

**BEFORE
THE PUBLIC UTILITIES COMMISSION OF OHIO**

In the Matter of the Commission Investigation)	
into the Provision of Prepaid Lifeline Service)	
by Competitive Eligible Telecommunications)	Case No. 10-2377-TP-COI
Carriers)	

REPLY COMMENTS OF NEXUS COMMUNICATIONS, INC.

Nexus Communications, Inc. (“Nexus”) respectfully submits its reply to the comments in response to the Entry issued by Public Utilities Commission of Ohio (the “Commission”) on November 3, 2010. Nexus wishes to thank the Commission for the opportunity to comment on its investigation into the growth and practices of prepaid Lifeline services. It is an opportune time to have such a discussion.

The number and thoroughness of the comments in this proceeding reflect the vitality of the Lifeline program in Ohio. Nexus believes that the vigorous participation of many parties, including wireline carriers, wireless carriers, and public interest organizations, demonstrates that the prepaid business model, spearheaded by TracFone and the success it has had in many states, is the most significant development in the Lifeline program in many years. By offering low income customers a new kind of service designed specifically to meet their needs, prepaid carriers have provided the first genuine attempt to adequately address the historic underutilization of the Low Income program.¹ This growth has been accompanied by dynamic competition that has driven ETCs to offer increasingly more attractive service plans. The evolution of these plans suggests that the marketplace is working, and that regulatory action is

¹ USAC Lifeline Participation Rate Study (2009), *available at* <http://www.usac.org/li/about/participation-rate-information.aspx> (indicating that only 20-50 percent of eligible Ohio households took part in program in 2009; surveys from prior years show that the state’s participation rate has never been over 50 percent).

not needed to keep prepaid services competitive and attractive. For this reason, Nexus opposes the imposition of minimum service plans by the Commission.

A much better use of Commission resources would be to work with carriers to help them root out fraud, waste, and abuse from the program, such as facilitating industry-wide efforts to eliminate any “double-dipping” by customers attempting to obtain service from more than one Lifeline provider. Nexus supports the commenters’ proposal of a centralized verification database and advises that the most cost-effective means of accomplishing such a project is to support its creation at the national level.

I. MINIMUM SERVICE REQUIREMENTS ARE NOT NECESSARY IN A COMPETITIVE INDUSTRY

As several of the commenters demonstrated, prepaid Lifeline service packages are well-liked by consumers and are providing additional minutes and services, increasing competition, and most importantly, increasing competition among ETCs focused solely or primarily on the low income population. These ETCs have demonstrated particular creativity and flexibility in creating service packages that better serve the needs of Lifeline customers, such as offering a simple yet very effective means of controlling their communications costs. This innovation was possible precisely because the carriers were free to configure their service packages to respond to market forces. Such latitude is just as critical now, as the speedy evolution of technological capabilities and customer preferences keep Lifeline ETCs working to continually improve their service offerings. It is flexibility, as Cincinnati Bell argues in its comments, not regulation, that will keep prepaid Lifeline services relevant and attractive.² Nexus also agrees with TracFone and Virgin Mobile that setting a minimum number of minutes could be especially harmful to the development of competitive service packages. The only circumstances that would call for this

² Comments of Cincinnati Bell at p. 2

kind of specific, binding, and limiting regulation are those in which carriers are reducing the number of minutes due to some sort of anti-competitive environment. The case here is precisely the opposite, however: numerous carriers offering increasingly generous service packages in quick succession. This has been the pattern since TracFone was first given approval to offer Lifeline service in Ohio. While the Ohio Consumers Council's ("OCC") concern for customer value is well-meant, its call for regulation is better suited to a market like the old postpaid wireline Lifeline program offered by a sole provider in which innovation and development in service packages were stifled by a lack of interest in low income consumers. That is not the case here, as the quick improvement in technology and service packages over the last two years proves.³

An overly conservative approach on these issues will likely deter future ETC applicants from seeking to serve Ohio, and low income Ohioans will suffer as a result. Ohio already has a lower number of prepaid Lifeline providers in Ohio than in other states. In states that permit competitive market forces to determine service offerings, competition has ensured an array of choices of low income consumers. The Commission should focus on enabling competitive ETCs to enter the market where the value of their offerings can ultimately be judged by the consumer.

³ Moreover, the Commission did not cite a legal basis for it to impose any minimum level of "value" of Lifeline ETCs. While it is certainly true that the Commission has an important oversight role over these ETCs, it is ultimately implementing a federal statutory program, created in Sections 214 and 254 of the federal Communications Act. 47 U.S.C. §§ 214, 254. These statutes do not delegate to the Commission the task of ensuring "value" or any minimum number of minutes, etc. Nor does the Commission cite a basis in Ohio law for oversight of "value." Finally, imposing a minimum service package on ETCs employing wireless technology may run afoul of the prohibition in the federal Communications act against states regulating the entry or rates of wireless carriers. 47 U.S.C. § 332(c)(3).

II. A NATIONAL DATABASE WOULD REDUCE COSTS AND ADMINISTRATIVE RESOURCES OF THE COMMISSION AND INDUSTRY

Nexus agrees with the several commenters who suggest that a national centralized database would provide the most effective and efficient means of verifying customer eligibility and reducing fraud, waste, and abuse. At present, in most states, each carrier maintains its own internal database of existing and former Lifeline and Link Up subscribers. The format in which this data is stored varies from carrier to carrier, and because the data is not stored in a central location, there is currently no way for carriers and regulators to check for customers attempting to receive duplicate services from more than one Lifeline provider.

A national centralized database would reduce the time and effort required by the Commission, the Federal Communications Commission (“FCC”), USAC and industry to review customer information provided in different formats by different carriers. However, Nexus believes that in order to realize the gains of efficiency that would make a database truly worthwhile, the Commission should focus its efforts on supporting a national database to be administered by the FCC, USAC or appropriate neutral contractor. As Nexus wrote in its reply comments in the Federal-State Joint Board proceeding on this matter, a national system similar to that proposed by AT&T in this docket is the best way to minimize costs and maximize the effectiveness of verification efforts.⁴ As the OCC writes, “it makes little sense to spend significantly more money investigating waste than the cost of the waste itself.”⁵ That is precisely what the Commission would risk by initiating a state-specific database with insufficient coordination with projects at the national level.

⁴ Reply Comments of Nexus Communications, Inc. *In the Matter of Federal-State-Joint Board on Universal Service, Lifeline and Link Up*, Order, FCC 10-72, CC Docket 96-45 and WC Docket 03-109 (FCC rel. May 4, 2010).

⁵ Comments of the OCC at p. 20

The most effective way for the Commission to support a national database effort is to begin compiling a centralized repository of eligible Ohio consumers. This list would pool information that could be used by ETCs in the short term, and that could be easily plugged in to the national database once it is operational. Nexus agrees with TracFone that it is worthwhile for the Commission to begin collecting information and working toward supporting a national centralized database.

Nexus does not believe, however, that there is anything to be gained by the Commission working on a duplicate verification database designed to root out “double-dippers.” This is an effort best taken on at the national level. It would be wasteful for the Commission to create a similar state-based system at the same time that the FCC is considering building a national database. There is nothing to be gained by the Commission and the FCC creating separate and concurrent inquiries into beginning this project. At best, Ohio’s database would be operational for a short amount of time before a national database is set up. At worst, that national database could be operational first and render the Commission’s efforts redundant.

Because almost all commenters, both in this investigation and in the Joint Board proceeding, support a database system there is no risk that current verification processes, which the Commission rightly seeks to improve, will remain unchanged for long. The important question is which party is best situated to operate, maintain, and pay for a database system. The efficiency generated by centralizing at the state level will only be magnified at the national level. Industry support for a database is as high at the national level as it is in this proceeding, and detailed models offered by states like Florida and carriers like AT&T will help speed the process of creating a centralized national database, rendering further state efforts unnecessary. At the very least, the Commission should refrain from starting the process until the FCC has

definitively declined to establish a national database, which it is not likely to do given the shared interest in reducing waste, fraud, and abuse as efficiently as possible.

III. CONCLUSION

The Lifeline program has been one of the true successes of the national universal service program, and Nexus supports the Commission's efforts to bring the advantages of prepaid services to low income Ohioans through Lifeline. As the Commission investigates how the prepaid model can be best matched to the goals of the program, Nexus hopes that it will remain mindful of the success of the marketplace in creating attractive service packages. Nexus also suggests that the Commission support a nationwide verification database that will eliminate fraud, waste, and abuse in the Lifeline program most effectively and efficiently.


Respectfully submitted on behalf of
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CERTIFICATE OF SERVICE

The undersigned hereby acknowledges that a copy of the foregoing was served by either electronic mail or by regular U.S. Mail this 19th day of January 2011.


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