

July 15, 2019

MAINE PUBLIC UTILITIES COMMISSION  
Amendments to Chapter 285 of the  
Commission's Rules – Maine  
Telecommunications Education Access  
Fund

ORDER AMENDING RULE  
AND STATEMENT OF  
FACTUAL AND POLICY BASIS

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BARTLETT, Chairman; WILLIAMSON and DAVIS, Commissioners

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## I. SUMMARY

By this Order, the Commission amends Chapter 285 - Maine Telecommunications Education Access Fund (MTEAF) of the Commission's Rules. The amendments are intended to harmonize the definitions and provisions of the Rule with Chapter 288 – Maine Universal Service Fund (MUSF). The Commission is also making other, non-substantive editorial amendments.

## II. BACKGROUND

On February 8, 2018, the Commission amended Chapter 285 to conform with recent legislation that required the Commission to change the method by which it collected the monthly MTEAF surcharge from a surcharge based on a percentage of revenue, to one based on the number of lines or numbers a given provider had in service.<sup>1</sup>

Subsequent to the amendment of the MTEAF Rule, the Commission amended Chapter 288 of its Rules, relating to the MUSF, to attempt to align the surcharge methodologies of the two rules. After adopting changes to the MUSF Rule, the Commission received a motion requesting that the Commission reconsider its amendments to Chapter 288.<sup>2</sup> In the motion, parties argued that when the Commission opened the rulemaking proceeding, the Commission proposed a contribution methodology for the MUSF that would track the methodology recently adopted for the MTEAF. However, in the opinion of the moving parties, the Commission's amendments

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<sup>1</sup> For a detailed background of the process that led up to the February 2018 amendments to Chapter 285, see *Maine Public Utilities Commission, Amendment to Chapter 285 of the Commission's Rules – Maine Telecommunications Education Access Fund*, Docket No. 2017-00283, Order Amending Rule and Factual and Policy Basis (Feb. 8, 2018).

<sup>2</sup> For more detail on the motion for reconsideration, see *Maine Public Utilities Commission, Amendment to Chapter 288 of the Commission's Rules – Maine Universal Service Fund*, Docket No. 2019-00022, Notice of Rulemaking (Mar. 22, 2019).

did not closely track the MTEAF Rule as intended, and the surcharge methodology that the Commission put in place for the MUSF was not one that parties to the rulemaking had an adequate opportunity to address and comment upon.

Consequently, on March 22, 2019, the Commission opened a second rulemaking for the MUSF Rule, in Docket No. 2019-00022, to try and better bring the MUSF Rule and the MTEAF Rule into alignment. Concomitantly, the Commission, in its examination of the two rules, opened a rulemaking for the MTEAF Rule, in the above captioned Docket, to change some of the existing definitions in the Rule and the way the Rule refers to lines and numbers, in order to bring the two rules into as close an alignment as possible.

The Commission invited interested persons to file initial comments on its proposed amendments to the Rule. On April 26, 2019, Charter and Comcast filed comments. Shortly thereafter, on May 8, 2019, the Commission held a public hearing on the Rule; Charter and Comcast were the only interested persons to testify at the hearing. The deadline for final comments on the Rule was May 31, 2019; Charter and Comcast were the only interested persons to submit comments.

In their testimony and in their comments, Charter and Comcast expressed general agreement with the Rule amendments as proposed by the Commission. Notwithstanding their general agreement, Charter and Comcast suggested that the Commission expand the definition of the term "Line" to more precisely reflect the number of connections that would be subject to the per-connection fee proposed by the Commission. In addition, Charter and Comcast suggested deleting "interconnected VoIP service" providers from the definition of "Telecommunications Carrier" as those providers are already captured in other definitions, and inclusion in the "Telecommunications Carrier" definition could be "inconsistent and confusing" with those other definitions. May 31, 2019 Charter and Comcast Comments at 3.

### **III. RULE PROVISIONS**

As stated above, the intent of this rulemaking was to bring the MUSF and MTEAF Rules into alignment by ensuring that the two rules use, to the greatest extent possible, the same terminology and definitions. To that end, the Commission is replacing, throughout the Rule, the term "number" with the more precise, and defined, term "Working Telephone Number," and adding a definition for the term "Line." In addition, the Commission is removing the undefined term "customer" from the Rule as Working Telephone Number or Line both serve as adequate proxies for "customers," and because the term "customer" is not used in the statute that compelled the original amendment to the Rule. The Commission is also adding and deleting certain other definitions in the Rule to ensure that the MUSF Rule and the MTEAF Rule use the same definitions to the maximum possible extent, and because certain definitions are no longer used by the Rule. In addition, the Commission is making non-substantive editorial changes to the Rule.

A. Section 1: Purpose

The Commission is not amending Section 1 of the Rule.

B. Section 2: Definitions

As explained above, the Commission is amending Section 2 of the Rule by adding and deleting certain definitions. The Commission is adding definitions for: "Basic Service Calling Area," "Billing Account Number," "Competitive Local Exchange Carrier (CLEC)," "Dark fiber provider," "Exchange Access," "Incumbent Local Exchange Carrier (ILEC)," "Line," "Local Exchange Carrier," "Mobile Telecommunications Services," "Provider of Last Resort Service," "Public Switched Telephone Network," "Telecommunications," "Telecommunications Carrier," "Telecommunications Service," "Telephone Exchange Service," and "Working Telephone Number." The Commission is deleting definitions for: "E911 Address," "Exchange Line," "Local Exchange Service," "Mobile Telecommunications Carrier," "Number," and "Telecommunications Education Access Fund."

The Commission's definition of "Line" is modeled on, but is not identical to, the language suggested by Charter and Comcast in the prior rulemaking proceeding in Docket No. 2018-00200. Further, the Commission agrees with the change to the Commission's proposed definition as suggested by Charter and Comcast in this proceeding and is adding their suggested language to the definition. With regard to the definition of "Telecommunications Carrier," the Commission agrees with Charter and Comcast that interconnected VoIP service providers are adequately captured by other definitions and deleting these carriers from this definition will add clarity to the Rule, while still ensuring that these carriers remain subject to the paying into the MUSF.

The Commission is also making, non-substantive editorial changes to Section 2.

C. Section 3: Assessment

In addition to utilizing the new definitional terms in the Rule, the Commission is making other, non-substantive editorial changes to Section 3.

D. Section 4: Recovery of Contributions from Retail Customers

The Commission is not amending Section 4.

E. Section 5: Use of Funds

In Section 5, the Commission is utilizing the new definitional terms in the Rule.

F. Section 6: Waiver or Exemption

The Commission is not amending Section 6.

## IV. ORDERING PARAGRAPHS

In light of the foregoing, the Commission

## O R D E R S

1. That Chapter 285-Maine Telecommunications Education Access Fund is hereby amended as described in the body of this Order and as set forth in the amended Rule attached to this Order;
2. That the Administrative Director shall file the amended Rule with the Secretary of State;
3. That the Administrative Director shall notify the following of this rulemaking proceeding:
  - a. All telephone utilities in Maine;
  - b. All providers of interconnected voice over Internet protocol service in Maine;
  - c. All providers of mobile telecommunications services in Maine who are not providers of prepaid wireless telecommunications service;
  - d. All persons who have filed with the Commission a written request for notifications regarding Notices of Rulemaking within the past year; and
  - e. The Office of the Public Advocate; and
4. That the Administrative Director shall send a copy of the amended Rule to the Executive Director of the Legislative Council, 115 State House Station, Augusta, Maine, 04333-0015.

Dated at Hallowell, Maine, this 15<sup>th</sup> Day of July, 2019

BY ORDER OF THE COMMISSION

/s/ Harry Lanphear

Administrative Director

COMMISSIONERS VOTING FOR:     Bartlett  
   Williamson  
   Davis

## NOTICE OF RIGHTS TO REVIEW OR APPEAL

5 M.R.S. § 9061 requires the Public Utilities Commission to give each party to an adjudicatory proceeding written notice of the party's rights to review or appeal of its decision made at the conclusion of the adjudicatory proceeding. The methods of review or appeal of PUC decisions at the conclusion of an adjudicatory proceeding are as follows:

1. Reconsideration of the Commission's Order may be requested under Section 11(D) of the Commission's Rules of Practice and Procedure (65-407 C.M.R. 110) within **20** days of the date of the Order by filing a petition with the Commission stating the grounds upon which reconsideration is sought. Any petition not granted within **20** days from the date of filing is denied.
2. Appeal of a final decision of the Commission may be taken to the Law Court by filing, within **21** days of the date of the Order, a Notice of Appeal with the Administrative Director of the Commission, pursuant to 35-A M.R.S. § 1320(1)-(4) and the Maine Rules of Appellate Procedure.
3. Additional court review of constitutional issues or issues involving the justness or reasonableness of rates may be had by the filing of an appeal with the Law Court, pursuant to 35-A M.R.S. § 1320(5).

Note: The attachment of this Notice to a document does not indicate the Commission's view that the particular document may be subject to review or appeal. Similarly, the failure of the Commission to attach a copy of this Notice to a document does not indicate the Commission's view that the document is not subject to review or appeal.

