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VIA ECFS

April 24, 2012

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

Re: WC Docket 09-197, Amendment to Petitions of Nexus Communications Inc. for Designation as an Eligible Telecommunications Carrier for Low Income Support Only

Dear Secretary Dortch:

Attached please find an amendment to Nexus Communications, Inc.'s Petitions for Designation as an Eligible Telecommunications Carrier for Low Income Support Only, which are currently pending before the Commission. This amendment is being filed to satisfy the new requirements adopted in the Commission's recent *Lifeline Reform Order* (FCC 12-11) released by the Commission on February 6, 2012 in WC Docket No. 11-42 *et al.*

Should the Commission have any questions about this filing, please do not hesitate to contact the undersigned.

Respectfully submitted,

A handwritten signature in blue ink that reads 'Danielle Frappier'. The signature is written in a cursive, flowing style.

Danielle Frappier

**Before the
Federal Communications Commission
Washington, D.C. 20554**

In the Matter of)
)
Telecommunications Carriers Eligible to)
Receive Universal Service Support)
)
Petitions of Nexus Communications, Inc.)
for Designation as an Eligible)
Telecommunications Carrier for Low)
Income Support Only)

WC Docket No. 09-197

**AMENDMENT TO PETITIONS OF NEXUS COMMUNICATIONS, INC.
FOR DESIGNATION AS AN ELIGIBLE TELECOMMUNICATIONS CARRIER
FOR LOW INCOME SUPPORT ONLY**

Nexus Communications, Inc. (“Nexus”), through its undersigned counsel, respectfully submits this Amendment to its Petitions for designation as an Eligible Telecommunications Carrier (“ETC”) for the sole purpose of qualifying for Lifeline support in ten states, which were filed on April 5, 2011 and June 3, 2011 in the above-captioned docket.¹ The Amendment is submitted in order to reflect changes to the Commission’s Lifeline rules and policies

¹ *Telecommunications Carriers Eligible to Receive Universal Service Support, Nexus Communications, Inc. Petition for Designation as an Eligible Telecommunications Carrier for Low Income Support Only*, Petition, WC Docket No. 09-197 (filed April 5, 2011) (for designation in Alabama, Connecticut, the District of Columbia, Delaware, New Hampshire, New York, North Carolina, Tennessee and Virginia) (hereinafter “Nine State Petition”); *Telecommunications Carriers Eligible to Receive Universal Service Support, Nexus Communications, Inc. Petition for Designation as an Eligible Telecommunications Carrier for Low Income Support Only*, Petition, WC Docket No. 09-197 (filed June 3, 2011) (for designation in Florida) (hereinafter “Florida Petition” and collectively with the Nine State Petition, “Petitions”). Nexus is filing the present Amendment in order to ensure that these Petitions conform to recent rule changes. The Commission had previously sought public comment on these Petitions. *Wireline Competition Bureau Seeks Comment on Nexus Communications, Inc. Petition for Limited Designation as an Eligible Telecommunications Carrier*, Public Notice, 26 FCC Rcd. 6596 (WCB rel. May 2, 2011); *Wireline Competition Bureau Seeks Comment on Nexus Communications, Inc. Petition for Limited Designation as an Eligible Telecommunications Carrier in Florida*, Public Notice, 26 FCC Rcd. 8665 (WCB rel. June 22, 2011).

promulgated in the *Lifeline Reform Order*² and the *USF/ICC Order on Reconsideration*.³ This Amendment is filed contemporaneously with Nexus' proposed Compliance Plan, in which it seeks forbearance from the "own facilities" requirement.⁴ Nexus hereby amends its Petitions as follows:

I. AMENDMENT TO REQUEST FOR LINK UP SUPPORT

Nexus hereby withdraws its request for Link Up support.

II. AMENDMENT TO SERVICES SUPPORTED BY USF MECHANISMS

In paragraph 3 of the *USF/ICC Order on Reconsideration*, the Commission revised 47 C.F.R. § 54.101(a) to read as follows:

Services designated for support. Voice telephony services shall be supported by federal universal support mechanisms. Eligible voice telephony service must provide voice grade access to the public switched network or its functional equivalent; minutes of use for local service provided at no additional charge to end users; access to emergency services provided by local government or other public safety organizations, such as 911 and enhanced 911, to the extent the local government in an eligible telecommunications carrier's service area has implemented 911 or enhanced 911 systems; and toll limitation for qualifying low-income consumers (as described in subpart E of this part).

Nexus complies with the revised version of 47 C.F.R. § 54.101(a) and provides the services designated for support. Accordingly, Nexus hereby replaces Section II(C) of its Petitions to address the requisite supported services as follows:

- Voice Grade Access to the Public Switched Network: Voice grade access permits a telecommunications user to transmit and receive voice communications with a minimum

² *Lifeline and Link Up Reform and Modernization et al.*, WC Docket No. 11-42 et al., Report and Order and Further Notice of Proposed Rulemaking, FCC 12-11 (rel. Feb. 6, 2012) ("*Lifeline Reform Order*").

³ *Connect America Fund, et al.*, Order on Reconsideration, Docket Nos. WC 10-90, et al. (December 23, 2011) ("*USF/ICC Order on Reconsideration*").

⁴ *Lifeline and Link Up Reform and Modernization; Telecommunications Carriers Eligible to Receive Universal Service Support; Nexus Communications, Inc. Petition for Designation as an Eligible Telecommunications Carrier for Low Income Support Only*, Compliance Plan of Nexus Communications, Inc. (filed April 24, 2012) ("*Compliance Plan*").

bandwidth of 300 to 3,000 Hertz. Nexus will meet this requirement through its provision of mobile voice communications service and interconnection to the public switched telephone network.

- Minutes of Use for Local Service at No Additional Charge. Local usage is an amount of minutes of use provided free of charge. Nexus will meet this requirement by providing multiple calling plans, all of which offer a nationwide local calling area, permitting customers to call anywhere in the United States without toll charges. More details about Nexus' calling plans are provided in Section VI below and in Nexus' Compliance Plan.
- Access to Emergency Services. Access to emergency services includes both access to 911 and E911 services to the extent the local government has implemented such services. Nexus currently: (1) provides its Lifeline subscribers with 911/E911 access at the time Lifeline service is initiated, regardless of activation status and availability of minutes, and (2) provides its Lifeline subscribers with E911-compliant handsets and replaces, at no additional charge to the subscriber, noncompliant handsets of Lifeline-eligible subscribers who obtain Lifeline-supported services.
- Toll Limitation Service for Qualifying Low-Income Consumers. Toll limitation means both toll blocking and toll control, or, if a carrier is not capable of providing both toll blocking and toll control, then toll limitation is defined as either toll blocking or toll control. Nexus will meet the requirement to provide toll limitation to Lifeline subscribers by offering service on a prepaid, or pay-as-you-go, basis, as well as toll blocking for international calls. As the Commission found in its grant of ETC designation to Virgin Mobile, "the prepaid nature of [a prepaid wireless carrier's] service offering works as an

effective toll control.”⁵ Moreover, Nexus offers traditional toll blocking for international calls at no additional charge. Nexus also provides its users with the ability to monitor their minute usage and balance as an additional means of controlling their communications budget.

III. REQUEST FOR FORBEARANCE FROM THE “OWN FACILITIES” REQUIREMENT

Nexus hereby amends Section II(C) of its Petitions to request that the Commission forbear from applying the “own facilities” requirement of 47 U.S.C. § 214(e)(1)(A) to Lifeline-only applications that comply with the conditions set forth in paragraphs 368 – 380 of the *Lifeline Reform Order*. Nexus’ Compliance Plan is filed contemporaneously herewith.

IV. NEXUS’ ADVERTISEMENT AND DISCLOSURE POLICIES AND PRACTICES

In Section II(D) of its Petitions, Nexus certified that it will advertise the availability of, and charges for, the supported services using media of general distribution, in compliance with 47 C.F.R. § 54.201(d)(2). This advertising will occur through some combination of media channels, such as television and radio, newspaper, magazine and other print advertisements, outdoor advertising, direct marketing, and the Internet.

In addition, Nexus will comply with the new advertising, marketing and disclosure requirements set forth in 47 C.F.R. § 54.405. Specifically, all of Nexus’ print, audio, video and Internet material used to describe or enroll subscribers in the Lifeline service offering will indicate, using easily understood language (1) that Nexus’ low income targeted service is a Lifeline service; (2) that Lifeline is a government assistance program; (3) that the service is non-transferable; (4) that only eligible consumers may enroll in the program; and (5) that the program

⁵ *Virgin Mobile USA, L.P. Petition for Forbearance from 47 U.S.C. § 214(e)(1)(A)*, Order, 24 FCC Rcd. 3381, 3394 at ¶ 34 (FCC 2009).

is limited to one discount per household. Nexus has provided a sample advertisement with its Compliance Plan.

V. NEXUS' POLICIES AND PRACTICES PERTAINING TO SUBSCRIBER ELIGIBILITY, INITIAL CERTIFICATIONS AND ANNUAL VERIFICATIONS

Section II(J) of Nexus' Petitions described the process by which Nexus intended to comply with the Commission's regulations in existence as of December 2011 pertaining to certification of eligibility and verification of continued eligibility for Lifeline benefits. The *Lifeline Reform Order* made significant changes to 47 C.F.R. § 54.410 (subscriber eligibility determinations and certification) and 47 C.F.R. § 54.416 (annual verifications). Nexus will certify and verify consumer eligibility in strict conformance with these revised regulations. Nexus' specific policies and practices with respect to subscriber eligibility and annual verifications of continued eligibility are described in detail in Section II of Nexus' Compliance Plan.

VI. NEXUS' SERVICE OFFERINGS

Nexus offers the following prepaid wireless service plans for its Lifeline subscribers:

250 Minute Plan (non-rollover) (all states except California): Minutes are "anytime" minutes and can be used for domestic calls, including local or intrastate/interstate long distance calls. Unused minutes or domestic Short Message Service ("SMS") text messages do not carry over to the following month. SMS text messaging is available at a rate of one text per minute of airtime.

125 Minute Plan (rollover) (all states except California): Minutes are "anytime" minutes and can be used for domestic calls, including local or intrastate/interstate long distance calls. Unused minutes or domestic SMS text messages carry over to the following month. SMS text messaging is available at a rate of one text per minute of airtime.

68 Minute Plan (rollover) (all states except California): Minutes are "anytime" minutes and can be used for domestic calls, including local or intrastate/interstate long distance calls. Unused minutes or domestic SMS text messages carry over to the following month. Domestic SMS text messaging is available at a rate of two text messages per each minute of airtime.⁶

⁶ The 68 minute plan is an older plan which, while technically still available, is not a plan that subscribers typically select given that they may obtain other plans with more minutes for similar rates, terms and conditions.

California 250 Minute Plan: Minutes are “anytime” minutes and can be used for domestic calls, including local or intrastate/interstate long distance calls. Unused minutes or SMS text messages do not carry over to the following month. Domestic SMS text messaging is available at a rate of one text message per each minute of airtime. There is a minimum out-of-pocket charge of \$2.50 per month.

California 500 Minute Plan: Minutes are “anytime” minutes and can be used for domestic calls, including local or intrastate/interstate long distance calls. Unused minutes or SMS text messages do not carry over to the following month. Domestic SMS text messaging is available at a rate of one text message per each minute of airtime. There is a minimum out-of-pocket charge of \$5.00 per month.

California 1000 Minute Plan: Minutes are “anytime” minutes and can be used for domestic calls, including local or intrastate/interstate long distance calls. Unused minutes or SMS text messages do not carry over to the following month. Domestic SMS text messaging is available at a rate of one text message per each minute of airtime. There is a minimum out-of-pocket charge of \$20.00 per month.

All plans include at no extra charge: free 911-compliant handset; “anytime” nationwide minutes that can be used for domestic calls, including local or intrastate/interstate long distance calls.

Nexus’ Lifeline customers in states other than California may purchase additional minutes on a prepaid basis in denominations of \$3.00 (20 minutes), \$5.00 (40 minutes), \$10.00 (120 minutes), \$20.00 (300 minutes), \$30.00 (500 minutes), and \$50.00 (950 minutes). Nexus also offers an unlimited talk and text additional airtime card. This card provides unlimited local and domestic long distance calling, and unlimited text messaging for thirty (30) calendar days. The cost to Lifeline subscribers is \$26.50.

Nexus’ California subscribers may purchase additional minutes on a prepaid basis in denominations of \$3.00 (91 minutes), \$5.00 (152 minutes), \$10.00 (304 minutes), \$20.00 (607 minutes), \$30.00 (910 minutes), and \$50.00 (1,516 minutes), all billed at \$0.033 per minute. All minutes are valid for 30 days from date of replenishment. Nexus’ California subscribers may also purchase the unlimited talk and text additional airtime card.

International SMS text messaging is available at a rate of \$0.20 for each international text sent or received. The rate for directory assistance calls is \$1.50 per request. Nexus permits Lifeline subscribers to block international calls at no additional charge. There is no deduction of minutes for calls to 911 or Nexus' customer service department.

Calls from the handset checking or retrieving voicemails count against the voice minutes provided by the plan. Calls from a source other than the handset checking or retrieving voicemail messages and incoming calls that leave a voicemail message are free to the Nexus end user. Calls to 911 emergency services are always free, and may be made regardless of service activation or availability of minutes.

VII. NEXUS' FINANCIAL AND TECHNICAL CAPABILITIES TO PROVIDE LIFELINE SERVICE

Nexus is technically and financially qualified to provide Lifeline service. Nexus became a CLEC in 2001 and received its first ETC designation in 2006. Nexus is designated as an ETC in 26 states and provides wireline service as an ETC in 13 states, and wireless service in 18 states. Nexus is successfully providing Lifeline supported services and has a steadily increasing customer base. Nexus is financially stable and is fully capable of honoring its service obligations, and has not been subject to any enforcement action or ETC revocation proceeding in any state.

Nexus is financially stable and fully capable of honoring its service obligations to customers and federal and state regulatory obligations. Although Nexus derives the majority of its revenue from the sale of prepaid wireless services, Nexus does not rely exclusively on USF disbursements to operate. For example, Nexus derives additional revenue from the sale of wireless services to non-Lifeline customers, and the sale of replenishment airtime minutes.

VIII. CONCLUSION

Nexus submits that its Petitions, as amended herein, fully satisfies the conditions set forth in the *Lifeline Reform Order*, the *Public Notice* and the Commission's rules pertaining to Lifeline. Accordingly, Nexus respectfully requests expeditious approval of its ETC Petitions as amended herein and its Compliance Plan so that Nexus may provide service to eligible low income consumers in the Designated Service Areas.

Respectfully submitted,



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April 24, 2012