



November 9, 2018

Sen. Daniel Hemmert, Senate Chair
Rep. Stephen G. Handy, House Chair
Public Utilities, Energy, and Technology
Interim Committee

Re: Utah Universal Service Fund

Dear Chairs Hemmert and Handy:

I write to you on behalf of CTIA, the trade association for the wireless communications industry, to provide comment regarding certain issues for legislative consideration included in the Utah Public Service Commission's ("PSC") report to the Public Utilities, Energy, and Technology Interim Committee, dated September 4, 2018.¹

The PSC's report raises two issues for legislative consideration: (1) a potential statutory cap on the size of the Utah Universal Service Fund ("UUSF"), and (2) authorizing point-of-sale collection of UUSF surcharges for prepaid wireless telephone service.

CTIA and its members support legislative action to impose a cap on the size of the UUSF in order to provide predictability and control to the UUSF. As the PSC has pointed out, it has authority to set the contribution amount and adjudicate distributions from the revenue received, but has no statutory guidance on sizing the fund so that it does not expand to the degree that it harms the consumers who must fund it, potentially endangering the very access to universal service that it is intended to protect. Recent legislation significantly expanded the purpose of the UUSF without providing a cap on the fund. Without a cap, the UUSF, and the customer surcharges that fund it, may grow to unexpected and undesirable levels. A statutory cap would help to manage the fund's growth to avoid such harmful outcomes. Capping the fund may also help to avoid litigation, such as that which CTIA was forced to bring against the PSC in April, related to the Commission's problematic surcharge methodology.

¹ <https://psc.utah.gov/2018/09/04/docket-no-17-999-18/>.



CTIA also supports legislative action to provide statutory authority for point-of-sale collection of UUSF surcharges from prepaid wireless customers purchasing service through independent retailers, rather than directly from wireless carriers. Legislative action to institute point-of-sale collection for prepaid wireless telephone service is the most fair, accurate and efficient method by which to collect the UUSF fee from such prepaid wireless customers, and several states have already adopted it, including Nebraska earlier this year. Utah already has an existing point-of-sale system for collecting from prepaid wireless consumers the surcharges used to support E-911, public safety answering points, and the state radio system, so it would be easy to add USF surcharges to this existing collection process. Additionally, passage of point-of-sale legislation for the UUSF would be consistent with a recent federal law (47 U.S.C. § 1510) that prohibits making prepaid providers pay out of pocket on behalf of customers who do not have a direct financial transaction with the prepaid carrier, e.g., customers who purchase prepaid service from independent retailers.

Thank you for the opportunity to provide this information to Committee and we are happy to answer any questions should you them.

Sincerely,

Director, State Legislative Affairs