

Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, DC 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 CENTURYLINK IN SUPPORT OF
PETITIONS FOR WAIVER**

CenturyLink files these comments in support of the United States Telecom Association's (US Telecom) Petition for Waiver filed on April 25, 2012 and the Petitions for Waiver of the Colorado, Montana and Oregon state commissions also recently filed in the above-referenced dockets.¹ For the reasons stated in those petitions and as further supported in these comments, the Commission should grant the relief requested.

Pursuant to new rule 54.407(d), which became effective May 1, 2012, the Commission requires that "[i]n order to receive universal service support reimbursement, an eligible telecommunications carrier [ETC] must certify, as part of each request for reimbursement, that it is in compliance with all of the rules in this subpart, and, to the extent required under this

¹ The United States Telecom Association's Petition for Waiver, WC Docket Nos. 11-42, *et al.* (Apr. 25, 2012) (US Telecom Petition), Public Notice, WC Docket Nos. 11-42, *et al.*, DA 12-692 (May 1, 2012); Petition for Waiver of the Colorado Public Utilities Commission (COPUC Petition), WC Docket Nos. 11-42, *et al.* (Apr. 6, 2012), Petition for Waiver of the Montana Public Service Commission (MTPSC Petition), WC Docket Nos. 11-42, *et al.* (Mar. 20, 2012), Petition for Waiver Jointly Submitted by the Public Utility Commission of Oregon (OPUC Petition) and the Oregon Telecommunications Association, WC Docket Nos. 11-42, *et al.* (Apr. 19, 2012), Public Notice, WC Docket Nos. 11-42, *et al.*, DA 12-662 (May 4, 2012).

subpart, has obtained valid certification and re-certification forms from each of the subscribers for whom it is seeking reimbursement.”² And, pursuant to new rule 54.410(b)(2) &(c)(2), which will be effective June 1, 2012, in states where a state Lifeline administrator or other state agency is responsible for the initial determination of a subscriber’s eligibility, an ETC must not seek reimbursement for providing Lifeline to a subscriber, unless the ETC has received from the state Lifeline administrator or other state agency proper notice of the subscriber’s eligibility and a copy of the subscriber’s eligibility certification.³

In many states, a state Lifeline administrator or other state agency currently is responsible for the initial determination of eligibility for some or all Lifeline applicants. As the Commission’s rules are newly adopted, those states do not provide ETCs with a copy of the subscriber’s eligibility certification -- and certainly not one that includes all of the information now required under new rule 54.410(d).⁴ As such, ETCs will not be able to comply with 54.410(b)(2) & (c)(2), and in turn 54.407(d)⁵ until these states have implemented rules and processes that enable ETC compliance with these requirements. Some of these states may be able to change their processes and requirements to be consistent with the new federal requirements. Some states will likely need to change state regulatory or statutory provisions governing their Lifeline programs. In each case, those changes will take time.

² *In the Matter of Lifeline and Link Up Reform and Modernization*, WC Docket Nos. 11-42, *et al.*, Report and Order and Further Notice of Proposed Rulemaking, FCC12-11, Appendix A (Feb. 6, 2012) (*Lifeline Reform Order*), 77 Fed. Reg. 12952 (Mar. 2, 2012), 77 Fed. Reg. 25609 (May 1, 2012), petitions for reconsideration of *Lifeline Reform Order* pending.

³ *Lifeline Reform Order*, Appendix A, 77 Fed. Reg. 12952 (Mar. 2, 2012), 77 Fed. Reg. 19125 (Mar. 30, 2012), 77 Fed. Reg. 25609 (May 1, 2012).

⁴ *Id.*

⁵ *Id.*

Additionally, the Commission has required that states with automatic enrollment programs -- those programs that mandate enrollment of eligible consumers without obtaining their express consent -- must be modified to enable consumers to consent to enrollment in the Lifeline program.⁶ Until states which have such automatic enrollment processes change those processes to enable consumer consent prior to enrollment, ETCs will not be able to comply with both the state automatic enrollment process and the new federal Lifeline program requirements.

In its waiver petition, US Telecom has identified several states which currently have state processes that will preclude full compliance by ETCs with the new federal Lifeline program requirements. US Telecom seeks a waiver for ETCs from these new federal Lifeline program requirements that conflict with existing state program requirements until those states are able to implement the necessary changes to their programs to enable full ETC compliance with the new federal requirements.⁷ CenturyLink supports the US Telecom waiver petition.

Additionally, three state commissions, the Colorado Public Utilities Commission (COPUC), the Montana Public Service Commission (MTPSC), and the Oregon Public Utility Commission (OPUC) have filed waiver petitions seeking waivers of the June 1, 2012 effective date for adopting uniform eligibility criteria in each state for the Lifeline program.⁸ Each state commission has explained that implementing the requisite uniform Lifeline eligibility criteria in their states will require legislative changes that cannot be addressed until each state's 2013 legislative session. The Commission should grant these waiver petitions and US Telecom's waiver petition request for each state to enable sufficient time for these states to effectively modify their Lifeline programs.

⁶ *Lifeline Reform Order* ¶ 173.

⁷ US Telecom Petition at 2-3.

⁸ COPUC Petition at 2; MTPSC at 1-2; OPUC Petition at 2, 5.

As an ETC in many of the states identified in the petition, CenturyLink needs the relief requested. Specifically, CenturyLink is an ETC providing Lifeline service in the following states identified in the original petition: Arizona, California, Colorado, Florida, Idaho, Kansas, Montana, Nebraska, Nevada, New Jersey, Ohio, Oregon, Tennessee, Texas, Utah, and Washington. In California, CenturyLink does not need the requested relief because it does not participate in the particular state enrollment process that conflicts with the new federal program rules. But, other ETCs that are subject to that state enrollment process may need the petition's requested relief in California. Also, in a few of these states, additional information, communications with state commission or other state agency staff administering state Lifeline programs, and state commission or other state agency action has rendered or likely will render the requested waiver relief unnecessary. Those states are Arizona, Kansas, Nebraska, New Jersey, Ohio, Tennessee, and Texas.

US Telecom has withdrawn Kansas, New Jersey, and Tennessee from the waiver petition.⁹ CenturyLink shares US Telecom's assessment that waiver is no longer necessary or warranted in these three states. In Arizona, the Department of Economic Security administers the Lifeline program for CenturyLink. However, unlike programs in other states, it is handled through a contractual relationship with CenturyLink that is recognized but not mandated by the Arizona Corporation Commission. DES determines eligibility for all CenturyLink Lifeline customers in Arizona.¹⁰

⁹ See US Telecom, *ex parte*, WC Docket Nos. 11-42, 03-109 and CC Docket No. 96-45, filed May 14, 2012.

¹⁰ CenturyLink has informally conferred with ACC staff regarding the US Telecom waiver and will be conferring with DES to determine whether Arizona should be removed from US Telecom's petition and whether any waiver relief is needed.

In Nebraska, CenturyLink understands that the Public Service Commission intends to align the state eligibility process with the new federal requirements. NPSC advises that it will be able to provide ETCs with the customer certification forms for those customers that the Commission determines are eligible. In Ohio, CenturyLink understands that the Public Utilities Commission staff have proposed suspension of the state's Lifeline auto-enrollment process. If the staff recommendation is adopted by the commission, all Ohio consumers will apply for Lifeline through ETCs for the time being. In Texas, CenturyLink understands that the Public Utility Commission of Texas and its third-party administrator, Solix, Inc., intend to have sufficient procedures in place to enable ETC compliance with the new federal criteria by June 1. To the extent these three states are able to accomplish these objectives by June 1, the US Telecom waiver petition should not be necessary for these states. If any of these state authorities are not able to be compliant effective June 1, the waiver relief requested for these states will still be necessary.

In the remaining states CenturyLink continues to need the relief requested in the US Telecom waiver petition.

- In Colorado, the Department of Human Services (CDHS) determines consumer Lifeline program eligibility. Each month CDHS provides CenturyLink with a list of customers to be enrolled in Lifeline service. Annually CDHS verifies which CenturyLink Lifeline customers remain eligible for Lifeline service. CenturyLink sends its Lifeline customers that are determined ineligible through this annual verification process a letter explaining that they were not recertified via the state and that they have sixty days to contact the state to recertify. If they do not recertify their

eligibility they are de-enrolled. Colorado's Lifeline eligibility criteria are contained in state statute.¹¹

- In Florida, CenturyLink performs the initial eligibility determination for some consumers. But, the Office of Public Counsel makes some income-based eligibility determinations and notifies CenturyLink of customers it should add to Lifeline service. Additionally, each week CenturyLink obtains a file from the Florida Public Service Commission's website that identifies program-based eligible consumers to be enrolled in CenturyLink Lifeline service.
- In Idaho, the Department of Health and Welfare (IDHW) makes the initial eligibility determination for all consumers. CenturyLink receives monthly lists from IDHW to add customers to Lifeline service.
- In Montana, the Department of Public Health and Human Services uses a discount coupon for telephone services. A consumer fills out the coupon and provides it to the local Office of Public Assistance or an ETC. The coupon is provided to DPHHS which determines eligibility and once a month, DPHHS sends to each ETC (which the consumer lists on the coupon), the names of the new Lifeline applicants eligible that month for Lifeline support. The ETCs then enroll the consumers on the list. Montana's Lifeline eligibility criteria are contained in state statute.¹²
- In Nevada, consumers may apply directly to ETCs for income based-eligibility, but there is also a state process established in Nevada statute, NRS 707.470 (2012), where twice a year the Department of Health and Human Services sends ETCs a list of all consumers eligible for Lifeline service. In accord with Nevada statute, NRS 707.480 (2012), each ETC is to provide Lifeline service to any consumer on the list that it identifies as a current customer and does not opt out of the service. The Nevada legislature does not meet again until February 2013.

¹¹ In its waiver petition, COPUC requests until July 1, 2013 to enable sufficient time for the state to adopt uniform eligibility criteria in Colorado for the Lifeline program. COPUC Petition at 3.

¹² In its waiver petition, MTPSC seeks until June 1, 2013 to enable sufficient time for Montana to adopt uniform eligibility criteria for the state's Lifeline program. MTPSC Petition at 2.

- In Oregon, the Public Service Commission determines consumers' eligibility through a shared database with the Department of Human Services and provides that information to ETCs to initiate Lifeline service. Oregon's Lifeline eligibility criteria are contained in state statute.¹³
- In Utah, the Utah Department of Community and Culture (DCC) administers the certification, verification, and continued verification of Lifeline enrollment for state-designated ETCs. DCC provides monthly files to CenturyLink of consumers who should be added to or removed from CenturyLink's Lifeline service.
- In Washington, the Department of Social and Health Services (DSHS) determines eligibility of all CenturyLink Lifeline customers. Annually, DSHS verifies Lifeline customers' continuing eligibility. DSHS sends CenturyLink a list of customers to be removed from Lifeline service as a result of the verification process.

For each state program described above, CenturyLink needs a waiver of the Lifeline rules as requested by US Telecom. In each instance, the state entity determining Lifeline eligibility does not yet provide to CenturyLink the modified customer certification forms. And, in each instance CenturyLink simply enrolls customers that the state entity has informed CenturyLink should be added to its Lifeline service. Until these states are able to modify their current eligibility processes to enable CenturyLink to fully comply with the new federal Lifeline program requirements, CenturyLink needs the relief requested in the US Telecom waiver petition.

Additionally, US Telecom is not alone in recognizing that the states it has identified may not be able to implement changes to their state programs in time to align with the modified eligibility requirements of the federal Lifeline rules. At least four of these states, California,

¹³ In its waiver petition, OPUC seeks until July 1, 2013 to enable sufficient time for Oregon to adopt uniform eligibility criteria for the state's Lifeline program. OPUC Petition at 2, 5.

Colorado, Montana, and Oregon have filed their own petitions seeking waiver of the new eligibility requirements for a period of time.¹⁴ These states each seek additional time to harmonize their state Lifeline programs with the new federal requirements. The Commission should afford these states the time they seek to modify their state Lifeline programs to accord with the new federal requirements.

Similarly, the Commission should grant US Telecom's waiver petition to enable sufficient time for each of the states US Telecom has identified to modify their state Lifeline programs to accord with the new federal requirements. These states have taken the admirable steps of implementing state Lifeline programs and taking some or all responsibility for determining Lifeline eligibility. The Commission should recognize and encourage these efforts by permitting sufficient time for these states to review their current processes and reasonably engage with ETCs and other interested parties in their states to determine the appropriate modifications to effectively and efficiently align their programs with the new federal requirements.

¹⁴ See notes 1, 8, 11, 12, 13, *supra*; see generally Petition for Waiver of the California Public Utilities Commission and the People of the State of California, WC Docket Nos. 11-42, *et al.* (Apr. 26, 2012).

For the reasons stated here and in the US Telecom waiver petition, the Commission should grant the waiver request.

Respectfully submitted,

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