



State of Rhode Island and Providence Plantations

DEPARTMENT OF ATTORNEY GENERAL

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*Peter F. Kilmartin, Attorney General*

June 30, 2011

Luly Massaro, Clerk  
Rhode Island Public Utilities Commission  
89 Jefferson Blvd.  
Warwick, RI 02888

**Re: PETITION OF NEXUS COMMUNICATIONS, INC. FOR  
DESIGNATION AS AN ELIGIBLE TELECOMMUNICATIONS  
CARRIER IN THE STATE OF RHODE ISLAND FOR LOW INCOME  
SUPPORT ONLY- Docket No. 4238**

Dear Ms. Massaro,

Enclosed for filing with the Commission are an original and nine (9) copies of the Division's Comments Relating to Petition of Nexus Communications, Inc. for Designation as an Eligible Telecommunications Carrier for Low Income Support in the State of Rhode Island in the above matter.

Thank you for your attention to this matter.

Very truly yours,

Jon G. Hagopian  
Special Assistant Attorney General

cc: Service List (e-mail only)

**STATE OF RHODE ISLAND AND PROVIDENCE PLANTATIONS  
PUBLIC UTILITIES COMMISSION**

**IN RE: PETITION OF NEXUS COMMUNICATIONS, INC. :  
FOR DESIGNATION AS AN ELIGIBLE :  
TELECOMMUNICATIONS CARRIER FOR LOW :  
INCOME SUPPORT IN THE STATE OF RHODE ISLAND : DOCKET NO. 4238**

**RHODE ISLAND DIVISION OF PUBLIC UTILITIES AND CARRIER'S COMMENTS  
RELATING TO PETITION OF NEXUS COMMUNICATIONS, INC FOR  
DESIGNATION AS AN ELIGIBLE TELECOMMUNICATIONS CARRIER FOR LOW  
INCOME SUPPORT IN THE STATE OF RHODE ISLAND**

The Division of Public Utilities and Carriers (“Division”) hereby submits the following comments related to Nexus Communications, Inc. (“Nexus”) Petition for Designation as an Eligible Telecommunications Carrier (“ETC”) filed on April 15, 2011 with the Rhode Island Public Utilities Commission (the “Commission”). The Division’s comments are based upon a review of the docket filing including data responses and the Petition of Nexus as well as other recent petitions for ETC designation.

Nexus has filed the within petition seeking ETC status pursuant to Section 214(e)(2) of the Communications Act of 1934, as amended (the “Act”),<sup>1</sup> Section 54.201 *et seq.* of the rules of the Federal Communications Commission (the “FCC”),<sup>2</sup> and the Commission’s ETC Rules. Nexus seeks designation as an ETC solely for the purpose of participating in the Lifeline and Link Up programs and it will not seek funds from the Universal Service Fund for provision of service to high-cost areas.<sup>3</sup>

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<sup>1</sup> 47 U.S.C. § 214(e)(6).

<sup>2</sup> 47 C.F.R. §§ 54.201 *et seq.*

<sup>3</sup> Nexus Petition at p. 1.

The petition of Nexus appears to be similar to other recent filings for ETC designation whereby Nexus claims it will supply the services supported by the Universal Service Fund through a combination of its own facilities and the resale of another carriers services.<sup>4</sup> Nexus asserts that through this combination, it has the capability to offer all services and functionalities supported by the universal service program as set-forth in 47 C.F.R. § 54.101(a) of the Federal Communications Commission (“FCC”) Rules and Commission ETC Rule § III.

Nexus represents it is a Delaware corporation formed in 2000 currently providing wireless service, commercial mobile radio services (“CMRS”) to subscribers in at least twelve states throughout the United States.<sup>5</sup> It received its first ETC designation in 2006.<sup>6</sup>

Nexus intends to supply prepaid wireless services through authorized retailers without long-term contracts or early termination fees.<sup>7</sup> Nexus will offer its Lifeline service customers a free handset with an option of three calling plans offering 250, 125 or 68 free anytime local and long distance minutes per month.<sup>8</sup> Nexus will provide a pay as you go service.<sup>9</sup> Service will include E-911 compliant handset, local and domestic long distance calling, texting and several other features.<sup>10</sup> Nexus represents its customers will have access to emergency calling even after consumption of all their “anytime” calling minutes.<sup>11</sup> Customers will be charged a \$72.00 dollar activation fee, \$30.00 dollars of which will be subsidized through disbursements from USAC and the remaining \$42.00 Nexus represents it will provide for a “deferred schedule” for repayment of the balance of the activation charge.<sup>12</sup>

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<sup>4</sup> Nexus Petition at p. 4.

<sup>5</sup> Nexus Petition at p. 3.

<sup>6</sup> Nexus Petition at p. 2.

<sup>7</sup> Nexus Petition at p.6 & 8.

<sup>8</sup> Nexus Data Response Comm. 1-3.

<sup>9</sup> Nexus Data Response Comm.1-1.

<sup>10</sup> Nexus Petition at p. 8.

<sup>11</sup> Nexus Data Response Div. 1-4.

<sup>12</sup> Nexus Data Response Comm. 1-2.

When an entity seeks ETC status in the State of Rhode Island it is required to demonstrate certain elements to the satisfaction of the Commission as provided for in Section III of the Commission's ETC Rules as follows:

- a. That the company is an authorized telecommunications carrier under the laws of the State of Rhode Island;
- b. That the company provides all federally-required and state-required services throughout its service area, and so advertises them in media of general circulation;
- c. That the company offers Lifeline and Linkup services that fully comply with the Federal and State requirements;
- d. That, if the company cannot provide certain required services (notably E911 and toll limitation), it has adopted a plan to provide them by a date certain. This plan will be reviewed as part of the review of the petition, and must be acceptable to this Commission.

Similarly Section IIA of the Commission's ETC Rules provides that to be eligible for designation as an ETC, the common carrier must offer the following:

1. Single-party service
2. Voice grade access to the public switched network
3. Dual-Tone Multi-Frequency Signaling or its functional equivalent
4. Access to emergency services (e.g., 911 and E911)
5. Access to operator services
6. Access to interexchange service
7. Access to directory assistance
8. Toll limitation for qualifying low-income consumers

## 9. Lifeline and Linkup service

Nexus asserts that it will provide the following nine service functions in compliance with 47 C.F.R. § 54.101(a) of the Federal Communications Commission (“FCC”) Rules and Commission ETC Rules §§ IIA and III.

First, Nexus states, it has the capability to meet the requirement to provide voice grade access to the public switched telecommunications network (PSTN) via the capability to transmit and receive voice communications with a minimum bandwidth of 300 to 3000 Hertz.<sup>13</sup> Nexus claims to do so through its capability to intercommunicate with the PSTN.

Second, Nexus claims to offer required calling plans with varying amounts of local usage (250, 125 & 68 minutes of usage) free of charge to the end user.<sup>14</sup> The Nexus calling plans claim to offer “a nationwide calling area permitting customers to call anywhere in the United States with no toll charges.”<sup>15</sup>

Third, Nexus will satisfy the dual tone multi-frequency signaling or its functional equivalent requirement by providing for out-band digital signaling and in-band multi-frequency signaling for call set-up and termination.<sup>16</sup>

Fourth, the single party service requirement of a dedicated message path for the length of a user’s particular transmission will be satisfied according to Nexus.<sup>17</sup>

Fifth, Nexus will provide access to the 911 system even after calling minutes are completely consumed. It will also comply with the FCC’s E911 applicable to wireless resellers.<sup>18</sup>

Sixth, Nexus will offer operator services.

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<sup>13</sup> See 47 C.F.R. §54.101(a)(1)

<sup>14</sup> See 47 C.F.R. §54.101(a)(2)

<sup>15</sup> Nexus Petition at p. 4.

<sup>16</sup> Id. at p.5; See 47 C.F.R. §54.101(a)(3)& Commission ETC Rule Part II. A. 3.

<sup>17</sup> Id. at p.5; See 47 C.F.R. §54.101(a)(3)& Commission ETC Rule Part II. A. 4.

<sup>18</sup> Nexus Petition at p. 5.

Seventh, Nexus will offer toll calling access.<sup>19</sup>

Eighth, Nexus will offer directory assistance that will be charged off airtime only.<sup>20</sup>

Nexus asserts that it provides customers directory assistance and operator services.<sup>21</sup>

Finally, ninth, Nexus is a prepaid service which acts as a toll control. There is no threat of shut off for failure to pay toll charges, therefore dispensing with any toll limitation issues.

Nexus represents that it will comply with all other requirements of Commission ETC Rules in Part II and III.

The Division has stated many times, it acknowledges and supports the principle that a competitive marketplace is beneficial to ratepayers.<sup>22</sup> The Division is convinced that a competitive market will drive “better service quality, pricing and other attributes of head to head competition”<sup>23</sup> thereby benefiting ratepayers. Nexus appears to do wireless business in at least twelve states.

The Division also notes that on June 24, 2011 Nexus filed a business registration with the Commission however redacted required financial information from its public filing and submitted this financial information under seal to the Commission. Based upon the Division’s review of the instant Petition and accompanying attachments, the Division believes Nexus has otherwise satisfied its burden of compliance with FCC Rules and the Commission’s ETC Rules.

For the foregoing reasons the Division has no objection to the Commission granting Nexus ETC status conditioned upon the representations in its Petition and satisfactory review of all required financial information.

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<sup>19</sup> Nexus Petition at p. 6.

<sup>20</sup> Nexus Petition at p. 6.

<sup>21</sup> Nexus Petition at p.6.

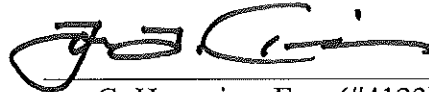
<sup>22</sup> See Division Comments Tracfone ETC Petition at p.8.

<sup>23</sup> Id.

Respectfully submitted,

Thomas Ahern, Administrator  
State of Rhode Island  
Division of Public Utilities and  
Carriers

By his attorney,



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**CERTIFICATION OF SERVICE**

I hereby certify that on the 30<sup>th</sup> day of June, 2011 that I transmitted an electronic copy of the within Comments to the attached service list and to Luly Massaro, Commission Clerk via electronic mail and regular mail.

