

**BEFORE THE
FEDERAL COMMUNICATIONS COMMISSION
WASHINGTON, DC 20554**

In the Matter of
Federal-State Joint Board on Universal Service
Lifeline and Link Up

WC Docket No. 03-109

COMMENTS OF NEXUS COMMUNICATIONS, INC.

Nexus Communications, Inc. (“Nexus”)¹ hereby replies to the comments filed in the initial round of the above-captioned proceeding. Specifically, Nexus supports the establishment of a national eligibility database in order to guard against waste, fraud, and abuse, and urges the Commission to ensure that any automatic enrollment mechanism be implemented in a pro-competitive manner. Finally, verification efforts aimed at the most vulnerable populations such as the homeless and the very poorest Americans, who often choose wireless prepaid services, must be thoughtfully tailored to elicit maximum responses from participants.

I. NEXUS SUPPORTS A NATIONAL, ONLINE ELIGIBILITY DATABASE

Many commenters support a proposal to establish a national, centralized database that would keep track of consumers who are eligible to participate in the Low Income program.

¹ *Federal-State Joint Board on Universal Service Seeks Comment on Lifeline and Link-Up Eligibility, Verification, and Outreach Issues Referred to Joint Board*, Public Notice, FCC 10J-2, CC Docket 96-45 and WC Docket 03-109 (FCC rel. June 15, 2010), *seeking comment on In Re Federal-State Joint Board on Universal Service, Lifeline and Link Up*, Order, FCC 10-72, CC Docket 96-45 and WC Docket 03-109 (FCC rel. May 4, 2010) (“Order”). All references to comments are comments filed in connection with the Order. Nexus is an Eligible Telecommunications Carrier (“ETC”) in 19 states, and provides services supported by the Low Income program utilizing both wireline and wireless technologies.

Regulators, community organizations, and ETCs themselves voiced support for the proposal because they recognize that having a single data source for establishing eligibility would significantly reduce waste, fraud, and abuse in the program and would lower administrative burdens on participants and regulators. Nexus also supports a national eligibility database, and believes that it will benefit consumers by enhancing consumer choice, reducing the potential for anticompetitive effects, and minimizing administrative burdens for regulators and program participants.

Nexus specifically supports the AT&T proposal to establish a national personal identification number (“PIN”) database.² This proposal would improve the Low Income program in several respects. First, a centralized database on which state agencies and ETCs could rely would increase efficiency and would reduce waste, fraud, and abuse by helping to eliminate duplicate claims and lowering the administrative burdens associated with the current paper-based system. The current Low Income system is a patchwork of federal and state eligibility requirements, verification methods, and incentives programs that rely on a handful of state-based registries along with an ETCs’ own customer databases to keep track of eligible participants. This system could be vastly improved by a centralized database and standardized methods.

A properly designed and implemented database would eliminate the two major questions facing Low Income providers seeking to serve a new subscriber: (1) is the subscriber eligible? and (2) is the subscriber already benefiting from a Low Income subsidy from another provider? USAC or the FCC would be the logical repository for the information that could answer these questions, due to their experience with and authority over the Low Income program, as well as their placement at the federal level. A national, centralized system would be dramatically more

² AT&T Comments at 9.

efficient than individual databases maintained within each state, which could create wasteful duplication and potentially incompatible systems. A national database would allow ETCs to obtain and use the eligibility data in a uniform manner nationwide. In particular, Nexus supports AT&T's suggestion that the states, not ETCs, bear responsibility for determining whether a customer is eligible to participate in the Low Income program and receive a PIN, which would be distributed by states from blocks assigned by USAC or the FCC.³ A system in which each household is assigned a unique PIN that is matched with identifying information and participation status in the Low Income program also has the potential to eliminate fraud. Currently, ETCs lack any means in nearly all states to verify whether a customer is currently receiving Low Income service from another provider. A national database would provide a dependable resource for providers to eliminate multiple subsidies. The ability to receive duplicate Low Income funding is a concern for all ETCs, regardless of the technology employed.

There are certain details of the AT&T proposal that have yet to be fleshed out, and Nexus would like to take this opportunity to highlight some issues that will need to be addressed in order to ensure an efficient and pro-competitive database regime. For example, under AT&T's proposal, the database would be directly accessible to all ETCs. Nexus urges the Commission to ensure that the database be configured so that ETCs can compete for eligible customers on an equal playing field, and will all have timely and equal access to the database. This will be crucial in order to ensure proper and timely billing for a subscriber whose eligibility is no longer valid, or in those situations where a Lifeline subscriber migrates to another Lifeline provider.

It will also be important that the subscribers themselves have easy access to obtain their respective PINs. Procedures to initially register and update subscriber information must be easy, simple, and accessible for all low income consumers irrespective of their relative level of

³ *Id.* at 5.

technical sophistication. Potential Low Income subscribers who may not have access to the Internet should be allowed to work with third parties such as case workers, outreach volunteers or directly with the FCC or USAC in order to obtain the PIN on behalf of the subscriber if the program requires some online component.

Any new database system must also ensure that Low Income subscribers are required to provide timely information about changes in their service provider. It is in the best interest of all involved to ensure that providers have timely information about migration dates to allow for timely and precise FCC Form 497 filings. The database must also separately show eligibility for Link Up as well as Lifeline, in order to ensure that a new carrier can be confident when receiving Link Up funds that they have been properly authorized. And of course, there must be an easy process to correct database errors, including but not limited to eligibility status and active or inactive status.

This PIN-based system would be an improvement over the current variety of state systems, some of which “push” listings of subscribers only to the larger incumbent carriers. Clearly, this puts other ETCs at an unfair competitive disadvantage.⁴ Eliminating anticompetitive tie-ins between state agencies and large ETCs (often, the incumbent provider) would go a long way toward streamlining and improving the Low Income program.

A centralized, neutrally-administered database will also reduce the inherent problems that arise when carriers are asked to resolve “double dipping” issues. As AT&T noted, there have already been instances in which USAC asked carriers to resolve “double-dipping” by “work[ing] together to determine which company should properly claim the Low Income subscribers

⁴ Report of the FCC/NARUC/NASUCA Working Group on Lifeline and Link-up: “Lifeline Across America” (2007), available at www.lifeline.gov/LLURReport.pdf at 5, 10.

identified by the auditors as receiving support from both companies.”⁵ This is an inappropriate role for carriers, and could be avoided altogether by a national database system under which USAC maintains individual customer accounts and the same eligibility information is available to all.

II. ANY AUTOMATIC ENROLLMENT PROCESS MUST BE DONE A COMPETITIVELY NEUTRAL BASIS

Nexus supports efforts to increase participation in the Low Income program, which funds vital telecommunications services for the economically disadvantaged. This initiative gives many low-income participants the ability to communicate with employers, doctors, family, and access needed services. Automatic enrollment could be a helpful component in such efforts. Any automatic enrollment initiative, however, must be designed to respect customer choice and must be competitively neutral. An automatic enrollment program that simply hands over a captive customer base to the dominant carrier (*i.e.*, the incumbent local exchange carrier or “ILEC”), would clearly be anticompetitive and in violation of the Commission’s rules.⁶ Other commenters have expressed similar concerns with any “ILEC-default” proposal.⁷ Aside from the obvious anti-competitive problems with such a regime, competitive ETCs more often provide service packages targeted to the specific needs of the low-income households. Any automatic enrollment program should not deprive these consumers of service offerings that may better fit their needs.

⁵ AT&T Comments at 13 (citing Request for Review by the Verizon/Alltel Management Trust of Decision of the Universal Service Administrator, CC Docket No. 96-45, WC Docket No. 03-109 (filed Oct. 6, 2009)).

⁶ See *e.g.*, *Universal Service Monitoring Report*, CC DOCKET NO. 98-202; CC Docket No. 96-45, 2009 FCC LEXIS 6683 (FCC rel. Aug. 9, 2009) at sec. 2 (stating that “[t]he Commission’s rules . . . require low-income support to be *competitively and technologically neutral* . . . by allowing all eligible telecommunications carriers, including wireless carriers, to receive support for offering Lifeline and Link Up service.”) (emphasis added).

⁷ PR Wireless Comments at 10; Smith Bagley Comments at 10.

The comments of the Advocates for Basic Legal Equality, et al., provide an example of how administrators might avoid this problem.⁸ Under their proposal, agencies administering programs that qualify their participants for automatic enrollment in the Low Income program would explicitly ask those participants which ETC they would like as their service provider.⁹ Those agencies would then pass on the list of eligible consumers to each ETC. Another possible solution would be to use the new national database system to match consumers to participating ETCs, as AT&T has proposed.

In summary, the overall approach of any automatic enrollment program should be to empower eligible Low Income customers to choose the service that best fits their needs. In some cases, they may choose traditional ILEC services. In others, smaller ETCs with the ability to focus on the target population will be a better choice. Research indicates that Low Income participation rates depend, possibly to a great degree, on how well the services offered in a given community meet the specific needs of its residents.¹⁰ The aim of automatic enrollment should not be simply to increase the number of enrolled households, but rather, to improve the usefulness of Low Income services to low-income customers. Giving them a choice of ETC and service type is critical to accomplish this goal.

III. ANY NEW CERTIFICATION AND VERIFICATION PROCESSES MUST BE APPROPRIATELY ADAPTED TO THE TARGET POPULATION

Many commenters have offered suggestions on how to revise the certification and verification process for Low Income customers.¹¹ Any new verification program should take

⁸ Comments of Advocates for Basic Legal Equality, et al.

⁹ *Id.* at 17.

¹⁰ Janice A. Hague et al., *Whose Call Is It? Targeting Universal Service Programs to Low-Income Households' Telecommunications Preferences*, 33 *Telecomm. Pol'y* 129, 136-38 (2009), available at http://warrington.ufl.edu/purc/purcdocs/papers/805_Hauge_Whose_Call_is.pdf at 8-10.

¹¹ AT&T Comments at 15; PR Wireless Comments at 11; Smith Bagley Comments at 11; Verizon Comments at 9; TracFone Wireless Comments at 9; United States Telecom Association Comments at 5.

into account the specific needs of the targeted customers and the challenges in serving them. More often than not, customers participating in the Low Income program may find that wireless services best fit their needs or, in fact, are their only suitable option.¹² The verification process should be designed to work with, and address these needs.

Various efforts have been made to improve verification methods with respect to wireless services, particularly prepaid wireless. A properly implemented PIN-based system could also be used to efficiently satisfy annual verification requirements for Low Income service. In the interim period before a PIN-based system can be implemented, however, improved annual verification methods are needed. For example, Florida currently requires wireless ETCs to make contact by text message with their Low Income customers every 60 days. If a customer does not respond to the message, that account may be terminated.¹³ Nebraska, by contrast, re-verifies its Low Income customers every two years and does so by mailing a letter and requiring a mailed response within two months.¹⁴ Low response rates to such methods may not necessarily indicate that low-income customers are not using their prepaid wireless phones, but rather that the verification method is inappropriate or too limited. Studies show that wireless phone services are crucial to many low-income participants, particularly those who are homeless, but these—the neediest of participants—may have trouble in responding, or be unable to respond, to letters or

¹² National Consumers League comments at 1; Public Utilities Commission of Ohio at 7. NASUCA's comments unfortunately miss the bigger picture on this issue. NASUCA Comments, *passim*. Its comments characterize funding for prepaid wireless services as a threat to the fund, rather than focusing on the issue of whether the fund is achieving its purpose of getting phone service to low income persons. While there is certainly a need for reform of the universal service program, the solution is not to retreat from the very technological advances that actually serve the needs of the targeted demographic. This would be contrary to the goals established in Section 254 of the Communications Act to establish competitively neutral rules to enhance access to advanced telecommunications service, which was recently reaffirmed in the National Broadband Plan. 47 U.S.C. § 254. Nexus does not further address NASUCA's comments here, however, as much of its comments addressed issues outside the scope of the present inquiry.

¹³ Robert Casey, "Lifeline Eligibility Verification – State Actions and Best Practices," 2010 NARUC Winter Committee Meeting, available at http://www.narucmeetings.org/Presentations/LifelineEligibilityVerification_Casey.pdf.

¹⁴ Comments of the Nebraska Public Service Commission at 5.

text messages.¹⁵ Nexus submits that consideration must be given to the appropriateness of the verification methods themselves, as well as possible alternatives. One possible alternative could be to allow Low Income subscribers to contact a toll-free number to verify continued eligibility through the use of Third Party Verification (“TPV”). This type of electronic verification is currently in use in connection with the FCC’s rules governing preferred carrier changes (*see* 47 C.F.R. § 64.1120(c)(2)). The verification could be subject to the same penalty of perjury condition as is currently required, and the proof of verification could be structured similar to the Commission’s carrier change rules. This procedure might also work well with the PIN-based program in terms of facilitating initial certification of potential eligible Lifeline subscribers.

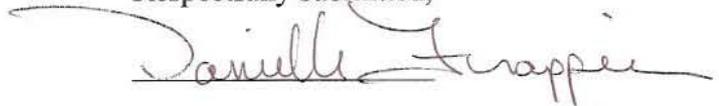
A national certification database will provide a good foundation upon which to base ETC outreach efforts. But whether such efforts are organized at a state or national level, it is important that any verification/certification program take into account the varied and often transient lifestyles of participants in the Low Income program. The verification/certification process should employ communication methods that are thoughtfully designed to elicit maximum response rates from those who are in most need of Lifeline services. Finally, if a customer is terminated for failing to re-verify, it is important that this not prevent them from quickly re-certifying in the national database and resuming participation in the program.

¹⁵ Petula Dvorak, “D.C. Homeless People Use Cellphones, Blogs and E-Mail to Stay on Top of Things,” *Washington Post*, March 23, 2009; Kevin Graham, “Wireless a Lifeline for Homeless,” *St. Petersburg Times*, April 9, 2007; CC Docket 96-45, WC Docket 03-109, NCL Petitions Concerning Eligible Telecommunications Designations and the Lifeline and Link-up Universal Support Mechanism, September 17, 2004.

IV. CONCLUSION

Nexus looks forward to working further with the Commission and state commissions in improving the administration of the Low Income program in order to better serve the needs of consumers, and in particular, those in most need of this program. Nexus supports efforts to streamline and simplify the Low Income eligibility certification and verification processes for low income subscribers in these extremely difficult economic times without compromising the integrity and viability of the Low Income program. Establishing a single, definitive source of eligibility status and exploring pro-competitive ways to support the program and eliminate waste, will ensure a vital and efficient Low Income program.

Respectfully submitted,



Danielle Frappier
Adam Shoemaker
DAVIS WRIGHT TREMAINE LLP
1919 Pennsylvania Avenue, N.W.
Suite 800
Washington, D.C. 20006-3401
Phone: (202) 973-4242

Counsel for Nexus Communications, Inc.

Dated: July 30, 2010