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July 16, 2009

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JUL 16 2009

**PUBLIC SERVICE
COMMISSION**

Jeffrey DeRouen
Executive Director
Kentucky Public Service Commission
211 Sower Boulevard
P.O. Box 615
Frankfort, KY 40601

RE: PSC Case No. 2009-00110

Dear Mr. DeReoun:

Enclosed for filing in this case please find an original and four copies of Nexus Communications, Inc.'s Responses to Commission Staff's Data Requests and Nexus's Petition for Exemption. Please place your file stamp on the extra copies and return to me via our runner.

If you have any questions concerning this filing, please do not hesitate to contact me. Thank you very much for your attention to this matter.

Sincerely yours,

Stoll Keenon Ogden PLLC

Deborah T. Eversole

DTE: jms
Enclosures

Cc:

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COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

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PUBLIC SERVICE
COMMISSION

In the Matter of:

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

CASE NO. 2009-00110

PETITION FOR EXEMPTION

Nexus Communications, Inc. (“Nexus”), hereby petitions the Kentucky Public Service Commission (the “Commission”) for an exemption from the generally-applicable requirement that all Eligible Telecommunications Carriers (“ETCs”) perform an annual audit of all customers receiving Lifeline benefits, as set forth in *An Inquiry into Universal Service and Funding Issues*, Administrative Case No. 360 (KPSC, Order dated May 24, 2007) (“USF Order”). Due to differences between the Nexus business model and those of other carriers subject to the USF Order, compliance with the annual audit requirement, without modification, would unduly burden Nexus and severely impede its ability to provide Lifeline benefits to qualified low income Kentucky households. As further grounds for its motion, Nexus states that the audit requirement will not minimize the risk of fraud above and beyond the Federal Communications Commission’s (“FCC”) verification requirements as described in 47 C.F.R. § 54.410. Finally, Nexus respectfully requests that the Commission accept the alternative means described in this Petition and in the FCC’s rules of ensuring that Nexus properly ascertains that its customers continue to be eligible for Lifeline service.

47 C.F.R. § 54.410 permits verification of ongoing eligibility based on an annual, statistically valid, random sample of Lifeline subscribers. ETCs are then permitted to verify a subscriber's continued eligibility by contacting the relevant state agency and confirming that the subscribers in the random sample continue to participate in a qualifying program.¹ ETCs may also survey subscribers directly, and those subscribers must then certify, under penalty of perjury, that they continue to participate in the Lifeline qualifying public assistance program.² Initial verification is currently accepted by the Commission under such standards.³


For the foregoing reasons, Nexus respectfully requests that the Commission exempt Nexus from the annual verification requirement as stated in the USF Order and instead allow the Company to perform annual verification based on statistical sampling pursuant to federal rules described above. Other ETCs are permitted to ensure ongoing eligibility pursuant to these procedures and standards, and permitting Nexus to certify ongoing eligibility in this way will provide adequate assurances to the Commission while not impeding Nexus's ability to provide Lifeline service to low income Kentucky households.

¹ Individuals may qualify for Lifeline based on participation in certain assistance programs or based on earning a certain level of income. In Kentucky, Lifeline eligibility is limited to program participation. Accordingly, Nexus will limit participation based on program-based eligibility.

² See 47 C.F.R. §54.410.

³ An Inquiry into Universal Service and Funding and Funding Issues, Order, Administrative Case No. 360 (Kentucky Pub. Serv. Comm'n: October 1, 2004).

Respectfully submitted,

By: 

Deborah T. Eversole

Douglas F. Brent

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