



COMMONWEALTH OF MASSACHUSETTS DEPARTMENT OF TELECOMMUNICATIONS AND CABLE

D.T.C. 11-7

March 1, 2012

In the Matter of Application of Nexus Communications, Inc. for Designation as an Eligible Telecommunications Carrier for Low Income Support Only

ORDER OF DISMISSAL WITHOUT PREJUDICE

The Massachusetts Department of Telecommunications and Cable (“Department”), for the reasons discussed below, hereby dismisses, without prejudice, the petition of Nexus Communications, Inc. (“Nexus”) for designation as an Eligible Telecommunications Carrier (“ETC”) for the limited purpose of offering wireless Lifeline and Link-Up service to qualified households in certain non-rural areas of Massachusetts. Application of Nexus Communications, Inc. for Designation as an Eligible Telecommunications Carrier for Low Income Support, at 1 (“Petition”). Nexus is permitted to re-file its petition for designation as an ETC with the Department upon approval of a Compliance Plan by the Federal Communications Commission (“FCC”), as required in *In re Lifeline and Link Up Reform and Modernization*, WC Docket No. 11-42 (Feb. 6, 2012) (“Reform Order”). Should Nexus decide to re-file its Petition, the Department will not require an additional filing fee.

Nexus filed its application for designation as an ETC for the limited purpose of providing Lifeline and Link-Up services to qualified Massachusetts households in certain non-rural areas on June 10, 2011. *See* Petition at 1. On December 5, 2011, the Department suspended the procedural schedule pending the issuance of the Reform Order in the interest of regulatory

efficiency. *See* Hearing Officer Order Suspending Procedural Schedule, D.T.C. 11-7 at 1 (Dec. 5, 2011).

The FCC issued the Reform Order on February 6, 2012. As a result of changes to the Lifeline and Link-Up programs contained in the Reform Order, Nexus will need to file an updated petition. Specifically, in its Reform Order, the FCC eliminated Link-Up support for ETC's on non-tribal lands. Reform Order at ¶ 245. Moreover, the FCC granted a blanket forbearance from the "own-facilities" requirement of 47 U.S.C. 214(e)(1)(A), provided carriers meet certain conditions. Reform Order at ¶ 373. Among those conditions, carriers seeking to take advantage of forbearance must submit a Compliance Plan to the FCC detailing how the carrier will provide service and safeguard against fraud and abuse. *Id.* at ¶ 379. Further, the FCC ordered that "[n]o designations shall be granted for any pending or new Lifeline-only ETC applications filed with the states or the commission after December 29, 2011, and carriers shall not receive reimbursement from the program, until the [Wireline Competition] Bureau approves their compliance plans." *Id.* at ¶ 380.

The Department dismisses Nexus' Petition without prejudice, so that Nexus may, if it so elects, to re-file once it has met the pre-conditions laid out in the Reform Order, and received the FCC's approval of its Compliance Plan. Accordingly, it is:

ORDERED

Application of Nexus Communications, Inc. for Designation as an Eligible Telecommunications Carrier for Low Income Support is **DISMISSED** without prejudice. And it is:

FURTHER ORDERED

That Nexus may re-file its petition for designation as an ETC without the required filing fee.

So Ordered,

/s/ Geoffrey G. Why _____
Geoffrey G. Why
Commissioner