



STATE OF WASHINGTON

WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION

1300 S. Evergreen Park Dr. S.W., P.O. Box 47250 • Olympia, Washington 98504-7250
(360) 664-1160 • TTY (360) 586-8203

April 9, 2012

Steven Fenker
President
Nexus Communications, Inc.
3629 Cleveland Ave., Suite C
Columbus, OH 43223

**RE: UT-110518 Request for Update with Regard to Nexus Communications, Inc.'s ETC
Petition in Washington**

Dear Mr. Fenker:

This letter is to inform you of the change in the “own facilities” requirement recently implemented by the Federal Communications Commission’s (FCC) and to inquire your company’s intention of complying with the new rules.

Section 214(e)(1)(A) of the Communications Act of 1934, as amended, provides that to qualify as an Eligible Telecommunications Carrier (ETC), a carrier must, among other things, “offer the services that are supported by Federal universal service support mechanisms...either using its own facilities or a combination of its own facilities and resale of another carrier’s services.” The FCC defines the services supported by federal universal service support mechanisms in 47 C. F. R. § 54.101. The list used to include directory assistance and operator services. In your ETC petition, you stated that your company met the own facilities rule because your company has facilities to provide directory assistance and operator services.

On November 18, 2011, the FCC amended 47 C. F. R. § 54.101. It removed directory assistance and operator services from the list of supported services. As a result, your company no longer qualifies for an ETC status due to the lack of facilities to provide services supported by federal universal service funds.

On February 6, 2012, the FCC issued a Lifeline and Link Up Reform Order (FCC 12-11).¹ In the Order, the FCC discussed the new facility-based requirements for Lifeline-Only ETCs. It grants a blanket forbearance for all ETC applicants from the own facilities requirement conditioned upon (1) each carrier must comply with specified requirements on E911 provision and (2) each carrier must file and the FCC Wireline Competition Bureau must approve, a

¹ *Lifeline and Link Up Reform and Modernization et al*, WC Dkt No. 11-42 *et al.*, Report and Order and Further Notice of Proposed Rulemaking, FCC 12-11 (rel. Feb 6, 2012) (*Lifeline and Link Up Reform Order*).



compliance plan to ensure that the carrier will implement the obligations contained in the Lifeline and Link Up Order as well as further safeguards against waste, fraud and abuse of the Lifeline support. The FCC further states that “[n]o designation shall be granted for any pending or new Lifeline-only ETC applications filed with the states or the [FCC] after December 29, 2011, and carriers shall not receive reimbursement from the program, until the Bureau approves their compliance plans.”²

On February 29, 2012, the FCC issued a public notice, providing guidance for the submission of compliance plans pursuant to the Lifeline and Link UP Reform Order. The public notice summarizes the key elements of a compliance plan for Lifeline-only carriers seeking to avail themselves of the FCC’s conditional grant of forbearance from the facilities requirement.

In lieu of the changes at the federal level, Washington Utilities and Transportation Commission (Commission) seeks to understand your company’s compliance status to the new rules. Please respond to the following questions:

1. If you already filed a compliance plan with the FCC, please notify the Commission and provide the date of your filing.
2. If you have not filed a compliance plan but you intend to file in the near future, please notify the Commission and provide an estimated timeline; once you submit the compliance plan to the FCC, please provide the Commission with the actual filing date.
3. Please provide an update to the Commission once your compliance filing is approved by the FCC.
4. If your company acquired new facilities since you filed the ETC petition in Washington and is now able to qualify as a facility-based carrier, please amend your original ETC petition with the Commission, providing detailed description of your new facilities.
5. If your company is not facility-based and you do not intend to file a compliance plan with the FCC, or if your company intends to withdraw your ETC petition in Washington, please notify the Commission as soon as possible.

Please file a letter providing the above information to the Commission before April 30, 2012. Please use the original docket number UT-110518. If we do not receive your response by April 30, 2012, the Commission will assume that your company has no intention to avail yourself of the FCC’s conditional forbearance from the own facilities requirement and the Commission will deny the ETC petition your company filed in Washington.

Sincerely,



William Weinman
Assistant Director – Telecommunications
Regulatory Services Division
Washington Utilities and Transportation Commission
Phone: 360-664-1109
Email: WWeinman@utc.wa.gov

² *Id.*, paragraph 380.