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

PUBLIC UTILITY COMMISSION OF OREGON

AND OREGON TELECOMMUNICATIONS ASSOCIATION

COMMENTS IN SUPPORT OF USTELECOM PETITION FOR WAIVER AND PETITION FOR EXTENSION OF WAIVER

May 15, 2013

The Public Utility Commission of Oregon ("OPUC") and the Oregon Telecommunications Association ("OTA")[1] support the Petition ("Petition") for Waiver of the United States Telecom Association ("USTelecom") filed on May 6, 2013, in the above dockets.[2] If the Federal Communications Commission ("FCC") grants the USTelecom Petition, the OPUC and the OTA respectfully request that the waiver extension apply to the OPUC and Oregon Eligible Telecommunications Carriers ("ETCs").

The OPUC and the OTA had hoped that the FCC would issue an order addressing USTelecom's Petition for Reconsideration and Clarification[3] ("Petition for Reconsideration") and the OPUC/OTA request[4] to modify the rules at issue before the current June 1, 2013, waiver expiration date. As that appears unlikely now, an extension of the waiver until December 1, 2013, will give the FCC additional time to consider requests by the OPUC and OTA and USTelecom to modify the rules in question or grant permanent waivers.

At issue are the rules requiring state Lifeline administrators to provide a copy of the Lifeline subscriber's signed certification form to the ETC before that ETC can claim reimbursement for the federal universal service fund ("FUSF"). The specific relevant rules are 47 § CFR 54.410(e), 54.410(b)(2)(ii), 54.410(c)(2)(ii) and 54.407(d). The FCC previously granted temporary waivers of these rules until December 1, 2012,[5] and June 1, 2013.[6]

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[1] 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.

[2] Petition for Waiver of the United States Telecom Association, *Lifeline and Link Up Reform and Modernization*, WC Docket No. 11-42, filed May 6, 2013.

[3] Petition for Reconsideration and Clarification of the United States Telecom Association, CC Docket No. 96-45, WC Docket No. 11-42, WC Docket No. 03-109, and WC Docket No. 12-23, filed April 2, 2012.

[4] Letter from Jon Cray, Residential Service Protection Fund Program Manager, Public Utility Commission of Oregon, and Brant Wolf, Executive Vice President, Oregon Telecommunications Association to Marlene H. Dortch, Secretary, Federal Communications Commission, WC Dkt. 11-42 *et al.*, filed November 16, 2012.

[5] *Lifeline and Link Up Reform and Modernization*, Waiver Order, WC Docket No. 11-42, DA 12-863, released May 31, 2012.

[6] *Lifeline and Link Up Reform and Modernization*, Waiver Order, WC Docket No. 11-42, DA 12-2062, released December 21, 2012.

In an ex-parte letter filed on November 16, 2012, Jon Cray of OPUC Staff and Brant Wolf of OTA explained why the notices required by 47 CFR § 54.410(b)(2)(i), and 54.410(c)(2)(i) are sufficient to meet the FCC's goals for Lifeline program reform, and that the requirements of 47 § CFR 54.410(e), 54.410(b)(2)(ii), 54.410(c)(2)(ii), and 54.407(d) are unnecessary and burdensome when state administrators manage Lifeline subscriber eligibility. The letter also demonstrated good cause for granting a waiver of the rules to Oregon and its ETCs if the FCC decided to retain these rules. A copy of the letter is attached as Exhibit B.

On November 30, 2012, the OPUC and the OTA requested an extension of the waiver of the FCC rules that had been granted in the FCC's May 2012 *Waiver Order*.[7] The FCC granted the OPUC's request for extended relief until June 1, 2013 in its December 2012 *Waiver Order*.

On March 4, 2013, the OPUC participated in a conference call with staff of the FCC Wireline Competition Bureau and reiterated its support of USTelecom's Petition for Reconsideration to amend its rules to eliminate the requirement that the state Lifeline administrators provide a copy of the Lifeline subscriber's certification form to the ETC.[8]

If the FCC does not grant the requested waiver extension, the OPUC will comply with the rules when the current waiver expires. However, for the reasons stated in previous filings, the OPUC and the carriers providing Lifeline services in Oregon will incur unnecessary and significant costs if they must comply. The attached Exhibit C describes the process that will be employed and the estimated costs.

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[7] *Lifeline and Link Up Reform and Modernization et al.,* Petition for Waiver of the Public Utility Commission of Oregon and the Oregon Telecommunications Association, WC Docket Nos. 11-42 et al., CC Docket No. 96-45, filed November 30, 2012.

[8] Letter from Jon Cray, Residential Service Protection Fund Program Manager, Public Utility Commission of Oregon, to Marlene H. Dortch, Secretary, Federal Communications Commission, WC Dkt. 11-42 *et al.*, filed March 7, 2013.

In conclusion and for the reasons explained above, the OPUC and the OTA respectfully request that the FCC expeditiously grant an extension of the waiver of sections 54.410(e), 54.410(b)(2)(ii), 54.410(c)(2)(ii), and 54.407(d) of its rules until December 1, 2013. The OPUC and the OTA respectfully urge the FCC to eliminate the rules as addressed in the USTelecom's Petition for Reconsideration in the interim.

Respectfully submitted,

THE PUBLIC UTILITY COMMISSION
OF OREGON

Susan Ackerman
Chair

Stephen Bloom
Commissioner

John Savage
Commissioner

THE OREGON TELECOMMUNICATIONS ASSOCIATION

Brant Wolf
Executive Vice President

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
Century Tel of Oregon, Inc., d/b/a Century Link
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 Century Link
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

Exhibit B

November 16, 2012 Ex Parte Letter

Oregon
John A. Kitzhaber, MD, Governor

Public Utility Commission
Residential Service Protection Fund
Telephone Assistance Programs
550 Capitol St NE Ste 215
PO Box 2148
Salem OR 97308-2148
1-800-848-4442
TTY: 1-800-648-3458
Fax: 1-877-567-1977
Web: www.rspf.org
Email: puc.rspf@state.or.us

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

[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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Cc: Jonathan Lechter
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Susan Ackerman, OPUC Chair
Stephen Bloom, OPUC Commissioner
John Savage, OPUC Commissioner
Michael Dougherty, OPUC Chief Operating Officer
David Poston, OPUC Central Services Division Administrator
Kay Marinos, OPUC Telecommunications Division Manager
Julie Thompson, OPUC RSPF Administrative Specialist

[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

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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
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Roome Telecommunications Inc.
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Stayton Cooperative Telephone Company
Trans-Cascades Telephone Company, d/b/a Reliance Connects
United Telephone Company of the Northwest d/b/a CenturyLink

EXHIBIT C

If the OPUC is required to provide executed certification forms from subscribers to their respective ETCs effective June 1, 2013, the OPUC will adopt a temporary manual approach until the OPUC has an opportunity to develop a secure electronic means of transmitting certification forms to each ETC. The OPUC will likely hire the services of a full-time temporary employee to photocopy upwards of 4,000 (and growing) monthly physical certification forms and print online certification forms to mail weekly to more than thirty (30) ETCs operating in Oregon. The certification forms contain the customer's full social security number, and the risk of theft or loss becomes of paramount concern when handled by multiple individuals.

In accordance with the Oregon Identity Theft Protection Act,[9] the OPUC is responsible for protecting customers' personal identifying information (i.e., social security number). Any loss, theft, or breach event must be reported to all affected persons and if more than 1,000 consumers are affected or other specific conditions are met, the OPUC may be required to notify law enforcement, national consumer reporting agencies, and the news media.

To implement an electronic solution that minimizes costs to the ETCs and protects and safeguards the confidential and personal identifying information of eligible Lifeline subscribers, the OPUC is exploring the possibility of using a File Transfer Protocol ("FTP") to transmit certification forms to the ETCs. The following table lists the estimated costs for the OPUC to host and maintain an FTP site:

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[9] *See* Oregon Revised Statute 646A.600 – 646A.628.

Initial Development	
Hardware, Software, License, Maintenance	$10,800
Personnel, Programming and Testing	$14,100
Subtotal:	$24,900
Maintenance	
Annual maintenance, troubleshooting, personnel	$76,100
Yearly maintenance fees	$1,300
Subtotal:	$77,400
TOTAL:	**$102,300**

To fully execute the FTP solution, the OPUC will need to recruit and hire a data imaging specialist to scan and attach copies of the certification forms to the individual customer records in the OPUC database. However, the OPUC cannot recruit and hire a data imaging specialist to perform these functions unless the OPUC petitions the 2015 Oregon Legislature for approval to establish and procure funding in the amount of $102,435, which includes salary, benefits, taxes, etc. per biennium. Ultimately, the OPUC may expend at least $128,617.50 after the initial development per year to comply with the requirement of providing copies of the certification forms to the customers' respective ETCs.

The manual or electronic approach or solution will compel various ETCs to incur costs that range from several hundred additional dollars to $10,000 monthly to acquire electronic and physical resources to maintain Lifeline certification forms.

It is not in the public interest to impose costly, duplicative and burdensome requirements on the OPUC and the OTA members and other ETCs. The objective of the requirement to provide copies to the ETCs, i.e., reducing the number of ineligible consumers in the Lifeline program, is not relevant in Oregon and other states that perform the eligibility verification function. The OPUC provides verifiable oversight of Lifeline and performs all the eligibility functions as compared to states where the ETCs are solely

responsible for the same functions. Incidences of waste, fraud and abuse are minimized by use of the OPUC processes that are already in place. The OPUC's weekly electronic notification to the ETC is comparable to the certification form. It provides sufficient safeguards not only for the ETC to begin providing the corresponding Lifeline benefits and apply for reimbursement from the FUSF, but protects the eligible customer's confidential information.