

ORIGINAL

STATE OF INDIANA

INDIANA UTILITY REGULATORY COMMISSION

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IN THE MATTER OF THE VERIFIED)
PETITION OF NEXUS COMMUNICATIONS,) CAUSE NO. 41052 ETC 59 S1
INC. FOR RELINQUISHMENT OF ITS)
DESIGNATION AS AN ELIGIBLE) APPROVED:
TELECOMMUNICATIONS CARRIER) MAY 25 2016

ORDER OF THE COMMISSION

Presiding Officers:

Angela Rapp Weber, Commissioner
David E. Veleta, Administrative Law Judge

On March 15, 2016, Nexus Communications, Inc., doing business as ReachOut Wireless (“Nexus”) filed with the Indiana Utility Regulatory Commission (“Commission”) its Verified Petition for Relinquishment of Its Designation as an Eligible Telecommunications Carrier (“ETC”) in the State of Indiana (“Verified Petition”). On April 1, 2016, Nexus filed an Agreed Procedural Schedule in this proceeding. On April 1, 2016, the Presiding Officers issued a Docket Entry creating a sub-docket and establishing a procedural schedule. On April 15, 2016, the Indiana Office of Utility Consumer Counselor (“OUCC”) filed its Notice of Intent Not to Prefile Testimony. On April 26, 2016, the Presiding Officers issued a Docket Entry requesting additional information from Nexus. On April 27, 2016, Nexus filed its response to the Presiding Officers’ April 26, 2016 Docket Entry.

The Commission held an Evidentiary Hearing in this Cause at 9:30 a.m. on May 5, 2016, in Room 222 of the PNC Center, 101 West Washington Street, Indianapolis, Indiana. Nexus and the OUCC were present and participated. Nexus’s Verified Petition was admitted into the record without objection. No evidence was offered by the OUCC. No members of the general public appeared or sought to testify at hearing.

Based upon the applicable law and the evidence presented, the Commission finds:

1. Notice and Jurisdiction. Notice of the hearing in this Cause was given and published by the Commission as required by law. Pursuant to 47 U.S.C. § 214(e), as amended, 47 C.F.R. §§ 54.201 and 54.205 of the Federal Communications Commission’s (“FCC”) rules, and Ind. Code § 8-1-2.6-13(d)(5), this Commission is authorized to designate ETCs, thereby enabling those designated to apply for federal universal service support under 47 U.S.C. § 254. Therefore, the Commission has jurisdiction over Nexus and the subject matter of this Cause.

2. Relief Requested. On November 7, 2012, the Commission designated Nexus as an ETC in this underlying Cause for the limited purpose of participating in the FCC’s Universal Service Fund’s Lifeline program. In its Verified Petition, Nexus requests Commission approval of its proposed relinquishment of its ETC designation effective May 29, 2016.

3. Summary of the Evidence. The evidence relating to this matter consists of Nexus's Verified Petition and its customer notice that Nexus intends to send to its Indiana Lifeline subscribers upon the effective date of this Order and prior to the relinquishment of its ETC designation.

The evidence demonstrates that Nexus was designated as a Lifeline-only ETC in certain parts of Indiana on November 7, 2012. Subsequent to its designation, Nexus filed quarterly and annual reports with the Commission documenting its provision of service consistent with that authority. Nexus now intends to relinquish its Lifeline-only ETC designation in all areas of Indiana for which it is currently so designated, with such relinquishment to become effective May 29, 2016. Relinquishment will not affect the amount of federal Lifeline support available to other ETCs in the state.

As there is already at least one other ETC in all areas in which Nexus is currently designated as an ETC, the Commission is required by federal law to permit Nexus to relinquish its Lifeline-only ETC designation. Because Nexus provides commercial mobile radio service only, no purchase or construction of facilities by other carriers will be necessary. Nexus seeks to relinquish its Lifeline-only ETC designation effective on May 29, 2016. Nexus has requested that the Commission issue an order granting this petition as soon as possible prior to the relinquishment date of May 29, 2016, so that Nexus can provide ample notice to its customers and ensure an orderly transition.

Nexus is taking steps to mitigate the impact of relinquishment on its current Lifeline customers and will ensure that these customers receive ample notice of the change in their Lifeline service. As of the date of this filing, Nexus has less than 2,000 Lifeline customers within its ETC designated area in Indiana.

Upon approval of its petition, Nexus will notify each Lifeline customer that it will no longer be an ETC. Nexus will also inform each affected customer that a Lifeline discount can be obtained from the remaining ETC(s) in the area and will include the names of other Lifeline providers offering service in Nexus' ETC designation area by directing them to a USAC website. If a Nexus customer decides to obtain service from another provider, there will of course be no early termination fee, as Nexus customers are not subject to such fees. As Nexus customers are most familiar with receiving information from Nexus via text message, Nexus will send each Lifeline customer at least one text message as soon as is practical after this Order notifying them of the change and directing them to a website and phone number with information about alternative Lifeline providers.

Nexus will continue to provide existing eligible Lifeline customers with the Lifeline discount until May 29, 2016. Nexus will no longer seek reimbursement for the Lifeline discount after the relinquishment effective date, May 29, 2016.

4. Discussion and Findings. 47 U.S.C. § 214(e)(4) provides that the Commission shall permit an ETC to relinquish its designation in any area served by more than one ETC to ensure that consumers have options for continued service. Pursuant to 47 U.S.C. § 214(e)(4) and 47 C.F.R. § 54.205, the requirements for relinquishing an ETC designation are: (1) there must be more than one ETC serving in the area of the ETC seeking relinquishment; (2) the ETC seeking relinquishment must provide advance notice to the relevant state commission; (3) the customers served by the relinquishing ETC must continue to be served by an ETC; and (4) to the extent that additional facilities are required to serve any of the relinquishing ETC's customers, sufficient notice shall be provided to ensure that the construction or purchase can be timely completed.

Nexus submitted evidence demonstrating that there is at least one ETC providing Lifeline service to qualified customers in Nexus's ETC Service Area. The Commission finds that Nexus has provided an acceptable customer notice that should be used to communicate with all Indiana Lifeline customers still served by Nexus up to the date of relinquishment of its ETC designation. The evidence of record also demonstrates that the requirements of the FCC's rules at 47 C.F.R. § 54.205 are satisfied because there is more than one ETC serving in Nexus's ETC Service Area; Nexus provided advance notice of its ETC relinquishment to this Commission; Nexus' Lifeline customers will have the option to receive service from another Indiana Lifeline ETC; and no additional facilities are required to serve any of Nexus's Indiana Lifeline customers. Accordingly, we find it is appropriate to grant Nexus's request to relinquish its ETC Designation in the State of Indiana, effective as of May 29, 2016.

Finally, we find that since Nexus will not be certified as an ETC going forward, Nexus will no longer need to file with the Commission annual compliance reports required by 47 C.F.R. § 54.422 for time periods after they have ceased providing Lifeline service. Additionally, since Nexus does not participate in the high cost program of the universal service program in Indiana and only uses funds from the low income program to provide supported services to Lifeline customers, pursuant to 47 C.F.R. § 54.202(a)(1)(i), Nexus is not required to certify the use of universal service funds after the effective date of this Order, unless otherwise required by the FCC and/or USAC.

IT IS THEREFORE ORDERED BY THE INDIANA UTILITY REGULATORY COMMISSION that:

1. The Commission approves Nexus's Verified Petition for Relinquishment of its Designation as an Eligible Telecommunications Carrier in the State of Indiana and its right to receive federal universal service funding in the State of Indiana, effective May 29, 2016.
2. Nexus shall submit a compliance filing within 30 days, indicating the date in which the approved customer notice was provided to customers.
3. Nexus shall not be required to file further quarterly or annual compliance reports with the Commission related to the USF Lifeline program unless otherwise required by the FCC or USAC.
4. This Order shall be effective on and after the date of its approval.

STEPHAN, HUSTON, WEBER, AND ZIEGNER CONCUR:

APPROVED:

I hereby certify that the above is a true and correct copy of the Order as approved.


Mary M. Becerra
Secretary of the Commission