

**BEFORE THE NORTH DAKOTA
PUBLIC SERVICE COMMISSION**



In the Matter of the Application of)
)
Nexus Communications, Inc. for)
Designation as an Eligible)
Telecommunications Carrier Pursuant to)
47 U.S.C. § 214(e))
)

Docket No. _____
ADDENDUM TO APPLICATION OF
NEXUS COMMUNICATIONS, INC.
FOR DESIGNATION AS AN
ELIGIBLE TELECOMMUNICATIONS
CARRIER PURSUANT TO
47 U.S.C. § 214(e).

**ADDENDUM TO APPLICATION FOR DESIGNATION AS AN
ELIGIBLE TELECOMMUNICATIONS CARRIER**

Nexus Communications, Inc. (“Nexus”) hereby submits this Addendum to its previously filed application for designation as an Eligible Telecommunications Carrier (“ETC”). In Nexus’s original application, it requested designation throughout the wire centers of SRT Communications, Inc. and Qwest Corporation, excluding Tribal Lands. Nexus desires to provide Lifeline service throughout North Dakota, including on Tribal Lands, and is capable of doing so through its resale of the services of Verizon Wireless. Accordingly, Nexus hereby requests that, consistent with the Public Service Commission’s order dated October 9, 2013, the designation of Nexus as and ETC should consist of all study areas in North Dakota, with no exclusion of areas on Tribal lands.

Dated this 26 day of November, 2013.

Respectfully submitted,

Nexus Communications, Inc.

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STATE OF NORTH DAKOTA
PUBLIC SERVICE COMMISSION

Nexus Communications, Inc.
Designated Eligible Carrier
Application

Case No. PU-13-98

**FIRST AMENDED ORDER ON ELIGIBLE TELECOMMUNICATIONS CARRIER
DESIGNATION**

December _____, 2013

Preliminary Statement

On February 25, 2013, Nexus Communications, Inc. (Nexus), a privately held company organized under Ohio law and headquartered in Columbus Ohio, filed an application for designation as an eligible telecommunications carrier (ETC) for the purpose of receiving federal universal service support for low-income consumers under 47 CFR Part 54 Subpart E. This designation is also known as Lifeline-only ETC designation. Nexus originally proposed to provide prepaid Lifeline universal services to qualifying low income customers as a commercial radio service (CMRS) carrier in North Dakota wire centers currently served by Qwest Corporation and SRT Communications, Inc. excluding Tribal Lands. Nexus later proposed to provide Lifeline universal services throughout the entire state, including Tribal Lands.

On March 13, 2013, the Commission issued a Notice of Opportunity for Hearing (Notice) providing until April 26, 2013 for comments and requests for hearing. No comments or requests for hearing were received. The Notice identified the issues to be considered in this matter are:

1. Is the applicant qualified under the Telecommunications Act of 1996, Section 214(e) for designation as an ETC eligible to receive federal universal service funding?
2. What ETC universal service support area should be designated?
3. Is designation of the applicant as an ETC in the public interest?

The Notice stated that the Commission can determine the matter without a formal hearing.

On June 19, 2013, the Commission held an Informal Hearing to discuss the issues with Nexus. On June 26, 2013, the Commission held a work session where it was decided that the Commission would request additional information for the record and add additional requirements to the certification relating to order provisions for all ETC applicants. On August 15, 2013, Nexus responded to the additional information request and filed a revised certification document.

On September 6, 2013, Nexus representatives met with Commission Staff to further discuss their application and business practices. On September 27, Nexus filed additional information including a revised certification relating to order provisions.

ETC Designation

The Telecommunications Act of 1996 provides financial support for universal services to common carriers that have been designated as ETCs and that (1) offer the universal services that are supported by Federal universal service support mechanisms under section 254(c), either using its own facilities or a combination of its own facilities and resale of another carrier's services and (2) advertise the universal services, advertise the availability of such services, and advertise the charges for such services, using media of general distribution.

In its *Report and Order and Further Notice of Proposed Rulemaking* released February 6, 2012 in Docket No. FCC 12-11 at paragraph 368, the Federal Communications Commission found that it would forbear from the "own-facilities" requirement contained in section 214(e)(1)(A) for carriers that seek to become, Lifeline-only ETCs, subject to the following conditions: (1) the carrier must comply with certain 911 requirements and (2) the carrier must file, and the FCC must approve, a compliance plan providing specific information regarding the carrier's service offerings and outlining the measures the carrier will take to implement Lifeline service obligations as well as further safeguards against waste, fraud and abuse the FCC may deem necessary.

Under 47 CFR 54.201, a carrier seeking Lifeline-only ETC designation must demonstrate that it is financially and technically capable of providing Lifeline service in compliance with 47 CFR Subpart E. Nexus is seeking Lifeline-only ETC designation. Nexus is not seeking high-cost support as part of its ETC Application.

Both federal law and state law give the Commission the authority to designate a common carrier as an ETC. In areas served by a rural telephone company, the Commission must find that ETC designation is in the public interest.

Nexus, based in Columbus Ohio, was organized and incorporated in the State of Ohio on September 11, 2000. Nexus is a common carrier and reseller of commercial mobile radio service, and will offer all of the services and functionalities detailed in Section 54.101(a) of the FCC Rules. Nexus is currently authorized to provide CMRS to qualifying low-income consumers in 27 states. Nexus is requesting to do business in North Dakota under the names "Nexus Communications, Inc." and "ReachOut Wireless." Nexus currently derives the majority of its revenue from the sale of prepaid wireless service, but it does not rely exclusively on disbursements from the Lifeline program to operate. Nexus operates its own network facilities, back-office and operations support systems. It also operates its own switching and other facilities in Ohio. Nexus has not been subject to any enforcement action at the FCC or in any state.

Nexus has a resale agreement with Verizon and will be using Verizon's network to provide wireless services in North Dakota.

Nexus will offer telecommunications services primarily to qualified low-income subscribers.

Nexus will offer qualified consumers their choice of a 68, 125, or a 250 anytime prepaid minutes per month Lifeline Service Plan at no charge as well as a free handset, though it should be noted that the 68 minute plan is not actively marketed by Nexus. Minutes do not expire for the 68 and 125 minute plans and unused minutes are rolled over to the next month. Unused minutes for the 250 minute plan do not roll over. In the 68 minute plan, domestic text messaging is available at a rate of two text messages per minute of airtime. In the 125 and 250 minute plans, text messages are available at the rate of one text per minute of airtime. Calls from a source other than the handset checking or retrieving voicemail messages and incoming voicemail messages are free of charge. Calls to 911 emergency services are free regardless of service activation or availability of minutes. Nexus offers additional minutes, as well as unlimited talk and text airtime cards and international texting for additional charges.

Nexus seeks only Lifeline support from the low-income mechanism of the federal Universal Service Fund and does not seek support from the high-cost support mechanism. This program is designed to reduce the monthly cost of telecommunication services for eligible consumers, is distributed on a per-customer basis, and is directly reflected in the price that the eligible customer pays. Because Nexus does not seek support from the high-cost support mechanism, designation of Nexus as a Lifeline-only ETC will not pose any adverse effect on the growth in the high-cost portions of the Universal Service Fund (USF), nor will it create or contribute to an erosion of high-cost funding from any rural or nonrural telephone company. Increasing the number of designated Lifeline-only ETCs in North Dakota will provide the opportunity for increased participation by qualified consumers in the Lifeline program.

North Dakota Administrative Code § 69-09-05-12(6)(a) requires a full description of available services in the ETC's official telephone directory. Since Nexus is a CMRS provider, it does not have an official telephone directory in North Dakota and requests a waiver from this requirement pursuant to North Dakota Administrative Code § 69-09-05-12(2)(c) and (d).

Nexus filed a Compliance Plan with the FCC on December 4, 2012. The FCC approved Nexus' Compliance Plan on December 26, 2012, and thereby granted Nexus forbearance from the statutory requirement that Nexus provide service using its own facilities in order to be designated as a Lifeline-only ETC.

The Certification Relating to Order Provisions as signed by Steven Fenker, President of Nexus on September 24, 2013 is incorporated by reference and attached to this order.

Customers qualifying for the Lifeline discounts offered by Nexus will receive the benefits of nationwide calling areas and the convenience and security of mobile telephone service. Nexus will bring increased customer choice and the benefits of competition.

Universal Service Support Area

The Commission must establish a geographic area (service area) for the purpose of determining universal service obligations and support mechanisms for the designated ETC. 47 U.S.C. § 214(e)(5).

The Act defines service area:

SERVICE AREA DEFINED – The term “service area” means a geographic area established by a State commission for the purpose of determining universal service obligations and support mechanisms. In the case of an area served by a rural telephone company, “service area” means such company’s “study area” unless and until the Commission and the States, after taking into account recommendations of a Federal-State Joint Board instituted under section 410(c), establish a different definition of service area for such company.

In its *Memorandum Opinion and Order*, FCC 13-44, released April 15, 2013, the Federal Communications Commission has determined that carriers may be designated as a Lifeline-only ETC in partial rural service areas.

In this proceeding, Nexus is requesting ETC designation in all North Dakota telephone exchanges.

Nexus has demonstrated that it is financially and technically capable of providing Lifeline service in compliance with 47 CFR Subpart E.

Based on the evidence in this proceeding, Nexus is qualified under the Telecommunications Act of 1996, Section 214(e) for designation as an ETC eligible to receive federal universal service support for low-income consumers under 47 CFR Part 54 Subpart E.

It is in the public interest that Nexus be designated as a Lifeline-only ETC in all North Dakota telephone exchanges, including Tribal Lands.

Nexus is registered with the Commission to provide commercial mobile radio and long distance services.

Nexus Communications, Inc. and its trade name ReachOut Wireless, are both registered with the Secretary of State of North Dakota and Nexus Communications, Inc. is in good standing.

Having allowed all interested persons an opportunity to be heard and having heard, reviewed and considered all testimony and evidence presented, the Commission makes the following:

Order

The Commission orders:

1. Nexus Communications, Inc. is designated an eligible telecommunications carrier for the purpose of receiving federal universal service support for low-income consumers under 47 CFR Part 54 Subpart E. The designated service area in this proceeding consists of all study areas in North Dakota, including Tribal Lands.
2. Nexus Communications, Inc. shall comply with the applicable annual reporting requirements set forth in North Dakota Administrative Code §69-09-05-12.1.
3. Pursuant to North Dakota Administrative Code §69-09-05-12(2)(c) and (d), Nexus Communications, Inc. is granted a waiver of the requirements of North Dakota Administrative Code § 69-09-05-12(6)(a) regarding the publication of a full description of its services in an official telephone directory.
4. Until further notice, Nexus shall file at least annually or, more often if requested by the Public Service Commission, a complete list of Nexus' customers and waivers, including North Dakota Department of Human Services Department Form SFN 1059, Authorization for Release of information 449-55-05, for each customer on the list.

PUBLIC SERVICE COMMISSION

Randy Christmann
Commissioner

Brian P. Kalk
Chairman

Julie Fedorchak
Commissioner

STATE OF NORTH DAKOTA
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