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VIA ECFS

July 24, 2012

Marlene H. Dortch
Secretary
Federal Communications Commission
445 12th Street, S.W.
Washington, D.C. 20554

**Re: WC Dockets 11-42, 03-109 and 12-23; CC Docket 96-45
Comments of Nexus Communications, Inc. in Response to TracFone Petition to
Require Lifeline Program-Based Eligibility Documentation**

Dear Secretary Dortch:

Attached please find the Comments of Nexus Communications, Inc. in the above-captioned dockets.

Please contact me if you have any questions.

Respectfully submitted,

A handwritten signature in blue ink that reads 'Danielle Frappier'.

Danielle Frappier

**BEFORE THE
FEDERAL COMMUNICATIONS COMMISSION
WASHINGTON, D.C. 20554**

In the Matter of

Lifeline and Link Up Reform and Modernization

WC Docket No. 11-42

Lifeline and Link Up

WC Docket No. 03-109

Federal-State Joint Board on Universal Service

CC Docket No. 96-45

Advancing Broadband Availability Through Digital
Literacy Training

WC Docket No. 12-23

**COMMENTS OF NEXUS COMMUNICATIONS, INC.
IN RESPONSE TO TRACFONE PETITION TO REQUIRE RETENTION OF LIFELINE
PROGRAM-BASED ELIGIBILITY DOCUMENTATION**

Nexus Communications, Inc. (“Nexus”), through its undersigned counsel, hereby submits these Comments in response to the Petition filed on May 30, 2012 (“TracFone Petition”)¹ by TracFone Wireless (“TracFone”) in the above-captioned dockets. TracFone requests that the Commission revise its rules to require all eligible telecommunications carriers (“ETCs”) to retain a copy of the underlying documentation used to determine program-based Lifeline eligibility for at least three years following receipt of such documentation.² For the reasons set forth below, Nexus supports the TracFone Petition.

I. BACKGROUND INFORMATION ABOUT NEXUS

Nexus is committed to serving the specific communications needs of low-income Americans. Nexus has been designated an ETC in 26 states, pursuant to which it receives

¹ See *In re Lifeline and Link Up Reform and Modernization, et al.*, TracFone Petition for Reconsideration and Emergency Petition to Require Retention of Program-Based Eligibility Documentation, WC Docket Nos. 11-42 *et al.* (filed May 30, 2012).

² The TracFone Petition requests only that ETCs be required to retain program-based eligibility documents. Although in Nexus’ experience the overwhelming majority of Lifeline subscribers qualify on the basis of assistance programs, Nexus believes that ETCs should be required to retain qualifying documents for applicants who qualify on the basis of income, as well as assistance programs.

Lifeline funding.³ Nexus currently offers wireless Lifeline service in 18 states, and wireline Lifeline service in 14 states. It also provides services on a prepaid basis, which offers low-income consumers a simple, effective means of managing their family budgets and eliminating bill shock.

II. NEXUS SUPPORTS THE TRACFONE PETITION

Nexus agrees with the rationale and recommendation of the TracFone Petition. In particular, Nexus agrees that, absent a requirement that ETCs retain copies of eligibility documentation, ETCs that may be overzealous in aggressively enrolling Lifeline subscribers – or their agents who may not fully understand the requirements or lack incentive to properly vet the documentation – may have the economic incentive to squander scarce universal service fund (“USF”) resources. A documentation retention rule, however, would eliminate such opportunity and economic incentive because ETCs will operate knowing that they eventually will be required to produce supporting documentation for some or all of their Lifeline subscribers during the audit process.

Nexus further agrees with TracFone that the current rule, which requires ETCs to review but not retain eligibility documentation, needlessly complicates the Lifeline enrollment process.⁴ Such documentation varies considerably by qualifying program and by state. ETCs are now required to record in some manner a variety of data about the reviewed documents. However, ETCs may record different information about the reviewed documentation, which could create inconsistency among ETCs and uncertainty about what recorded information will be acceptable

³ Although ETCs may receive funding from both the federal High Cost and Lifeline programs, Nexus has declined all High Cost funding.

⁴ See TracFone Petition at 6.

to USAC auditors or the Commission. The Commission can eliminate this inconsistency and regulatory uncertainty by requiring ETCs to retain copies of the qualifying documents.

The *Lifeline Reform Order*⁵ contains virtually no explanation of the policy rationale underlying FCC Rules 54.410(b)(1)(B)(ii) and 54.5410(c)(1)(B)(ii),⁶ which prohibit the retention of qualifying documents. Nexus submits that ETCs can readily implement safeguards that will protect Lifeline subscriber information. For example, an ETC could retain only encrypted, electronic copies of the documents in secure, firewall-protected electronic storage media and kept separated from billing and other customer service databases. Access to these records could be restricted to a limited number of ETC employees, with access permitted only on a “need to know” basis. Advance subscriber consent to retain this documentation can be obtained on ETCs’ Lifeline application and certification forms. Whatever privacy concerns that were the motivating factor to bar ETCs from retaining qualifying documents should be outweighed by the importance of maintaining the integrity of the Lifeline program. Indeed, allowing ETCs to maintain qualifying documents in highly-controlled, secure media with restricted access is arguably *more* secure than the current system. In any event, the potential issues posed by ETCs retaining Lifeline subscriber documentation for a limited time are minimal and greatly outweighed by the advantages of this system.

Finally, it should be noted that the proposed rule change is limited in nature because the current full-certification process is temporary and transitional. Over time, this process will be replaced by a database-query system, and the issue of subscriber document retention will become moot. Therefore, the proposed rule change will not result in ETCs retaining subscriber

⁵ *In re Lifeline and Link Up Reform and Modernization, et al.*, WC Docket Nos. 11-42 *et al.*, Report and Order and Further Notice of Proposed Rulemaking, FCC 12-11 at ¶ 101 (rel. Feb. 6, 2012) (“*Lifeline Reform Order*”).

⁶ 47 C.F.R. §§ 54.410(b)(1)(B)(ii); 54.410(c)(1)(B)(ii).

documents for the indefinite future. Within the next few years, ETCs will have no need to retain, or even review, qualifying documentation because the needed information will be available in government agency-maintained databases, which ETCs can access on an as-needed basis.

III. CONCLUSION

For the foregoing reasons, Nexus respectfully asks the Commission to revise its rules so as to require ETCs to retain copies of the documentation used to determine Lifeline eligibility for at least three years following receipt.

Respectfully submitted,



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