

**STATE OF MISSOURI
PUBLIC SERVICE COMMISSION**

At a session of the Public Service Commission held at its office in Jefferson City on the 16th day of September, 2009.

In the Matter of the Application of Nexus)
Communications, Inc., dba TSI for Designation as an)
Eligible Telecommunications Carrier in the State of) **File No. RA-2009-0375**
Missouri for the Limited Purpose of Offering Wireless)
Lifeline and Link up Service to Qualifying Households)

ORDER DENYING REHEARING

Issue Date: September 16, 2009

Effective Date: September 16, 2009

The Missouri Public Service Commission denies the application for rehearing (“motion”) of Nexus Communications, Inc., dba TSI (“Nexus”). Nexus filed the motion on September 4, 2009. On September 11, 2009, the Commission’s staff (“Staff”) filed a response opposing the motion.

A. Matter for Rehearing

Nexus seeks a rehearing on the Commission’s August 25, 2009, order (“decision”).

That decision granted Nexus’ application for:

- a. designation as an eligible telecommunications carrier (“ETC”), to provide Commercial Mobile Radio Service (“wireless”) services with Lifeline and Link-UP support to qualified low-income Missouri consumers, and
- b. waiver of certain regulations related to federal Universal Service Fund (“FUSF”) high-cost support

("application"), subject to conditions specified in Staff's recommendation. Nexus agreed with those conditions in its reply to the recommendation.

But at an on-the-record presentation, Nexus sought an exemption from the conditions ("request"). The request was contingent on the grant of an analogous request in file no. TA-2009-0327, relating to the ETC application of TracFone Wireless, Inc. (the "TracFone file"). The Commission denied the request in the TracFone file and in this file.

The denial of Nexus' request is the subject of the motion.

B. Standard

The motion is subject to the following regulation:

Applications for rehearing may be filed pursuant to statute.¹

The statutes provide:

1. After an order or decision has been made by the commission, the . . . public utility interested therein shall have the right to apply for a rehearing in respect to any matter determined therein, and the commission shall grant and hold such rehearing, if in its judgment **sufficient reason** therefor be made to appear[.]

2. . . . Such application shall set forth specifically the ground or grounds on which the applicant considers said order or decision to be **unlawful, unjust or unreasonable**[.]

* * *

4. If, after a rehearing and a consideration of the **facts**, including those arising since the making of the order or decision, the commission shall be of the opinion that the original order or decision or any part thereof is in any respect **unjust or unwarranted**, or should be changed, the commission may abrogate, change or modify the same[.]²

Emphasis added.

¹ 4 CSR 240-2.160(1).

C. Argument and Ruling

Nexus argues that denying the request was unlawful, unjust, unreasonable or unwarranted because the challenged condition is different from a similar federal regulation and unduly burdens the customers of Nexus. Nexus adopts the argument made in, and makes its motion contingent on the grant of, a corresponding motion in the TracFone file.

As Staff notes, sufficient reason for granting rehearing does not appear in either motion because the Commission has already considered all facts set forth in both applications and motions. Nexus' conclusory arguments supply no reason to abrogate, change or modify the decision. The Commission is issuing an order denying the corresponding motion in the TracFone file.

Therefore, the Commission will deny Nexus' motion.

THE COMMISSION ORDERS THAT:

1. The application for rehearing of Nexus Communications, Inc., dba TSI is denied.
2. This order is effective immediately on issuance.
3. This file may close on September 17, 2009.

BY THE COMMISSION

(S E A L)



Steven C. Reed
Secretary

Clayton, Chm., Davis, Jarrett, Gunn,
and Kenney, CC., concur.

Jordan, Regulatory Law Judge

² Section 386.500.1, RSMo 2000.