



Testimony of
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CTIA
In Support of a Cap on the Utah Universal Service Fund
Before the
Utah State Legislature
Public Utilities, Energy, and Technology Interim Committee

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Chairs Winterton and Albrecht and Members of the Committee On behalf of CTIA, the trade association for the wireless communications industry, I submit this testimony in strong support of enactment of legislation that places a cap on the Utah Universal Service Fund (UUSF).

In 2017, the legislature enacted sweeping changes to the UUSF that allowed the Utah Public Service Commission (Commission) to move to a per connection fee assessment, versus the historical methodology of a percentage of intrastate telecommunications revenue. During the negotiations on the bill, wireless carriers and others warned that moving to a per connection fee could lead to a dramatic increase in the assessment and size of the UUSF and the wireless industry requested a cap on the total size of the UUSF. Unfortunately, the total size of the UUSF was not capped in the legislation that was enacted into law.

The Commission had previously increased the UUSF contribution rate from 1% of billed intrastate retail telecommunications revenues to 1.65% in 2016, an increase of 65%, and then subsequently changed the surcharge to \$0.36 per month for each access line or connection in 2018. Most recently, the DPU filed comments recommending the UUSF surcharge be raised again, to \$0.60 per connection per month, another 66% increase to the surcharge.¹ This increase was effective May 1, 2019. The wireless industry raised concerns with the Commission that the most recent surcharge increase further indicates that the UUSF program requires a comprehensive review and a cap on the program.²

The recent increases have taken place, despite the legislature's recommendation that the fee not be changed or increased more often than once every three years. We are again respectfully urging the legislature to pass legislation that places a cap on the size of the UUSF to avoid further steep annual increases to the fee ultimately borne by Utah residents. Put simply, the more the UUSF grows, the more

¹ See Recommendation, Utah Division of Public Utilities, Docket NO. 18-999-15 (January 11, 2019) (DPU Comments) at 5.

² See Comments of CTIA, Docket No. 18-999-15 ((February 6, 2019).



Utah consumers must pay. It would be prudent to cap the UUSF at the current level and establish a requirement to review annually and lower the cap if necessary.

While Utah has made these UUSF changes to help encourage fixed broadband expansion in rural areas of the state, it is important to note that the switch to a flat per line charge, combined with the increases in the surcharge amount, have shifted the overall funding burden for the UUSF to mobile wireless consumers. The changes have been especially burdensome on mobile wireless shared plans with multiple lines on the same plan because the surcharge is applied to each line on the bill.

This increase in fees for mobile wireless consumers is in addition to the multiple taxes and fees that are also applied to wireless consumer bills in Utah. Mobile wireless consumers pay the state sales tax, multiple local taxes including local option sales taxes and additional local telephone taxes, and the state 911 fee. Mobile wireless consumers also pay a surcharge to fund the statewide radio network.

Here is what a typical Utah wireless consumer pays in taxes and fees:

- State sales tax – 4.7%
- Local sales taxes – 2.15%
- Additional local telephone taxes – 3.5%
- 911 emergency service charge -- \$.71 per line per month
- Unified statewide 911 emergency service charge - \$.25 per line per month
- Statewide radio network charge – \$.52 per line per month
- State USF -- \$.60 per line per month
- Federal USF – 7.76% of the bill

These taxes and fees really add up. For example, a Utah family with four lines paying \$100 per month for mobile wireless voice service would pay nearly \$26.43 per month in additional taxes and fees – more than 26% of their service charges!

Without a cap on the UUSF, we are concerned that this tax burden could grow even greater without legislative oversight and approval.

According to the recent study by the Tax Foundation, Utah has one of the highest wireless taxes and fees rates in the country. As of 2018, Utah ranked #11 highest taxes and fees with a wireless state-local rate of 14.70%, and a combined Federal/State/Local Rate of 21.34%. Many taxes have a disproportionately large effect on low- and moderate-income wireless Americans, reducing their access to and adoption of innovative wireless services. A new surcharge on wireless services raises their cost and discourages use,



creating a drag on the deployment and expansion of wireless services, which is one of the dynamic drivers of economic expansion and jobs in this state and country.

The UUSF legislation enacted in 2017 also required that the Commission provide an annual report to the Public Utilities, Energy and Technology Interim Committee each year before November 1 on the efficiency and effectiveness of the Universal Public Telecommunications Service Support Fund, among other things. We are looking forward to seeing if the large increase in funding has resulted in a measurable positive impact on the citizens of Utah³. If the goal is to increase deployment of broadband in rural and unserved areas, a fairer and more appropriate way to pay for rural broadband would be to appropriate Utah general fund dollars rather than continuing to grow the UUSF without any cap.

Additionally, during the Committee meeting held in June, it was suggested that Utah Universal Service Fund monies could be appropriated to fund the Public Utility Regulatory Fund (PURF). We believe this suggestion is inconsistent with federal law. Under 47 U.S.C. § 254(f), states may establish state USFs and require telecommunications carriers that provide intrastate telecommunications services to contribute to the state funds, to preserve and advance “universal service” so long as the relevant state regulations are “consistent with the [FCC]’s rules to preserve and advance universal service.”⁴ The appropriation of Utah USF monies to fund the PURF in order to support the administrative costs of the Utah PSC would not be funding “universal service” as a “telecommunications service” and would not be “consistent with the [FCC]’s rules to preserve and advance universal service.”

The June Committee meeting also included discussion of expanding the PURF fee to wireless services, in which representatives of the wireless industry were unable to participate. Proponents of this expansion pointed to declining landline telecommunications revenues to justify expanding the fee to unregulated wireless service. However, other utility revenues are declining as well, due to improvements in energy efficiency. It is unfair to expand the fee to one class of unregulated service providers. Furthermore, it is important to note that, indeed, Utah law explicitly excludes wireless from the Public Service Commission’s jurisdiction. In 2002, Utah lawmakers made the policy decision to statutorily exclude wireless service from

³ Utah Code Sec. 54-8b-15.(16)

⁴ “A State may adopt regulations not inconsistent with the [FCC]’s rules to preserve and advance universal service. Every telecommunications carrier that provides intrastate telecommunications services shall contribute, on an equitable and nondiscriminatory basis, in a manner determined by the State to the preservation and advancement of universal service in that State. A State may adopt regulations to provide for additional definitions and standards to preserve and advance universal service within that State only to the extent that such regulations adopt additional specific, predictable, and sufficient mechanisms to support such definitions or standards that do not rely on or burden Federal universal service support mechanisms.” 47 U.S.C. § 254(f) (emphasis added).



regulation by the Public Service Commission. See Utah Code § 54-2-1(32)(b). Therefore, there is no policy rationale for imposing a charge intended to recoup regulatory costs incurred by the Division of Public Utilities or the Public Service Commission on entities that do not provide regulated services.

We look forward to working with the Committee to develop legislation to enact a cap on the UUSF. In addition, we respectfully submit that a comprehensive review of activities funded by the PURF and perhaps a review of the amount of the assessment on regulated utilities under the state's regulatory authority may be the best course of action moving forward, not adding another fee on consumers of non-regulated wireless service in Utah.