

BEFORE THE UTAH PUBLIC UTILITIES COMMISSION

In the Matter of the Application of Nexus
Communications, Inc. for Designation as an
Eligible Telecommunications Carrier for Low
Income Support Only

Case No. _____

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

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April 5, 2011

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Nexus Communications, Inc. (“Nexus”) respectfully submits this application for designation as an eligible telecommunications carrier (“ETC”) pursuant to Section 214(e)(6) of the Communications Act of 1934, as amended (“Act”),¹ Section 54.201 *et seq.* of the Federal Communication Commission’s (“FCC”) rules, and the Utah Public Service Commission’s (“Commission”) rules and regulations² for designation as an ETC in the State of Utah. Nexus seeks ETC designation exclusively for Lifeline/Link Up (“Low Income”) support in the non-rural areas of Utah indicated in **Exhibit A** (the “Designated Service Area”). Nexus does not seek, and will not accept, High Cost support in Utah.

¹ 47 U.S.C. § 214(e)(6).

² Utah Adm. Code R746-341-1 to R746-341-8.

I. OVERVIEW OF NEXUS

Nexus³ is a telecommunications carrier committed to serving the specific communications needs of low income Americans. Nexus has already received ETC designation in twenty states, pursuant to which it receives Low Income funding.⁴ Nexus engages in extensive outreach efforts to fulfill the key objective of the Low Income program – providing the supported telecommunications and related services to low income Americans. Its efforts include a program, recently recognized by the Federal-State Joint Board on Universal Service,⁵ in which its mobile information vehicles visit economically disadvantaged neighborhoods and provide information about the Low Income program. Nexus offers services that give low income consumers a simple and effective means of obtaining critically needed communications services while managing their family budgets and avoiding bill shock.⁶ In the second quarter of 2009, after several years serving consumers, including low income consumers, via wireline technology, Nexus began to offer wireless services in recognition of the high demand for such services in the communities it serves. Consumers have indicated a strong preference for mobile wireless services and Nexus has worked to satisfy this demand by growing and investing in wireless technology. For example, Nexus holds licenses to PCS spectrum in Montana and has deployed

³ A copy of the Nexus' Articles of Incorporation is attached as **Exhibit B**. A copy of the Nexus' Certificate of Authority to do business in Utah is attached as **Exhibit C**.

⁴ Nexus became a competitive local exchange carrier in 2000, and received its first ETC designation in June 2006. Nexus now focuses on providing service to low income consumers. It provides service to these consumers using wireline technology in Alabama, Florida, Kentucky, North Carolina, Oklahoma, South Carolina, Tennessee, and Texas. It serves consumers using both wireline and wireless technology to Low Income participants in Arkansas, Illinois, Kansas, Louisiana, Michigan, Mississippi, and Wisconsin. It uses only wireless technology to serve low income consumers in Georgia, Maryland, Missouri, New Jersey, and West Virginia. Although ETCs may receive funding from both the federal High Cost and Low Income programs, Nexus has declined all High Cost funding and therefore, only receives Low Income funding.

⁵ *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). Attached, as **Exhibit D**, is a photograph of one Nexus' mobile outreach vehicles and campaigns.

⁶ *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).

facilities and continues to build out facilities with the goal of offering services using that spectrum and Nexus' network equipment.⁷ Nexus has also deployed and continues to deploy additional infrastructure with a goal of providing supported services to Low Income consumers through use of this spectrum. Nexus' wireless offerings have been very successful with Low Income participants, and Nexus now provides wireless services to Low Income participants in twelve states⁸. This success in meeting the objectives of the Low Income program – getting phone service to this underserved population – is due in large part to prepaid wireless services' unique ability to meet the needs of Americans who are most at risk and most in need, providing a crucial link to jobs, healthcare services, education and other vital information.⁹

II. NEXUS MEETS THE REQUIREMENTS FOR ETC DESIGNATION

Nexus satisfies all of the statutory and regulatory requirements for designation as an ETC in the proposed Designated Service Area, and has provided below a discussion of each requirement below.

A. Nexus is a Common Carrier (47 U.S.C. § 214(e)(1))

A threshold requirement for designation as an ETC is that the applicant must be a common carrier. Nexus proposes to serve consumers in the Designated Service Area through wireless technology, *i.e.*, Commercial Mobile Radio Service (“CMRS”). Under Section 332(c)(1)(A) of the Act, an entity providing CMRS services is a common carrier.¹⁰

⁷ Radio Station Authorization, Call Sign WQB1768, File No. 0004028462. Nexus has deployed and is currently deploying additional infrastructure for its non-Low Income subscribers with a goal of providing supported services to Low Income consumers through use of this spectrum.

⁸ Nexus provides CMRS services as an ETC in Arkansas, Georgia, Illinois, Kansas, Louisiana, Maryland, Michigan, Mississippi, Missouri, New Jersey, West Virginia and Wisconsin. It also provides CMRS services in Montana.

⁹ See attached, as **Exhibit E**, a white paper that more fully discusses the benefits of prepaid wireless services for the target demographic.

¹⁰ 47 U.S.C. § 332(c)(1)(A).

B. Nexus Will Provide the Nine Supported Services Through a Combination of its Own Facilities and the Resale of Another Carrier's Services (47 U.S.C. § 214(e)(1)(A); 47 C.F.R. §§ 54.201(d)(1), 54.101)

Nexus will provide the nine supported services through a combination of its own facilities and the resale of another carrier's services, consistent with the FCC's rules and orders.¹¹ Nexus will provide further details regarding its facilities, and intends to seek confidential treatment for the same.¹² Nexus is also providing below confirmation that it will provide each of the nine supported services. Nexus certifies, as evidenced by the signature in the attached certification that the information in this section II.B of the present application is true to the best of its knowledge, information and belief.

1. Voice Grade Access to the Public Switched Network (47 C.F.R. § 54.101(a)(1))

Voice grade access to the public switched network is the ability to transmit and receive voice communications with a minimum bandwidth of 300 to 3,000 Hertz. Nexus meets this requirement through its provision of mobile voice communications service that includes the ability to intercommunicate with the public switched telephone network.

2. Local Usage (47 C.F.R. § 54.101(a)(2))

Local usage refers to an amount of minutes of use provided free of additional charge to the end user, which can include plans with varying amounts of local usage. Nexus meets this requirement by providing calling plans that all offer a nationwide local calling area permitting customers to call anywhere in the United States with no toll charges.

¹¹ *In Re Federal-State Joint Board on Universal Service*, Report and Order, 12 FCC Rcd 8776 (FCC rel. May 8, 1997) ("1997 Universal Service Order").

¹² Nexus will file this information once it has had the opportunity to confirm with staff the proper procedures for seeking confidentiality.

3. Dual Tone Multi-Frequency Signaling or Its Functional Equivalent (47 C.F.R. § 54.101(a)(3))

Dual tone multi-frequency signaling is a method of signaling that facilitates the transportation of call set-up and call detail information. The FCC has recognized that, with respect to wireless carriers, it “is appropriate to support out-of-band signaling mechanisms as an alternative to DTMF signaling.”¹³ Nexus meets this requirement by providing out-of-band digital signaling and in-band multi-frequency signaling for call set-up and termination.

4. Single-Party Service or Its Functional Equivalent (47 C.F.R. § 54.101(a)(4))

Single-party service is dedicated message path for the length of a user’s particular transmission (47 C.F.R. § 54.101(a)(4)). With respect to wireless carriers, “single-party service” affords a user a dedicated message path for the length of a user’s particular transmission. Each of Nexus’ service offerings meets this requirement.

5. Access to Emergency Services (47 C.F.R. § 54.101(a)(5))

ETCs are required to provide access to both 911 and E911 services to the extent the local government has implemented such services. Nexus meets this requirement by providing access to 911 service and meeting all requests for access to E911 service through local public service answering points (“PSAPs”), including forwarding automatic numbering information (“ANI”) and automatic location information (“ALI”) to PSAPs as appropriate.

6. Access to Operator Services (47 C.F.R. § 54.101(a)(6))

Access to operator services refers to providing consumers access to automatic or live assistance to arrange for billing, completion, or both, of a telephone call. Nexus meets this requirement by providing access to operator services for billing, call completion, and other customer service requests.

¹³ 1997 Universal Service Order at ¶ 71.

7. Access to Interexchange Service (47 C.F.R. § 54.101(a)(7))

Access to interexchange service entails the ability to make and receive calls using an interexchange carrier's network. Nexus meets this requirement by providing its customers with a service that enables them to make and receive calls over interexchange network facilities. The FCC has determined that wireless carriers are not required to provide equal access to interexchange service, but may be required to provide equal access in certain special situations.¹⁴

8. Access to Directory Assistance (47 C.F.R. § 54.101(a)(8))

Access to directory assistance consists of making available to customers, among other services, access to information contained in directory listings. Nexus meets this requirement by providing all of its customers with access to directory listings.

9. Toll Limitation for Qualifying Low Income Consumers (47 C.F.R. § 54.101(a)(9))

Nexus will meet this requirement by offering service on a prepaid, or pay-as-you-go, basis, as well as toll control for international calls. Nexus' calling plans do not distinguish between local or toll services for domestic calls (i.e., nationwide calling). As the FCC 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."¹⁵ Moreover, Nexus will provide traditional toll control for international calls to qualifying low income consumers 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.

¹⁴ *Id.* at ¶ 78.

¹⁵ *In Re Virgin Mobile USA, L.P. Petition for Forbearance from 47 U.S.C. § 214(e)(1)(A); etc.*, Order, 24 FCC Rcd. 3381, 3394 at ¶ 34 (FCC rel. Mar. 5, 2009).

C. Nexus Will Advertise the Availability of the Supported Services and the Charges Therefore Through Media of General Distribution (47 U.S.C. § 214(e)(1)(B); 47 C.F.R. § 54.201(d)(2))

Nexus commits to advertise the availability and cost of the supported services through media of general distribution. This advertising will appear in a combination of media outlets such as television, radio, newspaper, magazines, outdoor advertising, direct marketing, and the Internet. Nexus will also engage in extensive in-person outreach efforts to further advertise the availability of the services and the charges for these services.

D. Nexus Will Comply with Consumer Eligibility Certification and Verification Rules (47 C.F.R. §§ 54.410; 54.416)

Nexus will comply with the FCC's requirement to initially determine consumer eligibility to participate in the Lifeline and Link Up programs as well as annually verify customer eligibility as further described in 47 C.F.R. § 54.410.

III. GRANTING THIS APPLICATION WILL SERVE THE PUBLIC INTEREST

Among the principal goals of the Act, as amended by the Telecommunications Act of 1996, are “to secure lower prices and higher quality services for American Telecommunications consumers and encourage the rapid deployment of new telecommunications technologies” to all citizens, regardless of geographic location or income.¹⁶ Designation of Nexus as an ETC will serve the overall public interest, and will benefit low income customers in the non-jurisdictional states in particular.¹⁷

Nexus has tailored its wireless service plans to provide the numerous benefits of mobile wireless telecommunications to underserved customers who have been left behind by other providers. Nexus offers voice service at affordable rates to economically disadvantaged

¹⁶ Telecommunications Act of 1996, Pub. L. No. 104-104, 110 Stat. 56.

¹⁷ Because Nexus is applying for designation in non-rural areas only, it is not required to demonstrate that designation will serve the public interest. Nevertheless, Nexus is providing a public interest statement to the Commission for informational purposes.

customers who desire affordable wireless services. Nexus plays a critical role in the marketplace by ensuring that Americans who cannot qualify for or afford other carriers' services can still enjoy the benefits of wireless telecommunications.

For many years, Nexus' mission has been increasing access to basic telecommunications services for low income individuals that have been largely left behind by other carriers as evidenced by the historically low penetration rate among low income consumers. Nexus' customers are the many people who simply require affordable wireless service but cannot readily obtain it from other carriers who do not provide the discounted plans available to a certified ETC. With this application, Nexus seeks to make it easier for low income Americans to access basic telephone services, along with other features and functions, including text messaging. The primary purpose of universal service is to ensure that consumers, especially low income consumers, receive affordable and telecommunications services that are comparable to those enjoyed by the rest of the nation. Research has shown that these services are a vital economic resource for low income consumers, access to which leads to improved wage levels and personal safety.¹⁸ Given this context, designating Nexus as an ETC would benefit consumers, especially the many low income customers eligible for Lifeline and Link Up services.

Designation of Nexus as an ETC would also promote competition. Nexus will bring the same entrepreneurial spirit that has reinvigorated the wireless industry in many states to Utah. which would help to redefine the wireless experience for many low income consumers. Other carriers, therefore, will have the incentive to improve their own service offerings and tailor their service plans to contain terms and features appealing to lower-income customers.

¹⁸ See Sullivan, N.P., *Cell Phones Provide Significant Economic Gains for Low Income American Households: A Review of Literature and Data from Two New Surveys*, April 2008. Available at http://www.newmillenniumresearch.org/archive/Sullivan_Report_032608.pdf (last visited Oct. 11, 2010).

Nexus has emphasized customer service as a pillar of its business since it launched its first carrier services in 2000. As evidence of its commitment to high-quality service, Nexus has complied with the CTIA Code since it began offering wireless services and will continue to comply with the CTIA Code once designated as an ETC.

While Nexus has had success deploying wireless services to many low income consumers, some low income customers still intermittently discontinue service because of economic constraints. ETC designation in Utah would enable Nexus to offer even more appealing and affordable service offerings to these customers and ensure that they are able to afford wireless services on a consistent and uninterrupted basis. Without question, wireless services have become essential for lower-income citizens, providing them with value for their money, access to emergency services on wireless devices, and reliable means of contact for prospective employers, social service agencies, or dependents.

Providing Nexus with the authority necessary to offer discounted Lifeline and Link Up services to those most in danger of losing wireless service altogether, undoubtedly promotes the public interest.¹⁹

Respectfully submitted,

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¹⁹ In support of this Nexus is including, as **Exhibit F**, letters from National Consumers League, Consumer Action, Community Action Partnership and Hispanic Federation in support of wireless Lifeline programs such as the programs proposed by Nexus in this Application.

