

**BEFORE THE FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554**

In the Matter of

Lifeline and Link Up Reform and
Modernization

WC Docket No. 11-42

Lifeline and Link Up

WC Docket No. 03-109

Federal-State Joint Board on Universal
Service

CC Docket No. 96-45

Advancing Broadband Availability Through
Digital Literacy Training

WC Docket No. 12-23

**PETITION FOR WAIVER
JOINTLY SUBMITTED BY THE
PUBLIC UTILITY COMMISSION OF OREGON
AND
THE OREGON TELECOMMUNICATIONS ASSOCIATION**

April 19, 2012

The Public Utility Commission of Oregon (“OPUC”) and the Oregon Telecommunications Association (“OTA”) request a temporary waiver until July 1, 2013, to adopt the uniform Lifeline eligibility criteria in Oregon as required by the Federal Communications Commission’s (“FCC”) February 6, 2011 *Lifeline Reform Order*.¹ Both the OPUC and the OTA support the goals of the FCC as stated in its *Lifeline Reform Order*.²

The OPUC administers the Oregon Telephone Assistance Program (“OTAP”), which is the state’s corollary of the federal Lifeline Program. OTA comprises all of the incumbent local exchange carriers operating in Oregon and some competitive local exchange carriers. Exhibit A lists Oregon’s incumbent local exchange carriers. Most OTA members are Eligible Telecommunications Carriers (“ETC”) and participate in the Lifeline and OTAP Programs.

BASIS FOR WAIVER

The OTAP provides support of \$3.50 per month for each qualifying low-income Oregon customer to reduce the monthly cost for basic phone service. This support is in addition to the support provided from the federal Lifeline program. Currently, the same eligibility criteria apply for both programs and a qualifying customer can receive both types of support. Because Oregon customers are eligible for both programs, the OPUC has assumed a comprehensive role in the administration of the Lifeline and OTAP programs.³ The OPUC is responsible for developing

¹ *Lifeline and Link Up Reform and Modernization*, Report and Order and Further Notice of Proposed Rulemaking, WC Docket No. 11-42, FCC 12-11 (rel. Feb. 6, 2012) (“*Lifeline Reform Order*”). See para. 65 and ordering para. 515 stating that 47 C.F.R. §§ 54.409 shall become effective June 1, 2012.

² The OPUC previously expressed its support for uniform eligibility criteria, but also expressed concern that sufficient time would be needed to implement such uniformity in Oregon due to the need for modifications to state law. See OPUC Comments April 21, 2011, to FCC’s Lifeline and Link Up Notice of Proposed Rulemaking rel. March 4, 2011.

³ For a detailed explanation of the OTAP responsibilities and operations, see Appendix A of OPUC Comments filed on April 21, 2011, in response to the FCC’s Lifeline and Link Up Notice of Proposed Rulemaking released March 4, 2011. See also Letter from Jon Cray, Residential Service Protection Fund Program Manager, Public Utility Commission of Oregon, to Marlene H. Dortch, Secretary, FCC, WC Dkt. 11-42 *et al.*, (filed Aug. 24, 2011) (OPUC Aug. 24 *ex parte* Presentation).

the single OTAP and Lifeline application form, accepting and processing all Lifeline and OTAP customer applications, and verifying the eligibility of each participant on both an initial and ongoing basis. The OPUC also maintains a centralized database of all OTAP and Lifeline customers, which provides assurances that consumers are not receiving unlawful duplicate benefits. This approach is fully consistent with the objective of the *Lifeline Reform Order* to minimize waste, fraud, and abuse in the most efficient manner.⁴

After June 1, 2012, if the requested waiver is not granted, some Oregon customers will qualify for federal Lifeline support, but not OTAP support. Oregon law⁵ defines a low-income customer eligible for the OTAP as one who:

(1) is receiving benefits from the Supplemental Nutrition Assistance Program (“SNAP”) or from another low income public assistance program for which eligibility requirements limit participation to individuals with income that does not exceed one hundred thirty-five percent of federal poverty guidelines (“FPG”)⁶; or

(2) is a resident of a long term care facility, as defined in ORS 442.015, or a residential care facility, as defined in ORS 443.400, who receives medical assistance under ORS Chapter 414.

Currently individuals who qualify for federal Lifeline solely on income or based on their participation in the following programs:

(1) Low Income Home Energy Assistance Program (“LIHEAP”)

⁴ If granted the waiver, the OPUC will seek FCC approval to “opt-out” of the proposed Lifeline Accountability Database so that Oregon ETCs do not have to incur the additional expenses of reporting. If not, the OPUC database may not qualify for the opt-out due to interim eligibility criteria disparities. See para. 221 of the *Lifeline Reform Order*.

⁵ See Chapter 290, Section 6(5)(a) of Oregon Laws 1987.

⁶ The other programs for current OTAP eligibility purposes include: Supplemental Security Income (SSI), Temporary Assistance for Needy Families (TANF), and specific Medicaid and Oregon Health Plans for which eligibility requirements limit participation to individuals with income that does not exceed one hundred thirty-five percent of FPG.

(2) Federal Public Housing Assistance

(3) Certain Medicaid Plans

are not eligible for the OTAP.

Because of the different eligibility criteria, some low-income Oregon consumers will receive larger discounts than others solely based on differences in state and federal qualification criteria. In addition, ETCs in Oregon would become responsible for the administration of the program for those Lifeline customers who qualify solely for federal support but not state support. ETCs would be forced to expend additional time, resources and money to implement new eligibility procedures for an interim period, i.e., the time between June 1, 2012, and the passage of conforming state legislation that would change OTAP criteria to be consistent with the new Lifeline criteria. After that, the verification and other support functions would return to the OPUC. Also, Oregon consumers will experience confusion as the current combined Lifeline and OTAP programs become split into two programs with differing support amounts and numerous administrative points of contact (the OPUC and each ETC) in place of the OPUC single point of contact and administration.

The OPUC and the OTA require a temporary waiver until July 1, 2013, to allow for the Oregon Legislature to enact legislation to change the OTAP eligibility criteria to make it consistent with the new Lifeline eligibility criteria.

Oregon cannot implement the necessary statutory changes in time to meet the June 1, 2012, deadline because the Oregon Legislative Assembly will not convene until February 2013. Therefore, it will not be possible to align the OTAP eligibility criteria with the new Lifeline program eligibility criteria until the summer of 2013 at the earliest. If new legislation is enacted, it likely would take effect July 1, 2013. The OPUC is drafting proposed legislation for

the upcoming session and will work with the OTA to introduce and support passage of the legislation.

The FCC may waive its rules for good cause shown. *See* 47 C.F.R. § 1.3. Granting this waiver request is in the public interest in order to avoid temporary inconsistencies in administration between the Oregon state and federal Lifeline programs, increased costs to Oregon ETCs, and customer confusion in the interim until the law can be amended.⁷ Furthermore, the request is only for a partial waiver of FCC rule 54.409(a) because Oregon already includes many, but not all, of the FCC's new required eligibility criteria.⁸

WAIVER REQUEST

Pursuant to 47 C.F.R. § 1.3, the OPUC and OTA request a temporary waiver of the June 1, 2012, deadline to implement uniform eligibility criteria as required by the *Lifeline Reform Order*. This limited waiver is requested to extend until July 1, 2013.

Your consideration of this waiver request is greatly appreciated.

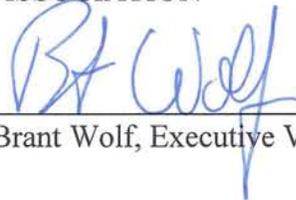
Respectfully submitted this 19th day of April, 2012.

PUBLIC UTILITY COMMISSION OF
OREGON



Susan Ackerman, Commissioner

OREGON TELECOMMUNICATIONS
ASSOCIATION

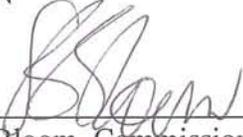


Brant Wolf, Executive Vice President

⁷ Waiver is appropriate if special circumstances warrant a deviation from the general rule, and such deviation would better serve the public interest than strict adherence to the general rule. *See In the Matter of TracFone Wireless, Inc.*, FCC Order DA 11-54, paragraph 4 (released January 11, 2011).

⁸ Specifically, the waiver request pertains to 47 C.F.R. § 54.409(a)(1) and part of (2). Oregon already allows eligibility based on SNAP, SSI, TANF, and some types of Medicaid plans, and will add the National School Lunch Free Lunch Program effective June 1, 2012.

PUBLIC UTILITY COMMISSION OF
OREGON



Stephen Bloom, Commissioner



John Savage, Commissioner

Exhibit A

Oregon Telecommunications Association Members

Asotin Telephone Company d/b/a TDS Telecom
Beaver Creek Cooperative Telephone Company
Canby Telephone Association d/b/a Canby Telecom
Cascade Utilities, Inc., d/b/a Reliance Connects
CenturyTel of Oregon, Inc., d/b/a CenturyLink
CenturyTel of Eastern Oregon, Inc., d/b/a CenturyLink
Clear Creek Telephone & Television
Colton Telephone Company, d/b/a ColtonTel
Eagle Telephone System, Inc.
Frontier Communications Northwest, Inc.
Gervais Telephone Company
Helix Telephone Company
Home Telephone Company d/b/a TDS Telecom
Midvale Telephone Exchange
Molalla Communications, Inc. d/b/a Molalla Communications
Monitor Cooperative Telephone Company
Monroe Telephone Company
Mt. Angel Telephone Company
Nehalem Telecommunications, Inc., d/b/a RTI Nehalem Telecom
North-State Telephone Co.
Oregon-Idaho Utilities, Inc.
Oregon Telephone Corporation
People's Telephone Co.
Pine Telephone System, Inc.
Pioneer Telephone Cooperative
Roome Telecommunications Inc.
St. Paul Cooperative Telephone Association
Scio Mutual Telephone Association
Stayton Cooperative Telephone Company
Trans-Cascades Telephone Company, d/b/a Reliance Connects