

COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

NEXUS COMMUNICATIONS, INC. REQUEST FOR)
REHEARING OF DENIAL OF CONFIDENTIAL) CASE NO.
TREATMENT OF FCC FORM 555) 2014-00367

ORDER

On October 3, 2014, Nexus Communications, Inc. (“Nexus”) filed a request for rehearing of the Commission’s September 11, 2014 letter denying confidential treatment for Nexus’s 2013 FCC Form 555 filed on February 10, 2014. As a basis for its request, Nexus states that the grounds upon which denial was based – that the requested information was publicly available at the Federal Communications Commission and the Universal Service Administrative Company (“USAC”) – was based on an erroneous understanding of underlying facts. Nexus requests that the Commission reverse the denial of confidential treatment and grant confidential treatment for the designated material in perpetuity.

The FCC, in the *Lifeline Reform Order*,¹ required Eligible Telecommunication Carriers (“ETC”) to conduct re-certification and non-usage reviews to ensure that Lifeline subscribers continue to be eligible to receive subsidized service and continue to use that service on a regular basis. ETCs are to de-enroll customers who are no longer eligible or have not used the service in a 60-day period. The FCC also required the

¹ See *Lifeline and Link Up Reform and Modernization et al.*, WC Docket. Nos. 11-42 et al., Report and Order and Further Notice of Proposed Rulemaking, 27 FCC Rcd 6656, 6715-16, 6722, 6767, paras 130-32, 148, 257 (2012) (“Lifeline Reform Order”).

ETCs to submit to the FCC, USAC, and state commissions, via FCC Form 555, the results of re-certification and de-enrollments. ETCs are to include in FCC Form 555, *inter alia*, a study by area code of: (1) the number of subscribers claimed on FCC Form 497 filed with USAC in May; (2) the number of subscribers contacted to recertify eligibility and the number who were de-enrolled or are scheduled for de-enrollment for non-response or ineligibility; and, (3) the number of subscribers who were de-enrolled each month for non-usage of prepaid service. Nexus is designated as an ETC and annually files FCC Form 555 with the FCC, USAC, and the Commission.

The Executive Director, by letter dated September 11, 2014, denied Nexus's request for confidential treatment, noting that the information in FCC Form 555 was publically available at both the FCC and USAC. Thus, the Executive Director concluded that the request did not meet the standards for confidential treatment.²

In its request for rehearing, Nexus states that the information in its FCC Form 555 is not publicly reported to the FCC and USAC. Nexus asserts that the 2012 and 2013 FCC Form 555 was submitted to the FCC and USAC confidentially in 2013 and 2014, respectively. Nexus further contends that although USAC and the FCC's Wireline Competition Bureau denied confidential treatment for its 2012 FCC Form 555, Nexus has petitioned the FCC to reconsider the denials of confidential treatment. Nexus also states that it has requested confidential treatment from the FCC and USAC for its 2013 FCC Form 555. The FCC has not ruled on the requests for reconsideration or the requests for confidential treatment for the 2013 FCC Form 555. As a result, the

² The FCC's Wireline Competition Bureau, on April 29, 2013, denied a similar request for Nexus' 2012 FCC Form 555 filed in 2013. See, *In the Matter of Request for Confidential Treatment of Nexus Communications, Inc. Filing of FCC Form 555*.

information in both of the forms is still being treated by USAC and the FCC as confidential.

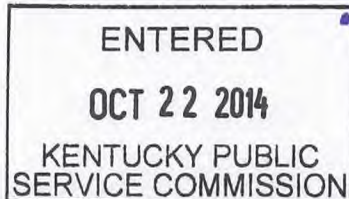
In its request for rehearing to the Commission, Nexus attached as exhibits documents that it filed with the FCC and USAC. The documents are: the motion that it made to the FCC on January 31, 2014, requesting confidential treatment for its FCC Form 555; and the similar request made to USAC. Both documents put forth the same grounds as to why the FCC Form 555 should be granted confidential treatment; namely, that the provision of telephone service is highly competitive and the public disclosure of subscriber counts, ineligible subscribers, de-enrolled subscribers, etc., will cause competitive harm and is confidential information under the FCC rules.

Based on a review of the record and being otherwise sufficiently advised, the Commission finds that the information contained in Nexus's 2013 FCC Form 555 is currently being afforded confidential treatment at the FCC and USAC, subject to the FCC's final decision on Nexus's request for reconsideration. Because the issue of confidentiality is still pending at the FCC, the Commission finds good cause to grant Nexus's request for rehearing. The Commission further finds that every 90 days, Nexus should file in the record of this case a report on the status of its request for reconsideration at the FCC, and within 20 days of the FCC's decision on Nexus's request for confidentiality, Nexus should file a copy of the FCC's decision in this case. While Nexus's request for confidential treatment is pending, the material should continue to be treated as confidential pursuant to 807 KAR 5:001, Section 13(4), and the Commission will issue a final ruling on this matter upon final action of the FCC.

IT IS THEREFORE ORDERED that:

1. Nexus petition for rehearing is granted.
2. Nexus shall file, every 90 days from the date of this Order, a report on the status of its request for reconsideration of confidentiality at the FCC.
3. Within 20 days of the FCC's entry of an order addressing Nexus pending petition for confidential treatment of its 2013 FCC Form 555, Nexus shall file a copy of that order in the record of this case.
4. The Executive Director is delegated authority to grant reasonable extensions of time for the filing of any documents required by this Order upon Nexus's showing of good cause for such extension.

By the Commission



ATTEST:



Executive Director

Case No. 2014-00367

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