

**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
)	

COMMENTS OF LEAP WIRELESS INTERNATIONAL, INC. AND CRICKET COMMUNICATIONS, INC. IN SUPPORT OF OREGON PETITION FOR WAIVER

Leap Wireless International, Inc. and Cricket Communications, Inc. (together, “Cricket”) respectfully submit these comments in support of the Petition for Waiver Jointly Submitted by the Public Utility Commission of Oregon and the Oregon Telecommunications Association (“Oregon Petition”).¹ As a designated eligible telecommunications carrier (“ETC”) in the state of Oregon, Cricket participates in both the federal Lifeline program and its state counterpart, the Oregon Telephone Assistance Program (“OTAP”), and currently serves nearly 20,000 subscribers who receive critical discounts through those support mechanisms. Cricket has found the Public Utilities Commission of Oregon (“OPUC”) to be a supportive partner and resource in the implementation of Lifeline and OTAP and therefore urges the Commission to grant the requested waiver so that the OPUC may continue uninterrupted in that role for the benefit of Oregon consumers and ETCs alike.

¹ Petition for Waiver Jointly Submitted by the Public Utility Commission of Oregon and the Oregon Telecommunications Association, WC Docket No. 11-42, *et al.* (filed Apr. 19, 2012); Public Notice, *Comment Sought on Petitions for Waiver Submitted by State Commissions*, WC Docket No. 11-42, *et al.* (rel. May 4, 2012) (“Public Notice”).

DISCUSSION

THE COMMISSION SHOULD GRANT THE LIMITED RELIEF REQUESTED BY THE OREGON PETITION

As noted in the Oregon Petition, the eligibility requirements for participation in OTAP currently mirror those in the Lifeline program, thus enabling the OPUC to assume the role of state administrator for both the federal and state low-income programs.² As a result of the OPUC's work, which includes maintaining a centralized database of Lifeline/OTAP participants to ensure that recipients do not receive duplicative support, the Commission has recognized Oregon as a model among the states for the prevention of waste, fraud, and abuse in the Lifeline program.³ The OPUC also has eased the administrative burdens associated with participating in the Lifeline and OTAP programs that otherwise would fall on ETCs. By establishing an efficient and effective administrative system, the OPUC encourages provider participation in Lifeline to the greatest extent possible, and thus ensures that economically disadvantaged Oregon residents have a competitive choice of wireline and wireless telecommunications services available to them at affordable prices.

Good cause warrants the grant of the limited waiver requested by the OPUC and the Oregon Telecommunications Association ("OTA"). Because the *Lifeline Reform Order* adopts new Lifeline eligibility criteria, the Oregon legislature will need to harmonize OTAP's eligibility requirements with the Lifeline program in order to allow the OPUC to continue to administer

² See Oregon Petition at 2-3.

³ See *Lifeline and Link Up Reform and Modernization*, Report and Order and Further Notice of Proposed Rulemaking, WC Docket No. 11-42 *et al.*, FCC 12-11, ¶ 178 & n.470 (rel. Feb. 6, 2012) ("*Lifeline Reform Order*") (praising the efforts of Oregon and other states to "assist in improving administration of the Fund" and "eliminate a substantial amount of waste in the Fund").

both the Lifeline and OTAP support mechanisms on a co-extensive basis.⁴ The OPUC has indicated that it will support conforming legislation in the next legislative session to eliminate the differences in eligibility criteria between Lifeline and OTAP.⁵ Although the Oregon legislature does not reconvene until early next year, the OPUC and OTA expect that “conforming legislation can likely be enacted and become effective” by July 1, 2013.⁶ Accordingly, it would make no sense to displace Oregon’s reliable application and verification system when the OPUC has stated its intention to update the system to comply with the *Lifeline Reform Order* as soon as the state legislature grants it the authority required to do so.

Absent a waiver, the OPUC has explained that a bifurcated process would be required, with the state verifying some consumers’ Lifeline eligibility and ETCs making other eligibility determinations.⁷ Such a bifurcated approach could have unforeseen negative implications for the efficacy of the OPUC’s centralized database, which the Commission so recently praised for advancing the objectives of the *Lifeline Reform Order*.⁸ As the OPUC and OTA have explained, “[a]s the OPUC processes and database begin to ... exclude a segment of the total Lifeline customer database [on June 1, 2012], the likelihood of incidences of duplicate benefits and waste, fraud, and abuse will increase.”⁹ Absent the requested waiver, the new rules adopted in the *Lifeline Reform Order*—which are designed to “substantially strengthen protections against

⁴ Letter of Jon Cray, OPUC Residential Service Protection Fund Program Manager, to Marlene Dortch, Secretary, FCC, WC Docket No. 11-42, *et al.*, at 1-2 (filed May 8, 2012) (“OPUC/OTA *Ex Parte* Letter”) (explaining that “state statutes do not authorize the OPUC to serve or process Lifeline customers that do not meet Oregon [OTAP] criteria”).

⁵ *See* Oregon Petition at 4-5.

⁶ OPUC/OTA *Ex Parte* Letter at 1.

⁷ *Id.* at 1-2.

⁸ *See supra* note 3.

⁹ OPUC/OTA *Ex Parte* Letter at 2.

waste, fraud, and abuse” and to “improve program administration and accountability”¹⁰—would have the perverse result of causing states like Oregon to take a step *backward* in accomplishing the Commission’s laudable goals. Moreover, the time and resources necessary to update the Oregon database and to address new instances of waste, fraud, and abuse after the adoption of conforming legislation likely would impose a significant unwarranted burden on the state’s and providers’ resources.

CONCLUSION

Cricket urges the Commission to grant the limited flexibility requested by the Oregon Petition so that the OPUC may continue uninterrupted in its important and valued role as the administrator of both Lifeline and OTAP.

Respectfully submitted,

LEAP WIRELESS INTERNATIONAL, INC. AND
CRICKET COMMUNICATIONS, INC.

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¹⁰ *Lifeline Reform Order* ¶ 1.