

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

ORDER

Adopted: December 1, 2016

Released: December 1, 2016

By the Chief, Wireline Competition Bureau:

I. INTRODUCTION

1. In this Order, the Wireline Competition Bureau (Bureau) grants in part and denies in part ten petitions or requests for waiver of the effective date of rules adopted in the 2016 Lifeline Modernization Order, including the Commission’s Lifeline eligibility rules and port freeze rules, which take effect on December 2, 2016. The petitions were filed by the United States Telecom Association (USTelecom),1 and the states of California, Wisconsin, Washington, and Oregon.2 State authorities in the states of Vermont, Michigan, New York, Utah, Missouri, Puerto Rico, Maryland, and New Mexico3 filed comments or requests for temporary waiver in response to the USTelecom waiver petition requesting more time to implement the Commission’s Lifeline eligibility rules in those jurisdictions.4

1 See Petition for Waiver of the United States Telecom Association, WC Docket No. 11-42 et al. (filed Oct. 3, 2016) (USTelecom Waiver Petition); Letter from Kevin G. Rupy, Vice President, Law and Policy, the United States Telecom Association, to Marlene H. Dortch, Secretary, FCC, WC Docket No. 11-42 et al., (filed Oct. 17, 2016) (USTelecom Ex Parte); Letter from Kevin G. Rupy, Vice President, Law and Policy, the United States Telecom Association, to Marlene H. Dortch, Secretary, FCC, WC Docket No. 11-42 et al., (filed Nov. 11, 2016) (USTelecom November Ex Parte).

2 Petition of the California Public Utilities Commission For Temporary Waiver, WC Docket No. 11-42 et al. (filed Oct. 28, 2016) (CPUC Petition); Petition of the Public Service Commission of Wisconsin, WC Docket No. 11-42 et al. (filed Nov. 3, 2016) (PSCW Petition); Petition of the Washington Utilities and Transportation Commission, WC Docket No. 11-42 et al. (filed Nov. 10, 2016) (WUTC Petition); Petition of the Public Utility Commission of Oregon for Temporary Waiver, WC Docket No. 11-42 et al. (filed Nov. 9, 2016) (Oregon Waiver Petition).

3 Waiver Request of the Vermont Department of Public Service, WC Docket No. 11-42 (filed Nov 3, 2016) (VDPS Waiver Request); Comments of the Michigan Public Service Commission, WC Docket No. 11-42 et al., at 3 (filed Oct. 21, 2016) (MPSC Petition); Comments of the New York Public Service Commission, WC Docket No. 11-42 et al. (filed Oct. 21, 2016) (NYPSC Comments); Comments of the Utah Division of Public Utilities, WC Docket No. 11-42 et al. (filed Oct. 21, 2016) (Utah Comments); Comments of the Missouri Public Service Commission, WC Docket No. 11-42 et al. (filed Oct. 19, 2016) (Missouri Comments); Comments of the Telecommunications Regulatory Board of Puerto Rico, WC Docket No. 11-42 et al. (filed Oct. 21, 2016) (PRTRB Comments); Letter from David J. Collins, Executive Secretary, Maryland Public Service Commission, to Marlene H. Dortch, Secretary, FCC, WC Docket No. 11-42 (Nov. 22, 2016) (Maryland PSC Ex Parte); Petition of the New Mexico Public Regulation Commission for Temporary Waiver, WC Docket Nos. 11-42 et al. (Nov. 28, 2016) (New Mexico Petition).

4 In light of the fast-approaching effective date of December 2, 2016, and the fact that the Bureau has already sought and received comment on the issue of temporary waivers for states in response to USTelecom’s petition, we find it appropriate to act on the New Mexico Public Regulation Commission’s petition in this Order. See Wireline (continued....)

2. Based on the record before us, we partially grant the petitions or requests for waiver of effective date in the following states: California, Maryland, Michigan, New York, Utah, Vermont, Washington, and Wisconsin, to give the states and Lifeline providers more time to implement the Commission's amended Lifeline eligibility rules. Specifically, we find good cause to partially grant a waiver of the effective dates of sections 54.400(j) and 54.409(a) to the extent that providers in those states may continue to enroll customers who qualify for Lifeline through programs that were removed from sections 54.400(j) and 54.409(a) in the *2016 Lifeline Modernization Order*, but we decline to waive the effective date of inclusion of the Veterans and Survivors Pension Benefit Program as a qualifying program. In each of these eight states, the state has an eligibility database that eligible telecommunications carriers (ETCs) are required to use, but which has not yet been updated to align with the amended federal criteria. For those eight states, this waiver will run from December 2, 2016, until the sooner of the date specified below based on the facts articulated on the record before us, or when the state aligns its eligibility criteria with the Commission's Lifeline eligibility rules and updates its eligibility databases accordingly. Appendix A provides a summary of the latest date on which the waiver granted will expire in each of these eight states.<sup>5</sup>

3. We also grant the petitions of California<sup>6</sup> and Oregon<sup>7</sup> requesting a waiver of the effective date of the Commission's port freeze rules as set forth in section 54.411. The waiver of the effective date of the port freeze rules with respect to ETCs operating in those states will run from December 2, 2016, until the sooner of June 1, 2017, or when the relevant state databases and processes enable ETCs to fully comply with section 54.411.

4. We deny USTelecom's request for waiver of the effective dates of sections 54.400(j) and 54.409(a) of the Commission's Lifeline eligibility rules in the remaining states and territories.<sup>8</sup> We find that USTelecom did not show good cause to delay implementation of the Commission's amended Lifeline eligibility rules in those states and territories. We also find that the Missouri Public Service Commission and the New Mexico Public Regulation Commission did not provide sufficient cause to justify delay of implementation of the amended Lifeline eligibility rules, given that providers perform eligibility checks for qualifying Lifeline consumers in those states and thus are not fully impeded in efficiently determining whether a potential subscriber qualifies pursuant to the amended eligibility criteria.<sup>9</sup> Finally, we deny the requests for waiver filed by the Ohio<sup>10</sup> and Oklahoma<sup>11</sup> Telephone Associations, because neither state maintains its own Lifeline eligibility verifier and thus carriers serving those states face no barrier in determining eligibility under the amended criteria.

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Competition Bureau Seeks Comment on United States Telecom Association's Petition For Waiver, WC Docket No. 11-42, Public Notice, 31 FCC Rcd 11015 (WCB Oct. 6, 2016) (*Waiver Public Notice*).

<sup>5</sup> See Appendix A.

<sup>6</sup> CPUC Petition at 3.

<sup>7</sup> Petition of the Public Utility Commission of Oregon for Temporary Waiver, WC Docket No. 11-42 et al. (filed Nov. 9, 2016) (Oregon Waiver Petition).

<sup>8</sup> Connecticut, District of Columbia, Florida, Idaho, Illinois, Missouri, New Mexico, Oklahoma, Oregon, Puerto Rico, South Carolina, Texas, and West Virginia. See USTelecom November *Ex Parte* at 4.

<sup>9</sup> Comments of the Missouri Public Service Commission, WC Docket No. 11-42 et al. (filed Oct. 19, 2016) (Missouri Comments).

<sup>10</sup> Comments of the Ohio Telecom Association, WC Docket No. 11-42 et al. (filed Oct. 20, 2016) (OTA Comments).

<sup>11</sup> Comments of the Oklahoma Telephone Association, WC Docket No. 11-42 et al. (filed Oct. 21, 2016) (OKTA Comments).

## II. BACKGROUND

5. In the *2016 Lifeline Modernization Order*, the Commission adopted changes to the Lifeline program's eligibility rules.<sup>12</sup> These changes included removing certain federal programs as qualifying programs for Lifeline eligibility;<sup>13</sup> adding the Veterans and Survivors Pension Benefit as a qualifying program;<sup>14</sup> and removing state-specific Lifeline eligibility criteria.<sup>15</sup> These changes were made to simplify enrollment in the Lifeline program,<sup>16</sup> to focus enrollment on the most highly-used eligibility programs, and to foster long-term technical solutions with the National Verifier.<sup>17</sup>

6. In its waiver petition filed on October 3, 2016,<sup>18</sup> USTelecom sought a waiver for up to 18 months<sup>19</sup> for 28 states<sup>20</sup> that either (1) offer a state Lifeline discount and require a Lifeline provider to make eligibility determinations; or (2) offer a state Lifeline discount and have a "third party, such as the utility commission or a third party administrator" make the eligibility determination.<sup>21</sup> USTelecom stated that states with their own state-specific eligibility criteria would see their state-specific eligibility criteria misaligned with the amended eligibility criteria for the federal Lifeline discount,<sup>22</sup> and that this could lead to confusion for providers, as some customers may only qualify for a state Lifeline benefit. In response to USTelecom's petition, the Bureau issued a Public Notice seeking comment from states, territories, and other interested parties.<sup>23</sup> On November 11, 2016, USTelecom filed an amended waiver request and removed eight states from its original petition, thereby requesting a waiver in 20 states.<sup>24</sup>

7. In response to the Public Notice and affirmative outreach by Bureau staff,<sup>25</sup> regulatory authorities in nine states filed separate petitions or comments supporting USTelecom's waiver petition,

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<sup>12</sup> *Lifeline and Link Up Reform and Modernization et al.*, Third Report and Order, Further Report and Order, and Order on Reconsideration, 31 FCC Rcd 3962, 4021-4040, paras. 167-216 (2016) (*2016 Lifeline Modernization Order*).

<sup>13</sup> *Id.* at 4021, para. 167.

<sup>14</sup> *Id.*

<sup>15</sup> *Id.* at 4038, para. 212.

<sup>16</sup> *Id.* at 4022, para. 168.

<sup>17</sup> *Id.*

<sup>18</sup> USTelecom Waiver Petition.

<sup>19</sup> USTelecom Waiver Petition at 1-2.

<sup>20</sup> *Id.* at 3, n.4 & n.5 (Alaska, California, Connecticut, the District of Columbia, Florida, Idaho, Illinois, Kansas, Kentucky, Maryland, Michigan, Minnesota, Missouri, Nebraska, Nevada, New Jersey, New Mexico, New York, Ohio, Oklahoma, Oregon, Puerto Rico, South Carolina, Texas, Utah, Vermont, West Virginia, and Wisconsin).

<sup>21</sup> *Id.* at 3.

<sup>22</sup> *Id.* at 2.

<sup>23</sup> Wireline Competition Bureau Seeks Comment on United States Telecom Association's Petition For Waiver, WC Docket No. 11-42, Public Notice, 31 FCC Rcd 11015 (WCB Oct. 6, 2016) (*Waiver Public Notice*).

<sup>24</sup> USTelecom November *Ex Parte* at 4 (California, Connecticut, District of Columbia, Florida, Idaho, Illinois, Maryland, Michigan, Missouri, New Mexico, New York, Oklahoma, Oregon, Puerto Rico, South Carolina, Texas, Utah, Vermont, West Virginia, and Wisconsin).

<sup>25</sup> For example, to alert state regulatory authorities of our consideration of the waiver request and desire for specific information relevant to it, Bureau staff participated in weekly calls with a working group of state utility commissions and held discussions with representatives of the National Association of Regulatory Utility Commissioners (NARUC).

while the District of Columbia indicated that it did not need a waiver.<sup>26</sup> Additionally, four trade associations<sup>27</sup> and three Lifeline providers<sup>28</sup> filed comments in support of USTelecom’s petition. We address these petitions and comments in detail below.

8. *California.* The California Public Utilities Commission (CPUC) filed its petition for temporary waiver of the effective date of the amended eligibility rules on October 28, 2016.<sup>29</sup> The CPUC requested a waiver until October 31, 2017.<sup>30</sup> In its petition, the CPUC stated that it will need to modify its Lifeline Administrator, which handles Lifeline eligibility verification and recertification for all ETCs in California. These modifications will include changes to the mail processes, application forms, and enrollment systems.<sup>31</sup> Additionally, CPUC stated that it “must re-examine its eligibility rules” to determine if it will align its state-specific criteria with federal eligibility criteria.<sup>32</sup>

9. *Maryland.* Verizon filed comments on November 18, 2016, stating that a waiver of the eligibility rules in Maryland is necessary.<sup>33</sup> Verizon explained that Maryland has state-specific eligibility criteria, and that Maryland has an eligibility database that providers are required to use, which returns only a “yes/no” response.<sup>34</sup> On November 22, 2016, the Maryland Public Service Commission (Maryland PSC) filed comments in support of USTelecom’s petition and Verizon’s additional comments.<sup>35</sup> In its comments, the Maryland PSC requested a waiver of up to nine months,<sup>36</sup> and stated that it would take the necessary steps with the Maryland legislature to align Maryland’s Lifeline eligibility rules with the federal rules.<sup>37</sup>

10. *Michigan.* The Michigan Public Service Commission (MPSC) first filed comments requesting a temporary waiver of the amended eligibility rules on August 23, 2016.<sup>38</sup> The MPSC requested a waiver until December 31, 2017, and explained that its state-specific Lifeline eligibility

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<sup>26</sup> Response of the Public Service Commission of the District of Columbia to the United States Telecom Association Petition for Waiver of Lifeline Eligibility Rules, WC Docket No. 11-42 et al. (filed Oct. 21, 2016) (PSCDC Comments).

<sup>27</sup> Comments of CTIA, WC Docket No. 11-42 et al. (filed Oct. 21, 2016) (CTIA Comments); Comments of the Utah Rural Telecom Association and Its Members, WC Docket No. 11-42 et al., at 4 (filed Oct. 21, 2016) (URTA Comments); OKTA Comments; OTA Comments.

<sup>28</sup> Comments of Cox Communications, Inc., WC Docket No. 11-42 (filed Oct. 21, 2016) (Cox Comments); Comments of Sprint Corporation, WC Docket No. 11-42 et al. (filed Oct. 21, 2016) (Sprint Comments); Comments of TracFone Wireless in Support of United States Telecom Association Petition for Waiver, WC Docket No. 11-42 et al. (filed Oct. 21, 2016) (TracFone Comments).

<sup>29</sup> CPUC Petition.

<sup>30</sup> *Id.* at 1.

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

<sup>32</sup> *Id.* at 3-4.

<sup>33</sup> Letter from Alan Buzacott, Executive Director, Federal Regulatory Affairs, Verizon, to Marlene H. Dortch, Secretary, FCC, WC Docket No. 11-42, at 1 (filed Nov. 18, 2016) (Verizon Maryland *Ex Parte*) (citing Md. Code Ann., Pub. Util. § 8-201(a)(2)).

<sup>34</sup> *Id.* at 2.

<sup>35</sup> Maryland PSC *Ex Parte*.

<sup>36</sup> *Id.* at 1.

<sup>37</sup> *Id.*

<sup>38</sup> Letter from Sally A. Talberg, Chairman, Michigan Public Service Commission, to Marlene H. Dortch, Secretary, FCC, WC Docket No. 11-42 et al., at 1 (filed Aug. 23, 2016) (MPSC August Letter).

criteria would be misaligned with the amended federal criteria.<sup>39</sup> On October 21, 2016, the MPSC provided more information about Michigan’s Lifeline Eligibility Database (MLED),<sup>40</sup> which can be used to verify Lifeline eligibility in Michigan; the technical changes that would be required to update the MLED;<sup>41</sup> and the potential cost of updating the MLED.<sup>42</sup> Additionally, the MPSC explained that it would be “nearly impossible” for the Michigan legislature to enact statutory eligibility changes before December 2, 2016, because of the limited time the Michigan legislature will be in session prior to 2017.<sup>43</sup>

11. *Missouri.* The Missouri Public Service Commission filed comments in support of USTelecom’s petition on October 19, 2016.<sup>44</sup> Missouri stated that its state-specific eligibility criteria would be misaligned with the federal Lifeline eligibility criteria on December 2, 2016,<sup>45</sup> and that USTelecom’s requested waiver of up to 18 months was appropriate.<sup>46</sup> It also stated that Missouri does not have a Lifeline database, and that providers are responsible for eligibility determinations in the state.<sup>47</sup>

12. *New Mexico.* The New Mexico Public Regulation Commission (NMPRC) filed a petition for temporary waiver of the effective date of the amended Lifeline eligibility rules on November 28, 2016.<sup>48</sup> The NMPRC stated that its state-specific eligibility criteria would be misaligned with the federal Lifeline eligibility criteria on December 2, 2016,<sup>49</sup> and that a temporary waiver of the effective date of the eligibility rule amendments until June 2, 2017 would be appropriate.<sup>50</sup> It also stated that New Mexico does not have a Lifeline database, providers are responsible for eligibility determinations in the state, and providers currently receive a state-based subsidy of \$3.50 per subscriber per month through New Mexico’s Low Income Telephone Assistance Program.<sup>51</sup>

13. *New York.* The New York Public Service Commission (NYPSC) filed its comments in support of USTelecom’s waiver petition as it related to New York on October 21, 2016,<sup>52</sup> and then filed a supporting letter on November 4, 2016.<sup>53</sup> The NYPSC stated that New York has an automated system that carriers may use to make Lifeline eligibility determinations;<sup>54</sup> that the database provides carriers with a binary “yes/no” response that does not identify what the qualifying program is;<sup>55</sup> and that updating the database will require technical adjustments that may not be completed by December 1, 2016. The

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<sup>39</sup> *Id.* at 1-2.

<sup>40</sup> MPSC Petition at 3.

<sup>41</sup> *Id.*

<sup>42</sup> *Id.*

<sup>43</sup> *Id.* at 5.

<sup>44</sup> Missouri Comments.

<sup>45</sup> *Id.* at 2.

<sup>46</sup> *Id.*

<sup>47</sup> *Id.* at 3.

<sup>48</sup> *See* New Mexico Petition.

<sup>49</sup> *Id.* at 2.

<sup>50</sup> *Id.* at 1-2.

<sup>51</sup> *Id.* at 2-5.

<sup>52</sup> NYPSC Comments.

<sup>53</sup> Letter from Graham Jesmer, Assistant Counsel, New York Public Service Commission, to Marlene H. Dortch, Secretary, FCC, WC Docket No. 11-42 et al., at 1 (Nov. 4, 2016) (NYPSC November Letter).

<sup>54</sup> *Id.* at 2.

<sup>55</sup> NYPSC November Letter at 2.

NYPSC requested a waiver until December 1, 2017.<sup>56</sup> Additionally, the NYPSC stated that New York is the largest recipient of Low Income Home Energy Assistance Program (LIHEAP) assistance in the nation,<sup>57</sup> and more time is needed to determine if New York will retain LIHEAP as a state-specific eligibility criterion for its own state-based funding.

14. *Puerto Rico.* The Telecommunications Regulatory Board of Puerto Rico (PRTRB) filed comments on October 21, 2016.<sup>58</sup> In its petition, the PRTRB sought to clarify “that federal nutrition assistance in Puerto Rico does not operate through the SNAP program,”<sup>59</sup> and is instead administered through the Nutritional Assistance Program (PAN).<sup>60</sup> The PRTRB also stated that no subscribers qualified for Lifeline in Puerto Rico through LIHEAP, TANF, or NSLP,<sup>61</sup> and it generally supported USTelecom’s petition.<sup>62</sup>

15. *Utah.* The Utah Division of Public Utilities (Utah) filed its comments in support of USTelecom’s petition on October 21, 2016.<sup>63</sup> Utah requested a waiver for up to 18 months.<sup>64</sup> Utah stated that its state-specific eligibility criteria will be misaligned with the federal Lifeline eligibility criteria on December 2, 2016, and any changes must be made by the Utah legislature, which will not meet until 2017, and by the Utah Public Service Commission, which must undertake a lengthy rulemaking proceeding.<sup>65</sup> Additionally, the Department of Workforce Services (DWS) handles eligibility verification for wireline enrollments, and the misaligned criteria would lead to confusion and administrative difficulties.<sup>66</sup>

16. *Vermont.* The Vermont Department of Public Service (VDPS) filed a waiver request on November 3, 2016.<sup>67</sup> In its request, the VDPS stated that the Vermont Department of Children and Families (DCF) handles Lifeline eligibility verification for all ETCs in Vermont,<sup>68</sup> that Vermont’s state-specific eligibility criteria is misaligned with the amended federal criteria,<sup>69</sup> and that the Vermont legislature will not be able to amend its state-specific eligibility rules until 2017, when the legislature is next in session.<sup>70</sup> The VDPS is seeking a waiver until October 31, 2017. Vermont’s waiver request specifies that it is only seeking a waiver of the amended eligibility rules “that prohibit Lifeline providers from continuing to enroll consumers in the federal Lifeline program based on state-specific program and

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<sup>56</sup> NYPSC Comments at 3.

<sup>57</sup> *Id.*

<sup>58</sup> PRTRB Comments.

<sup>59</sup> *Id.* at 1.

<sup>60</sup> *Id.* at 2.

<sup>61</sup> *Id.*

<sup>62</sup> *Id.*

<sup>63</sup> Utah Comments.

<sup>64</sup> *Id.* at 1.

<sup>65</sup> *Id.* at 2.

<sup>66</sup> URTA Comments at 4.

<sup>67</sup> VDPS Waiver Request.

<sup>68</sup> *Id.* at 1.

<sup>69</sup> *Id.* at 2.

<sup>70</sup> *Id.*

income eligibility criteria,” and that it is “not requesting a waiver for those additional eligible populations,”<sup>71</sup> such as participants in the Veterans and Survivors Pension Benefit.

17. *Washington.* The Washington Utilities and Transportation Commission (WUTC) filed its petition for waiver of the effective date of the amended eligibility rules on November 2, 2016.<sup>72</sup> The WUTC requested a waiver until “the end of the second quarter in 2017.”<sup>73</sup> The WUTC explained that wireless resellers in Washington are required to use a state database, which is owned and operated by the Department of Social and Health Services (DSHS) to determine Lifeline eligibility.<sup>74</sup> This database gives a binary “yes” or “no” response and does not identify which program a subscriber uses to qualify, based on a list of programs that does not fully align with the amended federal Lifeline eligibility criteria.<sup>75</sup> The WUTC explained that DSHS needs time to align its database with the amended federal eligibility rules.<sup>76</sup> Finally the WUTC stated that its database does not check for participation in Federal Public Housing Assistance, Tribal Assistance programs, or the Veterans and Survivors Pension Benefit Program, and that providers will be required to independently determine participation in those programs.<sup>77</sup>

18. *Wisconsin.* The Public Service Commission of Wisconsin (PSCW) filed its petition for temporary waiver of the effective date of the amended eligibility rules on November 3, 2016.<sup>78</sup> The PSCW requested a waiver until the earlier of either (1) 24 months, or (2) 60 days after the PSCW notifies the FCC and all ETCs within the state that its state-specific criteria are aligned with the federal criteria.<sup>79</sup> In its petition, the PSCW stated that it will need to modify its Lifeline administration program, Carrier Access for Lifeline Eligibility Requests (CALER), which handles Lifeline eligibility verification and recertification.<sup>80</sup> Additionally, the PSCW detailed the misalignment between its state-specific eligibility criteria and the amended federal eligibility criteria,<sup>81</sup> and the difficulty of aligning its state-specific eligibility criteria with the federal eligibility criteria before December 2, 2016, because of the lengthy rulemaking process required to change eligibility rules.<sup>82</sup>

19. *Other Stakeholder Comments.* State-specific telephone associations from Ohio<sup>83</sup> and Oklahoma<sup>84</sup> filed comments in support of USTelecom’s waiver petition, citing the misaligned state and federal eligibility criteria in their respective states, and arguing that adjusting to the amended federal eligibility criteria would be difficult. Lifeline providers also filed comments supporting USTelecom’s petition in their respective service areas.<sup>85</sup> Additionally, the National Association of Regulatory Utility

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<sup>71</sup> *Id.* at 1.

<sup>72</sup> WUTC Petition.

<sup>73</sup> *Id.* at 2.

<sup>74</sup> *Id.* at 1.

<sup>75</sup> *Id.*

<sup>76</sup> *Id.* at 2.

<sup>77</sup> *Id.*

<sup>78</sup> PSCW Petition.

<sup>79</sup> *Id.* at 1.

<sup>80</sup> *Id.* at 3.

<sup>81</sup> *Id.* at 4.

<sup>82</sup> *Id.*

<sup>83</sup> OTA Comments.

<sup>84</sup> OKTA Comments.

Commissioners (NARUC) filed a letter supporting a grant of the requests for waiver filed by the state agencies.<sup>86</sup>

### III. DISCUSSION

#### A. Eligibility Rules

20. Generally, the Commission's rules may be waived for good cause shown.<sup>87</sup> The Commission may exercise its discretion to waive a rule where the particular facts make strict compliance inconsistent with the public interest.<sup>88</sup> In addition, the Commission may take into account considerations of hardship, equity, or more effective implementation of overall policy on an individual basis.<sup>89</sup> Waiver of the Commission's rules is therefore appropriate only if special circumstances warrant a deviation from the general rule, and such a deviation will serve the public interest.<sup>90</sup>

21. We find there is good cause to grant a temporary waiver of the effective date of portions of the *2016 Lifeline Modernization Order's* amendments to sections 54.400(j) and 54.409(a) of the Commission's rules in the states of California, Maryland, Michigan, New York, Utah, Vermont, Washington, and Wisconsin, to allow programs that would otherwise be eliminated to temporarily remain as qualifying programs. Each of these states operates its own Lifeline eligibility verifier or database, and has not yet been able to align its criteria with the amended federal eligibility criteria. Moreover, in each state the eligibility database does not tell a querying ETC the name of the qualifying program in which a customer participates. If an ETC in that case relied on the state verifier, it would risk enrolling an ineligible customer, and thus likely would need to manually verify every potential subscriber's eligibility for the federal Lifeline discount. Rendering these state eligibility databases unusable could create significant burdens and inefficiency, and would undermine the state's investment in an efficient verification process. We accordingly find that the potential harm that could result from failing to grant these temporary waiver requests in these few states outweighs the desire to bring about these eligibility changes immediately, and thus good cause exists to grant a temporary, partial waiver of the effective date of the amended Lifeline eligibility criteria in these states.

22. Where, however, the record does not demonstrate that a December 2, 2016 implementation date for the amended eligibility rules would create the harms discussed above, we decline to grant a temporary waiver.<sup>91</sup> We also decline to grant a temporary waiver of the inclusion of the Veterans and Survivors Pension Benefit Program, and we discuss our analysis in more detail below.

23. *Maryland, Michigan, and Vermont.* We first grant temporary waiver requests filed by Vermont, Michigan, and Maryland, because each of these states has (1) statutory eligibility criteria that must be changed by the state legislature to align with the federal Lifeline program's eligibility, and (2) an eligibility database that will be misaligned with the federal eligibility criteria on December 2, 2016,

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<sup>85</sup> See e.g., Comments of Cox Communications, Inc., WC Docket No. 11-42 (filed Oct. 21, 2016) (Cox Comments); Comments of Sprint Corporation, WC Docket No. 11-42 et al. (filed Oct. 21, 2016) (Sprint Comments); Comments of TracFone Wireless in Support of United States Telecom Association Petition for Waiver, WC Docket No. 11-42 et al. (filed Oct. 21, 2016) (TracFone Comments); Comments of CTIA, WC Docket No. 11-42 et al. (filed Oct. 21, 2016) (CTIA Comments).

<sup>86</sup> See generally Letter from James Bradford Ramsay, General Counsel, NARUC, to Thomas Wheeler, Chairman, FCC, et al., WC Docket No. 11-42 (filed Nov. 23, 2016).

<sup>87</sup> 47 CFR § 1.3.

<sup>88</sup> *Northeast Cellular Telephone Co. v. FCC*, 897 F.2d 1164, 1166 (D.C. Cir. 1990).

<sup>89</sup> *WAIT Radio v. FCC*, 418 F.2d 1153, 1159 (D.C. Cir. 1969); *Northeast Cellular*, 897 F.2d at 1166.

<sup>90</sup> *Northeast Cellular*, 897 F.2d at 1166.

<sup>91</sup> See *infra* paras. 29-39.

absent a waiver. The temporary waiver of the effective date will extend until October 31, 2017, in Vermont and Maryland, and will extend until December 31, 2017, in Michigan, or until the state has aligned its eligibility criteria with the Commission's Lifeline eligibility rules and updated its eligibility databases accordingly, whichever date is sooner. In Vermont, the DCF assumes the role as the State's eligibility verifier and Vermont will have misaligned federal and state-specific eligibility criteria on December 2, 2016, without a temporary waiver. Vermont explained that it cannot align its state-specific statutory eligibility criteria<sup>92</sup> until 2017, when the Vermont legislature is in session.<sup>93</sup> Michigan<sup>94</sup> and Maryland<sup>95</sup> also have state-specific eligibility criteria that will need to be changed by the state legislature, and both states have eligibility databases that will be misaligned on December 2, 2016 without a waiver. Accordingly, we find that good cause exists to grant Maryland's waiver request until October 31, 2017, and Michigan's waiver request until December 31, 2017, or until the respective state has aligned its eligibility criteria with the Commission's Lifeline eligibility rules and updated its eligibility databases accordingly, whichever date is sooner.

24. *California, New York, Utah, Washington, and Wisconsin.* We next grant the waiver requests of California, Wisconsin, Utah, New York, and Washington, because these states require further time to align their state-specific eligibility criteria and state databases with the amended federal Lifeline rules through their respective state agencies. We grant the requests of California and Utah for temporary waiver until October 31, 2017, as well as New York's request for a temporary waiver until December 1, 2017, and Wisconsin's request for temporary waiver until December 31, 2017, or until the respective state has aligned its eligibility criteria with the Commission's Lifeline eligibility rules and updated its eligibility databases accordingly, whichever date is sooner. Finally, we grant Washington's request for temporary waiver until June 30, 2017, or until the state has aligned its eligibility criteria with the Commission's Lifeline eligibility rules and updated its eligibility databases accordingly, whichever date is sooner.

25. For California,<sup>96</sup> New York,<sup>97</sup> Utah,<sup>98</sup> and Wisconsin<sup>99</sup> each state has a set of state-specific Lifeline eligibility rules that are misaligned with the amended federal Lifeline eligibility rules, and a state eligibility database that will not be updated by December 2, 2016, because of the lengthy rulemaking process,<sup>100</sup> and will therefore also be misaligned with the amended federal rules.<sup>101</sup> As a result, the state commissions that administer their respective state Lifeline programs will need to conduct rulemakings to align their state-specific criteria with the amended federal criteria, in addition to updating their respective eligibility databases. Because providers in each state use the state's eligibility database,

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<sup>92</sup> Vt. Stat. Ann. tit. 30, § 218(c)(2).

<sup>93</sup> VDPS Waiver Request at 2.

<sup>94</sup> Mich. Comp. Laws Ann. § 484.2316(5).

<sup>95</sup> Md. Code Ann., Pub. Util. § 8-201(a)(2).

<sup>96</sup> Cal. Pub. Util. Code § 873(3).

<sup>97</sup> New York maintains its own state-specific eligibility criteria and an eligibility database that will be misaligned on December 2, 2016.

<sup>98</sup> Utah Admin. Code r. R746-341. We note that, although the Public Service Commission of Utah has very recently granted a petition for waiver from CenturyLink, it is still completing the requisite step of seeking comment on making permanent changes to its rules to align its state criteria with federal eligibility criteria. *See Petition of CenturyLink for a Waiver to the Utah Lifeline Eligibility Requirements*, Docket No. 16-049-16, Order Granting Waiver and Notice of Proposed Rulemaking and Request for Comments (Nov. 22, 2016).

<sup>99</sup> Wis. Admin. Code PSC § 160.02.

<sup>100</sup> Utah Comments at 1; CPUC Petition at 4; PSCW Petition at 4.

<sup>101</sup> CPUC Petition at 3; PSCW Petition at 3; Utah Comments at 2.

and because those databases will not be aligned with the federal eligibility criteria by December 2, 2016, we find that good cause exists to grant temporary waivers in all three states. While Wisconsin requested a waiver of at least two years, we believe that one year should be sufficient, based on the time requested from other states, for the state to change its state regulations to align the state program with the federal Lifeline program. Additionally, we believe that having states standardize their eligibility programs quickly would promote efficient program administration.

26. Finally, we grant Washington's request for temporary waiver until June 30, 2017, or until the state has aligned its eligibility criteria with the Commission's Lifeline eligibility rules and updated its eligibility databases accordingly, whichever date is sooner. We find that Washington provided good cause for a waiver of seven months to make all of the necessary changes to state law and its eligibility database to align with the Commission's Lifeline eligibility rules. Without such a waiver, Washington's database would not be usable because it does not identify for ETCs what program the subscriber participates in, and because it currently includes programs that would no longer qualify subscribers for the federal Lifeline program as of December 2, 2016, absent a temporary waiver.<sup>102</sup>

27. *Denial of Requests for Waiver.* While we grant every waiver request where the record demonstrates that a state operates its own eligibility process or database and that more time is needed to update that process or database,<sup>103</sup> we deny requests in states without such a process or database, or states where the record does not show good cause to delay the implementation of the amended Lifeline eligibility rules. Accordingly, we find that the record does not currently support temporary waivers in the states requested by USTelecom that are not otherwise addressed above.

28. USTelecom requested a waiver of the effective date of the of the amended eligibility rules in 20 states.<sup>104</sup> We find that granting USTelecom's waiver petition in the states not discussed above<sup>105</sup> would be overly broad and inconsistent with prior temporary waivers. We also find that such a waiver is not appropriate because the record before us lacks state-specific details that justify a waiver. We note that, in addition to the lack of state-specific details justifying a waiver in USTelecom's petition, many of the states included in USTelecom's petition have themselves neither requested nor supported an extension of the amended eligibility rules implementation date.

29. USTelecom argues that, based on the Bureau's *2012 Waiver Order* granting a temporary waiver from Lifeline rules,<sup>106</sup> a blanket waiver in this instance would also be appropriate. We disagree. That *Order* differs significantly from what USTelecom now requests in several key areas. First, without the *2012 Order*, providers would have been unable to receive reimbursement for providing Lifeline in 13 states,<sup>107</sup> and providers would have been unable to comply with the federal Lifeline rules without a waiver.<sup>108</sup> More specifically, providers were required to obtain certification forms from the relevant state authorities, but the relevant state authorities were not able to provide the certifications.<sup>109</sup> Here, providers do not face the same difficulty. Instead, USTelecom states that providers are worried about confusion and

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<sup>102</sup> WUTC Petition at 1.

<sup>103</sup> *See supra* paras. 23-25.

<sup>104</sup> *See supra* para. 6 & n.31.

<sup>105</sup> Connecticut, the District of Columbia, Florida, Idaho, Illinois, Oregon, South Carolina, Texas, and West Virginia.

<sup>106</sup> USTelecom Waiver Petition at 11 & n.11 (citing *Lifeline and Link Up Reform and Modernization*, Waiver Order, 27 FCC Rcd 5941 (WCB 2012) (*2012 Waiver Order*)).

<sup>107</sup> *2012 Waiver Order*, 27 FCC Rcd at 5942, para. 2.

<sup>108</sup> *Id.* at 5942-43, para. 3.

<sup>109</sup> *Id.*

increased burdens, but not a denial of reimbursement.<sup>110</sup> Second, in the *2016 Lifeline Order*, the Commission eliminated state-specific eligibility programs as qualifying criteria for the federal program. This decision was made to simplify administration of the Lifeline program,<sup>111</sup> and because less than three percent of Lifeline subscribers qualified for the program through state-specific programs.<sup>112</sup> Granting waiver requests without the necessary justification would undermine the *2016 Lifeline Order*'s goal of increasing administrative efficiency in the program.

30. Waiver of Commission rules is only appropriate when “specific circumstances”<sup>113</sup> warrant such a request. USTelecom has failed to provide such specific circumstances to warrant a waiver in any of the states in which we do not grant a waiver above. First, when discussing the states in which Lifeline providers are required to make eligibility determinations,<sup>114</sup> USTelecom states that the differences in federal and state-specific eligibility could lead to consumer confusion throughout the application process and administrative difficulties for the provider when administering separate benefit amounts.<sup>115</sup> However, many states already have wireline-only state-specific Lifeline benefits,<sup>116</sup> and providers in those states are already required to administer separate benefit amounts depending on the service requested. USTelecom does not provide specific details showing that this situation will be any different.

31. Next, when discussing the states in which state or third-party administrators make eligibility determinations,<sup>117</sup> USTelecom states that the misalignment between state-specific and federal eligibility criteria means that providers will no longer be able to rely on state eligibility databases,<sup>118</sup> which could lead to subscribers being forced to contact providers directly for the federal Lifeline benefit while contacting the state for the state-specific discount.<sup>119</sup> However, except as noted above,<sup>120</sup> no evidence has been entered into the record demonstrating that specific state databases will be rendered unreliable by the amended federal eligibility criteria.

32. We find that Missouri's comments in support of USTelecom's waiver petition and the NMPRC's petition for temporary waiver are not persuasive because the state commissions in Missouri and New Mexico do not handle Lifeline eligibility determinations and do not maintain an eligibility database. While we are mindful that providers in Missouri and New Mexico may need to determine

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<sup>110</sup> USTelecom Waiver Petition at 3-4 (“Not only would this impact the provider's application forms and management process, but the potential for added customer confusion, in an already confusing application process, is significant.”).

<sup>111</sup> *2016 Lifeline Order*, 31 FCC Rcd at 4039, para. 215.

<sup>112</sup> *Id.* at 4040, para. 216.

<sup>113</sup> *Northeast Cellular*, 897 F.2d at 1166; *see also WAIT Radio*, 418 F.2d at 1157 (applicant for waiver “must plead with particularity the facts and circumstances which warrant such action”) (citation and internal quotation marks omitted).

<sup>114</sup> USTelecom Waiver Petition at 3 & n.4 (Alaska, Connecticut, Illinois, Kansas, Kentucky, Maryland, Michigan, Minnesota, Missouri, New Mexico, New York, Ohio, Oklahoma, South Carolina, Wisconsin, and Puerto Rico).

<sup>115</sup> *Id.* at 4.

<sup>116</sup> *See e.g.*, Missouri Comments at 2 (“The Missouri USF offers \$6.50 in state Lifeline support for landline Lifeline subscribers”); Utah Comments at 1 (explaining that Utah provides \$3.50 in state Lifeline support for wireline carriers).

<sup>117</sup> USTelecom Waiver Petition at 3 & n.5 (California, Florida, Idaho, Nebraska, Nevada, Oregon, Texas, Utah, Vermont, West Virginia, and the District of Columbia).

<sup>118</sup> *Id.* at 4.

<sup>119</sup> USTelecom Waiver Petition at 4-5.

<sup>120</sup> *See supra* para. 20.

customer eligibility for the federal Lifeline discount and state funding according to different criteria until Missouri and New Mexico complete their own rulemaking processes,<sup>121</sup> we believe that the benefits of a streamlined eligibility determination process outweigh any potential burdens, and that a waiver will accordingly not be in the public interest.<sup>122</sup> Providers are already responsible for making eligibility determinations in Missouri and New Mexico, so they will not encounter the problem of a state database providing “false positives” for consumers who are not in fact eligible for Lifeline.<sup>123</sup> Accordingly, providers in Missouri and New Mexico have had sufficient time to prepare their eligibility verification processes since the *2016 Lifeline Modernization Order* was issued, and the burdens of implementing the amended federal eligibility criteria on December 2, 2016 do not outweigh the substantial benefits of improving administrative efficiency in the program and extending Lifeline support for low-income participants of the Veterans and Survivors Pension Benefit Program.

33. We also find that Puerto Rico’s comments in support of USTelecom’s waiver petition are not persuasive, because no customers in Puerto Rico qualify through the removed eligibility programs, so no Lifeline customers in Puerto Rico will be affected by the changed eligibility rules,<sup>124</sup> and because providers are already responsible for making eligibility determinations. Since the implementation of the amended federal eligibility rules will have little impact on providers and eligible consumers in Puerto Rico, we find that the record does not support a temporary waiver of the effective date of the amended rules.

34. We find that comments submitted by Lifeline providers and associations in support of USTelecom’s petition do not justify a waiver beyond those granted above. We find that temporary waivers for Ohio<sup>125</sup> and Oklahoma<sup>126</sup> are not appropriate because neither state has its own Lifeline eligibility verifier, and providers are already responsible for making eligibility determinations in those states. Additionally, we believe that providers in these states have had sufficient time to change their eligibility forms and enrollment processes to adjust to the new eligibility rules, and they can convey to their potential subscribers which programs may be used to enroll in Lifeline.

35. We also find that the comments submitted by Cox, Sprint, TracFone, CTIA, and other interested parties in support of USTelecom’s petition for waiver do not justify granting a waiver in these states because those comments similarly fail to demonstrate any state-specific issues that would warrant a temporary waiver to give states time to align their state databases and laws with the amended Lifeline eligibility rules. Providers are already responsible for determining eligibility for their subscribers in the relevant states, which means they must already have processes to determine which qualifying program a consumer is using to demonstrate eligibility for the federal Lifeline program.<sup>127</sup> Additionally, providers have had ample time to update their Lifeline enrollment forms, which we believe will mitigate potential consumer confusion by making clear which programs can be used to qualify for the federal Lifeline benefit.<sup>128</sup> To the extent that the amended rules result in some consumer confusion despite these

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<sup>121</sup> Missouri Comments at 3-4 (describing the Missouri Commission’s efforts to date in considering making changes to its state eligibility rules); New Mexico Petition at 4-5 (describing how the NMPRC would need to amend existing state Lifeline rules to align with the federal Lifeline program).

<sup>122</sup> *Northeast Cellular*, 897 F.2d at 1166.

<sup>123</sup> See *infra* para. 20.

<sup>124</sup> See *supra* para. **Error! Reference source not found.**

<sup>125</sup> OTA Comments.

<sup>126</sup> OKTA Comments.

<sup>127</sup> See 47 CFR § 54.410(a) (requiring ETCs to implement policies and procedures to ensure that all Lifeline subscribers are eligible to receive Lifeline service).

<sup>128</sup> See 47 CFR 54.410(d) (requiring ETCs to provide prospective Lifeline subscribers with a certification form that details, among other requirements, the qualifying assistance program from which the subscriber benefits).

safeguards, such confusion is not uncommon when an agency amends rules that directly impact consumers, and is not in and of itself sufficient grounds for a waiver. Here, commenters have not alleged the kind of unusual or extreme confusion that would reach the high bar for a waiver. Finally, TracFone acknowledged that “it is likely that few applicants will qualify through enrollment in an eliminated program which remains in a state database,”<sup>129</sup> and that TracFone will also modify its own forms to only list those programs that remain as federal qualifying programs,<sup>130</sup> which should mitigate customer confusion.

36. In its comments, TracFone listed 20 states in which it claimed that a waiver was necessary because the state had a Lifeline eligibility database that would not align with federal eligibility criteria by December 2, 2016.<sup>131</sup> Of the 20 states listed in TracFone’s comments, six are directly addressed in this item.<sup>132</sup> For the remainder of the states, we do not find there is good cause to provide a temporary waiver, especially given that such states did not themselves request more time from the Commission. In addition to a lack of record evidence that state eligibility databases will be unusable,<sup>133</sup> the provider can make determinations based solely on customer-provided documentation.<sup>134</sup> Connecticut does not offer a state-specific Lifeline discount,<sup>135</sup> and is therefore outside of the scope of USTelecom’s waiver petition.<sup>136</sup> Finally, Bureau staff reached out to the Illinois Corporation Commission and received confirmation that providers are responsible for verifying Lifeline eligibility in the state without the use of a database. Accordingly, we find that no state mentioned in TracFone’s *ex parte*, except for those already addressed above, requires a temporary waiver.

37. The Bureau also declines any requests to delay the inclusion of the Veterans and Survivors Pension Benefit Program as a qualifying program for the federal Lifeline benefit. While the Bureau is mindful that certain state eligibility databases do not provide Veterans and Survivors Pension Benefit Program data that does not require us to delay the inclusion of the Veterans and Survivors Pension Benefit as a qualifying program. Many existing state databases do not include information for every qualifying program,<sup>137</sup> in which case providers are able to make eligibility determinations for consumers that qualify for Lifeline through those programs separately while still relying on the state databases for most enrolling subscribers. In the absence of any record evidence that accepting documentation of Veterans and Survivors Pension Benefit participation would be unreasonably burdensome when providers are already evaluating other program-based eligibility manually, we find no

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<sup>129</sup> Letter from Mitchell F. Brecher, Counsel, TracFone Wireless, Inc., to Marlene H. Dortch, Secretary, FCC, WC Docket No. 11-42 et al., at 2 (filed Nov. 9, 2016) (TracFone *Ex Parte*).

<sup>130</sup> *Id.*

<sup>131</sup> *Id.* at 4-8.

<sup>132</sup> Washington, Wisconsin, Puerto Rico, Michigan, New York, and West Virginia. An additional eight states listed in TracFone’s *Ex Parte* are not included in USTelecom’s amended waiver petition (Arkansas, Tennessee, North Carolina, Massachusetts, Maine, Georgia, New Jersey, and Pennsylvania).

<sup>133</sup> *See supra* para. 20.

<sup>134</sup> USTelecom Waiver Petition at 3 & n.6 (stating that the waiver request only applies to states with state-specific Lifeline discounts, as opposed to eligibility databases, because “providers have the option to simply stop checking such databases which can no longer be considered appropriate, and to make determinations based solely on customer-provided documentation”).

<sup>135</sup> Cox Comments at 1 & n.3.

<sup>136</sup> *See id.*

<sup>137</sup> PSCW Petition at 3 (“CALER queries support all possible current FCC eligibility criteria requirements except the National Free School Lunch and Section 8 federal housing benefits”); Michigan Lifeline Eligibility Database, <http://mdhhs.michigan.gov/Lifeline/> (last visited Nov. 10, 2016) (noting that the database cannot search for participation in Federal Public Housing Assistance or Tribal programs).

factual basis to discern the special circumstances that might justify a waiver.

38. Additionally, the Commission included the Veterans and Survivors Pension Benefit Program as a qualifying program because of the “established need for armed forces veterans to access affordable phone service,”<sup>138</sup> and delaying the addition of the Veterans and Survivors Pension Benefit Program would make it more difficult for Lifeline providers to meet that need. Based on the facts before us, we find that neither USTelecom nor any of the states that filed requests for temporary waiver of section 54.400(j) and 54.409(a) has provided sufficient justification that they cannot implement procedures to establish eligibility for consumers participating in the Veterans and Survivors Pension Benefit Program.

39. Finally, the Bureau also clarifies that, for the purpose of sections 54.400(j) and 54.409(a) of the Lifeline rules, PAN constitutes a “qualifying program” because of its status as the sole nutritional assistance program in Puerto Rico.<sup>139</sup> For example, in the *2016 Lifeline Modernization Order*, the Commission recognized PAN’s continuing role as a qualifying program for Lifeline, but noted that Lifeline should also continue to accept income-based eligibility because PAN and similar federal assistance programs in federal territories use income levels substantially lower than SNAP.<sup>140</sup> We also clarify that the food assistance programs in American Samoa (the American Samoa Nutrition Assistance Program) and the Commonwealth of the Northern Mariana Islands (the Nutrition Assistance Program) are also qualifying programs, because those territories also do not participate in the SNAP program and rely on their respective programs as the sole nutritional assistance program in their territories.<sup>141</sup>

## **B. Port Freeze**

40. *Background.* In the *2016 Modernization Order*, the Commission adopted a 12-month benefit port freeze for Lifeline BIAS subscribers and a 60-day benefit port freeze for Lifeline voice subscribers.<sup>142</sup> The port freeze was adopted to provide service stability for Lifeline subscribers, and to incentivize Lifeline providers to offer quality services to their consumers. This port freeze will be administered by USAC through the NLAD,<sup>143</sup> while states that have opted out of the NLAD will be responsible for administering the port freeze on their own.<sup>144</sup> Two states that have opted out of the NLAD, Oregon and California, have requested temporary waivers of the effective date of the new port freeze rules.

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<sup>138</sup> *2016 Lifeline Modernization Order*, 31 FCC Rcd at 4024, para. 175.

<sup>139</sup> Comments of the Telecommunications Regulatory Board of Puerto Rico, WC Docket No. 11-42 et al., at 2-3. (filed Aug. 28, 2015) (TRBPR 2015 Comments) (explaining that SNAP does not exist in Puerto Rico, and that PAN is Puerto Rico’s food assistance program).

<sup>140</sup> *2016 Lifeline Modernization Order*, 31 FCC Rcd at 4036, para. 204 (“The differing administration and eligibility criteria for SNAP, Medicaid, and SSI requires income-verification remain in Puerto Rico and other United States Territories. For example, the income levels for the Nutrition Assistance Program for Puerto Rico (“PAN”) range between 23.9 percent and 35.3 percent of [the federal poverty guidelines], which is substantially lower than SNAP.”).

<sup>141</sup> See United States Department of Agriculture, Nutrition Assistance Block Grants Fact Sheet, [http://www.fns.usda.gov/sites/default/files/NABGP\\_Quick\\_Facts.pdf](http://www.fns.usda.gov/sites/default/files/NABGP_Quick_Facts.pdf) (last visited Nov. 15, 2016) (“The NABG Provides food assistance to low-income households in the U.S. Territories of the Commonwealth of Puerto Rico, American Samoa, and the Commonwealth of the Northern Mariana Islands, in lieu of operating a Supplemental Nutrition Assistance Program (SNAP).”). See also, e.g., Puerto Rico Department of the Family, Nutrition Assistance for Puerto Rico, <https://www.benefits.gov/benefits/benefit-details/363> (last visited Nov. 28, 2016) (“Puerto Rico operates this program in place of the Supplemental Nutrition Assistance Program.”).

<sup>142</sup> *Id.* at 4105, para. 385.

<sup>143</sup> *Id.* at para. 387.

<sup>144</sup> *Id.* at 4108, para. 394.

41. *Oregon.* Oregon filed its waiver petition for the port freeze rules on November 9, 2016,<sup>145</sup> requesting a waiver until June 1, 2017.<sup>146</sup> In its petition, the Oregon PUC stated that it will administer both the 60-day voice port freeze and 12-month BIAS port freeze,<sup>147</sup> but that it needs up to six months to update its system to administer both port freezes.<sup>148</sup> The Oregon PUC explained that implementing a port freeze functionality will require “significant modifications to the OPUC’s Lifeline database and operations,” since Oregon has opted out of participation in the National Lifeline Accountability Database.<sup>149</sup> The Oregon PUC also noted that, unlike the NLAD, its database had not heretofore contained a 60-day port freeze functionality, so the state agency must build and implement two new processes in its database.<sup>150</sup>

42. We find that good cause exists to grant Oregon a waiver of the effective date of section 54.411 until June 1, 2017, or until the state has updated its relevant state databases and processes to enable ETCs to fully comply with section 54.411 of the Commission’s rules, whichever is sooner. Oregon will be administering the port freeze rules as an NLAD opt-out state; has demonstrated that it needs additional time to update its system; and without such updates ETCs will have no reliable method of determining whether a new customer is ineligible for Lifeline-discounted service because she has initiated Lifeline service with another ETC within the time periods specified in section 54.411. Accordingly, we find that granting Oregon a waiver of section 54.411 of the Commission’s rules until June 1, 2017, is consistent with the public interest and will further the goals of the *2016 Lifeline Modernization Order*.

43. *California.* In its petition for a temporary waiver of the eligibility rules, the CPUC requested a waiver of the benefit port freeze rules until October 31, 2017.<sup>151</sup> The CPUC stated that the new benefit port freeze rules will “require significant changes to the Administrator’s enrollment process and the California Lifeline database.”<sup>152</sup> The CPUC explained that implementing the port freeze rule will require the agency to modify its Lifeline “inbound and outbound mailing processes, forms and letters, customer service capabilities, customer tracking system, enrollment methods, data exchange processes, and websites.”<sup>153</sup> The CPUC also stated that, pursuant to state law that was approved by the Governor and filed with the Secretary of State on September 24, 2016,<sup>154</sup> it is in the process of adopting state-specific benefit port freeze rules,<sup>155</sup> and is “exploring the possibility of leveraging” the NLAD to administer the new benefit port freeze rules.

44. We find that good cause exists to grant California a waiver of section 54.411 until June 1, 2017, or until the state has updated its relevant state databases and processes to enable ETCs to fully comply with section 54.411 of the Commission’s rules, whichever is sooner. California will be administering the port freeze rules as an NLAD opt-out state; has demonstrated that it needs additional

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<sup>145</sup> Petition of the Public Utility Commission of Oregon for Temporary Waiver, WC Docket No. 11-42 et al. (filed Nov. 9, 2016) (Oregon Waiver Petition).

<sup>146</sup> *Id.* at 2.

<sup>147</sup> *Id.* at 2-3.

<sup>148</sup> *Id.* at 3.

<sup>149</sup> *Id.* at 2 (internal footnote omitted).

<sup>150</sup> *Id.* at 2-3.

<sup>151</sup> CPUC Petition at 1.

<sup>152</sup> *Id.* at 5.

<sup>153</sup> *Id.* at 5.

<sup>154</sup> *See id.* at 5 (citing California Assembly Bill No. 2570 (2016) (amending CA Pub. Util. Code § 878.5)).

<sup>155</sup> *Id.*

time to update its system; and without such updates ETCs will have no reliable method of determining whether a new customer is ineligible for Lifeline-discounted service because she has initiated Lifeline service with another ETC within the time periods specified in section 54.411. Accordingly, we find that granting California a waiver of section 54.411 of the Commission's rules until June 1, 2017, is consistent with the public interest and will further the goals of the *2016 Lifeline Modernization Order*. While California requested a waiver until October 31, 2017, we find that a waiver until June 1, 2017, should allow California sufficient time to determine how it will proceed in administering the benefit port freeze rules. If more time is still needed at that point, the CPUC may file an additional waiver request.

#### IV. ORDERING CLAUSES

45. 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 and 254, and sections 0.91, 0.291, and 1.3 of the Commission's rules, 47 CFR §§ 0.91, 0.291, 1.3, that the request for waiver filed by the Vermont Department of Public Service IS GRANTED to the extent described herein.

46. 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, 0.291, and 1.3 of the Commission's rules, 47 CFR §§ 0.91, 0.291, 1.3, that the request for waiver filed by the Michigan Public Service Commission is GRANTED in part and DENIED in part to the extent described herein.

47. 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, 0.291, and 1.3 of the Commission's rules, 47 CFR §§ 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.

48. 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, 0.291, and 1.3 of the Commission's rules, 47 CFR §§ 0.91, 0.291, 1.3, that the request for waiver filed by the Public Service Commission of Wisconsin is GRANTED in part and DENIED in part to the extent described herein.

49. 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, 0.291, and 1.3 of the Commission's rules, 47 CFR §§ 0.91, 0.291, 1.3, that the request for waiver filed by the Washington Utilities and Transportation Commission is GRANTED in part and DENIED in part to the extent described herein.

50. 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, 0.291, and 1.3 of the Commission's rules, 47 CFR §§ 0.91, 0.291, 1.3, that the request for waiver filed by the New York Public Service Commission is GRANTED in part and DENIED in part to the extent described herein.

51. 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, 0.291, and 1.3 of the Commission's rules, 47 CFR §§ 0.91, 0.291, 1.3, that the request for waiver filed by the Utah Division of Public Utilities is GRANTED in part and DENIED in part to the extent described herein.

52. 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, 0.291, and 1.3 of the Commission's rules, 47 CFR §§ 0.91, 0.291, 1.3, that the request for waiver filed by the Maryland Public Service Commission is GRANTED in part and DENIED in part to the extent described herein.

53. 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, 0.291, and 1.3 of the Commission's rules, 47 CFR §§ 0.91, 0.291, 1.3, that the request for waiver filed by the Oregon Public Service Commission is GRANTED.

54. 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, 0.291, and 1.3 of the Commission's rules, 47 CFR §§ 0.91, 0.291, 1.3, that the request for waiver filed by the Missouri Public Service Commission is DENIED.

55. 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, 0.291, and 1.3 of the Commission's rules, 47 CFR §§ 0.91, 0.291, 1.3, that the request for waiver filed by the New Mexico Public Regulation Commission is DENIED.

56. 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 and 254, and sections 0.91, 0.291, and 1.3 of the Commission's rules, 47 CFR §§ 0.91, 0.291, 1.3, that the request for waiver filed by the United States Telecom Association is GRANTED in part and DENIED in part to the extent described herein.

57. 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, 0.291, and 1.3 of the Commission's rules, 47 CFR §§ 0.91, 0.291, 1.3, that sections 54.400(j), 54.409(a), and 54.411 of the Commission's rules, 47 CFR §§ 54.400(j), 54.409(a), and 54.411 ARE WAIVED to the limited extent provided herein.

58. IT IS FURTHER ORDERED that, pursuant to section 1.102(b)(1) of the Commission's rules, 47 CFR § 1.102(b)(1), this Order SHALL BE EFFECTIVE upon release.

FEDERAL COMMUNICATIONS COMMISSION

Matthew S. DelNero  
Chief  
Wireline Competition Bureau

## APPENDIX A

Eligibility Rules Effective Dates<sup>1</sup>

State	Effective Date
California	October 31, 2017
Maryland	October 31, 2017
Michigan	December 31, 2017
New York	December 1, 2017
Utah	October 31, 2017
Vermont	October 31, 2017
Washington	June 30, 2017
Wisconsin	December 31, 2017
All Other States and Territories	December 2, 2016

Port Freeze Effective Dates<sup>2</sup>

State	Effective Date
California	June 1, 2017
Oregon	June 1, 2017
All Other States and Territories	December 2, 2016

<sup>1</sup> In each of the states receiving a temporary waiver of the effective date of portions of the eligibility rules, the waiver will extend to the date listed in this Appendix or when the state has aligned its eligibility criteria with the Commission's Lifeline eligibility rules and updated its eligibility databases accordingly, whichever is sooner. In all states (including those states otherwise subject to temporary waiver grant), inclusion of the Veterans and Survivors Pension Benefit Program as a qualifying program will be effective December 2, 2016. The waiver grants thus concern only the continued inclusion of programs removed from eligibility by the *2016 Lifeline Modernization Order*.

<sup>2</sup> In each of the states receiving a temporary waiver of the effective date of section 54.411 of the Commission's rules, the waiver will extend to the date listed in this Appendix or when the state has updated its relevant state databases and processes to enable ETCs to fully comply with section 54.411, whichever is sooner.