BEFORE THE
WASHINGTON UTILITIES & TRANSPORTATION COMMISSION

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| In the Matter of Petition of Nexus Communications, Inc. for Designation as an Eligible Telecommunications Carrier in the State of Washington for the Limited Purpose of Offering Wireless Lifeline and Link Up Service to Qualified Households | Docket No. UT-110518  |

**FIRST AMENDED PETITION OF NEXUS COMMUNICATIONS, INC.**

**FOR DESIGNATION AS AN ELIGIBLE TELECOMMUNICATIONS CARRIER IN THE STATE OF WASHINGTON FOR THE LIMITED PURPOSE OF OFFERING WIRELESS LIFELINE SERVICE TO QUALIFIED HOUSEHOLDS, AND FOR WAIVER OF WAC 480-123-030(1)(d), (f) AND (g), PARTIAL WAIVER OF
WAC 480-123-030(1)(b), AND WAIVER OF WAC 480-123-070(2) AND (6)**

Nexus Communications, Inc. (“Nexus” or the “Company”) respectfully submits this First Amended Petition pursuant to 47 U.S.C. § 214(e) of the Communications Act of 1934, as amended (the “Act”), and the rules[[1]](#footnote-1) of the Washington Utilities and Transportation Commission (“Commission”) for designation as an Eligible Telecommunications Carrier (“ETC”) throughout the non-rural rate centers identified in **Exhibit A** (the “Designated Service Area”). Nexus seeks ETC designation solely for the purpose of receiving federal Lifeline support.[[2]](#footnote-2) Nexus does not seek either high-cost funds or funds from the Washington Telephone Assistance Program (“WTAP”).

This First Amended Petition (“Petition”) supersedes Nexus’ original petition, which was filed on March 21, 2011. Since that time, the Federal Communications Commission (“FCC”) has altered and clarified the requirements for ETC designation. The Petition describes how Nexus meets the current requirements for ETC designation in light of recent orders by the FCC, including the November 18, 2011 *Connect America Fund Order*[[3]](#footnote-3)*,* the February 6, 2012 *Lifeline Reform Order*,[[4]](#footnote-4) as well as the FCC Wireline Competition Bureau’s clarifications in the February 29, 2012 *Public Notice*.[[5]](#footnote-5)

Granting this Petition would serve the public interest and advance the goals of universal service by enabling Nexus to provide vital wireless telecommunications service to low-income subscribers in Washington. In support of this Petition, Nexus states as follows:

1. INTRODUCTION TO NEXUS COMMUNICATIONS, INc.

Nexus Communications, Inc. is a wireless telecommunications carrier serving the specific communications needs of low-income consumers. Nexus is a privately held company that is organized under Ohio law and headquartered in Columbus, Ohio. It has no holding company and no affiliates that provide telecommunications services.[[6]](#footnote-6) Nexus provides Commercial Mobile Radio Services (“CMRS”) to qualifying low-income consumers in 26 states,[[7]](#footnote-7) operating its wireless business under the name “ReachOut Wireless.”[[8]](#footnote-8) Nexus is authorized to do business in Washington,[[9]](#footnote-9) and now proposes to serve the wireless needs of low-income subscribers in Washington.

Nexus’ address and telephone number are set forth below:

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1. NEXUs MEETS THE STATUTORY AND REGULATORY REQUIREMENTS FOR ETC DESIGNATION

Nexus commits to meeting all applicable requirements for ETC designation as established under federal law and rules of the FCC, including 47 U.S.C. § 214(e) and 47 C.F.R. § 54.201, and commits to meet the Commission’s rules set forth in WAC 480-123-030, excepting WAC 480-123-030(1)(d), (f) and (g), which Nexus requests be waived for good cause as explained below, and WAC 480-123-030(1)(b), which Nexus asks be waived in part.

In particular, Nexus:

* is a common carrier (*see* 47 U.S.C. § 214(e)(1); 47 C.F.R. § 54.201(d));
* will offer the services supported by federal universal service support mechanisms as defined in 47 C.F.R. § 54.101(a) (*see also* 47 U.S.C. § 214(e)(1)(A); 47 C.F.R. § 54.201(d)(1));
* will make available Lifeline service to qualifying low-income consumers (47 C.F.R. § 54.405);
* seeks designation in the non-rural exchanges described in **Exhibit A** (WAC 480-123-030(a));
* will provide the supported services throughout the designated service area (47 U.S.C. § 214(e)(1); 47 C.F.R. § 54.201(d); WAC 480-123-030(b));
* has filed a compliance plan for forbearance from the “own facilities” requirement of 47 U.S.C. § 214(e)(1)(A) (included as **Exhibit C**), and in light of an FCC order approving that compliance plan (included as **Exhibit D**) and thus granting forbearance from the federal “own facilities” requirement, asks the Commission to waive the “own facilities” limitation in WAC 480-123-030(1)(b);
* will provide each supported service as described herein (WAC 480-123-030(c));
* asks the Commission to waive WAC 480-123-030(1)(d), which requires a substantive investment plan, because like other carriers for whom the Commission has waived the investment plan requirement, Nexus seeks only Lifeline support for provide discounted service to low-income subscribers, not high-cost support for network infrastructure investment;
* will advertise the availability of its universal service offerings and charges for such offerings using media of general distribution (47 U.S.C. § 214(e)(1)(B); 47 C.F.R. § 54.201(d)(2)) and in a manner reasonably calculated to reach qualified low-income consumers not receiving discounts, such as the sample advertising materials included as **Exhibit B** (WAC 480-123-030(e));
* asks the Commission to waive WAC 480-123-030(1)(f), which requires wireless ETC petitioners to provide a digital map of existing and planned cell sites and signals, as the Commission has done for other carriers like Nexus that resell wireless service rather than by constructing and operating cell sites, and which therefore lack access to the data needed for such a map;
* asks the Commission to waive WAC 480-123-030(1)(g), concerning ability to remain functional in emergencies, as the Commission has recently done for other Lifeline-only ETCs, on the basis that Nexus’ services will be provided over the reliable network of Verizon Wireless, and that compliance with FCC forbearance conditions concerning public safety are addressed in Nexus’ approved compliance plan;
* will abide by all applicable provisions of the CTIA’s Consumer Code for Wireless Service, as described herein (WAC 480-123-030(1)(h)); and
* includes herein, as **Exhibit E**, the supporting Declaration of Steven Fenker certifying the information in this Petition (WAC 480-123-030(2)).
1. Nexus Is a Common Carrier

Nexus will provide CMRS throughout its requested Designated Service Area, and as a CMRS provider, Nexus is regulated as a common carrier (47 C.F.R. § 20.9), subject to all applicable regulations, and therefore meets the ETC requirement of being a common carrier.

1. Nexus Offers the Services Supported by Federal Universal Service Support Mechanisms

Upon ETC designation, Nexus will provide the services supported by federal Lifeline universal service support mechanism, as defined in 47 C.F.R. § 54.101(a), which as revised by the FCC’s recent *Connect America Fund Order* reads as follows:

Services designated for support. Voice telephony services shall be supported by federal universal support mechanisms. Eligible voice telephony service must provide voice grade access to the public switched network or its functional equivalent; minutes of use for local service provided at no additional charge to end users; access to emergency services provided by local government or other public safety organizations, such as 911 and enhanced 911, to the extent the local government in an eligible telecommunications carrier’s service area has implemented 911 or enhanced 911 systems; and toll limitation for qualifying low-income consumers (as described in subpart E of this part).[[10]](#footnote-10)

Nexus complies with the revised version of 47 C.F.R. § 54.101(a) and provides the services designated for support, as set forth below:

* Voice Grade Access to the Public Switched Network: Voice grade access permits a telecommunications user to transmit and receive voice communications with a minimum bandwidth of 300 to 3,000 Hertz. Nexus will meet this requirement through its provision of mobile voice communications service and interconnection to the public switched telephone network.
* Minutes of Use for Local Service at No Additional Charge. Local usage is an amount of minutes of use provided free of charge. Nexus will meet this requirement by providing a nationwide local calling area, permitting subscribers to call throughout the United States without toll charges.
* Access to Emergency Services. Access to emergency services includes both access to 911 and E911 services, to the extent the local government has implemented such services. Nexus currently: (1) provides its Lifeline subscribers with 911/E911 access at the time Lifeline service is initiated, regardless of activation status and availability of minutes, and (2) provides its Lifeline subscribers with E911-compliant handsets, and replaces, at no additional charge to the subscriber, noncompliant handsets of Lifeline-eligible subscribers who obtain Lifeline-supported services.
* Toll Limitation Service for Qualifying Low-Income Consumers. Toll limitation means both toll blocking and toll control, or, if a carrier is not capable of providing both toll blocking and toll control, then toll limitation is defined as either toll blocking or toll control.[[11]](#footnote-11) Nexus will meet the requirement to provide toll limitation to Lifeline subscribers by offering service on a prepaid basis, as well as toll blocking for international calls. As the FCC found in its grant of ETC designation to Virgin Mobile, “the prepaid nature of [a prepaid wireless carrier’s] service offering works as an effective toll control.”[[12]](#footnote-12) Moreover, Nexus will provide traditional toll blocking for international calls to qualifying low-income consumers at no additional charge. Nexus also provides its users with the ability to monitor their minute usage and balance as an additional means of controlling their communications budget.
1. Nexus Will Provide the Supported Services Throughout Its Designated Service Area

Nexus commits to provide the supported services throughout its Designated Service Area, consistent with all applicable requirements. If a potential subscriber requests service within Nexus’ Designated Service Area, but outside its anticipated network coverage, Nexus will, in cooperation with its carrier vendor, and to the extent necessary, follow the process specified in 47 C.F.R. § 54.202(a)(1)(i).

1. Nexus Will Advertise the Availability of Its Universal Service Offerings and Charges for Such Offerings Using Media of General Distribution

Nexus commits to advertise the availability of, and charges for, the supported services using media of general distribution. This advertising will occur through some combination of media channels, such as television and radio, newspaper, magazine and other print advertisements, outdoor advertising, direct marketing, and the Internet. In addition, Nexus will use appropriate media outlets to advertise its universal service offerings in a manner consistent with applicable requirements. Nexus provides a sample Lifeline advertisement as **Exhibit B.**

1. Nexus Will Make Available Lifeline Service to Qualifying Low-Income Consumers

Upon designation as an ETC, Nexus will make available to qualified low-income consumers a discounted service offering that meets all applicable Lifeline requirements. Consumers increasingly rely on their mobile phones for their communications needs and qualifying low-income consumers are no exception. Low-income consumers would be the primary beneficiaries of Nexus’ Lifeline service offering. Nexus intends to offer the following prepaid wireless service plans to Lifeline subscribers in Washington:

* 250 Minute Plan (non-rollover): Minutes are “anytime” minutes and can be used for domestic calls, including local or intrastate/interstate long distance calls. Unused minutes or domestic Short Message Service (“SMS”) text messages do not carry over to the following month. SMS text messaging is available at a rate of one text per minute of airtime.
* 125 Minute Plan (rollover): Minutes are “anytime” minutes and can be used for domestic calls, including local or intrastate/interstate long distance calls. Unused minutes or domestic SMS text messages carry over to the following month. SMS text messaging is available at a rate of one text per minute of airtime.
* 68 Minute Plan (rollover): Minutes are “anytime” minutes and can be used for domestic calls, including local or intrastate/interstate long distance calls. Unused minutes or domestic SMS text messages carry over to the following month. Domestic SMS text messaging is available at a rate of two text messages per each minute of airtime. Note that Nexus does not actively market the 68 Minute Plan and, it is selected only by a few subscribers who infrequently use voice service and more frequently send text messages.

All plans include at no extra charge: free E911-compliant handset; and “anytime” nationwide minutes that can be used for domestic calls, including local or intrastate/interstate long distance calls.

Lifeline subscribers may purchase additional minutes on a prepaid basis in denominations of $3.00 (20 minutes), $5.00 (40 minutes), $10.00 (120 minutes), $20.00 (300 minutes), $30.00 (500 minutes), and $50.00 (950 minutes). Nexus also offers an unlimited talk and text additional airtime card. This card provides unlimited local and domestic long distance calling, and unlimited text messaging for thirty (30) calendar days. The cost to Lifeline subscribers is $26.50.

International SMS text messaging is available at a rate of $0.20 for each international text sent or received. The rate for directory assistance calls is $1.50 per request. Nexus permits Lifeline subscribers to block international calls at no additional charge. There is no deduction of minutes for calls to 911 or Nexus’ subscriber service department.

Calls from the handset checking or retrieving voicemails count against the voice minutes provided by the plan. Calls from a source other than the handset checking or retrieving voicemail messages and incoming calls that leave a voicemail message are free to the Nexus end user. Calls to 911 emergency services are always free, and may be made regardless of service activation or availability of minutes.

1. Satisfaction of Applicable Consumer Protection and Service Quality Standards

Nexus will comply with all applicable state and federal consumer protection and service quality standards. If designated as an ETC, Nexus will continue to provide service on a timely basis to requesting subscribers within the Designated Service Area. Further, Nexus will abide by the CTIA’s Consumer Code for Wireless Service (“CTIA Code”). Nexus has already adopted the CTIA Code and is committed to compliance with the CTIA Code throughout its service areas, including in those areas where it is seeking designation as an ETC.

1. Forbearance from the Facilities Requirement of Section 214(e)(1)(A)

In its recent *Lifeline Reform Order*, the FCC granted conditional forbearance for Lifeline ETCs, provided that these ETCs receive FCC approval of a compliance plan.[[13]](#footnote-13) On December 26, 2012, the FCC approved Nexus’ compliance plan, thereby granting Nexus forbearance from the “own facilities” requirement of 47 U.S.C. § 214(e)(1)(A).[[14]](#footnote-14)

1. Nexus Is Financially and Technically Capable of Providing Lifeline Service.

Pursuant to the requirements of the *2012 Lifeline Order*, Nexus offers this description of its financial and technical capability to provide Lifeline service.[[15]](#footnote-15) Nexus has been in business since 2000. Nexus became a competitive local exchange carrier in 2001 and received its first ETC designation in June 2006. Nexus now focuses on providing service to low-income consumers. Nexus initially began providing its services over wireline technology, and has responded to strong consumer demand by offering wireless technology as well. Nexus was one of the first telecommunications providers to recognize the low-income market segment as a business opportunity rather than a regulatory burden. Its success in the market is based on its willingness to tailor its services to the specific needs of low-income consumers, including the budget management tools and mobility that prepaid wireless services provide.

Nexus has been designated as an ETC in 26 states.[[16]](#footnote-16) It provides wireline service as an ETC in 13 states,[[17]](#footnote-17) and wireless service in 18 states.[[18]](#footnote-18) Nexus does not seek, and will not accept, High Cost support in any of those states. Nexus is successfully providing Lifeline-supported services in these states and has a steadily increasing subscriber base. Nexus’ management has many years of experience in the telecommunications industry. Nexus’ President Steven Fenker has held management positions in the telecommunications industry for 28 years. Also part of the Nexus senior management team is Mark Deek, who has 15 years of experience in the telecommunications industry, with particular expertise in intercarrier relations, and subscriber care and billing database management.

In order to provide Lifeline services, Nexus purchases wireless minutes from a national carrier, Verizon Wireless, which is widely-recognized for the quality and reliability of its wireless network. Nexus supplements this robust wireless network with its own network facilities, back-office and operations support systems, which Nexus operates and which are ideally suited to serve lower revenue subscribers. Nexus has made a significant financial investment to evaluate, design, develop and integrate these systems. With respect to this network investment, Nexus owns and operates its own switching and other facilities located in Ohio, which are housed in a Tier IV co-location facility.

Nexus has good relationships with the commissions in the states in which it operates. Moreover, Nexus is financially stable and fully capable of honoring its service obligations to subscribers and federal and state regulatory obligations. Although Nexus currently derives the majority of its revenue from the sale of prepaid wireless services, Nexus does not rely exclusively on disbursements from the Lifeline program to operate. For example, Nexus derives additional revenue from the sale of wireline and wireless services to non-Lifeline subscribers, and the sale of optional replenishment airtime and text minutes.

1. Nexus Meets Applicable Requirements Established by the Commission for ETC Designation

Nexus meets the requirements of the Commission’s rules, set forth in WAC 480-123-030, that properly apply to wireless carriers seeking only low-income Lifeline support, such as Nexus. Pursuant to WAC 480-123-030(a), Nexus has described the Designated Service Area as the non-rural rate centers listed in Exhibit A, which consists primarily of rate centers of the state’s largest incumbent local exchange carriers (“ILECs”) (*i.e.*, Qwest Corporation d/b/a CenturyLink; Frontier Communications Northwest, Inc.; CenturyTel of Washington Inc. d/b/a CenturyLink and United Telephone Northwest d/b/a CenturyLink), but also includes non-rural rate centers of certain smaller ILECs.

With respect to WAC 480-123-030(b), the FCC has approved Nexus’ compliance plan, thereby granting Nexus forbearance from the “own facilities” requirement of 47 U.S.C. § 214(e)(1)(A). Accordingly, consistent with the FCC forbearance from the federal “own facilities” requirement, Nexus asks the Commission to waive the Commission’s “own facilities” requirement.

Nexus has satisfied WAC 480-123-030(c) by describing, in Section B, *supra*, how it will provide each supported service as defined in recently revised 47 C.F.R. § 54.101(a).

WAC 480-123-030(d) states that ETC petitions must include a “substantive plan of the investments to be made with initial federal support during the first two years in which support is received,” and “a substantive description of how those expenditures will benefit customers.” WAC 480-123-030(d). The clear purpose of this requirement is to track investment of high-cost support in network infrastructure. *See* WAC 480-123-020 (providing examples of pertinent information, including how service quality, signal coverage, or network capacity will be maintained or improved; and how many customers are or will be benefited). That purpose would not be served by applying this requirement to Nexus, which seeks only Lifeline support that can be used only to provide discounted service to low-income subscribers, and cannot be utilized for network infrastructure. Accordingly, Nexus requests a waiver from WAC 480-123-030(d), as the Commission has recently granted to other low-income only ETCs.[[19]](#footnote-19)

In compliance with the Commission’s rule WAC 480-123-030, and as discussed in Section D, *supra*, Nexus is committed to advertising the availability of services supported by federal universal service mechanisms, specifically including Nexus’ Lifeline offerings. Nexus’ advertisements will be reasonably calculated to reach qualified low-income consumers not receiving discounts. Both the content of Nexus’ advertisements and the modes of advertising selected will be designed to reach qualifying subscribers that would benefit from Lifeline service. A sample advertisement for Nexus’ Lifeline offerings is provided as **Exhibit B.**

Nexus seeks a waiver of requirement in WAC 480-123-030(f) to provide “a map in .shp format of proposed service areas (exchanges) with existing and planned locations of cell sites and shading to indicate where the carrier provides and plans to provide commercial mobile radio service signals.” This requirement appears to be aimed at recipients of high-cost support planning expansion of facilities. However, as explained above, although Nexus operates certain facilities of its own, Nexus will act as a Mobile Virtual Network Operator (“MVNO”) in Washington State, providing wireless service by reselling the services of Verizon Wireless. Nexus will not be operating or constructing its own cell sites, for which it lacks licensed spectrum. Nexus does not control Verizon’s infrastructure development, and lacks unfettered access to Verizon’s cell site locations – including information on planned locations that is highly confidential and proprietary to Verizon. In light of Nexus’ role as a reseller, and its lack of access to the plans of its underlying carrier, Nexus requests a waiver of WAC 480-123-030(f). The Commission recently waived this requirement for other carriers providing service through resale.[[20]](#footnote-20) Nexus’ underlying carrier is expected to provide sufficient coverage throughout the Designated Service Area, as indicated on its publicly available coverage maps.[[21]](#footnote-21)

Although the Commission’s rules require that wireless ETC petitioners demonstrate “at least four hours of back up battery power at each cell cite, back up generators at each microwave hub, and at least five hours back up battery power and back up generators at each switch” (WAC 480-123-030(g)), that requirement appears to be directed towards facilities-based carriers. Because Nexus has no cell sites, switches, or microwave hubs in Washington State, and will provide services by reselling services of a large national carrier, this requirement is inapt for Nexus. Nexus believes that the networks of those carriers are designed, maintained and operated in a manner that ensures the ability to function in emergency conditions, and that those carriers designated as ETC have either met WAC 480-123-030(g) or received a waiver from the Commission. Accordingly, Nexus requests a waiver from WAC 480-123-030(g), in light of the recent approval of Nexus’ compliance plan, similar to the waiver recently granted to other carriers providing service through resale.[[22]](#footnote-22)

The Commission requires wireless ETC petitioners to commit to comply with the CTIA Code. WAC 480-123-030(h). Nexus already abides by the CTIA Consumer Code for Wireless Service, and commits to continuing to do so.

Finally, except as explained below, Nexus will fully comply with the annual certification requirements adopted by the Commission.[[23]](#footnote-23) However, Nexus does request a waiver of WAC 480-123-070(6), concerning annual certification of the ability to remain functioning in an emergency, for the same reasons that Nexus has requested a waiver of the analogous initial certification requirement, WAC 480-123-030(1)(g). Nexus additionally requests a waiver of the annual outage reporting requirements of WAC 480-123-070(2), because as a reseller of wireless service, Nexus does not have free access to the outage data of its underlying carrier, Verizon Wireless.

1. Designation of Nexus As An ETC Is In The Public Interest

Pursuant to WAC 480-123-040, the Commission “will approve a petition for designation as an ETC if the petition meets the requirements of WAC 480-123-030, the designation will advance some or all of the purposes of universal service found in 47 U.S.C. § 254, and the designation is in the public interest.” Nexus meets all of the requirements for designation as an ETC by providing the supported services, committing to serve all consumers throughout its Designated Service Area, offering a Lifeline service consistent with all applicable requirements, advertising the availability of its universal service offerings, and furthering the goals of the universal service program.[[24]](#footnote-24) Moreover, designation of Nexus as an ETC is in the public interest because eligible consumers will benefit from competitive pricing and new services, such as Nexus’ Lifeline plan. As Nexus extends its service offerings to Washington, consumers will benefit from a high level of service quality and more service options.

Access to wireless services is no longer a luxury, but a necessity for many economically disadvantaged Americans. Low-income consumers are mobile and transient, often balancing multiple jobs and moving far more frequently than consumers with higher incomes, making wireless telecommunications the only technology that truly suits their needs in most cases. Because low-income consumers spend less time during the day at a fixed location, and even less time at a fixed location with a phone available for their use, access to wireless telecommunications is of crucial importance to low-income consumers.

Nexus fulfills a critical role in the marketplace by ensuring that these low-income consumers, who cannot afford the services provided by other wireless providers, can still access these important services. Nexus’ designation as an ETC will result in low-income consumers having greater access to wireless telecommunications services in Washington, thereby advancing the basic goal of preserving and advancing universal service.[[25]](#footnote-25) Indeed, Nexus will pass through to its Lifeline eligible subscribers the entirety of the federal Lifeline discount. Designating Nexus as an ETC will improve its ability to serve these subscribers, and thus will serve the public interest.

1. Certification For Use Of Universal Service Funds

Nexus certifies that it will use federal low-income universal service support only for the provision, maintenance, and upgrading of facilities and services for which the support is intended, in accordance with 47 U.S.C. § 254(e).

1. Conclusion

For the reasons stated herein, Nexus respectfully requests designation as an ETC for the Designated Service Area for the purpose of receiving federal Lifeline universal service support, and requests waiver of WAC 480-123-030(1)(d), (f) and (g), partial waiver of WAC 480-123-030(1)(b), and waiver of recertification requirements WAC 480-123-070(2) and (6).

Dated this 31st day of December, 2012.

Respectfully submitted,

Nexus Communications, Inc.

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

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**LIST OF EXHIBITS**

EXHIBIT A – DESIGNATED SERVICE AREA

EXHIBIT B – SAMPLE LIFELINE ADVERTISING

EXHIBIT C – NEXUS’ FCC-APPROVED COMPLIANCE PLAN

EXHIBIT D – FCC ORDER APPROVING NEXUS’ COMPLIANCE PLAN

EXHIBIT E – DECLARATION OF STEVEN FENKER

**EXHIBIT A**

DESIGNATED SERVICE AREA

|  |  |  |  |  |
| --- | --- | --- | --- | --- |
| RATE CENTER | OCN | TYPE | RURAL STATUS | COMPANY |
| AMES LAKE | 2408 | ILEC | Nonrural | CenturyTel of Washington Inc. dba CenturyLink |
| ARLETTA | 2408 | ILEC | Nonrural | CenturyTel of Washington Inc. dba CenturyLink |
| CHENEY | 2408 | ILEC | Nonrural | CenturyTel of Washington Inc. dba CenturyLink |
| CONNELL | 2408 | ILEC | Nonrural | CenturyTel of Washington Inc. dba CenturyLink |
| ELMA | 2408 | ILEC | Nonrural | CenturyTel of Washington Inc. dba CenturyLink |
| FALL CITY | 2408 | ILEC | Nonrural | CenturyTel of Washington Inc. dba CenturyLink |
| FORKS | 2408 | ILEC | Nonrural | CenturyTel of Washington Inc. dba CenturyLink |
| FOX ISLAND | 2408 | ILEC | Nonrural | CenturyTel of Washington Inc. dba CenturyLink |
| GIG HARBOR | 2408 | ILEC | Nonrural | CenturyTel of Washington Inc. dba CenturyLink |
| KINGSTON | 2408 | ILEC | Nonrural | CenturyTel of Washington Inc. dba CenturyLink |
| LAKEBAY | 2408 | ILEC | Nonrural | CenturyTel of Washington Inc. dba CenturyLink |
| LONG BEACH | 2408 | ILEC | Nonrural | CenturyTel of Washington Inc. dba CenturyLink |
| MEDICAL LK | 2408 | ILEC | Nonrural | CenturyTel of Washington Inc. dba CenturyLink |
| MONTESANO | 2408 | ILEC | Nonrural | CenturyTel of Washington Inc. dba CenturyLink |
| NORTH BEND | 2408 | ILEC | Nonrural | CenturyTel of Washington Inc. dba CenturyLink |
| ORTING | 2408 | ILEC | Nonrural | CenturyTel of Washington Inc. dba CenturyLink |
| SOUTH PRAIRIE | 2408 | ILEC | Nonrural | CenturyTel of Washington Inc. dba CenturyLink |
| SOUTH BEND | 2408 | ILEC | Nonrural | CenturyTel of Washington Inc. dba CenturyLink |
| VASHON | 2408 | ILEC | Nonrural | CenturyTel of Washington Inc. dba CenturyLink |
| ELLENSBURG | 2412 | ILEC | Nonrural | Ellensburg Telephone Company |
| SELAH | 2412 | ILEC | Nonrural | Ellensburg Telephone Company |
| BENTONCITY | 4324 | ILEC | Nonrural | Frontier Communications Northwest Inc. - WA |
| BOTHELL | 4324 | ILEC | Nonrural | Frontier Communications Northwest Inc. - WA |
| CAMAS | 4324 | ILEC | Nonrural | Frontier Communications Northwest Inc. - WA |
| EVERETT | 4324 | ILEC | Nonrural | Frontier Communications Northwest Inc. - WA |
| HALL LAKE | 4324 | ILEC | Nonrural | Frontier Communications Northwest Inc. - WA |
| KENNEWICK | 4324 | ILEC | Nonrural | Frontier Communications Northwest Inc. - WA |
| KIRKLAND | 4324 | ILEC | Nonrural | Frontier Communications Northwest Inc. - WA |
| MARYSVILLE | 4324 | ILEC | Nonrural | Frontier Communications Northwest Inc. - WA |
| OAK HARBOR | 4324 | ILEC | Nonrural | Frontier Communications Northwest Inc. - WA |
| PULLMAN | 4324 | ILEC | Nonrural | Frontier Communications Northwest Inc. - WA |
| QUINCY | 4324 | ILEC | Nonrural | Frontier Communications Northwest Inc. - WA |
| RICHLAND | 4324 | ILEC | Nonrural | Frontier Communications Northwest Inc. - WA |
| RICHMNDBCH | 4324 | ILEC | Nonrural | Frontier Communications Northwest Inc. - WA |
| SILVER LAKE | 4324 | ILEC | Nonrural | Frontier Communications Northwest Inc. - WA |
| SNOHOMISH | 4324 | ILEC | Nonrural | Frontier Communications Northwest Inc. - WA |
| SNOHOMISH | 4324 | ILEC | Nonrural | Frontier Communications Northwest Inc. - WA |
| WENATCHEE | 4324 | ILEC | Nonrural | Frontier Communications Northwest Inc. - WA |
| WOODLAND | 4324 | ILEC | Nonrural | Frontier Communications Northwest Inc. - WA |
| MT VERNON | 4423 | ILEC | Nonrural | Frontier Communications Northwest Inc. - WA |
| ABERDEEN | 9638 | RBOC | Nonrural | Qwest Corporation |
| AUBURN | 9638 | RBOC | Nonrural | Qwest Corporation |
| BAINBDG IS | 9638 | RBOC | Nonrural | Qwest Corporation |
| BATTLEGRND | 9638 | RBOC | Nonrural | Qwest Corporation |
| BELLEVUE | 9638 | RBOC | Nonrural | Qwest Corporation |
| BLACKDIMND | 9638 | RBOC | Nonrural | Qwest Corporation |
| BREMERTON | 9638 | RBOC | Nonrural | Qwest Corporation |
| BUCKLEY | 9638 | RBOC | Nonrural | Qwest Corporation |
| CENTRALIA | 9638 | RBOC | Nonrural | Qwest Corporation |
| CHEHALIS | 9638 | RBOC | Nonrural | Qwest Corporation |
| CLARKSTON | 9638 | RBOC | Nonrural | Qwest Corporation |
| CLE ELUM | 9638 | RBOC | Nonrural | Qwest Corporation |
| COLFAX | 9638 | RBOC | Nonrural | Qwest Corporation |
| COLVILLE | 9638 | RBOC | Nonrural | Qwest Corporation |
| COPALIS | 9638 | RBOC | Nonrural | Qwest Corporation |
| DAYTON | 9638 | RBOC | Nonrural | Qwest Corporation |
| DEER PARK | 9638 | RBOC | Nonrural | Qwest Corporation |
| DES MOINES | 9638 | RBOC | Nonrural | Qwest Corporation |
| ENUMCLAW | 9638 | RBOC | Nonrural | Qwest Corporation |
| EPHRATA | 9638 | RBOC | Nonrural | Qwest Corporation |
| GRAHAM | 9638 | RBOC | Nonrural | Qwest Corporation |
| ISSAQUAH | 9638 | RBOC | Nonrural | Qwest Corporation |
| KENT | 9638 | RBOC | Nonrural | Qwest Corporation |
| LIBERTY LK | 9638 | RBOC | Nonrural | Qwest Corporation |
| LONGVIEW | 9638 | RBOC | Nonrural | Qwest Corporation |
| MAPLE VLY | 9638 | RBOC | Nonrural | Qwest Corporation |
| MOSES LAKE | 9638 | RBOC | Nonrural | Qwest Corporation |
| NEWMAN LAKE | 9638 | RBOC | Nonrural | Qwest Corporation |
| OLYMPIA | 9638 | RBOC | Nonrural | Qwest Corporation |
| OMAK | 9638 | RBOC | Nonrural | Qwest Corporation |
| OTHELLO | 9638 | RBOC | Nonrural | Qwest Corporation |
| PASCO | 9638 | RBOC | Nonrural | Qwest Corporation |
| PORT ORCH | 9638 | RBOC | Nonrural | Qwest Corporation |
| PT ANGELES | 9638 | RBOC | Nonrural | Qwest Corporation |
| PTTOWNSEND | 9638 | RBOC | Nonrural | Qwest Corporation |
| PUYALLUP | 9638 | RBOC | Nonrural | Qwest Corporation |
| RENTON | 9638 | RBOC | Nonrural | Qwest Corporation |
| RIDGEFIELD | 9638 | RBOC | Nonrural | Qwest Corporation |
| ROCHESTER | 9638 | RBOC | Nonrural | Qwest Corporation |
| ROY | 9638 | RBOC | Nonrural | Qwest Corporation |
| SEATTLE | 9638 | RBOC | Nonrural | Qwest Corporation |
| SHELTON | 9638 | RBOC | Nonrural | Qwest Corporation |
| SILVERDALE | 9638 | RBOC | Nonrural | Qwest Corporation |
| SPOKANE | 9638 | RBOC | Nonrural | Qwest Corporation |
| SUMNER | 9638 | RBOC | Nonrural | Qwest Corporation |
| TACOMA | 9638 | RBOC | Nonrural | Qwest Corporation |
| TACOMAWVLY | 9638 | RBOC | Nonrural | Qwest Corporation |
| VANCOUVER | 9638 | RBOC | Nonrural | Qwest Corporation |
| WALLAWALLA | 9638 | RBOC | Nonrural | Qwest Corporation |
| WHATCOMCTY | 9638 | RBOC | Nonrural | Qwest Corporation |
| YAKIMA | 9638 | RBOC | Nonrural | Qwest Corporation |
| DALLESPORT | 4521 | ILEC | Nonrural | United Telephone - Northwest dba CenturyLink - WA |
| GOLDENDALE | 4521 | ILEC | Nonrural | United Telephone - Northwest dba CenturyLink - WA |
| GRANDVIEW | 4521 | ILEC | Nonrural | United Telephone - Northwest dba CenturyLink - WA |
| MABTON | 4521 | ILEC | Nonrural | United Telephone - Northwest dba CenturyLink - WA |
| MATTAWA | 4521 | ILEC | Nonrural | United Telephone - Northwest dba CenturyLink - WA |
| POULSBO | 4521 | ILEC | Nonrural | United Telephone - Northwest dba CenturyLink - WA |
| PROSSER | 4521 | ILEC | Nonrural | United Telephone - Northwest dba CenturyLink - WA |
| SUNNYSIDE | 4521 | ILEC | Nonrural | United Telephone - Northwest dba CenturyLink - WA |
| TOPPENISH | 4521 | ILEC | Nonrural | United Telephone - Northwest dba CenturyLink - WA |
| WAPATO | 4521 | ILEC | Nonrural | United Telephone - Northwest dba CenturyLink - WA |
| WH SALMON | 4521 | ILEC | Nonrural | United Telephone - Northwest dba CenturyLink - WA |
| YELM | 2453 | ILEC | Nonrural | Ycom Networks Inc. |

**EXHIBIT B**

SAMPLE LIFELINE ADVERTISING

**EXHIBIT C**

NEXUS’ FCC-APPROVED COMPLIANCE PLAN

**EXHIBIT D**

FCC ORDER APPROVING NEXUS’ COMPLIANCE PLAN

**EXHIBIT E**

DECLARATION OF STEVEN FENKER

1. *See, e.g*., Washington Administrative Code (‘WAC”) §§ 480-123-020 through 040. [↑](#footnote-ref-1)
2. The FCC’s Lifeline Reform Order limited Link Up to ETCs receiving High Cost support on Tribal Lands, and accordingly Nexus no longer seeks designation for Link Up support. [↑](#footnote-ref-2)
3. *In the Matter of Connect America Fund, et al.*, CC Docket No. 96-45 *et al.*, Report and Order and Further Notice of Proposed Rulemaking, 26 FCC Rcd 17663 (FCC rel. Nov. 18, 2011) (“*Connect America Fund Order”*). [↑](#footnote-ref-3)
4. *In Re Lifeline and Link Up Reform and Modernization, et al.*, WC Docket No. 11-42 *et al.*, Report and Order and Further Notice of Proposed Rulemaking, 27 FCC Rcd 6656 (FCC rel. Feb. 6, 2012) (“*Lifeline Reform Order”*). [↑](#footnote-ref-4)
5. *Wireline Competition Bureau Provides Guidance for the Submission of Compliance Plans Pursuant to the Lifeline Reform Order*, Public Notice, DA 12-314 (WCB rel. Feb. 29, 2012) (“*Public Notice*”). [↑](#footnote-ref-5)
6. Nexus owns 100% of Telecom Services, Inc., but that company does not provide telecommunications services. [↑](#footnote-ref-6)
7. Nexus has been designated an ETC in the following states: Alabama, Arkansas, California, Florida, Georgia, Illinois, Iowa, Kansas, Kentucky, Louisiana, Maine, Maryland, Michigan, Mississippi, Missouri, Nevada, New Jersey, North Carolina, Ohio, Oklahoma, Rhode Island, South Carolina, Tennessee, Texas, West Virginia and Wisconsin. [↑](#footnote-ref-7)
8. Nexus operates its wireline business under the names TSI and TSI Telephone Company. [↑](#footnote-ref-8)
9. Nexus has been registered with the Washington Secretary of State since 2008, UBI No. 602735629. [↑](#footnote-ref-9)
10. 47 C.F.R. § 54.101(a); *see Connect America Fund Order* at 62. [↑](#footnote-ref-10)
11. 47 C.F.R. § 54.400(d). [↑](#footnote-ref-11)
12. *Virgin Mobile USA, L.P. Petition for Forbearance from 47 U.S.C. § 214(e)(1)(A)*, Order, 24 FCC Rcd 3381, 3394 at 34 (FCC rel. Mar. 4, 2009). [↑](#footnote-ref-12)
13. *In Re Lifeline and Link Up Reform and Modernization, et al.*, WC Docket No. 11-42 *et al.*, Report and Order and Further Notice of Proposed Rulemaking, FCC 12-11 (FCC rel. Feb. 6, 2012) (“*2012 Lifeline Order”*) at 368. [↑](#footnote-ref-13)
14. *Lifeline and Link Up Reform and Modernization, Telecommunications Carriers Eligible to Receive Universal Service Support*, *et al.*, Third Amended Compliance Plan of Nexus Communications, Inc., WC Dockets 11-42 and 09-197 (filed December 5, 2012; approved December 26, 2012). [↑](#footnote-ref-14)
15. *Lifeline Reform Order* at 388. [↑](#footnote-ref-15)
16. Nexus has been designated an ETC in the following states: Alabama, Arkansas, California, Florida, Georgia, Illinois, Iowa, Kansas, Kentucky, Louisiana, Maine, Maryland, Michigan, Mississippi, Missouri, Nevada, New Jersey, North Carolina, Ohio, Oklahoma, Rhode Island, South Carolina, Tennessee, Texas, West Virginia and Wisconsin. [↑](#footnote-ref-16)
17. Those states are Alabama, Arkansas, Illinois, Kansas, Louisiana, Michigan, Mississippi, North Carolina, Oklahoma, South Carolina, Tennessee, Texas and Wisconsin. Although Nexus has been designated a wireline ETC in Florida and Kentucky, it currently only provides services on a resold basis in these states. In other words, Nexus resells the wireline services of an ILEC, which passes through a Lifeline discount on the wholesale line it sells to Nexus. Nexus does not file FCC Form 497s for its wireline operations in these states. [↑](#footnote-ref-17)
18. Those states are Arkansas, California, Georgia, Iowa, Illinois, Kansas, Louisiana, Maine, Maryland, Michigan, Mississippi, Missouri, Nevada, New Jersey, Ohio, Rhode Island, West Virginia and Wisconsin. [↑](#footnote-ref-18)
19. *See In the Matter of the Petition of Cricket Communications, Inc., for an Exemption from WAC 480-123-030(1)(d) and Designation as an Eligible Telecommunications Carrier*, Docket UT-111534, Order 01, Order Granting the Petition for Exemption from Provisions of WAC 480-123-030(1)(d) and Designation as an Eligible Telecommunications Carrier (“*Cricket ETC Order*”) (May 10, 2012) (noting that granting a waiver is “consistent with the public interest, the purposes underlying regulation, and applicable statutes”); *In the Matter of the Petition of TracFone Wireless, Inc., for Exemption from WAC 480-123-030(1)(d),(f) and (g); and Designation as an Eligible Telecommunications Carrier for the Purpose of Receiving Lifeline Support from the Federal Universal Service Fund*, Docket UT-093012, Order 03, Final Order Adopting Settlement Agreement; Granting, on Condition, Designation as an Eligible Telecommunications Carrier and Exemption from Provisions of WAC 480-123-030; Granting WITA’s Petition to Withdraw Intervention (June 24, 2010) (“*TracFone ETC Order*”) ¶¶ 58, 81; *In the matter of the Petition of YourTel America, Inc*. *For an Exemption from WAC 480-123-030(1)(d), (f) and (g) and Designation as an Eligible Telecommunications Carrier*, Order No. 1, Docket UT-1423 (April 21, 2011) (“*YourTel Order*”), at ¶ 24; *In the matter of the Petition of Budget Prepay, Inc*. *For an Exemption from WAC 480-123-030(1)(d), (f) and (g); and Designation as an Eligible Telecommunications Carrier*, Order No. 1, Docket UT-111570 (August 7, 2012) (“*Budget Order*”), at ¶ 24. [↑](#footnote-ref-19)
20. *See TracFone ETC Order* ¶¶ 58, 81; *YourTel Order*, at ¶ 24; *Budget Order*, at ¶ 24. [↑](#footnote-ref-20)
21. *See* http://www.verizonwireless.com/b2c/support/coverage-locator. [↑](#footnote-ref-21)
22. *See TracFone ETC Order* ¶¶ 58, 81; *YourTel Order*, at ¶ 24; *Budget Order*, at ¶ 24. [↑](#footnote-ref-22)
23. WAC 480-123-060, 070. [↑](#footnote-ref-23)
24. Because Nexus seeks designation only for the Lifeline program, and because it seeks designation only in non-rural areas, no cream-skimming analysis will apply to this petition. *See* *In the Matter of Virgin Mobile USA, L.P. Petition for Forbearance from 47 U.S.C. § 214(e)(1)(A)*, CC Docket No. 96-45, Order 09-18, ¶ 39 n. 101 (March 5, 2009) (explaining that “we need not perform a creamskimming analysis because Virgin Mobile is seeking eligibility for Lifeline support only”) (hereinafter “Virgin Mobile Order”); *In the Matter of Federal-State Joint Board of Universal Service*, Report and Order, 20 FCC Rcd 6371, CC Docket No. 96-45, Order 05-46, (March 17, 2005) (hereinafter “*ETC Requirements Order*”), at ¶ 52 (finding that cream-skimming is a concern in rural areas but that the analysis is “unnecessary” in non-rural service areas because of the different cost model). [↑](#footnote-ref-24)
25. *See* 47 U.S.C. § 254(b). [↑](#footnote-ref-25)