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Federal Communications Commission
Office of the Secretary

Marlene H. Dortch
Secretary
Federal Communications Commission
445 12th Street, SW
Washington, DC 20554

Re: Ex Parte Filing in WC Dockets 09-197 and 03-109

Dear Ms. Dortch:

In its January 11, 2011 meeting with Wireline Competition Bureau staff, the undersigned counsel for Nexus Communications, Inc. ("Nexus") discussed the issues raised in TracFone's recently-filed Petition for Declaratory Ruling.[1] The purpose of this filing is to provide staff with an overview of Nexus' operations so that staff can become more familiar with carriers focused on serving participants in the Low Income program, such as Nexus.

Nexus is committed to serving the specific needs of low income Americans. Nexus has received eligible telecommunications carrier ("ETC") designation in twenty states, pursuant to which it receives Lifeline/Link Up ("Low Income") funding.[2] Moreover, Nexus engages in extensive outreach efforts, including deploying mobile information vehicles directly to economically disadvantaged neighborhoods, which was recently recognized by the Federal-State

[1] Letter from Danielle Frappier, Davis Wright Tremaine LLP, to Secretary Dortch (filed Jan. 11, 2011) (providing notice of an *ex parte* with WCB staff regarding the TracFone Petition for Declaratory Ruling in the above-captioned dockets).

[2] Nexus became a competitive local exchange carrier in 2000, and received its first ETC designation in June 2006. Nexus now focuses on providing service to Low Income consumers. It provides service to customers using wireline technology in Alabama, Florida, Kentucky, North Carolina, Oklahoma, South Carolina, Tennessee, Texas, and Wisconsin. It serves customers using both wireline and wireless technology to Low Income participants in Illinois, Kansas, Louisiana, Michigan, and Mississippi. It uses only wireless technology to serve Low Income consumers in Arkansas, Georgia, Maryland, Missouri, New Jersey, and West Virginia. Although ETCs may receive funding from both the federal High Cost and Low Income programs, Nexus has declined all High Cost funding and therefore, only receives Low Income funding.

Joint Board on Universal Service.[3] It also provides services on a prepaid basis, which offers these consumers a simple and effective means of managing their family budgets and avoiding bill shock.[4] After several years serving its customers via wireline technology, in the second quarter of 2009 Nexus began to offer wireless services to satisfy the overwhelming demand for such services in the communities it serves. Consumers have clearly indicated a strong preference for mobile wireless services in recent years and Nexus has worked to satisfy this demand by growing and investing in wireless technology. For example, Nexus has acquired PCS spectrum in Montana and is building out facilities to offer services using that spectrum and associated Nexus-owned network equipment.[5] Because of the strong consumer preference for wireless services, Nexus's wireless offerings have been very successful in the marketplace, such that it now provides wireless services to Low Income participants in eleven states. Nexus' wireless services have been so successful at meeting the objectives of the Low Income program – getting phone service to this underserved population – because prepaid wireless services are uniquely well-positioned to meet the needs of low income, most-at-risk and most-in-need Americans, and help provide the crucial link they need to jobs, healthcare services, education and other vital information.[6]

Nexus' expansion into wireless services has not been without its challenges, however. ETC status is a creature of federal law, but under that law, states have been delegated the authority to carry out the federally-created process of designating ETCs. The applicable federal statute, Section 214(e), is entirely neutral with regard to the technology an ETC uses to provide the supported services. However, states are often confused about the way in which Section 214(e) applies to different technologies, particularly wireless technology. This confusion arises from the specific way in which wireless services have evolved over time. In particular, most wireless services have been offered by a legal entity that has been exclusively focused on offering wireless telecommunications service. As a result, it has been the exception rather than the rule for the same entity to utilize both wireline and wireless technologies in a fully integrated manner. The result has been that on many occasions states have been called upon to designate as ETCs entities that only used wireless technology at the time of their designation and had no plan or expectation to use other technologies within any reasonably foreseeable period. When states have designated such entities as ETCs, the states have, therefore, understandably only mentioned the use of wireless technology. As a result, when a fully integrated carrier such as Nexus has approached the states, many state commissions (typically wrongly, in Nexus' view) have interpreted state statutes prohibiting state authorities from regulating wireless *services* as prohibiting the state commission from applying the federal statute to confer ETC status on these

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[3] *In Re Federal-State Joint Board on Universal Service; Lifeline and Link Up*, Recommended Decision, 2010 FCC LEXIS 6557, at ¶ 64 (Jt. Bd. rel. Nov. 4, 2010). Attached is a photograph of one Nexus' mobile outreach vehicles and campaigns.

[4] *In Re Empowering Consumers to Avoid Bill Shock Consumer Information and Disclosure*, Comments of Nexus Communications, Inc., CG Docket Nos. 10-207, 09-158 (filed Jan. 10, 2011).

[5] Radio Station Authorization, Call Sign WQB1768, File No. 0004028462. Nexus has deployed and is currently deploying additional infrastructure for its non-Low Income subscribers with a goal of providing supported services to Low Income customers through use of this spectrum.

[6] See attached white paper that more fully discusses the benefits of prepaid wireless services for the target demographic. In addition to providing services that are supported by the Low Income program, Nexus also provides its wireless customers with a company subsidized handset at no cost to the customer.

entities.[7] In these circumstances, prospective ETCs have often made the business decision to simply separately apply for a "wireless" designation, either from states that view themselves as having the authority to grant it, or from this Commission. Nexus itself has sought such designations to ensure that there would be no question regarding its authority to receive Low Income funding for its wireless customers.[8]

While there has been no reason in the past for Nexus to challenge the practice of some states to consider "wireless only" ETC designations, the fact remains that no such separate designation based on technology is reflected either in Section 214(e) or in the Commission's rulings and regulations implementing that section. And the fact remains that Nexus is a fully integrated, "blended-facilities" carrier that offers the supported services, in part, over its own facilities that employ both wireline and wireless technologies. Nexus treats its specific network configuration as highly confidential information. As a result, a more detailed description of the specific facilities Nexus uses to provide the supported services is provided in Confidential Exhibits 1 and 2.

Like other carriers providing service over wireless technology, Nexus is not alone in charging an SAF for wireless services. In fact, charging a SAF is a wireless industry standard, rather than an exception. For example, each of the top five wireless providers in the nation charge an SAF—AT&T, Verizon (including the formerly Alltel operations, which continues to have separate pricing), Sprint-Nextel, T-Mobile and US Cellular. Similarly, a Nexus survey identified over 40 other wireless carriers that charge SAF, including seventeen carriers that charge an SAF on prepaid plans.

In addition to Nexus, seventeen other carriers charge SAFs on prepaid wireless plans: Alaska Wireless Communications LLC; Cellular South; Chariton Valley Communications; Corr Wireless; DPI Teleconnect, L.L.C.; Illinois Valley Cellular - IV Cellular; I-Q Telecom, Inc.; Lucky Wireless; Mobi PCS (Coral Wireless); Pine Tree Cellular (Maine); Smith Bagley - Cellular One; STi Prepaid, LLC; Telrite - Life Wireless; Terracom Wireless; True Wireless, LLC; West Central Wireless (Right Wireless); and YourTel America, Inc. Other wireless carriers that charge SAF include the following: Airlink Mobile; Arctic Slope Wireless; Caprock Cellular; CellularOne of East Texas; CloseCall America, Inc.; Cordova Wireless Communications Inc; Cross Mobile - Mobilz; E.N.M.R. Telephone Cooperative - Plateau Wireless; FTC Communications, Inc.; Immix - Keystone Wireless; Greatcall, Inc., d/b/a Jitterbug Wireless; Lamar County Cellular; Long Lines Metro; North East Colorado Cellular - Viaero Wireless; nTelos; OTZ Telecommunications Inc. - OTZ Cellular; SouthernLINC; and Union Wireless - Union Telephone Company. Nexus is providing additional information regarding its SAF in Confidential Exhibit 3.

Lastly, there currently exists at least ten wireless ETCs that receive Link Up funding. These include: Midwestern Telecommunications a/k/a MTI, Tennessee Telephone Service d/b/a Freedom Communications, Telrite Corporation a/k/a Life Wireless, True Wireless a/k/a New

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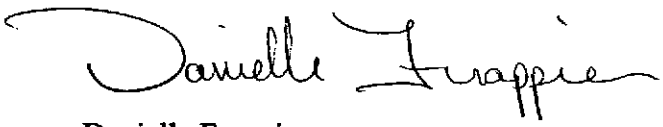
[7] For a more thorough discussion of this issue, please see *In Re TracFone Wireless, Inc. Petition for Declaratory Ruling,* Reply Comments of Nexus Communications, Inc., WC Docket Nos. 09-197, 03-109 (filed Jan. 10, 2011) ("Nexus Reply Comments") at 11-14.

[8] Please see attached a few examples of these "wireless-specific" designation orders.

Talk, Inc, DPI Teleconnect a/k/a DPI Mobile, Smith Bagley, Inc., Verizon Wireless, AT&T Wireless, T-Mobile, and Cricket Wireless a/k/a Leap Wireless.

Nexus strongly believes in the mission of the Low Income program, and looks forward to working further with staff on these issues. Nexus would suggest a follow up meeting to discuss the foregoing and any further questions staff may have regarding Nexus' operations, as well as to discussion Nexus' continued investment in its operations.

Respectfully submitted,



Danielle Frappier

cc: Vickie Robinson
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Prepaid Wireless:
Exactly What's Needed For Universal Service

Prepared for Nexus Communications

Introduction

For over twenty-five years, the Federal Government has assisted low income Americans gain access to the telephone system that knits the nation together.[1] The modern Low Income program (Lifeline and Link Up) was created in 1996 as part of the formal, explicit Universal Service program established by the Telecommunications Act of 1996. It is intended to help ensure that "[q]uality services [will] be available at just, reasonable, and affordable rates" for ***all*** citizens.[2] In the years since passage of the 1996 Act, services supported by the Low Income program have grown more varied and sophisticated as technology has evolved. Much of this change has been driven by consumers themselves. Like everyone else, low income consumers look for new ways of communicating, new technologies, and new service offerings. And like everyone else, low income consumers know that they need wireless services to navigate in today's economy.

The goals of the Universal Service program remain undiminished today, but whereas 25 years ago all that was really at issue was plain old wired telephone service, today the program operates in a communications industry that continues to evolve at an ever-increasing pace. It is a testament to Congress's foresight – in declaring Universal Service to be an "evolving" standard, and one that is not bound to any particular technology – that the program has adapted and has

[1] The Lifeline program was created by the FCC in 1984. *MTS and WATS Market Structure, and Amendment of Part 67 of the Commission's Rules and Establishment of a Joint Board*, Recommended Decision, CC Docket nos. 78-72 and 80-286, 49 Fed. Reg. 48325 (rel. November 23, 1984) (recommending the adoption of federal Lifeline assistance measures); Decision and Order, CC Docket nos. 78-72 and 80-286, FCC 84-637, 50 Fed. Reg. 939 (rel. December 28, 1984) (adopting the Joint Board's recommendation).
[2] 47 U.S.C. § 254(b).

come to encompass wireless services for low income Americans. Wireless, especially prepaid wireless, is one of the best tools presently available to combat the communications divide. Prepaid wireless has introduced new services and new power to low income customers, and they have responded positively and overwhelmingly. The result is an enlivened Low Income program—that makes these services possible for these consumers–that is on course to complete the goal of connecting all Americans in a wireless century.

Wireless Telephone Service is Ubiquitous

Wireless telephone service is now the dominant form of communication in the nation. According to the Federal Communications Commission, 90% of Americans have a mobile device.[3] The availability of this technology is virtually universal: 99.6% of Americans live and work in areas that are covered by one or more mobile voice providers.[4] Now that wireless service has become ubiquitous, it is quickly displacing the older wireline system. Wireline service has been declining for years, and currently one quarter of American households have "cut the cord" and rely on wireless voice service alone.[5] In 2009, the number of American households that had only wireless phones exceeded the number that had only landlines for the first time.[6] Twenty or even ten years ago that would have been remarkable – the majority of Americans have both landline and wireless but among those who have only one service, there are ***more*** that choose wireless-only than choose landline-only. And, this balance will only continue to tilt in favor of wireless: fifteen percent of those who retain wireline service report that they

[3] FCC 10-81, "Annual Report and Analysis of Competitive Market Conditions with Respect to Mobile Wireless, including Commercial Mobile Services," 20 May 2010, p.5, p.11

[4] *Id.*, p.7

[5] *Wireless Substitution: Early Release of Estimates From the National Health Interview Survey, July–December 2009*, by Stephen J. Blumberg, Ph.D., and Julian V. Luke, Division of Health Interview Statistics, National Center for Health Statistics

[6] Amy Farnsworth, *A cellphone plan to bridge digital divide: Firms and feds offer free connections to customers shut out by high costs*, Christian Science Monitor, July 2, 2009.

receive all or almost all of their calls on wireless telephones.[7] Wireline is a "legacy" service – it's not going away entirely any time soon, but it is shrinking, not growing, as it is displaced by wireless service throughout the population.

It's not surprising that customers prefer wireless to landline by such a large margin. Wireless service by its very nature is portable, and it has allowed Americans to adapt to a new era of ubiquitous and constant connectivity, something that was never possible with landline service. Wireless service also engenders more excitement than wireline service ever could, with new technology – both more robust handsets and associated features implemented in hardware, as well as new network capabilities – expanding the possibilities of communication and related economic productivity year after year. Even the lowest–priced wireless handsets offer features that landline phones don't, such as text messages, built-in phonebooks, and mobile voicemail. The cost of wireless service has also decreased dramatically, making it easily affordable for the majority of Americans.[8] At the same time, consumer satisfaction with wireless offerings has reached higher levels.[9] The wireless industry's dramatic rise is not a fluke; it is the result of millions of Americans—especially those on limited budgets—making the rational decision to choose a mobile, technologically advanced product over the increasingly antiquated and wall-bound Twentieth Century telephone system.

Wireless Provides Special Advantages for Low Income Americans

Congress took specific steps to ensure that low income Americans aren't left out of the wireless revolution. Like other wireless customers, low income Americans enjoy the better

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[7] *Wireless Substitution: Early Release of Estimates From the National Health Interview Survey, July–December 2009*, by Stephen J. Blumberg, Ph.D., and Julian V. Luke, Division of Health Interview Statistics, National Center for Health Statistics

[8] CTIA, Semi-annual wireless industry survey, *available at* http://www.ctia.org/advocacy/research/index.cfm/AID/10316

[9] CTIA, The Wireless Industry Facts: An Independent Review, *available at* http://files.ctia.org/pdf/082010_Independent_Assessment_of_Wireless_Industry.pdf

handsets and added features that come with wireless service. But wireless also provides critical benefits for low income Americans that improve their security, mobility, and economic welfare in ways that are particularly important to them in light of the economic and at times social challenges they face. Numerous studies have demonstrated that wireless phones help low income Americans in profound ways, and that they recognize it.

First, wireless phones provide and enhance physical, personal security. Survey respondents prefer wireless to landline for emergency uses by more than three to one, and forty-eight percent of Americans have already used a wireless phone in an emergency.[10] Wireless phones have been called a "lifeline" for the homeless, who use them to call for help and to report assaults.[11] Studies have called wireless phone service "essential" to low income Americans, largely because it provides a constant connection with family, friends, and others who can offer support and protection when needed.[12]

Second, low income Americans benefit, even more than other wireless customers, from the mobility of their phones. Low income customers often spend less time during the day at a fixed location like a home or a desk. If unemployed, a wireless service is more useful than a landline service, as discussed below. But employed Americans with lower incomes will more likely be in jobs that do not come with an office phone available to them. This is particularly true for the homeless. For homeless Americans, wireless service is the only realistic means of

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[10] Amy Farnsworth, *A cellphone plan to bridge digital divide: Firms and feds offer free connections to customers shut out by high costs*, Christian Science Monitor, July 2, 2009; Sullivan, N.P. *Cell phones provide significant economic gains for low-income American households: A review of literature and data from two new surveys* at 15; *available at* http://www.newmilleniumresearch.org/archive/Sullivan_Report_032608.pdf ("Sullivan Report")

[11] Petula Dvorak, *D.C. Homeless People Use Cellphones, Blogs and E-mail to Stay on Top of Things*, Washington Post, March 23, 2009.

[12] Janice A. Hauge, et al., *Whose call is it? Targeting universal service programs to low-income households' telecommunications preferences,* 33 Telecomm. Pol'y 129, 130 (2009), *available at* http://warrington.ufl.edu/purc/purcdocs/papers/0805_Hauge_Whose_Call_is.pdf

voice communication, especially as payphones disappear.[13] Advocates report that wireless phones are crucial for the homeless, who use them to stay in touch with their families, arrange appointments for medical care, and pay bills.[14]

Wireless service is also very important in helping low income Americans get and keep jobs. Unless they have a wireless phone and accessible voicemail, low income job applicants are at a serious disadvantage during the process of seeking and setting up job interviews, as well as making and receiving the follow-up calls that are an integral part of actually getting hired. A mobile phone allows prospective employees to respond immediately to potential employers and, once hired, allows them to stay in contact with their employers and to better manage their schedules. In this respect, inbound use of wireless phones – the ability to receive calls – is just as critical as the ability to call others. Once they are employed, low income Americans use their wireless phones to contact employers and co-workers. In this regard, most wireless customers use their phones for work-related calls, and it would be difficult to imagine navigating the responsibilities and assignments of the work world without a mobile telephone.[15]

Another way wireless is useful to low income Americans is as a tool for obtaining the most effective access to other social services for which they are targeted. A wireless service allows low income families to have reliable communication with government or medical offices, since they will not have to sit near a wired phone – which may not be an option in any case – and since, if they do miss a call, there is typically Caller ID and voice mail available to facilitate the exchange of information and any necessary call-backs.

Prepaid billing is perhaps the most important aspect of wireless service for low income Americans. As the observers have noted, the flat fees attached to most contractual postpaid

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[13] Kevin Graham, *Wireless a Lifeline for Homeless*, St. Petersburg Times, April 9, 2007.
[14] *Id.*
[15] Sullivan Report at 22.

plans are disproportionately onerous on low income customers.[16] By contrast, prepaid wireless service costs only as much as a customer can afford. The low income customer does not have to commit to pay for more service than she will likely use, and does not have to worry about bill shock if the unduly-large monthly commitment becomes too onerous. With pre-paid, the financial burden is both precise and fair. This is a crucial benefit to families who must count every dollar each month. The FCC itself has noted that the "prepaid feature, which essentially functions as a toll control feature, may be an attractive feature to Lifeline-eligible consumers who are concerned about usage charges or long-term contracts."[17] With prepaid, low income customers can purchase only as many minutes as they need for their phone.

Prepaid Wireless—Bridging the Communications Divide

The advantages of wireless service are not lost on low income Americans. Quite the contrary: low income customers are migrating quickly to wireless, and their rate of switching to wireless only – that is, "cutting the cord" – is higher than that of the rest of the population.[18] When asked, low income families confirm that if they can only have one phone, they want it to be wireless.[19] They also want it to be prepaid. In the last few years, the increase in prepaid subscribership has been particularly high in low income households, which makes sense. Studies

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[16] Reply Comments of the Minority Media and Telecommunications Council, *In the Matter of Fostering Innovation and Investment in the Wireless Communications Market; A National Broadband Plan for Our Future*, Notice of Inquiry, GN Docket Nos. 09-157, 09-51, FCC 09-66 (rel. Aug., 27, 2009).

[17] *In the Matter of Federal-State Joint Board on Universal Service, TracFone Wireless, Inc. Petition for Designation as an Eligible Telecommunications Carrier in New York, Florida, Virginia, Connecticut, Massachusetts, Alabama, North Carolina, Tennessee, Delaware, New Hampshire, Pennsylvania and the District of Columbia*, CC Docket No. 96-45, FCC 08-100, Released April 11, 2008.

[18] Hauge at 141; *Wireless Substitution: Early Release of Estimates From the National Health Interview Survey, July–December 2009*, by Stephen J. Blumberg, Ph.D., and Julian V. Luke, Division of Health Interview Statistics, National Center for Health Statistics.

[19] Hauge at 136.

have shown that low income customers choose prepaid in higher numbers than any other group.[20]

The success of prepaid wireless among this segment of the population is borne out by a recent study that found that the penetration of prepaid service in low income Floridian households has doubled over the past three years.[21] The prepaid wireless industry is also growing quickly as a whole: two out of three new wireless subscribers choose prepaid.[22] As the FCC predicted, the ability to control costs is the big reason that prepaid wireless has been so successful among low income purchasers.[23] Being able to decide how much or how little to spend on phone service from month to month allows low income families to manage their costs and phone usage in accordance with family budget. By pre-paying, they can control the cost of critical wireless service on a highly granular level, down to the dollar and the minute.[24]

Crucially, minority populations are of particular interest in any policy discussion concerning prepaid wireless and the digital divide. First, minorities have a higher wireless penetration rate than the overall population.[25] Additionally, the Low Income program is of particular relevance in combating the communications divide in minority populations because they suffer from higher poverty rates. For example, the poverty rate for Latinos in was 23.2 percent and 24.7 percent for African-Americans in 2008, compared to the overall poverty rate of

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[20] *Id.* at 138.
[21] *Id.* at 137.
[22] Marguerite Reardon, *Prepaid wireless outpaces contract service,* CNET News, April 5, 2010, *available at* http://news.cnet.com/8301-30686_3-20001793-266.html
[23] Hauge at 139.
[24] As the National Consumers League has written, "[p]repaid wireless service is a good option for low-income consumers because there are no long-term contracts, no credit checks, and no early termination penalties or late payment fees. With prepaid service, people pay only for the service that they can afford." Comments to the Federal Communications Commission from the National Consumers League *In the matter of Federal-State Joint Board on Universal Service*, CC Docket 96-45, WC Docket 03-109, September 17, 2004.
[25] Hauge at 135.

13.2 percent.[26] Prepaid wireless is crucial to narrowing the communications divide due to its unique mix of affordability and ease of use allows it to achieve high penetration in minority communities.

Prepaid Wireless as Low Income Eligible Telecommunication Carriers ("ETCs")

The overwhelming success of prepaid wireless among low income households has rejuvenated the Lifeline and Link Up programs. Unlike the High Cost program, Lifeline and Link Up payments are directly tied to the exact number of qualifying low income customers that an ETC serves.[27] Thus, while growth in the High Cost program might well be a basis for concern – if costs are so high, and growing, perhaps there is an underlying inefficiency in how the service is providing – growth in the Low Income program means that more and more of the population the program is trying to reach, is actually being reached. This is a success, not a problem. And, where states have approved prepaid wireless providers as eligible telecommunications carriers (ETCs), participation rates in these programs have jumped. Texas saw an immediate 10% increase in Lifeline participation when it began approving wireless ETCs.[28] In Florida, the combination of automatic enrollment and the approval of SafeLink, a prepaid wireless phone provider, to be a Lifeline ETC, led to a increased participation rate of 236% in a single year.[29]

Still, overall participation in the Lifeline and Link Up programs is still far from what it should be if the program's goals – all Americans, including low income Americans, having

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[26] U.S. Census Bureau, *Summary of the Current Population Survey (CPS), 2009 Annual Social and Economic Supplement (ASEC), available at* http://www.census.gov/hhes/www/poverty/about/overview/index.html

[27] The High Cost program provides subsidies based on the total amount of cost a carrier incurs (incumbent eligible telecommunications carriers (ETCs)) or total volume of customers (competitive ETCs).

[28] Memorandum from Edward Randolph, Director of the Office of Governmental Affairs, to the California Public Utilities Commission on AB 2213 (Fuentes) – Moore Universal Telephone Service Act as Amended (May 26, 2010). *available at* http://docs.cpuc.ca.gov/PUBLISHED/REPORT/118920.htm

[29] Florida Public Service Commission news release, *Florida's lifeline enrollment increases dramatically*, December 28, 2009. *available at* http://www.psc.state.fl.us/home/news/index.aspx?id=615

access to modern, effective, affordable communications – are going to be met. Unfortunately, only 32% percent of eligible households took part last year.[30] The FCC has attributed this low success rate in part to state restrictions on wireless ETCs, of which it urges reconsideration.[31] Certainly, new outreach efforts should be encouraged.

Best Practices in the Prepaid Wireless Industry

As the prepaid wireless industry grows in size, its business practices are also evolving. Already, there are a recognizable set of best practices that many companies follow in order to offer the most attractive packages to consumers and to maintain the advantages of prepaid for low income Americans. First, many ETCs offer a reasonable number of minutes upon activation of the phone, and additional minutes can be purchased affordably. Nexus Communications' ("Nexus"), like most prepaid wireless ETCs, offers additional prepaid cards, whose minutes rollover into the next month if not used, at stores such as Walmart, CVS/Pharmacy, Rent A Center and Giant Eagle.[32] Second, Nexus and other wireless ETCs waive the balance of their activation fees not covered by Link Up, and also provide free wireless handsets, thereby eliminating any cost barrier to obtaining service. Third, as mentioned before, Nexus and Tracfone (in most markets) provide sixty eight free minutes of service with basic service packages, and unused minutes roll over from month to month for as long as the Lifeline subscriber remains enrolled in the lifeline program. Just recently, Tracfone announced that it is adding additional packages for Lifeline subscribers to choose from, including one plan that provides Lifeline subscribers with up to two hundred fifty free minutes every month.

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[30] USAC Lifeline Participation Rate Study (2009), *available at* http://www.usac.org/li/about/participation-rate-information.aspx

[31] National Broadband Plan, Chapter 9, at 172.

[32] Details of Nexus' service offerings are available at https://www.reachoutmobile.com/index.php/site/page/C3/

Fourth, as active and responsible participants in the government's Low Income programs, prepaid wireless ETCs support the creation of a national certification and verification database. In addition, prepaid wireless ETCs are helping to eliminate fraud, waste, and abuse from the Low Income program by de-enrolling Lifeline subscribers who do not use the handset for 60 days. This ensures that ETCs will not inadvertently seek USF reimbursements for subscribers who are no longer using their services. Only subscribers who actually use their wireless service will continue to participate in the Lifeline program, and wireless ETCs will only receive Low Income support for those subscribers who remain enrolled in the Lifeline program.

The Challenges that Remain

The rapid growth of prepaid wireless within the Lifeline program has not been without critics. Some have charged that prepaid wireless ETCs have not demonstrated a commitment to consumer value in the services they offer through Lifeline and Link Up, and that the number of minutes offered monthly is too low.[33] Others have noted that the non-contractual nature of the prepaid model makes it difficult to verify that customers remain eligible for government support.[34]

It's certainly true that prepaid wireless ETCs don't operate like traditional landline ILECs when offering Lifeline services. But over the last few years, low income Americans have announced clearly, in every way possible, that they prefer limited minutes on a wireless phone to unlimited local minutes on a landline phone. Given all the advantages of wireless noted above,

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[33] Comments of the Advocates for Basic Legal Equality, et al. *In the Matter of 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).

[34] Comments of the National Association of National Association of State Utility Advocates *In the Matter of 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).

this is hardly surprising. The old landline model is simply not useful to most Americans in today's economic and social environment. Likewise, it is true that making sure prepaid wireless customers can be certified and verified through the Low Income system has required some innovative solutions, and may require further adjustments to guard against waste, fraud, and abuse. But this innovation is happening, will continue to happen, and is indicative of the prepaid wireless industry's ability to expand the boundaries of service and the traditional definitions of telephone networks. Fundamentally, the problems identified by critics, mismatching of service offerings to need, and a potential for waste while more effective verification methods are put in place, are simply growing pains. Any new entrant into established programs like Lifeline and Link Up will face these kinds of challenges. But these challenges are far preferable to the problems that would face a wireline-only Lifeline program: quickly decreasing participation and growing irrelevance to the needs of those Americans it is supposed to help. Prepaid wireless has already solved the problems that would otherwise endanger the very existence of the Low Income programs, and it is one of the best tools to combat the communications divide.

Solutions

None of the challenges facing prepaid wireless ETCs is intractable. By following the best practices outlined above, companies like Safelink Wireless, Nexus, and Assurance Wireless already give their customers great value in prepaid wireless phones, and subscription numbers show that low income consumers recognize this value. Many ETCs are also offering new types of packages to Lifeline subscribers, including ones with up to two hundred fifty free minutes ever month, as part of their efforts to respond to the suggestions of consumer groups. The wide availability of prepaid cards and the increasing competition among providers are also making it easier for customers to find the best choice among phones. State public service commissions can

provide another easy way to increase competition among wireless ETCs. Many states, through their implementation of the Lifeline and Link Up programs, already publish the names of qualifying ETCs that customers may choose among.[35] State public service commissions could take the next step of publishing the terms of various prepaid plans, which would point out which ETCs' plans offer the best value for state residents. This centralized information repository, combined with the natural competition in a fast-growing industry, would do much to eliminate or reduce cost concerns.

Prepaid wireless ETCs are also playing an active role in the push to reform the eligibility and verification systems that the Lifeline and Link Up programs use to prevent fraud and abuse. A nationally-maintained eligibility database, which wireless ETCs have urged the FCC to implement soon A nationally-maintained eligibility database, which wireless ETCs have urged the FCC to implement soon, would resolve any issues associated with subscribers attempting to obtain Lifeline service from more than one carrier simultaneously or when a subscriber is not qualified for the Lifeline program.[36]

Conclusion

Low Income Americans were among the first to recognize how well prepaid wireless meets their needs by providing security, mobility, and cost control that was not being offered by traditional landline services. Their response has been swift and clear, and the rate at which low income customers abandon landlines in order to make the move to prepaid wireless is increasing. The FCC and many state governments have recognized the trend, and are adapting the Lifeline

[35] *See, e.g.*, Illinois (http://www.icc.illinois.gov/utility/list.aspx?type=prepaid), California (http://www.cpuc.ca.gov/PUC/Telco/Public+Programs/lifelinedetails.htm)

[36] *See, e.g.* Comments of Leap Wireless International, Inc. and Cricket Communications, Inc.; Comments of Nexus Communications, Inc.; Comments of PR Wireless, Inc.; Comments of TracFone Wireless; CC Docket 96-45 and WC Docket 03-109 (FCC rel. June 15, 2010), *seeking comment on In Re Federal-State Join Board on Universal Service, Lifeline and Link Up,* Order, FCC 10-72, CC Docket 96-45 and EC Docket 03-109 (FCC rel. May 4, 2010).

and Link Up programs so that they can help more low income Americans get jobs and stay employed, better manage their budgets, and care for their families. This constitutes no less than a revolution in the usefulness and desirability of Lifeline and Link Up service for low income Americans

Link-Up Ame

090903ALJ120309.wpd

PUBLIC SERVICE COMMISSION
OF WEST VIRGINIA
CHARLESTON

FINAL

12/23/2009

Entered: December 3, 2009

CASE NO. 09-0903-T-PC

NEXUS COMMUNICATIONS, INC., doing business as TSI, a corporation, Columbus, Ohio.

Petition for consent and approval for Nexus Communications, dba TSI, to be designated an eligible telecommunications carrier.

RECOMMENDED DECISION

On June 3, 2009, Nexus Communications, Inc., a corporation doing business as TSI (TSI or Nexus), filed an application under §214(e)(2) of the Communications Act of 1996, as amended, seeking designation by the Public Service Commission of West Virginia as an eligible telecommunications carrier (ETC) for the sole purpose of providing "Lifeline" and "Link Up" service to qualifying low income West Virginia consumers. TSI indicated that it will not seek access to funds from the federal Universal Service Fund (USF) for the purpose of providing service to high cost locales. TSI provides commercial mobile radio service (CMRS) in West Virginia and other states, using its own facilities, and has been granted ETC status in approximately 14 other states. TSI alleged that it is able to provide all services and functions supported by the universal service program, as detailed in the Federal Communications Commission (FCC) rules, 47 C.F.R. §54.201(d)(1). TSI proposed, upon receiving ETC designation, to provide Lifeline and Link Up services to all qualifying customers who request such service in West Virginia.

On June 30, 2009, Staff Attorney Chris Howard filed the Initial Joint Staff Memorandum, attaching the June 29, 2009 Internal Memorandum and Utilities Division Initial Recommendation from Utilities Analyst David Kennedy. Staff highlighted all of the criteria it believes that TSI must meet before being designated as an ETC and indicated that, once it had completed its investigation into this matter, Staff would submit a final substantive recommendation.

By the July 15, 2009 Commission Referral Order, the Commission referred this matter to the Division of Administrative Law Judges (ALJ Division) for decision on or before December 30, 2009.

On August 18, 2009, TSI amended its petition to obtain designation as a full ETC carrier, although it still limited its request to obtaining funding from the USF's low-income mechanism, i.e., not from the USF's high-cost mechanism.

On August 24, 2009, Staff Attorney Howard submitted the Further Initial Joint Staff Memorandum, attaching the August 19, 2009 Utilities Division Interim Recommendation from Mr. Kennedy. Mr. Kennedy emphasized that TSI has not furnished Commission Staff with all of the information and documentation needed to complete its review, including, but not limited to, a list of facilities located in West Virginia. Staff requested this additional information within ten days.

On September 3, 2009, TSI responded to Staff's recommendation, indicating that the case should not be dismissed and requesting that a hearing be scheduled to resolve the dispute.

On September 16, 2009, Staff Attorney Howard submitted the Final Joint Staff Memorandum, attaching the September 8, 2009 Utilities Division Final Recommendation from Mr. Kennedy. Together, these Memoranda comprise Commission Staff's final substantive recommendation in this matter. Staff maintained that the only point of contention between TSI and Staff is the need for TSI to furnish Staff with information required for ETC status. Staff recommended that the Commission deny the request for ETC status unless TSI furnishes this information.

On September 25, 2009, TSI responded to Staff's final substantive recommendation, arguing that, in the context of today's technology, TSI does not have to have physical facilities in West Virginia in order to provide telecommunications service. TSI argued that requiring it to locate facilities in West Virginia would violate FCC regulations. TSI has facilities based on its relationship with other telecommunications providers, rather than through building its own facilities which would only duplicate existing facilities and be economically inefficient. TSI also stated that, as of September 25, 2009, sixteen other states have granted TSI the ETC status it seeks in West Virginia.

Responding to all of the above, by the October 6, 2009 Procedural Order, the Administrative Law Judge (ALJ) adopted a procedural schedule to process and resolve this matter, including a Friday, November 6, 2009 hearing date.

On October 30, 2009, Staff Attorney Howard submitted a Further Joint Staff Memorandum indicating that the parties had resolved their dispute and would be submitting a joint stipulation and agreement for settlement. Accordingly, Staff requested that the ALJ cancel the November 6, 2009 hearing.

By the November 2, 2009 Order Canceling Hearing, the ALJ canceled the procedural schedule adopted by the October 6, 2009 Order, including the Friday, November 6, 2009 hearing date, and directed that the parties file an executed joint stipulation and agreement for settlement no later than Tuesday, December 1, 2009.

On November 24, 2009, Staff Attorney Howard submitted the Further Joint Staff Memorandum, attaching the Joint Stipulation duly executed by counsel for Nexus and Staff. Staff reported that the parties had resolved all of their differences and opined that TSI had met all of the qualifications for ETC status. The Joint Stipulation recites:

> 3. After extensive negotiations with the Staff of the Public Service Commission ("Staff"), Nexus has agreed to further modify its initial Application, to-wit:
>
> I) Each of Nexus' Lifeline customers in West Virginia will receive 68 minutes of air time each month for all months in which the customers are enrolled in the program and any unused minutes will roll over to the following month;
>
> ii) Nexus will provide free E911 compliant handsets to all West Virginia Lifeline [customers] at no charge to the customers upon their enrollment in the Lifeline program;
>
> iii) Nexus will waive any monthly maintenance fees for Nexus' Lifeline customers in West Virginia;
>
> iv) Nexus will waive the balance of Nexus' customary Service Activation Fee ("SAF") not covered via Link-Up to ensure there will be zero deferred activation charges for all Nexus' Lifeline customers in West Virginia;
>
> v) Nexus will inform all newly enrolling Nexus' Lifeline customers in West Virginia of the applicability of Roaming Fees if a subscriber roams outside of the home coverage area; and
>
> 4. As a result of, and in return for these modifications, Staff will recommend that the Commission grant Nexus designation as a full ETC carrier. Staff acknowledges that Nexus has provided information on Nexus facilities in Columbus, Ohio, that Staff believes satisfies FCC Rule 47 C.F.R. §54.201(d)(1).

DISCUSSION

Having considered all of the above, since no dispute remains to be resolved in this proceeding, as evidenced by the executed Joint Stipulation, the ALJ will consider the parties to have waived their rights under *West Virginia Code* §24-1-9(b) to file proposed findings of fact and conclusions of law, or briefs, in this proceeding, or to a hearing.

The ALJ holds that, since the parties have resolve their differences by entering into a Joint Stipulation; since the Joint Stipulation modifies the original application filed by Nexus; and since Nexus otherwise has satisfied FCC Rule 47 C.F.R. §54.201(d)(1) to be designated as a full ETC carrier, he will grant the application, as amended by the Joint Stipulation filed on November 24, 2009.

FINDINGS OF FACT

1. Nexus Communications, Inc., doing business as TSI, filed an application under §214(e)(2) of the Communications Act of 1934, as amended, seeking designation by the Commission as an ETC for the sole purpose of providing "Lifeline" and "Link Up" service to qualifying low income West Virginia consumers. TSI indicated that it will not seek access to funds from the federal USF for the purpose of providing service to high cost locales. TSI provides CMRS in West Virginia and other states, using its own facilities, and has been granted ETC status in approximately 14 other states. TSI alleged that it is able to provide all services and functions supported by the universal service program, as detailed in the FCC rules, 47 C.F.R. §54.201(d)(1). TSI proposed, upon receiving ETC designation, to provide Lifeline and Link Up services to all qualifying customers who request such service in West Virginia. (See, June 3, 2009 application).

2. Staff Attorney Howard submitted a Joint Stipulation duly executed by representatives of Staff and Nexus. (See, Further Joint Staff Memorandum, and the attached Joint Stipulation, filed November 24, 2009).

3. The Joint Stipulation provides that Nexus will provide E911 compliant handsets to all Lifeline customers and that non-compliant handsets in the possession of existing TracFone customers will be replaced with E911 compliant handsets at no charge to the customers upon their enrollment in the Lifeline program. (See, Joint Stipulation, filed November 24, 2009).

4. Each of Nexus' Lifeline customers in West Virginia will receive 68 minutes of air time each month for all months in which the customers are enrolled in the program and any unused minutes will roll over to the following month. (See, Joint Stipulation, filed November 24, 2009).

5. Nexus will provide free E911 compliant handsets to all West Virginia Lifeline customers at no charge to the customers upon their enrollment in the Lifeline program. Nexus will waive any monthly maintenance fees for Nexus' Lifeline customers in West Virginia. Nexus will waive the balance of Nexus' customary SAF not covered via Link-Up to ensure there will be zero deferred activation charges for all Nexus' Lifeline customers in West Virginia. Nexus will inform all newly enrolling Nexus' Lifeline customers in West Virginia of the applicability of Roaming Fees if a subscriber roams outside of the home coverage area. (See, Joint Stipulation, filed November 24, 2009).

6. Staff opined that Nexus has demonstrated that it will comply with each of Staff's final substantive recommendations. (See, Further Joint Staff Memorandum, filed November 24, 2009).

7. As a result of, and in return for the modifications to the original application, Staff recommended that the Commission grant Nexus designation as a full ETC carrier. Staff acknowledged that Nexus has provided information on Nexus facilities in Columbus, Ohio, which Staff believes satisfies FCC Rule 47 C.F.R. §54.201(d)(1). (See, Further Joint Staff Memorandum, filed November 24, 2009).

CONCLUSIONS OF LAW

1. Nexus has demonstrated that it is a common carrier capable of offering and advertising all of the service offerings set forth in Section 214(e) of the Telecommunications Act of 1996 for eligible telecommunications carriers through the designated service areas, using either its own facilities or a combination of its own facilities and the resale of another carrier's services, for the sole purpose of providing Lifeline and Link Up services to all qualifying customers who request such service in West Virginia.

2. Nexus should be designated as an ETC to provide Lifeline and Link Up services to all qualifying customers who request such service in West Virginia.

3. It is reasonable to require that the Commission's Executive Secretary provide the FCC and the Universal Service Administrative Company a certified copy of this Order designating Nexus as an ETC to provide Lifeline and Link Up services to all qualifying customers who request such service in West Virginia, but that Nexus will not seek access to funds from the federal Universal Service Fund for the purpose of providing service to high cost locales.

4. It is reasonable to require that Nexus publish a Notice of the granting of its petition for designation as an ETC solely to provide Lifeline and Link Up services to all qualifying customers who request such service in West Virginia, one time each in the newspapers duly qualified under *West Virginia Code* §59-3-1 *et seq.*, published and generally circulated in each of the 19 cities designated for statewide legal publications.

5. It is reasonable to approve the Joint Stipulation as the full and proper settlement of all issues joined in this filing and to approve the application.

ORDER

IT IS, THEREFORE, ORDERED that the application filed with the Commission on June 3, 2009, by Nexus Communications, Inc., doing business as TSI, under §214(e)(2) of the Communications Act of 1934, as amended, seeking designation by the Commission as an Eligible Telecommunications Carrier for the sole purpose of providing "Lifeline" and "Link Up" service to qualifying low income West Virginia consumers, be, and hereby is, approved, as follows:

1. The Joint Stipulation filed on November 24, 2009, be, and hereby is, ratified, adopted and approved as the proper and complete settlement of this proceeding, including the following specific stipulations:

   (a) Nexus shall provide E911 compliant handsets to all Lifeline customers and non-compliant handsets in the possession of existing Nexus

customers will be replaced with E911 compliant handsets at no charge to the customers upon their enrollment in the Lifeline program;

(b) Each of Nexus' Lifeline customers in West Virginia shall receive 68 minutes of airtime each month for all months in which the customers are enrolled in the program and any unused minutes will roll over to the following month;

(c) Nexus shall waive any monthly maintenance fees for Nexus' Lifeline customers in West Virginia;

(d) Nexus shall waive the balance of Nexus' customary SAF not covered via Link-Up to ensure there will be zero deferred activation charges for all Nexus' Lifeline customers in West Virginia;

(e) Nexus shall inform all newly enrolling Nexus' Lifeline customers in West Virginia of the applicability of Roaming Fees if a subscriber roams outside of the home coverage area; and

2. The Commission's Executive Secretary shall provide the Federal Communications Commission and the Universal Service Administrative Company a certified copy of this Order designating Nexus Communications, Inc., doing business as TSI, as an Eligible Telecommunications Carrier solely to provide Lifeline and Link Up services to all qualifying customers who request such service in West Virginia, and that Nexus will not seek access to funds from the federal Universal Service Fund for the purpose of providing service to high cost locales;

3. Nexus Communications, Inc., doing business as TSI, shall publish the Notice of ETC Status, attached as Appendix A, one time each in the newspapers duly qualified under *West Virginia Code* §59-3-1 *et seq.*, published and generally circulated in each of the 19 cities designated for statewide legal publications.

IT IS FURTHER ORDERED that this matter be, and hereby is, removed from the Commission's docket of open cases.

IT IS FURTHER ORDERED that the Executive Secretary serve a copy of this Recommended Decision upon the Commission by hand delivery and upon all parties of record by United States Certified Mail, return receipt requested.

Leave hereby is granted to the parties to file written exceptions supported by a brief with the Executive Secretary of the Commission within fifteen (15) days of the date this Recommended

Decision is mailed. If exceptions are filed, the parties filing exceptions shall certify to the Executive Secretary that all parties of record have been served said exceptions.

If no exceptions are so filed this Recommended Decision shall become the order of the Commission, without further action or order, five (5) days following the expiration of the aforesaid fifteen (15) day time period, unless it is ordered stayed or postponed by the Commission.

Any party may request waiver of the right to file exceptions to an Administrative Law Judge's recommended decision by filing an appropriate petition in writing with the Executive Secretary. No such waiver will be effective until approved by order of the Commission, nor shall any such waiver operate to make any Administrative Law Judge's recommended decision the order of the Commission sooner than five (5) days after approval of such waiver by the Commission.

Ronnie Z. McCann
Deputy Chief Administrative Law Judge

RZM:s
090903ab.wpd

PUBLIC SERVICE COMMISSION
OF WEST VIRGINIA
CHARLESTON

CASE NO. 09-0903-T-PC

NEXUS COMMUNICATIONS, INC., doing business
as TSI, a corporation, Columbus, Ohio.
Petition for consent and approval for Nexus
Communications, dba TSI, to be designated
an eligible telecommunications carrier.

NOTICE OF ETC STATUS

On June 3, 2009, Nexus Communications, Inc., a corporation doing business as TSI (Nexus), filed an application under §214(e)(2) of the Communications Act of 1996, as amended, seeking designation by the Public Service Commission of West Virginia as an eligible telecommunications carrier (ETC) for the sole purpose of providing "Lifeline" and "Link Up" service to qualifying low income West Virginia consumers. Nexus indicated that it will not seek access to funds from the federal Universal Service Fund (USF) for the purpose of providing service to high cost locales. Nexus provides commercial mobile radio service (CMRS) in West Virginia and other states, using its own facilities, and has been granted ETC status in approximately 14 other states. Nexus is able to provide all services and functions supported by the universal service program, as detailed in the Federal Communications Commission (FCC) rules, 47 C.F.R. §54.201(d)(1). Nexus proposed, upon receiving ETC designation, to provide Lifeline and Link Up services to all qualifying customers who request such service in West Virginia.

According to the Commission's guidelines, a carrier seeking ETC status must advertise, on a quarterly basis, in media targeted to the general residential market throughout the carrier's service areas and substantially similar to the media in which the serving incumbent local exchange carrier advertises its service in the particular service area. In addition, such carriers must maintain an Internet site where members of the public can obtain information regarding services and rates provided by the carrier. The Nexus site is located at http://www.reachoutmobile.com.

Also, carriers seeking ETC status must offer the supporting services required by §214(e)(2). These services include: voice-grade access to the public switched telephone network; local usage; dual tone multi-frequency signaling or its functional equivalent; single party service or its functional equivalent; access to emergency services; access to operator services; access to interexchange service; access to directory assistance service; and toll limitation for qualifying low income subscribers. Nexus is capable of providing all of these required service offerings and currently is offering them in its service territory.

By Recommended Decision entered on December 3, 2009, Nexus' petition was granted.

This Notice is being provided in accordance with the Commission's requirements and is not for the purpose of seeking public comment or protest.

NEXUS COMMUNICATIONS, INC.,
doing business as TSI.

COMMISSIONERS:

LAUREN "BUBBA" McDONALD, JR., CHAIRMAN
STAN WISE
ROBERT B. BAKER, JR.
CHUCK EATON
H. DOUG EVERETT

FILED
MAY 20 2010
EXECUTIVE SECRETARY
G.P.S.C.

DEBORAH K. FLANNAGAN
EXECUTIVE DIRECTOR

REECE McALISTER
EXECUTIVE SECRETARY

Georgia Public Service Commission

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(800) 282-5813

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DOCKET# 18664
DOCUMENT# 128492

Docket No. 18664

In Re: Application of Nexus Communications, Inc. for Designation as an Eligible Telecommunications Carrier in the State of Georgia for the Limited Purpose of Offering Lifeline Service to Qualified Households

ORDER ON APPLICATION FOR DESIGNATION AS ELIGIBLE TELECOMMUNICATIONS CARRIER

Background

On August 4, 2009, Nexus Communications, Inc. ("Nexus") filed with the Georgia Public Service Commission ("Commission") its Application for Designation as an Eligible Telecommunications Carrier in the State of Georgia for the Limited Purpose of Offering Lifeline Service to Qualified Households ("ETC Application"). Nexus is not seeking Universal Service Fund ("USF") support for the purpose of providing service to high cost areas. Nexus filed three supplements to its ETC Application on February 2, 2010, March 19, 2010, and May 6, 2010.

Nexus is an Ohio corporation with principle offices located at 3629 Cleveland Ave., Suite C, Columbus, OH 43223 and was granted a Certificate of Authority to provide local exchange service in Docket No. 18664.

Nexus asserts that it meets all the requirements of the Federal Communications Commission ("FCC") for designation as an ETC. 47 C.F.R. § 54.101(a) requires the following services and functionality: (1) Voice grade access to the public switched telephone network, (2) Local usage, (3) Dual tone multi-frequency signaling or its functional equivalent, (4) Single-party service or its functional equivalent, (5) Access to 911 and E911 emergency service, (6) Access to operator services, (7) Access to interexchange service, (8) Access to directory assistance, and (9) Toll limitation for qualified low-income customers.

Nexus also asserted that it meets the additional eligibility criteria adopted by the FCC in its March 17, 2005 Report and Order establishing additional criteria that ETC

applicants must satisfy in order to be granted ETC status. The FCC found that ETC applicants must demonstrate: (1) a commitment and ability to provide the supported services throughout the designated area; (2) the ability to remain functional in emergency situations; (3) that it will satisfy consumer protection and quality of service standards; (4) that it offers local usage comparable to that offered by the incumbent LEC; and (5) an acknowledgement that it may be required by the FCC to provide equal access if all other ETCs in the designated service area relinquish their designations pursuant to Section 214(e)(4) of the Act.

Nexus's Lifeline product is a wireless-based service, with no monthly service charge, and 68 minutes of local and long-distance usage per month. Nexus does not require a credit check, deposit, or long-term contract. In its May 6, 2010 Supplement, Nexus agreed to rollover any unused minutes to the following month, provide a free E911-compliant handset to each customer upon enrollment, waive any and all monthly maintenance fees, waive the balance of Nexus's service activation fee not covered by the LinkUp subsidy for all Lifeline customers, and the company will inform all newly enrolling Lifeline customers of the applicability of roaming fees if a subscriber roams outside of the home coverage area.

Nexus requests ETC designation in the AT&T exchange areas shown in Attachment 1 to this order.

Nexus provided evidence that it provides service through a combination of its own facilities and resale of another carrier's services and therefore meets the requirement set forth in 47 U.S.C. §214(e)(1)(A). Nexus also committed to "advertise the availability of such services and the charges therefore using media of general distribution." 47 U.S.C. §214(e)(1)(B).

In the supplements to its application, Nexus submitted its proposed advertising, customer sign-up form, terms and conditions of service, and a plan for ensuring that customers do not receive multiple Lifeline discounts.

In its October 15, 2007 order in Docket No. 10396 approving the ETC Application of Alltel Communications, Inc. ("Alltel"), the Commission adopted the Staff's recommendation. In that docket, the Staff recommendation was as follows:

> Staff finds that Alltel has met all statutory and regulatory requirements for designation as an ETC. The Staff also concludes that the Commission has the authority to grant ETC status to a wireless carrier. Although the Commission has previously not exerted authority over wireless ETC applications, Federal and State law allow the Commission to do so. 47 U.S.C. § 214(e)(2) states that a state commission "may" designate a requesting carrier if it meets the requirements outlined in the law. The Georgia Competitive Emerging Communications Technologies Act of 2006, which eliminates any authority the Commission may have had "over setting of rates or terms and conditions" for wireless service, specifically

states that it has no effect on "(a)ny authority of the Public Service Commission to act in accordance with federal laws or regulations of the Federal Communications Commission." O.C.G.A. §46-5-222(b)(3). Therefore, the Staff recommends that the Commission approve Alltel's Application with the following conditions and filing requirements:

- The Commission reserves the right to conduct audits as needed to determine that the funds are used for permitted purposes.

- Alltel's ETC designation may at any time be suspended or revoked by order of the Commission.

- Alltel shall make all service offerings, including Lifeline/ Link-Up available on its internet website.

- Alltel shall file within 30 days of approval of its ETC application its terms and conditions of service, and rate plans including its Link-Up and Lifeline discounts available to qualifying low-income customers. Further, Alltel shall have the ongoing obligation to notify the Commission of any future changes to its rates, terms, or conditions.

- Alltel shall file within 30 days of approval of its ETC application proposed language to be used in all advertising of Lifeline/ Link-Up services and on its website. The language should include information directing customers to the Commission's Consumer Affairs unit for complaints regarding any service issues. The Staff shall have the right to review and make changes to any proposed language.

- Alltel shall file the following information on March 31, 2008 (and updated information every March 31 thereafter, unless otherwise ordered by the Commission):

    1. A map showing Alltel's actual January 2007 service area, and a map showing the January 2008 estimated service area *increase or decrease*. Additionally, the map should include locations of all new facilities constructed.

    2. Alltel shall report all instances in which the company refuses to serve a customer. Alltel shall be required to provide information regarding the specific location of the customer (street address), the company's rationale for refusal of service, and the company's progress with establishing interconnection arrangements which permit resale of either wireless or

Incumbent Local Exchange Carrier ("ILEC") services in the customer's location.

3. Estimated total 2007 federal funds, actual total federal funds received in 2007, and estimated total funds to be received in 2008.

4. A spreadsheet listing each wire center, the name of the ILEC associated with that wire center, estimated 2007 expenses (from trade secret filing made with the Application), actual 2007 expenses, and estimated 2008 expenses.

Staff Recommendation

The Staff recommended that the Commission designate Nexus as an ETC in the areas shown in Attachment 1 for the limited purpose of providing Lifeline service, and that the Commission apply the same conditions to Nexus as it did Alltel, to the extent those conditions apply to Lifeline service.

The Staff further recommended that the Commission condition the grant of ETC designation to Nexus upon the company's satisfactory resolution of complaints filed with the Commission in connection with Nexus's Lifeline service offering, consistent with the Commission's decision in Docket No. 26282, Application of TracFone Wireless, Inc. for Designation as an Eligible Telecommunications Carrier in the State of Georgia for the Limited Purpose of Offering Lifeline Service to Qualified Households.

The Commission finds the Staff's recommendation reasonable and hereby adopts the Staff's recommendation.

* * * * *

WHEREFORE, it is

ORDERED, that Nexus is granted ETC designation for the limited purpose of providing Lifeline service.

ORDERED FURTHER, that the conditions imposed upon Alltel in Docket No. 10396 shall be imposed upon Nexus, to the extent those conditions apply to Lifeline service.

ORDERED FURTHER, that Nexus's ETC designation shall also be conditioned upon the satisfactory resolution of complaints filed with the Commission's Consumer Affairs Unit, consistent with the Commission's decision in Docket No. 26282.

ORDERED FURTHER, that a motion for reconsideration, rehearing, oral argument, or any other motion shall not stay the effective date of this Order, unless otherwise ordered by the Commission.

ORDERED FURTHER, that jurisdiction over this matter is expressly retained for the purpose of entering such further Order(s) as this Commission may deem just and proper.

The above by action of the Commission in Administrative Session on the 18th day of May 2010.

Reece McAlister
Executive Secretary

5-19-10
DATE

Lauren "Bubba" McDonald, Jr.
Chairman

5-20-10
DATE

Attachment 1

BellSouth Telecommunications, Inc.
d/b/a AT&T Georgia ("AT&T Georgia")

Exchange List

Acworth
Adairsville
Albany
Alpharetta
Americus
Appling
Arlington
Athens
Atlanta
Augusta
Austell
Baconton
Bainbridge
Barnesville
Baxley
Blackshear
Bogart-Statham
Bowdon
Bremen
Brunswick
Buchanan
Buford
Calhoun
Camilla
Carrollton
Cartersville
Cave Spring
Cedartown
Chamblee
Claxton
Clermont
Cochran
Colquitt
Columbus
Concord
Conyers
Cordele
Covington
Cumming
Cusseta
Dallas
Douglasville
Dublin
Duluth
Eastman
Eatonton
Elberton
Fairburn
Fayetteville
Flowery Branch
Forsyth
Fort Valley
Franklin
Gainesville
Gay
Gibson
Grantville
Greensboro
Greenville
Griffin
Hamilton
Hampton
Harlem
Hazellhurst
Hephzibah
Hogansville
Jackson
Jekyll Island
Jesup
Johnson Corner
Jonesboro
Kingston
LaGrange
Lake Park
Lawrenceville
Leary
Leesburg
Lithonia
Loganville
Louisville
Lula
Lumber City
Lumpkin
Luthersville
Lyons
Macon
Madison
Marietta
McCaysville
McDonough
Millen
Monticello
Newnan
Newton
Norcross
Palmetto
Panola
Pelham
Pine Mountain
Pooler
Powder Springs
Richland
Rockmart
Rome
Roopville
Rossville
Roswell
Royston
Rutledge
Sandersville-
Tennille
Sardis
Savannah
Senoia
Smithville
Smyrna
Social Circle
Sparks
Sparta
St. Simons Island
Stockbridge
Stone Mountain
Swainsboro
Sylvester
Tallapoosa
Temple
Tenga
Thomasville
Thomson
Tifton
Tucker
Tybee Island
Valdosta
Vidalia
Villa Rica
Wadley
Warner Robins
Warrenton
Watkinisville
Waycross
Waynesboro
Woodbury
Woodstock
Wrens
Wrightsville
Zebulon

STATE OF MISSOURI
PUBLIC SERVICE COMMISSION

At a session of the Public Service Commission held at its office in Jefferson City on the 26th day of August, 2009.

In the Matter of the Application of Nexus Communications, Inc., dba TSI for Designation as an Eligible Telecommunications Carrier in the State of Missouri for the Limited Purpose of Offering Wireless Lifeline and Link up Service to Qualifying Households	)))))	**File No. RA-2009-0375**

ORDER GRANTING APPLICATION FOR ELIGIBLE TELECOMMUNICATIONS CARRIER STATUS AND WAIVER OF REGULATIONS

Issue Date: August 26, 2009 Effective Date: September 5, 2009

The Missouri Public Service Commission grants eligible communications status for wireless Lifeline and Link-Up service by Nexus Communications, Inc., dba TSI, and waives regulations related to high-cost service, as follows.

On April 15, 2009, Nexus filed the verified application and amended it on May 14, 2009 ("application"). The Commission allowed until May 18, 2009, for intervention. As of the date of this order, no party has filed an application for intervention. On May 18, 2009, the Commission's staff ("Staff") filed its recommendation, with a supporting affidavit, favoring the amended application with specified conditions. On May 22, 2009, Nexus filed a reply agreeing to those conditions. On June 12, 2009, the Commission scheduled an on-

the-record presentation, which the Commission convened on July 7, 2009.[1] On July 13, 2009, the transcript was filed.

The application seeks:

a. designation as an eligible telecommunications carrier ("ETC"), to provide Commercial Mobile Radio Service ("wireless") services with Lifeline and Link-UP support to qualified low-income Missouri consumers;

b. waiver of certain regulations related to federal Universal Service Fund ("FUSF") high-cost support.

Nexus seeks no federal Universal Service Fund ("FUSF") high-cost support. Such an application is within the Commission's jurisdiction to decide.[2] Because all parties agree to the application, no law requires a formal adversarial evidentiary hearing before granting the application.[3] Therefore, the Commission deems the hearing waived,[4] and bases its findings on the verified filings, and makes its conclusions as follows.

Nexus is an Ohio corporation authorized to do business in Missouri. Nexus holds certificates of service authority to provide the following telecommunications services in Missouri: basic local, local exchange, and interexchange. Within the last three years before the application's filing, no pending action or final unsatisfied judgment or decision, involving

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[1] At the on-the-record presentation, Nexus asked for an exemption from the conditions ("request"). The request was contingent on the Commission granting such an exemption in file no. TA-2009-0327. In that file, the Commission denied that exemption. Further, neither the request, nor any law or fact supporting it, appears in the application or the amendment. Nexus has not filed a separate application for variance under the Commission's regulation 4 CSR 240-31.050(5). Thus, neither Staff nor any possible intervenor has had any opportunity to address any reasons supporting the request. Moreover, the request contradicts Nexus' reply. Therefore, the Commission is granting the application without the requested exemption.

[2] 47 U.S.C. 214(e)(2).

[3] ***State ex rel. Rex Deffenderfer Ent., Inc. v. Public Serv. Com'n***, 776 S.W.2d 494 (Mo. App. 1989).

[4] Section 536.060, RSMo 2000.

customer service or rates, has occurred in any state or federal agency or court against Nexus, and Nexus has no overdue annual report or assessments fees.

As to ETC designation and low-income ETC designation, federal law provides that the FUSF's purposes include providing:

> Consumers in all regions of the Nation, including low-income consumers . . . access to telecommunications . . . services [.[5]]

All parties agree that Nexus meets the requirements for designation and low-income eligibility.

As to waivers, good cause is the standard for waiving a regulation.[6] The regulations for which Nexus seeks a waiver are the following paragraphs of 4 CSR 240-3.570:

- (2)(A)1, 2 and 3;
- (4)(A)1, 2, 3, 4, and 5; and
- (4)(B)1, 2, 3, and 4.

Those provisions relate to construction and installation for high-cost services. Good cause to waive those provisions stands on two facts: (1) Nexus expressly does not seek funds to provide high-cost service and (2) its system is already built out.

Therefore, the Commission will grant the application subject to conditions set forth below.

THE COMMISSION ORDERS THAT:

1. The application of Nexus Communications, Inc., dba TSI for designation as a federal Universal Service Fund eligible telecommunications carrier for wireless telecommunications services, is granted subject to the conditions in ordered paragraph 2.

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[5] 47 USC § 254(b)(3).
[6] 4 CSR 240-3.015(1) and 4 CSR 240-2.015(1).

2. The conditions referred to in paragraph 1 are the conditions set forth in the recommendation of the Commission's staff, which read as follows:

- Individuals shall only be eligible for Lifeline and Link Up assistance if the customer requesting or receiving Nexus service participates or has a dependent residing in the customer's household who participates in a program pursuant to 42 U.S.C sections 1396-1396v, food stamps (7 U.S.C. section 51), Supplementary Security Income (SSI) (42 U.S.C. section 7), federal public housing assistance or Section 8 (42 U.S.C. section 8), National School Lunch Program's free lunch program (42 U.S.C. section 13), Temporary Assistance for Needy Families (42 U.S.C. section 7(IV)), or Low Income Home Energy Assistance Program (LIHEAP) (42 U.S.C. section 94);

- Customers shall complete an application similar to the Missouri Universal Service Board approved application, which certifies under penalty of perjury that the individual or a dependent residing in the individual's household:

    - receives benefits from one of the qualifying programs, identifies the program or programs which that individual receives benefits;

    - agrees to notify the carrier if that individual ceases to participate in the program or programs;

- Customers shall provide documentation of participation in the applicable program(s) as identified on the application;

- Nexus shall develop a process for recording the type of documentation received;

- Nexus shall develop a process for returning or destroying the documentation once recorded;

- Nexus shall establish state procedures to verify a customer's continued eligibility and shall provide such procedures to the commission staff and/or the office of public counsel for review within thirty days of request; and

- Nexus shall terminate an individual's enrollment in Lifeline and Link Up if the individual ceases to meet eligibility requirements.

3. The requirements under the following regulations are waived:

- 4 CSR 240-3.570(2)(A)1, 2 and 3;
- 4 CSR 240-3.570(4)(A)1, 2, 3, 4, and 5; and
- 4 CSR 240-3.570(4)(B)1, 2, 3, and 4.

4. This order is effective on September 5, 2009.

5. This file may close on September 6, 2009.

BY THE COMMISSION

Steven C. Reed
Secretary

(S E A L)

Clayton, Chm., Davis, Jarrett,
Gunn, and Kenney, CC., concur.

Jordan, Regulatory Law Judge

Agenda Date: 4/28/10
Agenda Item: 4A

STATE OF NEW JERSEY

Board of Public Utilities
Two Gateway Center
Newark, NJ 07102
www.nj.gov/bpu/

TELECOMMUNICATIONS

IN THE MATTER OF A PETITION BY NEXUS COMMUNICATIONS, INC. D/B/A TSI FOR DESIGNATION AS AN ELIGIBLE TELECOMMUNICATIONS CARRIER IN THE STATE OF NEW JERSEY FOR THE LIMITED PURPOSE OF OFFERING LIFELINE AND LINK-UP SERVICES TO QUALIFIED HOUSEHOLDS	)	ORDER OF APPROVAL DOCKET NO. TO09040331

(SERVICE LIST ATTACHED)

BY THE BOARD:

By petition dated April 3, 2009, Nexus Communications, Inc. (Nexus), petitioned the New Jersey Board of Public Utilities ("Board" or "BPU") seeking approval to be designated as an Eligible Telecommunications Carrier ("ETC") solely to provide Lifeline and Link-Up services to qualified New Jersey consumers, pursuant to Section 214(e)(2) of the Communications Act, as amended by the Telecommunications Act of 1996. Designation as an ETC would permit Nexus to receive universal service support for these services. Nexus requests the ETC designation for the geographic area served by Verizon New Jersey.

Nexus has been designated as an ETC to provide wireless Lifeline and Link-Up service to qualifying low income consumers in 9 states (Arkansas, Illinois, Kansas, Louisiana, Michigan, Missouri, Tennessee, West Virginia and Wisconsin).

Section 214(e)(2) of the federal Telecommunications Act of 1996 authorizes state commissions to designate ETC status for federal universal service purposes. A telecommunications carrier may be designated as an ETC provided that the carrier demonstrates a commitment to: (a) offer the services that are supported by federal universal support mechanisms, and (b) advertise the availability of such services.

Pursuant to the requirements of 47 C.F.R. § 54.201(d)(1), Nexus attests that it "[o]ffers the services that are supported by federal universal support mechanisms...using its own facilities or a combination of its own facilities and resale of another carriers services". Specifically, Nexus is a facilities based carrier in its home state of Ohio. Elsewhere, including New Jersey, it obtains service from underlying wireless providers that currently operate owned networks. Nexus will route some traffic through its own facilities, allowing Nexus to meet the ETC test of providing services through a combination of resold service and its own facilities.

Through the use of its own facilities and resale arrangements with Verizon Wireless, Nexus asserts that it will provide Lifeline-eligible customers 68 minutes of free monthly service and that unused minutes will roll over from month-to-month. Additionally, Lifeline-eligible customers will be permitted to purchase additional usage cards at a rate of $.20 per minute. The cards will be sold in denominations of $5.00, $10.00 and $20.00.

In addition, Nexus will provide Lifeline customers an Enhanced 911 ("E911") compatible handset at no cost. Nexus also asserts that its customers will always be able to contact 911 or E911 from their wireless handset, regardless of whether they have depleted their free Lifeline minutes or additional airtime.

With regard to Link-Up, Nexus originally proposed to apply a $30.00 credit to their customary $72.00 charge for service activation, resulting in a $42.00 net charge to the customer. In response to questions from staff, Nexus agreed to waive the $42.00 balance.

Furthermore, Nexus asserts that it meets all the requirements of the Federal Communications Commission ("FCC") for designation as an ETC. 47 C.F.R. § 54.101(a) requires the following services and functionality: (1) Voice grade access to the public switched telephone network; (2) Local usage; (3) Dual tone multi-frequency signaling or its functional equivalent; (4) Single-party service or its functional equivalent; (5) Access to 911 or E911 emergency service (6) Access to operator services; (7) Access to interexchange service; (8) Access to directory assistance; and (9) Toll limitation for qualified low-income customers.

DISCUSSION

To qualify as an ETC, a carrier must provide nine services identified in 47 C.F.R. § 54.101. The Board FINDS that the services Nexus states that it will provide to Lifeline-eligible customers satisfy the requirements of 47 U.S.C. Section 214(e) and 47 C.F.R. § 54.101. The services required to be provided under the law and those to be provided by Nexus are:

1) Voice grade access to the public switched network – Voice grade access enables a user of telecommunications services to transmit voice communications, including signaling the network that the caller wishes to place a call, and to receive voice communications, including receiving a signal indicating there is an incoming call. For the purposes of this part, bandwidth for voice grade access should be, at a minimum, 300 to 3,000 Hertz.
   Nexus states that it complies with this requirement by enabling customers to transmit voice communications, including signaling to the network that a caller wishes to place a call, and enabling customers to receive voice communications, including receiving a signal indicating there is an incoming call;

2) Local usage – Local usage means an amount of minutes of use of exchange service, provided free of charge to end users. Under Nexus' proposal, customers can send and receive local calls wherever Nexus provides service. Nexus includes local usage in its calling plan;

3) Dual tone multi-frequency signaling or its functional equivalent – Dual tone multi-frequency ("DTMF") is a method of signaling that facilitates the transportation of signaling through the network, which shortens call set-up time. According to Nexus all handsets provided by Nexus are DTMF capable;

a. Single-party service – Single-party service permits users to have exclusive use of a wireline subscriber loop or access line for each call placed, or in the case of wireless telecommunications carriers, which use spectrum shared among users to provide service, a dedicated message path for the length of a user's particular transmission. Nexus provides customers with single-party access for the duration of every call, and it does not provide "multi-party" or "party-line" services;

4) Access to emergency services – Access to emergency services includes access to services, such as 911 or E911 provided by local governments or other public safety organizations. 911 or E911 is defined as a service that permits a telecommunications user, by dialing the three-digit code "911", to call emergency services through a PSAP operated by the local government. E911 is defined as a 911 service that includes the ability to provide automatic numbering information ("ANI"), which enables the PSAP to call back if the call is disconnected, and automatic location information ("ALI"), which permits emergency service providers to identify the geographic location of the calling party. Access to emergency services includes access to 911 and E911 services to the extent the local government in an eligible carrier's service area has implemented 911 or E911 systems. Nexus provides access to the 911 or E911 system for its customers through its underlying carrier, and Nexus will continue to do so;

5) Access to operator services – Access to operator services is defined as access to any automatic or live assistance to a consumer to arrange for billing and/or completion of a telephone call. Nexus contends that its customers have access to operator services;

6) Access to interexchange service – Access to interexchange service is defined as the use of the loop, as well as that portion of the switch that is paid for by the end user, or the functional equivalent of these network elements in the case of a wireless carrier, necessary to access an interexchange carrier's network. Nexus states that its customers are able to complete toll calls and are not charged separately for interexchange calls. Long distance calling is included in Nexus' service, with no additional charge to the customer;

7) Access to directory assistance – Access to directory assistance is a service that includes, but is not limited to, making available to customers, upon request, information contained in directory listings. According to Nexus, its customers have access to directory assistance provided through the vendor being used by Nexus; and

8) Toll limitation for qualifying low-income consumers – Toll limitation or blocking restricts all direct dial toll access. There will be no toll limitation because Nexus provides a fixed number of minutes per month service, which means that there will be no disconnect for non-payment.

The Board has reviewed Nexus' petition for designation as an ETC in New Jersey, as well as additional documents filed with this Board and with the FCC. The Board is satisfied that Nexus has complied with the above requirements to be eligible as an ETC in New Jersey and Nexus has demonstrated its ability to provide the nine services identified in 47 C.F.R. § 54.101.

Nexus has provided an initial plan outlining their media advertising in order to advertise the offered Lifeline and Link-Up services, as required in 47 U.S.C. § 214(e)(1). Nexus will use retail outlets and other methods for Lifeline advertising and for customers to purchase its prepaid cards. As a safeguard to prevent more than one Lifeline supported service per household, customers will not be able to receive Lifeline certification through a retail provider.
Customers will have to contact Nexus directly to self-certify for Lifeline. Customers must self-

certify, under penalty of perjury, that they qualify for Lifeline service either by being a participant of one of New Jersey's eligible programs, or because they are within the relevant threshold of income , level.

The Board is satisfied that Nexus' petition for designation as an ETC for the limited purpose of Lifeline and Link-Up support eligibility should be approved subject to several conditions, as described below. These conditions, combined with Nexus' commitment to provide Lifeline service in New Jersey in accordance with its E911 obligations, convinces the Board that this optional service will be of value to eligible New Jersey consumers.

In a letter dated May 11, 2009, the Department of the Public Advocate, Division of Rate Counsel ("Rate Counsel") recommends that the Board approve the ETC petition.

The Board FINDS that Nexus has met all statutory and regulatory requirements for designation as an ETC. The Board also concludes that it has the authority to grant ETC status to wireless carriers. Section 214(e)(2) provides that a state commission shall designate as an ETC a carrier that meets the requirements of 47 U.S.C. §214(e)(1).

The Board HEREBY APPROVES the petition and ORDERS that Nexus be designated an ETC and approved to offer Lifeline and Linkup services.

The request for ETC designation to offer Lifeline service is HEREBY APPROVED, subject to:

- Certification from each PSAP where Nexus provides Lifeline service, or from the state Office of Emergency Telecommunications Services on behalf of each PSAP in New Jersey, confirming that Nexus provides its customers with access to basic and E911 regardless of activation status and the availability of prepaid minutes. These certifications must be filed with the Board in this proceeding. Service shall not be provided to any Lifeline customer in an area where such certification has not been granted or received;

- Certification that the handsets to be provided to Nexus customers are E911 complaint;

- Each of Nexus' Lifeline customers in New Jersey will receive 68 minutes of airtime each month for all months in which the customer is enrolled in the program and any unused minutes will roll over to the following month;

- Eligibility for participation in Nexus' Lifeline program will be based upon customer enrollment in one of the eight qualifying New Jersey public assistance programs. The eight qualifying programs are: Medicaid; Food Stamp Program; General Assistance ("GA"); Supplemental Security Income ("SSI"); Home Energy Assistance Program ("HEAP"); Lifeline Utility Credit/Tenants Lifeline Assistance; Pharmaceutical Assistance to the Aged and Disabled ("PAAD"); and Temporary Assistance to Needy Families/Work First New Jersey ("TANF/WFNJ"). Additionally those persons 65 or older whose household incomes are at or below 150% of the federal poverty level are also eligible.[1]

[1] See I/M/O Petition by Warwick Valley Telephone Company for Approval to Provide Lifeline Services, BPU Docket No. TT97080605 (November 18, 1997); and I/M/O Application of Verizon New Jersey Inc. for Approval (i) of a New Plan for an Alternative Form of Regulation and (ii) to Reclassify Multi-Line Rate Regulated Business Services as Competitive Services, and Compliance Filing Application of Verizon New Jersey Inc. for Approval (i) of a New Plan for an Alternative Form of Regulation and (ii) to Reclassify Multi-Line Rate Regulated Business Services as Competitive Services, and Compliance Filing, BPU Docket No. TO01020095 (August 19, 2003), Attachment A.

The eligibility requirements are subject to modification by the Board, and applicants will be required to self-certify under penalty of perjury that they are enrolled in one of those qualifying public assistance programs;

- Self-certification of Nexus' customers under penalty of perjury that they meet the eligibility requirements prior to service being activated and also annual certification that the customer is the head of household and is only receiving a Lifeline discount from Nexus and from no other carrier;

- Tracking of Lifeline customer's primary residential address and certification that there is only one customer receiving Lifeline at each residential address;

- Nexus must deal directly with its customers to certify and verify Lifeline eligibility;

- Nexus shall ensure that 100% of federal universal service funds flow through directly to Lifeline customers. The Board reserves the right to conduct audits as needed to determine that the funds are used for permitted purposes;

- Nexus ETC designation may, at any time, be suspended or revoked by order of the Board;

- Nexus shall make all service offerings, including Lifeline, available on its Web site;

- Nexus shall file, within 30 days of approval of its ETC application, its terms and conditions of service, applicable to qualifying low-income customers. Further, Nexus shall have the ongoing obligation to notify the Board of any future changes to its rates, terms or conditions;

- Nexus shall file, within 30 days of approval of its ETC application, proposed language to be used in all advertising of Lifeline service and on its Web site. The language should include information directing customers to the Board's Telecommunications Division for complaints regarding any service issues. The Staff shall have the right to review and make changes to any proposed language;

- Nexus shall file the following information on December 31, 2010 (and updated information every December 31 thereafter), unless otherwise ordered by the Board:

    1. Nexus shall report all instances in which it receives customer complaints. Nexus shall be required to provide the nature and number of customer complaints, and their resolution annually on December 31, 2010, and updated every December 31 thereafter.

    2. Actual total federal funds received in 2010, and estimated total funds to be received in 2011.

- Nexus must reach satisfactory resolution of complaints filed with the Board's Telecommunications Division on a timely basis.

- Nexus must provide its customers with access to live customer assistance operators.

Based upon the above, the Board HEREBY DESIGNATES Nexus as an ETC solely to provide Lifeline and Link-up service to all qualifying customers who request such service in New Jersey.

Nexus shall not seek access to funds from the federal Universal Service Fund for the purpose of providing service to high cost areas.

This ETC Designation is issued on the representation that the statements contained in the Petitioner's application are true, and the undertakings therein contained shall be adhered to and be enforceable unless specific waiver is granted by the Board pursuant to the authority contained in N.J.S.A. 48:1-1 et seq.

DATED: 4/28/10

BOARD OF PUBLIC UTILITIES
BY:

LEE A. SOLOMON
PRESIDENT

JEANNE M. FOX
COMMISSIONER

JOSEPH L. FIORDALISO
COMMISSIONER

NICHOLAS ASSELTA
COMMISSIONER

ELIZABETH RANDALL
COMMISSIONER

ATTEST:

KRISTI IZZO
SECRETARY

I HEREBY CERTIFY that the within document is a true copy of the original in the files of the Board of Public Utilities

Nexus Wireless Inc. Designation as Eligible Telecommunications Carrier in New Jersey

BPU DOCKET NO. TO09040331

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BEFORE THE
MISSISSIPPI PUBLIC SERVICE COMMISSION

In the Matter of	)	
	)	
Petition of Nexus Communications, Inc. For Designation as an Eligible Telecommunications Carrier in the State of Mississippi for the Limited Purpose of Offering Lifeline Service to Qualified Households	)	**Docket No. 2009-UA-280**

ORDER

THIS DAY, there came on for consideration by the Mississippi Public Service Commission ("Commission") the Petition of Nexus Communications, Inc., ("Nexus", or the "Company") for supplemental authority to provide the supported services via the Company's wireless telecommunications service in addition to the Company's current wireline offering. The Commission, being fully apprised in the premises and having considered the documents and responses of Nexus to discovery requests submitted by the Mississippi Public Utilities Staff ("Staff"), and the record before it, as authorized by law and upon recommendation of the Staff finds, as follows, to-wit:

Procedural History

1. On November 23, 2005, Nexus filed with the Commission, in Docket No. 2005-UA-667, its Petition pursuant to Section 214(e) of the Communications Act of 1934, as amended, and Federal Communications Commission ("FCC") rules 47 C.F.R. § 54.201 through 54.207, requesting designation as an Eligible Telecommunications

Carrier ("ETC") for the geographic area served by BellSouth Telecommunications, Inc. d/b/a AT&T Mississippi ("AT&T Mississippi") for the purpose of receiving federal universal service support.

2. On May 5, 2009, the Commission issued a Final Order in this Docket designating Nexus as an ETC.

3. Since the time of the Petition, approved in Docket No. 2005-UA-667, Nexus has supplemented and expanded the Company's telecommunications services by adding a wireless service offering. Accordingly, Nexus filed a Petition for Supplemental Authority on June 3, 2009. In this Petition, Nexus requested that the Commission amend and clarify the May 5, 2009 Final Order to allow Nexus to provide the supported services via a Low Income only wireless telecommunications offering to qualified households in addition to the Company's current wireline telecommunications offering.

4. By order of the Commission dated June 9, 2009, AT&T Mississippi intervened and became a party of record in this matter.

5. By order of the Commission dated June 24, 2009, Telepak Networks, Inc. ("TNI") intervened and became a party of record in this matter.

6. By order of the Commission dated June 24, 2009, the Mississippi Rural Incumbent Local Exchange Companies ("Mississippi Rural ILECs") intervened and became a party of record in this matter.

7. By order of the Commission dated June 24, 2009, Cellular South Licenses, Inc. ("CSL") intervened and became a party of record in this matter.

8. On December 21, 2009, February 11, 2010, April 29, 2010, and June 7, 2010, the Staff issued Data Requests to Nexus. Nexus submitted Responses to the Staff's Data Requests.

9. The Commission has jurisdiction to enter this Order, and entry hereof is in the public interest.

10. Due and proper notice of the Petition was given to all interested persons as required by law and the Commission's Public Utilities Rules of Practice and Procedure.

Findings and Conclusions

11. Nexus, an Ohio corporation, is a provider of Commercial Mobile Radio Service and provides the service through a combination of its own facilities and interconnection with the facilities and services of another carrier.

12. Pursuant to 47 C.F.R. § 201(d), a state commission, such as this Commission, is authorized to designate a common carrier that meets the requirements of 47 C.F.R. § 54.201(d) as an ETC.

13. To qualify under federal law as an ETC, 47 U.S.C. § 214(e) and 47 C.F.R. § 54.201 of the FCC's Rules carriers must satisfy certain requirements and offer the following services:

a. Voice grade access to the public switched network;
b. Local usage;
c. Dual tone multi-frequency signaling or its functional equivalent;
d. Single-party service or its functional equivalent;
e. Access to emergency services;
f. Access to operator services;
g. Access to interexchange service;
h. Access to directory assistance; and
i. Toll limitation for qualifying low-income consumers.

14. Pursuant to 47 U.S.C. § 214(e)(1)(A), qualified ETCs must offer these services either using their own facilities, including unbundled network elements, or a combination of their own facilities and resale of the services of another carrier. As required, Nexus is a "combination" or "mixed mode" carrier that provides the supported services using a combination of its own facilities and the facilities and services of another carrier and as such, meets this requirement.

15. Pursuant to 47 U.S.C. § 214(e)(1)(B) and 47 C.F.R. § 54.201(d)(2), an ETC is also required to "advertise the availability of such services and the charges thereof using media of general distribution." Nexus has committed that it will meet this requirement and shall within thirty (30) days of approval of its ETC designation in Mississippi and prior to offering Lifeline services will make a compliance filing with the Commission reflecting Nexus' proposed language to be used in all advertising of Lifeline services and on its website. The filing shall also include a copy of the Company's Lifeline Customer Application Form.

16. Under Nexus Wireless Lifeline plan in Mississippi, each Lifeline qualified customer will receive a free 911 compliant handset and a choice of the following service plans:

a. 250 minutes of free airtime each month. Free minutes will automatically be added to each subscriber's prepaid account each month. Minutes are "anytime" minutes and can be used for calls to or from anywhere in the United States, including local or intrastate/interstate long distance calls and Puerto Rico. Unused minutes will not carry over and will expire at the end of each calendar month. Domestic Short Message Service ("SMS") text messaging will be available at a rate of one text per minute of

airtime, International SMS text messaging will be available at a rate of $0.20 for each international text sent or received;

b. 125 minutes of free airtime each month. Free minutes will automatically be added to each subscriber's prepaid account each month. Minutes are "anytime" minutes and can be used for calls to or from anywhere in the United States, including local or intrastate/interstate long distance calls and Puerto Rico. Unused minutes carry over and will not expire as long as the subscriber remains actively enrolled in the Lifeline program. Domestic SMS text messaging will be available at a rate of one text message per each minute of airtime. International SMS text messaging will be available at a rate of $0.20 for each international text sent or received; or

c. 68 minutes of free airtime each month. Free minutes will automatically be added to each subscriber's prepaid account each month. Minutes are "anytime" minutes and can be used for calls to or from anywhere in the United States, including local or intrastate/interstate long distance calls and Puerto Rico. Unused minutes carry over and will not expire as long as the subscriber remains actively enrolled in the Lifeline program. Domestic SMS text messaging will be available at a rate of two text messages per each minute of airtime, International SMS text messaging will be available at a rate of $0.20 for each international text sent or received.

17. The Commission understands that Nexus is working to develop additional calling plans such as a high volume calling plan. Nexus shall make available to its Mississippi Lifeline customers, when it can be feasibly implemented, additional service plans, to meet the needs of high volume Lifeline customers.

18. In addition, Lifeline qualified subscribers will be allowed to purchase optional airtime replenishment minutes at a rate of $0.10 per minute.

19. Nexus' customary charge for the commencement of its wireless telecommunications service ("service activation charge", "SAF") is $72.00. Pursuant to the requirements of 47 C.F.R. § 54.411, Nexus shall participate in Link-Up, which is defined as an assistance program for qualifying low-income consumers designed to reduce a carrier's customary charge for commencing telecommunications service by half of the customary charge or $30.00, whichever is less, which an eligible telecommunications carrier shall offer as a part of its obligation under §§ 54.101(a)(9) and 54.101(b). Based on Nexus' customary charge for the commencement of service, Nexus will receive a Link-Up discount amount of $30.00 which it will then pass to qualified subscribers. In addition, Nexus will then provide qualified subscribers with an additional discount of $42.00 thereby reducing a qualified subscriber's service activation charge, after the application of the $30.00 Link-Up discount, to "0".

20. Nexus does not deduct minutes for calls placed to 911. Nexus currently deducts minutes for calls placed to Nexus' customer service department. However, by third quarter of 2011, Nexus will no longer deduct minutes for calls placed by its Lifeline subscribers to customer service when those calls are initiated by dialing *611.

21. Currently, Nexus charges a roaming charge of $0.59 per minute to its subscribers who use their service outside of the designated service area in Mississippi. Should Nexus reduce its roaming rate, it shall offer this rate reduction to its Lifeline subscribers in Mississippi. In addition, Nexus will include the Company's roaming rate in all advertising materials, Tariffs, and Terms and Conditions of Service materials.

22. In situations where a Nexus calling party experiences a call where the caller does not answer, or where the calling party experiences a busy signal, a Nexus subscriber may incur a deduction of airtime minutes when the call is not terminated within 15 seconds. Nexus has committed that it will communicate this dialing scenario to its subscribers and will include in its advertising language that informs the subscriber of the same.

23. Nexus' designated service area consists of the geographic area served by AT&T Mississippi. A list of the incumbent local exchange carrier's rate centers included within Nexus' service area is attached as **Exhibit A** to this Order.

24. Based upon a review of the record in this matter, the Commission finds that Nexus is capable of providing the services designated for universal service fund support and also finds that the Company's Lifeline service meets the requirements of 47 U.S.C. § 214(e)(1)(A) and (B).

25. The Commission is both cognizant and appreciative of the efforts of Staff in reviewing this Petition as noted by Staff's propounding of four separate sets of data requests totaling forty-four questions upon Nexus. Staff's vigilant investigation and review of this Petition will enable those Mississippians who meet the Lifeline eligibility criteria to enjoy increased consumer choice and a larger number of initial Lifeline minutes of use. Staff's efforts will also ensure a much more affordable rate for additional purchased minutes. The Commission notes that Nexus' filed Petition had initially offered only 68 free minutes each month with a rate for additional airtime of as much as $0.20 per minute. However, through Staff's due diligence of this Petition, Lifeline qualified subscribers in Mississippi will now be able to choose a calling plan that includes 125

minutes of free airtime each month with carry over of unused minutes or 250 minutes of free airtime each month with no carry over. Additional minutes of use will also be available to Lifeline qualified subscribers at a rate of $0.10 per minute. Qualified subscribers will also receive a pass through Link-Up credit of $30.00 and will also receive an additional discount from Nexus of $42.00 thereby reducing the service activation charge, after the application of the $30.00 Link-Up discount, to "0".

26. The Commission has concluded that it is in the public interest to grant Nexus' Petition for supplemental authority, subject to the following conditions:

a. Nexus will certify that all Lifeline applicants are eligible to receive Lifeline benefits in accordance with the Commission's rules.

b. Nexus shall allow its customers to contact customer service by dialing *611 without having minutes deducted by third quarter of 2011.

c. If the service can be feasibly implemented, Nexus shall make available discounted versions of a high volume calling plan as an additional service plan, to meet the needs of high volume Lifeline customers.

d. Nexus shall provide the Staff with a list of its Lifeline customers by name and address on a DVD on June 30 and December 31 each year as a part of its second and fourth quarter reports. The information will be treated as confidential information and will not be available to the public.

e. Nexus shall comply with Rule 23 of the Commission's Rules of Practice and Procedure regarding discontinuance of service.

f. Nexus shall file an informational tariff with Commission describing the terms and conditions of its prepaid wireless Lifeline service within 30 days of the date of this Order.

g. Nexus shall file any changes to its rates, terms, or conditions with the Commission at least seven days prior to the effective date of the change.

h. Nexus shall file the language which it will use in its advertising of its wireless Lifeline service and on its website within 30 day of date of this Order. This filing shall include Nexus' application form.

i. Nexus shall not commence offering wireless Lifeline service in Mississippi until it has complied with conditions (f) and (h).

j. Nexus shall comply, as applicable, with the Commission's April 6, 2007 Order in Docket No. 2005-AD-662, including quarterly and annual reporting requirements for ETCs.

k. Nexus shall comply, as applicable, with the Commission's December 28, 2007 and February 4, 2009 Orders in Docket No. 2007-AD-487.

l Nexus will comply with all applicable rules and regulations for the Mississippi Public Service Commission.

m. Nexus may not seek reimbursement for a Lifeline and Link-Up customer from the FCC if credit for the Lifeline and Link-Up customer is obtained from the underlying carrier through interconnection agreements.

The Commission finds that Nexus is entitled to be granted supplemental authority for its wireless Lifeline service throughout its designated service area in Mississippi based on timely complying with all conditions expressed in this Order.

IT IS, THEREFORE, ORDERED:

1. Nexus is granted supplemental authority for its wireless Lifeline service throughout its current designated service area. This designation is granted solely for the purpose of participating in the Low Income mechanism of the Universal Service Fund, which includes both Lifeline and Link-Up support, and is subject to the conditions set forth in paragraph 26 of this order.

2. The entire file of the Commission, as well as all responses to all discovery requests of the Staff, are specifically made a part of the record of this matter.

This Order shall be deemed issued on the day it is served upon the parties herein by the Executive Secretary of this Commission who shall note the service date in the file of this Docket.

Chairman Brandon Presley voted Aye; Vice Chairman Lynn Posey voted Aye; and Commissioner Leonard Bentz voted Aye.

Dated this, the 5th day of October, 2010.

MISSISSIPPI PUBLIC SERVICE COMMISSION

BRANDON PRESLEY, Chairman

LYNN POSEY, Vice Chairman

LEONARD BENTZ, Commissioner

ATTEST: A true copy.

Brian U. Ray
Executive Secretary
Effective this the 5th day of October, 2010

AT&T Wire Centers	
Ratecenter	CLLI
PASCAGOULA	PSCGMSMADS0
GULFPORT	GLPTMSTSDS0
PASSCHRSTN	PSCHMSLTDS1
BILOXI	BILXMSDIRS9
MOSS POINT	MSPNMSMADS0
GULFPORT	GLPTMSLYDS0
BILOXI	BILXMSMADS0
BILOXI	BILXMSEDDS0
BAYSTLOUIS	BSLSMSMARS9
PASCAGOULA	PSCGMSGARS9
HURLEY	HRLYMSMARS9
BAYSTLOUIS	MSTFMSCUDS1
PASCAGOULA	SRISMSMADS1
OCEAN SPG	OCSPMSGODS0
VANCLEAVE	VNCLMSMARS9
JACKSON	JCSNMSMBDS0
JACKSON	JCSNMSRWDS0
JACKSON	JCSNMSCPDS2
TYLERTOWN	TYTWMSMCRS9
GLOSTER	GLSTMSMARS9
MCCOMB	MCCMMSMARS9
CARTHAGE	WLGVMSSURS9
HATTIESBG	HTBGMSWEDS0
CARTHAGE	CRTHMSMARS9
MCCOMB	MCCMMSSMRS9
NATCHEZ	NTCHMSMADS0
HATTIESBG	HTBGMSMADS0
ROXIE	ROXIMSMARS9
LAUREL	LARLMSMADS0
JACKSON	JCSNMSBLDS0
PHILA	PHLAMSMADS2
POPLARVL	PPVLMSMADS1
JACKSON	JCSNMSTR1ZB
JACKSON	JCSNMSPCDS0
CANTON	CNTNMSMARS9
PORTGIBSON	PGSNMSMARS9
COLUMBIA	CLMAMSMARS9
CLINTON	JCSNMSCBDS0
FOREST	FORSMSMARS9
ELLISVILLE	ELVLMSMADS1
MERIDIAN	MRDNMSTLDS0
WIGGINS	WGNSMSMARS9
OSYKA	OSYKMSMARS9
JACKSON	JCSNMSCP06T
MCCOMB	SMDLMSSUDS1

MONTICELLO	MNTIMSMADS1
BRANDON	BRNDMSESDS0
MADISON	MDSNMSESDS0
VICKSBURG	VCBGMSMADS0
FOREST	HPVLMSSURS9
MERIDIAN	COVLMSSURS1
TOOMSUBA	TMSBMSMARS1
WESSON	WSSNMSMADS1
MERIDIAN	CSVLMSSURS1
CENTREVL	CNVIMSMARS9
NEWTONHKRY	NWTNMSHCRS9
BUCKATUNNA	BCTNMSMARS9
CARTHAGE	LENAMSSURS9
MERIDIAN	CHNKMSSURS1
LIBERTY	LBRTMSMARS9
ENTERPRISE	ENTRMSMARS9
WAYNESBORO	WYBOMSMADS0
LYNVILLE	LYVLMSMARS9
NVALAIRSTA	MNASMSMARS9
BRIARWOOD	BRWDMSMARS9
NEWTONHKRY	NWTNMSMARS9
SHUBUTA	SHBTMSMARS9
COLLINS	CLNSMSMARS9
SEMINARY	SNRYMSMADS1
MORTON	MRTNMSMARS9
MIZE	MIZEMSMADS1
BROOKHAVEN	BGCHMSSUDS1
WAYNESBORO	WYBOMSMARS9
OBADIAH	OBDHMSMARS9
DE KALB	DKLBMSMARS9
PURVIS	PRVSMSMADS1
PICAYUNE	PCYNMSMARS9
MCLAIN	MCLNMSMARS9
SUMRALL	SMRLMSMADS1
LUCEDALE	LCDLMSMARS9
UNION	UNINMSDSRS9
LAKE	LAKEMSMARS9
QUITMAN	QTMNMSMARS9
RALEIGH	RLGHMSMADS1
MAGNOLIA	MGNLMSMARS9
BEAUMONT	BUMTMSMARS9
TAYLORSVL	TYVLMSMADS1
FAYETTE	FYTTMSMARS9
HEIDELBERG	HDLBMSMADS1
RICHTON	RCTNMSMARS9
LUMBERTON	LMTNMSSSRS1
MOUNTOLIVE	MTOLMSMADS1
BROOKHAVEN	BRHNMSMADS0

EXHIBIT "A"

BRANDON	JCSNMSNRDS0
MENDENHALL	MNDNMSMARS9
MAGEE	MAGEMSMADS0
EDWARDS	EDWRMSDSDS1
PELAHATCHIE	PLHTMSMADS1
RAYMOND	RYMNMSDSDS1
BOLTON	BOTNMSMADS1
PORTGIBSON	WNRDMSSURS9
TERRY	TRRYMSMADS1
FLORA	FLORMSMADS1
UTICA	UTICMSDSDS1
SILVER CRK	SLCKMSMADS1
WOODVILLE	WDVLMSMARS9
CRYSTALSPG	CRSPMSMARS9
HAZLEHURST	HZLHMSMARS9
JACKSON	JCSNMSMBDS2
DUFFEE	DFFEMSMARS0
LEXINGTON	LXTNMSMARS9
BELZONI	BLZNMSMARS9
WALNUT	WLNTMSMADS1
ASHLAND	ASLDMSMADS1
GRENADA	GRNDMSMADS2
OXFORD	OXFRMSMADS0
COLDWATER	INDNMSSURS9
TCHULA	TCHLMSMARS9
CARROLLTON	CRTNMSMARS9
COLUMBUS	CLMBMSMADS0
MOORHEAD	MRHDMSMARS9
HOLLY SPG	HLSPMSMARS9
ITTA BENA	ITBNMSMARS9
AMORY	AMRYMSMARS9
EUPORA	EUPRMSFADS1
KILMICHAEL	KLMCMSMADS1
MABEN	MABNMSMADS1
INVERNESS	INVRMSMARS9
WINONA	WINOMSMADS0
CORINTH	CRNTMSMADS2
KOSCIUSKO	KSCSMSMADS0
SENATOBIA	SNTBMSPSRS9
NEW ALBANY	NWALMSMADS0
ABERDEEN	ABRDMSESRS9
STARKVILLE	SKVLMSMADS0
MARKS	MRKSMSHWRS9
GREENVILLE	GNVLMSMADS0
HOLLY SPG	PTCMMSSURS9
LULA	LULAMSMARS2
ABERDEEN	HMTNMSSURS9
TUTWILER	TTWLMSMARS9

CALEDONIA	CLDNMSMARS5
TUNICA	TUNCMSMADS0
JONESTOWN	JNTWMSMARS2
BALDWYN	BLDWMSMFDS1
SUMNER	SMNRMSMARS9
TUPELO	TUPLMSMADS0
CRENSHAW	CRNSMSMARS2
FRIARS PT	FRPNMSMARS9
DUNCAN	DNCNMSMARS9
SHELBY	SHLBMSDSRS9
GREENWOOD	GNWDMSMADS0
IUKA	IUKAMSESRS9
BURNSVILLE	BRVLMSMARS9
HERNANDO	HRNNMSDSDS0
COLUMBSAFB	CAFBMSMADS1
OKOLONA	OKLNMSMARS9
HOUSTON	HSTNMSMARS9
BELMONT	BLMTMSMARS9
VAIDEN	VADNMSMADS1
STARKVILLE	STRGMSSUDS1
PICKENS	PCKNMSMADS1
GOODMAN	GDMNMSMARS9
WATER VLY	WTVYMSMARS9
SCOOBA	SCOBMSMARS9
SARDIS	SRDSMSMARS9
PONTOTOC	PNTTMSMADS2
WEST POINT	WSPNMSMARS9
RIPLEY	RPLYMSMARS9
COMO	COMOMSMARS9
MCCOOL	MCCLMSMADS1
SENATOBIA	SNTBMSPSDS0
BATESVILLE	BTVLMSDSRS9
DUCK HILL	DCHLMSMADS1
VERONA	VRNAMSMARS5
CLARKSDALE	CSDLMSMARS9
COLDWATER	CDWRMSMARS9
OAKLAND	OKLDMSMARS9
CHARLESTON	CHTNMSMARS9
DURANT	DRNTMSMARS9
GREENWOOD	SNSDMSMARS9
YAZOO CITY	BNTNMSSURS9
ETHEL	ETHLMSMADS1
COFFEEVL	CFVLMSMARS9
BLUE MT	BEMTMSMADS1
LELAND	LELDMSMARS9
YAZOO CITY	YZCYMSMARS9
BOONEVILLE	BNVLMSMARS9
CLEVELAND	CLEVMSMADS2

PACE	PACEMSEDRS9
MACON	MACNMSMADS0
MACON	BKVLMSSUDS1
BENOIT	BNITMSMADS1
DREW	DREWMSMARS9
GUNNISON	GNSNMSMARS9
SHAW	SHAWMSESRS9
YAZOO CITY	BENTMSSURS9
RULEVILLE	RLVLMSMARS9
ROSEDALE	RSDLMSMARS9
SHANNON	SHNNMSMARS5
LOUISVILLE	LSVLMSMARS9
SHUQUALAK	SHQLMSMARS9
HOLLANDALE	HOLDMSMARS9
TUPELO	SLTLMSSURS5
ROLLNGFORK	RLFKMSMARS9
INDIANOLA	INDNMSMADS2
NETTLETON	NTTNMSMARS5
WEST	WESTMSMARS9

2009.09.23 10:31:04
Kansas Corporation Commission
/S/ Susan K. Duffy

**THE STATE CORPORATION COMMISSION
OF THE STATE OF KANSAS**

Before Commissioners: Thomas E. Wright. Chairman
Michael C. Moffet
Joseph F. Harkins

In the Application of Nexus Communications, Inc. to Amend Its Designation as an Eligible Telecommunications Carrier Pursuant to the Telecommunications Act of 1996.	))))	Docket No. 09-NXCT-823-ETC

ORDER APPROVING IN PART AND DENYING IN PART THE APPLICATION OF NEXUS TO AMEND ITS ETC DESIGNATION

The above-captioned matter comes on before the State Corporation Commission of the State of Kansas (Commission) for consideration and determination. Having examined its files and records, and being duly advised in the premises, the Commission approves in part and denies in part the Application of Nexus Communications, Inc. (Nexus) to Amend Its Designation as an Eligible Telecommunications Carrier (ETC and Application, respectively).

1. Nexus filed its Application on April 15, 2009, seeking to amend its ETC designation to include its provision of prepaid wireless service for the purpose of providing service only to subscribers who are eligible for low-cost support available from the federal universal service fund (FUSF). The amended ETC designation would be applicable to the same AT&T Kansas (AT&T) exchanges as provided in the 635 Docket[1].

[1] *In the Matter of the Application of Nexus Communications, Inc., for Designation as an Eligible Telecommunications Carrier*, Docket No. 06-NXCT-635-ETC (635 Docket). Nexus had filed its ETC Application on December 15, 2005; but, it was placed in abeyance, pending the outcome of Docket No. 06-GIMT-1277-GIT (1277 Docket). Upon the Commission's determination in the 1277 Docket that carriers providing services through commercial agreements were eligible to qualify as ETCs, the 635 Docket was brought up for determination. However, because the 635 Docket was filed approximately 15 months prior to the Commission's determination in the 1277 Docket, the Commission revisited all matters associated with the original application. In like fashion, because Nexus filed its Application in this docket more than four years after its 635 Docket application, the Commission will revisit the qualifications of Nexus to continue to be designated an ETC.

2. Commission staff (Staff) provided its Memorandum on August 31, 2009, analyzing the Application. Staff's Memorandum was posted on the Commission's web site on that same day to provide interested persons the opportunity to comment on the Application. No public comments were received.

3. Staff detailed the federal and state ETC requirements and compared the representations contained in the Application with those requirements. Staff was of the opinion that Nexus had demonstrated (a) its ability to provide the services or functionalities supported by the FUSF in the previously designated AT&T service areas; (b) it would provide the supported services through a combination of its own facilities and resale of another carrier's service obtained through agreements with licensed wireless carriers; (c) it will provide wireless service throughout its authorized exchanges; and (d) it would use the same approved advertising language as it does with its wireline advertising, as well advertising details about Lifeline service.

4. Staff determined that Nexus had satisfied the additional requirements of the Federal Communications Commission's *Virginia Cellular Order*[2] adopted by the Commission. Staff also determined that Nexus had satisfied the Commission's requirement that the ETC applicant demonstrate that it has sufficient back-up power in emergency situations, is able to reroute traffic around damaged facilities, and is fully capable of meeting the standards which meet the Commission's concerns about maintenance of emergency service.

5. Staff reported that Nexus requested waiver of 47 C.F.R. § 54.202 because the requirements of 54.202 are generally not applicable to a low-income only provider. Staff

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[2] *In the Matter of Federal-State Joint Board on Universal Service, Virginia Cellular, LLC Petition for Designation as an Eligible Telecommunications Carrier in the Commonwealth of Virginia*, CC Docket No. 96-45, Memorandum Opinion and Order, rel. Jan. 22, 2004 (*Virginia Cellular Order*).

reported that it did not support such a blanket waiver of 54.202. Staff did note that Nexus had requested waiver of certain Commission requirements in the 446 Docket[3].

6. Notwithstanding Staff's recommendation that Nexus' blanket waiver be denied, Staff determined that Nexus had demonstrated it was in the public interest to designate Nexus as an ETC in the same AT&T exchanges previously approved in the 635 Docket for the purpose of receiving low-income FUSF support for its wireless universal service offerings.

7. The Commission has reviewed Staff's Memorandum and finds it thorough, reasonable and dependable. The Commission concludes that the Application will be granted, subject to waivers being limited to those waivers granted Nexus by the Commission, if any, in the 446 Docket.

IT IS, THEREFORE, BY THE COMMISSION ORDERED THAT:

A. The Application of Nexus Communications, Inc. to Amend its Designation as an Eligible Telecommunications Carrier is granted, except for that part of the Application that requests waiver of 47 C.F.R. § 54.202, which is denied. The only waivers to be granted Nexus are limited to those waivers granted to Nexus by the Commission, if any, in the 446 Docket.

B. If Nexus wishes the Commission to reconsider any final matter determined herein, it must file a petition for reconsideration within 15 days of service of this Order. If this Order is mailed, service is complete upon mailing and Nexus may add three days

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[3] *In the Matter of a General Investigation Addressing Requirements for Designation of Eligible Telecommunications Carriers*, Docket No. 06-GIMT-446-GIT (446 Docket). On August 3, 2009, Nexus filed for waiver of the Commission requirements that an ETC file a two-year service quality improvement plan and provide updates as a part of its annual certification. According to Nexus, the waiver is justified because it does not receive high-cost support from the FUSF and, thus, does not have high-cost investment to account for in a service quality improvement plan. Further, Nexus noted that the Commission granted a request for waiver of the same requirements as requested by Nexus in the Commission's Order Granting YourTel's Request for Waiver, June 7, 2007.

to the 15-day suspense date. All petitions for reconsideration must be served upon the Commission's executive director.

C. The Commission retains jurisdiction over Nexus and the subject matter of this docket for the purpose of issuing such additional orders as it deems necessary.

BY THE COMMISSION IT IS SO ORDERED.

Wright, Chmn.; Moffet, Com.; Harkins, Com.

Dated: SEP 23 2009

ORDERED MAILED

SEP 23 2009

Susan Duffy EXECUTIVE DIRECTOR

Susan K. Duffy, Executive Director

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