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

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| In the Matter of | |
| Lifeline and Link Up Reform and Modernization; | WC Docket No. 11-42 |
| Federal-State Joint Board on Universal Service; | CC Docket No. 96-45 |
| Lifeline and Link Up | WC Docket No. 03-109 |

# COMMENTS OF NEXUS COMMUNICATIONS, INC.

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## SUMMARY

Nexus Communications, Inc. ("Nexus") submits these comments in response to the Commission's Further Inquiry into Four Issues in the Universal Service Lifeline/Link Up Reform and Modernization Proceeding ("Further Inquiry").[1] Nexus appreciates the opportunity to provide additional thoughts on several issues that it believes are crucial to achieving the current and future goals of the Lifeline and Link Up programs.

Nexus is unique among the larger Eligible Telecommunications Carriers ("ETCs") in that it is focused primarily on the low income Americans that Lifeline and Link Up are meant to serve. Other ETCs with this type of focus are typically much smaller entities that do not participate or only infrequently participate in Commission proceedings. The other ETCs of significant size either do not view the target demographic as a marketing focus or focus only partially on the low income population.

By focusing on serving communities with a high proportion of consumers eligible for participation in the Low Income program, Nexus has developed a number of community outreach and related programs that have proven successful in encouraging eligible consumers to take advantage of the support that the Low Income program provides. Nexus' extensive outreach efforts include deploying mobile information vehicles directly to economically disadvantaged neighborhoods, a program that was recently recognized by the Federal-State Joint Board on Universal Service.[2] During the recent mine disaster in West Virginia, Nexus provided wireless handsets directly to low income residents of the area affected by the accident providing a mobile communication means to stay in touch during that tragic and stressful time. Nexus, by

[1] Further Inquiry into Four Issues in the Universal Service Lifeline/Link Up Reform and Modernization Proceeding, WC Docket Nos. 11-42, 03-109; CC Docket No. 96-45 (rel. August 5, 2011).
[2] *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).

its experience and approach, is sensitive to the needs of Americans eligible for the program and needing access to discounted telecommunications services.

Nexus also understands the significant burden that a lack of Link Up would place on low income consumers. Without Link Up, many eligible Americans will be unable to access the Lifeline subsidy because they will not be able to pay the carrier's valid service activation fee. For this and other reasons, Nexus believes that the Commission's proposal to reduce or eliminate Link Up support threatens the viability of the Lifeline program and any future Broadband pilot proposal for low income Americans. Nexus urges that instead of reducing or eliminating Link Up, the Commission should modernize the program so that it serves as a platform for proactive, community-based outreach and broadband accessibility can be based.

Nexus also strongly opposes any proposal to limit Link Up to physical installations of facilities at consumers' residences. Physical installations are—and have been—rare for wireline and wireless providers alike since the inception of the Low Income program. Link Up, therefore, was never meant to be limited to such circumstances and should not be so limited now, particularly in the current economic crisis. Carriers nevertheless incur real costs associated with activating a new customer, which carriers recover through various mechanisms, including service activation fees, early termination fees and long term contracts. Moreover, limiting Link Up to installations at consumers' residences would unfairly advantage wireline carriers over wireless carriers, whose facilities are not "installed at" a particular residence.

Finally, Nexus would support a rule that requires ETCs' service activation fees to be cost-based, and which requires ETCs to demonstrate their costs. Nexus believes such a rule would encourage efficient use of program funds.

# I. LINK UP IS NECESSARY TO SUPPORT THE TRANSITION TO BROADBAND

The Further Inquiry asks whether there are potential barriers to consumer participation that should be addressed in the Broadband Pilot program. It also asks for a legal basis that would support aspects of the Broadband Pilot program. Nexus believes that modernization of the Link Up program can provide the support and legal basis required to make the Broadband Pilot program a success. Specifically, Link Up should be modernized so that it supports in-person sign-ups and the non-recurring costs associated with providing consumers with broadband-capable handsets or possibly other end user equipment. These are the activities (and related costs) that will get broadband deployed to Americans most in need.

Nexus' extensive experience delivering telecommunications services to low income communities demonstrates that proactive, grassroots person-to-person outreach efforts—not merely passive advertisements—will be crucial to the success of any campaign aimed at increasing the participation of the very poorest low income consumers in the Broadband Pilot program. Because low income consumers have limited, sporadic, or simply no access to broadband services, Internet-based sign-up programs are of little value to this demographic. Indeed, web-based applications, like those used by most of the major Lifeline carriers, would create a catch-22 for the Broadband Pilot program—where eligible consumers are unable to sign up for broadband service because they lack the broadband service necessary to fill out a web-based form. Moreover, limiting sales to large retailers, which tend to be concentrated outsize of dense urban areas and the very poorest neighborhoods, will lead to a failure to reach consumers most in need. These consumers are only reached in critical mass by in-person grassroots outreach efforts and marketing in the smaller neighborhood stores they frequent.

For this reason, the Broadband Pilot program should be paired with an outreach campaign that targets Americans most in need—those without access to reliable telephone service or to broadband. In order to reach these consumers, participating ETCs will need to go into the communities where these services are most absent, often in person, to conduct outreach and perform sign-up services that can provide the link between the Broadband Pilot program and the consumers it is designed to help. Nexus believes that it is entirely appropriate that Link Up support be used to support the costs of this type of in-person activation. Active, engaged outreach costs a great deal more than passive advertising campaigns and web-based applications that require the consumer to come to the ETCs. Supporting community-based sign-up and activation is an approach that for many Americans, is the only approach that is consistent with the spirit of the Link Up program and the letter of the law.

In addition, Nexus urges the Commission to consider the costs to consumers of obtaining broadband-capable handsets. As it wrote in its February 23, 2011 *ex parte* filing outlining a proposal for the Broadband Pilot program, Nexus believes that the success of such a program depends on being able to provide service with no upfront out-of-pocket fees for participants or, at most, a nominal fee.[3] A significant upfront fee will present a major barrier to achieving the Commission's goal of extending broadband services to this deserving population. Fees as "low" as $10 or $20 can be extremely significant to a household already shouldering the burden of unemployment, poverty, and providing for children. Such families often need broadband access in order to find jobs, participate actively in school, and have access to Internet-based information on available government services. Nexus urges the Commission to examine how Link Up could be used to ease the transition from PTSN-based devices by keeping the cost of broadband-capable devices affordable.

[3] Nexus is attaching a copy of this proposal.

Nexus also recommends that the Commission mandate a system of wholesale broadband rates so that ETCs who participate in the Broadband Pilot program and future broadband initiatives can purchase the underlying capacity necessary to provide these services at uniform, reasonable rates. Nexus suggests that an investigation of how such a structure could be developed should be included in the Broadband Pilot program. At present, there is no resale obligation on broadband services. If smaller entities are not able to obtain wholesale broadband services at reasonable rates, integrating Broadband services into the Low Income program will prove to be impossible for all but the largest companies—large companies that have historically failed to focus on the needs of low income Americans.

## II. LINK UP SUPPORT ALLOWS CARRIERS LIKE NEXUS TO SERVE CUSTOMERS MOST IN NEED

Continued Link Up support is vital to the community-based, person-to-person Lifeline outreach and sign-up campaigns that allow the participation of Americans most in need of reduced-cost telecommunications service. Recovering a portion of the ETC's service activation fee ("SAF") via Link Up allows ETCs like Nexus to focus on the needs of low income consumers that are most in need without the advantage of having a large non-lifeline subscriber base to cross-subsidize the up-front non-recurring costs.

The benefits of this approach to low income customers are significant. Carriers like Nexus use Link Up support to help cover the significant expenses of community-based Lifeline sign-up campaigns. These efforts reach customers who cannot otherwise be reached—customers who lack any type of telephone service or Internet access, and live far from or otherwise do not frequent "big box" stores. Many of the consumers who sign up for Lifeline and Link Up support in Nexus' outreach vans would have no opportunity to discover and apply for these programs otherwise. Larger carriers' online applications simply cannot reach them, and many of the poorest Americans either live far away from or otherwise do not frequent stores like Walmart or Target. Community-based sign-up campaigns increase awareness of the Link Up and Lifeline programs in the poorest communities by advertising in the stores frequented by this demographic and otherwise help to overcome transportation challenges. This is precisely the kind of activity that was envisioned and encouraged at the creation of these programs.

ETCs that have forgone Link Up typically do not focus on Lifeline customers. Instead, most devote the bulk of their energies marketing to non-Lifeline consumers that are otherwise looking for a low-cost wireless plan. It is this demographic that makes up the majority of the subscriber base of these types of providers.

**Table 1: Estimated Customer Base Characteristics and ARPU of Sprint/Virgin Mobile***

| | Wireless Subscribers | | | | ARPU | |
|---|---|---|---|---|---|---|
| | Total | Prepaid | Lifeline** | % Lifeline | Total | Prepaid |
| **Sprint/ Virgin Mobile** | 32,920,482 | 13,482,000 | 2,000,000 | 6% | $48 | $28 |

* Data Source: Sprint: Form 10-Q for 2Q2011, p. 28.
** Lifeline Subscribers were estimated as Virgin Mobile's (Sprint's Lifeline ETC) Total Lifeline Disbursements in May 2011 (the last month for which True Up USAC data are available) divided by $10 (a proxy for Lifeline monthly per subscriber subsidy) rounded to the nearest 100,000



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**Table 2: Scale Economies: Operating Profit and the Ability to Finance Wide Scale Marketing Campaigns Increase as Subscriber Base Increases**

*Hypothetical Example. All measures are monthly.*

| **Total Subscribers** | **500,000** | **1,000,000** | **2,000,000** | **3,000,000** | **18,000,000** |
|---|---|---|---|---|---|
| ARPU per Subscriber | $ 15 | $ 15 | $ 15 | $ 15 | $ 15 |
| Variable Cost of Service per Subs. | $ 11 | $ 11 | $ 11 | $ 11 | $ 11 |
| Network, General and Adm. Expense | $ 1,500,000 | $ 2,000,000 | $ 2,500,000 | $ 3,000,000 | $ 3,500,000 |
| Cost of an Advertising Campaign | $ 2,000,000 | $ 2,000,000 | $ 2,000,000 | $ 2,000,000 | $ 2,000,000 |
| **Operating Profit*** | **$ (1,500,000)** | **$ -** | **$ 3,500,000** | **$ 7,000,000** | **$66,500,000** |
| **Operating Profit Margin*** | **-20%** | **0%** | **12%** | **16%** | **25%** |

** - Operating Profit is calculated as Total Subscribers * (ARPU per Subscriber - Variable Cost per Subs.) - Network, General and Adm. Expense - Cost of an Advertising Campaign. Operating Profit Margin is Operating Profit / Operating Revenue, where Operating Revenue is Total Subscribers * ARPU per Subscriber.*

Tables 1 and 2 reveal several important facts. First, as explained earlier, Nexus is unique among the larger ETCs in its focus on Lifeline customers. Even a carrier like Virgin Mobile that is very active in the program, still only approximately six percent (6%) its customer base participating in the program.[4] Because these carriers focus primarily on non-low-income subscribers, they typically offer Lifeline plans that are comparable to their non-Lifeline plans. Moreover, they tend to sell their Lifeline services at the same retail stores where they offer non-Lifeline plans, and thus do not need to engage in the kind of targeted marketing and outreach upon which Nexus prides itself. The profit margins for prepaid wireless are low, and the additional cost of outreach and vetting consumers' eligibility makes them even lower. But because Lifeline is just a small segment for other carriers, they can absorb customer acquisition costs of Low Income customers without Link Up. But online sales and big box store marketing simply will not reach Americans most cut off from the nation's telecommunications network.

[4] It is possible that Virgin Mobile's focus has been on marketing program enrollment to existing customers, which could also explain its growth in Low Income disbursements but relatively low percentage of its current customer base that participates.

Second, Table 2 demonstrates the power of economies of scale. Even with a relatively low ARPU, the sheer size of the customer base of a carrier like Virgin Mobile, compared to Nexus and the smaller carriers that truly focus on the low income market, simply permits Virgin Mobile to absorb activation costs that Nexus simply cannot.

Link Up also allows low-income focused ETCs to recover their non-recurring costs without resorting to increased monthly fees or early termination fees. It is in the nature of the prepaid service offered by Nexus and many other wireless ETCs that there are no end-of-month bills or surprise charges upon termination.[5] This characteristic is what makes prepaid wireless service a good fit for budget-conscious low-income Americans. Link Up support allows low-income focused ETCs to recover their non-recurring costs without having to subsidize them with large non-Lifeline subscriber bases or to pass them on to the customer in the form of increased per-minute rates or monthly bills.

## III. LINK UP WAS NEVER INTENDED TO BE LIMITED TO PHYSICAL CONNECTIONS AND SUCH A LIMITATION SHOULD NOT BE INTRODUCED

The Commission asks whether Link Up support should be limited to physical installations, recognizing that these are rare even in the wireline context. Nexus urges the Commission not to impose this arbitrary distinction on such a vital program. Physical installation was rare even in 1997 when the modern Link Up program was created, and there is no indication that its support was meant to be limited to this aspect of the overall connection cost.[6] This proceeding, and the entire project of reforming the Lifeline and Link Up programs to make them more effective and relevant, should focus on the needs of Americans who have the

[5] *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).

[6] *Federal-State Joint Board on Universal Service*, CC Docket No. 96-45, Report and Order, 12 FCC Rcd 8776 (1997) at 344 ("The Commission's existing Link Up program helps low-income subscribers initiate telephone service by paying half of the first $60.00 of installation charges").

least access to modern telecommunications, and who are most cut off from the necessary services this access can provide. With the help of Link Up, Nexus has been able to design a comprehensive program that includes outreach, sign-up, and continued service at minimal cost to those whose budgets cannot stretch to accommodate ever-increasing phone and broadband bills. Nexus hopes the Commission will recognize that in the face of shrinking family budgets and the increasing necessity of getting connected to wireless and broadband services, the support provided by Link Up is more relevant and necessary than it has ever been before.

To more directly address the question posed in the further inquiry, based on comments filed by the Ohio Public Utilities Commission ("PUCO") and Indiana Utility Regulatory Commission ("IURC") in Commission proceedings. The views of PUCO and the IURC, however, are based on the incorrect notion that, because ETCs like Nexus are wireless carriers, they do not incur the same costs when activating new accounts as wireline carriers do, or even that no carrier incurs activation costs unless it constructs new physical facilities.

In fact, the infrastructure that underlies wireless and wireline technology is not as distinct as may first appear, and the costs of activating new customers on each type of system are essentially the same. To activate service for a new wireless Lifeline subscriber, Nexus must have its customer service representative collect subscriber and service information (including information regarding Low Income eligibility), vet the potential subscriber and his or residence with its voluntarily established database for the purpose of preventing unlawful duplication of service, establish a billing account on its office database, and activate the subscriber's account in Nexus' operational support systems so that the customer's telephone equipment may communicate and interact with the network.[7]

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[7] See, *e.g.*, Nexus Comments, *In re Lifeline and Link-Up Reform and Modernization; Federal-State*

The activation process of wireline carriers is very similar to those of wireless carriers. Whatever may have been the case in decades past when wireline carriers were building out their networks for the first time, today such carriers already have loop plant built out to the overwhelming majority of residences, including the overwhelming majority of residences of consumers eligible for Low Income support. When an existing customer terminates service, and the premises (perhaps) becomes temporarily vacant, the wireline carrier obviously does not tear out the pre-existing loop plant. Instead, the fully connected loop plant remains in place, while the carrier typically maintains a "soft dial tone" at premises with no active customers. When a new service is later activated at the premises, there is no need for the wireline carrier to send a "truck roll" to put in any new facilities. To the contrary, in the vast majority of cases, all the wireline carrier has to do is to take the service order, setup a billing account, and activate the new account in the carrier's back office computers. The typical wireline service activation, as far as the network itself is concerned, amounts to nothing more than pushing a few buttons to cause the (almost entirely computerized) central office switch to activate the line in question. Once those buttons have been pushed, the customer's telephone equipment can communicate with the network. It is a rare case in which a wireline carrier must engage in the actual physical connection of facilities at a consumer's principal place of residence. As Comptel commented, "service initiation charges cover functions other than truck rolls and the installation of new equipment…carriers customarily charge service initiation fees ***even though 'truck rolls' are rare***."[8] Consumer groups have acknowledged that "wireless ETCs may legitimately and actually incur costs and customarily assess charges to activate services for all of its customers, including

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*Joint Board on Universal Service; Lifeline and Link-Up*¸ Notice of Proposed Rulemaking, 26 FCC Rcd 2770 (FCC rel. March 4, 2011) at 15 ("Lifeline/Link-Up NPRM").

8 Comments of Comptel on Lifeline/Link-Up NPRM at 4 (emphasis added).

its Lifeline customers."[9] All of these costs are directly related to activation and they are real costs that Link Up has supported since the inception of the program. Post-paid carriers are simply recovering their activation costs through other means such early termination fees ("ETFs"), long term contracts, and higher monthly fees. Nexus' SAF, on the other hand, provides an explicit, upfront mechanism for it to recover the costs associated with establishing service. By contrast, in a post-paid wireless service arrangement, these costs are hidden and not explicitly identified as recovering activation costs. Nexus's up-front SAF permits Nexus' customers to enjoy month-to-month service without having to worry about hidden charges and expensive ETFs if they decide to end their service or do not wish to purchase additional minutes. Nexus asserts this is the way Congress intended the program to work, through discounts that lower costs which are clearly linked to services provided. The fact that larger postpaid wireless carriers recover these same costs through either (1) the customer remaining a customer during a contract term of multiple years or (2) ETFs, which are often less than transparent to consumers, does not justify the perverse result that ETCs like Nexus are not permitted to recover their actual activation costs.[10] Multi-year contract terms and oppressive ETFs are simply not an option for prepaid wireless service users need to recover their full service activation costs upfront.

Moreover, as demonstrated in the chart below, other carriers' ETFs in fact add up to far more out-of-pocket costs for customers than Nexus' straightforward and cost-based SAF.

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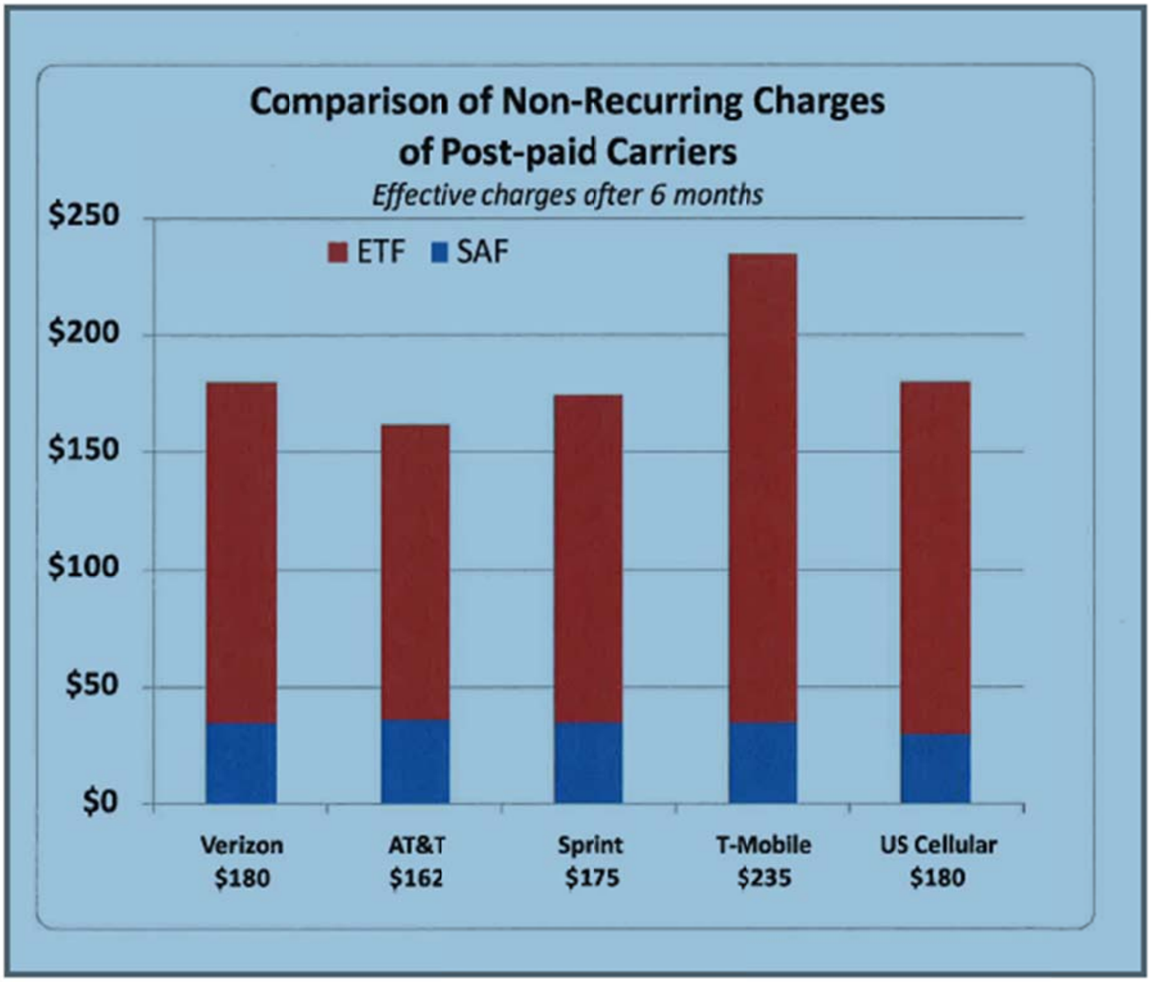
9 Comments of Consumer Groups on Lifeline/Link-Up NPRM (filed Apr. 21, 2011) at 28.

10 *See, e.g.,* FCC, Consumer & Governmental Affairs Bureau, White Paper on Bill Shock (Oct. 13, 2010). Some prepaid wireless carriers may have sufficient brand recognition or market penetration – or simply may charge high enough rates for prepaid service – to enable them to operate without a service activation fee at all. If such a carrier becomes an ETC, the issue of Link-Up support is simply moot. *See infra.*




This clearly demonstrates that Nexus provides better value for consumers through a more transparent mechanism for the recovery of service activation costs.

Finally, the Further Notice asks whether Link Up should only support physical installation of facilities "at the consumer's residence." This seems to suggest that the Commission may be considering a scenario in which only wireline carriers receive Link Up because mobile wireless facilities are not physically "installed at" a residence. As demonstrated above, the process of connecting customers to a ***wireless*** network is basically the same: in addition to a very similar service ordering processes, a carrier activates the new account in its back office computers that then permit the customer's telephone, which has retained a soft dial tone, to communicate with the network. The result is that service ordering and activation for wireline service is substantively the same as for wireless services. As a result, there is no sound basis to draw a distinction between wireless and wireline service activation costs and activities for purposes of eligibility for Link-Up support. A fee to cover the carrier's set up costs for a wireless customer is just as appropriate as a fee to set up a wireline customer. To treat these situations differently would be anticompetitive and a violation of the FCC's policy of technology neutrality. More importantly, this would discriminate against consumers for whom mobile wireless is their *only* option, namely, the homeless and consumers with transient living arrangements.

Finally, Nexus agrees with the Florida Public Service Commission that a rule requiring ETCs to charge cost-based SAFs and follow reasonable procedures demonstrate costs would be a helpful mechanism to reduce uncertainty surrounding this issue.[11] Nexus believes that such a process would reveal that wireless and wireline carriers alike incur real and significant costs associated with activating new customers, and therefore, that preserving Link Up for these ETCs is a legitimate and efficient use of program funds. In the alternative, Nexus sees merit in NASCUA's proposal that the Commission establish an industry average "proxy cost that could serve as a baseline for Link Up support.[12]

## IV. LIFELINE AND LINK UP SHOULD NOT INCLUDE BURDENSOME ENROLLMENT DOCUMENTATION REQUIREMENTS

Nexus reiterates its belief that the Commission should not impose additional documentation requirements for eligible customers before the national certification database is launched. While it appreciates the Commission's concern that self-certification may not provide

[11] Comments of Florida Public Service Commission on Lifeline/Link-Up NPRM (filed on Apr. 6, 2011) at 3.
[12] Comments of NASUCA on Lifeline/Link-Up NPRM (filed on Apr. 21, 2011) at 13.

adequate assurances of eligibility for every single consumer, Nexus submits that this is *precisely* the wrong time to increase the burden of consumers seeking to enroll in Lifeline and Link Up. The Commission has asked whether its proposal would present an undue burden for consumers. Nexus believes unequivocally that the answer is that it would. The low income customers whom Nexus targets with its outreach programs often lack access to telecommunications services, the Internet, scanners, fax machines, etc. Rather than imposing additional burdens on these consumers of very limited means, the program should take advantage of the existing state databases that are used to administer the underlying qualifying programs. To place the burden on verification on low income subscribers who already traverse a maze of government and bureaucratic entanglements in order to obtain essential resources unacceptably shifts the administrative burdens to those who can least afford them and undermines the underlying mission of the program.

Without this access, the burden of scanning, e-mailing, or photocopying the paperwork required without an option for self-certification can be immense, particularly for those living in temporary housing arrangements, group homes, and shelters. Nexus believes that the right way to improve the eligibility criteria is to put the Commission's time and resources into completing the national database initiative now under way and then evaluate what kind of uniform, minimally burdensome documentation requirements could be imposed that would create the least amount of disruption to the database system and to consumers. In Nexus' view, the least disruptive—and most reliable—arrangement would be to download eligibility information directly from state agencies administering the qualifying programs directly into the database.

## V. CONCLUSION

For the foregoing reasons, Nexus respectfully requests that the Commission retain Link Up support at current levels, expand Link Up's scope to include broadband connections and equipment, and not impose additional documentation requirements until the national database is operational.

Respectfully submitted,

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