

**Before the
Federal Communications Commission
Washington, D.C. 20554**

In the Matter of)	
)	WC Docket No. 11-42
Lifeline and Link Up Reform and)	
Modernization)	

PETITION FOR LIMITED WAIVER OF STANDARD LIFELINE FORM REQUIREMENTS

Smith Bagley, Inc. (“SBI” or “Company”), by counsel and pursuant to Section 1.3 of the Federal Communications Commission’s (“FCC” or “Commission”) Rules, 47 C.F.R. § 1.3, hereby seeks a limited waiver of the standard Lifeline form requirements. Specifically, SBI requests a one-month extension of the deadline of July 1, 2018, announced by the FCC and Universal Service Administrative Company (“USAC”), for implementation of the standard forms.

I. INTRODUCTION

In February 2018, when USAC posted the forms and the FCC released its Public Notice providing guidance on their implementation,¹ SBI promptly began work on incorporating the required language into its forms and process flows. The Public Notice specified that “ETCs enrolling Lifeline applicants with an electronic form must use exactly the same language used in the FCC’s universal Lifeline forms.”² The FCC announced a deadline of July 1, 2018 and advised service providers that they could begin using them at any time.

¹ *Wireline Competition Bureau Provides Guidance on Universal Forms for the Lifeline Program*, WC Docket No. DA 18-161 (rel. Feb. 20, 2018) (“Public Notice”).

² *Id.* at p.1.

By late April, SBI's electronic forms and Integrated Voice Response ("IVR") system had been updated to incorporate the exact language of the certification statements in the standard forms. Additional changes still needed to be made to incorporate some of the specific disclosures and customer information collections, but SBI made the initial changes to take an aggressive posture on updating its forms and process flows. SBI continued to work on those forms and process flows and planned to implement them by the July 1 deadline.

On May 30, 2018, just a month before the implementation deadline, USAC held a webinar in which it provided guidance on implementing the standard forms. Some of this guidance amounted to substantive requirements that, on SBI's information and belief, were new. Among other things, USAC announced that service providers may not "re-format, re-order, condense, or change the layout of the form in any way."³ With regard to online forms, USAC advised: "Sections must be in the same order as the paper form."⁴

As a result of those new requirements, SBI was required to revisit the work that was already underway to ensure that its revised electronic forms would follow the same order of the standard forms. Because SBI uses a process flow generated within its billing system, and not web-based form directly accessible by the end user, this required more than simply cutting and pasting language from one section of a form to another. Rather, SBI has had to redesign the process flow within its billing system. These changes must then be submitted to SBI's billing vendor, who then must build the changes into the billing system architecture.

³ USAC Webinar Slides at p. 33 (available at <https://www.usac.org/li/about/outreach/videos/2018/Universal-Consumer-Forms-Webinar.aspx>)

⁴ *Id.* at p. 34.

As of now, SBI's electronic forms are partially compliant. They contain all of the required customer certifications, using the same language as the standard forms. Customers must individually acknowledge each certification, as required on the standard forms. However, because of the need to reorder many of the sections to meet the specifications announced on May 30, the revised forms incorporating that reordering will not be available by July 1. SBI is working with its vendor to make the necessary updates as quickly as possible.

II. DISCUSSION

SBI has taken diligent steps to implement the standard Lifeline forms adopted by the FCC and released by USAC, but it now requires a short extension of one-month, until August 1, 2018, to ensure its electronic forms incorporate guidance provided by USAC a few weeks before the deadline.

The Commission may waive its rules based upon a showing of good cause,⁵ and it may exercise its discretion to waive a rule where the facts of a particular case support a conclusion that strict enforcement of the rule would not be in the public interest.⁶ The Commission may also take into consideration, on a case-by-case basis, factors involving equity, hardship, and more effective implementation of overall Commission policy.⁷ "Waiver of the Commission's

⁵ 47 C.F.R. § 1.3.

⁶ See, *Northeast Cellular Telephone Co. v. FCC*, 897 F.2d 1164, 1166 (D.C. Cir. 1990) ("*Northeast Cellular*") (citing *WAIT Radio v. FCC*, 418 F.2d 1153, 1159 (D.C. Cir. 1969) ("*WAIT Radio*"), cert. denied, 409 U.S. 1027 (1972)).

⁷ See, e.g., *Implementation of the Subscriber Carrier Selection Changes Provisions of the Telecommunications Act of 1996, Sprint Communications Company, L.P. Petition for Waiver*, CC Docket No. 94-129, Order, DA 00-620 (rel. Mar. 17, 2000), at para. 4 (citing *WAIT Radio*, 418 F.2d at 1157).

rules is therefore appropriate only if special circumstances warrant a deviation from the general rule, and such deviation will serve the public interest.”⁸

Moreover, the Commission has the authority to carry out its responsibilities by promulgating rules of general application that establish the “public interest” for a broad range of cases. In adopting these general rules, however, the Commission is not relieved of its obligation to seek to advance the “public interest” in particular, individualized cases. Thus, the Commission’s authority to waive its rules is akin to an obligation, in that this waiver authority is a *sine qua non* to its ability to adopt rules that otherwise are inflexible. This waiver authority is a necessary “safety valve” that makes the system work.⁹

A grant of a one-month waiver would serve the public interest. In adopting the standard forms, the Bureau found that doing so would “foster greater consistency in the Lifeline eligibility determination and recertification processes, thereby aiding in program administration and reducing improper payments due to errors in application and recertification forms.”¹⁰ Strict application of the July 1 deadline would leave SBI unable to process new applications for Lifeline service or recertify existing customers until its process flows are updated to incorporate USAC’s May 30 guidance. This would not aid the administration of the Lifeline program, but hinder it.

⁸ *Micronesian Telecommunications Corporation and PTI Pacifica, Inc., Request for Waiver of Section 54.418 of the Commission’s Rules*, CC Docket No. 96-45, *DTV Consumer Education Initiative*, MB Docket No. 07-148, Order, DA 08-1029 (WCB rel. Apr. 30, 2008), at para. 6 n.20 (citing *Northeast Cellular*, 897 F.2d at 1166).

⁹ See *WAIT Radio*, 418 F.2d at 1157, 1159 (noting that “[t]he limited safety valve [provided by the waiver process] permits a more rigorous adherence to an effective regulation”).

¹⁰ Public Notice, *supra*, at p. 1.

The requested extension would not harm the administration or integrity of the program. Between July 1 and the date it implements the new process flows that implement the May 30 guidance, SBI will continue to use its current electronic forms, which contain all of the required certification language and require customers to acknowledge those certifications individually. These forms currently contain all of the language that is set forth in the FCC's rules.¹¹ Customers will continue to see all of the disclosures and make all of the certification acknowledgments currently required in the rules. The requested extension would ensure that SBI has adequate time to incorporate all applicable standardization requirements, including those announced during USAC's May 30 webinar.

Lastly, strictly imposing the July 1 deadline would impose undue hardship on SBI and its customers. Without the use of its electronic form, SBI would be forced to print out paper copies of the standard forms, which would impose costs in terms of copying, collating, storing, as well as hiring temporary workers to scan the paper documents and attach them to each customer account. In addition, without the more streamlined electronic process, SBI and its customers would be burdened by the additional time it would take to complete the paper forms, as well as confusion among customers not accustomed to using paper forms. Most importantly, the added burdens would slow the enrollment process, increasing customer wait times and making it more difficult for qualified consumers to receive Lifeline.

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¹¹ See 47 C.F.R. § 54.410.

III. CONCLUSION

For all of the reasons set forth above, Smith Bagley, Inc. respectfully requests a one-month extension of the standard Lifeline form requirements.

Respectfully submitted,

SMITH BAGLEY, INC.



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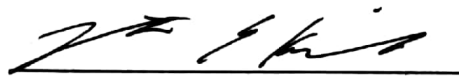
Its Attorneys

June 29, 2018

DECLARATION OF JUSTIN HINKLE

I, Justin Hinkle, do hereby declare as follows:

1. I am the Chief Executive Officer of Smith Bagley, Inc.
2. I have read the foregoing Petition for Limited Waiver, and the facts set forth in the document are based on my personal knowledge. I believe all of these factual statements to be true and accurate.

A handwritten signature in black ink, appearing to read 'Justin Hinkle', is written over a horizontal line.

Justin Hinkle

Dated: June 29, 2018