

**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
	)	

**PETITION FOR EXTENSION OF WAIVER OF  
THE UNITED STATES TELECOM ASSOCIATION**

**I. BACKGROUND**

On August 30, 2013, the Wireline Competition Bureau released an Order<sup>1</sup> (“*Waiver Order*”) addressing petitions from several state commissions as well as a petition of the United States Telecom Association (“USTelecom”),<sup>2</sup> seeking permanent or temporary waiver of various rules adopted in the *Lifeline Reform Order*.<sup>3</sup> USTelecom’s Petition for Waiver (“*USTelecom Petition*”)<sup>4</sup> sought a temporary waiver on behalf of Eligible Telecommunications Carriers

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<sup>1</sup> See Order, *Lifeline and Link Up Reform and Modernization*, WC Docket No. 11-42, DA 13-1853 (rel. Aug. 30, 2013).

<sup>2</sup> USTelecom is the premier trade association representing service providers and suppliers for the telecommunications industry. USTelecom members provide a full array of services, including broadband, voice, data and video over wireline and wireless networks.

<sup>3</sup> *Lifeline and Link Up Reform and Modernization et al.*, Report and Order and Further Notice of Rulemaking, WC Docket. Nos. 11-42 et al., FCC 12-11 (rel. Feb. 6, 2012) (*Lifeline Reform Order*).

<sup>4</sup> See 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.

(ETCs) in select states<sup>5</sup> of the obligation to obtain from the state Lifeline administrator or other state agency a signed certification from a subscriber prior to seeking Lifeline fund reimbursement for that subscriber.<sup>6</sup> The *Waiver Order* granted a limited waiver from sections 54.407(d), 54.410(b)(2)(ii), 54.410(c)(2)(ii) and 54.410(e) of the Commission's rules, similar to that previously granted by the Bureau to allow more time for those states to implement a process to share consumer eligibility certifications with ETCs. The states for which ETCs were granted the limited waiver are those in which the state Lifeline administrator or other state agency manages subscriber eligibility and is unable to modify its processes for ETCs to come into compliance with these rules.<sup>7</sup> The Bureau granted the waivers until the sooner of February 1, 2014, or until the states' processes were modified to allow for compliance.<sup>8</sup>

## II. THE WAIVERS ARE STILL NECESSARY IN CERTAIN STATES

At this time, some state Lifeline administrators or other state agencies have indicated that they will not be prepared to begin providing ETCs in their states with copies of subscriber certifications forms, as required by section 54.410(e), beginning February 1, 2014.<sup>9</sup> USTelecom respectfully requests that, for these states, the Bureau grant this Petition for Extension of Waiver of the United States Telecom Association (*Waiver Extension Petition*) and extend for ETCs the

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<sup>5</sup> The states for which USTelecom sought waivers were Colorado, Florida, Idaho, Oregon, Utah and Vermont. Additionally, for different reasons, USTelecom requested a seven-month waiver of the same rules for ETCs in California (and the California Lifeline administrator) or, in the alternative, a waiver of sections 54.410(b)(1)(ii) and 54.410(c)(1)(ii). The *Waiver Order* granted the necessary waivers to ETCs in California, Colorado, Florida, Idaho, Nebraska, Oregon, Utah and Vermont.

<sup>6</sup> See *USTelecom Petition* at 2 (seeking a waiver in particular states from sections 54.407(d), 54.410(b)(2)(ii), 54.410(c)(2)(ii), and 54.410(e) of the Commission's rules).

<sup>7</sup> See *Waiver Order* at ¶ 8.

<sup>8</sup> *Id* at ¶ 7.

<sup>9</sup> See Status Updates of California, Florida, Idaho, Nebraska, Oregon, Utah and Vermont.

waivers of sections 54.410(b)(2)(ii) and 54.410(c)(2)(ii), 54.410(e), and portions of section 54.407(d), granted in the *Waiver Order* permanently if the state indicates it never intends to come into compliance, or temporarily, for six months until August 1, 2014, (or for a shorter period of time if a state comes into compliance within six months) if the state indicates its intention to come into compliance but requires more time to do so. Extending temporary relief until August 1, 2014, will give state entities indicating an intention to comply additional time to meet the Commission's requirement that they provide signed certifications to ETCs from subscribers, and will give the Commission additional time to consider requests by the affected states and USTelecom to modify those very rules so that it would be acceptable for a state entity to retain the certification forms itself (versus being required to transmit them to the ETCs to retain). The states that require the waiver extension are: Florida, Idaho, Nebraska, Oregon, Utah and Vermont. Additionally, for different reasons, USTelecom requests a five-month waiver of the same rules for ETCs in California (and the California Lifeline administrator). In support of this waiver petition, we provide the following state-specific information:

- Florida – The Florida Public Service Commission (Florida PSC) filed a Status Update<sup>10</sup> on October 25, 2013, which explained that the Florida Lifeline Electronic Coordinated Enrollment process does not have the capability of printing out a hard-copy Lifeline application as required by the Commission's rules.<sup>11</sup> The Florida PSC's Status Update states that "It would be extremely difficult if not impossible to isolate the required certification and application information, create images of these documents and provide

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<sup>10</sup> See Florida Public Service Commission's Status Update of Federal Communications Commission Limited Waiver of 47 C.F.R. §54.407(d), 47 C.F.R. §54.410(b)(2)(ii), 47 C.F.R. §54.410(c)(2)(ii), and 47 C.F.R. §54.410(e) for the State of Florida and Petition for Permanent Waiver of Federal Communications Commission Rules 47 C.F.R. §54.407(d), 47 C.F.R. §54.410(b)(2)(ii), and 47 C.F.R. §54.410(e), WC Docket 11-42, filed Oct. 25, 2013.

<sup>11</sup> *Id* at p. 3.

them to the relevant ETC.<sup>12</sup> The Status Update included a Petition for Permanent Waiver of Federal Communications Commission Rules §54.407(d), 47 C.F.R. §54.410(b)(2)(ii), and 47 C.F.R. §54.410(e).<sup>13</sup> If the Bureau grants the Florida PSC’s Petition for Permanent Waiver, ETCs providing Lifeline service in Florida should similarly be granted permanent waiver of the rules requested in the *Waiver Extension Petition*.<sup>14</sup> If the Bureau does not grant the Florida PSC’s Petition for Permanent Waiver, ETCs in Florida should be provided an extension of the current waiver of the Lifeline certification rules through August 1, 2014, while the Bureau and the Florida PSC determine a suitable resolution of the certification issue.

- Idaho – The Idaho Public Utilities Commission (Idaho PUC) filed a Status Update<sup>15</sup> on October 31, 2013, reporting that “full compliance has not been achieved due to Idaho’s inability to provide ETCs with a copy of the subscriber’s Lifeline certification form.”<sup>16</sup> The Status Update also stated “Idaho will review the possibility of filing a Petition for Permanent Waiver.” If such a Petition is filed, and if it is granted by the Bureau, ETCs providing Lifeline service in Idaho should similarly be granted permanent waiver of the

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<sup>12</sup> *Id.*

<sup>13</sup> *Id* at p. 5.

<sup>14</sup> In assessing the merits of the Florida PUC’s Petition for Permanent Waiver, the Bureau should note the Waiver’s assertion at page 14 that “Any changes [to the present coordinated enrollment process] would be extremely costly, time consuming, and place additional administrative burdens on the FPSC, the DCF, and the Florida ETCs. Requiring hard-copy application certifications to ETCs does nothing to enhance the validity of the subscriber’s eligibility when the Florida Lifeline Electronic Coordinated Enrollment process is used. It would get extremely difficult if not impossible to isolate the required certification and application information, create images of these documents and provide them to the relevant ETC.”

<sup>15</sup> See Idaho Public Utilities Commission Status Update of Federal Communications Commission Limited Waiver of 47 C.F.R. §54.407(d), 47 C.F.R. §54.410(b)(2)(ii), 47 C.F.R. §54.410(c)(2)(ii), and 47 C.F.R. §54.410(e) for the State of Idaho, WC Docket No. 11-42, filed October 31, 2013.

<sup>16</sup> *Id* at p. 3.

rules requested in the Waiver Extension Petition. If such a Petition is not filed, or filed and not granted by the Bureau, ETCs in Idaho should be provided an extension of the current waiver of the Lifeline certification rules through August 1, 2014, while the Bureau and the Idaho PUC determine a suitable resolution of the certification issue.

- Nebraska – The Nebraska Public Service Commission (NPSC) filed a Status Update on October 31, 2013,<sup>17</sup> delineating the procedures it has in place for ETC notification of newly enrolled subscribers, the time and cost of providing copies of the certification pages to each ETC upon subscriber enrollment on an ongoing basis going forward, and its intention to file a further petition seeking a permanent waiver.<sup>18</sup> If the NPSC’s previous petition for permanent waiver is granted, or a further petition for permanent waiver is filed, and if it is granted by the Bureau, ETCs providing Lifeline service in Nebraska should similarly be granted permanent waiver of the rules requested in the Waiver Extension Petition. If the prior petition is not granted, or a further petition is not filed, or if it is filed and not granted by the Bureau, ETCs in Nebraska should be provided an extension of the current waiver of the Lifeline certification rules through August 1, 2014, while the Bureau and the NPSC determine a suitable resolution of the certification issue.
- Oregon – Staff of the Oregon Public Utilities Commission (OPUC) and the Oregon Telecommunications Association (OTA) submitted a joint written *ex parte* letter to the Commission on November 16, 2012,<sup>19</sup> which acknowledged that Oregon was not

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<sup>17</sup> See Status Update of the Nebraska Public Service Commission, WC Docket Nos. 03-109, 12-23, 11-42, and CC Docket No. 96-45, filed Oct. 31, 2013.

<sup>18</sup> *Id* at p. 1.

<sup>19</sup> See OPUC Request.

transmitting certification forms to wireline and wireless ETCs.<sup>20</sup> They suggest that OPUC is prepared to retain the documents and provide upon request and if needed for audit purposes, and is also prepared to comply with the FCC's retention requirements for these documents. If the Commission does not grant reconsideration of the requirement as requested by USTelecom, or endorse Oregon's current process as in compliance with the rules governing certification, wireline and wireless ETCs in Oregon will be unable to comply with the Commission's rules. The Status Update filed by the OPUC on November 4, 2013,<sup>21</sup> indicated that the OPUC intended to file a petition for permanent waiver on or before Friday, November 29, 2013.<sup>22</sup> The OPUC, jointly with the OTA, did in fact file such a petition on November 25, 2013.<sup>23</sup> If the OPUC Petition is granted by the Bureau, ETCs providing Lifeline service in Oregon should similarly be granted permanent waiver of the rules requested in the *Waiver Extension Petition*. If the OPUC Petition is not granted by the Bureau, ETCs in Oregon should be provided an extension of the current waiver of the Lifeline certification rules through August 1, 2014, while the Bureau and OPUC determine a suitable resolution of the certification issue.

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<sup>20</sup> *Id.*, at pages 2 and 3, "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 ETC. Alternatively, a secure electronic means of transmitting certification forms to each ETC will have to be developed."

<sup>21</sup> *See* Oregon Public Utility Commission Status Update, WC Docket 11-42, filed Nov. 4, 2013.

<sup>22</sup> *Id.* at p. 1.

<sup>23</sup> *See* Petition for Permanent Waiver of the Public Utility Commission of Oregon and Oregon Telecommunications Association, WC Docket Nos. 11-42, 03-109, 12-23 and CC Docket No. 96-45, (filed Nov. 25, 2013).

- Utah – The Utah Public Service Commission (Utah PSC) filed a Status Update on October 31, 2013,<sup>24</sup> indicating that it is not yet in compliance with the certification process but that it is examining two possible paths to compliance.<sup>25</sup> ETCs in Utah should be provided an extension of the current waiver of the Lifeline certification rules through August 1, 2014, while the Utah PSC determines and implements a resolution of the certification issue.
- Vermont -- On November 19, 2012 the Vermont Department of Public Service (VDPS) filed a petition with the Commission in this matter which included a request for waiver of section 54.410.<sup>26</sup> In this petition, the VDPS stated that that due to confidentiality restrictions, certification forms are not shared with ETCs.<sup>27</sup> On February 15, 2013, the Commission granted the request in this petition allowing Vermont to opt out of the National Accountability Database. However, Vermont’s request for waiver of section 54.410 was not addressed. In light of this, ETCs in Vermont continue to be unable to comply with the Commission’s rules. In the Status Update filed by the VDPS on November 8, 2013,<sup>28</sup> the VDPS indicated that it will, on or before December 20, 2013 file a petition for permanent waiver.<sup>29</sup> If such a Petition is filed, and if it is granted by the

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<sup>24</sup> See State of Utah Public Service Commission Lifeline Waiver Compliance Status Report, WC Docket 11-42, filed Oct. 31, 2013.

<sup>25</sup> *Id* at p. 1.

<sup>26</sup> See Petition and Certification of the Vermont Department of Public Service to Opt-Out of the National Lifeline Database and Petition for Waiver of Sec. 54.410, submitted in CC Docket No. 96-45, WC Docket No. 11-42, WC Docket No. 03-109 and WC Docket No. 12-23, dated Nov. 1, 2012 and filed Nov. 19, 2012.

<sup>27</sup> *Id* at page 5.

<sup>28</sup> See Status Report from Tamera S. Pariseau, Chief of Consumer Affairs & Public Information, State of Vermont Department of Public Service, WC Docket No. 11-42, filed Nov. 8, 2014.

<sup>29</sup> *Id* at p. 1.

Bureau, ETCs providing Lifeline service in Vermont should similarly be granted permanent waiver of the rules requested in the Waiver Extension Petition. If such a Petition is not filed, or filed and not granted by the Bureau, ETCs in Vermont should be provided an extension of the current waiver of the Lifeline certification rules through August 1, 2014, while the Bureau and the VDPS determine a suitable resolution of the certification issue.

- California – In California, a third-party administrator is responsible for Lifeline eligibility determinations. There is currently no automated process to separate the certification form from confidential supporting documents. Because of this issue, the Bureau provided the third-party administrator and ETCs in California a waiver of the certification requirement until February 1, 2014. In the Status Report and Request for Extension of Time of the California Public Utilities Commission and the People of the State of California (CPUC) filed November 4, 2013,<sup>30</sup> CPUC indicated that it was developing a solution to automatically separate the certification form from confidential supporting documents that it could implement by July 1, 2014.<sup>31</sup> USTelecom requests that the certification requirement for ETCs in California be similarly extended until July 1, 2014, or until the CPUC implements its solution and is able to provide certifications to ETCs.

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<sup>30</sup> See Status Report and Request for Extension of Time of the California Public Utilities Commission and the People of the State of California to Comply with 47 C.F.R. §§ 54.407(d), 54.410(b)(2)(ii), 54.410(c)(2)(ii) and 54.410(e), WC Docket No. 11-42, filed Nov. 4, 2013.

<sup>31</sup> *Id* at p. 3.

### III. CONCLUSION

The Bureau found good cause to grant the waiver which expires February 1, 2014.<sup>32</sup> The same situation exists now in the states listed above as when the *Waiver Order* was promulgated; thus, the same good cause to grant the extension of waiver in those states exists. For the foregoing reasons, the Commission should grant the Petition for Extension of Waiver.

Respectfully submitted,

UNITED STATES TELECOM ASSOCIATION



By: \_\_\_\_\_

David Cohen  
Jonathan Banks

Its Attorneys

607 14<sup>th</sup> Street, NW, Suite 400  
Washington, D.C. 20005  
202-326-7300

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<sup>32</sup> See *Waiver Order* at ¶ 1.