

In the Matter of the Petition of VCI)
Company for Designation as an Eligible) Case No. CO-2006-0464
Telecommunications Carrier.)

AT&T Missouri,¹ in accordance with the Commission's Order Directing the Filing of Late-Filed Exhibit and Responses entered today, hereby files as Exhibit No. 6 the attached copy of the Finding and Order entered on October 25, 2006, by the Public Utilities Commission of Ohio in the case captioned as In the Matter of the Commission Investigation of the Intrastate Universal Service Discounts (Case No. 97-632-TP-COI). ("Ohio Commission's Finding and Order"). AT&T Missouri further renews its motion to admit the exhibit into evidence.

In sum, AT&T Missouri hereby files, and renews its motion offering into evidence, Exhibit No. 6 attached hereto.

¹ Southwestern Bell Telephone, L.P. d/b/a AT&T Missouri (“AT&T Missouri”).

Respectfully Submitted,

SOUTHWESTERN BELL TELEPHONE, L.P.

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CERTIFICATE OF SERVICE

I hereby certify that copies of the foregoing document were served to all parties by e-mail on April 19, 2007.


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BEFORE

THE PUBLIC UTILITIES COMMISSION OF OHIO

In the Matter of the Commission)
 Investigation of the Intrastate Universal) Case No. 97-632-TP-COI
 Service Discounts.)

FINDING AND ORDER

The Commission finds:

- (1) Section 214(e)(1) of the Communications Act of 1934, as amended by the Telecommunications Act of 1996 (1996 Act), provides that a common carrier designated as an eligible telecommunications carrier (ETC) under this section or Section 214(e)(3) shall be eligible to receive universal service support in accordance with Section 254 of the 1996 Act.
- (2) Section 254(e) provides that, after the effective date of the Federal Communications Commission's (FCC) regulations implementing Section 254, only an ETC shall be eligible to receive specific universal service support.
- (3) On May 7, 1997, the FCC adopted rules to promote universal service consistent with its interpretation of the requirements of the 1996 Act.¹ In its CC 96-45 decision, the FCC, among other things, set forth parameters for the states to determine those carriers eligible to receive federal universal service support. The states were further directed to determine those carriers that should be classified as rural carriers or nonrural carriers for the purpose of federal universal service support consistent with the Communications Act of 1934 [47 U.S.C. §153(37)].
- (4) The Commission, in its November 20, 1997, Finding and Order in this proceeding, instructed applicant carriers to file as either rural or nonrural ETCs consistent with the requirements of the 1996 Act and the FCC. While the Commission allowed for the possibility of multiple ETC providers in nonrural areas, the Commission determined that it would limit rural ETCs to just the incumbent local exchange companies (ILECs) until rural carriers are required

¹ In the Matter of the Federal-State Joint Board on Universal Service, CC Docket No. 96-45, Report and Order, rel. May 7, 1997.

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to migrate to a funding model similar to nonrural carriers, which is based on forward-looking economic costs.

- (5) On December 22, 2005, Nexus Communications, Inc. dba TSI (Nexus) filed a petition requesting designation as an ETC in specified exchanges within the nonrural service territories of Verizon North, Embarq, Cincinnati Bell, and AT&T Ohio for the purpose of receiving federal universal service support. Nexus is currently certified as a competitive local exchange carrier (CLEC), pursuant to Certificate of Public Convenience and Necessity No. 90-9164, in the local service areas of Verizon North, Embarq, Cincinnati Bell, and AT&T Ohio.

Nexus submits that it satisfies all of the statutory and regulatory requirements for designation as an ETC, including the offering of all of the supported services enumerated in Section 254. Nexus avers that its designation as an ETC will serve the public interest inasmuch as it will allow it to obtain federal universal service support, which it will utilize to offer innovative telecommunications services at competitive prices, thus, satisfying the 1996 Act's goal of promoting competition. Nexus represents that, upon designation as an ETC, it will participate in and offer Lifeline and Link-up programs to qualifying low-income customers and publicize the availability of these services in accordance with the FCC's rules. In conjunction with its application, Nexus filed a proposed tariff amendment incorporating Lifeline and Link-up services.

- (6) Upon a review of Nexus' request to be designated as an ETC in portions of the nonrural service areas of Verizon North, Embarq, Cincinnati Bell, and AT&T Ohio, the Commission finds that this request should be denied at this time. Section 214(e)(2) gives states the primary responsibility to designate ETCs and prescribes that all state ETC designations, whether rural or nonrural, must be consistent with the public interest, convenience and necessity.² In particular, the FCC has recognized that an ETC designation by a state commission can ultimately impact the amount of high cost and low-income monies distributed to an area served by a nonrural carrier.³

² CC Docket No. 96-45, Report and Order, rel. March 17, 2005, at 20, 28.

³ *Id.* at 27.

Upon reviewing the application filed by Nexus, the Commission notes that currently the residential monthly rate proposed by Nexus is between three to almost six times higher than the specific ILEC rate after the applicable Lifeline discount is subtracted. Additionally, the Commission notes that Nexus' tariffed connection fee is \$60.00. Although \$30.00 of this cost is subsidized by the Universal Service Fund, the Lifeline end user customer will still be responsible for the additional \$30.00. In comparison, as alternative regulation companies, Cincinnati Bell, AT&T Ohio, Embarq, and Verizon North all waive the end user portion of the connection fee.

The Commission finds that it is not in the public interest to utilize public funds for the purpose of subsidizing competition simply for the sake of being able to represent that there is another competitor in a particular exchange. This is especially the case in this situation in which Nexus' connection fee and proposed residential service and subsidized Lifeline rates will be significantly higher than the ILECs' corresponding rates. In support of its decision, the Commission recognizes the growing concern regarding the state of the federal universal service fund due to the rapid growth in federal support distributed to competitive ETCs.⁴

Additionally, the Commission recognizes that Ohio does not currently have an intrastate universal service fund to assist in the support of ETCs. The Commission does not seek to take any action at this time that may put further pressure on the federal fund and potentially result in the need for the creation of such an intrastate fund. Therefore, Nexus' application is denied inasmuch as, based on the record before us, we conclude that granting Nexus ETC status is not in the public interest.

In the event that circumstances change or the FCC resolves outstanding universal service issues in the future, the Commission may reevaluate its position in this matter at that time.

It is, therefore,

⁴ *Id.* at 25, 26; 19 FCC Rcd. 1563.

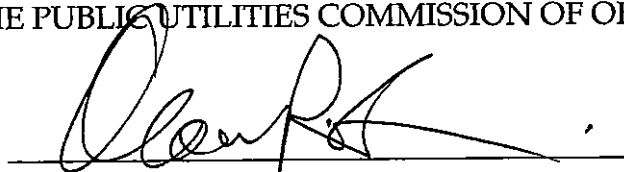
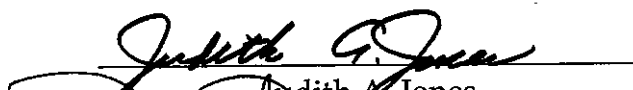

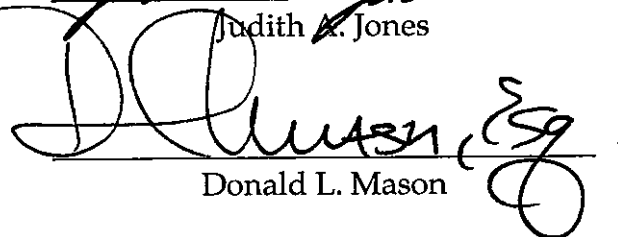
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ORDERED, That Nexus' application is denied consistent with Finding (6). It is, further,

ORDERED, That a copy of this Finding and Order be served upon Nexus and all other interested parties and persons of record.

THE PUBLIC UTILITIES COMMISSION OF OHIO


Alan R. Schriber, Chairman
Ronda Hartman Fergus
Judith A. Jones
Valerie A. Lemmie
Donald L. Mason

JSA;geb

Entered in the Journal

OCT 25 2006

Renee J. Jenkins
Secretary