

BEFORE THE PUBLIC UTILITY COMMISSION
OF OREGON

In the Matter of

United States Cellular Corporation's
Request for Waiver of OAR 860-033-0046(3)
Pursuant to OAR 860-033-0001(2)

Docket No. _____

**UNITED STATES CELLULAR
CORPORATION'S REQUEST FOR
WAIVER OF OAR 860-033-0046(3)
PURSUANT TO OAR 860-033-0001(2)**

I. INTRODUCTION

Pursuant to OAR 860-033-0001(2), United States Cellular Corporation ("U.S. Cellular") respectfully requests that the Oregon Public Utility Commission ("Commission") grant U.S. Cellular a waiver of OAR 860-033-0046(3) effective from December 20, 2013 until July 31, 2014. OAR 860-033-0001(2) provides:

"Upon request or its own motion, the Commission may waive any of the division 33 rules for good cause shown. A request for waiver must be made in writing, unless otherwise allowed by the Commission."

Good cause for the waiver exists because (1) compliance by U.S. Cellular has not been technically feasible to date; (2) following the adoption of the rule, U.S. Cellular refrained from seeking a waiver on the advice of the Commission staff ("Staff"), and (3) U.S. Cellular has been working diligently, in cooperation with the Commission staff, to make compliance technically feasible, and will be able to and will comply with OAR 860-033-0046(3) by July 31, 2014.

II. DISCUSSION

The current version of 860-033-0046(3), adopted by the Oregon Public Utility

Commission in Order 13-475 in docket AR 574 provides:

“(3) Order Activity Report: The Order Activity Report is a listing of all OTAP customers whose service was disconnected, who voluntarily de-enrolled or were de-enrolled for failure to use the OTAP or Lifeline supported service that the Eligible Telecommunications Provider offers at no charge, and a listing of all OTAP or Lifeline customers whose telephone numbers or addresses have changed. * * *The Order Activity Report must be received by the Commission on or before the close of business of the 21st calendar day of the following month.”¹

As explained below, U.S. Cellular cannot yet fully comply with the rule due to technical obstacles. Since the rule was adopted, U.S. Cellular has refrained from requesting a waiver on the advice of the Staff, and has worked diligently, and in cooperation with Staff, to achieve compliance, and will be in compliance by July 31, 2014.

A. Technical obstacles have obstructed compliance with 860-033-0046(3), as explained to the Commission before adoption of the rule.

U.S. Cellular pointed out in its written comments in AR 574 that U.S. Cellular could not report the information required under that rule, explaining that U.S. Cellular’s records did not contain the information needed to determine which customers’ telephone numbers and addresses have changed.² In light of that fact, U.S. Cellular’s comments further noted that the requirement would impose an unreasonable burden and would obstruct U.S. Cellular’s ability to provide OTAP discounts to eligible Oregon residents. Nonetheless, the Commission adopted the rule in Order 13-475, noting that “[i]f it is not technically feasible for U.S. Cellular to comply, the

¹ OAR 860-033-0046(3)

² *In the Matter of Rule Changes Regarding Eligibility for OTAP and Other RSPF Rule Changes*, Oregon Public Utility Commission Docket No. AR 574, Comments of United States Cellular Corporation on Proposed Rules (filed Nov. 12, 2013), at 5.

company may apply for a waiver under OAR 860-033-0001(2).”³ The revised rule was promulgated in late December of 2014.⁴

B. Staff advised U.S. Cellular that no waiver was necessary.

When the current OAR 860-033-0046(3) was adopted, U.S. Cellular estimated that it would need approximately six months to come into compliance. U.S. Cellular conveyed that estimate to Staff. Concurrently, U.S. Cellular prepared to file a waiver request under OAR 860-033-0001(2). However, in early January 2014, Staff advised U.S. Cellular that it did not need to file a waiver of 860-033-0046(3) in light of U.S. Cellular’s estimated timeframe for achieving compliance. Relying on that advice, U.S. Cellular cancelled its plans to file a waiver request. Just recently, on March 28, 2014, Staff informed U.S. Cellular that, despite Staff’s previous advice, a waiver would be required after all. Accordingly, U.S. Cellular is now requesting a waiver.

C. U.S. Cellular has worked diligently to achieve compliance by June 30, 2014.

Since the rule was enacted, U.S. Cellular has worked diligently to remove technical obstacles and achieve compliance. U.S. Cellular originally estimated that it could remove the technical obstacles to full compliance in approximately six months. Given the progress made to date, U.S. Cellular now expects that it will be able to comply fully with OAR 860-033-0046(3) by July 31, 2014. Accordingly, the waiver requested here is quite limited, covering only the period from the rule’s adoption until July 31, 2014. Granting the waiver will therefore have no permanent effect on Staff’s future ability to receive and analyze OTAP Activity Report data.

³ *In the Matter of Rule Changes Regarding Eligibility for OTAP and Other RSPF Rule Changes*, Oregon Public Utility Commission Docket No. AR 574, Order No. 13-475 (entered Dec. 19, 2013), at 9.

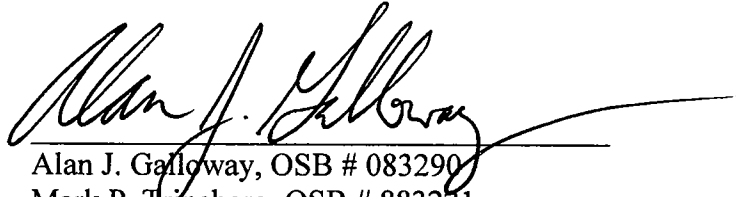
⁴ The final rule was filed with the Secretary of State on December 20, 2013 and with the Office of the Legislative Counsel on December 26, 2013.

III. CONCLUSION

Good cause exists for the waiver of OAR 860-033-0046(3) requested herein because (1) compliance by U.S. Cellular has not been technically feasible, (2) U.S. Cellular relied on Staff's advice in not seeking a waiver previously, and (3) U.S. Cellular continues to work diligently to remove barriers to compliance by July 31, 2014. Accordingly, U.S. Cellular respectfully requests that the waiver be granted.

Dated this 8th day of April, 2014.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Alan J. Galloway", is written over a horizontal line. The signature is fluid and cursive.

Alan J. Galloway, OSB # 083290
Mark P. Trinchero, OSB # 883221
Davis Wright Tremaine, LLP
1300 SW Fifth Avenue, Suite 2400
Portland, OR 97201-5630
Phone: (503) 241-2300

Attorneys for United States Cellular Corporation