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IDAHO PUBLIC
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March 15, 2013

VIA FEDEX

Idaho Public Utilities Commission
Attn: Jean Jewell
PO Box 83720
Boise, ID 83720-0074

NCI-T-11-01

**Re: In the Matter of the Application of Nexus Communications, Inc. for
Designation as an Eligible Telecommunications Carrier for Low Income
Support Only**

Dear Ms. Jewell:

On behalf of Nexus Communications, Inc. ("Nexus"), please find the enclosed Second Amendment to the Application of Nexus Communications, Inc. for Designation as an Eligible Telecommunications Carrier for Low Income Support Only, which was filed on April 5, 2011.

An original and seven copies of Nexus's Second Amendment are enclosed. Please date-stamp and return in the self-addressed envelope included with this filing. Should you have any questions regarding this, please do not hesitate to call.

Respectfully submitted,

Danielle Frappier
Adam Shoemaker
Davis Wright Tremaine LLP

CC: Neil Price
Grace Seaman

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BEFORE THE IDAHO PUBLIC UTILITIES COMMISSION

IDAHO PUBLIC
UTILITIES COMMISSION

In the Matter of the Application of Nexus
Communications, Inc. for Designation as an
Eligible Telecommunications Carrier for Low
Income Support Only

Case No. NCI-T-11-01

**SECOND AMENDMENT TO APPLICATION OF NEXUS COMMUNICATIONS, INC.
FOR DESIGNATION AS AN ELIGIBLE TELECOMMUNICATIONS CARRIER
FOR LOW INCOME SUPPORT ONLY**

Nexus Communications, Inc. ("Nexus") respectfully submits this second amendment to its Application for Designation as an Eligible Telecommunications Carrier ("ETC") filed on April 5, 2011 ("Application"), as previously amended on September 14, 2012. This second amendment describes how Nexus will comply with several new requirements in the Federal Communication Commission's ("FCC") rules for the Lifeline Universal Service program instituted by the FCC's November 18, 2011 *Connect America Fund Order*¹ and February 6, 2012 *Lifeline Reform Order*.² This amendment also updates information provided to commission staff in data responses submitted prior to the release of these orders.

Specifically, Nexus amends the following sections of its Application:

1) **Revisions to Section D**

Nexus updates Section D of its Application as follows:

¹ *In the Matter of Connect America Fund, et al.*, CC Docket No. 96-45 *et al.*, Report and Order and Further Notice of Proposed Rulemaking, 26 FCC Rcd 17663 (FCC rel. Nov. 18, 2011) ("*Connect America Fund Order*").

² *In Re Lifeline and Link Up Reform and Modernization, et al.*, WC Docket No. 11-42 *et al.*, Report and Order and Further Notice of Proposed Rulemaking, 27 FCC Rcd 6656 (FCC rel. Feb. 6, 2012) ("*Lifeline Reform Order*").

D. Nexus Will Comply with Consumer Eligibility Certification and Verification Rules (47 C.F.R. § 54.509)

Nexus complies with the requirements pertaining to consumer qualifications for Lifeline set forth in section 54.409 of the FCC's rules.³ More specifically, Nexus requires all subscribers to demonstrate eligibility based at least on: (1) household income at or below 135% of the Federal Poverty Guidelines for a household of that size; or (2) the household's participation in one of the federal assistance programs listed in 47 C.F.R. § 54.409(a)(2) or 47 C.F.R. § 54.409(a)(3). Nexus also confirms that the subscriber is not already receiving a Lifeline service and that no one else in the subscriber's household is subscribed to a Lifeline service.⁴

Nexus will use a variety of outreach programs for its Lifeline supported services, which include direct mail, Internet advertising, and radio and television advertising. Nexus also reaches potential subscribers through retail marketing, including kiosks and point-of-sale promotional materials located in third-party retail establishments, as well as one retail establishment owned by Nexus. Each channel is intended to induce potential subscribers to contact Nexus either in person, over the Internet or by telephone. Although the logistics of the enrollment process varies somewhat for each channel as is further described below, in all cases, Lifeline applicants are thoroughly screened to ensure that they are qualified before a handset is delivered.

1. Nexus' Procedures to Determine Consumer Eligibility for the Lifeline Program

Analysis of Lifeline Eligibility. If Nexus cannot determine an applicant's eligibility for Lifeline by accessing income or program eligibility databases, Nexus personnel (either

³ 47 C.F.R. § 54.509.

⁴ 47 C.F.R. § 54.409(c).

employees, third-party subscriber service representatives or authorized agents in third-party retail establishments) review documents to establish eligibility in accordance with the criteria set forth in 47 C.F.R. § 54.409. All Nexus personnel who interact with existing Lifeline subscribers or Lifeline applicants have been fully trained in assisting Lifeline applicants with Lifeline eligibility. All Nexus personnel and authorized third-party representatives have been trained to answer questions about Lifeline requirements, and how to review required documentation to determine whether it satisfies the *Lifeline Reform Order* and state-specific eligibility requirements using state specific checklists. That being said, the final review and determination of the sufficiency of documentation is conducted by Nexus employees or authorized agents directly trained by Nexus employees. All Nexus personnel and authorized third-party representatives involved in enrolling Lifeline applicants have been trained on the FCC's revised Lifeline eligibility rules and Nexus' practices and policies designed to implement these new rules.

Proof of Lifeline Eligibility. Nexus follows the FCC's requirements pertaining to acceptable documentation to establish eligibility based either on income level or participation in a qualified government assistance program. Specifically, acceptable documentation of program eligibility includes: (1) the current or prior year's statement of benefits from a qualifying state, federal or Tribal program; (2) a notice letter of participation in a qualifying state, federal or Tribal program; (3) program participation documents (*e.g.*, the consumer's Supplemental Nutrition Assistance Program ("SNAP") electronic benefit transfer card or Medicaid participation card (or copy thereof); or (4) another official document evidencing the consumer's participation in a qualifying state, federal or Tribal program.⁵ Acceptable documentation of income eligibility includes: (1) the prior year's state, federal, or Tribal tax return; (2) current

⁵ *Lifeline Reform Order* at ¶ 101.

income statement from an employer or paycheck stub; (3) a Social Security statement of benefits; (4) a Veterans Administration statement of benefits; (5) a retirement/pension statement of benefits; (6) an Unemployment/Workers' Compensation statement of benefit; (7) federal or Tribal notice letter of participation in General Assistance; (8) or a divorce decree, child support award, or other official document containing income information. If the applicant presents Nexus with documentation of income that does not cover a full year, the applicant must present the same type of documentation covering three consecutive months within the previous twelve months.⁶

Nexus subscribers may provide the documentation in person, via fax or e-mail, or they may mail copies to Nexus. Nexus maintains detailed, accurate records identifying the data source used to determine a subscriber's eligibility or the documentation the subscriber provided to demonstrate eligibility for Lifeline. The specifically-trained personnel in charge of reviewing all incoming Lifeline applications examine and electronically record in its subscriber service and billing database the type of documentation presented by each prospective Lifeline subscriber,⁷ including the date of review, the identity of the documentation, the type of media (*e.g.*, paper, electronic card, etc.), and the issuance and/or expiration date of the documentation. Nexus' database includes separate data entry fields for this information, eliciting a response for each type of information, and will reject the order if any such field is not completed. If an applicant is unable to provide documentary proof of eligibility based on either household income level or current participation in a qualified program, Nexus denies that application.

⁶ 47 C.F.R. § 54.410(b)(1)(i)(B).

⁷ 47 C.F.R. § 54.410(b)(1)(ii) - (iii); 47 C.F.R. § 54.410(c)(1)(ii)-(iii).

2. Nexus' Procedures for Subscriber Certifications

In the *Lifeline Reform Order*, the FCC established a path for a transition to a national, governmental database that will be used to confirm the initial and continued eligibility of a Lifeline applicant or subscriber.⁸ Nexus will utilize that database when it becomes operational.⁹ Until that time, however, Nexus will continue to adhere to the following procedures for enrolling prospective subscribers into the Lifeline program.

Nexus has implemented certification procedures that enable prospective subscribers to demonstrate their eligibility by contacting Nexus either in person or by telephone, facsimile, over the Internet, or other electronic transmission. The personnel involved in enrolling Lifeline applicants verbally recite the certifications to Lifeline applicants where when enrolling in person or over the phone. In any retail locations (except those with kiosks), Nexus' authorized third-party representatives¹⁰ initially examine the qualifying documentation in person (which documentation will be forwarded to Nexus personal specifically trained in reviewing Lifeline qualifying documentation for further review) or, if the applicant does not have the documentation at the time, direct the applicant to supply the documentation via fax, mail or email. All applicants who do not have the requisite documentation at the time are informed that their Lifeline application will not be processed until the applicant provides the required documentary proof of eligibility. Prospective subscribers who do not complete Nexus' Lifeline Application in person must return the signed document and eligibility documentation to Nexus by mail,

⁸ See *Lifeline Reform Order* at ¶ 403.

⁹ On its new certification forms that were revised to encompass the requirements of the FCC's *Lifeline Reform Order*, Nexus obtains consent from each applicant to provide "any records required" for the administration of the Lifeline program including so that such information may be used in a Lifeline database. In order to ensure that it has the same consent from subscribers that applied using prior Nexus forms, Nexus has included nearly identical language on its annual re-certification forms and scripts.

¹⁰ All third-party representatives are accountable to Nexus for purposes of compliance with state and federal Lifeline rules.

facsimile, electronic mail or other electronic transmission. Nexus accepts electronic signatures that meet the requirements of the Electronic Signatures in Global and National Commerce Act, 15 U.S.C. §§ 7001-7006 and any applicable state laws.¹¹

Each prospective subscriber is required to complete and sign Nexus' "Lifeline Application." Samples of this document are provided as Exhibit 1. Nexus has modified its Lifeline Application as necessary for use in certain states that have specific requirements, such as additional qualifying programs, but the operative language of Exhibit 1 will remain constant. Nexus's Lifeline Application conforms to the requirements of the *Lifeline Reform Order*, 47 C.F.R. § 54.410(d) and 47 C.F.R. § 54.405.

Information Collected. Nexus collects the following information from prospective subscriber in its Lifeline Application form: (1) the subscriber's full name; (2) the subscriber's full residential address (P.O. Boxes are not permitted); (3) whether the residential address is permanent or temporary; (4) the subscriber's billing address, if different; (5) the subscriber's date of birth; (6) the last four digits of the subscriber's Social Security number (or Tribal identification number if the subscriber is a member of a Tribal nation and does not have a Social Security number¹²); (7) if the subscriber 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 subscriber is seeking to qualify for Lifeline under the income-based criterion, the number of individuals in his or her household.¹³

¹¹ See *Lifeline Reform Order* at ¶ 168; 47 C.F.R. § 54.419.

¹² Nexus will only include language regarding a Tribal identification number on forms used in states with Tribal areas.

¹³ 47 C.F.R. § 54.410(d)(2).

Applicant Certifications. In accordance with 47 C.F.R. § 54.410(d), in its Lifeline Application, Nexus requires all Lifeline applicants to certify, under penalty of perjury, that: (1) the subscriber meets the income- or program-based eligibility criteria for receiving Lifeline; (2) the subscriber will notify Nexus 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 income- or program-based criteria for receiving Lifeline support, the subscriber is receiving more than one Lifeline benefit, or another member of the subscriber's household is receiving a Lifeline benefit; (3) if the subscriber is seeking to qualify for Lifeline as an eligible resident of Tribal lands, that he or she lives on Tribal lands;¹⁴ (4) if the subscriber moves to a new address, that he or she will provide that new address to Nexus within 30 days; (5) if the subscriber provided a temporary residential address to Nexus, the subscriber will be required to verify his or her temporary residential address every 90 days; (6) the subscriber's household will receive only one Lifeline service and, to the best of the applicant's knowledge, the subscriber's household is not already receiving a Lifeline service; (7) the information contained in the subscriber's application/certification form is true and correct to the best of the subscriber's knowledge; (8) the subscriber acknowledges that providing false or fraudulent information to receive Lifeline benefits is punishable by law; and (9) the subscriber 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 subscriber's Lifeline benefits, and (10) that the applicant authorizes Nexus to access any state or federal records or database to verify his or her eligibility, and authorizes Nexus to release any records required for administration of the program, including to USAC to be used in the national

¹⁴ Because Nexus' designated service includes only two states with Tribal lands (Oklahoma and Rhode Island), only Nexus' Lifeline Application specifically for those states include this certification.

Lifeline database, and that failure to so authorize Nexus will result in a denial of Lifeline benefits.

The Lifeline Application also describes the information that is transmitted, that the information is being transmitted to USAC 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. Prospective applicants must affirmatively certify to each of these certifications in order for the application process to move forward, including those applying online. For those applying online, Nexus' website does not permit the applicant to submit the application unless all certifications have been completed. Subscribers also may certify via interactive voice response ("IVR"), which is then saved as a recorded file and saved in the subscriber's account in Nexus' subscriber care and billing system.

In accordance with 47 C.F.R. § 54.410(d)(1), Nexus' Lifeline Application discloses the following information: (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 the FCC's 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.¹⁵

Finally, in accordance with 47 C.F.R. § 54.405(c), Nexus' Lifeline Application indicates, using easily understood language, (1) that the service is a Lifeline service; (2) that Lifeline is a

¹⁵ *Id.*

government assistance program; (3) that the service is non-transferrable; (4) that only eligible consumers may enroll in the program; and (5) that the program is limited to one discount per household.¹⁶

2) **Revisions to Section F**

Nexus revises Section F of its Application as to read as follows:

F. Nexus Will Remain Functional in Emergency Situations

Nexus commits to remaining functional in emergency situations. Since Nexus will provide services in part through the use of facilities obtained from a major carrier vendor for wireless spectrum and other related wireless services, Nexus will provide to its customers the same ability to remain functional in emergency situations as is currently provided by the vendor to its own customers, including access to a reasonable amount of back-up power to ensure functionality without an external power source, re-routing of traffic around damaged facilities, and the capability to manage traffic spikes in the event of emergency situations.

3) **Revised Section H**

Nexus updates Section H of its application as follows:

¹⁶ *Id.*

H. Nexus' Calling Plans Offer Local Usage Comparable to the Relevant ILECs' Plans (47 C.F.R. § 54.202(a)(4))

Nexus' calling plans provide local calling capability comparable to the offered by the relevant incumbent local exchange carriers ("ILECs") in Nexus' operating areas. Nexus' wireless minutes may be used to call anywhere in the United States, which includes, of course, local calls. Nexus will also offer a number of features to its customers, including caller ID, call waiting and voicemail. Nexus's plan and offerings therefore are comparable with or more attractive than those of the incumbent LECs.

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

250 Minute Plan (non-rollover): Minutes are "anytime" minutes and can be used for domestic calls, including local or intrastate/interstate long distance calls. Unused minutes or domestic Short Message Service ("SMS") text messages do not carry over to the following month. SMS text messaging is available at a rate of one text per minute of airtime.

125 Minute Plan (rollover): Minutes are "anytime" minutes and can be used for domestic calls, including local or intrastate/interstate long distance calls. Unused minutes or domestic SMS text messages carry over to the following month. SMS text messaging is available at a rate of one text per minute of airtime.

68 Minute Plan (rollover): In addition, Nexus offers, but does not actively market, a 68 Minute Plan (with rollover). Minutes are "anytime" minutes and can be used for domestic calls, including local or intrastate/interstate long distance calls. Unused minutes or domestic SMS text messages carry over to the following month. Domestic SMS text messaging is available at a rate of two text messages per each minute of airtime. Although available to subscribers, it is rarely selected except by a few subscribers who infrequently use voice service and more frequently send text messages.

All plans include at no extra charge: free 911-compliant handset; and “anytime” nationwide minutes that can be used for domestic calls, including local or intrastate/interstate long distance calls. Nexus does not charge a service activation fee or reconnect fee. Idaho subscribers will not have to pay a service activation fee. Lifeline customers will not have minutes deducted from their accounts to pay for taxes or fees.

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

International SMS text messaging is available at a rate of \$0.20 for each international text sent or received. The rate for directory assistance calls is \$1.50 per request. Nexus permits Lifeline subscribers to block international calls at no additional charge. Lifeline customers will not be required to use minutes to call *611 customer service. There is no deduction of minutes for calls to 911 or Nexus’s customer service department. In a case where Nexus must change the subscriber’s phone number, Nexus will inform the subscriber before doing so. Nexus no longer includes language in its service contract that it may “change a customer’s phone number at any time for any reason.”

Calls from the handset checking or retrieving voicemails count against the voice minutes provided by the plan. Calls from a source other than the handset checking or retrieving voicemail messages and incoming calls that leave a voicemail message are free to the Nexus end

user. Calls to 911 emergency services are always free, and may be made regardless of service activation or availability of minutes.

4) **New Section K**

In order to update prior data responses, Nexus adds a new Section K to its Application, titled "Tribal Notification."

K. Tribal Notification

As required by Commission rules, Nexus will provide a copy of this Application to the affected tribal government or tribal regulatory authority of the tribal areas it intends to serve. The applicable tribal areas include those of the Nez Perce Tribe, the Shoshone-Bannock Tribe, and the Coeur D'Alene Tribe.

5) **New Section L**

In order to update prior data responses, Nexus adds a new Section L to its Application, titled "Other Requirements."

L. Other Requirements

Nexus will collect and remit all applicable surcharges and pay applicable taxes and fees, including those related to universal service funding pursuant to chapter 9 of title 56 of the Idaho Code and the emergency communications fee collected pursuant to Idaho Code § 31-4804. Specifically, Nexus will remit applicable 911 and ITSAP surcharges based on its entire Idaho subscriber base.

Respectfully Submitted,

A handwritten signature in black ink, appearing to read "Danielle Frappier", with a long horizontal flourish extending to the right.

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