

**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
	)	

**WAIVER ORDER**

**Adopted: May 31, 2012**

**Released: May 31, 2012**

By the Chief, Wireline Competition Bureau:

1. In this order, we grant in part and deny in part four separate petitions seeking permanent or temporary waiver of various rules adopted in *the Lifeline Reform Order*.<sup>1</sup> The petitions were filed by the United States Telecommunications Association (USTelecom), the California Public Utilities Commission (CPUC), the Public Utility Commission of Oregon (OPUC) and the Oregon Telecommunications Association (OTA), and the Colorado Public Utilities Commission (COPUC).<sup>2</sup> Each of the Petitions is addressed below.

2. *USTelecom Petition*. In its petition, USTelecom seeks a temporary waiver on behalf of ETCs in select states of the obligation to obtain from the state a signed certification from a subscriber prior to seeking reimbursement for that subscriber.<sup>3</sup> Specifically, USTelecom seeks a waiver for ETCs in

<sup>1</sup> Lifeline and Link Up Reform and Modernization et al., Report and Order and Further Notice of Rulemaking, WC Dkt. Nos. 11-42 et al., CC Dkt. No. 96-45, FCC 12-11 (rel. Feb 6, 2012) (*Lifeline Reform Order*).

<sup>2</sup> See *Lifeline and Link Up Reform and Modernization et al.*, Petition for Waiver, WC Dkt. Nos. 11-42 et al., CC Dkt. No. 96-45 (filed Apr. 25, 2012) (*USTelecom Petition*); *Lifeline and Link Up Reform and Modernization et al.*, Petition for Waiver of the California Public Utilities Commission and the People of the State of California, WC Dkt. Nos. 11-42 et al. CC Dkt. No. 96-45 (filed Apr. 26, 2012) (*California Petition*); *Lifeline and Link Up Reform and Modernization et al.*, Public Utility Commission of Oregon and Oregon Telecommunications Association, Petition for Waiver, WC Dkt. Nos. 11-42 et al., CC Dkt No. 96-45 (filed Apr. 19, 2012) (*Oregon Petition*); *Lifeline and Link Up Reform and Modernization et al.*, Colorado Public Utilities Commission, Petition for Waiver, WC Dkt. Nos. 11-42 et al., CC Dkt No. 96-45 (filed Apr. 6, 2012) (*Colorado Petition*).

<sup>3</sup> See *USTelecom Petition* at 2 (seeking a waiver in particular states from sections 54.407(d), 54.410(b)(2), and 54.401(c)(2) of the Commission's rules). In those states where the state Lifeline administrator or another state agency is responsible for the initial determination of subscribers' eligibility, sections 54.410(b)(2) and 54.410(c)(2) of the Commission's rules require ETCs to obtain notice of eligibility and certification forms from the administrator or the applicable agency for each Lifeline subscriber before the ETC seeks reimbursement from the Universal Service Fund (Fund) for providing Lifeline services to that subscriber. See 47 C.F.R. § 54.410(b)(2), (c)(2). Section 54.407(d) requires an ETC to certify, as part of each request for reimbursement, that it is in compliance with all of the Lifeline rules, and, to the extent required, has obtained a valid certification and recertification form from each of (continued...)

those states in which the state Lifeline administrator or other state agency will be collecting subscriber certifications of eligibility, but have not yet modified their procedures in accordance with the Lifeline Reform Order to provide ETCs with subscriber certifications.<sup>4</sup> USTelecom limits its request to the subset of ETCs and/or programs for which the state makes initial eligibility determinations, and subsequent to filing the petition withdrew its request for waiver for certain states.<sup>5</sup> USTelecom argues that in the absence of a waiver, ETCs in the affected states may stop enrolling Lifeline subscribers, because they cannot seek reimbursement for those subscribers without a copy of the certification form from the state.<sup>6</sup> USTelecom requests a waiver of this obligation until the states are able to provide ETCs with copies of certifications.<sup>7</sup> The states and other jurisdictions covered by the narrowed request for waiver are California, Colorado, District of Columbia, Florida, Idaho, Montana, Nebraska, Nevada, Oregon, the U.S. Virgin Islands, Utah, Vermont, and Washington.

3. We conditionally grant in part and deny in part USTelecom's narrowed request for relief from sections 54.407(d), 54.410(b)(2)(ii) and 54.410(c)(2)(ii) of the Commission's rules, which require ETCs in those states where a state entity is responsible for the initial determination of subscribers' eligibility to obtain certification forms from the state for each Lifeline subscriber before the ETC seeks reimbursement from the Fund, and, on our own motion, provide a waiver from section 54.410(e), which requires state entities to provide such certification forms to the ETCs.<sup>8</sup> Specifically, we grant a waiver from sections 54.410(b)(2)(ii) and 54.410(c)(2)(ii) and portions of section 54.407(d) with respect to ETCs in those states in which the state Lifeline administrator or other state agency manages subscriber eligibility and is unable to modify, in the short term, its processes for ETCs to come into compliance with

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the subscribers for whom it seeks reimbursement. See 47 C.F.R. § 54.407(d). After filing its petition, USTelecom withdrew its request for a waiver from the requirement that ETCs obtain notification of eligibility from the state. See Letter of David B. Cohen, USTelecom, to Marlene H. Dortch, FCC, WC Dkt. No. 11-42 *et al.*, CC Dkt. No. 96-45 at 2 (filed May 16, 2012) (withdrawing request for waiver from 54.410(b)(2)(i) and 54.410(c)(2)(i)). USTelecom also narrowed its original request for relief from 20 states to 13 states. See Letter of David B. Cohen, USTelecom, to Marlene H. Dortch, FCC, WC Dkt. No. 11-42 *et al.*, CC Dkt. No. 96-45 at 1 (filed May 14, 2012) (withdrawing request for waiver in Kansas, Tennessee and New Jersey); Letter of David B. Cohen, USTelecom, to Marlene H. Dortch, FCC, WC Dkt. No. 11-42 *et al.*, CC Dkt. No. 96-45, at 1 (filed May 16, 2012) (withdrawing request for New York); Letter of David B. Cohen, USTelecom, to Marlene H. Dortch, FCC, WC Dkt. No. 11-42 *et al.*, CC Dkt. No. 96-45 at 1 (filed May 21, 2012) (withdrawing request for Arizona); Letter of David B. Cohen, USTelecom, to Marlene H. Dortch, FCC, WC Dkt. No. 11-42 *et al.*, CC Dkt. No. 96-45 at 1 (filed May 24, 2012) (withdrawing request for Ohio and Texas).

<sup>4</sup> See *USTelecom Petition* at 2.

<sup>5</sup> See *USTelecom Petition* at 2 (“In several states, some ETCs are required to make all Lifeline eligibility determinations themselves while state agencies or administrators perform some or all of this function for other ETCs. In such states, the requested waiver would apply only where ETCs do not currently perform all of the Lifeline eligibility determinations themselves.”); *id.* at 3 (noting that some states handle notification of eligibility for some qualifying programs but not others and that the requested waiver would only apply to the qualifying programs).

<sup>6</sup> See *USTelecom Petition* at 3 (arguing that without a waiver, “ETCs in the affected states will likely have no choice but to decline to enroll new subscribers in the Lifeline program. If the ETC were to do otherwise...an ETC would risk violating the Commission's rules.”).

<sup>7</sup> See *USTelecom Petition* at 2.

<sup>8</sup> See 47 C.F.R. §§ 54.407(d), 54.410(b)(2)(ii), 54.410(c)(2)(ii), 54.410(e).

these rules.<sup>9</sup> We also grant, on our own motion, a waiver from the corresponding section 54.410(e) requirement for these same states to provide a copy of certification forms to ETCs.<sup>10</sup> For the duration of this waiver, the ETCs in these states may seek reimbursement without having received certification forms from the state.<sup>11</sup>

4. We deny USTelecom's request that the waiver remain in effect indefinitely until the waiver states are able to bring their procedures into compliance with our rules.<sup>12</sup> Such an open-ended extension would provide no incentive for states to change their processes expeditiously and could indefinitely postpone the benefits of the reforms adopted by the Commission. The waivers described herein are granted until the sooner of December 1, 2012 or until the states' processes have been modified to allow for compliance with our rules. An additional six months should be a sufficient amount of time for states to take the required actions to ensure that ETCs in the waiver states will receive the necessary certifications. To the extent that a state obtaining a waiver as set forth in this section requires additional time to come into compliance, the state or ETCs operating within that state may file an additional request for relief. Any ETC or state seeking further relief should include in its request an explanation of the specific challenges faced by the relevant state in coming into compliance with the Commission's Lifeline certification rules and a firm timetable for coming into compliance with those rules. To ensure that the waiver remains in place only as long as necessary and ETCs remain informed regarding the status of the waiver, we condition our relief on the requirement that USTelecom provide an update to the Bureau by August 1, 2012 on the states' progress to come into compliance with our rules.

5. We find that there is good cause to grant the waiver described herein.<sup>13</sup> The certification requirements in the *Lifeline Reform Order* are aimed at ensuring that ETCs only seek reimbursement for

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<sup>9</sup> We waive only the portion of section 54.407(d) that requires the ETC to have obtained a valid certification form from each of its subscribers for whom it is receiving reimbursement in those instances where the state makes the initial eligibility determination. ETCs in the waiver states must remain in compliance with all of our other rules, including the obligation to obtain subscriber certifications from consumers prior to seeking reimbursement in those instances not covered by the scope of our waiver. See 47 C.F.R. § 54.407(d).

<sup>10</sup> See 47 C.F.R. § 54.410(e). This rule is waived to the same extent that we waive compliance with sections 54.407(d), 54.410(b)(2)(ii) and 54.410(c)(2)(ii).

<sup>11</sup> We clarify that, as narrowed by USTelecom, these waivers do not apply to states or the ETCs in those states in those instances where the state does not make the initial determination of subscriber eligibility for income or a qualifying program. See *supra* n. 4. For example, in Florida, the state only makes eligibility determinations with respect to income, SNAP, TANF and Medicaid, but not other programs such as Federal Public Housing assistance. See AT&T Comments at 8. Therefore, this waiver is only applicable to Florida when subscribers qualify based on income, SNAP, TANF and Medicaid.

<sup>12</sup> See *USTelecom Petition* at 2.

<sup>13</sup> Generally, the Commission's rules may be waived if good cause is shown. 47 C.F.R. § 1.3. The Commission may exercise its discretion to waive a rule where the particular facts make strict compliance inconsistent with the public interest. *Northeast Cellular Telephone Co. v. FCC*, 897 F.2d 1164, 1166 (D.C. Cir. 1990) (*Northeast Cellular*). In addition, the Commission may take into account considerations of hardship, equity, or more effective implementation of overall policy on an individual basis. *WAIT Radio v. FCC*, 418 F.2d 1153, 1159 (D.C. Cir. 1969); *Northeast Cellular*, 897 F.2d at 1166. Waiver of the Commission's rules is appropriate only if both (i) special circumstances warrant a deviation from the general rule, and (ii) such deviation will serve the public interest. *Network IP, LLC v. FCC*, 548 F.3d 116, 125-128 (D.C. Cir. 2008); *Northeast Cellular*, 897 F.2d at 1166. The Commission has granted waiver of implementation deadlines for regulatory requirements on numerous occasions. See, e.g., *Local Number Portability Porting Interval and Validation Requirements*, 23 FCC Rcd 2425 (2008) (waiving deadline for complying with local number portability validation process); *Waiver from Customer Proprietary Network Information Notification Requirements*, CCP Pol. 97-13, Order, 12 FCC Rcd 21756 (1997).

subscribers who have executed a certification form attesting to their compliance with the Lifeline program requirements.<sup>14</sup> In the states at issue, the state Lifeline administrators or other state agencies must obtain executed certification forms from subscribers pursuant to section 54.410(d).<sup>15</sup> During the waiver period, in accordance with sections 54.410(b)(2)(i) and 54.410(c)(2)(i), these states must provide notice to the ETCs that their subscribers have complied with the Lifeline eligibility requirements and have executed a certification form. We remind the ETCs in these states that they must maintain records to document compliance with all Commission and state requirements governing the Lifeline program,<sup>16</sup> and must be prepared, upon request, to produce copies of such state notifications to the Universal Service Administrative Company or this Commission. We find that a temporary, narrowly tailored waiver from a portion of those rules is appropriate in this case to ensure that all eligible consumers are able to continue to receive benefits while ETCs remain compliant with our rules.

6. *California Petition.* In its petition, the CPUC seeks (1) a permanent waiver from the obligation to provide certification forms to eligible telecommunications carriers pursuant to section 54.410(e) of the Commission's rules; (2) a waiver until January 31, 2013 to comply with those portions of section 54.410(d) of the Commission's rules relating to the collection of subscriber information; (3) a waiver until December 31, 2013 to comply with the recertification requirements provided for in section 54.410(f) of the Commission's rules; and (4) a waiver until the end of January 2013 to comply with the temporary address requirements contained in sections 54.410(d) and 54.410(g) of the Commission's rules.<sup>17</sup> The CPUC suggests that a permanent waiver of the obligation to provide certification forms to ETCs, except when an ETC requests a specific certification form, is appropriate because California has a third-party administrator who is responsible for certifying compliance with the Lifeline rules.<sup>18</sup> With respect to its requests for a temporary waiver of certain other provisions of section 54.410 of the Commission's rules, the CPUC explains that it recently hired a new third-party administrator for its Lifeline program and because of the transition to a new vendor, the CPUC may not be able to adjust its system quickly enough to ensure timely compliance with the specified sections of the Commission's amended rules.<sup>19</sup> We address below each of the CPUC's four requests in turn.

7. California seeks a permanent waiver from the obligation to provide certification forms to ETCs pursuant to section 54.410(e).<sup>20</sup> We are not persuaded that a permanent waiver from section 54.410(e) is appropriate at this time, because the ETCs have an obligation to maintain records to document compliance with all Lifeline program requirements.<sup>21</sup> However, as explained above, we recognize that in some states, including California, where the state makes the initial determination of Lifeline eligibility and the state has not yet put processes in place to provide certification forms to ETCs, it may be difficult to comply with the current June 1, 2012 deadline for providing those certification

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<sup>14</sup> See *Lifeline Reform Order* para. 91 (noting that the purpose of the revised certification requirements is to increase consistency in certification practices and reduce the number of ineligible consumers in the Lifeline program).

<sup>15</sup> 47 C.F.R. § 54.410(d).

<sup>16</sup> 47 C.F.R. § 54.417.

<sup>17</sup> See *California Petition* at 1-3. See also section 54.410(e), (d), (f) and (g) of the Commission's rules, as amended by the *Lifeline Reform Order*, 47 C.F.R. § 54.410 (e), (d), (f), and (g) (2012).

<sup>18</sup> See *California Petition* at 3-4.

<sup>19</sup> See *id.* at 4-8.

<sup>20</sup> *California Petition* at 3-4.

<sup>21</sup> See 47 C.F.R. § 54.417.

forms to the ETCs, and we are granting a temporary waiver, until December 1, 2012, from section 54.410(e) for 13 states, including California.<sup>22</sup> The CPUC therefore has until December 1, 2012 to begin providing subscriber certifications to the appropriate ETCs.

8. California also seeks a waiver until January 31, 2013 to collect the last four digits of the subscriber's social security number and date of birth pursuant to section 54.410(d).<sup>23</sup> In light of CPUC's recent hiring of a new third-party administrator for its Lifeline program, we grant the CPUC's request for a temporary waiver, until January 31, 2013, from the obligation in section 54.410(d) to obtain the last four digits of a subscriber's social security number (or Tribal ID if applicable) and date of birth of the subscriber. The primary purpose of collecting such information and sharing it with USAC is to identify and prevent duplicates. California has in place a system for checking for duplicative support. We therefore find that a waiver until that time will not substantially undermine the Commission's objective of eliminating waste, fraud and abuse in the program. Moreover, given California's recent change in Lifeline administrators, it is appropriate to provide additional time to determine which entity (the ETC or state administrator) will collect the data and communicate that decision to stakeholders.<sup>24</sup>

9. In addition, the CPUC seeks a waiver until December 31, 2013 to comply with the recertification requirements provided for in section 54.410(f) of the Commission's rules.<sup>25</sup> In light of CPUC's transition to a new third-party administrator for its Lifeline program, we grant the CPUC's request for a temporary waiver, until December 31, 2013, to comply with the recertification requirements of section 54.410(f). The purpose of the recertification provision requirements is to eliminate waste, fraud and abuse in the program, and determine whether subscribers continue to remain eligible for the benefit.<sup>26</sup> The CPUC proposes that, until it can meet all of the requirements of section 54.410(f), it will continue with its existing recertification processes.<sup>27</sup> The CPUC's ongoing recertification processes, as well as other measures it started on its own initiative, have already eliminated a substantial amount of waste, fraud and abuse in the program in the state of California.<sup>28</sup> A temporary waiver will allow the

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<sup>22</sup> *Id.* We also grant a waiver until December 1, 2012 for the ETCs operating in the States covered by the USTelecom Petition from the portions of sections 54.407(d), 54.410(b) and 54.410(c) which require ETCs to obtain certification forms from state administrators, including California, where the state administrator makes the initial determination of Lifeline eligibility.

<sup>23</sup> *California Petition* at 7.

<sup>24</sup> The Commission has found and the CPUC reiterates, the CPUC has a process in place to eliminate duplicative support. See *Lifeline Reform Order*, FCC 12-11 at n. 579 (noting California's duplicate checking process); *California Petition* at 6 ("As part of our enrollment process, the third-party administrator in California checks each new applicant to determine if he/she is already receiving a discount with either the same or different service provider.") The CPUC notes that beginning in January 2013, any new consumers or existing consumers who are certified or recertified will be rejected or removed from the program if they do not provide this information. See CPUC Letter at 1.

<sup>25</sup> *California Petition* at 4-5.

<sup>26</sup> See *Lifeline Reform Order*, FCC 12-11 at para. 135.

<sup>27</sup> See *California Petition* at n.10. The CPUC continues to modify its recertification process to move towards compliance with section 54.410(f). The process is or will soon be identical to Commission's processes outlined in section 54.410(f), except that the CPUC will not obtain all of the customer attestations required by 54.410(d) under its current process. See Letter of Sindy J. Yun, CPUC, to Marlene H. Dortch, FCC, WC Dkt. No. 11-42 *et al.*, CC Dkt. No. 96-4 at 2 (filed May 17, 2012) (*CPUC Ex Parte*).

<sup>28</sup> See *CPUC Ex Parte* at 2. The CPUC may be able to complete its first round of recertifications using its existing process by June 2013. *Id.*

CPUC to continue these measures without interruption. Therefore, we find that a temporary waiver of these requirements, conditioned on the CPUC's commitment to continue its existing recertification process, is appropriate and will not undercut the underlying purpose of the recertification requirements.

10. Finally, the CPUC seeks a waiver until the end of January 2013 to comply with the temporary address requirements contained in sections 54.410(d) and 54.410(g) of the Commission's rules. Because California is in the middle of transitioning to a new third-party administrator, we grant the CPUC's request for a temporary waiver, until January 31, 2013, from the obligations in section 54.410(d) to ask Lifeline subscribers whether their addresses are permanent or temporary, but we deny, as premature, the CPUC's request for a waiver from the temporary address recertification requirements in section 54.410(g). A temporary waiver of the requirement that the Lifeline administrator determine whether a subscriber's address is temporary or permanent will not impact the Commission or the CPUC's ability to detect waste, fraud and abuse because the CPUC will begin collecting this information in early 2013 and will subsequently re-certify these subscribers to obtain a new address, if applicable. However, we deny the CPUC's request for waiver from the requirements of 54.410(g) that ETCs in California recertify every 90 days the residential addresses of subscribers who have provided temporary addresses, as premature because the Commission has not yet sought Paperwork Reduction Act approval for that requirement, and we do not yet know the effective date of the rule.<sup>29</sup>

11. *Oregon and Colorado Petitions.* The Oregon and Colorado petitions seek a waiver until July 1, 2013 of the uniform eligibility criteria for the Lifeline program established in the *Lifeline Reform Order* and provided for in section 54.409 of the Commission's rules.<sup>30</sup> Previously, states that mandated state lifeline support were permitted to set the Lifeline eligibility criteria for residents of their states, provided that the criteria were based on income or on factors related to income.<sup>31</sup> Both Colorado and Oregon mandate state lifeline support and have state laws governing the eligibility criteria for receiving Lifeline support in their respective states.<sup>32</sup> In both instances the current statutorily mandated eligibility-criteria do not match the eligibility criteria provided for in the Commission's amended rules.<sup>33</sup> Both states administer their state programs in conjunction with the federal Lifeline program and qualify consumers for those programs using the eligibility criteria established by their respective state statutes.<sup>34</sup>

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<sup>29</sup> The FCC withdrew its request for emergency OMB approval of the temporary address recertification requirements in 54.410(g). See *Wireline Competition Bureau Provides Notice Regarding The Effective Date Of Certain Rules Adopted In The Lifeline Reform Order*, Public Notice, DA 12-689, n.2, 3 (rel. May 1, 2012) (clarifying that OMB approved the information collection requirements in 54.410(a-f), but that the FCC withdrew its request for approval of 54.410(g)). We plan to submit for regular OMB approval of all of the rules in the *Lifeline Reform Order* in the near future.

<sup>30</sup> See *Oregon Petition* and *Colorado Petition; Lifeline Reform Order* at paras. 62-68; 47 C.F.R. § 54.509 (2012).

<sup>31</sup> 47 C.F.R. § 54.409.

<sup>32</sup> Letter from John T Scott, CoPUC, to Marlene Dortch, FCC, WC Dkt. No. 11-42 *et al.*, CC Dkt. No. 96-45, at 1-2 (filed May 10, 2012) (*Colorado Ex Parte*); Letter from Jon Cray, OPUC, to Marlene Dortch, FCC, WC Dkt. No. 11-42 *et al.*, CC Dkt. No. 96-45, at 1 (filed May 8, 2012) (*Oregon Ex Parte*).

<sup>33</sup> *Colorado Ex Parte* at 2; *Oregon Ex Parte* at 1.

<sup>34</sup> *Oregon Petition* at 2-3 ("The OPUC is responsible for developing the single OTAP and Lifeline application form, accepting and processing all Lifeline applications, and verifying the eligibility of each participant on both an initial and ongoing basis."); *Colorado Ex Parte Letter* at 1 ("[S]ince 1990, the CoPUC, in conjunction with the Colorado Department of Health and Human Services...has administered by federal and state low-income telephone assistance programs in Colorado."); Sprint Comments at 5 ("Both Oregon and Colorado have a Lifeline eligibility system that compares applicants' information against a state data base administered by the respective departments of human (continued...)")

12. According to the OPUC, OTA and COPUC (together the Oregon and Colorado petitioners), until their respective state laws are changed, the state administrators will be unable to qualify consumers for Lifeline eligibility based on the programs covered by the Commission's rules that are not provided for in their respective state laws.<sup>35</sup> In the absence of a waiver, eligibility determinations for those programs outside of the state administrator's jurisdiction would have to be made by ETCs.<sup>36</sup> The Oregon and Colorado petitioners argue that this bifurcated process would impose undue and unnecessary burdens on the ETCs and consumers and would eliminate the benefits of unified program administration.<sup>37</sup> The Oregon and Colorado petitioners explain that a waiver will ensure Oregon's and Colorado's continued administration of the Lifeline program and will minimize consumer confusion.<sup>38</sup> Therefore, the Oregon and Colorado petitioners have sought a waiver of the Commission's eligibility criteria until July 1, 2013, by which time they assert their state laws can be amended to conform to the Commission's amended rules.<sup>39</sup>

13. We find that there is good cause to grant a temporary waiver from the uniform eligibility requirements in Oregon and Colorado. The uniform eligibility criteria established in the *Lifeline Reform Order* are designed to create a baseline of eligibility for the federal program, to facilitate the establishment of an automatic means of checking for Lifeline eligibility and to reduce burdens on ETCs by standardizing eligibility across states.<sup>40</sup> A temporary limited waiver from the uniform eligibility criteria is consistent with these policies, narrowly tailored to the particular circumstances in these states.

14. We applaud the efforts of state administrators, including the petitioners, who have already moved ahead with efforts to automate eligibility determinations.<sup>41</sup> State administrators have played and continue to play an important role in administering the Lifeline program and in eliminating waste, fraud and abuse in the Lifeline program. The waiver that we grant herein will allow OPUC and COPUC to continue these efforts and will avoid creating a bifurcated process under which some subscribers are signed up through the state administrators and others through the ETCs.<sup>42</sup> The waiver will also prevent

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services. These data bases contain information on all Colorado and Oregon residents, respectively, that receive benefits under the approved state qualifying programs.”).

<sup>35</sup> See *Oregon Ex Parte Letter* at 2 (“[S]tate statutes do not authorize the OPUC to serve or process Lifeline customers that do not meet Oregon criteria.”); *CoPUC Ex Parte Letter* at 2 (noting that if an eligible telecommunications carrier (ETC) cannot determine eligibility by accessing the DHS database, the ETC “must obtain and review documentation demonstrating that a prospective subscriber qualifies for Lifeline under the new uniform eligibility requirements.”).

<sup>36</sup> See *Oregon Ex Parte Letter* at 1-2; *CoPUC Ex Parte Letter* at 2.

<sup>37</sup> See *Oregon Ex Parte Letter* at 1; *CoPUC Ex Parte Letter* at 2-3.

<sup>38</sup> *Id.*

<sup>39</sup> See *Oregon Petition* at 3-4; *Colorado Petition* at 2.

<sup>40</sup> See *Lifeline Reform Order* at paras. 66-68.

<sup>41</sup> See *Lifeline Reform Order* at para. 97 (discussing importance of and benefits to establishing a fully automated means for verifying consumers' eligibility).

<sup>42</sup> Petitioners and commenters argue that the state administrators in Oregon and Colorado have played a key role in ensuring that the program runs smoothly while minimizing waste, fraud and abuse. See, e.g. Leap Comments at 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.”). See also Letter of John (continued...)

consumer confusion which may result from an interim, bifurcated process in which ETCs sign up consumers through certain qualifying programs, while the state continues to sign up consumers through the qualifying programs enumerated in state law.

15. We also find that the waiver we grant will not have a substantial impact on the ability of low-income consumers to obtain Lifeline benefits. We note that both the Colorado and Oregon statutes allow consumers to receive Lifeline benefits under many of the uniform eligibility criteria, including, in the case of Oregon, the three programs which the Commission has found qualify most consumers for Lifeline.<sup>43</sup> Moreover, any effect on Lifeline enrollment will last no longer than the limited duration of the waiver.

16. At the same time, we recognize that providing even a limited waiver of the uniform eligibility requirements to Colorado and Oregon may make it more difficult for some consumers in those states to qualify for Lifeline support, and will, temporarily, reduce the benefits the Commission anticipated from having nationwide baseline eligibility criteria. Moreover, the Oregon and Colorado petitioners have not demonstrated that a waiver until July is necessary, given that both the Oregon and Colorado legislatures will reconvene in early 2013.<sup>44</sup> We expect that petitioners will work expeditiously to seek the necessary legislative changes early in the legislative session and require them, as a condition of granting this waiver, to notify us of the status of those efforts no later than March 1, 2013. We therefore provide a waiver of the uniform eligibility requirements for residents of Colorado and Oregon until April 1, 2013.<sup>45</sup> Under the waiver we grant today, the state administrators in Colorado and Oregon may continue to qualify Lifeline consumers under the qualifying criteria established in their state statutes and are not required to use the eligibility criteria for the Lifeline program provided for in section 54.409(a) and (b) of the Commission's rules until April 1, 2013.

17. ACCORDINGLY, IT IS ORDERED, pursuant to the authority contained in sections 1-4 and 254 of the Communications Act of 1934, as amended, 47 U.S.C. §§ 151-154, 254, and sections 0.91, 0.291, and 1.3 and 54.722(a) of the Commission's rules, 47 C.F.R. §§ 0.91, 0.291, 1.3, that the request for waiver filed by USTelecom are GRANTED in part and DENIED in part to the extent described herein.

18. IT IS FURTHER ORDERED, pursuant to the authority contained in sections 1-4 and 254 of the Communications Act of 1934, as amended, 47 U.S.C. §§ 151-154, 254, and sections 0.91, 0.291, and 1.3, of the Commission's rules, 47 C.F.R. §§ 0.91, 0.291, 1.3 that the request for waiver filed by the California Public Utilities Commission is GRANTED in part and DENIED in part to the extent described herein.

19. IT IS FURTHER ORDERED, pursuant to the authority contained in sections 1-4 and 254 of the Communications Act of 1934, as amended, 47 U.S.C. §§ 151-154 and 254, and sections 0.91,

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Cray, OPUC, to Marlene H. Dortch, Secretary, FCC, WC Dkt. Nos. 11-42 *et al.*, CC Dkt. No. 96-45 at 1 (filed May 8, 2012) (*Oregon Ex Parte Letter*); *OPUC Petition* at 3; *CoPUC Ex Parte Letter* at 2.

<sup>43</sup> See *Lifeline Reform Order* at para. 105; see also *Oregon Petition* at n. 8 ("Oregon already allows eligibility based on SNAP, SSI, TANF and some types of Medicaid plans and will add the National School Free Lunch Program effective June 1, 2012"); *Colorado Petition* at 2 (noting that the Colorado law provides Lifeline eligibility under, among other things, SSI, LIHEAP and TANF).

<sup>44</sup> See *Oregon Petition* at 4 (noting that the Oregon legislature will reconvene in February); Colorado Const. Section 7 (stating that the Colorado general assembly must meet no later than the second Wednesday of January).

<sup>45</sup> If, as the April 1, 2013 deadline approaches, the petitioners do not believe the deadline can be met, they are free to file additional requests for waiver.



0.291, and 1.3 of the Commission's rules, 47 C.F.R. §§ 0.91, 0.291, 1.3, that the request for waiver filed by the Public Utility Commission of Oregon and the Oregon Telecommunications Association and the request for waiver filed by the Colorado Public Utilities Commission are GRANTED in part and DENIED in part to the extent described herein.

20. IT IS FURTHER ORDERED, pursuant to the authority contained in sections 1-4 and 254 of the Communications Act of 1934, as amended, 47 U.S.C. §§ 151-154, 254, and sections 0.91, 0.291, and 1.3 of the Commission's rules, 47 C.F.R. §§ 0.91, 0.291, 1.3, that sections 54.410(b)(2)(ii), 54.410(c)(2)(ii), 54.410(e) and portions of 54.407(d) of the Commission's rules, 47 C.F.R. §§ 54.407(d), 54.409(a), 54.409(b), 54.410(b)(2)(ii), 54.410(c)(2)(ii), 54.410(d), 54.410(e), 54.410(f), 54.410(g) ARE WAIVED to the limited extent provided herein.

FEDERAL COMMUNICATIONS COMMISSION

Sharon Gillett  
Chief  
Wireline Competition Bureau