

- BEFORE THE PUBLIC SERVICE COMMISSION OF UTAH -

-----  
In the Matter of the Application of Nexus )  
Communications, Inc. for Designation as an ) DOCKET NO. 13-2540-01  
Eligible Telecommunications Carrier for )  
Low Income Support Only ) ORDER APPROVING SETTLEMENT  
) STIPULATION AND APPLICATION FOR  
) DESIGNATION AS AN ELIGIBLE  
) TELECOMMUNICATIONS CARRIER  
)  
-----

ISSUED: July 5, 2013

By The Commission:

BACKGROUND

On January 14, 2013, Nexus Communications, Inc. (“Nexus”) filed a first amended application for designation as an eligible telecommunications carrier.<sup>1, 2</sup> On February 6, 2013, the Commission held a duly-noticed scheduling conference and set the schedule for this docket. Thereafter, the parties held a settlement conference and, on April 5, 2013, the Commission entered an order suspending the scheduling order in this docket pending filing of a settlement agreement.

On June 13, 2013, Nexus filed an executed settlement stipulation (“Settlement Stipulation” or “Stipulation”), a copy which is attached hereto as Exhibit #1. See Exhibit #1. The Settlement Stipulation clarifies that “Nexus seeks ETC designation for the limited purpose of providing universal service low-income Lifeline service in Utah. Nexus will not seek universal service high-cost support in its service area, nor will Nexus seek to provide universal service low-income Link Up service.” Id. at 4, ¶ 2. “Nexus is not currently seeking any Utah USF funding. If Nexus seeks Utah USF funding in the future, Nexus will file a separate application requesting such state support.” Id. at 6, ¶¶ 11(B)-(C). The Settlement Stipulation is signed by

---

<sup>1</sup> Nexus had originally filed an application on April 6, 2011 in Docket No. 11-2540-01, but later withdrew that application on June 27, 2011. The Commission issued an order dismissing Nexus’ application without prejudice on July 11, 2011.

<sup>2</sup> Nexus subsequently filed additional amendments under this docket on January 23, 2013, and February 28, 2013.

Nexus, the Division of Public Utilities (“Division”), and the Office of Consumer Services (“Office”).

On June 25, 2013, the Commission held a duly-noticed hearing. At the hearing, Rylee McDermott (in-person) and Alan Galloway (telephonically) appeared on behalf of Nexus, and were accompanied by Danielle Frappier (telephonically) and Steven Fenker (telephonically). Justin Jetter, assistant attorney general, appeared on behalf of the Division and was accompanied by Casey J. Coleman. Cheryl Murray from the Office appeared *pro se*. Mr. Fenker, president of Nexus, testified the Stipulation is just and reasonable in result.<sup>3</sup> Mr. Coleman, technical utility consultant with the Division, testified the Stipulation is just, reasonable, and in the public interest.<sup>4</sup> Ms. Murray, utility analyst with the Office, testified the Settlement Stipulation is in the public interest and the Office recommends Commission approval of it.<sup>5</sup> “[A]ll of the [p]arties [to the Stipulation] agree that this Stipulation as a whole is just and reasonable in result and in the public interest.” Exhibit #1 at 6, ¶ 2. No one opposed the Stipulation.

#### FINDINGS, CONCLUSIONS AND ORDER

As set forth by statute and as previously noted by the Commission in other orders, settlements of matters before the Commission are encouraged at any stage of the proceedings.<sup>6</sup> The Commission may approve a settlement proposal after considering the interests of the public and other affected persons, if it finds the settlement proposal in the public interest.<sup>7</sup> With this

---

<sup>3</sup> See Transcript of Hearing, June 25, 2013, at 15; lines 2-5.

<sup>4</sup> See *id.* at 10; lines 14-18.

<sup>5</sup> See *id.* at 12; lines 10-12.

<sup>6</sup> See Utah Code Ann. § 54-7-1 (2010). See also *In the Matter of the Notice of Rocky Mountain Power of Intent to File a General Rate Case*, Docket No. 11-035-200 (Report and Order; Sept. 19, 2012), at 26; and *In the Matter of the Application of Questar Gas Company to Adjust Rates for Natural Gas Service in Utah*, Docket No. 04-057-04 (Report and Order; Feb. 6, 2006), at 26.

<sup>7</sup> See Utah Code Ann. § 54-7-1(2)(a). See also *Utah Dept. of Admin. Services v. Public Service Comm’n*, 658 P.2d 601, 613-14 (Utah 1983).

background in mind, and based on our consideration of the evidence before us, the testimony and recommendations of the parties, and the applicable legal standards, we find approval of the Settlement Stipulation to be in the public interest. Accordingly, the Commission approves the Stipulation.

Further, we approve Nexus' application for designation as an eligible telecommunications carrier, subject to the terms of the Stipulation.

DATED at Salt Lake City, Utah, this 5<sup>th</sup> day of July, 2013.

/s/ Melanie A. Reif  
Administrative Law Judge

Approved and confirmed this 5<sup>th</sup> day of July, 2013, as the Order Approving Settlement Stipulation and Application for Designation as an Eligible Telecommunications Carrier of the Public Service Commission of Utah.

/s/ Ron Allen, Chairman

/s/ David R. Clark, Commissioner

/s/ Thad LeVar, Commissioner

Attest:

/s/ Gary L. Widerburg  
Commission Secretary  
D#245268

Notice of Opportunity for Agency Review or Rehearing

Pursuant to Utah Code Ann. §§ 63G-4-301 and 54-7-15, a party may seek agency review or rehearing of this order by filing a request for review or rehearing with the Commission within 30 days after the issuance of the order. Responses to a request for agency review or rehearing must be filed within 15 days of the filing of the request for review or rehearing. If the Commission fails to grant a request for review or rehearing within 20 days after the filing of a request for review or rehearing, it is deemed denied. Judicial review of the Commission's final agency action may be obtained by filing a Petition for Review with the Utah Supreme Court within 30 days after final agency action. Any Petition for Review must comply with the requirements of Utah Code Ann. §§ 63G-4-401, 63G-4-403, and the Utah Rules of Appellate Procedure.

CERTIFICATE OF SERVICE

I CERTIFY that on the 5<sup>th</sup> day of July, 2013, a true and correct copy of the foregoing was served upon the following as indicated below:

By Electronic-Mail:

Steve Swindle ([sswindle@vancott.com](mailto:sswindle@vancott.com))  
Rylee McDermott ([rmcdermott@vancott.com](mailto:rmcdermott@vancott.com))  
Vancott, Bagley, Cornwall & McCarthy, P.C.

Danielle Frappier ([daniellefrappier@dwt.com](mailto:daniellefrappier@dwt.com))  
Jim Tomlinson ([jimtomlinson@dwt.com](mailto:jimtomlinson@dwt.com))  
Alan Galloway ([alangalloway@dwt.com](mailto:alangalloway@dwt.com))  
Davis Wright Tremaine LLP

Patricia Schmid ([pschmid@utah.gov](mailto:pschmid@utah.gov))  
Justin Jetter ([jjetter@utah.gov](mailto:jjetter@utah.gov))  
Assistant Utah Attorneys General

By Hand-Delivery:

Division of Public Utilities  
160 East 300 South, 4<sup>th</sup> Floor  
Salt Lake City, Utah 84111

Office of Consumer Services  
160 East 300 South, 2<sup>nd</sup> Floor  
Salt Lake City, Utah 84111

---

Administrative Assistant

DOCKET NO. 13-2540-01

-6-

# **Exhibit #1**