

**STATE OF MISSOURI  
PUBLIC SERVICE COMMISSION**

At a session of the Public Service Commission held at its office in Jefferson City on the 26<sup>th</sup> day of August, 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 GRANTING APPLICATION  
FOR ELIGIBLE TELECOMMUNICATIONS CARRIER STATUS  
AND WAIVER OF REGULATIONS**

Issue Date: August 26, 2009

Effective Date: September 5, 2009

The Missouri Public Service Commission grants eligible communications status for wireless Lifeline and Link-Up service by Nexus Communications, Inc., dba TSI, and waives regulations related to high-cost service, as follows.

On April 15, 2009, Nexus filed the verified application and amended it on May 14, 2009 (“application”). The Commission allowed until May 18, 2009, for intervention. As of the date of this order, no party has filed an application for intervention. On May 18, 2009, the Commission’s staff (“Staff”) filed its recommendation, with a supporting affidavit, favoring the amended application with specified conditions. On May 22, 2009, Nexus filed a reply agreeing to those conditions. On June 12, 2009, the Commission scheduled an on-

the-record presentation, which the Commission convened on July 7, 2009.<sup>1</sup> On July 13, 2009, the transcript was filed.

The application seeks:

- 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;
- b. waiver of certain regulations related to federal Universal Service Fund (“FUSF”) high-cost support.

Nexus seeks no federal Universal Service Fund (“FUSF”) high-cost support. Such an application is within the Commission’s jurisdiction to decide.<sup>2</sup> Because all parties agree to the application, no law requires a formal adversarial evidentiary hearing before granting the application.<sup>3</sup> Therefore, the Commission deems the hearing waived,<sup>4</sup> and bases its findings on the verified filings, and makes its conclusions as follows.

Nexus is an Ohio corporation authorized to do business in Missouri. Nexus holds certificates of service authority to provide the following telecommunications services in Missouri: basic local, local exchange, and interexchange. Within the last three years before the application’s filing, no pending action or final unsatisfied judgment or decision, involving

---

<sup>1</sup> At the on-the-record presentation, Nexus asked for an exemption from the conditions (“request”). The request was contingent on the Commission granting such an exemption in file no. TA-2009-0327. In that file, the Commission denied that exemption. Further, neither the request, nor any law or fact supporting it, appears in the application or the amendment. Nexus has not filed a separate application for variance under the Commission’s regulation 4 CSR 240-31.050(5). Thus, neither Staff nor any possible intervenor has had any opportunity to address any reasons supporting the request. Moreover, the request contradicts Nexus’ reply. Therefore, the Commission is granting the application without the requested exemption.

<sup>2</sup> 47 U.S.C. 214(e)(2).

<sup>3</sup> *State ex rel. Rex Deffenderfer Ent., Inc. v. Public Serv. Com’n*, 776 S.W.2d 494 (Mo. App. 1989).

<sup>4</sup> Section 536.060, RSMo 2000.

customer service or rates, has occurred in any state or federal agency or court against Nexus, and Nexus has no overdue annual report or assessments fees.

As to ETC designation and low-income ETC designation, federal law provides that the FUSF's purposes include providing:

Consumers in all regions of the Nation, including low-income consumers . . . access to telecommunications . . . services [<sup>5</sup>]

All parties agree that Nexus meets the requirements for designation and low-income eligibility.

As to waivers, good cause is the standard for waiving a regulation.<sup>6</sup> The regulations for which Nexus seeks a waiver are the following paragraphs of 4 CSR 240-3.570:

- (2)(A)1, 2 and 3;
- (4)(A)1, 2, 3, 4, and 5; and
- (4)(B)1, 2, 3, and 4.

Those provisions relate to construction and installation for high-cost services. Good cause to waive those provisions stands on two facts: (1) Nexus expressly does not seek funds to provide high-cost service and (2) its system is already built out.

Therefore, the Commission will grant the application subject to conditions set forth below.

**THE COMMISSION ORDERS THAT:**

1. The application of Nexus Communications, Inc., dba TSI for designation as a federal Universal Service Fund eligible telecommunications carrier for wireless telecommunications services, is granted subject to the conditions in ordered paragraph 2.

---

<sup>5</sup> 47 USC § 254(b)(3).

<sup>6</sup> 4 CSR 240-3.015(1) and 4 CSR 240-2.015(1).

2. The conditions referred to in paragraph 1 are the conditions set forth in the recommendation of the Commission's staff, which read as follows:

- Individuals shall only be eligible for Lifeline and Link Up assistance if the customer requesting or receiving Nexus service participates or has a dependent residing in the customer's household who participates in a program pursuant to 42 U.S.C sections 1396-1396v, food stamps (7 U.S.C. section 51), Supplementary Security Income (SSI) (42 U.S.C. section 7), federal public housing assistance or Section 8 (42 U.S.C. section 8), National School Lunch Program's free lunch program (42 U.S.C. section 13), Temporary Assistance for Needy Families (42 U.S.C. section 7(IV)), or Low Income Home Energy Assistance Program (LIHEAP) (42 U.S.C. section 94);
- Customers shall complete an application similar to the Missouri Universal Service Board approved application, which certifies under penalty of perjury that the individual or a dependent residing in the individual's household:
  - receives benefits from one of the qualifying programs, identifies the program or programs which that individual receives benefits;
  - agrees to notify the carrier if that individual ceases to participate in the program or programs;
- Customers shall provide documentation of participation in the applicable program(s) as identified on the application;
- Nexus shall develop a process for recording the type of documentation received;
- Nexus shall develop a process for returning or destroying the documentation once recorded;
- Nexus shall establish state procedures to verify a customer's continued eligibility and shall provide such procedures to the commission staff and/or the office of public counsel for review within thirty days of request; and
- Nexus shall terminate an individual's enrollment in Lifeline and Link Up if the individual ceases to meet eligibility requirements.

3. The requirements under the following regulations are waived:

- 4 CSR 240-3.570(2)(A)1, 2 and 3;
- 4 CSR 240-3.570(4)(A)1, 2, 3, 4, and 5; and
- 4 CSR 240-3.570(4)(B)1, 2, 3, and 4.

4. This order is effective on September 5, 2009.
5. This file may close on September 6, 2009.

**BY THE COMMISSION**



Steven C. Reed  
Secretary

( S E A L )

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

Jordan, Regulatory Law Judge