Oregon Citizens' Utility Board

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AMENDED HB 3268: STILL MAJOR PROBLEMS

As introduced, HB 3268 "repeals provisions directing [the Oregon] Public Utility Commission to administer [a] residential telecommunication service program" and eliminates the Residential Service Protection Fund that, since 1987, has provided monthly bill assistance to low-income telecommunication customers in Oregon and support for two programs serving hearing and/or visually impaired Oregonians. CUB provides background in our **No on HB 3268: Preserve the Residential Service Protection Fund** handout that we sent to Health Committee members during the week of March 20, and have submitted as testimony for the March 29 hearing in addition to this handout.

The proposed amendments from CareOregon (HB 3268's primary author) would not abolish the Residential Service Protection Fund or remove the Oregon Public Utility Commission from their administration role over that Fund or the three programs it supports. Rather, the amendment would remove the Public Utility Commission's authority to administer the federal Lifeline program.

CUB has major problems with this "administer the Oregon but not the federal program" approach, and opposes HB 3268 as amended.

First, though, an example of CUB's advocacy for low-income customers: Oregonians established CUB to advocate for residential ratepayers with a 1984 ballot measure. CUB works in the legislative arena but even more so in an Oregon Public Utility Commission context. CUB advocates for low-income customers.

For example, when TracFone petitioned to join the Oregon market, they proposed a Lifeline plan that CUB opposed. TracFone's pitch was free phones. Yet after exhausting 68 free minutes, they proposed to charge customers $.20 for each additional minute, which would have amounted to 250 minutes for $36 per month. The agreement brokered by the Public Utility Commission and CUB assured 250 truly free minutes per month. Presumably, this was one factor in TracFone leaving Oregon, but it is one where TracFone's business approach was at fault and not the Public Utility Commission.

Key Points to Evaluate the Amendments

- Households and not individuals determine eligibility for both the federal Lifeline and Oregon Telephone Assistance Program monthly bill assistance programs. This means that just meeting low-income eligibility requirements on an individual basis does not determine eligibility for either federal Lifeline or Oregon Telephone Assistance Program assistance.
- The household eligibility approach at both the Oregon and federal level suggests that free phones may not motivate all low-income customers, especially given the proliferation of family plans.
- 34 Eligible Carriers (more on that definition later) provide free and low-cost services in Oregon. Assurance, for example, offers free phones.
- Just as credit card activation requires a security sequence, a similar process is appropriate to activate a free device. Most companies provide an initial 20 free minutes, and then require a phone call with a pin number, or some other identifier, to ensure that the phone is in the hands of the eligible customer. TracFone requested a different process that the Public Utility Commission eventually accepted despite concerns that their proposed process was unnecessarily complicated for the customer. When numerous complaints did occur, TracFone did not petition the Commission for reconsideration of their proposal or propose another solution. CUB understands that a different company using the pin number approach has an 80 to 90% successful activation rate.

- Increasing participation for low-income phone bill payment programs should build upon and not undermine effective federal regulations to address waste, fraud, and abuse; regulations that are based on documentation of such problems. Oregon successfully implements those regulations, and removing the key player in achieving that success, the Public Utility Commission, is not adequately supported by evidence provided by HB 3268's proponent, an entity that partners with only one of the 34 participating Oregon Eligible Carriers.

CUB's Amendment Analysis

- The Federal Communications Commission, based on the 1996 Telecommunications Act, requires that a "State Commission" – referring to a state's Public Utility Commission or comparable entity – designate Eligible Telecommunications Carrier status.
- A company's Eligible Carrier status gives it the necessary authority to offer Lifeline Program benefits in a given state. It, therefore, cements the regulatory bridge between the Federal Communications Commission and a state's Utility Commission.
- It makes sense, then, that the agency regulating the Eligible Carriers, and one that is expertly familiar with federal communications policy, administer telecommunications subsidy programs such as federal Lifeline and Oregon Telephone Assistance.
- CUB is aware of discussion to task a yet-to-be-determined State agency with complex federal Lifeline Program oversight. Bear in mind that neither a health care nor an anti-poverty agency administers the federal Lifeline program. Telephone ratepayers pay a monthly surcharge on their bills. The Universal Service Administration Company, under guidance from the Federal Communication Commission, administers this fund and the low-income assistance program paid for with ratepayer dollars.
- Oregon takes a parallel administrative approach, and far more discussion must occur to justify an administrative change to form any such agreement with an alternate state agency.
- If an amended HB 3268 were to remove the Oregon Public Utility Commission from its role in determining Lifeline subscriber eligibility, current federal policy would require that all 34 Oregon Eligible Carriers serve as the first point of contact for subscriber eligibility intake.
- Oregon Eligible Carriers do not want this responsibility, nor are they equipped to take it on.
- Decoupling Eligible Carrier regulation from Lifeline Program administration seems highly likely to prove complicated and inefficient. Such a change would also require separate administration of two intertwined efforts – Oregon Telephone Assistance Program and federal Lifeline.
- With or without proposed amendments, HB 3268 does not adequately address CUB's interest in improving Oregon Lifeline Program participation. It would, however, contradict federal law and impose inappropriate burdens on carriers and their ratepayers.

Summary:

- CUB understands and appreciates the larger goal behind HB 3268, but cautions that improving a program and dismantling a program are two very different things.
- The Oregon Public Utility Commission openly acknowledges and embraces an interest to improve Lifeline and Telephone Assistance Participation rates in Oregon; although, CUB may not agree with every idea.
- Not all Eligible Carriers are the same. TracFone left the Oregon market and moving beyond their complaints is important. 34 Eligible Carriers providing free (Assurance) and low-cost services remain in Oregon.
- CUB's opposes HB 3268 as written and sees major problems with the proposed amendments
- CUB, as stated in our first handout, fully supports increasing Lifeline and Telephone Assistance program participation rates in Oregon. We reiterate our offer to conduct a targeted summer assessment of participation improvement options with a report back to the Public Utility Commission and interested legislators.

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