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

COMMENTS OF NEXUS COMMUNICATIONS, INC.

Nexus Communications, Inc. ("Nexus"), through its undersigned counsel, submits the following comments supporting TracFone Wireless, Inc.'s ("TracFone") Petition for Waiver of Lifeline Rules Prohibiting Retention of Income-Based and Program-based Eligibility Documentation ("Petition for Waiver"), which was filed on January 22, 2014 in WC Docket Nos. 11-42, 03-109, 12-23, and CC Docket No. 96-45. TracFone requests that the Commission waive its rules to allow *TracFone* to retain copies of documentation of income-based or program-based eligibility produced by applicants for enrollment in the Lifeline program. For the reasons set forth below, Nexus supports the TracFone Petition and encourages the Commission to implement a blanket waiver of 47 C.F.R. 54.410(b)(1)(ii) and 54.410(c)(1)(ii) for ***all eligible telecommunications carriers ("ETCs")***, which currently prohibit ETCs from retaining copies of the documentation that proves their subscribers are eligible to receive Lifeline support because they participate in a qualified social program or have otherwise demonstrated the requisite income level.

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 enrolling Lifeline subscribers, or their agents who may not fully understand the requirements and/or lack incentives to properly vet the documentation may squander scarce universal service fund ("USF") resources. A documentation retention rule would eliminate such concerns because ETCs will operate knowing that they may be required to produce supporting documentation for some or all of their Lifeline subscribers during the audit process.

Nexus also believes that the current rule, which requires ETCs to review but not retain eligibility documentation, needlessly complicates the Lifeline enrollment process.[1] 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 in order to create an audit trail. 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 to USAC auditors or the Commission. The Commission can eliminate this inconsistency and regulatory uncertainly by requiring ETCs to retain copies of the qualifying documents.

The Lifeline Reform Order[2]contains virtually no explanation of the policy rationale underlying FCC Rules 54.410(b)(1)(B)(ii) and 54.5410(c)(1)(B)(ii),[3] which prohibit the retention

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[1] *See* Petition for Waiver at 6.

[2] *In re Lifeline and Link Up Reform and Modernization, et al.*, Report and Order and Further Notice of Proposed Rulemaking, 27 FCC Rcd 6,656 (FCC rel. Feb. 6, 2012) ("*Lifeline Reform Order*") at ¶ 101.

[3] 47 C.F.R. §§ 54.410(b)(1)(B)(ii); 54.410(c)(1)(B)(ii).

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 that are 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, which is silent about the methods used by ETCs to allow applicants to transmit the documentation to ETCs for review. 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.

Nexus also agrees with TracFone that the threat of enhanced enforcement action increases the ETCs' need to retain evidence that they comply with Commission rules.[4] Retention of subscriber eligibility documentation will allow ETCs to enhance their own compliance efforts by validating the eligibility of subscribers and by enhancing ETCs' ability to review and improve the internal processes they implement to root out errors. In addition, it is

[4] The Commission has recently issued a series of Notices of Apparent Liability for Forfeiture proposing an approximate total of $94 million in proposed penalties to ETCs for alleged violation of its Lifeline rules. *See, e.g., In the Matter of Budget PrePay, Inc. d/b/a Budget Mobile*, Notice of Apparent Liability for Forfeiture, File No.: EB-IHD-14-00013140 (FCC rel. Feb. 28, 2014).

critical that ETCs be permitted to retain this documentation as evidence to defend themselves against enforcement actions based on allegations of unqualified or duplicate subscribers.

Finally, Nexus agrees with TracFone that the ability to retain copies of eligibility documentation would simplify and improve the process by which ETCs validate or correct records submitted to the National Lifeline Accountability Database ("NLAD"). It is in everyone's interest to guarantee a smooth, functional interaction among subscribers, ETCs, and the NLAD. In particular, when the NLAD flags a subscriber as a potential duplicate, the eligibility documentation may contain the information needed to either confirm or disprove the duplicate status. In addition, by retaining copies of their subscribers' eligibility documentation, ETCs will be better able to review or correct subscriber eligibility and other information, such as an applicant's mailing address, that has been highlighted by the NLAD as a potential error.

The arguments TracFone details in its Petition for Waiver are not unique to its business, but are common among all Lifeline ETCs. When TracFone proposed requiring all ETCs to keep copies of eligibility documentation in a separate Petition in May 2012, virtually all ETCs supported it, including Nexus.[5] A year later, the Lifeline Reform 2.0 Coalition ("Coalition") proposed the same reform, which Nexus again supported.[6]

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[5] *See Lifeline and Link Up Reform and Modernization, et al.*, Comments of Nexus Communications on TracFone Petition to Require Retention of Lifeline Program-Based Eligibility Documentation, WC Docket Nos. 11-42 *et al*. (filed July 24, 2012); *Lifeline and Link Up Reform and Modernization, et al.*, Comments of the Joint Commenters (Absolute Home Phones, Inc. d/b/a Absolute Mobile, *et al*.) at 3 (filed July 24, 2012); *Lifeline and Link Up Reform and Modernization, et al.*, Comments of Sprint Nextel Corporation, WC Docket Nos. 11-42 *et al*. at 3 (filed July 24, 2012); *Lifeline and Link Up Reform and Modernization, et al.*, Comments of i-wireless, LLC on TracFone Petition to Require Retention of Lifeline Program-Based Eligibility Documentation, WC Docket Nos. 11-42 *et al*. at 3 (filed July 24, 2012); and *Lifeline and Link Up Reform and Modernization, et al.*, Supporting Comments of NTCH, Inc., WC Docket Nos. 11-42 *et al*. at 3 (filed July 24, 2012).

[6] *Lifeline and Link Up Reform and Modernization, et al.*, Lifeline Reform 2.0 Coalition's Petition to Further Reform the Lifeline Program, WC Docket No. 11-42 (filed June 28, 2013). Nexus understands that the Coalition is

Nexus respectfully asks the Commission to grant and expand TracFone's petition by granting a blanket waiver for all ETCs (and not just TracFone) of 47 C.F.R. 54.410(b)(1)(ii) and 54.410(c)(1)(ii), or, in the alternative, 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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comprised of Boomerang Wireless, LLC; Blue Jay Wireless, LLC; Global Connection Inc. of America; i-Wireless LLC and Telrite Corporation. *See also Wireline Competition Bureau Seeks Comment on Lifeline Reform 2.0 Coalition's Petition for Rulemaking to Further Reform the Lifeline Program*, Public Notice, DA-13-1576 (WCB rel. July 15, 2013); *Lifeline and Link Up Reform and Modernization, et al.*, Reply Comments of Nexus Communications, WC Docket 11-42 (filed Aug. 29, 2013).