

**BEFORE THE PUBLIC UTILITY COMMISSION
OF OREGON
UM 1684**

)	
In the Matter of)	
)	COMMENTS OF THE CITIZENS’
PUBLIC UTILITY COMMISSION OF)	UTILITY BOARD OF OREGON
OREGON)	
)	
Investigation into the Oregon Telephone)	
Assistance Program and Lifeline Marketing)	
Practices)	
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1 The Citizens’ Utility Board of Oregon (“CUB”) appreciates the opportunity to
2 comment on Staff’s Status Report and Recommendations in docket UM 1684. CUB is
3 concerned about abusive practices on the part of employees and/or agents of ETCs that
4 may lead to waste, fraud and abuse of the Lifeline program. Though all of the practices
5 detailed by Staff may not currently be an issue in Oregon, that may not always be the
6 case. A proactive approach, as advocated by Staff, would better serve the interests of
7 current and potential Lifeline program participants and would reduce the risk that ETCs
8 in Oregon would contribute to waste, fraud and abuse of Lifeline program resources.

9 **I. Staff’s Proposal**

10 In Docket AR 574, the Commission directed Staff to develop a record from which
11 it can discern the nature of abusive practices that should be addressed and to propose new
12 rules accordingly. In accordance with this directive, and after three workshops with

1 intervenors and interested persons, Staff has made findings and recommendations relating
2 to marketing practices and use of agents by carriers offering Lifeline services.

3 **A. Financial Incentives**

4 Staff has provided evidence of employees or agents of ETCs participating in the
5 Lifeline program that have engaged in harmful and/or illegal practices up to and
6 including aggressive behavior to solicit potential customers to apply for Lifeline
7 supported service and the submission of fabricated applications, in order to maximize
8 financial incentives.¹ To address the concern that providing financial incentives, for the
9 total numbers of applications submitted, may incent these types of abuse, Staff has
10 proposed the following remedy:

11 The ETP may not provide or allow a representative (including any agent,
12 contractor, or subcontractor) to receive any commission, bonus, or other
13 incentive payment based upon the submission of an OTAP or Lifeline
14 application. Such incentives may be based upon the *successful* enrollment
15 of an Oregon customer in the OTAP or Lifeline program.²

16 CUB is supportive of Staff's proposal for several reasons. First, Staff's proposal
17 encourages ETC representatives that are compensated on an enrollment basis to spend
18 time and carrier resources on acquiring physically present customers that meet all
19 Lifeline/OTAP program criteria. Second, because any link between the number of
20 applications submitted (rather than approved) and incentive compensation would be
21 prohibited, potential customers would be far less likely to encounter aggressive behavior
22 from ETC representatives that may pressure them to submit an application. Finally,
23 Staff's proposal strikes an appropriate balance between growing the Lifeline program in

¹ UM 1684 – Staff's Status Report and Recommendations, pg. 2-3.

² UM 1684 – Staff's Status Report and Recommendations, pg. 3.

1 Oregon while ensuring that ETC representatives are deterred from abusive or illicit
2 activity and causing waste, fraud and abuse of the Lifeline program.

3 **B. Customer Protection and Application**

4 Staff's Status Report and Recommendations contains a robust discussion of
5 specific examples in Oregon of customers' personal identifying information being
6 compromised during the completion and/or submission of OTAP and Lifeline
7 applications. This is extremely concerning to CUB. With the rates of identity theft and
8 the theft of financial account numbers on the rise, it is more important than ever that
9 customers' sensitive personal and financial information, including their entire social
10 security number, is protected as much as possible. Staff's proposal provides an
11 appropriate level of protection for potential Lifeline customers.

12 **C. Marketing Events**

13 CUB also shares Staff's concern that there may be instances in which an ETC
14 hosts an event without key ETC personnel knowing who is in charge of the event or the
15 persons (both employees and non-employees of the ETC) staffing the event, as was the
16 case in Nebraska with Telrite Corporation. It is clear that the specific factors that were
17 problematic in that example could lead to the same result in Oregon (i.e. hot weather,
18 lack of water, lack of shelter), but there may also be other circumstances that could give
19 rise to similar concerns in Oregon. It is paramount that ETC providers know who is
20 staffing and collecting personally identifying information at promotional events at
21 temporary sites to solicit potential customers. It is also paramount that the ETC provider
22 be able to provide that information to Commission Staff when requested.

1 CUB is concerned that any concept omitting the requirement to gather and
2 provide information about promotional event staffing to OPUC Staff would not protect
3 customers—requiring ETCs to provide the information to Staff not only allows Staff to
4 promptly and successfully respond to customers requests for assistance, but ensures that
5 the ETC itself has a clear record of the personnel staffing promotional events.

6 Collection of this information is doubly important when one considers the
7 collection of entire social security number is part of the application process. If there is a
8 breach of confidence with regard to a Lifeline applicant’s social security number, CUB
9 assumes that both the ETC provider and OPUC Staff would need to know the names of
10 all persons staffing the promotional event where the breach occurred.

11 **D. Representative Training**

12 CUB also supports Staff’s proposed concept with regard to representative
13 training. With the recent notices of apparent liability (NALs) being levied by the FCC, it
14 is clear that representative training plays a key role in preventing waste, fraud and abuse
15 of the Lifeline program. Rigorous initial training on OTAP and Lifeline rules, as well as
16 identity theft protection, prior to permitting interaction with potential OTAP and Lifeline
17 customers would serve potential customers well and ensure that all representatives are
18 well versed in program requirements. This will also help to ensure that only eligible
19 customers are provided with Lifeline services. Annual re-training would also serve to
20 ensure that representatives are regularly updated on all Lifeline and OTAP rules and
21 program requirements that may have changed in the past year, however, such annual re-
22 training should not absolve an ETC from immediately informing its representatives of
23 key programmatic changes as they occur.

1 **E. Federal Communications Commission Standard**

2 Consistent with paragraph 110 of the FCC’s Lifeline Reform Order,³ Staff’s final
3 recommendation is that the Commission pursues a rulemaking to adopt language to
4 ensure that ETCs, through the acts of their agents, contractors or representatives, are
5 responsible for compliance with the rules and orders applicable to ETCs participating in
6 the OTAP and Lifeline programs. Although some ETCs may argue that they are already
7 subject to this concept via FCC regulations, CUB does not believe that including such a
8 concept in Oregon’s OTAP rules would be unnecessarily redundant. CUB supports
9 Staff’s recommendation.

10 **II. Additional Considerations**

11 **A. Auditing Agents**

12 In addition to Staff’s recommendations, CUB also believes that requiring ETCs to
13 conduct routine audits of applications would help to ensure that each agent is complying
14 with all programmatic rules. Such audits could also be used to identify recurring issues
15 which could then be more timely addressed. CUB will expand upon this
16 recommendation in the ongoing UM 1648 docket, which the Commission has opened to
17 investigate ETC requirements.

³ See *Lifeline and Link Up Reform Modernization et al*, WC Docket No. 11-42 et al, Report and Order and Further Notice of Proposed Rulemaking, 27 FCC Recd 6656, ¶ 110 (rel. Feb. 6, 2012).

1 **III. Conclusion**

2 In conclusion, CUB is supportive of the recommended concepts proposed by Staff
3 in its Status Report and Recommendations. CUB believes that these concepts will be key
4 in preventing the types of abusive practices that have occurred in other states, and to a
5 lesser extent, in Oregon.

Respectfully submitted,



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UM 1684 – CERTIFICATE OF SERVICE

I hereby certify that, on this 26th day of August, 2014, I served the foregoing **COMMENTS OF THE CITIZENS' UTILITY BOARD OF OREGON** in docket UM 1684 upon each party listed in the UM 1684 PUC Service List by email and, where paper service is not waived, by U.S. mail, postage prepaid, and upon the Commission by email and by sending one original and one copy by U.S. mail, postage prepaid, to the Commission's Salem offices.

(W denotes waiver of paper service)

(C denotes service of Confidential material authorized)

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Respectfully submitted,

A handwritten signature in black ink that reads "Sommer Templet". The signature is written in a cursive style with a large initial 'S'.

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