

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

Public Meeting held December 5, 2024

Commissioners Present:

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

Pennsylvania Universal Service Fund Annual  
Administrator's Report

Docket No. M-00001337

**ORDER**

**BY THE COMMISSION:**

On September 25, 2024, 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 the Commission as required under 52 Pa. Code § 63.163(e). The Report provides a Fund income statement, recommendations for Fund operations, and a proposed budget and assessment rates for the upcoming 2025 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 25, 2024, 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 establishes the size of the Fund for calendar year 2025, approves a budget for the 2025 calendar year, establishes the assessment rate for contributing telecommunications

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<sup>1</sup> On September 1, 2024, Rolka Loube provided an initial draft of the Administrator's Report to Commission staff for review.

providers, adopts certain recommendations for Fund operations, and establishes administrative guidelines for the upcoming calendar year. Based upon the Report from Rolka Loubé, we have made the following determinations regarding the PaUSF for calendar year 2025.

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

Rolka Loubé recommends that the Commission maintain the annual funding contingency reserve of 5% for the upcoming 2025 calendar year. The Commission acknowledges that for the last nineteen (19) 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 2025.

**2. Carryover Balance**

The Fund’s balance is projected to increase, which will result in an anticipated year-end Fund balance greater than \$1.75 million due to an additional \$1,211,694 being received into the Fund;<sup>2</sup> this is an increase from the previous year’s anticipated year-end balance of \$1.5 million. Rolka Loubé asserts that it would be prudent to maintain a conservative estimated cash balance of \$1.75 million as of December 31, 2024, for calculation purposes, providing a reasonable cushion for any unforeseen variances.

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<sup>2</sup> This \$1,211,694 was paid into the Fund in calendar year 2024 by carriers that were found to have underreported prior years’ intrastate end-use retail revenues during the carrier compliance reviews conducted by Rolka Loubé for calendar year 2021 revenues. Without the \$1,211,694 being received into the Fund, the assessment rate for 2025 would increase 10.68% over the prior year instead of the 6.52% increase adopted below.

We agree with Rolka Loube's recommendation to err on the side of caution so that the PaUSF is adequately funded.<sup>3</sup>

### **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 Loube maintains a web-based portal for online reporting whereby carriers can fulfill this requirement with the Administrator. Thus, the Commission will continue to require each contributing provider to submit an annual affidavit identifying its total gross intrastate end-user telecommunications retail revenue for the previous calendar year to Rolka Loube 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. The Commission has established an electronic filing system so that consumers, utilities, and attorneys can conduct certain tasks electronically with the Commission.<sup>4</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

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<sup>3</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).

<sup>4</sup> See 52 Pa. Code § 1.32(b).

§ 1.32(b) and our ongoing 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 carriers to file only an electronic copy of their annual PaUSF revenue report<sup>5</sup> with the Commission’s Secretary’s Bureau at the requisite yearly “M” docket.<sup>6</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 2023-June 2024 by Rolka Loube, and were approved in our December 7, 2023 Annual Rate Adjustment Order to occur between July 2024-June 2025. The Commission relied on Section 63.167(25) of our regulations, 52 Pa. Code § 63.167(25), to authorize these carrier compliance reviews.

Rolka Loube has recommended changes to the review process in order to better ensure compliance from the carriers participating in the yearly carrier reviews. Rolka Loube recommends a change in the composition of the annual carrier reviews. Rather than selecting ten contributing carriers and ten *de minimis* carriers for review, they recommend that the annual reviews cover fifteen contributing and five *de minimis* carriers. The review experience so far indicates that the material results of examining the

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<sup>5</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>6</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).

compliance of contributing carriers significantly outweigh the potential benefits and the cost of time expended in the reviews of an equal number of *de minimis* carriers.

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, consistent with Rolka Loubé's recommendation, we will authorize it to conduct carrier compliance reviews of fifteen contributing carriers, going forward and for the remainder of its current contract with the Commission as Fund Administrator, which concludes on June 30, 2027.<sup>7</sup> These contributing carrier compliance reviews may consist of site visits to the selected carriers, if deemed necessary. In lieu of onsite visits, the Fund Administrator and the carrier will both agree to other means 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 contributing 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 Loubé to conduct "spot-check" compliance reviews of five 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

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<sup>7</sup> The carrier review process for calendar year 2023 revenues, which the Commission approved in its December 7, 2023 Annual Rate Adjustment Order, has already begun and will consist of ten contributing carrier reviews and ten *de minimis* carrier reviews. The change to fifteen contributing/five *de minimis* carrier reviews will begin with the carrier review process for calendar year 2024 revenues.

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 five *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 continue to 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 Commission commenced a rulemaking proceeding in 2023 to consider revisions to the PaUSF.<sup>8</sup> In part, this rulemaking is meant to remedy the fact that the annual distributed support from the Fund remains stable at \$33-\$34 million but the contribution assessment factor continues to increase due to a continuous decline of the contribution base coupled with a decline in annual reported revenues. As such, the Commission entered an Advanced Notice of Proposed Rulemaking (ANOPR), at Docket

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<sup>8</sup> Previously, Rolka Loube pointed to several federal regulatory policy developments as support for the Commission revisiting its PaUSF regulations, including the Federal Communications Commission's *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.

No. L-2023-3040646,<sup>9</sup> on September 20, 2023. This ANOPR, which was published in the Pennsylvania Bulletin on November 11, 2023,<sup>10</sup> posed questions and solicited comments on potential reforms of the PaUSF mechanism and 52 Pa. Code §§ 63.161-63.171. The Commission continues to review and consider the stakeholder comments received as it works towards a Notice of Proposed Rulemaking order.

Rolka Loube recommends that there should be more sufficient Commission regulatory guidance for the PaUSF regarding treatment of pole attachment, dark fiber, and colocation revenues. Pole attachments are used by several entities, including telecommunications carriers, for a variety of purposes. Rolka Loube notes that the FCC excludes pole attachment revenues from reporting obligations associated with the federal USF mechanism. Certain telecommunications carriers have stated that pole attachment revenues should not be reported for PaUSF purposes because they are rental revenues and are unrelated to the PaUSF or are unregulated revenues.

Rolka Loube states that dark fiber constitutes optical fiber with no attached electronics that does not transmit any light or signals. Telecommunications carriers would often deploy optical fibers that are not “lit” and, therefore, are not used and remain “dark.” Such dark fiber facilities are often leased to other telecommunications carriers, communications firms or institutional private users. Certain telecommunications carriers have stated that dark fiber leasing revenues should not be reported for PaUSF purposes because they are rental revenues and are unrelated to the PaUSF or are unregulated revenues.

Moreover, Rolka Loube states that the carrier compliance reviews it has previously conducted identified carriers with colocation revenues. Physical colocation

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

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

takes place with the leasing of space (*e.g.*, in a central office or data center) and the provision of electric power and other services by one carrier to another carrier or entity. Certain carriers may classify colocation revenues as retail and wholesale without a further jurisdictional assignment (*e.g.*, intrastate, interstate). Carriers most commonly classify colocation revenues as “Other” in their respective annual FCC Form 499-As. Thus, colocation revenues (wholesale and retail) are not reported for federal USF mechanism purposes. One carrier stated that colocation revenues are unregulated revenues that should not be included in the PaUSF reportable revenues.

While the Commission will continue to consider the recommendations of Rolka Loube related to pole attachment revenues, dark fiber revenues, and colocation revenues, this annual assessment order is not the appropriate forum to investigate the merits of each. Our ongoing rulemaking proceeding at Docket No. L-2023-3040646, which sought stakeholder comment on the contribution base and additional revenues to be considered in the Fund mechanism, is a more appropriate place to decide the merits of these recommendations for specific revenue categories. Further, to the extent Rolka Loube believes any specific revenue category is subject to assessment, it may address such issues as appropriate in the context of a carrier compliance review. Therefore, we decline to address herein whether pole attachment revenues, dark fiber revenues, or colocation revenues must be reported for PaUSF purposes.<sup>11</sup>

## **6. Assessment Rate for Calendar Year 2025**

We agree with Rolka Loube that each provider’s contribution rate should be increased to 2.8629221% (0.028629221) of 2023 average monthly intrastate end-user retail telecommunications revenue for the calendar year 2025 assessment rate. This represents an increase of approximately 6.52% from the 2.6877579% (0.026877579) of 2022 average monthly intrastate end-user retail telecommunications revenue that was

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<sup>11</sup> As further clarification, we decline to address in this order whether there presently exists an obligation to report these revenues for PaUSF purposes.

used as the assessment rate for calendar year 2024. The new contribution rate will finance the projected expenses for the Fund for calendar year 2025.

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 2022/2023 annual access line growth rate = -12.36%
2. Projected PaUSF Fund balance as of 12/31/24 = \$2,961,693.96<sup>12</sup>
3. Projected 2025 annual support due to recipient carriers = \$33,832,274.54<sup>13</sup>
4. Projected 2025 annual administrative and audit fees = \$173,900.00<sup>14</sup>
5. Projected 2025 5% allowance for uncollectibles = \$1,543,529.03<sup>15</sup>
6. Projected 2025 total annual fund size = \$32,588,009.61  
[(Line 3 + Line 4 + Line 5 – Line 2)]
7. Reported 2023 intrastate end-user retail revenues (contributing carriers) = \$1,138,277,915.40
8. Recommended 2025 Assessment Rate =  
 $\$32,588,009.61 / \$1,138,277,915.40 = \underline{\underline{0.028629221}}$

## **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). The Commission previously determined that the inclusion of intrastate

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<sup>12</sup> The Fund balance is projected to increase due to the \$1,211,694 received during 2024 as a result of the carrier compliance reviews conducted in 2022, resulting in an anticipated year-end fund balance greater than \$1.75 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 2025 plus \$18,900 needed for the external auditor's fees in 2025 plus \$95,000 for the carrier compliance reviews conducted during fiscal year 2024-2025.

<sup>15</sup> This represents the 5% contingency for uncollectibles over the calendar year 2024.

VoIP revenues is in the public interest and is consistent with its preserved authority under the VoIP Freedom Act.<sup>16</sup>

In order to continue this directive, Rolka Loube, in consultation with the Commission in 2023, amended and clarified 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. Accordingly, the Commission continues to direct all currently certificated telecommunications carriers in the Commonwealth to report their total gross intrastate VoIP revenues for PaUSF assessment purposes.<sup>17</sup>

## **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.

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

<sup>17</sup> In addition to currently-certificated telecommunications carries in the Commonwealth, those carries 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).

## 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 fifteen selected contributing carriers as well as five selected providers that have reported *de minimis* revenues for two consecutive years, and increasing the assessment rate to 2.8629221%. 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 25, 2024, is approved and the monthly contribution factor for the Pennsylvania Universal Service Fund for calendar year 2025 is hereby increased to 2.8629221% (0.028629221) of 2023 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.

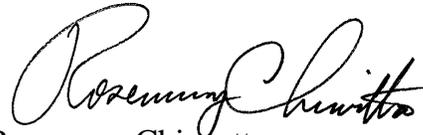
3. That all contributing carriers file a completed PaUSF Development of Assessment Data Request form, due on March 31, 2025, with Rolka Loube Saltzer, LLC, using its web-based portal, and file with the Commission's Secretary's Bureau pursuant to 52 Pa. Code § 1.32(b). Failure to comply with this requirement will result in the referral to the Commission's Bureau of Investigation and Enforcement for 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 2025. The letter should encourage either payments on a quarterly basis or annual lump-sum payments in early 2025; 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 fifteen contributing carriers during the fiscal year beginning July 1, 2025, and ending June 30, 2026. 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 Loubé Saltzer, LLC, is authorized to conduct five “spot-check” compliance reviews, during the fiscal year beginning July 1, 2025, and ending June 30, 2026, 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.

**BY THE COMMISSION**



Rosemary Chiavetta  
Secretary

(SEAL)

ORDER ADOPTED: December 5, 2024

ORDER ENTERED: December 5, 2024