

Federal Government or Space Florida and used for defense and space exploration purposes or which is put to a use in support thereof shall be deemed to perform an essential national governmental purpose and shall be exempt. "Owned by the lessee" as used in this chapter does not include personal property, buildings, or other real property improvements used for the administration, operation, business offices and activities related specifically thereto in connection with the conduct of an aircraft full service fixed based operation which provides goods and services to the general aviation public in the promotion of air commerce provided that the real property is designated as an aviation area on an airport layout plan approved by the Federal Aviation Administration. For purposes of determination of "ownership," buildings and other real property improvements which will revert to the airport authority or other governmental unit upon expiration of the term of the lease shall be deemed "owned" by the governmental unit and not the lessee. Providing two-way telecommunications services to the public for hire by the use of a telecommunications facility, as defined in s. 364.02(14) ~~s. 364.02(15)~~, and for which a certificate is required under chapter 364 does not constitute an exempt use for purposes of s. 196.199, unless the telecommunications services are provided by the operator of a public-use airport, as defined in s. 332.004, for the operator's provision of telecommunications services for the airport or its tenants, concessionaires, or licensees, or unless the telecommunications services are provided by a public hospital.

Section 55. Paragraph (b) of subsection (1) of section 199.183, Florida Statutes, is amended to read:

199.183 Taxpayers exempt from nonrecurring taxes.—

(1) Intangible personal property owned by this state or any of its political subdivisions or municipalities shall be exempt from taxation under this chapter. This exemption does not apply to:

(b) Property related to the provision of two-way telecommunications services to the public for hire by the use of a telecommunications facility, as defined in s. 364.02(14) ~~s. 364.02(15)~~, and for which a certificate is required under chapter 364, when the service is provided by any county, municipality, or other political subdivision of the state. Any immunity of any political subdivision of the state or other entity of local government from taxation of the property used to provide telecommunication services that is taxed as a result of this paragraph is hereby waived. However, intangible personal property related to the provision of telecommunications services provided by the operator of a public-use airport, as defined in s. 332.004, for the operator's provision of telecommunications services for the airport or its tenants, concessionaires, or licensees, and intangible personal property related to the provision of telecommunications services provided by a public hospital, are exempt from taxation under this chapter.

Section 56. Subsection (6) of section 212.08, Florida Statutes, is amended to read:

212.08 Sales, rental, use, consumption, distribution, and storage tax; specified exemptions.—The sale at retail, the rental, the use, the consumption, the distribution, and the storage to be used or consumed in this state of the following are hereby specifically exempt from the tax imposed by this chapter.

(6) EXEMPTIONS; POLITICAL SUBDIVISIONS.—There are also exempt from the tax imposed by this chapter sales made to the United States Government, a state, or any county, municipality, or political subdivision of a state when payment is made directly to the dealer by the governmental entity. This exemption shall not inure to any transaction otherwise taxable under this chapter when payment is made by a government employee by any means, including, but not limited to, cash, check, or credit card when that employee is subsequently reimbursed by the governmental entity. This exemption does not include sales of tangible personal property made to contractors employed either directly or as agents of any such government or political subdivision thereof when such tangible personal property goes into or becomes a part of public works owned by such government or political subdivision. A determination whether a particular transaction is properly characterized as an exempt sale to a government entity or a taxable sale to a contractor shall be based on the substance of the transaction rather than the form in which the transaction is cast. The department shall adopt rules that give special consideration to factors that govern the status of the tangible personal property before its affixation to real property. In developing these rules, assumption of the risk of damage or loss is of paramount consideration in the determination. This exemption does not include sales, rental, use, consumption, or storage for use in any political subdivision or municipality in this state of machines and equipment and parts and accessories therefor used in the generation, transmission, or distribution of electrical energy by systems owned and operated by a political subdivision in this state for transmission or distribution expansion. Likewise exempt are charges for services rendered by radio and television stations, including line charges, talent fees, or license fees and charges for films, videotapes, and transcriptions used in producing radio or television broadcasts. The exemption provided in this subsection does not include sales, rental, use, consumption, or storage for use in any political subdivision or municipality in this state of machines and equipment and parts and accessories therefor used in providing two-way telecommunications services to the public for hire by the use of a telecommunications facility, as defined in s. 364.02(14) ~~s. 364.02(15)~~, and for which a certificate is required under chapter 364, which facility is owned and operated by any county, municipality, or other political subdivision of the state. Any immunity of any political subdivision of the state or other entity of local government from taxation of the property used to provide telecommunication services that is taxed as a result of this section is hereby waived. However, the exemption provided in this subsection includes transactions taxable under this chapter which are for use by the operator of a public-use airport, as defined in s. 332.004, in providing such telecommunications services for the airport or its tenants, concessionaires, or licensees,

or which are for use by a public hospital for the provision of such telecommunications services.

Section 57. Subsection (8) of section 290.007, Florida Statutes, is amended to read:

290.007 State incentives available in enterprise zones.—The following incentives are provided by the state to encourage the revitalization of enterprise zones:

(8) Notwithstanding any law to the contrary, the Public Service Commission may allow public utilities and telecommunications companies to grant discounts of up to 50 percent on tariffed rates for services to small businesses located in an enterprise zone designated pursuant to s. 290.0065. Such discounts may be granted for a period not to exceed 5 years. For purposes of this subsection, the term “public utility” has the same meaning as in s. 366.02(1) and the term “telecommunications company” has the same meaning as in s. 364.02(13) ~~s. 364.02(14)~~.

Section 58. Subsection (3) of section 350.0605, Florida Statutes, is amended to read:

350.0605 Former commissioners and employees; representation of clients before commission.—

(3) For a period of 2 years following termination of service on the commission, a former member may not accept employment by or compensation from a business entity which, directly or indirectly, owns or controls a public utility regulated by the commission, from a public utility regulated by the commission, from a business entity which, directly or indirectly, is an affiliate or subsidiary of a public utility regulated by the commission or is an actual business competitor of a local exchange company or public utility regulated by the commission and is otherwise exempt from regulation by the commission under ~~ss. 364.02(13) ss. 364.02(14)~~ and 366.02(1), or from a business entity or trade association that has been a party to a commission proceeding within the 2 years preceding the member’s termination of service on the commission. This subsection applies only to members of the Florida Public Service Commission who are appointed or reappointed after May 10, 1993.

Section 59. Section 364.105, Florida Statutes, is amended to read:

364.105 Discounted rate for basic service for former Lifeline subscribers. Each local exchange telecommunications company shall offer discounted residential basic local telecommunications service at 70 percent of the residential local telecommunications service rate for any Lifeline subscriber who no longer qualifies for Lifeline. A Lifeline subscriber who requests such service shall receive the discounted price for a period of 1 year after the date the subscriber ceases to be qualified for Lifeline. In no event shall this

preclude the offering of any other discounted services which comply with s. 364.10 ~~ss. 364.08 and 364.10~~.

Section 60. Section 364.32, Florida Statutes, is amended to read:

364.32 Definitions applicable to s. 364.33 ~~ss. 364.33, 364.337, 364.345 and 364.37~~. ~~As used in ss. 364.33, 364.337, 364.345 and 364.37:~~

(1) "Person" means:

(a) Any natural person, firm, association, county, municipality, corporation, business, trust, or partnership owning, leasing, or operating any facility used in the furnishing of public telecommunications service within this state; and

(b) A cooperative, nonprofit, membership corporation, or limited dividend or mutual association, now or hereafter created, with respect to that part or portion of its operations devoted to the furnishing of telecommunications service within this state.

(2) "Territory" means any area, whether within or without the boundaries of a municipality.

Section 61. Subsection (5) of section 489.103, Florida Statutes, is amended to read:

489.103 Exemptions.—This part does not apply to:

(5) Public utilities, including special gas districts as defined in chapter 189, telecommunications companies as defined in s. 364.02(13) ~~s. 364.02(14)~~, and natural gas transmission companies as defined in s. 368.103(4), on construction, maintenance, and development work performed by their employees, which work, including, but not limited to, work on bridges, roads, streets, highways, or railroads, is incidental to their business. The board shall define, by rule, the term "incidental to their business" for purposes of this subsection.

Section 62. This act shall take effect July 1, 2011.

Approved by the Governor May 5, 2011.

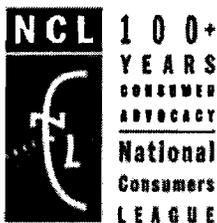
Filed in Office Secretary of State May 5, 2011.

**CONFIDENTIALITY REQUESTED**

**EXHIBIT 5**

## **EXHIBIT 6**

**Letters from National Consumers League  
And Consumer Action**



## NATIONAL CONSUMERS LEAGUE

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January 7, 2009

Ms. Marlene H. Dortch  
Secretary  
Federal Communications Commission  
445 12<sup>th</sup> Street, SW  
Washington, DC 20544

Re: CC Docket No. 96-45

Dear Ms. Dortch:

I am writing on behalf of the National Consumers League (NCL)<sup>1</sup> to express concern that delays in providing Eligible Telecommunications Carrier (ETC) certification to prepaid wireless carriers may be delaying the expansion of Lifeline wireless service to low-income consumers.

As we have stated in previous comments<sup>2</sup>, wireless telephone service has become an essential part of modern life. That is why we have consistently supported the use of Universal Service Fund monies to bring wireless telephone service to low-income consumer via the Lifeline program. We believe that all carriers that are able to meet the service obligations of Lifeline should be able to serve Lifeline customers so that low-income Americans can have the same access to wireless and competitive services as other consumers.

The advantages that wireless service brings to low-income and working Americans, particularly minority consumers, are well-documented. For example, a recent report<sup>3</sup> concluded that providing cell phones to the 38 percent of America's 45 million poorest households now without them -- including millions of seniors, Hispanics and African-Americans -- could help them get work or earn income at levels approaching \$2.9 billion-\$11 billion. Consumers will surely

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<sup>1</sup> The National Consumers League, founded in 1899, is America's pioneer consumer organization. Our non-profit mission is to protect and promote social and economic justice for consumers and workers in the United States and abroad.

<sup>2</sup> CC Docket 96-45, WC Docket 03-109, NCL PETITIONS CONCERNING ELIGIBLE TELECOMMUNICATIONS DESIGNATIONS AND THE LIFELINE AND LINK-UP UNIVERSAL SERVICE SUPPORT MECHANISM, September 17, 2004

<sup>3</sup> Sullivan, Nicholas. Cell Phones Provide Significant Economic Gains for Low-Income American Households. New Millennium Research Council. April 2008. Online: [http://www.newmillenniumresearch.org/archive/Sullivan\\_Report\\_032608.pdf](http://www.newmillenniumresearch.org/archive/Sullivan_Report_032608.pdf)

# Consumer Action

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May 10, 2010

Dear Commissioner:

As an organization dedicated to protecting and helping consumers, Consumer Action<sup>1</sup> believes that all carriers who seek certification to provide Lifeline and Link-Up services to low-income Americans should be also granted the authority to allow the consumer to decide what type of Lifeline offering they would prefer—wireless or wire-line. Low-income consumers should have access to the same type of competitive telecommunication services as other consumers. That is why we are writing today to support the Wireless Lifeline telecommunications service offered by Nexus Communications, Inc.

Consumer Action has been engaged in ensuring that Lifeline and Link-Up serves those in need and we applaud the goal to achieve a 100 percent participation rate among eligible and qualified low-income consumers. Unfortunately, federal figures indicate that Lifeline participation rates nationwide remain low. As a result, low-income households across the country continue to lag behind in obtaining the goal of enjoying access to services that are routinely enjoyed by other consumers everyday. Consumer Action believes that the Nexus Wireless Lifeline program will bring new opportunities for participation by low-income residents of your state.

Nexus' Wireless Lifeline offering is a prepaid wireless service that includes a free wireless handset and fixed amount of free monthly minutes available to qualifying consumers with no credit check, deposit requirements or long term agreements. As such, we believe that it can provide a vital option for low-income consumers who seek access to mobile wireless service, but who are wary of the early termination penalties and late payment fees that are associated with more traditional post-paid service. Through Nexus' Wireless Lifeline service, low-income consumers would also be afforded the opportunity to access services that other consumers currently receive with mobile cell phones, including voice mail, nationwide long distance and other essential features not currently offered with landline providers under their Lifeline programs. In addition, this new

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<sup>1</sup> Founded in 1971, Consumer Action is a national non-profit education and advocacy organization serving more than 10,000 community-based organizations with training, educational modules, and multi-lingual publications.

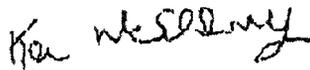
Wireless Lifeline service would help the neediest to participate equitably in the convenience, benefits, and security afforded by wireless service.

Granting swift approval of Nexus' Wireless Lifeline service offering would further the principles of universal service enumerated in Section 254(b)(3) of The Communications Act of 1934, as Amended ("The Act") and allow low-income consumers in all regions of the country to have "access to telecommunications...services"—thereby fulfilling an important social imperative to ensure that all low-income residents are able to communicate by telephone with family, support networks, employers and emergency services. Approval of the Nexus Wireless Lifeline service would also greatly expand the range of telecommunications services available to low-income consumers and bring Lifeline and Link-Up into the 21<sup>st</sup> century. Consumer Action believes that as more providers enter this space, it will further uphold the principle of competitive and technological neutrality that is a cornerstone of federal and state regulation.

Consumer Action also believes that low-income consumers should have the same choice of the technology and service available to all other consumers, and that participation in vital low-income programs, such as Lifeline and Link-Up, should not serve as a barrier to new technologies, but should instead be a channel to greater access to competitive choices such as wireless. The Wireless Lifeline service offered by Nexus provides eligible consumers with a free wireless handset and a set amount of free minutes of local and domestic long distance usage each month.

We hope that the Commission will continue to support the availability of Wireless Lifeline and Link-Up and encourage other prepaid wireless providers to pursue Lifeline ETC authority. Wireless Lifeline consumers can benefit from increased competition in the marketplace, and we support this petition by Nexus Communications, Inc. because we believe that additional providers in the arena will create a robust marketplace to benefit the very low-income households that are so badly in need of economic assistance in these difficult times.

Respectfully submitted,



Ken McEldowney  
Executive Director



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February 18, 2011

Mr. Julius Genachowski  
Chairman  
Federal Communications Commission  
445 12th Street SW  
Washington, DC 20554

Dear Chairman Genachowski:

I write on behalf of the Community Action Partnership (Partnership), the non-profit membership organization that represents the interests of more than 1,000 Community Action Agencies across America. In 2009, these Community Action Agencies served 20.7 million low-income people and families in more than 96% of America's counties. The Partnership's mission is to strengthen, promote, and provide training and technical assistance to our member agencies that receive federal Community Services Block Grants. We work to promote economic security and self-sufficiency for our nation's poor (43.7 million in 2009).

The Partnership is a strong advocate and proponent of the Lifeline program. We support measures that streamline the process for helping low-income consumers take advantage of the free wireless services Lifeline offers.

These free, prepaid services have helped revive a languishing program while bringing new access and opportunity to millions of Americans. Every day, in every state of America, Community Action staff meet with people who are struggling to pay their bills, find a job or even just meet their families' basic needs of food, shelter, and safety. Our member agencies tell us about the transformation that occurs when disadvantaged and vulnerable people and families are empowered to improve their circumstances.

These peoples' lives are more secure, easier when they have a cell phone and the Lifeline program. Lifeline contributes to their economic stability, personal security, and future opportunities. Having access to free cell phone makes Community Action clients more competitive with other job seekers; it gives our folks a leg up in an economy that continues to be very hard on our nation's poor and near-poor. Helping their lives become better improves their overall community and our society as a whole.

We are aware, however, that the Federal Communications Commission is considering proposals that could have an immediate negative impact on the free phone offerings available through Lifeline. The Partnership is convinced that any efforts that would hinder an individual's ability to obtain these services or complicate the enrollment process would be very detrimental to the low-income people we represent and serve and to the Lifeline program itself.

The FCC is to be commended for having the vision to recognize the true potential of a free wireless phone program for low-income people and for extending Lifeline to include such an offering. Retreating from that decision and implementing a minimum monthly charge on those least able to afford it would be a significant step in the wrong direction. It would instantly inhibit and discourage the people who need it the most. Even a fee of a few dollars per month is too much for people who do not know where their next meal is coming from and struggle to pay their heat and utility bills. Carriers have found a way to make the program work; charging for such service should not be left to their discretion.

As you might expect, after 47 years of providing programs, our Community Action Network is thoroughly familiar with the intake and enrollment processes for the wide variety of social service, employment and training and other economic security programs. During the four plus decades, Community Action has helped hundreds of millions of Americans obtain services that meet their most pressing needs. Our experience confirms that the success or failure of a program can occur even before someone tries to utilize the service being offered.



The Partnership fully understands that certain verification requirements must—and should—be in place to prevent fraud or mismanagement. Yet, the reality is that each additional enrollment requirement translates into a barrier to enrollment for clients with very little or no resources. Requiring individuals to provide written proof or documentation of their eligibility—can you prove you're poor?—will deny certain people the opportunity to apply.

There is little, if any, evidence that suggest that widespread fraud is taking place now. The FCC first should investigate the probability that such fraud exists before it implements a policy change that would discourage enrollments by eligible participants and result in significant, perhaps unsustainable, costs for providers.

In summary, the Community Action Partnership opposes any changes in prepaid Lifeline that would make it more difficult for our clients to obtain this valuable, life-saving service. The goal of the Universal Service Fund, and by extension Lifeline, is to make sure that everyone has access to phone service, especially those low-income people whose lives are more susceptible to emergencies and unexpected crises. Altering free prepaid Lifeline offerings in a way that they no longer become viable is counter to that goal. The Partnership is committed to helping people help themselves, and free cell phones for low-income people substantially help achieve that goal.

We respectfully ask that the FCC carefully consider any changes to Lifeline that would hurt or curtail service to the very people it was intended to help. Thank you for considering these comments and for the opportunity to submit them to the FCC.

Very truly yours,

A handwritten signature in black ink that reads "Don Mathis". The signature is written in a cursive, slightly slanted style.

Don Mathis



February 18, 2011

Julius Genachowski  
Chairman  
Federal Communications Commission  
445 12th Street, SW  
Washington, DC 20554

RE: CC Docket 96-45

Dear Chairman Genachowski:

The League of United Latin American Citizens (LULAC) and the Hispanic Federation have both previously expressed their support for Lifeline, which has provided access to communication for Latinos across the United States. Prepaid Lifeline service has finally expanded the program to its full potential. Latinos have a higher propensity to utilize prepaid cell phones compared to other populations and the ability to obtain service through Lifeline free of charge has opened up doors for many struggling members in our community.

LULAC and Hispanic Federation are both dedicated to empowering Latinos to improve their economic condition and empower their lives. We believe that cell phone access helps achieve this mission. A cell phone truly is a lifeline, serving as a vehicle for security, stability and economic attainment. For this reason we are concerned about certain proposals before the FCC that could do irreparable harm to prepaid Lifeline services.

First, making the enrollment process more difficult for applicants will hurt participation and significantly increase the cost to administer the service. It is not always possible for an eligible individual to provide written documentation that they qualify for the program and it is unfair to shut that person out of the program because of a lack of means. Also, the additional paperwork this will create is an administrative burden that providers will likely not be able to shoulder.

Similarly, implementing a minimum charge for service could have a devastating effect on participation. These are times of unprecedented need and the recession has hit Latinos disproportionately hard. A study by the Joint Economic Committee found that in October 2009 the Hispanic unemployment rate had reached 13.1%, 3 percentage points higher than the overall rate. With little or no income many Hispanics simply cannot afford any extra expense, no matter how small. Regressing to a system that makes people pay for service, especially when it is not necessary, is clearly in conflict with the goal of Lifeline.



Participation rates in Lifeline have suffered for so long, despite the efforts of the FCC to build awareness of the program. We applaud the FCC for approving services that are finally reversing that trend, so it would be tragic to see providers that have found a working solution to this issue disappear from the program.

As we have outlined, the proposed changes would have unintended consequences that could ultimately result in the discontinuation of prepaid Lifeline services. This would not only harm low-income Latinos, but all struggling Americans that are seeking support. On behalf of our community, we respectfully request that the FCC seriously consider the disadvantages of implementing the above changes before choosing a course of action.

Sincerely,

Margaret Moran  
National President  
League of United Latin American Citizens

Lillian Rodríguez López  
President  
Hispanic Federation