

UT 110518

**NEXUS COMMUNICATIONS, INC.**



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Via Overnight Delivery

March 17, 2011

David Danner  
Executive Secretary  
Washington Utilities and Transport Commission  
1300 S. Evergreen Park Dr. SW  
Olympia, WA 98504-72

2011 MAR 21 AM 9:11

**RE:** 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 Link Up to Qualified Households

Dear Secretary Danner:

Please find enclosed for filing an original and twelve (12) copies of the 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 Link Up to Qualified Households. An extra copy is included to be date-stamped and returned to me in the enclosed envelope.

Any questions regarding this filing may be directed to my attention at (740) 549- 1092 or via e-mail at [sfenker1@earthlink.net](mailto:sfenker1@earthlink.net).

Respectfully submitted,

A handwritten signature in black ink, appearing to be 'S Fenker', is written over the typed name and title.

Steven Fenker, President  
Nexus Communications, Inc.

Before the

WASHINGTON UTILITIES AND TRANSPORT 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

2011 MAR 21 PM 9:12

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 TO QUALIFIED HOUSEHOLDS

Nexus Communications, Inc. (“Nexus,” the “Company”), by its undersigned counsel, and pursuant to Section 214(e)(2) of the Communications Act of 1934, as amended by the Telecommunications Act of 1996 (the “Communications Act” or “Act”), and the requirements of WAC 480-123-030, hereby submits this Petition for Designation as an Eligible Telecommunications Carrier (“ETC”) in the State of Washington. Nexus seeks ETC designation solely to provide Lifeline and Link-Up service via wireless modality to qualifying Washington consumers and will not seek access to funds from the federal Universal Service Fund (“USF”) for the purpose of providing service to high cost areas. As demonstrated herein, Nexus meets all the statutory and regulatory requirements for designation as an ETC in the State of Washington. Nexus respectfully requests that the Washington Utilities and Transport Commission (“Commission”) grant this Petition expeditiously so that Nexus may begin providing wireless Lifeline and Link-Up service to qualified low-income households at the earliest practicable time.

**I. BACKGROUND**

Nexus is an Ohio Corporation with principle offices located at:

3629 Cleveland Ave.  
Suite C  
Columbus, OH 43223

Correspondence and questions regarding this petition should be directed to:

Steven Fenker  
President  
Nexus Communications, Inc.  
Telephone: (740) 549-1092  
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Nexus is a common carrier as that term is defined in 47 U.S.C. § 153(10). Nexus is also a Federal Communications Commission (“FCC”) licensed Commercial Mobile Radio Service (“CMRS”, “wireless”) provider. As of the date of this application, Nexus has been designated as an ETC in the states of Alabama, Arkansas, Florida, Georgia, Illinois, Kansas, Kentucky, Louisiana, Maryland, Michigan, Mississippi, Missouri, New Jersey, North Carolina, Oklahoma, South Carolina, Tennessee, Texas, West Virginia and Wisconsin and is currently offering, Lifeline and Link Up service in each of these states.

Pursuant to the requirements of 47 C.F.R. §§ 54.201(d)(1) and 54.201(d)(2), Nexus “[o]ffers the services that are supported by federal universal support mechanisms...using its own facilities or a combination of its own facilities and resale of another carrier’s services” and will “advertise the availability” of the nine supported services and the corresponding charges “using media of general distribution” throughout the designated service area. Using a its own facilities or a combination of the Company’s own facilities and the interconnected facilities of another carrier’s services will enable Nexus to offer all of the “services and functionalities... supported by federal universal

support mechanisms” as detailed in Section 54.101(a) of the FCC’s Rules throughout the requested designated service area.<sup>1</sup>

Nexus is a “telecommunications carrier”, as that term is defined by 47 U.S.C. § 153(44) and seeks to provide Lifeline and Link-Up support to qualifying low-income consumers in accordance with 47 C.F.R. § 54.202(a)(1) throughout the wire centers of Qwest Corporation-Washington (“Qwest Washington”), which is a non-rural incumbent Local Exchange Carrier (“ILEC”) in Washington. The Lifeline program offered by Nexus will differ from the Lifeline programs offered by more traditional ETCs in a number of important respects. First, Nexus will offer low-income consumers the convenience and portability of wireless service and the ability to receive a free wireless handset. Nexus believes that many Lifeline-eligible consumers will take advantage of the opportunity to obtain subsidized wireless service and will offer a unique, easy-to-use service with quantities of wireless usage included at no charge to the consumer. Traditional Lifeline programs provide qualified consumers with discounts below the carrier’s standard rates. However, customers still face the possibility of service disconnection if they fail to pay the reduced charges. Second, consumers will also have the ability to purchase additional minutes on an as-needed basis, which the Company will make available at a uniform per minute rate throughout the designated service area. As a result, Nexus will offer service without requiring a credit check, deposit, term agreement or overage charges and as such, no termination fees associated with the same. Third, unlike traditional carriers, airtime includes both local and domestic intralata/interlata long distance calling allowing qualified consumers to obtain wireless service with no domestic long distance charges. In

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<sup>1</sup> See 47 C.F.R. § 54.101(a).

addition to offering hearing-aid compatible handsets<sup>2</sup>, subscribers will also have the ability to use the service to send text messages, a feature that is idea for hearing impaired consumers. All of these factors contribute to a wireless service that is innovative, unique, and affordable. Nexus provides additional details of its wireless Lifeline and Link-Up plans in subsequent sections of this Petition.

Upon designation as an ETC, Nexus will make available Lifeline and Link Up service to qualifying consumers throughout the designated service area pursuant to the requirements of the universal service program and in accordance with 47 C.F.R. §§ 54.202(a)(1)(a)(2).

## **II. THE COMMISSION HAS JURISDICTION TO DESIGNATE NEXUS AS AN ETC**

Pursuant to the provisions of Section 214(e)(2) of the Act, state commissions have primary responsibility for the designation of eligible telecommunications carriers under Section 214(e)(2). Although Section 332(c)(3)(A) of the Act prohibits states from regulating the entry of or the rates charged by commercial mobile radio service providers, this prohibition does not allow states to deny wireless carriers ETC status because of the technology they use and more specifically merely because states do not have regulatory jurisdiction over wireless carriers.<sup>3</sup> However, this Commission has taken the position that is it has the authority to designate wireless companies and has previously exercised the statutory authority granted it in designating several wireless carriers as ETCs<sup>4</sup> and

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<sup>2</sup> Nexus complies with all applicable FCC Hearing Aid Compatibility handset requirements and annually files its hearing aid compatibility report.

<sup>3</sup> See USF Order, at 8858-59, ¶ 145.

<sup>4</sup> See Docket UT-093012, Order 03 (TracFone Wireless).

established requirements that must be met by carriers seeking certification and annual certification of ETCs.<sup>5</sup>

**A. Nexus is a Common Carrier**

Per the requirements of 47 C.F.R. § 54.201, only a common carrier can be designated an eligible telecommunications carrier by a state commission. Section 153(10) of the Act defines a common carrier as “any person engaged as a common carrier for hire, in interstate or foreign communications by wire or radio...” Nexus meets the definition as it offers interstate communications by radio and is a common carrier for hire and as such qualifies as a common carrier.

**B. Common Carriers Not Subject to State Commission Jurisdiction May Petition the FCC for Designation as an ETC**

In addition, the Act allows common carriers that are not subject to a state commission’s jurisdiction to petition the FCC to obtain such designation. However, the Commission has determined that it has jurisdiction over ETC Petitions of wireless providers. Consistent with federal and state rules, the Commission has the statutory authority to designate a common carrier as an ETC that uses “either its own facilities or a combination of its own facilities and resale of another carrier’s services”<sup>6</sup> and advertises “the availability of such services and the related charges using media of general distribution.”<sup>7</sup> As discussed in subsequent sections, Nexus meets the facilities-based requirement of The Act and commits to advertise the availability of its Lifeline and Link Up programs in a manner that is compliant with these requirements. Therefore, the

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<sup>5</sup> WAC 480-123-30 and WAC480-123-60.

<sup>6</sup> See 47 C.F.R. § 54.201(d)(1).

<sup>7</sup> See 47 C.F.R. § 54.201(d)(2).

Commission has the authority to act under Section 214(e)(2) of the Communications Act to grant Nexus request to be designated as an ETC.

### **III. NEXUS MEETS THE REQUIREMENTS FOR DESIGNATION AS AN ELIGIBLE TELECOMMUNICATIONS CARRIER TO SERVE THE DESIGNATED AREAS IN THE STATE OF WASHINGTON**

Section 254(e) of the Telecommunications Commission Act of 1996 (the “Act”) provides for universal service, which is a principle component of the federal telecommunications policy that seeks to ensure access to basic telecommunications services at affordable prices for all Americans. In Washington, the goals of universal service are pursued, at least in part, through Lifeline and Link Up. Section 214(e)(2) provides that a State commission “shall...upon request designate a common carrier that meets the requirements of paragraph 1 [of Section 214(e)] as an eligible telecommunications carrier for a service designated by the State commission” while Section 254 of the Act states “only an eligible telecommunications carrier designated under section 214(e) shall be eligible to receive specific federal universal support.” WAC 480-123-040 states that “[t]he 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.

As demonstrated below, Nexus meets the requirements for ETC designation by the Commission pursuant to Section 214(e)(2) of The Act and WAC 480-123-030. In addition, Nexus complies with the standards established by the FCC for determining

whether applicants for ETC status serve the public interest.<sup>8</sup> Nexus notes that under FCC rules applications for ETC status in “non-rural” areas are deemed to be in the public interest *per se*.<sup>9</sup>

**A. Nexus Offers the Services and Functionalities Supported by the Federal Low- Income Universal Service Program (47 C.F.R. § 54.101)**

Nexus provides each of the services supported by federal universal service support mechanisms, as set forth in 47 C.F.R. § 54.101, and will offer these supported services throughout the requested designated service area and will do so using a combination of its own facilities and the resale of another carrier’s service. In certain instances, these facilities may include (in various ways and in different combinations depending on the specific supported service in use) the same antennae, cell-sites, towers, trunking, mobile switching and interconnection facilities used by the underlying interconnected carrier to serve its own wireless customer’s. Upon designation as an ETC in Washington, Nexus will offer all of the services and functionalities enumerated in Sections 54.101(a)(1) – (9) of the FCC’s Rules, which include the following:

**1. Voice Grade Access (47 C.F.R. § 54.101(a)(1)).**

“Voice grade access” permits a telecommunications user 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 that there is an incoming call. Nexus’s customers will be able to make and receive calls on the public switched network with a minimum bandwidth of 300 to 3000 hertz.

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<sup>8</sup> See Federal-State Joint Board on Universal Service, Report and Order, 20 FCC Rcd 6371, ¶¶ 40-43(2005).

<sup>9</sup> Cellco Partnership d/b/a Bell Atlantic Mobile, 16 FCC Rcd. 39, 45 (2000).



**2. Local Usage (47 C.F.R. § 54.101(a)(2)).**

“Local usage means an amount of minutes of use of exchange service, prescribed by the FCC, provided free of charge to end users.”<sup>10</sup> The FCC has interpreted its rule as requiring carriers to offer customers rate plans with varying amounts of local usage.<sup>11</sup> Nexus does in fact offer customer rate plans that provides varying amounts of local usage. Additionally, all Nexus plans include nationwide local calling areas, the availability of mobile service, and the ability to access a live operator who can perform a wide range of services.

**3. Dual Tone Multi-Frequency Equivalent (47 C.F.R. 54.101(a)(3)).**

Dual tone multi-frequency (“DTMF”) signaling is a method of transmitting call set-up and call detail information. The FCC has recognized that, with respect to wireless carriers, it “is appropriate to support out-of-band signaling mechanisms as an alternative to DTMF signaling.” Nexus currently uses out-of-band digital signaling and in-band multi-frequency signaling that is the functional equivalent to DTMF signaling.<sup>12</sup>

**4. Single-Party Service or its Functional Equivalent (47 C.F.R. § 54.101(a)(4)).**

With respect to wireless carriers, “single-party service” affords a user a dedicated message path for the length of a user’s particular transmission. Nexus meets this requirement with respect to each of its service offerings.

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<sup>10</sup> 47 C.F.R. § 54.101(a)(2).

<sup>11</sup> See, *Western Wireless Corp., Petition for Designation as an Eligible Telecommunications Carrier in the State of Wyoming*, CC Docket No. 96-45, Memorandum Opinion and Order, 16 FCC Rcd 48, 52 ¶ 10 (2000).

<sup>12</sup> See *USF Order*, 12 FCC Rcd 8776, at ¶ 71 (1997).

**5. Access to Emergency Services (47 C.F.R. § 54.101(a)(5)).**

“Access to emergency service” includes access to services, such as 911 and enhanced 911 (“E-911”), provided by local governments or other public safety organizations. All of the phones that Nexus distributes are capable of delivering automatic numbering information (“ANI”) and automatic location information (“ALI”), and otherwise satisfy applicable state and federal E-911 requirements.

**6. Access to Operator Services (47 C.F.R. § 54.101(a)(6)).**

“Access to operator services” means access to automatic or live assistance provided to a customer to arrange for the billing or completion, or both, of a telephone call. Nexus meets this requirement by providing access to operator services.

**7. Access to Interexchange Service (47 C.F.R. § 54.101(a)(7)).**

With respect to wireless carriers, “access to interexchange service” means access to the functional equivalent of the use of the loop, as well as that portion of the switch that is paid for by the end user, necessary to access an interexchange carrier’s network. Nexus meets this requirement by providing access to interexchange service.

**8. Directory Assistance (47 C.F.R. § 54.101(a)(8)).**

“Access to directory assistance” means access to a service that includes, but is not limited to, making available to customers, upon request, information contained in directory listings. Nexus meets this requirement by providing access to directory assistance to customers.

**9. Toll Limitation (47 C.F.R. § 54.101(a)(9)).**

“Toll limitation” includes the offering of either “toll control” or “toll blocking” to qualifying low-income customers, as a means of limiting or blocking the completion of

outgoing calls and the charges associated with these calls. Nexus meets this requirement by providing access to Toll Limitation.

**B. Nexus Will Provide the Supported Services Through a Combination of its Own Facilities and Resale (47 C.F.R. § 54.201(d)(1) AND WAC 480-123-030(1)(B))**

**1. Nexus as a “Blended” Facilities Common Carrier**

As a blended facilities-based carrier that utilizes its own facilities in combination with the facilities and wholesale services of other carriers, Nexus complies with the Federal requirement that an ETC offer service over its own facilities. Nexus’s service complies with FCC Rule 54.201(d) which states that a common carrier “either using its own facilities or a combination of its own facilities and resale of another carrier's services” shall be “eligible to receive universal service support” throughout the service area “for which the designation is received.”<sup>13</sup> As explained by the FCC:

We adopt the Joint Board's analysis and conclusion that a carrier need not offer universal service *wholly* over its own facilities in order to be designated as eligible because the statute allows an eligible carrier to offer the supported services through a combination of its own facilities and resale.<sup>14</sup>

This is fully consistent with the three types of carriers envisioned in the federal Telecommunications Act of 1996, which are (1) pure facilities-based carriers that would need interconnection only; (2) pure resellers that would simply resell the services of another carrier; and (3) "combination" or "mixed-mode" carriers that would be neither purely facilities-based nor purely resale. Under the “mixed-mode” model, the telecom entrant uses both the facilities of the interconnected carrier and its “own facilities,” such

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<sup>13</sup> See 47 C.F.R. §54.201(d)(1).

<sup>14</sup> See *In the Matter of Federal-State Joint Board on Universal Service*, Report and Order, 12 FCC Rcd 8776 at ¶ 169 (1997) (“*USF Order*”).

as a switch or other “network elements” in order to compete.

## **2. Combined Facilities-Based as Distinguished from Pure Resale**

Carriers that provide the supported services exclusively through resale of another carrier’s services fall under the classification of a “pure reseller” making them ineligible for designation as an ETC. As a result, pure resellers are compelled to seek forbearance from the FCC to overcome the facilities requirement of 47 C.F.R. § 54.201 to receive ETC designation. Although the FCC has granted recent request for forbearance, it has done so with specific limitations.

## **3. No Federal Forbearance Required for Combined Facilities-Based Common Carriers**

Nexus, in contrast to “pure resellers” provides the supported services either using its own facilities or a combination of its own facilities and resale and therefore need not seek forbearance from the provisions of 47 C.F.R. § 54.201. The Company directly meets the FCC’s requirements for ETC designation by offering the “services that are supported by federal universal support mechanisms...*either using its own facilities or a combination of its own facilities and resale of another carrier’s service.*”<sup>15</sup> Whenever a carrier relies, at a minimum, on the “combination” or “mixed-mode” standard, a commission must grant ETC designation “irrespective of the technology” deployed by the applicant.<sup>16</sup>

## **4. Combined Facilities-Based Common Carriers May Locate Facilities According to Technical and Economic Feasibility**

Because federal policy promotes the wide availability of affordable services, combined facilities-based common carriers must be able to locate their facilities

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<sup>15</sup> 47 C.F.R. § 54.201(d)(1). (Emphasis added.)

<sup>16</sup> 47 C.F.R. § 54.201(h).

according to technical and economic feasibility. Accordingly, an ETCs' facilities may be placed at any physical location, so long as they are utilized "to provide services designated for support...within the service area."<sup>17</sup> The FCC, in the *USF Order*, explained the rationale behind this principle and expressly rejected a strict interpretation of the term "facilities" that would violate the FCC's express policy of competitive neutrality, stating:

We also decline to adopt a more restrictive definition of the term "facilities," as some commenter's suggest. For example, we reject the suggestion that we define "facilities" as both loop and switching facilities based on our concern that such a restrictive definition would erect substantial entry barriers for potential competitors seeking to enter local markets and, therefore, would unduly restrict the class of carriers that may be designated as eligible telecommunications carriers. Rather, we conclude that the definition of "facilities" that we adopt will serve the goals of universal service and competitive neutrality to the extent that it does not dictate the specific facilities that a carrier must provide or, by implication, the entry strategy a carrier must use and, therefore, will not unduly restrict the class of carriers that may be designated as eligible.<sup>18</sup>

There is at present no state or federal definition or requirement as to the number or the amount of the supported services that an ETC must offer via its "own facilities." The ETC merely must provide at least one supported service through the use its own facilities, which Nexus does. Additionally, Federal law does not require any particular level of facilities. As further explained in the *USF Order*:

[W]e find that the statute does not dictate that a carrier use a specific level of its "own facilities" in providing the services designated for universal service support given that the statute provides only that a carrier may use a "combination of its own facilities and resale" and does not qualify the term "own facilities" with respect to the amount of facilities a carrier must use. For the same reasons, we find that the statute does not require a carrier to use its own facilities to provide each of the designated services but, instead, permits a carrier to use its own facilities to provide at least

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<sup>17</sup> 47 C.F.R. § 54.201(g).

<sup>18</sup> See *USF Order*, 12 FCC Rcd 8776 at ¶ 153 (1997).

one of the supported services.”

FCC Rules therefore define the term “own facilities” as “any physical components of the telecommunications network that are used in the transmission of the services that are designated for support.”<sup>19</sup> Nexus has physical components used in the transmission of supported services, and therefore meets the “own facilities” requirement.

#### **5. Eligible Combined Facilities-based Common Carriers Must Offer *Both* Lifeline and Link-Up**

Combined facilities-based carriers who meet the ETC prerequisites must provide all of the Lifeline services listed under FCC rules.<sup>20</sup> Carrier obligations, however, do not end there. Because qualifying consumers may require assistance with nonrecurring costs, FCC rules also require that ETCs provide Link-Up services in conjunction with their Lifeline obligations.<sup>21</sup> In other words, unless specifically prohibited by the FCC, a combination carrier like Nexus, is required to provide Lifeline *and* Link-Up. Therefore, Nexus is hereby petitioning for designation as an ETC to provide both Lifeline and Link-Up to its eligible customers.

#### **C. Nexus Will Advertise the Availability of and the Charges for Its Universal Service Qualifying Offers in accordance with 47 C.F.R. § 54.201(d)(2) ad WAC 480-123-030(1)(e)**

Nexus will advertise the availability of the supported services detailed above, and the corresponding rates and charges, in a manner designed to inform the general public within the designated service area. This advertising will occur through a combination of media of general distribution, such as television and radio, newspaper, magazine and other print advertisements, outdoor advertising, direct marketing, and the Internet.

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<sup>19</sup> See 47 C.F.R. §§ 54.201(d) and (e).

<sup>20</sup> See 47 C.F.R. §§ 54.101, 54.201(d), and 54.405.

<sup>21</sup> See 47 C.F.R. § 54.411(a).

#### **IV. NEXUS REQUESTS DESIGNATION THROUGHOUT THE SERVICE AREAS OF QWEST CORPORATION-WASHINGTON (“QWEST WASHINGTON”)**

Nexus is not a rural telephone company as that term is defined in Section of 153(37) of the Communications Act. As such, Nexus is required to describe the geographic area(s) within which it request designation as an ETC.<sup>22</sup> In compliance with this requirement, and the requirement of WAC 480-123-030(a), Nexus has included a listing of the wire centers that make up the designated service area as Exhibit A.

Nexus reiterates that it is applying for ETC designation solely for the purpose of providing Lifeline and Link Up discounts to qualified low-income consumers and to seek reimbursement for the same and will not seek or accept high cost support. As such, Nexus’ designation as an ETC will not pose any adverse effect in the growth in the high cost portion of the Universal Service Fund (“USF”), nor will it create or contribute to an erosion of high cost funding provided to or obtained by any rural or non-rural telephone company. As Nexus’ Designated Service Area is the same as that of Qwest Washington, the Commission is authorized to designate Nexus as an ETC in non-rural areas that Nexus will serve without redefining the service areas of non-rural telephone companies.<sup>23</sup>

#### **V. ADDITIONAL REQUIREMENTS FOR COMMISSION DESIGNATION OF ELIGIBLE TELECOMMUNICATIONS CARRIERS**

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<sup>22</sup> Public Notice – Procedures for FCC Designation of Eligible Telecommunications Carriers Pursuant to Section 214(e)(6) of the Communications Act, FCC 97-419, 12 Rcd 22947 (1997).

<sup>23</sup> Nexus will not offer its ETC Service in areas that The Commission has not yet opened to local competition.

In its 2005 ETC Order, the FCC adopted “additional requirements consistent with section 214 of the Act that all ETC applicants must meet to be designated an ETC”<sup>24</sup> by the FCC. Nexus meets all of the additional requirements applicable to the Company’s Application and offers the following in support.

**A. The Requirement to Provide Service Throughout its Proposed Designated Service Area to all Customers making a Reasonable Request for Service (47 C.F.R. §§ 54.202(a)(1)(A) and 54.202(a)(1)(B))**

In order to be designated as an ETC, a common carrier in its application must “[c]ommit to provide service in its designated service area to all customers making a reasonable request for service and to do so “on a timely basis.”<sup>25</sup> As previously stated, Nexus provides service either using its own facilities or through a combination of its own facilities and resale of another carrier’s services. As the networks of both Nexus and its underlying carrier are already operational and largely built-out, Nexus will be able to commence offering service, including Lifeline, to all qualified consumers as soon as it receives approval from the Commission. Nexus will also provide 911 compliant handsets at no charge to qualified low-income customers and will implement procedures and internal systems necessary to offer its service programs including distribution of point-of-sale materials to authorized locations.

In compliance with the requirements of 47 C.F.R. §§ 54.202(a)(1), 54.202(a)(1)(A) and 54.202(a)(1)(B), Nexus certifies that it will 1) provide service throughout its proposed designated service area to all customers making a reasonable request for service; 2) provide service on a timely basis to requesting customers within its

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<sup>24</sup> See Federal-State Joint Board on Universal Service, Report and Order, 20 FCC Rcd 6371, ¶ 20 (2005).

<sup>25</sup> See §§ 54.202(a)(1) and 54.202(a)(1)(A).



service area where the Company's network already passes the potential customer's premises; and 3) provide service within a reasonable period of time.

**B. The Requirement to Submit a Five-Year Plan (47 C.F.R. § 54.202(1)(ii) and WAC 480-123-030(1)(d))**

Federal and State Rules require an Petitioner to “[s]ubmit 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” that demonstrates “how signal quality, coverage or capacity will improve due to the *receipt of high-cost support*.”<sup>26</sup> (Emphasis added) However, this requirement is based on the receipt of high-cost funding and is not applicable to an ETC that seeks designation solely for the receipt of low-income support. As Nexus is seeking designation solely to provide Lifeline and Link-Up support to qualified low-income consumers, and to seek reimbursement for the same, the submission of a five-year plan is not applicable to Nexus.

**C. The Requirement to Demonstrate the Capability to Remain Functional in Emergency Situations (47 C.F.R. § 54.202(a)(2) and WAC 480-123-030))**

47 C.F.R. § 54.202(a)(2) requires an ETC to provide a “[d]emonstration of the carrier’s ability to remain functional in emergency situations”. Nexus certifies that it has the ability to remain functional in emergency situations, which includes access to reasonable amount of back- up power, rerouting of traffic around damaged facilities, and the capability to manage traffic spikes resulting from emergency situations.

**D. The Requirement to Demonstrate That the ETC Will Satisfy Applicable Consumer Protection and Service Quality Standards (47 C.F.R. § 54.202(a)(3))**

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<sup>26</sup> See 47 C.F.R. § 54.202(a)(1)(ii).

Nexus will satisfy all consumer privacy protection standards as provided in 47 C.F.R. § 64 Subpart U as applicable and will protect Customer Proprietary network Information (“CPNI”) as required by state and federal law and will certify compliance of the same on an annual basis.

In addition, Nexus certifies that it will comply with the Cellular Telecommunications and Internet Association’s (“CTIA”) Consumer Code for Wireless Service as required by 47 C.F.R. § 54.202(a)(3). As a part of its Petition, Nexus has included, as Exhibit B, a copy of the CTIA consumer Code and will Nexus will file with the Commission any changes to the same.

**E. The Requirement to Demonstrate that an ETC Will Offer a Local Usage Plan Comparable to That Offered by the Incumbent Local Exchange Carrier (“ILEC”) (47 C.F.R. § 54.202(a)(4))**

Federal Rules require an ETC to “[d]emonstrate that it offers a local usage plan comparable to the one offered by the incumbent LEC in the service areas for which it seeks designation.”<sup>27</sup> However, the FCC has explained that the local usage plan(s) of an ETC applicant should be reviewed on a case-by-case basis<sup>28</sup> in order to ensure that each ETC is providing a local usage component as a part of its universal service offering that meets the requirements of the FCC’s Rules<sup>29</sup>. As the FCC has not adopted any minimum local usage requirements, an ETC is required to offer a local usage plan that is “comparable,” not identical.

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<sup>27</sup> See 47 CFR § 54.202(a)(ii)(4).

<sup>28</sup> See Federal-State Joint Board on Universal Service, Report and Order, 20 FCC Rcd 6371, 6385, ¶ 33 (2005).

<sup>29</sup> See 47 CFR § 54.201(a)(ii)(4).

With respect to wireless service, to date, the FCC has not quantified an amount of local usage that is required to be included by an ETC as a part of its universal service offering.<sup>30</sup> In the First Report and Order, the FCC deferred a determination on the amount of local usage that a carrier would be required to provide.<sup>31</sup> In a subsequent rulemaking docket, the FCC sought comment on a definition of the public service package that must be offered by all ETCs, including how much local usage should be required to be provided to customers as a part of a universal service offering.<sup>32</sup> After considering public comments and recommendations of the Joint Board, the FCC, in July 2003, released an order declining to impose a specific amount of local usage as a condition of ETC status.<sup>33</sup>

Recently, the FCC again sought comment on another set of recommendations by the Joint Board regarding ETC criteria and again declined to specify a minimum quantity of local usage.<sup>34</sup> Instead, the FCC has determined that when a carrier offers a choice of rate plans containing varying amounts of local usage, it meets the local usage requirement.<sup>35</sup> Nexus, consistent with the FCC's pronouncements, will allow qualifying

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<sup>30</sup> See NPCR, Inc. d/b/a Nextel Partners, 19 FCC Rcd 16530, 16536 (2004) (“Nextel Partners”).

<sup>31</sup> See Federal-State Joint Board on Universal Service, Report and Order, 12 FCC Rcd at 8776, 8809-25 (1997).

<sup>32</sup> See Federal-State Joint Board on Universal Service, Memorandum Opinion and Order and Further Notice of Proposed Rulemaking, 13 FCC Rcd 21252, 21279-81 (1998).

<sup>33</sup> See Federal-State Joint Board on Universal Service, Order and Order on Reconsideration, FCC 03-170 at ¶ 14 (rel. July 14, 2003).

<sup>34</sup> See Federal-State Joint Board on Universal Service, Notice of Proposed Rulemaking, 19 FCC Rcd 10800, 10826-27 (2004).

<sup>35</sup> See e.g. Sprint Corp, DA 04-3617 at ¶ 11 (rel. Nov 18, 2004); ALLTEL Communications, Inc., 19 FCC Rcd 20496, 20500-01 (2004); Nextel Partners, supra, 19 FCC Rcd at 16536.

consumers to select from a variety of plans that include varying amounts of local and domestic long distance usage. Nexus will also allow customers to purchase additional minutes of use, if needed, in varying quantities. In doing so, Nexus will fulfill the requirements of 47 CFR §§ 54.101(2) and 54.202(a)(4), which require an ETC to meet the local usage requirement by offering “a choice of rate plans.”

**F. The Requirement to Certify Acknowledgment that the ETC May be Required to Provide Equal Access (47 C.F.R. § 54.202(a)(5))**

Per the requirements of 47 C.F.R. § 54.202(a)(5), Nexus certifies that it will “provide equal access to long distance carriers in the event that no other eligible telecommunications carrier is providing equal access within the designated service area”<sup>36</sup> pursuant to section 214(e).

**VI. DESIGNATION OF NEXUS AS AN ETC IN THE STATE OF WASHINGTON WILL SERVE THE PUBLIC INTEREST**

Under section 214 of the Act, the FCC and state commissions are responsible for determining “that an ETC designation is consistent with the public interest, convenience, and necessity” and whether “designation serves the public interest consistent with section 254 of the Act.” Nexus seeks designation as an ETC in geographic area served by non-rural carrier Qwest Washington. Although Nexus is seeking ETC designation in areas typically served by wireline carriers, designation as an ETC will provide a valuable alternative to the existing telecommunications services currently available in these areas. As required by state and federal rules, Nexus submits that the public interest benefits of designating Nexus as an ETC include, but are not limited to, 1) a larger local calling area (as compared to traditional wireline carriers); 2) the convenience and security afforded by

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<sup>36</sup> See 47 C.F.R. § 54.202(a)(5).

mobile telephone service; 3) the opportunity for customers to control cost by receiving a preset amount of free monthly airtime; 4) the ability to purchase additional usage in the event that included usage has been exhausted; 5) the ability of users to use the supported service to send and receive SMS text messages; and 6) 9-1-1 and, where available, E9-1-1 service in accordance with current FCC requirements. In addition, the inclusion of domestic telephone toll calling as a part of Nexus' wireless offering will allow consumers to avoid the risk of becoming burdened with large and unexpected charges for domestic telephone toll and overage charges.

The FCC has also identified factors that are to be considered in determining whether designation of additional ETCs will serve the public interest, which include whether the benefits of an additional ETC would outweigh potential harms. These factors include: 1) the benefits of increased competitive choice; and 2) the unique advantages of the applicant company's service offerings.<sup>37</sup> Nexus affirms that its ETC designation meets these criteria as described following.

#### **A. The Benefits of Increased Competitive Choice**

The FCC has long acknowledged the benefits to consumers of being able to choose from a variety of telecommunications providers and the resulting variety of telecommunications services they provide.<sup>38</sup> This is of particular interest in cases where wireless providers, such as Nexus, seek to provide service as an alternative to those of the traditional incumbent LEC. In the Highland Cellular case, the FCC recognized and affirmed that some households may not have access to the public switched network as provided by the incumbent local exchange carrier. The availability of a wireless

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<sup>37</sup> See 47 U.S.C. § 54.202(c).

<sup>38</sup> See e.g., Specialized Common Carrier Services, 29 FCC2d 870 (1971).

competitor benefits consumers, residing in the more rural exchanges of wireline provider such as Qwest Washington, who routinely drive long distances to attend work or school or to accomplish everyday tasks such as shopping or attending community and social events.<sup>39</sup> Nexus' wireless service will provide those consumers with a convenient and affordable alternative to traditional telecommunications service that is able to be used while at home or away from home.

Nexus believes that in today's market consumers, including those who qualify for Lifeline and Link-Up, view the portability and convenience of wireless service not as a luxury, but as a necessity. Wireless service allows children to reach their parents wherever they may be, provides persons seeking work the ability to be contacted by potential employers, and the security of contacting emergency service providers, regardless of location. Nexus fully expects many consumers will select the Company's wireless service in lieu of the more traditional wireline service. Nexus also notes that ETC designation of wireless companies is also supported by a number of consumer advocacy groups and is including with this Application, as Exhibit C, letters of support from these groups.

Nexus also believes that designation will also provide the incumbent LECs, serving the same area, an incentive to improve their existing networks and service offerings in order to remain competitive, which will result in improved consumer services and will benefit consumers by allowing Nexus to offer the services designated for support at rates that are "just, reasonable, and affordable."<sup>40</sup>

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<sup>39</sup> See Highland Cellular, Inc. petition for Designation as an Eligible Telecommunications Carrier in the Commonwealth of Virginia, 19 FCC Rcd 6422, ¶ 23 (2004).

<sup>40</sup> See 47 U.S.C. § 254(b)(1).

## **B. Unique Advantages of Nexus' Service Offerings**

As described throughout this Application, Nexus will offer a unique, easy to use, competitive and highly affordable wireless telecommunications service, which it will make available to qualified consumers either who have no other service alternatives or who choose a wireless prepaid solution in lieu of a more traditional wireline or wireless service. Qualified consumers will have the ability to acquire a wireless service that includes a free E911 compliant handset, local and domestic long distance calling, texting, and several other features, all without the requisite credit check, deposit, contract requirements, and monthly recurring service charges associated with more traditional wireline and wireless service providers.<sup>41</sup> Although not required to do so, customers will be able to purchase varieties of airtime cards at authorized retail outlets located throughout the designed service area, in denominations of \$3.00, \$5.00, \$10.00, \$20.00, \$30.00 and \$50.00. Unused replenishment minutes carry over to subsequent months. Airtime cards will be clearly and distinctly labeled with the available minutes for each denomination and will include instructions on how to load the minutes into the handset. Customers will be able to access their usage balances through their handset on a real time basis. In short, Nexus' Lifeline Service Plan offers qualified Lifeline customers a combination of wireless access and quality service at rates that are just, reasonable, and affordable.

Through the Link Up program, Nexus will be able to provide consumers with a reduction in the cost associated with the connection of service.

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<sup>41</sup> Nexus is also fully compliant with the FCC's rules regarding hearing aid compatibility.

Because Nexus' Lifeline and Link Up service is available with no credit check, deposit requirement, minimum service periods, or early termination fees, the service will be an attractive and affordable alternative to all consumers, without regard to age, residency, or credit worthiness.

Nexus will offer qualified consumers the following Lifeline Service Plan.

**1. Nexus Wireless Lifeline Plan**

Lifeline is a component of one of four separate federal universal service fund mechanisms<sup>42</sup> known as the "low-income support mechanism."<sup>43</sup> Lifeline is defined in 47 C.F.R. § 54.401 as "a retail local service offering" "available only to qualified low-income consumers" "for which qualifying low-income consumers pay reduced charges as a result of application of the Lifeline support amount" "that includes the services or functionalities enumerated in § 54.401(a)(1) through (a)(9)", which the Company will use to "[m]ake available Lifeline service...to qualifying low-income consumers."<sup>44</sup> Nexus commits that it will flow one hundred percent of the federal Lifeline support dollars it receives by providing qualified Lifeline customers, who reside in the State of Washington, with a specified amount of free minutes depending on the Lifeline plan selected, which will be based on the amount of federal support available to Washington residents. Currently, Nexus anticipates that it will receive the following amount of federal USF Lifeline support:

Tier 1 - The tariffed rate in effect for the primary residential End User Common Line ("EUCL") charge of the incumbent local exchange carrier serving the area in

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<sup>42</sup> See 47 C.F.R. § 54.8(a)(1); See "Definitions" at second sentence.

<sup>43</sup> See 47 C.F.R. § 54.8(a)(1); See "Definitions" at first sentence.

<sup>44</sup> See 47 C.F.R. §§ 54.401(a), 54.401(a)(1), 54.401(a)(2), 54.401(a)(3), 54.405(a).



which the qualifying low-income consumer receives service. Currently this amount is \$6.50.

Tier 2 - \$1.75

Tier 3 - Additional federal matching credit of \$1.75

In addition to federal support, Nexus, consistent with current requirements, will provide an additional support amount of \$3.50 per month for each qualified customer bringing the total amount of monthly support per eligible resident in the requested designated service area in Washington to \$13.50. Lifeline qualified consumers will be able to choose from the following Lifeline Plans.

PLAN #1. Two hundred fifty (250) minutes of free airtime each month. Free minutes will automatically be added to each subscriber's prepaid account each month. 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 messaging do not carry over to the following month if unused. SMS text messaging will be available at a rate of one text per minute of airtime.

PLAN #2. One hundred twenty five (125) minutes of free airtime each month. Free minutes will automatically be added to each subscriber's prepaid account each month. Minutes are "anytime" minutes and can be used for domestic calls, including local or intrastate/interstate long distance calls. Unused minutes/SMS text messaging will carry over to the following month if unused. Domestic SMS text messaging will be available at a rate of one text messages per each minute of airtime. International SMS text messaging will be available at a rate of \$0.20 for each international text sent or receive.

PLAN #3. Sixty eight (68) minutes of free airtime each month. Free minutes will automatically be added to each subscriber's prepaid account each month. Minutes are "anytime" minutes and can be used for domestic calls, including local or intrastate/interstate long distance calls. Unused minutes/SMS text messaging carries over to the following month if unused. Domestic SMS text messaging will be available at a rate of two text messages per each minute of airtime, International SMS text messaging will be available at a rate of \$0.20 for each international text sent or received.

All plans will include caller ID, call waiting and basic Voice Messaging service. In the event that all included minutes are used, Lifeline customers will be allowed the option, but in no way will be required, to purchase special low volume usage cards in denominations of \$3.00, \$5.00, \$10.00, \$20.00, \$30.00 and \$50.00.

Wireless handsets will be delivered at no charge to qualifying customers, service will be activated, and the requisite number of free minutes will be added upon certification of the customer for Lifeline and Link-Up.

## **2. Nexus Link Up Plan**

Like Lifeline, Link Up is also a component of one of four separate federal universal service fund mechanisms<sup>45</sup> known as the "low-income support mechanism."<sup>46</sup> Link Up is defined in 47 C.F.R. § 54.411 as an "assistance program for qualifying low-income consumers, *which an eligible telecommunications carrier shall offer as part of its obligations set forth in §§ 54.101(a)(9) and 54.101(b).*"<sup>47, 48</sup> (emphasis added)

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<sup>45</sup> See 47 C.F.R. § 54.8(a)(1); See "Definitions" at second sentence.

<sup>46</sup> See 47 C.F.R. § 54.8(a)(1); See "Definitions" at first sentence.

<sup>47</sup> See 47 C.F.R. § 54.411(a). The plain reading of this definition is that an ETC is obligated to provide this discount to qualifying low-income consumers. In addition, § 54.413(a) stipulates that carriers, that provide Link Up discounts, "may receive universal

Assistance is in the form of a “reduction in the carrier’s customary charge for commencing telecommunications service for a single telecommunications connection” and “shall be half of the customary charge or \$30.00, whichever is less”.<sup>49</sup> Nexus “customary charge for commencing telecommunications service” (“Service Activation Fee”, “SAF”) is \$72.00. Consistent with FCC requirements, Nexus will use Link Up support to reduce the company’s “customary charge for commencing service” by an amount equal to the amount of Link Up support.

Qualifying subscribers will have the option of deferring the reduced activation charge over a twelve-month period with no interest allowing subscribers to obtain service without being required to pay any up front fees to activate service with Nexus.

### **C. Impact on the Universal Service Fund**

As previously stated, Nexus’ ETC designation will enable the Company to offer Lifeline and Link-Up benefits to eligible low-income consumers and to seek reimbursement for the same. Nexus is not seeking access to universal service funds designated for high cost support. As such, the designation of Nexus as an ETC will have a minimal impact on the universal service fund. In fact, the FCC has stated that “the potential growth of the fund associated with high-cost support distributed to competitive ETCs” is not relevant to carriers seeking support associated with the low-income

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service support reimbursement for the revenue they forgo in reducing their customary charge for commencing telecommunications service...”

<sup>48</sup> See § 54.101(a)(9) is the specific obligation to offer Telephone toll Limitation for qualifying low-income consumers while § 54.101(b) is the requirement that an “eligible telecommunications carrier must offer each of the” services designated for support “in order to receive federal universal service support”. As a part of its application, Nexus has demonstrated that it has the capability to and will offer all of the supported services specified in § 54(a)(1) – (9).

<sup>49</sup> See 47 C.F.R. § 54.411(a)(1).

program.<sup>50</sup> Addressing the impact of additional ETC designations on the overall size of the fund, the FCC stated “any increase in the size of the fund would be minimal and would be outweighed by the benefit of increasing eligible participation in the Lifeline and Link Up programs, furthering the statutory goal of providing access to low-income consumers”.<sup>51</sup> The FCC further acknowledged the benefits of designating a carrier as an ETC, when the carrier is seeking only to participate in the Universal Service Fund’s low-income program, which is exemplified in the following statement included in the FCC’s May 1, 2008 Order establishing an interim cap on high-cost support:

Moreover, there are advantages in obtaining and maintaining an ETC designation regardless of whether a competitive ETC receives high-cost support. In particular, the ability of competitive ETCs to receive low-income universal service support shows value in obtaining and maintaining ETC designation separate and apart from high-cost support.<sup>52</sup>

Further, by offering Lifeline and Link Up service, a competitive ETC may attract new subscribers that may not otherwise have taken telephone service. This would increase a competitive ETC’s base of subscribers and, consequently, lower its average cost of serving all of its subscribers. Moreover, competitive ETCs may be eligible for separate universal service support at the state level.<sup>53</sup>

It is also vital to accurately point out the differences between low-income funding for the Lifeline and Link Up programs and high cost funding. In the case of Lifeline and Link Up support, an ETC receives USF support only for the customers they obtain and retain. For example, when a competitive ETC obtains a Lifeline customer from another

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<sup>50</sup> See TracFone Forbearance Order, at ¶ 17.

<sup>51</sup> See TracFone Forbearance Order, at ¶ 17.

<sup>52</sup> See High-Cost Universal Service Support, et al., Order, WC Docket No, 05-337, CC Docket No. 96-45, FCC 08-122 (released: May 1, 2008), ¶ 30.

<sup>53</sup> *Id.*

ETC, only the “capturing” ETC receives support reimbursement. In contrast, under the high cost program when ETCs enter a market and capture customers from an existing ETC, both the losing ETC and the capturing ETC receive high cost support, which is based on the original cost incurred by the incumbent LEC, resulting in an increase to the size of the universal service fund.

**D. Designation of Nexus as an ETC Will Benefit the Public Interest of Low Income Consumers Throughout the Designated Service Area in the State of Washington**

In 1984, the year that the Lifeline and Link-Up programs were established, wireless service was still in its infancy and landline service was the most common form of telecommunications service available to consumers. Since that time, new technologies have greatly expanded the range of telecommunications services available to consumers and wireless service has unshackled consumers from traditional landline service. As a result, wireless service should also be allowed to play a major role in bringing programs, such as Lifeline and Link-Up, into the 21<sup>st</sup> Century. Doing so also affirms cornerstone federal and state regulatory principles of competitive and technological neutrality. Low-income consumers should have the same choice of the technology and service available to all other consumers. Participation in vital low-income programs, such as Lifeline and Link-Up, should not serve as a barrier to new technologies. These programs should instead be a channel to greater access to competitive choices, including wireless.

Approval of Nexus’ ETC Application will serve the public interest by increasing participation of qualified consumers in the Lifeline and Link-Up programs in the State of Washington. It will also increase the number of carriers eligible for federal USF support, thereby proportionately increasing the amount of federal USF dollars available to

Washington consumers. Federal figures for 2009 indicate that Washington received only \$140,092,000 of its total state USF contribution of \$155,701,000. This resulted in a negative USF dollar flow of \$15,609,000. Granting ETC status to Nexus will contribute to more Washington residents receiving Lifeline and Link-Up, thereby increasing the amount of federal USF dollars flowing into and thereby benefiting Washington residents. In short, Washington residents will get more of their money back.

Nexus Lifeline and Link Up service also provides important benefits needed by low-income Washington residents in this time of economic downturn. As the commission is aware, the Dow Jones Average, a primary indicator of the health of the economy, has been running at a twelve (12) year low resulting in a depletion of the stocks and savings upon which many Americans depend on for emergencies and retirement. Since the start of the recession in December 2007, the number of unemployed persons nationally has increased 7.6 by million. By February of 2010, more than 15.1 million persons in the United States were unemployed and the national unemployment rate grew to 9.8 percent. Washington's unemployment rate, reported in January 2011 at 9.1 percent, has had a significant impact on many residents of the state. Clearly, the availability of a mobile telephone will be critical to the efforts of the unemployed as they search for other employment opportunities. In fact, author and scholar Nicholas P. Sullivan, in association with a Washington think tank, produced a study that clearly indicated that access to wireless services could lead to a significant increase in income for millions of the poorest American households. Wireless access allows people to be reachable by potential employers and other job resources. According to the study, low-income applicants without access to a wireless phone are at a strategic disadvantage in comparison to higher

income job applicants who are part of the “mobile workforce” because they are more likely to miss calls for work opportunities given that they cannot receive calls.

According to Mr. Sullivan:

Millions of Americans who are most in need are missing out today on the economic gains that other Americans attribute to their cell phones. The overall conclusion in this study is that the cell phone is extremely important to Americans for personal safety and a huge boon to an individual’s potential economic productivity and earning power.

To explore the potential of cell phones as an income tool in the U.S. and the extent to which cell phones function as security in emergencies, Mr. Sullivan reported that he relied upon two major surveys: a statistically large online sampling of 110,000 prepaid cellular users and a scientific survey of 1,005 Americans by the Opinion Research Corporation. The report revealed that among those who *do not* own a cell phone, 37 percent are retired, 29 percent have a high school education or less, 38 percent make less than \$35,000 annually, and 30 percent are unemployed.

Citing the online survey of the 110,000 prepaid cell phone customers, the Sullivan report pointed out that those identified as belonging to a working household attributed an annual income gain of \$2,361 to their cell phone. Based on this data, if non-cell phone households possessed the ability to obtain a phone, the total potential income gain would result in \$11.1 billion in additional annual revenue. In addition, survey participants, who used cell phones to aid them in their attempt to find work reportedly earned \$748.50 more per year than those individuals who did not have a cell phone. While this advantage was a little less for lower income families, survey participants who earned \$35,000 a year or less still reported making an additional \$530 per year simply by having a cell phone to aid them in their search for employment opportunities.

If there is no regular paycheck, wireless telephone service becomes a necessity beyond the means of many of those persons. For example, according to a March 2009 report by the New Millenium Research Council:

- Nearly one in five Americans without a cell phone (19 percent) report that they have “discontinued cell phone service in the last six months because of actual job loss, fear of job loss, the recession, or any other related financial concerns.” This figure includes 29 percent of 18-34 year olds and 28 percent of those living in households earning \$35,000 a year or less.
- More than one out of five Americans with contract-based cell phone service (21 percent) either “have considered cutting back” (4 percent) or already “have cut back” (17 percent) on their contract-based cell phone service due to job or recession-related concerns. This figure includes 41 percent of those in households making \$35,000 a year or less.
- About two out of five Americans with contract-based cell phone service (39 percent) will be “very” (19 percent) or “somewhat” (21 percent) likely to cut back on their cell phones to save money “if the economy gets worse in the next six months.” This group includes 44 percent of those aged 18-34, 54 percent of those in households making \$35,000 a year or less, and 55 percent of African Americans.
- More than one in four Americans with contract-based cell phone service (26 percent) say they now are “more inclined today than ... six months ago to look at a way to save money on your cell phone bill, such as by switching to a prepaid cell phone service.” This group includes 38 percent of those in households making \$35,000 a year or less, 32 percent of African Americans and 30 percent of those age 18-34. By contrast, 83 percent of those in households earning \$100,000 a year or more are not inclined to consider ways to save money on their cell phone bill like switching to prepaid phone service.
- Nearly one in five Americans who now have prepaid cell phone service (17 percent) say they switched in the last six months from a contract-based cell phone service due to job or recession-related concerns. This figure includes 23 percent of 18-34 year olds and 29 percent of African Americans with prepaid phones.
- Two thirds of prepaid cell phone customers say they are saving money “compared to a landline phone or contract-based cell phone.” Fewer than three in 10 (29 percent) said they were not saving money.

Approval of Nexus’ ETC Application will unshackle Lifeline subscribers from obsolete landline technology, bring Lifeline and Link-Up into the 21<sup>st</sup> century and will allow the



Company to provide a low-income only wireless offering that will confirm the principle of competitive and technological neutrality consistent with federal and state requirements. Low-income consumers should not be restricted to only traditional landline technology. Added together, Nexus expects these additional competitive advantages to create an atmosphere that will cause many qualified consumers to select the Company's wireless Lifeline and Link-Up service in lieu of the more traditional wireline or wireless services. In support of its wireless Lifeline service offerings, Nexus has included, as Exhibit C, letters of support from consumer advocacy groups.

Finally, designation of Nexus as a wireless ETC will serve the public interest by furthering the extensive role that Nexus believes it will play in the provision of communications service to low-income consumers, transient users, and other consumers who, due to the restrictive credit criteria, deposit requirements, and long-term commitments of wireline and traditional wireless service providers, are off network and, without a viable alternative, are likely to remain so.

#### **VII. NEXUS' NON-USAGE POLICY WILL ENSURE THAT SUPPORT IS RECEIVED ONLY QUALIFIED CONSUMERS WHO USE THE SERVICE**

Nexus has implemented a non-usage policy to ensure that Lifeline support is being received only by those Lifeline qualified subscribers who use the service and to prevent reimbursement from the federal Universal Service Fund ("USF") for inactive subscribers. Nexus non-usage policy provides that a wireless subscriber that exceeds two (2) months without any Utilization will be de-enrolled from the Company's wireless Lifeline Program. "Utilization" is defined as any transaction including, but not limited to, making or receiving a call, making an attempted call, checking voicemail message, sending a text message, checking airtime balance, downloading content, data usage or

adding airtime. In the event that none of the aforementioned types of usage occurs, Nexus will attempt to contact the Lifeline subscriber in an attempt to verify whether the service is still wanted. Upon de-enrollment for non-Usage, the wireless subscriber will have up to a thirty (30) day grace period to reenroll by demonstrating usage activity or by contacting the wireless Lifeline Program by calling 877-870-9444. Once a subscriber has been de-enrolled from Lifeline, Nexus will cease seeking reimbursement from the federal USF for that subscriber. Should a subscriber reinstate as a Lifeline customer, within the 30 day period immediately following de-enrollment for non-usage (“grace period”), Nexus will re-enroll the subscriber in the Lifeline program and will apply all free usage to the subscribers account and will then seek reimbursement for the Lifeline benefits provided to the subscriber during the 30-day grace period.

Should a subscriber re-enroll in Lifeline after the expiration of the 30-day grace period, Nexus will resume providing Lifeline benefits from the date of certification and will resume seeking reimbursement for the federal USF consistent with the subscriber’s certification. Nexus non-usage policy not only ensures that subscribers with no usage will no longer continue to receive Lifeline benefits, but also ensures that reimbursement is not received for customers with inactive service accounts.

**VIII. NEXUS WILL COMPLY WITH THE LIFELINE AND LINK UP CERTIFICATION AND VERIFICATION REQUIREMENTS OF 47 C.F.R. §§ 54.410 AND 54.416**

Sections 54.410 and 54.416 of the FCC’s rules require ETCs to comply with the requirements of initial certification of eligibility and the verification of continued eligibility for participation in the Lifeline and Link Up programs. Nexus commits that it will certify and verify consumer eligibility in accordance with applicable FCC rules

governing both certification and verification of Lifeline and Link Up eligibility. Nexus has developed internal Company procedures for initial certification of eligibility to ensure the potential subscriber truly is qualified for participation in these vital low-income programs and will make these materials available to the Commission upon request.

## **IX. NEXUS WILL COMPLY WITH ALL ANNUAL REPORTING REQUIREMENTS**

Consistent with the requirements of 47 C.F.R. § 54.209 and the Commission's ETC order, Nexus will comply with the following annual reporting requirements.

### **A. Certification that Nexus will use universal service support only for the purpose for which the support is intended**

47 C.F.R. § 54.7 states that a carrier that received federal universal service support shall use that support only for the provision, maintenance, and upgrading of the facilities and services for which the support is intended. Consistent with this requirement, Nexus commits that it will certify annually with the Commission that it will use all support received for the purpose for which the support is intended.

### **B. Detailed Information on any Outage**

As required by § 54.209(a)(2), Nexus will report, on an annual basis, "any outage, as that term is defined in 47 CFR 4.5, of at least 30 minutes in duration" that potentially affects 1) at least ten percent of the end users served in a designated service area; or 2) a 911 special facility. The report will include 1) the date and time of the outage; 2) a brief description of the outage and its resolution; 3) the particular services affected 4) the geographic areas affected; 4) the steps take to prevent a similar situation in the future; and 5) the number of customers affected.

**C. Number of Request for Service that Went Unfulfilled**

As required by § 54.209(a)(3), Nexus will report the number of request for potential customers within its ETC service area that were unfulfilled in the past year and how it attempted to provide service to those potential customers.

**D. Number of Complaints per 1,000 Handsets**

Consistent with the requirements of §54.209(a)(4), Nexus will annually report the number of complaints received by the Company from the FCC, this Commission, or the Better Business Bureau, per 1,000 handsets.

**E. Compliance with Applicable Service Quality Standards and Consumer Protection Rules**

As required by § 54.209(a)(5), Nexus will certify its continuing compliance with all applicable service quality standards and consumer protection rules.

**F. Certification That the Company is Able to Function in Emergency Situations**

Consistent with the requirement of § 54.209(a)(6), Nexus will certify, on an annual basis, its continued ability to remain functional in emergency situations.

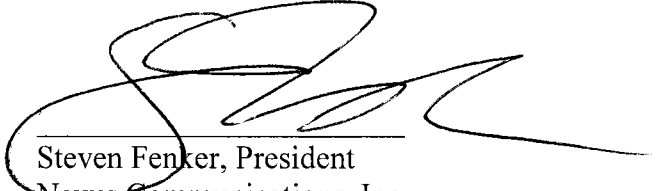
**G. Compliance with Local Usage Requirements**

Pursuant to the requirements of § 54.209(a)(7), Nexus will certify annually that it offers a local usage plan comparable to that offered by the incumbent LEC operating in the designated service area.

## CONCLUSION

Based on the foregoing, Nexus contends that the requirements for eligibility for designation as an ETC have been met. Accordingly, Nexus requests that the Commission promptly grant its Application for designation as a wireless eligible telecommunications carrier.

Respectfully Submitted,



Steven Fenker, President  
Nexus Communications, Inc.

Dated: 3/17/2011

## EXHIBIT A

### LIST OF WIRE CENTERS

<b>State</b>	<b>Company</b>	<b>OCN</b>	<b>Rate Center</b>	<b>CLLI</b>
WA	QWEST CORPORATION	9638	ABERDEEN	ABRDWA01DS0
WA	QWEST CORPORATION	9638	AUBURN	AUBNWA01DS0
WA	QWEST CORPORATION	9638	BAINBDG IS	BNISWA01DS0
WA	QWEST CORPORATION	9638	BATTLEGRND	BTLGWA01DS1
WA	QWEST CORPORATION	9638	BELFAIR	BLFRWA01DS1
WA	QWEST CORPORATION	9638	BELLEVUE	BLLVWASHDS0
WA	QWEST CORPORATION	9638	BELLEVUE	BLLVWAGLDS0
WA	QWEST CORPORATION	9638	BELLEVUE	BLLVWAGLRS3
WA	QWEST CORPORATION	9638	BELLEVUE	BLLVWASHCG0
WA	QWEST CORPORATION	9638	BLACKDIMND	BDMDWA01RS1
WA	QWEST CORPORATION	9638	BREMERTON	BMTNWA01DS0
WA	QWEST CORPORATION	9638	BREMERTON	SNYSWA01RS1
WA	QWEST CORPORATION	9638	BREMERTON	CRSBWA01DS0
WA	QWEST CORPORATION	9638	BUCKLEY	BCKLWA01DS0
WA	QWEST CORPORATION	9638	CASTLEROCK	CSRKWA01DS0
WA	QWEST CORPORATION	9638	CENTRALIA	CENLWA01DS1
WA	QWEST CORPORATION	9638	CHEHALIS	NPVNWA01DS0
WA	QWEST CORPORATION	9638	CHEHALIS	CHHLWA01DS1
WA	QWEST CORPORATION	9638	CLARKSTON	LSTNIDSHDS0
WA	QWEST CORPORATION	9638	CLE ELUM	ESTNWA01DS0
WA	QWEST CORPORATION	9638	CLE ELUM	CLELWA01DS0
WA	QWEST CORPORATION	9638	COLFAX	CLFXWA01DS0
WA	QWEST CORPORATION	9638	COLVILLE	CLVLWA01DS1

WA	QWEST CORPORATION	9638	COPALIS	OCSHWA01DS0
WA	QWEST CORPORATION	9638	COULEE DAM	CLDMWA01DS0
WA	QWEST CORPORATION	9638	CRYSTAL MT	CRMTWA01DS0
WA	QWEST CORPORATION	9638	DAYTON	DYTNWA01DS0
WA	QWEST CORPORATION	9638	DEER PARK	DRPKWA01DS0
WA	QWEST CORPORATION	9638	DES MOINES	DESMWA01DS0
WA	QWEST CORPORATION	9638	DES MOINES	FDWYWA01DS0
WA	QWEST CORPORATION	9638	ELK-GRNBLF	GRBLWA01DS0
WA	QWEST CORPORATION	9638	ELK-GRNBLF	ELK WA01DS0
WA	QWEST CORPORATION	9638	ENUMCLAW	ENMCWA01DS0
WA	QWEST CORPORATION	9638	ENUMCLAW	ENMCWA01DS0
WA	QWEST CORPORATION	9638	EPHRATA	EPHRWA01DS0
WA	QWEST CORPORATION	9638	GRAHAM	GRHMWAGRDS0
WA	QWEST CORPORATION	9638	HOODSPORT	HDPTWA01RS1
WA	QWEST CORPORATION	9638	ISSAQUAH	ISQHWAEXDS0
WA	QWEST CORPORATION	9638	KENT	KENTWA01DS0
WA	QWEST CORPORATION	9638	KENT	KENTWAMEDS0
WA	QWEST CORPORATION	9638	LIBERTY LK	LBLKWA01DS0
WA	QWEST CORPORATION	9638	LONGVIEW	LGVWWA02DS0
WA	QWEST CORPORATION	9638	LONGVIEW	LGVWWA02CG0
WA	QWEST CORPORATION	9638	LOON LAKE	LNLKWA01DS0
WA	QWEST CORPORATION	9638	MAPLE VLY	MPVYWAMVDS0
WA	QWEST CORPORATION	9638	MOSES LAKE	MSLKWAABDS0
WA	QWEST CORPORATION	9638	MOSES LAKE	MSLKWA01DS0
WA	QWEST CORPORATION	9638	NEWMANLAKE	NWLKWA01DS0
WA	QWEST CORPORATION	9638	NORTHPORT	NPRTWA01RS0
WA	QWEST	9638	OLYMPIA	OLYMWA02DS0

	CORPORATION			
	QWEST			
WA	CORPORATION	9638	OLYMPIA	LACYWA01DS0
	QWEST			
WA	CORPORATION	9638	OLYMPIA	OLYMWAEVRS0
	QWEST			
WA	CORPORATION	9638	OMAK	OMAKWA01DS0
	QWEST			
WA	CORPORATION	9638	OROVILLE	ORVLWA01DS0
	QWEST			
WA	CORPORATION	9638	OTHELLO	OTHEWA01DS0
	QWEST			
WA	CORPORATION	9638	PASCO	PASCWA01DS0
	QWEST			
WA	CORPORATION	9638	PATEROS	PTRSWA01DS0
	QWEST			
WA	CORPORATION	9638	POMEROY	PMRYWA01DS0
	QWEST			
WA	CORPORATION	9638	PORT ORCH	PTORWAFEDS0
	QWEST			
WA	CORPORATION	9638	PORT ORCH	COLBWA01DS1
	QWEST			
WA	CORPORATION	9638	PORTLUDLOW	PTLWWA01DS0
	QWEST			
WA	CORPORATION	9638	PT ANGELES	PTANWA01DS0
	QWEST			
WA	CORPORATION	9638	PT ANGELES	SEQMWA01DS1
	QWEST			
WA	CORPORATION	9638	PT ANGELES	JOYCWA01DS0
	QWEST			
WA	CORPORATION	9638	PTTOWNSEND	PTTWWA01DS1
	QWEST			
WA	CORPORATION	9638	PUYALLUP	PYLPWA01DS0
	QWEST			
WA	CORPORATION	9638	RIDGEFIELD	RDFDWA01DS0
	QWEST			
WA	CORPORATION	9638	ROCHESTER	ROCHWA01DS0
	QWEST			
WA	CORPORATION	9638	SEATTLE	STTLWA06DS6
	QWEST			
WA	CORPORATION	9638	SEATTLE	STTLWA05DS0
	QWEST			
WA	CORPORATION	9638	SEATTLE	STTLWACHDS0
	QWEST			
WA	CORPORATION	9638	SEATTLE	STTLWA06DS4
	QWEST			
WA	CORPORATION	9638	SEATTLE	MRISWA01DS0
	QWEST			
WA	CORPORATION	9638	SEATTLE	STTLWAELDS0
	QWEST			
WA	CORPORATION	9638	SEATTLE	STTLWASUDS0
	QWEST			
WA	CORPORATION	9638	SEATTLE	STTLWA03DS0



WA	QWEST CORPORATION	9638	SEATTLE	STTLWA04DS0
WA	QWEST CORPORATION	9638	SEATTLE	STTLWA06DS0
WA	QWEST CORPORATION	9638	SEATTLE	KENTWAOBDS0
WA	QWEST CORPORATION	9638	SEATTLE	STTLWA06DS8
WA	QWEST CORPORATION	9638	SEATTLE	STTLWALADS0
WA	QWEST CORPORATION	9638	SEATTLE	STTLWADUDS0
WA	QWEST CORPORATION	9638	SEATTLE	STTLWACADS0
WA	QWEST CORPORATION	9638	SEATTLE	STTLWAPADS0
WA	QWEST CORPORATION	9638	SEATTLE	RNTNWA01DS0
WA	QWEST CORPORATION	9638	SEATTLE	STTLWAWEDS0
WA	QWEST CORPORATION	9638	SHELTON	SHTNWA01DS0
WA	QWEST CORPORATION	9638	SILVERDALE	SLDLWASIDS0
WA	QWEST CORPORATION	9638	SPOKANE	SPKNWA01DS1
WA	QWEST CORPORATION	9638	SPOKANE	SPKNWAWADS0
WA	QWEST CORPORATION	9638	SPOKANE	SPKNWACHRS0
WA	QWEST CORPORATION	9638	SPOKANE	SPKNWAFADS0
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WA	QWEST CORPORATION	9638	SPOKANE	SPKNWAMORS1
WA	QWEST CORPORATION	9638	SPOKANE	SPKNWAWHDS0
WA	QWEST CORPORATION	9638	SPOKANE	SPKNWAHDDS0
WA	QWEST CORPORATION	9638	SPOKANE	SPKNWAKYDS0
WA	QWEST CORPORATION	9638	SPRINGDALE	SPDLWA01DS0
WA	QWEST CORPORATION	9638	SUMNER	SMNRWA01DS1
WA	QWEST CORPORATION	9638	SUMNER	BYLKWA01DS1
WA	QWEST CORPORATION	9638	TACOMA	TACMWFADS0
WA	QWEST CORPORATION	9638	TACOMA	TACMWFARS1
WA	QWEST	9638	TACOMA	TACMWAFLDS0

	CORPORATION			
	QWEST			
WA	CORPORATION	9638	TACOMA	TACMWASYDS0
	QWEST			
WA	CORPORATION	9638	TACOMA	TACMWALODS0
	QWEST			
WA	CORPORATION	9638	TACOMA	TACMWAGFDS0
	QWEST			
WA	CORPORATION	9638	TACOMA	STTLWANEDS0
	QWEST			
WA	CORPORATION	9638	TACOMA	TACMWAJUDS0
	QWEST			
WA	CORPORATION	9638	TACOMA	TACMWALEDS1
	QWEST			
WA	CORPORATION	9638	TACOMAWVLY	TACMWAUVDS0
	QWEST			
WA	CORPORATION	9638	TACOMAWVLY	TACMWAUADS0
	QWEST			
WA	CORPORATION	9638	TOUCHET	WLWLWA01DS0
	QWEST			
WA	CORPORATION	9638	VANCOUVER	ORCHWA01DS0
	QWEST			
WA	CORPORATION	9638	VANCOUVER	VANCWA01DS0
	QWEST			
WA	CORPORATION	9638	VANCOUVER	VANCWANODS0
	QWEST			
WA	CORPORATION	9638	WAITSBURG	WTBGWA01DS0
	QWEST			
WA	CORPORATION	9638	WARDEN	WRDNWA01DS0
	QWEST			
WA	CORPORATION	9638	WHATCOMCTY	BLHMWA01DS0
	QWEST			
WA	CORPORATION	9638	WHATCOMCTY	BLHMWALURS0
	QWEST			
WA	CORPORATION	9638	WINLOCK	WNLCWA01DS0
	QWEST			
WA	CORPORATION	9638	YAKIMA	YAKMWA02DS1
	QWEST			
WA	CORPORATION	9638	YAKIMA	YAKMWAWEDS0

**EXHIBIT B**

**CTIA CODE**

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# CTIA

## Consumer Code for Wireless Service

To provide consumers with information to help them make informed choices when selecting wireless service, to help ensure that consumers understand their wireless service and rate plans, and to continue to provide wireless service that meets consumers' needs, the CTIA and the wireless carriers that are signatories below have developed the following Consumer Code. The carriers that are signatories to this Code have voluntarily adopted the principles, disclosures, and practices here for wireless service provided to individual consumers.

### THE WIRELESS CARRIERS THAT ARE SIGNATORIES TO THIS CODE WILL:

#### ONE

#### DISCLOSE RATES AND TERMS OF SERVICE TO CONSUMERS

For each rate plan offered to new consumers, wireless carriers will make available to consumers in collateral or other disclosures at point of sale and on their web sites, at least the following information, as applicable: (a) the calling area for the plan; (b) the monthly access fee or base charge; (c) the number of airtime minutes included in the plan; (d) any nights and weekend minutes included in the plan or other differing charges for different time periods and the time periods when nights and weekend minutes or other charges apply; (e) the charges for excess or additional minutes; (f) per-minute long distance charges or whether long distance is included in other rates; (g) per-minute roaming or off-network charges; (h) whether any additional taxes, fees or surcharges apply; (i) the amount or range of any such fees or surcharges that are collected and retained by the carrier; (j) whether a fixed-term contract is required and its duration; (k) any activation or initiation fee; and (l) any early termination fee that applies and the trial period during which no early termination fee will apply.

#### TWO

#### MAKE AVAILABLE MAPS SHOWING WHERE SERVICE IS GENERALLY AVAILABLE

Wireless carriers will make available at point of sale and on their web sites maps depicting approximate voice service coverage applicable to each of their rate plans currently offered to consumers. To enable consumers to make comparisons among carriers, these maps will be generated using generally accepted methodologies and standards to depict the carrier's outdoor coverage. All such maps will contain an appropriate legend concerning limitations and/or variations in wireless coverage and map

usage, including any geographic limitations on the availability of any services included in the rate plan. Wireless carriers will periodically update such maps as necessary to keep them reasonably current. If necessary to show the extent of service coverage available to customers from carriers' roaming partners, carriers will request and incorporate coverage maps from roaming partners that are generated using similar industry-accepted criteria, or if such information is not available, incorporate publicly available information regarding roaming partners' coverage areas.

### T H R E E

#### PROVIDE CONTRACT TERMS TO CUSTOMERS AND CONFIRM CHANGES IN SERVICE

**W**hen a customer initiates service with a wireless carrier or agrees to a change in service whereby the customer is bound to a contract extension, the carrier will provide or confirm the material terms and conditions of service with the subscriber.

### F O U R

#### ALLOW A TRIAL PERIOD FOR NEW SERVICE

**W**hen a customer initiates service with a wireless carrier, the customer will be informed of and given a period of not less than 14 days to try out the service. The carrier will not impose an early termination fee if the customer cancels service within this period, provided that the customer complies with applicable return and/or exchange policies. Other charges, including airtime usage, may still apply.

### F I V E

#### PROVIDE SPECIFIC DISCLOSURES IN ADVERTISING

**I**n advertising of prices for wireless service or devices, wireless carriers will disclose material charges and conditions related to the advertised prices, including if applicable and to the extent the advertising medium reasonably allows: (a) activation or initiation fees; (b) monthly access fees or base charges; (c) any required contract term; (d) early termination fees; (e) the terms and conditions related to receiving a product or service for "free;" (f) the times of any peak and off-peak calling periods; (g) whether different or additional charges apply for calls outside of the carrier's network or outside of designated calling areas; (h) for any rate plan advertised as "nationwide," (or using similar terms), the carrier will have available substantiation for this claim; (i) whether prices or benefits apply only for a limited time or promotional period and, if so, any different fees or charges to be paid for the remainder of the contract term; (j) whether any additional taxes, fees or surcharges apply; and (k) the amount or range of any such fees or surcharges collected and retained by the carrier.

### S I X

#### SEPARATELY IDENTIFY CARRIER CHARGES FROM TAXES ON BILLING STATEMENTS

**O**n customers' bills, carriers will distinguish (a) monthly charges for service and features, and other charges collected and retained by the carrier, from (b) taxes, fees and other charges collected by the carrier and remitted to federal state or local governments. Carriers will not label cost recovery fees or charges as taxes.

S E V E N

**PROVIDE CUSTOMERS THE RIGHT TO TERMINATE SERVICE  
FOR CHANGES TO CONTRACT TERMS**

**C**arriers will not modify the material terms of their subscribers' contracts in a manner that is materially adverse to subscribers without providing a reasonable advance notice of a proposed modification and allowing subscribers a time period of not less than 14 days to cancel their contracts with no early termination fee.

E I G H T

**PROVIDE READY ACCESS TO CUSTOMER SERVICE**

**C**ustomers will be provided a toll-free telephone number to access a carrier's customer service during normal business hours. Customer service contact information will be provided to customers online and on billing statements. Each wireless carrier will provide information about how customers can contact the carrier in writing, by toll-free telephone number, via the Internet or otherwise with any inquiries or complaints, and this information will be included, at a minimum, on all billing statements, in written responses to customer inquiries and on carriers' web sites. Each carrier will also make such contact information available, upon request, to any customer calling the carrier's customer service departments.

N I N E

**PROMPTLY RESPOND TO CONSUMER INQUIRIES AND COMPLAINTS  
RECEIVED FROM GOVERNMENT AGENCIES**

**W**ireless carriers will respond in writing to state or federal administrative agencies within 30 days of receiving written consumer complaints from any such agency.

T E N

**ABIDE BY POLICIES FOR PROTECTION OF CUSTOMER PRIVACY**

**E**ach wireless carrier will abide by a policy regarding the privacy of customer information in accordance with applicable federal and state laws, and will make available to the public its privacy policy concerning information collected online.

**EXHIBIT C**

**LETTERS OF SUPPORT**

# Consumer Action

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[www.consumer-action.org](http://www.consumer-action.org)

PO Box 70037  
Washington, DC 20024  
202-544-3088

221 Main St, Suite 480  
San Francisco, CA 94105  
415-777-9648

523 W. Sixth St., Suite 1105  
Los Angeles, CA 90014  
213-624-4631

May 10, 2010

Dear Commissioner:

As an organization dedicated to protecting and helping consumers, Consumer Action<sup>1</sup> believes that all carriers who seek certification to provide Lifeline and Link-Up services to low-income Americans should be also granted the authority to allow the consumer to decide what type of Lifeline offering they would prefer—wireless or wire-line. Low-income consumers should have access to the same type of competitive telecommunication services as other consumers. That is why we are writing today to support the Wireless Lifeline telecommunications service offered by Nexus Communications, Inc.

Consumer Action has been engaged in ensuring that Lifeline and Link-Up serves those in need and we applaud the goal to achieve a 100 percent participation rate among eligible and qualified low-income consumers. Unfortunately, federal figures indicate that Lifeline participation rates nationwide remain low. As a result, low-income households across the country continue to lag behind in obtaining the goal of enjoying access to services that are routinely enjoyed by other consumers everyday. Consumer Action believes that the Nexus Wireless Lifeline program will bring new opportunities for participation by low-income residents of your state.

Nexus' Wireless Lifeline offering is a prepaid wireless service that includes a free wireless handset and fixed amount of free monthly minutes available to qualifying consumers with no credit check, deposit requirements or long term agreements. As such, we believe that it can provide a vital option for low-income consumers who seek access to mobile wireless service, but who are wary of the early termination penalties and late payment fees that are associated with more traditional post-paid service. Through Nexus' Wireless Lifeline service, low-income consumers would also be afforded the opportunity to access services that other consumers currently receive with mobile cell phones, including voice mail, nationwide long distance and other essential features not currently offered with landline providers under their Lifeline programs. In addition, this new

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<sup>1</sup> Founded in 1971, Consumer Action is a national non-profit education and advocacy organization serving more than 10,000 community-based organizations with training, educational modules, and multi-lingual publications.



Wireless Lifeline service would help the neediest to participate equitably in the convenience, benefits, and security afforded by wireless service.

Granting swift approval of Nexus' Wireless Lifeline service offering would further the principles of universal service enumerated in Section 254(b)(3) of The Communications Act of 1934, as Amended ("The Act") and allow low-income consumers in all regions of the country to have "access to telecommunications...services"—thereby fulfilling an important social imperative to ensure that all low-income residents are able to communicate by telephone with family, support networks, employers and emergency services. Approval of the Nexus Wireless Lifeline service would also greatly expand the range of telecommunications services available to low-income consumers and bring Lifeline and Link-Up into the 21<sup>st</sup> century. Consumer Action believes that as more providers enter this space, it will further uphold the principle of competitive and technological neutrality that is a cornerstone of federal and state regulation.

Consumer Action also believes that low-income consumers should have the same choice of the technology and service available to all other consumers, and that participation in vital low-income programs, such as Lifeline and Link-Up, should not serve as a barrier to new technologies, but should instead be a channel to greater access to competitive choices such as wireless. The Wireless Lifeline service offered by Nexus provides eligible consumers with a free wireless handset and a set amount of free minutes of local and domestic long distance usage each month.

We hope that the Commission will continue to support the availability of Wireless Lifeline and Link-Up and encourage other prepaid wireless providers to pursue Lifeline ETC authority. Wireless Lifeline consumers can benefit from increased competition in the marketplace, and we support this petition by Nexus Communications, Inc. because we believe that additional providers in the arena will create a robust marketplace to benefit the very low-income households that are so badly in need of economic assistance in these difficult times.

Respectfully submitted,



Ken McEldowney  
Executive Director



**NATIONAL CONSUMERS LEAGUE**

1701 K Street, NW, Suite 1200, Washington, DC 20006  
PHONE (202) 835-3323 FAX (202) 835-0747 [www.nclinet.org](http://www.nclinet.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.

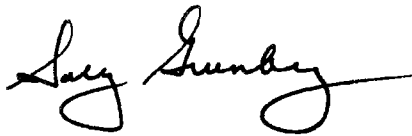
<sup>2</sup> CC Docket 96-45, WC Docket 03-109, NCL PETITIONS CONCERNING ELIGIBLE TELECOMMUNICATIONS DESIGNATIONS AND THE LIFELINE AND LINK-UP UNIVERSAL SERVICE SUPPORT MECHANISM, September 17, 2004

<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 written in a cursive, flowing style with a long horizontal stroke extending to the right.

Sally Greenberg  
Executive Director



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July 6, 2010

Ms. Marlene H. Dortch  
Secretary  
Federal Communications Commission  
445 – 12th Street SW  
Washington, DC 20544

Docket No. 96-45

Dear Ms. Dortch:

I am writing on behalf of the Hearing Loss Association of America (HLAA), our members and all low-income and hard of hearing consumers, to support efforts that help provide free prepaid wireless Lifeline telecommunication service to low-income consumers. Hundreds of thousands of hard of hearing, low-income consumers could benefit greatly from this service, receiving the telephone access they need (and a hearing aid compatible phone), at an affordable rate.

The Hearing Loss Association of America (HLAA) is the nation's leading grassroots organization representing the rights of people with hearing loss. The HLAA mission is to open the world of communication to people with hearing loss through information, education, advocacy, and support. HLAA impacts accessibility, public policy, research, public awareness, and service delivery related to hearing loss on a national and local level. HLAA's national support network includes 200 local chapters nationwide, 14 state organizations and an office in Bethesda, Maryland.

The federal government's Lifeline program was created 25 years ago to ensure that low income people had phone service. People who qualify – generally, those at the poverty level and eligible for food stamps – usually pay about half of the monthly cost for phone service. Despite the discount, only a third of households eligible for the discount Lifeline program use it, according to current national Federal Communication Commission reports.

Research has shown that phone service increases employment opportunities, not to mention making life easier, safer and more enjoyable. Allowing wireless Lifeline service has other benefits for low-income consumers, in particular. Because of economic and social factors, often low-income consumers may not remain in one residential location for extended periods of time. Wireless devices can relieve consumers of the need to frequently have their landline Lifeline phones service reconnected after each move – a cost saving approach.

**The Nation's Voice for People with Hearing Loss**  
7910 Woodmont Avenue Suite 1200 Bethesda, MD 20814



While HLAA does not endorse any specific company's efforts, we applaud efforts to expand the current Lifeline system to include wireless prepaid phone providers, like TracFone Wireless' Safelink program currently operating in 23 states. It is important to us that low income people with hearing loss will have access to hearing aid compatible wireless handsets. Any carriers able to meet the service obligations of Lifeline – and offering hearing aid compatible phones – should be permitted to serve Lifeline customers so that low income Americans have the same access to wireless and competitive services as do other consumers.

Thank you.

Sincerely,

A handwritten signature in black ink that reads "Brenda Battat". The signature is written in a cursive, flowing style.

Brenda Battat  
Executive Director