end-user loop component of Internet access provided by a rate-of-return regulated carrier of last resort that is used to provide, at retail:
 - (i) combined consumer voice and broadband Internet access; or
 - (ii) stand-alone, consumer, broadband-only Internet access.

(2)

- (a) There is established an expendable special revenue fund known as the "Universal Public Telecommunications Service Support Fund."
- (b) The fund shall provide 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:
 - (i) access lines;
 - (ii) connections; or
 - (iii) wholesale broadband Internet access service.
- (c) The commission shall develop, by rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, and consistent with this section, policies and procedures to govern the administration of the fund.

(3) Subject to this section, the commission shall use funds in the Universal Public Telecommunications Service Support Fund to:

- (a) fund the hearing and speech impaired program described in Section 54-8b-10;
- (b) fund a lifeline program that covers the reasonable cost to an eligible telecommunications carrier, as determined by the commission, to offer lifeline service consistent with the Federal Communications Commission's lifeline program for low-income consumers;
- (c) 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:
 - (i) access lines;

- (ii) connections; or
- (iii) wholesale broadband Internet access service that is consistent with Federal Communications Commission rules; and
- (d) 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:
 - (i) access lines;
 - (ii) connections; or
 - (iii) broadband Internet access service.
- (4)
 - (a) A rate-of-return regulated carrier of last resort is eligible for payment from the Universal Public Telecommunications Service Support Fund if:
 - (i) the rate-of-return regulated carrier of last resort provides the services described in Subsections (3)(c)(i) through (iii); and
 - (ii) the rate-of-return regulated carrier of last resort's reasonable costs, as determined by the commission, to provide public telecommunications service and wholesale broadband Internet access service are greater than the sum of:
 - (A) the rate-of-return regulated carrier of last resort's revenue from basic residential service considered affordable by the commission;
 - (B) the rate-of-return regulated carrier of last resort's regulated revenue derived from providing other public telecommunications service;
 - (C) the rate-of-return regulated carrier of last resort's revenue from rates approved by the Federal Communications Commission for wholesale broadband Internet access service; and
 - (D) the amount the rate-of-return regulated carrier of last resort receives from federal universal service funds.
 - (b) A non-rate-of-return regulated carrier of last resort is eligible for payment from the Universal Public Telecommunications Service Support Fund for reimbursement of reasonable costs as determined by the commission if the non-rate-of-return regulated carrier meets criteria that are:
 - (i) consistent with Subsections (2) and (3); and
 - (ii) developed by the commission by rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.
- (5) A rate-of-return regulated carrier of last resort that qualifies for funds under this section:
 - (a) is entitled to a rate of return equal to the weighted average cost of capital rate of return prescribed by the Federal Communications Commission for rate-of-return regulated carriers; and
 - (b) may use any depreciation method allowed by the Federal Communications Commission.
- (6)
 - (a) The commission shall determine if a rate-of-return regulated carrier of last resort is correctly applying a depreciation method described in Subsection (5)(b).
 - (b) If the commission determines under Subsection (6)(a) that a rate-of-return regulated carrier of last resort is incorrectly applying a depreciation method or that the rate-of-return regulated carrier of last resort is not using a depreciation method allowed by the Federal Communications Commission, the commission shall issue an order that provides corrections to the rate-of-return regulated carrier of last resort's method of depreciation.

- (7) A carrier of last resort that receives funds from the Universal Public Telecommunications Service Support Fund may only use the funds in accordance with this section within the area for which the carrier of last resort has a carrier of last resort obligation.
- (8) Each access line provider and each connection provider shall contribute to the Universal Public Telecommunications Service Support Fund through an explicit charge assessed by the commission on the access line provider or connection provider.
- (9) The commission shall calculate the amount of each explicit charge described in Subsection (8) using a method developed by the commission by rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, that:
 - (a) does not discriminate against:
 - (i) any access line or connection provider; or
 - (ii) the technology used by any access line or connection provider;
 - (b) is competitively neutral; and
 - (c) is a function of an access line or connection provider's:
 - (i) annual intrastate revenue;
 - (ii) number of access lines or connections in the state; or
 - (iii) a combination of an access line or connection provider's annual intrastate revenue and number of access lines or connections in the state.
- (10) The commission shall develop the method described in Subsection (9) before January 1, 2018.
- (11) An access line or connection provider that provides mobile telecommunications service shall contribute to the Universal Public Telecommunications Service Support Fund only to the extent permitted by the Mobile Telecommunications Sourcing Act, 4 U.S.C. Sec. 116 et seq.
- (12) Nothing in this section shall be construed to enlarge or reduce the commission's jurisdiction or authority, as provided in other provisions of this title.
- (13) A person that fails to make a required contribution to the fund created by this section, or that fails to comply with a commission directive concerning the person's books, records, or other information required by the commission to administer this section, is subject to applicable penalties.
- (14) Nothing in this section gives the commission the authority:
 - (a) to regulate broadband Internet access service;
 - (b) to require a carrier of last resort to provide broadband Internet access service; or
 - (c) assess a contribution in violation of the Internet Tax Freedom Act, 47 U.S.C. Sec. 151 note.
- (15)
 - (a) A facilities-based or nonfacilities-based wireless telecommunication provider is eligible for distributions from the Universal Telecommunications Service Support Fund under the lifeline program described in Subsection (3)(b) for providing lifeline service that is consistent with the Federal Communications Commission's lifeline program for low-income consumers.
 - (b) Except as provided in Subsection (15)(c), the commission may impose reasonable conditions for providing a distribution to a wireless telecommunication provider under the lifeline program described in Subsection (3)(b).
 - (c) The commission may not require a wireless telecommunication provider to offer unlimited local calling to a lifeline customer as a condition of receiving a distribution under the lifeline program described in Subsection (3)(b).
- (16) The commission shall report to the Public Utilities, Energy, and Technology Interim Committee each year before November 1 regarding:
 - (a) the contribution method described in Subsection (9);

- (b) the amount of distributions from and contributions to the Universal Public Telecommunications Service Support Fund during the last fiscal year;
- (c) the availability of services for which Subsection (3) permits Universal Public Telecommunications Service Support Fund funds to be used; and
- (d) the effectiveness and efficiency of the Universal Public Telecommunications Service Support Fund.