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February 13, 2006

Ms. Beth O'Donnell  
Executive Director,  
Kentucky Public Service Commission  
211 Sower Boulevard  
P.O. Box 615  
Frankfort, Kentucky 40602-0615

***Re: Case No. 2005-00474***

Dear Ms. O'Donnell:

Enclosed please find the original and ten (10) copies of the Response of Nexus Communications, Inc. to Commission Staff's First Data Request. An extra copy is enclosed for your file stamp. Please return the extra copy in the enclosed, self-addressed postage paid envelope.

Your assistance in this matter is greatly appreciated.

Sincerely yours,

Deborah T. Eversole  
Counsel to Nexus Communications, Inc.

Enclosures

COMMONWEALTH OF KENTUCKY  
BEFORE THE PUBLIC SERVICE COMMISSION

RECEIVED  
FEB 14 2006  
PUBLIC SERVICE  
COMMISSION

In the Matter of:

PETITION OF NEXUS )  
COMMUNICATIONS, INC. )  
FOR DESIGNATION AS AN ) CASE NO. 2005-00474  
ELIGIBLE TELECOMMUNICATIONS )  
CARRIER )

**NEXUS COMMUNICATIONS, INC.'S RESPONSE TO  
COMMISSION STAFF'S FIRST DATA REQUEST**

Pursuant to 807 KAR 5:001, Nexus Communications, Inc. ("Nexus"), by counsel, responds to the Commission Staff's First Data Request as follows:

\* \* \* \* \*

REQUEST NO. 1: Nexus states in its application that it offers all supported services enumerated in 47 C.F.R. Section 54.101(a)(1)-(9). Three of those services are access to interexchange service, access to operator services and access to directory assistance. Nexus's tariff on file with the Kentucky Public Service Commission at page 16 states:

3.4 Service Offerings

Nexus offers local service only and restricts all 1+ dialing. Additionally, Nexus employs the use of customized code restrictions which permit local calls, non-chargeable calls such as repair service, emergency numbers (911) and 800 calling. Types of calls that are restricted are 0-, 0+, DDD1+, 1+900, 1+555-1212, 1+NPA-555-1212, 411, 976, 1DDD01 and 1DDD011+. The Company shall not be liable to any person for damages of any nature or kind arising out of, resulting from, or in connection with the provision of Customized Code Restrictions.

Reconcile the difference in the tariff language to the statements in the application related to access to interexchange services, operator services and directory assistance.

**RESPONSE:** Nexus recognizes and acknowledges the service requirements contained in 47 C.F.R. 54.101(a)(1)-(9) and will provide such services immediately upon Commission designation of Nexus as an eligible telecommunications carrier (“ETC”) in the Commonwealth of Kentucky. Specifically, Nexus will amend its tariff, at page 16, Section 3.4, to provide that Nexus customers in Kentucky will be offered full access to operator services, interexchange services, and directory assistance. Proposed new language for Tariff Page 16, amending the limitations upon service specified in the current Section 3.4, is attached hereto as Exhibit 1.

**REQUEST NO. 2:** Nexus states that it offers all of the supported services using facilities obtained as UNEs from ALLTEL,<sup>1</sup> Cincinnati Bell Telephone (“Cincinnati Bell”), and BellSouth Telecommunications, Inc. (“BellSouth”). The Commission does not have on file an approved interconnection agreement between Nexus and ALLTEL. Provide evidence of an interconnection agreement with ALLTEL.

**RESPONSE:** First, in response to the Commission Staff’s footnote 1, Kentucky ALLTEL, Inc. is the ALLTEL entity to which the Nexus petition refers. Although Nexus is currently negotiating with ALLTEL to obtain an interconnection agreement that includes provision of UNEs, and is confident that such an agreement will be obtained, no such agreement has yet been finalized. Nexus will apprise the Commission immediately when the agreement is finalized. In the interim, should the agreement not be executed during the pendency of this case, and should the Commission have reservations with regard to granting ETC status without restriction prior to execution of the final agreement with ALLTEL, Nexus requests

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<sup>1</sup>There are two companies that operate under the name of ALLTEL in Kentucky. The Commission assumes that Kentucky ALLTEL, Inc. is the company that Nexus is referring to and not ALLTEL Kentucky, Inc. which is a rural incumbent local exchange carrier.

**that the Commission approve ETC status for Nexus within the requested ALLTEL wirecenters contingent upon Nexus's acquisition of a signed agreement with ALLTEL. This is the action taken by the Florida Public Service Commission under identical circumstances in *In re: Petition for Designation as Eligible Telecommunications Carrier (ETC) by Budget Phone, Inc.*, Fl. PSC Docket No. 050483-TX (Order No. PSC-05-1255A-PAA-TX, Dec. 29, 2005) [Order attached hereto as Exhibit 2]. In its Order, at 7, the Florida Commission granted Budget Phone, Inc. ETC status in BellSouth and Verizon territory in Florida, and granted Budget Phone ETC status in Sprint-Florida, Inc.'s non-rural territory "subject to the condition subsequent that it sign an agreement with Sprint to serve customers via UNEs."**

REQUEST NO. 3: The Federal Communications Commission's orders commonly referred to as the TRO and TRRO exempted ILECs from providing certain UNEs and eliminated the product commonly known as UNE-P. Nexus does not purport to own or have access to switching to provide service to its customers. The interconnection agreements on file with the Commission between Nexus and BellSouth and Cincinnati Bell predate the TRO and TRRO orders. Explain what steps have been made to secure contracts to enable Nexus to continue to serve its customers after March 11, 2006 when switching will no longer be required to be provided to Nexus by ILECs.

RESPONSE: **Negotiations with BellSouth for a commercial agreement that will enable Nexus to continue serving its customers by means of switched port/loop combinations (UNEs) are well underway. Nexus is confident that such an agreement will be finalized and executed shortly, that Nexus customers receiving**

**service by means of UNEs will continue to receive such service, and that Nexus will retain access to switching. Cincinnati Bell has given Nexus no indication that it plans to use the discretion given it by the FCC to cease providing UNEs to Nexus pursuant to the parties' agreement.**

**REQUEST NO. 4: Confirm that Nexus has no facilities in place in Kentucky.**

**RESPONSE: Other than UNEs, Nexus has no facilities in Kentucky. However, depending upon the type of service the customer requests and the precise location of the customer, Nexus will offer the supported services either through the purchase of switched port/loop combinations (UNEs) or through resale. Because Nexus uses UNEs, the method by which it provides the supported services is consistent with the FCC's rules in 47 C.F.R. 54.201(d)(1) through (i).**

**REQUEST NO. 5: Does Nexus have any plans to build any facilities in Kentucky?**

**RESPONSE: At present, Nexus has no plans for construction. However, Nexus will continue to provide services through a combination of UNEs and resale. Nexus will utilize the existing facilities contained in the respective wire centers of BellSouth, Cincinnati Bell, and ALLTEL.**

**REQUEST NO. 6: Under 47 C.F.R. Section 54.201(d)(2), a common carrier designated as an eligible telecommunications carrier under this section shall be eligible to receive universal service support in accordance with Section 254 of the Act and shall, throughout the service area for which the designation is received:**

**(2) Advertise the availability of such services and the charges therefore using media of general distribution.**

Provide examples of advertising that Nexus has done in the past. Include information such as dates, circulation numbers for print advertising, number of pieces mailed for direct mail, and market information for television and radio advertisements.

**RESPONSE:** As Nexus does not currently provide Lifeline services, it cannot provide examples of Lifeline advertising. If granted ETC status, however, Nexus will advertise the availability of Lifeline through numerous point of sale materials, various print media, and television advertising programs consistent with 47 C.F.R. 54.201(d)(2). With regard to non-Lifeline advertising, Nexus utilizes primarily a television advertising campaign consisting of 30 second ad spots on local affiliate stations in addition to print ad marketing campaigns and numerous, informative point of sale materials distributed to potential customers.

**REQUEST NO. 7:** Provide the budgeted amounts for future advertising and full descriptions of planned advertisements.

**RESPONSE:** Nexus intends to advertise the availability of its services throughout the service areas in which it is given ETC designation, and will market its products through numerous points of sale materials, various print media and television advertising programs. Nexus also will designate 75% of its monthly marketing budget on Lifeline and Link-Up advertising. Nexus will produce thousands of point-of-sale materials, print media advertising notices, and at least two 30 second television ad spots. In addition, Lifeline and Link-Up point of sale materials will be placed on display at Nexus's Authorized Agent locations and payment centers. An example of a proposed point of sale advertisement and direct mail advertisement for Lifeline is attached hereto as Exhibit 3.

REQUEST NO. 8: Describe the sale network in which Nexus secures customers, such as retail stores, telemarketing, or other means.

**RESPONSE: Nexus provides its services through a network of Authorized Agent locations and authorized payment centers who accept payments and process transactions for all Nexus subscribers. Nexus does not currently maintain any corporate retail operations in the state of Kentucky. However, Nexus currently has approximately twenty (20) Authorized Agent locations and authorized payment centers in the state of Kentucky, and is currently in the process of adding more. All Nexus authorized payment centers are required to maintain point of sale materials on display, and, upon ETC designation, Nexus will ensure that all its Authorized Agent locations maintain a full inventory of all Lifeline and Link-Up point of sale marketing materials.**

REQUEST NO. 9: Nexus's 2004 Annual Report to the Commission reports 224 residential customers. How many of these customers are in BellSouth's territory, how many are in ALLTEL's territory, and how many are in Cincinnati Bell's territory? Also, state how each customer is served (UNEs or Resale).

**RESPONSE: Nexus as of December 2005 maintained a total of 232 local exchange subscribers in the state of Kentucky, all of whom are located in the BellSouth service area. Out of the total of 232, 182 are currently on Nexus' Resale network and 50 are being provided service under UNE-P.**

REQUEST NO. 10: Nexus's only tariff offering for local service is priced at \$49.95. Does Nexus also charge the customer a Subscriber Line Charge? Provide a breakdown of all other charges, fees and taxes that are assessed to the customer.

**RESPONSE: Nexus charges the \$6.50 Subscriber Line charge to its subscribers in the Commonwealth of Kentucky. Additionally, Nexus collects and remits the following taxes and surcharges from each residential subscriber:**

1. Sales tax (Kentucky)
2. Federal excise tax
3. Federal USF
4. Federal TRS
5. Kentucky TRS
6. Kentucky USF

REQUEST NO. 11: Provide explanation for the following questions related to Nexus's proposed Lifeline and Linkup tariff:

a. Reconcile the proposed discount of \$6.50 contained in the tariff to 47 C.F.R. Section 54.403. The State of Kentucky's contribution is \$3.50.

b. In addition to the five programs listed in the tariff for eligibility, Kentucky allows the National School Lunch program and the Temporary Assistance to Needy Families program. Why were these programs omitted from the qualification list?

**RESPONSE:**

a. Nexus accepts, and appreciates, the Commission's correction with regard to the Kentucky contribution, and clarifies that it will provide qualified customers a total of \$13.50 in Lifeline assistance. Nexus attaches, as Exhibit 4 hereto, an amendment to its proposed Lifeline tariff terms incorporating this credit.

b. Nexus accepts, and appreciates, the Commission's correction with regard to the programs that confer eligibility, and provides, in Exhibit 4 hereto, an



**amendment to its proposed Lifeline tariff terms incorporating the National School Lunch program and the Temporary Assistance to Needy Families program.**

Respectfully submitted,



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Counsel for Nexus Communications, Inc.

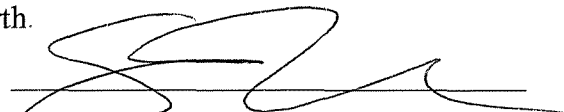
**CERTIFICATION**

I, Steven Fenker, certify as follows:

1. I am the President of Nexus Communications, Inc., licensed as a Competitive Local Exchange Carrier (CLEC) in the state of Kentucky in accordance with Certificate No. T63-0588


2. I provide this certification in support of Nexus' responses to staff's data request dated 1/23/06 submitted in Case No. 2005-00474 regarding Nexus' Application for Designation as an Eligible Telecommunications Carrier in Kentucky.

I have examined and formulated the foregoing responses to staff's data request, and to the best of my knowledge, information and belief, all statements of fact contained in said request are correct statements of the business and affairs of the requesting carrier with respect to each and every matter set forth.

  
Steven Fenker, President

Dated 2/6, 2006

Subscribed and sworn to before me, a Notary Public in and for the State of Ohio, above named this 7 day of FEB, 2006

(Notary Public) 

(Seal)



MUWAFEK ABDULLAH  
Notary Public, State of Ohio  
My Commission Expires 04-25-09

My Commission Expires: 4-25-09

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### 3.3 Level of Service

A customer can expect end-to-end network availability of not less than 99% at all times for all services.

### 3.4 Service Offerings

Nexus offers full access to operator services, interexchange services and directory assistance.

#### 3.4.1 Emergency Call Handling Procedures

Emergency 911 calls are not routed to Company but are completed through the local network at no charge.

#### 3.4.2 Promotional Offerings

The Company may, from time to time, make promotional offerings to enhance the marketing of its services. These offerings may be limited to certain dates, times and locations. The Company will notify the Commission of such offerings as required by Commission rules and regulations. All promotional offerings will receive Commission approval prior to commencement of such offerings.

#### 3.4.3 Universal Service Fund Assessment & Pre-subscribed Interexchange Carrier Charge

The Customer will not be assessed a monthly Federal Universal Service Fund but will be assessed a Kentucky Universal Service Fund contribution charge on any intrastate telecommunication service.

BEFORE THE PUBLIC SERVICE COMMISSION

In re: Petition for designation as eligible  
telecommunications carrier (ETC) by Budget  
Phone, Inc.      DOCKET NO. 050483-TX  
ORDER NO. PSC-05-1255A-PAA-TX  
ISSUED: December 29, 2005

The following Commissioners participated in the disposition of this matter:

RUDOLPH "RUDY" BRADLEY, Chairman  
J. TERRY DEASON  
LISA POLAK EDGAR  
ISILIO ARRIAGA

AMENDED NOTICE OF PROPOSED AGENCY ACTION  
ORDER GRANTING IN PART  
ELIGIBLE TELECOMMUNICATIONS CARRIER STATUS

BY THE COMMISSION:

NOTICE is hereby given by the Florida Public Service Commission that the action discussed herein is preliminary in nature and will become final unless a person whose interests are substantially affected files a petition for a formal proceeding, pursuant to Rule 25-22.029, Florida Administrative Code. This Order supersedes Order No. PSC-05-1255-PAA-TX, issued in this Docket on December 27, 2005.

**Case Background**

On July 12, 2005, Budget Phone, Inc. (Budget) petitioned this Commission for designation as an Eligible Telecommunications Carrier (ETC) in the State of Florida. Specifically, Budget requested that it be granted ETC status in certain exchanges of BellSouth Telecommunications, Inc. (BellSouth), Sprint-Florida, Inc. (Sprint) and Verizon Florida (Verizon) for purposes of receiving federal universal service support. Budget's petition indicates that it is requesting ETC designation for approximately 93 wire centers in BellSouth's service area, 103 wire centers in Sprint's service area, and 27 wire centers in Verizon's service area. This is the second Competitive Local Exchange Carrier (CLEC) ETC petition to be brought before us for consideration.<sup>1</sup>

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<sup>1</sup> By Order PSC-05-0324-PAA-TX, issued March 21, 2005, Docket No. 041302-TX, In Re: Petition for Designation as Eligible Telecommunications Carrier by Knology of Florida, Inc., the Commission granted Knology of Florida, Inc. (Knology) Eligible Telecommunications Carrier status. Knology is a certificated CLEC which provides telecom service over its broadband network.

Budget Phone is a certificated CLEC which provides local exchange and exchange access services in the BellSouth, Sprint, and Verizon service areas, using a combination of DSO UNE-P replacement services (UNEs) and resale services provided by these companies. Upon designation as an ETC, Budget indicates that it will participate in and offer Lifeline and Link-Up programs to qualified low-income consumers. Additionally, Budget has committed to publicize the availability of Lifeline and Link-Up services in a manner reasonably designed to reach those likely to qualify for those services<sup>2</sup>.

Budget Phone is headquartered in Shreveport, Louisiana, and was formed in 1996 to provide prepaid home phone service. Currently, Budget provides phone service to approximately 130,000 customers in 45 states. Budget has over 7,600 agents who market and sell various types of services, which include but are not limited to, long distance calling cards, wireless phones, wireless recharge minutes, debit cards and bill payment stations. Budget indicated that it has spent millions of dollars on innovative technology and has developed its own customized point-of-sale software.

Budget has filed for ETC designation in 25 states<sup>3</sup>. Budget has been granted ETC status in Maryland (granted August 31, 2005), Alabama (granted September 22, 2005), and Iowa (granted October 10, 2005). We note that Budget withdrew its ETC designation request in the State of Wyoming on September 23, 2005, but intends to refile its application at a later date.

Section 364.025(5), Florida Statutes, states: "Upon petition of a competitive local exchange telecommunications company, the commission shall have 120 days to vote on granting in whole or in part or denying the petition of the competitive local exchange company." On September 21, 2005, Budget waived this 120-day requirement in order to provide supplemental information to our staff. We are vested with jurisdiction in this matter pursuant to 47 CFR §54.201, and Section 364.025(5), Florida Statutes.

### **Decision**

The Federal Communications Commission (FCC) rules provide that carriers designated as ETCs shall, throughout the designated service area: (1) offer the services that are supported by federal universal support mechanisms either using their own facilities or a combination of their own facilities and the resale of another carrier's services and, (2) advertise the availability of such services and the related charges therefore using media of general distribution. See CFR §54.201(d).

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<sup>2</sup> See 47 C.F.R. §§ 54.401-54.417 – Universal Service Support for Low Income-Consumers

<sup>3</sup> Budget is seeking ETC designation in the following states: Alabama, Arizona, Arkansas, California, Florida, Georgia, Illinois, Indiana, Iowa, Kansas, Maryland, Michigan, Mississippi, Missouri, Nebraska, New Jersey, New Mexico, New York, Ohio, Pennsylvania, South Carolina, Tennessee, Virginia, W. Virginia, Wisconsin

Budget has identified 93 BellSouth, 103 Sprint, and 27 Verizon wire centers it wishes to offer the services that are supported by federal universal support mechanisms. Budget must therefore meet CFR Rule 54.201(c) which addresses a state commission's responsibilities related to ETC designation, stating:

Upon request and consistent with the public interest, convenience, and necessity, the state commission may, in the case of an area served by a rural telephone company, and shall, in the case of all other areas, designate more than one common carrier as an eligible telecommunications carrier for a service area designated by the state commission, so long as each additional requesting carrier meets the requirements of paragraph (d) of this section. Before designating an additional eligible telecommunications carrier for an area served by a rural telephone company, the state commission shall find that the designation is in the public interest.

With respect to Florida law, Section 364.025(5), Florida Statutes, states:

After January 1, 2001, a competitive local exchange telecommunications company may petition the commission to become the universal service provider and carrier of last resort in areas requested to be served by that competitive local exchange telecommunications company. Upon petition of a competitive local exchange telecommunications company, the commission shall have 120 days to vote on granting in whole or in part or denying the petition of the competitive local exchange company. The commission may establish the competitive local exchange telecommunications company as the universal service provider and carrier of last resort, provided that the commission first determines that the competitive local exchange telecommunications company will provide high-quality, reliable service. In the order establishing the competitive local exchange telecommunications company as the universal service provider and carrier of last resort, the commission shall set the period of time in which such company must meet those objectives and obligations.

To qualify as an ETC, Budget must provide nine services identified in CFR Rule 54.201(d)(1).

- (1) Voice grade access to the public switched network Voice grade access is defined as a functionality that enables a user of telecommunications services to transmit voice communications, including signaling the network that the caller wishes to place a call, and to receive voice communications, including receiving a signal indicating there is an incoming call;
- (2) Local Usage Local usage indicates the amount of minutes of use of exchange service, provided free of charge to end users;

- (3) Dual tone multi-frequency signaling or its functional equivalent Dual tone multi-frequency ("DTMF") is a method of signaling that facilitates the transportation of signaling through the network, thus shortening call set-up time;
- (4) Single-party service or its functional equivalent Single party service is telecommunications service that permits users to have exclusive use of a wireline subscriber loop or access line for each call placed, or in the case of wireless telecommunications carriers, which use spectrum shared among users to provide service, a dedicated message path for the length of a user's particular transmission;
- (5) Access to emergency services Access to emergency services includes access to services, such as 911 and enhanced 911, provided by local governments or other public safety organizations;
- (6) Access to operator services Access to operator services is defined as access to any automatic or live assistance to a consumer to arrange for billing and/or completion, of a telephone call;
- (7) Access to interexchange service Access to interexchange service is defined as the use of the loop, as well as that portion of the switch that is paid for by the end user, or the functional equivalent of these network elements in the case of a wireless carrier, necessary to access an interexchange carrier's network;
- (8) Access to directory assistance Access to directory assistance is defined as access to a service that includes, but is not limited to, making available to customers, upon request, information contained in directory listings; and
- (9) Toll limitation for qualifying low-income consumers Toll limitation or Blocking restricts all direct dial toll access.

In addition to providing the above services, ETC's must advertise the availability of such services and the associated charges using media of general distribution.

#### New Certification and Reporting Requirements

The FCC's rules currently require all ETCs to make an annual certification, on or before October 1, that high-cost universal service support will be used for its intended purposes.<sup>4</sup> By Order No. FCC 05-46, the FCC maintained and augmented this requirement. The FCC now requires every ETC designated by the FCC who desires high cost support to submit the following information on an annual basis starting October 1, 2006:

- (1) progress reports on the ETC's five-year service quality improvement plan, including maps detailing progress towards meeting its plan targets,

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4 47 C.F.R. §§ 54.313, 54.314.

an explanation of how much universal service support was received and how the support was used to improve signal quality, coverage, or capacity; and an explanation regarding any network improvement targets that have not been fulfilled.<sup>5</sup> The information should be submitted at the wire center level;

- (2) detailed information on any outage lasting at least 30 minutes, for any service area in which an ETC is designated for any facilities it owns, operates, leases, or otherwise utilizes that potentially affect at least ten percent of the end users served in a designated service area, or that potentially affect a 911 special facility (as defined in subsection (e) of section 4.5 of the *Outage Reporting Order*).<sup>6</sup> An outage is defined as a significant degradation in the ability of an end user to establish and maintain a channel of communications as a result of failure or degradation in the performance of a communications provider's network.<sup>7</sup> Specifically, the ETC's annual report must include: (1) the date and time of onset of the outage; (2) a brief description of the outage and its resolution; (3) the particular services affected; (4) the geographic areas affected by the outage; (5) steps taken to prevent a similar situation in the future; and (6) the number of customers affected;<sup>8</sup>
- (3) the number of requests for service from potential customers within its service areas that were unfulfilled for the past year. The ETC must also detail how it attempted to provide service to those potential customers;
- (4) the number of complaints per 1,000 handsets or lines;
- (5) certification that the ETC is complying with applicable service quality standards and consumer protection rules;
- (6) certification that the ETC is able to function in emergency situations;<sup>9</sup>

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<sup>5</sup> If an ETC had not previously submitted a network improvement plan to the Commission, it should do so with its first reporting compliance filing. An ETC that has not previously submitted a network improvement plan shall include a description of improvements or upgrades it has made since the date of its initial designation.

<sup>6</sup> See New Part 4 of the Commission's Rules Concerning Disruptions to Communications, Report and Order and Further Notice of Proposed Rulemaking, 19 FCC Rcd 16830, 16923-24, § 4.5 (2004) (Outage Reporting Order).

<sup>7</sup> See Outage Reporting Order, 19 FCC Rcd at 16925, § 4.9.

<sup>8</sup> The FCC did not adopt the threshold established in the Outage Reporting Order that, for an outage to be included in a report, it must potentially affect 900,000 user minutes of either telephony or associated data. See Outage Reporting Order, 19 FCC Rcd at 16925, § 4.9. In particular, the FCC apparently believes that a user minute threshold may be insufficient for the purpose of determining ETC functionality during emergency situations in designated service areas because populations can vary. As a result, the FCC instead requires that ETCs report any outages that potentially affect 10% or more of their customers in a designated service area. Unlike the Outage Reporting Order, however, the FCC requires these reports annually instead of shortly after the outage occurs.

<sup>9</sup> If an ETC had not previously submitted a plan demonstrating how it will remain functional in an emergency, it should do so with its first reporting compliance filing.



- (7) certification that the ETC is offering a local usage plan comparable to that offered by the incumbent LEC in the relevant service areas; and
- (8) certification that the carrier acknowledges that the Commission may require it to provide equal access to long distance carriers in the event that no other eligible telecommunications carrier is providing equal access within the service area.

This newly required information will initially be due on October 1, 2006, and thereafter annually on October 1 of each year, at the same time as the carrier's certification that the universal service funds are being used consistent with the Act.<sup>10</sup> However, if the ETC does not seek high cost funding, this additional criterion is not required.

By Order No. PSC-05-0824-FOF-TL, issued August 15, 2005, Docket No. 010977-TL, In Re: State certification of rural telecommunications carriers pursuant to 47 C.F.R. 54.314, we adopted these new high-cost annual certification and reporting requirements established in Order No. FCC 05-46 for all FPSC designated ETCs desiring high cost support. In that Order, we noted that to the extent a Florida ETC believes it has already submitted a report or information to us that would comply with the list above, it may certify in its annual letter which proceeding and on what date such report or information was provided to us, in lieu of resubmitting the required information. However, if a company is not seeking high cost reimbursement, this additional criteria is not required.

### III. Conclusion

Section 364.025, Florida Statutes, allows for CLECs to petition this Commission for ETC status. This authority stems from the Commission's statutory duty to exercise oversight over the transition from the monopoly provision of local exchange service to a competitive provision in order to protect consumers and provide for the development of a fair and effective telecommunications market.<sup>11</sup> Staff recognizes that there are dual goals of preserving the universal service system, while at the same time fostering competition.<sup>12</sup>

We initially had reservations regarding Budget's petition since Budget is a pre-paid telephone company. However, the FCC considers the provisioning of service through UNEs as meeting its requirement of using its own facilities. Budget has the ability to meet the nine-point list of services that are supported by federal universal support mechanisms using its own facilities (as defined/clarified by the FCC)<sup>13</sup> or a combination of its own facilities and the resale of another carrier's services. Budget provided data indicating the number of customers being provided service through unbundled network elements, and also provided affidavits showing commercial agreements had been signed with BellSouth and Verizon. Budget has not signed an

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<sup>10</sup> See e.g., 47 C.F.R. § 54.313; 54.314.

<sup>11</sup> Section 364.025(5) addresses CLEC petitions to become a universal service provider and provide its fair share to the funding.

<sup>12</sup> Federal-State Joint Board on Universal Service, Order, CC Docket No. 96-45, 17 FCC Rcd 22642, para. 1 (2002) (Referral Order).

<sup>13</sup> CC Docket No. 96-45 (Federal –State Joint Board on Universal Service) paragraph. 127, 169 and §54.201(f)

agreement with Sprint to serve customers in the Sprint service area. Currently Budget cannot serve customers via UNEs in Sprint's territory making it ineligible to receive ETC status in Sprint's area. However, Budget's petition regarding Sprint's non-rural territory, is granted on the condition that it sign an agreement with Sprint to provide service via UNEs.

Budget has acknowledged the requirements of the Florida Lifeline program and has agreed to adhere to the program which provides qualified customers a total of \$13.50 in Lifeline assistance credits consisting of: \$6.50 in federal subscriber line charges, \$1.75 in federal support for states that have approved the credit, and \$1.75 which is a 50% match of federal support for having a state lifeline program requiring a \$3.50 credit under the Florida eligibility criteria. Budget indicates that it will provide the \$3.50 credit to qualified clients, advertise the availability of Lifeline, and begin offering these services within 60 days of receiving ETC status.

Budget commits to use federal universal support only for the provision and maintenance of facilities used for telecommunications services. We hold that Budget shall be required, at the time of annual ETC recertification, to demonstrate how it has used the universal service funds within Florida.

Based on the above, we find that Budget be granted ETC status in the Verizon and BellSouth wire centers (Shown in Attachment A). However, Budget is granted ETC status in Sprint's non-rural service area subject to the condition subsequent that it sign an agreement with Sprint to serve customers via UNEs. Budget shall be required, at the time of annual ETC recertification, to demonstrate how it has used the universal service funds within Florida. Budget shall also adhere to the new certification and reporting requirements as detailed in staff's analysis.

In conclusion, if no person whose substantial interests are affected files a protest to the our Proposed Agency Action within 21 days of the issuance of this Order, then this docket shall be closed upon issuance of a consummating order.

Based on the foregoing, it is

ORDERED by the Florida Public Service Commission that Budget Phone, Inc.'s Petition for Eligible Telecommunications Carrier designation is granted in BellSouth Telecommunications, Inc. and Verizon Florida territory as reflected in the body of this Order. It is further

ORDERED that Budget Phone, Inc.'s (Budget) Petition for Eligible Telecommunications Carrier designation is granted in Sprint-Florida, Inc.'s non-rural territory at such time as Budget signs an agreement with Sprint to provide service via UNEs. It is further

ORDERED that the provisions of this Order, issued as proposed agency action, shall become final and effective upon the issuance of a Consummating Order unless an appropriate petition, in the form provided by Rule 28-106.201, Florida Administrative Code, is received by the Director, Division of the Commission Clerk and Administrative Services, 2540 Shumard Oak Boulevard, Tallahassee, Florida 32399-0850, by the close of business on the date set forth in the "Notice of Further Proceedings" attached hereto. It is further

ORDERED that in the event this Order becomes final, this docket shall be closed.

By ORDER of the Florida Public Service Commission this 29th day of December, 2005.

BLANCA S. BAYÓ, Director  
Division of the Commission Clerk  
and Administrative Services

By: /s/ Kay Flynn  
Kay Flynn, Chief  
Bureau of Records

This is a facsimile copy. Go to the Commission's Web site, <http://www.floridapsc.com> or fax a request to 1-850-413-7118, for a copy of the order with signature.

( S E A L )

SOME (OR ALL) ATTACHMENT PAGES ARE NOT ON ELECTRONIC DOCUMENT.

PKW

NOTICE OF FURTHER PROCEEDINGS OR JUDICIAL REVIEW

The Florida Public Service Commission is required by Section 120.569(1), Florida Statutes, to notify parties of any administrative hearing that is available under Section 120.57, Florida Statutes, as well as the procedures and time limits that apply. This notice should not be construed to mean all requests for an administrative hearing will be granted or result in the relief sought.

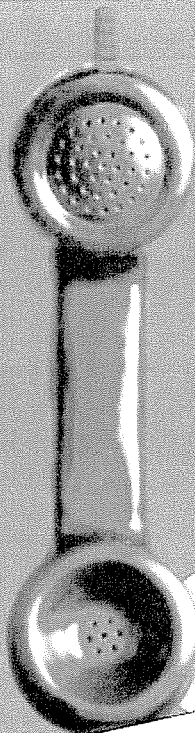
Mediation may be available on a case-by-case basis. If mediation is conducted, it does not affect a substantially interested person's right to a hearing.

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The action proposed herein is preliminary in nature. Any person whose substantial interests are affected by the action proposed by this order may file a petition for a formal proceeding, in the form provided by Rule 28-106.201, Florida Administrative Code. This petition must be received by the Director, Division of the Commission Clerk and Administrative Services, 2540 Shumard Oak Boulevard, Tallahassee, Florida 32399-0850, by the close of business on January 19, 2006.

In the absence of such a petition, this order shall become final and effective upon the issuance of a Consummating Order.

Any objection or protest filed in this/these docket(s) before the issuance date of this order is considered abandoned unless it satisfies the foregoing conditions and is renewed within the specified protest period.



# YOU

May Qualify For  
DISCOUNTS ON PHONE SERVICE

Lifeline discounts can save you  
up to \$13.50 per month.

\*Lifeline is a federal program that  
reduces your monthly local phone bill.

There's also a program  
to help get service  
installed.

\*If you don't have phone service,  
the Lifeline program might help  
you pay to get connected.

If you receive any of the assistance programs below  
you may be eligible for the Lifeline discounts.

- *Food Stamps*
- *Low Income Home Energy Assistance Programs (LIHEAP)*
- *Medicaid*
- *Federal Public Housing Assistance (Section 8)*
- *Supplemental Security Income (SSI)*
- *Temporary Assistance for Needy Families (TANF)*
- *National School Lunch free lunch program*

For more information call toll free:

1-866-392-7123

Or visit [www.lifelinesupport.org](http://www.lifelinesupport.org)

**NEXUS**  
communications

## Exhibit 4 – Proposed Tariff Changes

### SECTION 5 -LIFELINE AND LINKUP

#### 5. 1. Lifeline Program

Lifeline service is a unique class of service provided to an applicant which is designed to meet basic residential communications needs for emergency calls and for the maintenance of necessary social contacts. Lifeline service includes: single party service, voice grade access to the public switched telephone network; DTMF or its functional equivalent; access to emergency services; Toll Blocking will also be optional under this service. Lifeline service is available to qualifying low-income subscribers for single party residence service. Lifeline service is a reduction in the monthly residential access line rate charges normally paid by qualifying low-income customers. Eligible Lifeline subscribers will receive total reduction of their residential access line rate for one party service of **\$13.50**. The components of the reduction to basic residential one-party rates are as follows:

- **State reduction in local rate: \$3.50**
- **Federal Tier 1 Lifeline reduction: \$6.50**
- **Federal Tier 2 Lifeline reduction: \$1.75**
- **Federal Tier 3 Lifeline matching reduction: \$1.75**

#### 5.1.1 Applicability:

- A. Lifeline discounts are applicable to local exchange services provided to eligible residential Applicants.

#### 5.1.2 Territory:

- A. Within the base rate areas of all Alltel, Cincinnati Bell and BellSouth exchanges as shown and defined in the Incumbent LEC's current and effective Tariffs on file with the Commission.

#### 5.1.3 Discounts:

- A. Lifeline is provided as a reduction of the subscriber's access line rate for local service in amounts equal to the sum of the federal baseline support credit, the company credit (as provided by the Incumbent LEC), and the supplemental federal support credit.

5.1.4 Terms and Conditions:

- A. Lifeline is provided only to the customer's principal residence.
- B. One low-income credit is available per household and applicable to the primary residential connection only. The named subscriber must be a current recipient of any of the low-income assistance programs identified in 5 following.
- C. Proof of eligibility in any of the qualifying low-income assistance programs should be provided to the Company at the time of application for service. The Lifeline credit will not be established until the Company has received proof of eligibility.
- D. When, for any reason, a customer is determined to be ineligible the Company will contact the customer. If the customer cannot provide eligibility documentation, the Lifeline account will be disconnected.
- E. Certification of eligibility in any of the qualifying low-income assistance programs will be required for any account that has been disconnected prior to the reestablishment of the service.

5.1.5 Eligible low-income assistance programs:

- A. The eligible low-income assistance programs are the same as those defined in the Incumbent LEC's current and effective Tariffs on file with the Commission.
- B. The Federal baseline lifeline reduction shall be used to waive the customer's Federal End-User Common Line charge.
- C. Lifeline Service will not be furnished on a Foreign Exchange service.
- D. Toll Blocking Service provides a means of restricting access to the Long Distance Message Telecommunications Network. Toll Blocking for the purposes of Lifeline Service will restrict 1+, 0 + and 0- (operator handled) calls.
- E. Toll Blocking Service is offered to Lifeline subscribers at no charge.
- F. Applicant must meet all following criteria to qualify for Lifeline Link-up service:

1. To qualify for Lifeline or Link-up the consumer must participate in one of the following programs:
  - a. Medicaid
  - b. Food stamps
  - c. Supplemental Security Income (SSI)
  - d. Federal public housing assistance
  - e. Low Income Home Energy Assistance Program
  - f. National School Lunch Program**
  - g. Temporary Assistance to Needy Families (TANF)**
  
2. The customer must sign, under penalty of perjury, a document certifying:
  - a. He/she is receiving benefits from one of the programs in listed above.
  - b. Name of the program(s) from which they are receiving benefits.
  - c. That he/she will notify the company if he/she no longer participates in the program(s) listed above.
  
- G. The premises at which the residence service is requested must be the applicant's principal place of residence.
  
- H. There is only one telephone line serving the residence premises. The residence premises household (dwelling unit) shall consist of that portion of an individual house or building or one flat or apartment occupied by a single family or individuals functioning as one domestic establishment.
  
- I. Customer may change to Lifeline Service from any other type of residential service at no charge. If a Lifeline customer no longer qualifies for Lifeline Service, that customer may change back to another type of residential service, in which case there will be no charge.
  
- J. All charges either recurring or non-recurring for any service other than Lifeline Service, as described herein, shall be billed at the tariffed rate.
  
- K. Lifeline Service customers shall be exempt from state sales tax applicable to their basic residential access line.



## 5.2 Link-Up Connection Program

- 5.2.1 Link-Up is a connection assistance program, which provides for the reduction of applicable charges associated with connection of telephone service,
- 5.2.2 The applicant must meet the requirements for qualification for Lifeline Telephone Service.
- 5.2.3 Link-Up is a Federal Lifeline assistance program applicable to eligible residential subscribers and designed to promote subscriber ship to the telephone network among low-income residential households.
- 5.2.4. Service connection charges, as set forth subsequently in this tariff, for initial installation of the main residential service access line, will be discounted at a rate of 50%, not to exceed \$30.00. This reduced charge shall be assessed only for a single residential telephone line per eligible household at the principal place of residence.
- 5.2.5 The customer may defer payment on up to \$200 of the above charges without interest for a period not to exceed two months. The deferred charges do not include any permissible security deposits required.
- 5.2.6 Link-Up assistance is available for a second or subsequent time only for a principal place of residence with an address different from the residence address where assistance was previous provided.
- 5.2.7 The premises at which the residence service is requested must be the applicant's principal place of residence.
- 5.2.8 There can only be one telephone access line serving the residence premises. The residence premises household (dwelling unit) shall consist of that portion of an individual house or building or one flat or apartment occupied by a single family or individuals functioning as one domestic establishment.
- 5.2.9 Link-Up will not be furnished on a Foreign Exchange service.