

COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

| | | |
|---------------------------------------|---|------------|
| PETITION OF NEXUS COMMUNICATIONS, |) | |
| INC. FOR ADDITIONAL DESIGNATION AS AN |) | CASE NO. |
| ELIGIBLE TELECOMMUNICATIONS CARRIER |) | 2009-00110 |
| IN KENTUCKY |) | |

O R D E R

On March 12, 2009, Nexus Communications, Inc. ("Nexus"), a carrier providing both competitive local exchange services and resold wireless services, filed with the Commission a petition under 47 U.S.C. § 214(e)(2) seeking to expand its current designation as an Eligible Telecommunications Carrier ("ETC") to include resold wireless services in order to receive low-cost federal universal service support for service offered throughout the BellSouth Telecommunications, Inc. d/b/a AT&T Kentucky service territory and within the exchange territory of Cincinnati Bell Telephone Company.¹ In that petition, Nexus stated that it also seeks to expand its current ETC designation to include wireline services for low-cost support for service offered throughout the AT&T Kentucky service territory.²

¹ Nexus has previously received ETC designation for its wireline services within the Cincinnati Bell Telephone Company service area. The wireline ETC designation was granted by the Commission on August 29, 2006 in Case No. 2005-00474, *Application of Nexus Communications, Inc. for Designation as an Eligible Telecommunications Carrier* (Ky. PSC Aug. 29, 2006).

² In the August 29, 2006 Order in Case No. 2005-00474, the Commission had denied Nexus's original request for wireline ETC designation in the BellSouth exchanges. See Petition at 5, 6.

The petition states that: (1) Nexus meets all the requirements for designation as an ETC to serve the designated areas in the state of Kentucky;³ (2) Nexus requests designation throughout each of the designated areas within its service coverage;⁴ (3) in accordance with 47 U.S.C. § 214(e)(2), Nexus is entitled to be designated as an ETC in non-rural wire centers;⁵ and (4) designation of Nexus as an ETC for the designated areas served in Kentucky will serve the public interest.⁶

Nexus states that it will use a combination of its own facilities and resale of other carriers' services in providing the services that are designated for low-income support as necessary to supplement the company's own facilities.⁷ Nexus says it is a "mixed mode" carrier, which uses resale and has its own facilities, such as a switch or other network elements, in order to compete in the telecommunications market or to provide low-income support for qualified end-users.⁸ In responding to the Commission's June 22, 2009 data request, Nexus states that, since its Lifeline wireless end-users will not receive bills from Nexus, the company is not obligated to collect monthly fees for the Kentucky Universal Service Fund ("USF"), the Telecommunications Relay Service ("TRS") fund, or the Telecommunications Access Program ("TAP") fund from its end-

³ Petition at 5.

⁴ Petition at 1, 2.

⁵ Petition at 11.

⁶ Petition at 11, 12.

⁷ Responses of Nexus to Commission Data Requests at 3. Filed July 17, 2009.

⁸ Id. and at 7.

users and will not be contributing to those funds.⁹ Nexus also notes that it will not seek to draw financial support from the Kentucky USF.¹⁰

On July 16, 2009, Nexus filed a Petition for Exemption, wherein it requests a waiver from the Commission's annual audit requirements. Nexus argues that obtaining proof of eligibility from each customer, as required by the Commission for all Kentucky ETCs, would place an undue financial burden on the company's low-income wireless program. Nexus requests that the Commission allow it to use a statistical sampling to conduct verification eligibility, as enumerated under 47 C.F.R. § 54.410.¹¹

Prior to rendering a final decision in this matter, the Commission seeks comment on the Nexus petition from the telecommunications industry and the general public. The members of the industry and the general public may submit any comments relevant to the Commission's consideration and review of any portion of the Nexus petition, including but not limited to the Petition for Exemption and financial contributions to the USF and TRS and TAP funds. Additionally, the Commission will allow an opportunity for submission of requests for a public hearing in this proceeding.

IT IS THEREFORE ORDERED that:

1. Comments on the petition shall be filed no later than October 2, 2009.
2. Requests for a public hearing in this matter shall be filed no later than October 9, 2009.

⁹ Response to Commission Data Request at 21, 22. Filed July 17, 2009.

¹⁰ Id. at 22.

¹¹ The Commission's audit requirements were outlined in Administrative Case No. 360, *An Inquiry into Universal Service and Funding Issues* (Order dated May 24, 2007).

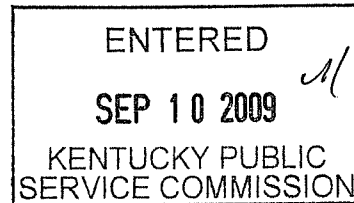
3. If no requests for a public hearing are made, additional comments on the petition shall be filed for the Commission's consideration no later than October 16, 2009.

4. The Executive Director shall serve copies of this Order upon all Kentucky incumbent local exchange providers, as provided in Appendix A.

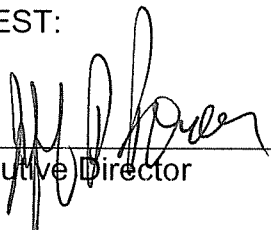
5. The Executive Director shall serve copies of this Order upon all Kentucky eligible telecommunications carriers, as provided in Appendix B.

6. The Executive Director shall serve copies of this Order upon the Kentucky Telephone Association.

By the Commission



ATTEST:



Executive Director

APPENDIX A

APPENDIX TO AN ORDER OF THE KENTUCKY PUBLIC SERVICE
COMMISSION IN CASE NO. 2009-00110 DATED **SEP 10 2009**

Kentucky Incumbent Local Exchange Carriers

The Executive Director shall serve copies of this Order upon the following:

Ballard Rural Telephone Cooperative
BellSouth Telecommunications, Inc. d/b/a AT&T Kentucky
Brandenburg Telephone Company, Inc.
Cincinnati Bell Telephone Company
Duo County Telephone Company
Foothills Rural Telephone Cooperative Corporation, Inc.
Gearheart Communications Company d/b/a Coalfields Telephone Company
Highland Telephone Cooperative, Inc.
Leslie County Telephone Company, Inc.
Lewisport Telephone Company, Inc.
Logan Telephone Cooperative, Inc.
Mountain Telephone Cooperative, Inc.
North Central Telephone
Peoples Rural Telephone Cooperative Corporation, Inc.
Salem Telephone Company
South Central Rural Telephone
Thacker-Grigsby Telephone Company, Inc.
West Kentucky Rural Telephone Cooperative Corporation, Inc.
Windstream Kentucky East, LLC
Windstream Kentucky West, LLC

APPENDIX B

APPENDIX TO AN ORDER OF THE KENTUCKY PUBLIC SERVICE COMMISSION IN CASE NO. 2009-00110 DATED **SEP 10 2009**

Kentucky Eligible Telecommunications Carriers

The Executive Director shall serve copies of this Order upon the following:

SouthEast Telephone, Inc.
e-Tel, LLC d/b/a e-Tel Murray, LLC
NPCR, Inc. d/b/a Nextel Partners
North Central Communications, Inc.
Norlight, Inc. d/b/a Cinergy Communications
Bluegrass Wireless, LLC
Kentucky RSA #4 Cellular General Partnership
Kentucky RSA #3 Cellular General Partnership
Cumberland Cellular Partnership
East Kentucky Network d/b/a Appalachian Wireless
American Cellular d/b/a AT&T Mobility
Budget Pre-pay, Inc. d/b/a Budget Phone
Dialog Telecommunications, Inc.
South Central Telecom, LLC
Nexus Communications, Inc.
1-800-Reconex, Inc. d/b/a USTel
Midwestern Telecommunications, Inc.
West Virginia PCS Alliance, L.C. d/b/a NTELOS
Global Connection Inc. of America
TVD Broadband Services, LLC
Cumberland Cellular, Inc. d/b/a Duo County Telephone
dPi-Teleconnect, LLC c/o TCS
Lifeconnex Telecom, LLC
BLC Management LLC d/b/a Angles Communication
New Talk, Inc.
Everycall Communications, Inc.

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