

September 27, 2013



Darrell Nitschke, Executive Secretary  
North Dakota Public Service Commission  
State Capitol  
600 East Boulevard, Dept. 408  
Bismarck, ND 58505-0480

Re: Amended Responses of Nexus Communications, Inc. in Case No. PU-13-098

Dear Mr. Nitschke:

Enclosed for filing please find the amended, non-confidential responses of Nexus Communications, Inc. ("Nexus") to questions from the North Dakota Public Service Commission (the "Commission"). The responses enclosed herein supersede previous responses provided by Nexus, and reflect updated information following the productive meeting between Nexus' counsel and the Commission's staff on September 16, 2013.

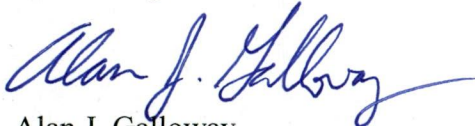
Enclosed for filing with Nexus' responses are the following documents:

- Nexus' Summary of its 2012 FCC Form 555 Data,
- Nexus' Summary of its FCC In-depth Data Validation Results,
- Nexus' Summary of its FCC Payment Quality Assurance Reviews, and
- Nexus' Summary of its USAC Audit Concerning Lifeline Funding.

Please do not hesitate to contact me if you have any questions regarding this filing.

Very truly yours,

Davis Wright Tremaine LLP



Alan J. Galloway  
Of Counsel for Nexus Communications, Inc.

AJG/ajg  
Enclosure

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**Responses to questions from ND PSC Staff**

Nexus Communications, Inc.

Alan Galloway, Attorney

STATE OF NORTH DAKOTA  
PUBLIC SERVICE COMMISSION

Case No. PU-13-098

**Nexus Communications, Inc.  
Eligible Telecommunications Carrier  
Application**

**NEXUS COMMUNICATIONS, INC.'S AMENDED, NON-CONFIDENTIAL  
RESPONSES TO SIX QUESTIONS FROM THE PUBLIC SERVICE COMMISSION**

1. Provide all Lifeline audits and reviews the Federal Communications Commission (FCC), the Universal Service Administrative Company (USAC) and any other state commission, Lifeline administrator or any other government agency has conducted on Nexus's Lifeline program since the beginning of 2011. The requested documents should include formal audits and limited reviews such as in-depth data validations and Payment Quality Assurance (PQA) reviews.

**Response:** Like many other carriers, Nexus Communications, Inc. d/b/a ReachOut Wireless ("Nexus") has been audited by USAC. Nexus has also participated in USAC in-depth data validation ("IDV") process in 15 states and has participated in PQA reviews in 14 states. Nexus is willing to share the USAC audit report and results of the IDV and PQA reviews with the Commission and its staff.

Both the PQA and IDV results are being produced in a summary form that Nexus believes will be of most utility to the Commission, including the numbers of de-enrolled subscribers in the IDV summary. The PQA results are being provided on a non-confidential basis. Because the IDV results include confidential information, including trade secrets, Nexus is providing the results of those confidentially, pursuant to N.D.A.C. Chapter 69-02-09, and is filing an updated application for designation as a trade secret under that chapter. A non-confidential, redacted version of the IDV results are also being provided.

Because of the competitive sensitivity and complexity of the USAC audit report, Nexus provided the Commission staff the opportunity to review the full USAC audit report *in camera*, accompanied by counsel for Nexus, on September 6, 2013. Nexus is also willing to provide the Commission itself the opportunity to review the full report *in camera*, and is also providing a non-confidential summary of the USAC audit information.

2. Provide Nexus's 2013 recertification report provided to the FCC and USAC. If the Company has not yet prepared a 2013 recertification report, please provide the 2012 report and the date the Company expects to submit the 2013 report.

**Response:** Nexus expects to submit its 2013 annual recertification reports, FCC Form 555, by January 31, 2014. Accordingly, Nexus is providing a confidential summary of its 2012 recertification reports, FCC Form 555, and has included discussion of the FCC Form 555 material in its updated application for trade secret designation. A non-confidential, redacted version of the FCC Form 555 summary is also being provided.

3. If the FCC has issued any citations to individuals receiving duplicate lifeline support from Nexus and other Lifeline providers, what processes and procedures has Nexus undertaken to prevent duplicate lifeline support going forward? If applicable, please also provide copies of these processes and procedures as well as the number of citations issued.

**Response:** Reflecting the efficacy of the measures to combat waste, fraud and abuse imposed in the FCC's Lifeline Reform Order, the FCC has issued citations to individuals that, according to FCC records, violated the rules of the Lifeline program by enrolling a single household with multiple Lifeline carriers. Sometimes, the list of carriers these individuals targeted included Nexus, while in other cases they did not. Nexus is aware of 134 citations to individuals who allegedly had enrolled with Nexus as well as with at least one other carrier.

Since the beginning of Nexus' participation in the Lifeline program, Nexus has worked hard to protect the integrity of the program through such measures as voluntarily de-enrolling inactive subscribers, adopting rigorous internal mechanisms to prevent duplicates within Nexus' subscriber base. Nexus has been a consistent supporter of the FCC's initiatives to reform the Lifeline program, especially through the development of the FCC's National Lifeline Accountability Database ("NLAD"), and has supported the FCC's interim duplicate resolution process as one of the founding industry participants.<sup>1</sup>

Nexus has also recently advocated for three additional reforms of the Lifeline program, and is encouraging the FCC to take action quickly on a number of proposals that Nexus has submitted.<sup>2</sup> First, Nexus has asked the Commission to ban Lifeline enrollment operations in tents and vehicles because these settings have been shown to be particularly conducive to abusive practices. Second, Nexus has proposed that all eligible telecommunications carriers ("ETCs") be required to post a Lifeline compliance bond with the Commission. Third, Nexus has requested that the Commission require ETCs to keep copies of the documentation proving the eligibility of their subscribers for Lifeline benefits. Nexus believes that adoption of its proposals will allow the FCC to build on the considerable progress it has already made towards eliminating waste, fraud, and abuse.

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<sup>1</sup> See, e.g., Letter from John T. Nakahata, on behalf of eight individual eligible telecommunications carriers, including Nexus, and United States Telecom Association and CTIA to Marlene Dortch, Secretary, Federal Communications Commission, WC Docket Nos. 11-42 and 03-109, and CC Docket 96-45 (filed April 26, 2011) (summarizing the industry proposal to create an interim duplicate resolution process and correcting initial ex parte notice)

<sup>2</sup> See, e.g., *In the Matter of Lifeline and Link Up Reform and Modernization*, WC Docket No. 11-42, Comments of Nexus Communications, Inc. (filed June 17, 2013).

As described in detail in response to question 4, below, Nexus agents are trained to prevent waste, fraud and abuse in the screening of applicants for Lifeline service, including specific procedures designed to reduce receipt of duplicate Lifeline support.

4. Please describe the specific procedures Nexus has in place to prevent waste, fraud and abuse in the Lifeline program. Include in this response copies of employee training manuals, processes and procedures as well as a discussion of the data bases Nexus uses. In describing the data bases, please specifically identify what data Nexus believes specifically helps prevent waste, fraud and abuse.

**Response:** Nexus' ReachOut Wireless representatives are trained in procedures aimed at preventing waste, fraud and abuse. On-going training and supervision of personnel involved in the provisioning of Lifeline-supported services through a combination of visual and verbal training seminars utilizing information that is imbedded into Nexus' propriety software Customer Management Resource ("CMR") billing and provisioning software. These interactive training tools are IT based and are directly tied to proprietary provisioning and customer management software interfaces. The focus of the training is on requirements of the Lifeline program, including initial eligibility and certification requirements, and annual verification requirements, as well as how to work with state eligibility databases and the verification of subscriber information in Lexis/Nexis. All ReachOut wireless representatives who interact with existing Lifeline subscribers or Lifeline applicants, whether employed by Nexus or third parties, are fully trained in assisting Lifeline applicants with Lifeline eligibility and in how to review required documentation to determine whether it satisfies applicable eligibility requirements.

First, ReachOut Wireless representatives are trained to ask applicants that call Nexus Customer Service Department to fill out a Lifeline Application form the following questions:

- (1) what state the Applicant resides in (in order to determine which state-specific form may be needed);
- (2) whether the Applicant is eligible for Lifeline service under Program-Based or Income-Based Eligibility; and
- (3) whether the Applicant has the requisite proof of government assistance or of household income, as required by the Lifeline Application form.

Second, ReachOut Wireless representatives are trained not to complete a Lifeline Application form unless the Applicant provides all of the requisite information, which includes:

- (1) the Applicant's full name;
- (2) the Applicant's full residential address (P.O. Boxes are not permitted);
- (3) whether the residential address is permanent or temporary;

- (4) the Applicant's billing address, if different;
- (5) the Applicant's date of birth;
- (6) the last four digits of the Applicant's Social Security number;
- (7) if the Applicant is seeking to qualify for Lifeline under the program based criteria, the name of the qualifying assistance program from which the subscriber, or his or her dependents, or his or her household receives benefits; and
- (8) if the Applicant is seeking to qualify for Lifeline under the income-based criterion, the number of individuals in his or her household.

Because Nexus recognizes that the above information includes Customer Proprietary Network Information ("CPNI"), and each ReachOut Wireless representative is trained to protect the confidentiality of that information, as described in Nexus' 2012 FCC CPNI Compliance Certification (provided in response to Staff DR 41).

Third, ReachOut Wireless representatives are trained to inform potential subscribers of the following information prior to completing the Lifeline Application process:

- (1) Lifeline is a federal benefit and willfully making false statements to obtain the benefit can result in fines, imprisonment, de-enrollment or being barred from the program;
- (2) only one Lifeline service is available per household;
- (3) a household is defined, for purposes of the Lifeline program, as any individual or group of individuals who live together at the same address and share income and expenses;
- (4) a household is not permitted to receive Lifeline benefits from multiple providers;
- (5) violation of the one-per-household limitation constitutes a violation of FCC rules and will result in the subscriber's de-enrollment from the program; and
- (6) Lifeline is a non-transferable benefit and the subscriber may not transfer his or her benefit to any other person.

When explaining the "one-per household" requirement to potential subscribers, ReachOut Wireless representatives are also trained to explain that the brands Safelink Wireless, Assurance Wireless, i-wireless, Stand-Up Wireless, Budget Mobile and TAG Mobile, for example, are Lifeline services.

ReachOut Wireless representatives are also trained to confirm that the Applicant is not already receiving Lifeline service from ReachOut Wireless by accessing ReachOut Wireless' subscriber service and billing database, and to verify that no one else in the Applicant's household currently subscribes to ReachOut Wireless' Lifeline service. A Lifeline Applicant's address, name, and the last four digits of his or her social security number are queried against all of ReachOut Wireless' active Lifeline subscribers and against TSI wireline subscribers, in all states in which ReachOut Wireless operates. If it is found that ReachOut Wireless is already providing Lifeline service to the same Applicant or household, then representatives are trained to reject the Lifeline Application form.

ReachOut Wireless requires all Lifeline Applicants to certify, under penalty of perjury, that:

- (1) the Applicant meets the income- or program-based eligibility criteria for receiving Lifeline;
- (2) the Applicant will notify ReachOut Wireless within 30 days if, for any reason, he or she no longer satisfies the criteria for receiving Lifeline including, as relevant, if the Applicant no longer meets the program or income-based eligibility criteria for receiving Lifeline support, the Applicant is receiving more than one Lifeline benefit, or another member of the Applicant's household is receiving a Lifeline benefit;
- (3) if the Applicant is seeking to qualify for Lifeline as an eligible resident of Tribal lands, that he or she lives on Tribal lands;
- (4) if the Applicant moves to a new address, that he or she will provide that new address to ReachOut Wireless within 30 days;
- (5) if the Applicant provided a temporary residential address to ReachOut Wireless, the Applicant will be required to verify his or her temporary residential address every 90 days;
- (6) the Applicant's household will receive only one Lifeline service and, to the best of the Applicant's knowledge, the Applicant's household is not already receiving a Lifeline service;
- (7) the information contained in the Applicant's application/certification form is true and correct to the best of the Applicant's knowledge;
- (8) the Applicant acknowledges that providing false or fraudulent information to receive Lifeline benefits is punishable by law; and
- (9) the Applicant acknowledges that he or she may be required to re-certify his or her continued eligibility for Lifeline at any time, and that his or her failure to re-certify as to continued eligibility will result in de-enrollment and the termination of the Applicant's Lifeline benefits, and

- (10) that the Applicant authorizes ReachOut Wireless to access any state or federal records or database to verify his or her eligibility, and authorizes ReachOut Wireless to release any records required for administration of the program, including to USAC to be used in the national Lifeline database, and that failure to so authorize ReachOut Wireless will result in a denial of Lifeline benefits.

ReachOut Wireless representatives are also trained that when helping an Applicant complete the Lifeline Application form over the phone, the representative must mail, fax, or email the completed Lifeline Application form to the Applicant (depending on Applicant's preference). Representatives are also trained to explain to each Applicant what documentation is necessary in order to prove Lifeline eligibility, and to explain that the documentation must be provided to ReachOut Wireless *before* the Lifeline Application form can be processed and *before* the Applicant may begin receiving Lifeline service. Finally, all representatives are trained to inform Applicants that they must sign the completed Lifeline Application form and provide it, along with requisite proof of eligibility, to ReachOut Wireless either in person (where available), or by fax or email, or by mail.

Finally, when a Lifeline Application form is approved, ReachOut Wireless representatives are trained to enter and save electronically recorded Lifeline Application data into a Nexus database.

5. Would Nexus be willing to request Lifeline participants waive any right to privacy in order that Nexus could periodically provide a list of customers to the Commission?

**Response:** Yes. Nexus has certified that it will file at least annually a complete list of its subscribers and waivers, including North Dakota Department of Human Services' Form SFN 1059, Authorization for Release of Information 449-55-05, for each subscriber.

In addition, Nexus Communications, Inc. d/b/a ReachOut Wireless already requires all Lifeline subscribers to allow reporting to all state and federal agencies, including the Commission, via the following language on Nexus' application form:

I authorize Reachout Wireless to access any state or federal governmental records or database required to verify my statements herein and to confirm my continued eligibility for Lifeline and authorize social service agency representatives to discuss with and/or provide information to ReachOut Wireless verifying my participation in programs that qualify me for Lifeline. I also authorize ReachOut Wireless to release any records required for the administration of ReachOut Wireless' Lifeline program, including to the Universal Service Administrative Company (USAC), to be used in a Lifeline Program Database. I understand that the

records are required to ensure the proper administration of the Lifeline program and that failure to provide consent will result in the applicant being denied the Lifeline service.

6. If Nexus's lifeline program has been the subject of any state or federal investigations, please provide information on the outcome of these investigations. Did any of the investigations result in Nexus paying fines and implementing any changes in its processes and procedures to ensure the mistakes that led to the investigation would not reoccur? If so, please specifically discuss the changes and the amount of any fines.

**Response:** Nexus has not been the specific subject of any state or federal investigations for waste, fraud or abuse.

Nexus Communications, Inc.'s Summary of its 2012 FCC Form 555 Data

State	A	B	C	D	E	F	G	H	I	J	K	L
	Number of Subscribers Claimed on May FCC Form(s) 497	Number of Lines Claimed on May FCC Form(s) 497 Provided to Wireline Resellers	Number of Subscribers ETC Contacted Directly to Recertify Eligibility Through Attestation	Number of Subscribers Responding to ETC Contact	Number of Non-Responding Subscribers	Number of Subscribers Responding That They Are No Longer Eligible	Number of Subscribers De-Enrolled or Scheduled to be De-Enrolled as a Result of Non-Response or Ineligibility	Number of Subscribers Who De-Enrolled Prior to Recertification Attempt	Number of Subscribers Whose Eligibility was Reviewed by State Administrator or by ETC Access to Eligibility Data	Subscribers Whose Eligibility was Reviewed by State Administrator or by ETC Access to Eligibility Data and Found to be Ineligible	Number of Customers De-Enrolled or Scheduled to be De-Enrolled as a Result of a Finding of Ineligibility	Number of Subscribers Who De-Enrolled Prior to Recertification Attempt
AL	REDACTED Trade Secret - Private under N.D.A.C. Chapter 69-02-09											
AR												
CA												
FL												
GA												
IA												
IL												
IN												
KY												
LA												
MD												
ME												
MI												
MO												
MS												
NJ												
OH												
OK (wireless)												
OK (wireline)												
RI												
SC												
TN												
TX												
WI												
WV												
Totals												

Nexus Communications, Inc.'s Summary of its FCC In-depth Data Validation ("IDV") Results

State	Study Area Code	IDV Month	Intra-company Duplicates	Inter-company Duplicates	Total Duplicates	Total Nexus Lifeline Subscribers in State	Duplicates % of Total Nexus Subscribers
MD	REDACTED Trade Secret - Private under N.D.A.C. Chapter 69-02-09						
WV							
WI							
MI							
LA							
AR							
MS							
MO							
LA							
IL							
MD							
WV							
MI							
NV							
GA							
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MD							
MI							

Please note that IDVs are pending for data month April 2013 in AR, IL, KS,MI, MS, WV, and WI but Nexus has not yet received information regarding duplicate subscribers from USAC.



**STATE OF NORTH DAKOTA**  
**PUBLIC SERVICE COMMISSION**

**Nexus Communications, Inc.**  
**Eligible Telecommunications Carrier**  
**Application**

**Case No. PU-13-098**

**NEXUS COMMUNICATIONS, INC.'S NON-CONFIDENTIAL**  
**SUMMARY OF ITS USAC AUDIT CONCERNING LIFELINE FUNDING**

The Universal Service Administrative Company ("USAC") audited Nexus' compliance with applicable rules governing its receipt of Lifeline funding for wireless subscribers in Louisiana in June 2011. The results of the audit were very positive. USAC only made one finding pertaining to a small number of subscribers whose residential addresses, according to USAC, were located outside Nexus' service area but who were otherwise qualified to receive Lifeline funding. Any errors on Nexus' part were due to the inherent difficulties of perfecting the process of geolocating residential addresses for wireless services within historical ILEC wireline service boundaries.