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March 11, 2009

2009-00110

RECEIVED

MAR 12 2009

PUBLIC SERVICE  
COMMISSION

**VIA FEDERAL EXPRESS**

Jeff DeRouen  
Executive Director  
Kentucky Public Service Commission  
211 Sower Boulevard  
Frankfort, KY 40601

Re: *Petition of Nexus Communications, Inc. for Additional Designation as an Eligible Telecommunications Carrier in Kentucky*

Dear Mr. DeRouen:

Enclosed please find and accept for filing the original and ten copies of Nexus Communications, Inc. d/b/a TSI's Petition in the above-referenced matter. Please confirm your receipt of this filing by placing the stamp of your Office with the date received on the enclosed additional copies and return them to me in the enclosed envelope.

Should you have any questions please contact me at your convenience.

Sincerely yours,

Douglas F. Brent

DFB:ec  
Enclosures

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MAR 12 2009

PUBLIC SERVICE  
COMMISSION

COMMONWEALTH OF KENTUCKY

BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

PETITION OF NEXUS )  
COMMUNICATIONS, INC. FOR )  
ADDITIONAL DESIGNATION AS AN )  
ELIGIBLE TELECOMMUNICATIONS )  
CARRIER IN KENTUCKY )

CASE NO. 2009-\_\_\_\_\_

PETITION OF NEXUS COMMUNICATIONS, INC.

Nexus Communications, Inc. d/b/a TSI (“Nexus” or the “Applicant”), pursuant to Section 214(e)(2) and Section 214(e)(6) of the Communications Act of 1934, as amended (the “Act”)<sup>1</sup>, Sections 54.101 through 54.207 of the Rules of the Federal Communications Commission (“FCC”),<sup>2</sup> KRS 278.54611(4), and the rules and regulations of the Kentucky Public Service Commission (the “Commission”), hereby applies to the Commission for:

- 1) Designation as an Eligible Telecommunications Carrier (“ETC”) throughout the BellSouth Telecommunications, Inc. d/b/a AT&T Kentucky (“AT&T”) service territory (the “AT&T Designated Service Area”) for the purpose of receiving low income (rather than high cost)<sup>3</sup> federal universal service support; and

<sup>1</sup> 47 U.S.C. § 214(e)(2).

<sup>2</sup> 47 C.F.R. §§ 54.101-54.207.

<sup>3</sup> This distinction is relevant, and supports Nexus’s application for expansion of its ETC designation to wireless services because the Federal Communications Commission in *Federal-State Joint Board on Universal Service, Petition of Tracfone Wireless, Inc.*, 20 FCC Rcd 15095 (2005), explained that, because low-income support follows the *customer* rather than the utility’s *infrastructure*, the “facilities” requirement loses its significance. There need be no concern that two carriers will collect support on the infrastructure used to serve the customer. Although it is a reseller, Tracfone has been deemed eligible for low-income universal service support, and reasonably so: low-income customers should not be deprived of Lifeline and Linkup assistance if they choose an alternative carrier. *See TracFone Wireless Petition for Designation as an Eligible Telecommunications Carrier*, 23 FCC Rcd 6206 (2008) (“*Tracfone*”); *see also Virgin Mobile USA, L.P. Petition for Forbearance*, FCC 09-18, CC Dkt. No. 96-45, para. 6-8 (rel. March 5, 2009)(explaining *TracFone*, granting ETC status to Virgin Mobile in six states, and acknowledging that prior to *Tracfone* the FCC had not considered that providing *Lifeline* only support directly to a pure wireless reseller would not result in double recovery)..

2) Designation as an ETC for wireless services within the AT&T Designated Service Area and within the exchange territory of Cincinnati Bell Telephone Company (the “CBT Designated Service Area”), where Nexus has already been designated an ETC for its wireline services.

Nexus seeks only low income support, and is not requesting high cost support. Moreover, as demonstrated below, Nexus satisfies all of the statutory and regulatory requirements for designation as an ETC in the AT&T Designated Service Area and the CBT Designated Service Area. Nexus is already serving Lifeline customers in Kentucky, and expanding its designated area will serve the public interest by helping to ensure that low-income customers may choose a competing carrier without losing their Lifeline and Linkup assistance. Accordingly, Nexus respectfully requests that the Commission grant this Application.

#### **I. Background**

1. Nexus is an Ohio corporation<sup>4</sup> and is authorized to conduct business as a foreign corporation in the Commonwealth of Kentucky. The principal office of the Applicant is located at 3629 Cleveland Avenue, Suite C, Columbus, Ohio 43224. Copies of the Applicant’s Articles of Incorporation and authority to transact business in the Commonwealth of Kentucky are on file with the Commission and incorporated herein by reference. Nexus is authorized to provide competitive local exchange services throughout Kentucky (Utility ID No. 5053480) and currently provides local exchange and exchange access services in the AT&T and CBT Designated Service Areas using a combination of resale and unbundled network elements

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<sup>4</sup> Nexus was incorporated in the State of Ohio on September 11, 2000 and has been authorized to do business in Kentucky since May 9, 2002.

(“UNEs”), or UNE equivalents obtained through agreements filed with the Commission. Nexus also provides resold wireless services.<sup>5</sup>

2. Nexus initially filed for designation as an ETC on November 22, 2005 and, as a carrier that provides service using a combination of another carrier’s services and its own facilities, was so designated by the Commission on August 29, 2006, in Case No. 2005-00474 (the “*Nexus Designation Order*”). Nexus has been providing both Lifeline and Link-Up services, pursuant to its ETC designation, within the CBT Designated Service area since 2006. As of June 30, 2008 Nexus served 1,001 Lifeline customers in Kentucky.<sup>6</sup>

3. Wireless service penetration has grown considerably over the past several years and, for some customers, is a more logical service option than fixed wireline service. As a result, competitive carriers like Nexus must compete not only with incumbent carriers and other CLECs, but also with wireless service providers. Nexus would like to give qualifying customers the ability to purchase wireless service through Nexus, including Lifeline/Link-Up eligible wireless service.

4. The Commission and the FCC have each found that wireless universal service Lifeline offerings can provide the unique benefit of *mobility* to Lifeline-eligible customers. *Petition of NPCR, Inc. for Designation as an ETC*, Case No. 2003-00143, Order at 8 (December 16, 2004); *TracFone Wireless Petition for Designation as an Eligible Telecommunications Carrier*, 23 FCC Rcd 6206 (2008). The FCC observed that a mobile wireless Lifeline offering

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<sup>5</sup> The FCC treats resold wireless telecommunications as a common carrier service. *See Interconnection and Resale Obligations Pertaining to Commercial Mobile Radio Services*, First Report and Order, 11 FCC Rcd 18455, 18457 (1996); 47 CFR § 20.9(a)(10). Therefore, in addition to Nexus’ licensed basic local exchange service, Nexus’ wireless service also meets the federal definition of common carrier for purposes of ETC designation. Nexus resells service from a variety of wireless providers, such as Verizon Wireless, and AT&T Wireless, under the Nexus name. As a reseller of wireless services, Nexus does not need a license with the FCC since the underlying carriers possess the necessary licenses.

<sup>6</sup> Letter from Steven Fenker to Stephanie Stumbo, filed August 25, 2008 in Adm. Case No. 360.

would provide benefits to citizens who often must drive significant distances for employment, education and healthcare. Other customers may benefit from the larger local calling area generally available with wireless service. Thus, the offering intended by Nexus will likely fill unmet demand for affordable wireless service to low income Kentuckians. Further, as the National Consumers League has explained, it has consistently supported the use of Universal Service Fund monies to bring wireless telephone service to low-income consumers via the Lifeline program, “so that low-income Americans can have the same access to wireless and competitive services as other consumers.”<sup>7</sup>

5. As Nexus is already an ETC within the CBT Designated Service Area, the Commission need only clarify that Nexus may use the same service area code of 269012 already designated for its wireline offerings. In addition, Nexus asks the Commission to find that Nexus is eligible to provide wireless Lifeline and Link-Up services in both the CBT and AT&T Designated Service Areas.

6. As set forth in Section 214(e)(2) of the Act, the Commission “shall upon its own motion or upon request designate a common carrier that meets the requirements of [Section 214(e)(1)] as an eligible telecommunications carrier for a service area designated by the State commission.”<sup>8</sup> Upon designation as an ETC, the carrier shall be eligible to receive universal support in accordance with Section 254 of the Act.<sup>9</sup>

7. The requirements for designation as an ETC set forth in Section 214(e)(1) are that the carrier must:

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<sup>7</sup> January 7, 2008 Letter from Sally Greenberg, Executive Director, National Consumers League, to the FCC, re: CC Docket No. 96-45 [Exhibit 2 hereto].

<sup>8</sup> 47 U.S.C. § 214(e)(2); *see* 47 C.F.R. § 54.201(b) (FCC Rules citing the Act’s requirements).

<sup>9</sup> 47 U.S.C. § 214(e)(1).

- (a) offer the services that are supported by Federal universal support mechanisms under section 254(c), either using its own facilities or a combination of its own facilities and resale of another carrier's services (including the services offered by another eligible telecommunications carrier); and
- (b) advertise the availability of such services and the charges therefore using the media of general distribution.<sup>10</sup>

## **II. Nexus Satisfies the Requirements for Designation as an ETC to Serve the Designated Service Areas**

8. Nexus is a common carrier as that term is defined in the Act.<sup>11</sup> The Applicant provides competitive local telecommunications services in the Designated Service Area pursuant to Utility ID No. 5053480 referenced above.

9. Nexus offers all of the supported services enumerated under Section 254(c) using facilities obtained as UNEs, or the equivalents thereof. According to FCC Rules, facilities obtained as UNEs satisfy the requirement that an ETC provide the supported services using either its own facilities or a combination of its own facilities and resale of another carrier's services.<sup>12</sup>

10. In its 2006 *Nexus Designation Order*, the Commission designated Nexus as an ETC in the CBT Designated Area. However, the Commission said it could not designate Nexus as an ETC in BellSouth exchanges. As of the date of the *Nexus Designation Order*, the Commission was not able to conclude that Nexus was providing service using its own facilities,

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<sup>10</sup> *Id.*

<sup>11</sup> See 47 U.S.C. § 153(10) (“the term ‘common carrier’ or ‘carrier’ means any person engaged as a common carrier for hire, in interstate or foreign communication by wire or radio or in interstate or foreign radio transmission of energy . . .”).

<sup>12</sup> Section 54.201(f) of the FCC's Rules states, “[f]or the purposes of this section, the term ‘own facilities’ includes, but is not limited to, facilities obtained as unbundled network elements pursuant to Part 51 of this chapter, provided that such facilities meet the definition of the term ‘facilities’ under this subpart.” 47 C.F.R. § 54.201(f). The term “facilities” under Section 54.201 is defined as “any physical components of the telecommunications network that are used in the transmission or routing of the services that are designated for support pursuant to subpart B of this part.” 47 C.F. R. § 54.201(e). Nexus’ use of UNEs, including § 251 loops, or equivalents thereof, commingled with § 271 elements provided pursuant to an agreement filed with the Commission pursuant to § 252, meets this definition of “facilities.”

because the Commission had not yet determined that Nexus' agreement with BellSouth Telecommunications provides Nexus with access to unbundled BellSouth facilities. The legal status of that agreement, as well as other 47 U.S.C. § 252 interconnection agreements into which BellSouth has entered with its competitors, is now clear: the agreement has specifically been found by the Commission to meet BellSouth's legal obligation to provide Section 271-mandated network elements to its competitors. Accordingly, those competitors, including Nexus, purchase network elements in addition to "resold services."

11. In its December 12, 2007 Order in Case No. 2004-00427,<sup>13</sup> the Commission conclusively determined that the agreement between Nexus and BellSouth provides Nexus with access to "facilities," including network elements. The Commission found that the agreement between Nexus and BellSouth, which it required to be filed for review, fulfills BellSouth's obligations under the § 271(c)(2)(B) competitive checklist specifically because the agreement includes UNEs.<sup>14</sup> Accordingly, the Applicant uses UNEs in its network<sup>15</sup> and satisfies the requirement set forth in Section 214(e)(1)(A).<sup>16</sup>

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<sup>13</sup> *In the Matter of Petition of BellSouth Telecommunications, Inc. to Establish Generic Docket to consider Amendments to Interconnection agreements Resulting from Changes of Law* (Final Order dated Dec. 12, 2007).

<sup>14</sup> "There can be no mistake that 47 U.S.C. § 271(c)(1)(A) requires AT&T Kentucky to enter into "binding agreements that have been approved under Section 252 of this title . . . Moreover, pursuant to 47 U.S.C. § 271(c)(2)(A), these very agreements regarding access and interconnection must also include each element of the competitive checklist." Case No. 2004-00427, Order (December 12, 2007) at pp. 6-7. The Commission further determined that the rates for these *network elements* are to be market based. *Id.* at p. 11 (emphasis added).

<sup>15</sup> See *Qwest Corp. v. Pub. Util. Comm'n*, 479 F.3d 1184 (10<sup>th</sup> Cir. 2007) (agreements relating to mass market switching and shared transport are agreements for network elements, even if provided under Section 271).

<sup>16</sup> Nexus has operates pursuant to the same interconnection agreement with AT&T in Alabama, Florida, Louisiana, and Tennessee as it does in Kentucky, and has been granted ETC status pursuant to that interconnection agreement in each of those states. *Only* Kentucky has limited Nexus's ETC status as a result of this interconnection agreement and, as we have seen, Kentucky has since definitively ruled that the agreement does in fact provide network elements. Those elements, as a matter of law, are Nexus's "own facilities" for purposes of the ETC analysis.

12. Next, as the Michigan Commission very recently ruled, Nexus is entitled to ETC status for its wireless as well as its wireline services.<sup>17</sup> Nexus's wireline services are facilities-based, and its wireline and wireless services "share the same president, management team, and marketing team." Consequently, Nexus's operations are "fully integrated," and thus Nexus need not apply to the FCC for forbearance as it would if it were merely a reseller of wireless services.<sup>18</sup> The Michigan analysis is appropriate here as well: Nexus's status as a carrier that provides services using a combination of network elements and resale of another carrier's services applies to all of Nexus's operations.

13. The services that are supported by Federal universal support mechanisms under section 254(c) are enumerated in the rules of the Federal Communications Commission ("FCC") at 47 C.F.R. § 54.101(a)(1)-(9). These services are:

(a) 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. For the purposes of this part, bandwidth for voice grade access should be, at a minimum, 300 to 3,000 Hertz. Nexus meets this requirement by providing voice-grade access to the public switched telephone network. All customers of Applicant are able to make and receive calls on the public switched telephone network within the specified bandwidth;

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<sup>17</sup> *In the Matter of the Application of Nexus Communications, Inc. for Clarification or Designation of its Eligible Telecommunications Carrier Status in the State of Michigan*, Case No. U-15694 (Mich. PSC, Dec. 2008).

<sup>18</sup> *Id.*, at 2.



(b) Local usage. "Local usage" means an amount of minutes of use of exchange service, prescribed by the FCC, provided free of charge to end users. Applicant includes specified quantities of usage in its rate plans and thereby complies with the requirement;

(c) 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, shortening call set-up time. Applicant provides DTMF signaling to its wireline customers, which is the equivalent of that offered by the incumbent LEC to its customers;

(d) 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. Applicant meets the requirement of single-party service by providing a dedicated message path for the length of all customer calls;

(e) 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. 911 is defined as a service that permits a telecommunications user, by dialing the three-digit code "911," to call emergency services through a Public Service Access Point (PSAP) operated by the local government. "Enhanced 911" is defined as 911 service

that includes the ability to provide automatic numbering information (ANI), which enables the PSAP to call back if the call is disconnected, and automatic location information (ALI), which permits emergency service providers to identify the geographic location of the calling party. "Access to emergency services" includes access to 911 and enhanced 911 services to the extent the local government in an eligible carrier's service area has implemented 911 or enhanced 911 systems. Through its agreements with AT&T, Applicant currently provides its subscribers access to 911 emergency services, and also provides Enhanced 911 services including Phase I and Phase II E911 services where requested by local public safety authorities ready to receive the information and where the local exchange carrier supports such services;

(f) 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 or completion, or both, of a telephone call. Operator services are offered by Applicant;

(g) 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. Nexus provides long distance access to its customers;

(h) 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. Applicant provides access to directory assistance to its customers; and

(i) Toll limitation for qualifying low-income consumers. Toll limitation for qualifying low-income consumers is linked to participation in the Lifeline program, which Applicant will participate in and offer upon designation as an ETC. Applicant will use the appropriate toll limitation technology to provide this required service at no additional charge to Lifeline customers.

14. Upon expansion of its certification as an ETC, Nexus will participate in, and offer LifeLine and Link-Up programs in the AT&T Designated Service Area to qualifying low-income consumers and publicize the availability of Lifeline and Link-Up services in a manner reasonably designed to reach those likely to qualify for those services, as required by FCC Rules.<sup>19</sup> The FCC has concluded that pure resellers of wireless service may qualify as an ETC and properly use universal service support for the purposes for which it was intended by offering reduced price Lifeline service.<sup>20</sup> Nexus is similarly qualified and will use Lifeline support to reduce the price of its wireless offerings.

15. Nexus will advertise the availability of the above-referenced services and the charges for those services in the Designated Service Areas using media of general distribution, as required by FCC Rules.<sup>21</sup>

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<sup>19</sup> See 47 C.F.R. §§ 54.401-54.417; 54.405(b) & 54.411(d).

<sup>20</sup> See *Federal-State Joint Board on Universal Service, Petition of Tracfone Wireless, Inc.*, 20 FCC Rcd 15095 (2005) (finding that because Lifeline support is customer-specific and is directly reflected in the price that the eligible customer pays, it is impossible for any carrier to receive a double recovery of the support).

<sup>21</sup> See 47 C.F.R. §§ 54.201(d)(2).

### **III. Area for Which ETC Certification Is Requested**

16. Nexus has served and will continue to serve the exchanges where it leases network elements or resells the services of the non-rural telephone companies in the Designated Service Areas. Nexus does not seek certification as an ETC for wireline service in any areas served by rural telephone companies. With respect to wireless services, Nexus requests designation throughout the Commonwealth, to enable Lifeline support within any Major Trading Area (“MTA”) where underlying providers of wholesale wireless service are currently providing service or may do so in the future. None of those providers of wholesale wireless service is a rural telephone company.

### **IV. Granting Nexus’s Application Will Serve the Public Interest**

17. Congress requires that the Commission grant competitive ETC applications in non-rural areas.<sup>22</sup> No specific public interest test is mentioned, as is the case for areas served by rural telephone companies.<sup>23</sup> Thus, the Act provides that the Commission “shall” designate Nexus as an ETC upon finding that the company meets the nine-point list of services and that it agrees to advertise the supported services throughout the Designated Service Areas. Notwithstanding, the designation of Nexus as an ETC will serve the public interest by ensuring that low-income customers in Kentucky, like low-income customers in other states including Tennessee, Alabama, Louisiana, Michigan, and Florida, will be able to choose Nexus without losing their Lifeline and Linkup support. Restricting the choice of Kentucky’s low-income customers serves no purpose, while expanding their choice promotes competition without the

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<sup>22</sup> See 47 U.S.C. 214(e)(2).

<sup>23</sup> See *Id.*

risk of double payment of universal service funds. *Only the carrier chosen by the customer will receive Lifeline and Linkup support.*<sup>24</sup>

18. Nexus will continue to announce and advertise telecommunications services as an ETC where it provides service in its Designated Service Areas in Kentucky and will publicize the availability of Lifeline and Link-Up services in a manner reasonably designed to reach those likely to qualify for those services. Accordingly, more low-income Kentucky residents will be made aware of the opportunities afforded to them under the Lifeline and Link-Up programs and will be able to take advantage of those opportunities by subscribing to Nexus's service. Nexus advertises its services through several different media of general distribution including (but not limited to) marketing at targeted retail locations, including rent-to-own centers, as well as advertisements via television, radio, newspapers and trade magazines. Copies of sample sales brochures are attached hereto as Exhibit 1.

19. Nexus will provide universal service as an ETC throughout its Designated Service Areas.

20. Nexus is willing to accept carrier of last resort obligations throughout the universal service areas in which Nexus is designated as an ETC by the Commission.

21. Nexus will provide equal access to interexchange service.

22. Since Lifeline support is designed to reduce the monthly cost of telecommunications services for eligible consumers, and is distributed on a per-customer basis and is directly reflected in the price that the eligible customer pays, it is assured that all support received by the carrier is used to provide Lifeline services to consumers, thus promoting Lifeline

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<sup>24</sup> As the FCC found in its 2005 *Tracfone* Order, concern for "double recovery" cannot exist when only low-income support is sought. In contrast, if high-cost support is sought by a reseller, a situation is created whereby both the reseller and the underlying facilities-based carrier could receive universal service support.

and the availability of telephone service to low income users, which is clearly in the public interest. Because Nexus seeks ETC designation solely for purposes of reimbursement for provision of subsidized Lifeline and Link-Up services to eligible customers, submission of a Five-Year Network Improvement Plan is not required.<sup>25</sup>

23. Applicant offers a wireline local usage plan comparable to the one offered by the incumbent LEC in the service areas for which it seeks designation. For wireless customers, Applicant offers a local usage plan with sixty eight (68) free minutes a month for calls originating within the customer's local calling area.

24. Under FCC guidelines, an ETC Applicant must demonstrate that it will satisfy applicable consumer protection and service quality standards. 47 CFR §54.202(a)(3); see *In the Matter of Federal-State Joint Board on Universal Service*, Report and Order, CC Dkt. No. 96-45, 20 FCC Rcd 6371, ¶ 28 (2005) (“*FCC ETC Order*”). Applicant will satisfy all such standards. As part of its certification requirements for providing local exchange services, Applicant must abide by the service quality and consumer protection rules. In addition, Applicant commits to reporting information on consumer complaints per 1,000 lines on an annual basis consistent with the FCC ETC Order. Applicant in general commits to satisfying all such applicable state and federal requirements related to consumer protection and service quality standards.

25. Under FCC guidelines, an ETC Applicant must demonstrate its ability to remain functional in emergency situations. 47 CFR §54.202(a)(2); see *FCC ETC Order* at ¶ 25. Applicant provides to its customers the same ability to remain functional in emergency situations

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<sup>25</sup> Under FCC guidelines, an ETC Applicant must submit a five-year plan that describes with specificity proposed improvements or upgrades to the applicant's network on a wire center-by-wire center basis throughout its proposed Designated Service Area. Where an applicant's requested ETC serving territory would qualify it to receive no “high cost” USF support, but only “low income” USF support, this guideline need not be applied.

as currently provided by AT&T Kentucky to its own customers, including access to a reasonable amount of back-up power, rerouting of traffic around damaged facilities, and the capability of managing traffic spikes resulting from emergency situations.

26. Under FCC guidelines, an ETC Applicant must commit to provide service throughout its proposed designated service area to all customers making a reasonable request for service. *FCC ETC Order* at ¶ 22; 47 CFR §54.202(a)(1)(i). Applicant commits to provide service throughout its proposed ETC Designated Service Areas to all customers making a reasonable request for service.

27. By this application, Applicant hereby asserts its willingness and ability to comply with all the rules and regulations that the Commission may lawfully impose upon Applicant's provision of service contemplated by this application.

#### **IV. Relief Requested**

For the foregoing reasons, Nexus respectfully requests that the Commission grant its application and designate the Applicant as an ETC in the Designated Service Areas, enabling Nexus to provide Lifeline and Link-Up programs to wireline and wireless customers in each.

Respectfully submitted,

By:  \_\_\_\_\_

Deborah T. Eversole  
Douglas F. Brent  
STOLL KEENON OGDEN PLLC  
2000 PNC Plaza  
500 West Jefferson Street  
Louisville, Kentucky 40202-2828  
Telephone: (502) 333-6000  
Counsel for Nexus Communications, Inc.

**List of Exhibits**

**Exhibit 1          Sample Sales Material**

**Exhibit 2          Letter from National Consumers League to FCC**



**Exhibit 1**

**Sample Sales Material**

## Life-Line & Link-Up

**Link-Up** will reimburse up to 50% of a customer's one-time service activation fee to a maximum benefit of \$30.00.

**Life-Line** is a government program that offers qualified subscribers a discount up to \$13.50 each month on their monthly service.

**How much does it cost?** Absolutely nothing!

**How do I apply?** Complete and fax the inside of this form toll free to 1-800-700-5576 or apply online at [www.reachoutmobile.com](http://www.reachoutmobile.com).

**Are there any restrictions?** Only one Lifeline account per household is allowed. If a subscriber receives Lifeline service from a landline carrier or another wireless provider, the customer will not qualify for ReachOut Wireless service.

**Is my phone a real cell phone?** YES! You will be able call long distance, roam nationwide, and send text messages. Free Voice Mail & Caller ID.

**When do I get my FREE monthly minutes?** When you receive your FREE phone, it will include your first month of minutes, then the same amount every month after that.

**How long will I receive ReachOut Wireless service?**

Your service will be active for 1 year as long as you continue to receive government assistance.

**Will I be required to sign a contract?** There are no contracts or recurring fees!

**How will I receive my free ReachOut Wireless phone?** Your phone will be shipped directly to your home address.

**Can I purchase additional minutes if I choose?** Yes! You may purchase additional minutes in \$5, \$10, and \$20 increments at anytime.

**I have a cellular phone, can I activate it on the Link Up program?** Maybe! Call 1-877-870-9444 to see if your phone is compatible on the ReachOut system.

Have More Questions?

Call Toll Free: 1-877-870-9444

[www.nexus-mobile.com](http://www.nexus-mobile.com)

## How Do I Qualify?

If you receive any of the assistance programs below you are automatically accepted in the LinkUp & LifeLine program.



**EBT- Kentucky Food Stamp Card**



**Kentucky Medicaid**



**Section 8- Department of Housing and Urban Development**



**Temporary Assistance for Needy Families**



**Low Income Home Energy Assistance Program**



**Supplemental Social Security**

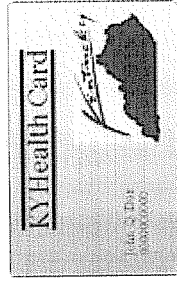
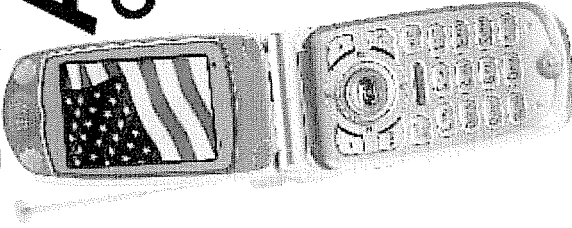


**National School Free Lunch Program**

Don't see yours? Give us a call Toll Free at 1-877-870-9444 to find how you can become eligible!

[www.nexus-mobile.com](http://www.nexus-mobile.com)

# Government Assisted Cellular Service



## Free Cellular Phone Free Monthly Minutes

Receive a FREE cell phone and monthly minutes every month if you receive:

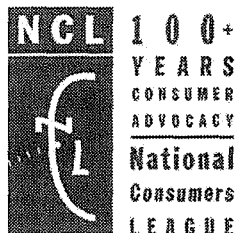
Medicaid  
Food Stamps  
Supplemental Security Income (SSI)  
Federal Public Housing Assistance (Section 8)  
Low Income Home Energy Assistance Programs (LIHEAP)  
Temporary Assistance to Needy Families (TANF)  
The National School Free Lunch Program

Look inside to learn how to enroll in the LifeLine & LinkUp Cellular Phone program.

Nexus  
wireless

[www.nexus-mobile.com](http://www.nexus-mobile.com)

**Exhibit 2 Letter from National Consumers League to FCC**



## NATIONAL CONSUMERS LEAGUE

1701 K Street, NW, Suite 1200, Washington, DC 20006

PHONE (202) 835-3323 FAX (202) 835-0747 [www.nclnet.org](http://www.nclnet.org)

January 7, 2009

Ms. Marlene H. Dortch  
Secretary  
Federal Communications Commission  
445 12<sup>th</sup> Street, SW  
Washington, DC 20544

Re: CC Docket No. 96-45

Dear Ms. Dortch:

I am writing on behalf of the National Consumers League (NCL)<sup>1</sup> to express concern that delays in providing Eligible Telecommunications Carrier (ETC) certification to prepaid wireless carriers may be delaying the expansion of Lifeline wireless service to low-income consumers.

As we have stated in previous comments<sup>2</sup>, wireless telephone service has become an essential part of modern life. That is why we have consistently supported the use of Universal Service Fund monies to bring wireless telephone service to low-income consumer via the Lifeline program. We believe that all carriers that are able to meet the service obligations of Lifeline should be able to serve Lifeline customers so that low-income Americans can have the same access to wireless and competitive services as other consumers.

The advantages that wireless service brings to low-income and working Americans, particularly minority consumers, are well-documented. For example, a recent report<sup>3</sup> concluded that providing cell phones to the 38 percent of America's 45 million poorest households now without them -- including millions of seniors, Hispanics and African-Americans -- could help them get work or earn income at levels approaching \$2.9 billion-\$11 billion. Consumers will surely

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<sup>1</sup> The National Consumers League, founded in 1899, is America's pioneer consumer organization. Our non-profit mission is to protect and promote social and economic justice for consumers and workers in the United States and abroad.

<sup>2</sup> CC Docket 96-45, WC Docket 03-109, NCL PETITIONS CONCERNING ELIGIBLE TELECOMMUNICATIONS DESIGNATIONS AND THE LIFELINE AND LINK-UP UNIVERSAL SERVICE SUPPORT MECHANISM, September 17, 2004

<sup>3</sup> Sullivan, Nicholas. Cell Phones Provide Significant Economic Gains for Low-Income American Households. New Millennium Research Council. April 2008. Online: [http://www.newmillenniumresearch.org/archive/Sullivan\\_Report\\_032608.pdf](http://www.newmillenniumresearch.org/archive/Sullivan_Report_032608.pdf)

benefit if more providers were able to offer Lifeline services.

Given the benefits of wireless service to low-income and working consumers, we urge you to adopt policies that allow more Americans to access Lifeline wireless services.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Sally Greenberg". The signature is fluid and cursive, with a long horizontal stroke extending to the right from the end of the name.

Sally Greenberg  
Executive Director