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John A. Kitzhaber, MD, Governor

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November 16, 2012

Ex Parte Letter
Marlene Dortch, Office of the Secretary
Federal Communications Commission
445 12th Street SW, Room TW-B204
Washington, D.C. 20554

Re: *Ex Parte* Filing, CC Docket No. 96-45; WC Docket No. 11-42; WC Docket No. 03-109; WC Docket No. 12-23.

Dear Ms. Dortch:

Staff of the Public Utility Commission of Oregon ("OPUC") and the Oregon Telecommunications Association ("OTA") submit this written ex parte letter in support of part of the Petition for Reconsideration and Clarification submitted by the United States Telecom Association ("USTA Petition") in the above dockets on April 2, 2012. The 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 provide both state and federal Lifeline services to OPUC-approved consumers.

Specifically, the USTA Petition urges the FCC to reconsider elimination of sections 54.410(b)(2)(ii) and 54.410(c)(2)(ii) of its rules which require a state administrator to provide a copy of the Lifeline subscriber's certification form to the Eligible Telecommunications Carrier ("ETC") before that ETC can claim reimbursement. Instead, USTA recommends that the FCC require the state administrator to provide the ETC only with notice that the subscriber qualifies for Lifeline and has executed a certification form as required by sections 54.410(b)(2)(i) and 54.410(c)(2)(i) of the rules. In the *Waiver Order* released May 31, 2012,[1] the FCC granted USTA's original request for relief from sections 54.410(b)(2)(ii) and 54.410(c)(2)(ii) only until December 1, 2012. On its own motion, the FCC also extended the waiver to the corresponding section 54.410(e) requirement applicable to specific state Lifeline administrators, including Oregon, until the same date.

Staff of the OPUC respectfully urges the FCC to reconsider and adopt USTA's recommendation, along with the corresponding necessary changes to section 54.410(e) that applies to State Lifeline administrators.[2] The notices required by sections 54.410(b)(2)(i) and 54.410(c)(2)(i) are sufficient to meet the FCC's goals for Lifeline program reform. As justification for granting the temporary waiver, the FCC stated that the *Lifeline Reform Order* certification requirements "are aimed at ensuring that ETCs only seek reimbursement for subscribers who have executed a certification form attesting to their compliance with the Lifeline program requirements." See paragraph 5 of the *Waiver Order*. Footnote 14 of the same order further clarifies that the purpose of the revised certification requirements is to reduce the number of ineligible consumers in the Lifeline program. The *Waiver Order* acknowledges that state Lifeline administrators must obtain executed

[1] Lifeline and Link Up Reform and Modernization, Waiver Order, WC Docket No. 11-42, DA 12-863 (released May 31, 2012)("*Waiver Order*").
[2] Footnote 22 of the *Waiver Order* also notes that portions of sections 54.407(d), 54.410(b) and 54.410(c) require ETCs to obtain certification forms from state administrators where the administrator makes the initial determination of Lifeline eligibility. Changes to these sections, or a permanent waiver would also likely be required.

certification forms from subscribers pursuant to section 54.410(d) and send notifications to the ETCs pursuant to sections 54.410(b)(2)(i) and 54.410(c)(2)(i). This process appears to have met the objectives in the interim and would also continue to meet the same objectives after the December waiver deadline. Furthermore, electronic notification from the state Lifeline administrators to the ETCs is a quicker and more efficient means to trigger reimbursement qualification than requiring ETCs to wait for copies of individual forms and match those to the electronic notifications that would precede the forms. Requiring state Lifeline administrators to provide copies of the application to ETCs does nothing to enhance the validity of the subscriber's eligibility, but it would add to the burden and costs of both the state Lifeline administrators and the ETCs.

The FCC denied California's petition for a permanent waiver of section 54.410(e) requirements because "ETCs have an obligation to maintain records to document compliance with all Lifeline program requirements per section 54.417." See *Waiver Order*, paragraph 7. However, the notice provided by state Lifeline administrators can serve as appropriate documentation for the ETCs, while the state Lifeline administrators can retain, and provide upon request, the actual Lifeline certification forms in order to meet this requirement. The OPUC is prepared to comply with the required retention period for certification forms set forth by the FCC and has electronic and physical facilities to accommodate these certification forms. In addition, the OPUC agrees to provide the certification forms to the FCC and the Universal Service Administrative Company if needed for audit purposes.

In footnote 13 of the *Waiver Order,* the FCC addresses the conditions for waiving its rules if good cause is shown and explains that it may take into account certain considerations including "more effective implementation of overall policy on an individual basis." In cases such as Oregon's where the state Lifeline administrator serves a special function that benefits ETCs and Lifeline customers, granting of the requested waivers would result in more effective and efficient implementation than the current rules for the reasons explained herein.

Two specific conditions must be met for a waiver. The first is that special circumstances warrant a deviation from the general rule. State administration of a Lifeline program is a special circumstance that warrants deviation. States are in partnership with the federal government to provide Lifeline services to eligible customers in the most efficient manner while protecting against waste, fraud and abuse. States that verify applicants' eligibility and perform checks to eliminate duplicate benefits present special cases compared to states where the ETCs are solely responsible for the same functions. In Oregon, after a Lifeline applicant submits a completed OPUC-specific certification form to the OPUC, Staff verifies the applicant's initial eligibility. Simultaneously, OPUC Staff utilizes a centralized database that contains the records of all Lifeline subscribers for all ETCs, wireline and wireless, providing Lifeline service, to prevent duplicate claims of support. A weekly report that lists all Lifeline consumers approved by the OPUC is electronically transmitted to the applicant's respective ETC. The approval report contains the customer's first and last name, residential address, phone number, if available, effective approval date and OPUC-assigned identification number in lieu of their social security number. This approach not only minimizes waste, fraud, and abuse, but protects and safeguards the confidential and personal identifying information (i.e. social security number) of eligible Lifeline subscribers.[3]

The second requirement for a waiver is that such deviation will serve the public interest. If the existing rules are not modified, the OPUC will have an obligation to photocopy and mail an average of 2,500 to 4,000 (and growing) certification forms each month to the consumer's respective

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[3] The OPUC has had to modify its processes slightly to accommodate the growth in applications due to the initial introduction of Lifeline services by Assurance Wireless and SafeLink which will launch shortly. Initially, these two ETCs will collect and review applications from their potential Lifeline customers and send copies to the OPUC. However, the OPUC will still verify eligibility and check for duplicates, as it does for other ETCs. No ETC is authorized to claim reimbursement until receiving notification of eligibility back from the OPUC.

ETC. Alternatively, a secure electronic means of transmitting certification forms to each ETC will have to be developed. This extra step will require additional resources including personnel, database and reporting enhancements, etc., and will result in costs to the state Lifeline program and the consumers who fund it.[4] It will also result in costs to the ETCs that will have to handle the copies of the form and match them to other Lifeline customer records. Importantly, it will result in an unnecessary lag in delivery of the Lifeline services to eligible customers. These extra costs to the state Lifeline program, ETCs and consumers may be deemed worthwhile if supplying copies of the forms to the ETCs achieved the objectives of reform that could not be achieved otherwise. But that is not the case. As USTA points out in its Petition, the ETCs' receipt of the actual verification forms serves no useful purpose given the electronic notification of eligibility from the state Lifeline administrator. *See* USTA Petition, page 6. Incidences of waste, fraud and abuse are in fact minimized by use of the OPUC processes already in place. The OPUC database that includes information for all ETCs and Lifeline customers eliminates the potential for duplicate benefits and provides real-time access to the Oregon Department of Human Services for initial and ongoing verification of eligibility. The OPUC processes comply with all FCC rules for applications, eligibility and verification thereby saving resources of the ETCs and ensuring an optimal result. All the conditions for a customer's eligibility are met when the OPUC sends electronic notification of eligibility to the ETC. Therefore, electronic notification provides sufficient safeguards for the ETC to begin providing the corresponding Lifeline benefits and apply for reimbursement from the fund. Given this, the requirement to provide ETCs with copies of verification forms does not serve the public interest.

Pursuant to § 1.1206(b) of the FCC's rules, this letter is being filed electronically. Please contact the undersigned with questions or concerns.

Respectfully,

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[4] Revenue for the state Lifeline support of $3.50 is generated from the Residential Service Protection Fund ("RSPF") surcharge that is levied on wireline and wireless customers who have voice telephony service.

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
Qwest d/b/a CenturyLink
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
United Telephone Company of the Northwest d/b/a CenturyLink