

**PENNSYLVANIA  
PUBLIC UTILITY COMMISSION  
Harrisburg, PA 17105-3265**

Public Meeting held December 7, 2023

Commissioners Present:

Stephen M. DeFrank, Chairman  
Kimberly Barrow, Vice Chair  
Ralph V. Yanora  
Kathryn L. Zerfuss  
John F. Coleman, Jr.

Pennsylvania Universal Service Fund Annual Rate  
Adjustment

M-00001337

**ORDER**

**BY THE COMMISSION:**

On September 11, 2023, Rolka Loube Saltzer, LLC (Rolka Loube), the Administrator for the Pennsylvania Universal Service Fund (PaUSF or Fund), provided its annual Administrator's Report (Report) to Commission staff as required under 52 Pa. Code § 63.163(e), providing a Fund income statement, recommendations for Fund operations, and a proposed budget and assessment rates for the upcoming 2024 calendar year.<sup>1</sup> Rolka Loube served copies of the Report on the telecommunications carriers participating in the PaUSF, the Office of Consumer Advocate, and the Office of Small Business Advocate on September 19, 2023, pursuant to Section 63.163(f). No comments were filed.

Pursuant to 52 Pa. Code § 63.164 (relating to the Commission's oversight of the Fund), we are issuing this order within ninety days of receipt of the Report. This order

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<sup>1</sup> On September 1, 2023, Rolka Loube provided an initial draft of the Administrator's Report to Commission staff for review.

establishes the size of the Fund for 2024, approves a budget for the 2024 calendar year, establishes the assessment rate for contributing telecommunications providers, adopts certain recommendations for Fund operations, and establishes administrative guidelines for the upcoming year. Based upon the Report from Rolka Loubé, we have made the following determinations regarding the PaUSF for calendar year 2024.

**1. Maintain Five Percent (5%) Contingency**

Rolka Loubé recommends that the Commission maintain the annual funding contingency reserve of 5% for the upcoming 2024 calendar year. The Commission acknowledges that for the last eighteen (18) years, it has approved a 5% contingency reserve for the Fund. This percentage has provided a sufficient cash reserve to ensure that PaUSF support payments timely occur in the event of unforeseen funding shortfalls and delinquent accounts. Accordingly, we agree with and adopt Rolka Loubé’s recommendation about maintaining the annual funding contingency reserve of 5% for the PaUSF in 2024.

**2. Carryover Balance**

The Fund’s balance is projected to increase, which will result in an anticipated year-end Fund balance greater than \$1.5 million. Rolka Loubé asserts that it would be prudent to utilize a conservative estimated cash balance of \$1.5 million as of December 31, 2023, for calculation purposes, providing a cushion for any unforeseen variances. We agree with Rolka Loubé’s recommendation to err on the side of caution so that the Fund is adequately funded.<sup>2</sup> Therefore, we will use a \$1.5 million cash contingency reserve balance to calculate contributions for the 2024 calendar year.

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<sup>2</sup> The Commission previously adopted this methodology in its 2010 Annual Rate Adjustment Order, *In re: Pennsylvania Universal Service Fund Annual Rate Adjustment*, Docket No. M-00001337 (Order entered December 3, 2010).

### **3. Electronic Filing of Carrier Data Collection Reports of Prior Year Revenues**

Pursuant to 52 Pa. Code § 63.165(a), contributing telecommunications providers are required to report their annual revenues from the prior calendar year to the Fund Administrator by March 31<sup>st</sup> of each year. The aggregate reported annual revenues are used by the Fund Administrator to calculate the following year's PaUSF assessment rate. Rolka Loubé maintains a web-based portal for online reporting whereby carriers can fulfill this requirement with the Administrator. Thus, the Commission will continue to require contributing providers to submit their annual affidavit identifying their total gross intrastate end-user telecommunications retail revenue for the previous calendar year to Rolka Loubé using the web-based portal.

52 Pa. Code § 63.165(a) requires contributing telecommunications providers to serve a copy of their affidavit identifying the provider's total intrastate end-user telecommunications retail revenue for the previous calendar year upon the Commission. Previously, reporting carriers were required to file a paper copy of their annual revenue report with the Commission's Secretary's Bureau. However, the Commission has established an electronic filing system so that consumers, utilities, and attorneys can conduct certain tasks electronically with the Commission.<sup>3</sup> The e-filing process is more efficient than filing paper documents and eliminates the need for mail delivery services, especially for time-sensitive filings. The Commission has also launched an Assessments Revenue Online Reporting Portal to improve the efficacy of public utilities filing their fiscal assessment forms, which reflects the total intrastate operating revenue as directed by 66 Pa.C.S. § 510 (Section 510 Assessments). Consequently, the Commission now strongly encourages public utilities to file their Section 510 Assessments electronically with us. Likewise, consistent with 52 Pa. Code § 1.32(b) and our recent effort to move towards an online "paperless" filing system to receive Section 510 assessment forms electronically, the Commission permits and strongly encourages all of our contributing

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<sup>3</sup> See 52 Pa. Code § 1.32(b).

carriers to file only an electronic copy of their annual PaUSF revenue report<sup>4</sup> with the Commission's Secretary's Bureau at the requisite yearly M docket.<sup>5</sup>

#### **4. Recommendations for Ensuring Carrier Compliance**

Rolka Loube recommends that the Commission continue to authorize the Fund Administrator to conduct a review of a certain number of carriers annually to ensure that carrier filings are compliant with the Commission's regulations and directives. Carrier compliance reviews were first conducted in 2021 by the previous Fund Administrator, VantagePoint Solutions (VPS), were similarly conducted between July 2022-June 2024 by Rolka Loube and were approved in our December 8, 2022 Annual Rate Adjustment Order to occur between July 2023-June 2024. The Commission relied on Section 63.167(25) of our regulations, 52 Pa. Code § 63.167(25), to authorize these carrier compliance reviews.

The Commission continues to believe that these carrier compliance reviews will ensure that selected contributing companies are making their required contributions to the Fund. Thus, we will authorize Rolka Loube to conduct carrier compliance reviews of ten contributing carriers for the remainder of its current contract with the Commission as Fund Administrator. These carrier compliance reviews may consist of site visits to the selected carriers, if deemed necessary, and if such can be safely and appropriately conducted given the continued existence of the COVID-19 pandemic and any social distancing safety protocols issued by the Centers for Disease Control and Prevention. In lieu of onsite visits, the Fund Administrator and the carrier will both agree to other means

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<sup>4</sup> We determine that the Development of Assessment Data Request falls within the definition of a "qualified document" that has been designated by the Commission as being permitted to be filed electronically. *See* 52 Pa. Code §§ 1.8 and 1.32(b)(2)(ii).

<sup>5</sup> If a contributing carrier deems that any confidential information is incorporated within its Development of Assessment Data Request form, the contributing carrier must file it in paper form. *See* 52 Pa. Code § 1.32(b)(4).

to ensure the compliance review will result in the Administrator being able to verify adequately the carrier's reports to the Fund.

The Fund Administrator will submit a recommended carrier selection plan to the Commission for approval. Upon completion of each approved compliance review, the Fund Administrator will then submit a written report to the Commission that sets forth its findings and any recommended courses of action needed to remedy any findings of noncompliance. For each carrier that is selected, the Commission will open a docket for the compliance review and once a final report has been approved by the Commission, the docket will be closed.

Separately, the Commission authorizes Rolka Loube to conduct "spot-check" compliance reviews of ten telecommunications providers whose revenues are reported as *de minimis* for two consecutive years. This measure will ensure that providers meet the criteria for *de minimis* status as these providers are not required to submit payment to the Fund. All carrier compliance reviews for this subset of providers will be desktop reviews and will rely on information gathered via Data Requests. The Data Requests are to be comprehensive and meant to gather sufficient information to determine compliance. Rolka Loube will submit a recommended provider selection plan to the Commission for approval of the ten *de minimis* carriers. Upon completion of each approved compliance review, Rolka Loube will submit a written report to the Commission including findings and recommended courses of action to remedy any findings of noncompliance. For each *de minimis* provider selected, the Commission will open a docket for the compliance review and once a final report has been approved by the Commission, the docket will be closed.

The Commission will evaluate the need for and mechanism of carrier compliance reviews in advance of the next Request for Proposals for a Fund Administrator, ahead of the June 30, 2027 expiration of the current contract with Rolka Loube.

## 5. Recommendation to Reexamine the PaUSF Mechanism

Rolka Loube notes that the overall PaUSF mechanism may need reexamination as the annual distributed support from the Fund remains relatively stable at \$33-\$34 million but the continuous decline of the contribution base coupled with a decline in annual reported revenues has resulted in annual increases to the Fund's contribution assessment factor for the remaining contributing carriers.<sup>6</sup> Rolka Loube identifies that the Commission has previously expressed an intention to revisit its regulations that govern the PaUSF mechanism,<sup>7</sup> and points to several federal regulatory policy developments, including the Federal Communications Commission's *USF/ICC Transformation* or *Connect America Fund Order*,<sup>8</sup> to support its position that reexamination may be warranted.

The Commission commenced a rulemaking proceeding to consider revisions to the Pa. USF. As such, the Commission formally voted to issue an Advanced Notice of Proposed Rulemaking (ANOPR), at Docket No. L-2023-3040646,<sup>9</sup> which was entered on September 20, 2023. This ANOPR poses questions and solicits comments on potential reforms of the Pa. USF mechanism and 52 Pa. Code §§ 63.161-63.171. The ANOPR was published in the *Pennsylvania Bulletin* on November 11, 2023.<sup>10</sup>

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<sup>6</sup> See Section 6, *infra*.

<sup>7</sup> *Investigation Regarding Intrastate Access Charges and IntraLATA Toll Rates of Rural Carriers and the Pennsylvania Universal Service Fund, et al.*, Docket No. I-00040105 *et al.*, (Order entered July 18, 2011), p. 77 and Ordering Paragraph No. 20, p. 194; (Order entered August 9, 2012), pp. 66-67 and Ordering Paragraph No. 8, p. 69.

<sup>8</sup> *In re Connect America Fund, et al.*, WC Docket No. 10-90 *et al.*, (FCC Rel. Nov. 18, 2011), Report and Order and Further Notice of Proposed Rulemaking, *slip op.* FCC 11-161, 26 FCC Rcd 17663 (2011), and subsequent Reconsideration and Clarification rulings (collectively *USF/ICC Transformation* or *Connect America Fund Order*), *aff'd In re FCC-161*, 753 F.3d 1015 (10<sup>th</sup> Cir. 2014), U.S. App. LEXIS 9637, 9633.

<sup>9</sup> *Proposed Rulemaking to Amend PA Universal Service Fund Regulations*, Docket No. L-2023-3040646, Advance Notice of Proposed Rulemaking Order (entered September 20, 2023).

<sup>10</sup> 53 Pa.B. 7005.

## 6. Assessment Rate for Calendar Year 2024

We agree with Rolka Loube that each provider's contribution rate should be increased from 2.5307826% (0.025307826) of 2021 average monthly intrastate end-user retail telecommunications revenue to 2.6877579% (0.026877579) of 2022 average monthly intrastate end-user retail telecommunications revenue. This represents an increase of approximately 6.20%. The new contribution rate will cover the projected expenses for the Fund for calendar year 2024.

Rolka Loube based the assessment calculation on data submitted by telecommunications carriers during the annual data collection process, as well as Rolka Loube's projections of the Fund carryover balance and projected 2024 administrative and auditing fees as follows:

1. For recipient carriers, reported 2021/2022 annual access line growth rate = -10.95%, which includes one entity reporting access line growth resulting in an increase in annual support due to recipient carrier.<sup>11</sup>
2. Projected PaUSF Fund balance as of 12/31/23 = \$1,872,569.02<sup>12</sup>
3. Projected 2024 annual support due to recipient carriers = \$33,832,274.54<sup>13</sup>
4. Projected 2024 annual administrative and audit fees = \$161,900.00<sup>14</sup>
5. Projected 2024 5% allowance for uncollectibles = \$1,597,985.28<sup>15</sup>
6. Projected 2024 total annual fund size = \$33,719,590.80  
[(Line 3 + Line 4 + Line 5 – Line 2)]
7. Reported 2022 intrastate end-user retail revenues = \$1,254,562,035.81
8. Recommended 2023 Assessment Rate = \$33,719,590.80/\$1,254,562,035.81 = **0.026877579**

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<sup>11</sup> Pennsylvania Telephone Company reported an increase of 61 access lines (or 8.56%).

<sup>12</sup> The fund balance is projected to increase due to six companies revising their annual reporting for prior years and paying additional contribution amounts, resulting in an anticipated year-end fund balance greater than \$1.5 million.

<sup>13</sup> Annual support projections are based upon annual reports submitted by the recipient carriers.

<sup>14</sup> This projection is based upon the Fund Administrator's fee of \$60,000 for calendar year 2024 plus \$18,900 needed for the external auditor's fees in 2024 plus \$83,000 for the carrier compliance reviews conducted during fiscal year 2023-2024.

<sup>15</sup> This represents the 5% contingency for uncollectibles over the calendar year 2023.

## 7. **Obligation to Report Total Gross Intrastate VoIP Revenues for PaUSF Assessment Purposes**

The VoIP Freedom Act preserves the Commission’s jurisdiction over interconnected VoIP services for, among other things, PaUSF purposes. 73 P.S. § 2251.6(1)(iii). In prior assessment years, some carriers have voluntarily provided intrastate VoIP revenues when annually submitting their completed Development of Assessment Data Request; however, this practice has not been universal. The Commission previously determined that the inclusion of intrastate VoIP revenues is in the public interest and is consistent with its preserved authority under the VoIP Freedom Act.<sup>16</sup> Accordingly, the Commission directs all currently certificated telecommunications carriers in the Commonwealth to report their total gross intrastate VoIP revenues for PaUSF assessment purposes.<sup>17</sup>

In order to continue this directive, Rolka Loube will work with the Commission to amend and clarify language in the Development of Assessment Data Request form to provide for the inclusion of total gross intrastate VoIP revenues by our contributing certificated telecommunications carriers.

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<sup>16</sup> 2021 Order at 7.

<sup>17</sup> In addition to currently-certificated telecommunications carriers in the Commonwealth, those carriers that were directed, as a condition of abandonment, to report intrastate VoIP revenue, must continue to do so. See, e.g., *Application of Sprint Communications Company L.P. for Approval of the Abandonment or Discontinuance of Telecommunications Services to the Public in the Commonwealth of Pennsylvania*, A-2021-3028993, (Pursuant to our preserved authority under the VoIP Freedom Act and as a condition to approving Sprint’s abandonment under the VoIP Freedom Act, the Commission required Sprint to continue to report its intrastate VoIP revenues for PaUSF purposes and to continue to participate in the PaUSF) (Order entered August 31, 2022). See also, *Application of Mitel Cloud Services, Inc. for Approval of the Abandonment or Discontinuance of Telecommunications Services to the Public in the Commonwealth of Pennsylvania*, A-2019-3012021 (Order entered September 21, 2023); *Application of RCLEC, Inc. for Approval of the Abandonment or Discontinuance of Telecommunications Services to the Public in the Commonwealth of Pennsylvania*, A-2020-3020205 (Order entered September 21, 2023); *Application of Hotwire Communications Ltd., for Approval of the Abandonment or Discontinuance of Telecommunications Services to the Public in the Commonwealth of Pennsylvania*, A-2021-3023947 (Order Entered August 24, 2023).



## **8. Additional Administrative Guideline for the Fund**

The Commission continues to encourage annual lump-sum payments at the beginning of the calendar year or quarterly payments where it is economically feasible (e.g., when providers have nominal monthly contributions, such as less than \$500 per month). This measure will increase operational efficiencies for carriers, as well as for the Fund Administrator. Thus, we urge contributing telecommunications providers to remit either quarterly payments or lump-sum annual contributions.

## **CONCLUSION**

The Commission agrees with Rolka Loube's recommendations regarding maintaining a 5% annual funding contingency, using a carryover balance, requiring timely filings using Rolka Loube's web-based portal, conducting carrier compliance reviews for selected contributing carriers as well as selected providers that have reported *de minimis* revenues for two consecutive years, and increasing the assessment rate to 2.6877579%. Through this Order, the Commission directs all currently certificated telecommunications carriers to ensure that they are reporting their total gross intrastate VoIP revenues to Rolka Loube for PaUSF assessment purposes; **THEREFORE,**

### **IT IS ORDERED:**

1. That the Administrator's Report of Rolka Loube Saltzer, LLC, dated September 11, 2023, is approved and the monthly contribution factor for the Pennsylvania Universal Service Fund for 2024 is hereby increased from 2.5307826% (0.025307826) of 2021 average monthly intrastate end-user retail telecommunications revenue to 2.6877579% (0.026877579) of 2022 average monthly intrastate end-user retail telecommunications revenue.

2. That Rolka Loube Saltzer, LLC, in collaboration with the Commission, will continue to include clarifying language to the PaUSF Development of Assessment Data

Request form to direct all contributing telecommunications carriers to report their total gross intrastate VoIP revenues for PaUSF purposes.

3. That all contributing carriers file a completed PaUSF Development of Assessment Data Request form, due on March 31, 2024, with Rolka Loube Saltzer, LLC, using its web-based portal, and file with the Commission's Secretary's Bureau pursuant to 52 Pa. Code § 1.32(b). Failure to comply with this requirement will result in the initiation of an enforcement proceeding that may result in revocation of the carrier's certificate of public convenience.

4. That Rolka Loube Saltzer, LLC, is directed to send a letter to all contributing telecommunications providers to the Pennsylvania Universal Service Fund explaining specifically how this contribution factor increase affects them and what their monthly contributions will be for the calendar year 2024. The letter should encourage either payments on a quarterly basis or annual lump-sum payments in early 2024; the letter must be pre-approved by Commission staff before it is mailed to participants.

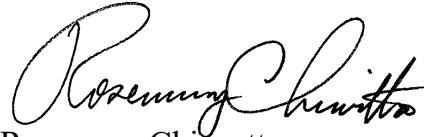
5. That Rolka Loube Saltzer, LLC, is authorized to conduct carrier compliance reviews of ten contributing carriers in during the fiscal year beginning July 1, 2024, and ending June 30, 2025. Upon completion of each approved compliance review, the Fund Administrator will submit a written report to the Commission including findings and recommended courses of action to remedy any findings of noncompliance.

6. That Rolka Loube Saltzer, LLC, is authorized to conduct ten "spot-check" compliance reviews, during the fiscal year beginning July 1, 2024, and ending June 30, 2025, of telecommunications providers whose revenues are reported as *de minimis* for two consecutive years utilizing information gathered via Data Requests. Upon completion of each approved compliance review, the Fund Administrator will submit a

written report to the Commission including findings and recommended courses of action to remedy any findings of noncompliance.

7. That Rolka Loube Saltzer, LLC, in consultation with the Commission, is authorized to submit as an amendment to its contract, a detailed plan and pricing schedule to conduct ten carrier compliance reviews and ten “spot-check” compliance reviews annually beginning July 1, 2024, and ending June 30, 2027.

**BY THE COMMISSION**

A handwritten signature in black ink, appearing to read "Rosemary Chiavetta", written in a cursive style.

Rosemary Chiavetta  
Secretary

(SEAL)

ORDER ADOPTED: December 7, 2023

ORDER ENTERED: December 7, 2023