

Collection of USF Fee on Prepaid Wireless Telecommunications Service at Point of Sale

Prepared by Charles Storrow, Leonine Public Affairs, LLP, on behalf of AT&T

30 V.S.A. § 7521 is amended to read:

§ 7521. CHARGE IMPOSED; WHOLESAL EXEMPTION

(a) A Universal Service Charge is imposed on all retail telecommunications service provided to a Vermont address. Where the location of a service and the location receiving the bill differ, the location of the service shall be used to determine whether the Charge applies. **The Charge is imposed on the person purchasing the service, but shall be collected by the telecommunications provider.** Each telecommunications service provider shall include in its tariffs filed at the Public Utility Commission a description of its billing procedures for the Universal Service Fund Charge.

(b) The Universal Service Charge shall not apply to wholesale transactions between telecommunications service providers where the service is a component part of a service provided to an end user. This exemption includes network access charges and interconnection charges paid to a local exchange carrier.

(c) In the case of mobile telecommunications service, the Universal Service Charge is imposed when the customer's place of primary use is in Vermont. The terms "customer," "place of primary use," and "mobile telecommunications service" have the meanings given in 4 U.S.C. § 124. All provisions of 32 V.S.A. § 9782 shall apply to the imposition of the Universal Service Charge under this section.

(d)(1) Notwithstanding any other provision of law to the contrary, beginning on September 1, 2014, in the case of prepaid wireless telecommunications service, the Universal Service Charge shall be imposed as follows:

~~(A) If the provider sells directly to a consumer in a retail transaction, the provider may collect the Charge from the customer at the rate specified in section 7523 of this title; or~~

~~(B) if the provider does not sell directly to the consumer, or if the provider sells directly to the customer in a retail transaction but elects not to collect the Charge from the customer, the~~

Charge shall be imposed on the provider at the rate determined in subdivision (2) of this subsection (d).

~~(2) The Public Utility Commission shall establish a formula to ensure the Universal Service Charge rate imposed on prepaid wireless telecommunications service providers under subdivision (1)(B) of this subsection reflects two percent of retail prepaid wireless telecommunications service in Vermont.~~

(A) The universal service charge shall be imposed on all retail sales of prepaid wireless telecommunications service subject to the sales and use tax imposed under 32 V.S.A. chapter 233. The charges shall be collected by sellers and remitted to the Department of Taxes in the manner provided under 32 V.S.A. chapter 233. Upon receipt of the charges, the Department of Taxes shall have 30 days to remit the funds to the fiscal agent selected under section 7503 of this chapter. The Commissioner of Taxes shall establish registration and payment procedures applicable to the universal service charge imposed under this subsection consistent with the registration and payment procedures that apply to the sales tax imposed on such services.

(B) If a minimal amount of prepaid wireless telecommunications service is sold with a prepaid wireless device for a single, nonitemized price, then the seller may elect not to apply the charge to such transaction. "Minimal amount" means an amount of service denominated as not more than 10 minutes or not more than \$5.00.

~~(3)~~(2) As used in this subsection, "prepaid wireless telecommunications service" means a telecommunications service as defined in subdivision 203(5) of this title that a consumer pays for in advance and that is sold in predetermined units or dollars that decline with use.