Before the
Federal Communications Commission
Washington, D.C. 20554

In the Matter of	)	
	)	
Telecommunications Carriers Eligible for Universal Service Support	)	WC Docket No. 09-197
	)	
Lifeline and Link Up Reform	)	WC Docket No. 11-42
	)	
CONEXIONS LLC d/b/a Conexion Wireless Compliance Plan	)	

Adopted: November 26, 2014 **Released: November 26, 2014**

ORDER

By the Chief, Wireline Competition Bureau:

I. INTRODUCTION AND BACKGROUND

1. In this Order, we decline to approve the compliance plan filed by Conexions, LLC d/b/a Conexion Wireless (Conexions) for failure to demonstrate that it will provide Lifeline service in compliance with the Commission's rules designed to prevent waste, fraud, and abuse in the Lifeline program.[1] Without an approved compliance plan, a non-facilities-based carrier such as Conexions is not eligible for reimbursement for its Lifeline services.

2. *The Act and Commission's Rules*. Pursuant to section 254(e) of the Communications Act of 1934, as amended (Act), a carrier must be designated as an eligible telecommunications carrier (ETC) in order to receive reimbursement for providing Lifeline service to qualified low-income consumers.[2] The Act also requires that an ETC must "offer the services that are supported by Federal universal service support mechanisms . . . either using its own facilities or a combination of its own facilities and resale of another carrier's services."[3] State commissions have primary responsibility for designating ETCs, and the

[1] Conexions LLC D/B/A Conexion Wireless Third Amended Compliance Plan, WC Docket No. 11-42 et al. (filed June 12, 2013).

[2] 47 U.S.C. § 254(e) (providing that only ETCs designated pursuant to section 214(e) are eligible for universal service support). In 2008, following forbearance from section 214(e) of the Act, the Commission designated a non-facilities-based carrier as an ETC for the limited purpose of participating in the federal Lifeline service. *See Petition of TracFone Wireless, Inc. for Forbearance from 47 U.S.C. § 214(e)(1)(A) and 47 C.F.R. § 54.201(i)*, CC Docket No. 96-45, Order, 20 FCC Rcd 15095 (2005) (*TracFone Forbearance Order*); *Federal-State Joint Board on Universal Service, TracFone Wireless, Inc. Petition for Designation as an Eligible Telecommunications Carrier in the State of New York et al.*, CC Docket No. 96-45, Order, 23 FCC Rcd 6206 (2008) (*TracFone ETC Designation Order*). Since this time, many other carriers have sought and been designated as "Lifeline-only" ETCs. *See, e.g., i-wireless Petition for Forbearance from 47 U.S.C. § 214(e)(1)(A)*, CC Docket No. 96-45 *et al*., WC Docket. No.09-197, Order, 25 FCC Rcd 8784 (2010) (*i-wireless Forbearance Order*); *Telecommunications Carriers Eligible for Universal Service Support,* Order, WC Docket No. 09-197, 27 FCC Rcd 6263 (Wireline Comp. Bur. 2012) *(i-Wireless/Cricket Designation Order).*

[3] 47 U.S.C. § 214(e)(1)(A). In 2011, the Commission amended its rules to define voice telephony as the supported service and removed directory assistance and operator services, among other things, from the list of supported

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Commission has authority to designate as ETCs carriers that are not subject to the jurisdiction of a state commission.[4]

3. In the *Lifeline Reform Order*, the Commission granted blanket forbearance from the Act's requirement that telecommunications carriers seeking to become Lifeline-only ETCs provide service at least partially over their own facilities, subject to the following conditions: (1) the carrier must comply with certain 911 and enhanced 911 public safety requirements; and (2) the carrier must file, and the Wireline Competition Bureau (Bureau) must approve, a compliance plan providing specific information regarding the carrier and its service offerings and outlining the measures the carrier will take to implement the obligations contained in the *Lifeline Reform Order*, as well as further safeguards against waste, fraud and abuse as the Bureau may deem necessary.[5] The Commission concluded that review and approval of all Lifeline-only ETC compliance plans "is a critical element" of granting forbearance from the Act's "own facilities" requirement of section 214(e)(1)(A).[6]

4. All compliance plans must have certain minimum information, as spelled out in the Bureau's *Compliance Plan Public Notice*.[7] If the Bureau finds that a carrier's compliance plan does not conform to the requirements of the *Lifeline Reform Order* and the Bureau's requirements for compliance plans, the Bureau will notify the ETC, and the ETC must file a revised compliance plan that conforms to these requirements.[8] In the event that a carrier fails to respond to an inquiry to the Bureau's satisfaction, the Bureau can deny a compliance plan approval request and direct the Universal Service Administrative Company (USAC), administrator of the federal universal service fund (USF or Fund), to suspend Lifeline disbursements until such time as the carrier's compliance plan is revised to the satisfaction of the Bureau.[9]

5. *Conexions' Lifeline Compliance Plan*. Conexions is a prepaid wireless telecommunications carrier headquartered in Melbourne, Florida, providing services in Maryland, Arkansas, and West Virginia. Conexions is seeking approval of its compliance plan in order to avail itself

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services for the purpose of receiving universal service support. *See Connect America Fund et al*., WC Docket. No. 10-90 *et al*., Report and Order and Further Notice of Proposed Rulemaking, 26 FCC Rcd 17663, 17693-94, paras. 77-78, 80 (2011) (*USF/ICC Transformation Order and FNPRM*); *aff'd sub nom. In re FCC 11-161*, 753 F.3d 1015 (10th Cir. May 23, 2014). As a result of the rule modification, many Lifeline-only ETCs that previously met the "own facilities" requirement by providing operator services, directory assistance, or other previously supported services over their own facilities no longer met the "own facilities" requirements of the Act. *See Lifeline and Link Up Reform et al.,* WC Docket No. 11-42 et al., Report and Order and Further Notice of Proposed Rulemaking, 27 FCC Rcd 6656, 6813, para. 366 (2012) (*Lifeline Reform Order*).

[4] 47 U.S.C. § 214(e).

[5] *See Lifeline Reform Order*, 27 FCC Rcd at 6813, para. 368.

[6] *Id*.

[7] *See Wireline Competition Bureau Provides Guidance for the Submission of Compliance Plans Pursuant to the Lifeline Reform Order*, WC Docket Nos. 11-42 et al., Public Notice, 27 FCC Rcd 2186 (Wireline Comp. Bur. 2012) (*Compliance Plan Public Notice*).

[8] *See Lifeline Reform Order*, 27 FCC Rcd at 6816, para. 380, n.1000.

[9] *Id*.

of the Commission's conditional grant of forbearance from the "own facilities" requirement.[10] On September 20, 2012, Conexions filed its compliance plan with the Commission.[11]

6. After reviewing, the Bureau found Conexions' proposed compliance plan insufficient and, on December 6, 2012, the Bureau requested that Conexions answer a series of questions and supplement its compliance plan with specific information regarding the company's financial and technical capability to provide Lifeline service and its likelihood of compliance with the program rules.[12] At that time, the Bureau also directed Conexions to file a revised compliance plan by January 21, 2013, responding to the questions set forth in the Bureau letter. Conexions filed an amended compliance plan on January 22, 2013.[13] In that filing, Conexions failed to address a significant number of the questions and requests for information posed by the Bureau.[14]

7. On May 23, 2013, the Bureau sent Conexions a second letter, informing Conexions that its compliance plan did not conform to the Commission's requirements and that it had so far failed to file a revised compliance plan that fully responded to the Bureau's questions and requests for information.[15] The Bureau outlined which questions had not been answered and what information was still being

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[10] Approval of its compliance plan is required in order for Conexions to qualify for continued Lifeline reimbursement in those three states where it is already providing service. In those states where Conexions has not yet obtained an ETC designation, it must obtain approval of its compliance plan prior to ETC designation in those states. *See Lifeline Reform Order*, 27 FCC Rcd at 6816, para. 380.

[11] Conexions initially filed a petition for forbearance on July 8, 2009. At that time, Conexions was seeking forbearance from the "own facilities" requirement. This petition was granted by the Commission in 2010. *See Telecommunications Carriers Eligible for Universal Service Support; Federal-State Joint Board on Universal Service; Conexions Petition for Forbearance*, WC Docket No. 09-197, CC Docket No. 96-45, Order, 25 FCC Rcd 13868 (2010) (*Conexions Forbearance Order*). On January 5, 2011, Conexions amended its petition for forbearance to reflect that it had become a facilities-based carrier based upon its capability to provide operator services and directory assistance to subscribers over its own facilities. *See* Letter from Thomas Biddix, Manager, Conexions, LLC to Marlene H. Dortch, Secretary, Federal Communications Commission, WC Docket Nos. 11-42 et al., (Jan. 5, 2011). As explained above, following the *Lifeline Reform Order*, offering these capabilities over an ETC's facilities no longer satisfied the "own facilities" requirement. *See supra* note 3. Therefore, Conexions was required to file and obtain approval of its compliance plan from the Bureau, as required by the *Lifeline Reform Order*. *See Lifeline Reform Order*, 27 FCC Rcd at 6816, para. 368.

[12] *See* Letter from Kimberly Scardino, Deputy Division Chief, TAPD, to Thomas Biddix, Conexions, LLC, (Dec. 6, 2012) (Bureau Dec. 6 Letter). Prior to the Bureau inquiries, several states and USAC conducted separate investigations or took action against various activities that occurred at ATMS and other ETCs owned by Mr. Biddix. The Bureau's questions sought information regarding Mr. Biddix and other Conexions employees' involvement in these activities. *See, e.g.*, Louisiana Public Service Commission v. BLC Management LLC of Tennessee d/b/a Angles Communications Solutions d/b/a Mexicall Communications, Docket No. U-32251 (Louisiana Public Service Commission Aug. 31, 2012), http://lpscstar.louisiana.gov/star/portal/lpsc/PSC/DocketDetails.aspx; Order Approving Settlement Agreement, In re: Investigation of Associated Telecommunications Management Services, LLC (ATMS) companies for compliance with Chapter 25-24 F.A.C., and applicable lifeline, eligible telecommunications carrier, and universal service requirements, Docket No. 100340-TP (Florida Public Service Commission June 16, 2011), http://www.floridapsc.com/library/FILINGS/11/04124-11/04124-11.pdf.

[13] *See* Second Amended Compliance Plan of Conexions LLC D/B/A Conexion Wireless, WC Docket No. 11-42 et al. (filed Jan. 22, 2013) (Conexions' Second Amended Compliance Plan). Mr. Biddix also submitted a separate letter on behalf of ATMS because several of the Bureau's questions related to activities that occurred at ATMS. *See* Letter from Thomas Biddix, Managing Director, Associated Telecommunications Management Services, LLC to Kimberly Scardino, Deputy Chief, TAPD (Jan. 22, 2013).

[14] *See* Conexions' Second Amended Compliance Plan.

[15] *See* Letter from Kimberly Scardino, Chief, TAPD, to Thomas Biddix, Conexions, LLC, (May 23, 2013) (Bureau May 23 Letter).

sought.[16] The Bureau's letter directed Conexions to file a revised compliance plan by June 12, 2013 that fully responded to the requests for information and questions posed in the Bureau's December 6 Letter. On June 12, 2013, Conexions filed a third revised compliance plan.[17] Conexions' June 12, 2013 filing did not provide responses to many of the questions or requests for information identified by the Bureau as unanswered in its January 22, 2013 response.[18] In subsequent correspondence between Bureau staff and Conexions' counsel, Conexions sought additional time to respond and Bureau staff provided an extension to respond until July 5, 2013. Despite that extension, Conexions failed to provide additional information or file a revised compliance plan as directed.[19]

II. DISCUSSION

8. We decline to approve Conexions' Lifeline compliance plan because Conexions failed to demonstrate that it will provide Lifeline service in compliance with the Commission's rules intended to prevent waste, fraud, and abuse in the Lifeline program. Conexions failed to provide information or responses to questions necessary for the Bureau to evaluate its compliance plan, and Conexions failed to file a revised compliance plan despite multiple directives from the Bureau. In the *Compliance Plan Public Notice*, the Bureau provided guidance for the submission of compliance plans for all carriers seeking to avail themselves of the Commission's conditional grant of forbearance in the *Lifeline Reform Order*.[20] At a minimum, compliance plans should contain the following:[21]

- Information about the carrier and the Lifeline plans it intends to offer: (a) names and identifiers used by the carrier, its holding company, operating company and all affiliates; (b) detailed information demonstrating that the carrier is financially and technically capable of providing the supported Lifeline service in compliance with the Commission's rules; (c) detailed information, including geographic locations, of the carrier's current service offerings if the carrier currently offers service; (d) the terms and conditions of each Lifeline service plan offering, including rates, the number of minutes provided, and additional charges, if any, for toll calls and (e) all other certifications required under newly amended section 54.202 of the Commission's rules;

- A detailed explanation of how the carrier will comply with the Commission's new rules relating to determinations of subscriber eligibility for Lifeline services, including all of the consumer eligibility, consumer enrollment, and re-certification procedures, as required by Section VI and Appendix C of the *Lifeline Reform Order*, and a copy of the carrier's certification form;

[16] *Id.* at 2-9.

[17] *See* Third Amended Compliance Plan of Conexions LLC D/B/A Conexion Wireless, WC Docket No. 11-42 et al. (filed June 12, 2013).

[18] In its May 23 letter to Conexions, the Bureau identified eight specific questions that either remained entirely unanswered or required additional information or follow up. *See* Bureau May 23 Letter. In its June 12 filing, Conexions provided information and responses to four of the identified questions. *See id.* Conexions' Third Amended Compliance Plan did not address the remaining four questions and failed to provide information about how other ETCs owned by Mr. Biddix complied with federal and state requirements in the past, the role of Mr. Biddix and other management in alleged failures to comply with state carrier requirements and the Lifeline rules and requirements during time at other ETCs, and the status of the repayment of debts owed to the Universal Service Fund. Following the June 12 filing, counsel for Conexions requested additional time to provide responses to the remaining four questions, but never provided any additional information with regard to these questions. *See id.*

[19] Indeed, Conexions never filed any additional information or a further revised compliance plan with the Bureau.

[20] *See Lifeline Reform Order*, 27 FCC Rcd at 6816, para. 379.

[21] *See Compliance Plan Public Notice.*

- A detailed explanation of how the carrier will comply with the forbearance conditions relating to public safety and 911/E-911 access;

- A detailed explanation of how the carrier will comply with the Commission's marketing and disclosure requirements for participation in the Lifeline program; and

- A detailed explanation of the carrier's procedures and efforts to prevent waste, fraud, and abuse in connection with Lifeline funds, including but not limited to, procedures the carrier has in place to prevent duplicate Lifeline subsidies within its own subscriber base, procedures the carrier undertakes to de-enroll subscribers receiving more than one Lifeline subsidy per household, information regarding the carrier's toll limitation service, if applicable, and the carrier's non-usage policy, if applicable.

9. We find that Conexions has failed to provide the minimum information necessary for the Bureau to evaluate the company's financial and technical capability to provide Lifeline service. Specifically, Conexions failed to provide detailed information regarding all of the company's service offerings and sources of revenue. Determining to what extent an ETC is reliant on the Fund as part of its revenue stream is essential to determine whether the ETC is currently and will remain financially capable of providing Lifeline service. In its compliance plan, Conexions stated that it receives revenue from non-Lifeline wireless customers, the purchase of additional minutes, and from a "white label" wireless offering to other carriers.[22] To date, despite the Bureau twice asking for this information,[23] Conexions has failed to explain the "white label" offering and the amount of revenue this offering generates.

10. We also find that Conexions has failed to provide other information that is relevant to the Bureau's review of its compliance plan. Pursuant to the *Lifeline Reform Order*, the Bureau has authority to seek additional information regarding a company's ability and likelihood to comply with the Lifeline program rules, and will base its approval or denial of the compliance plan on the additional information.[24] The Bureau will make such inquiries as may be necessary to determine whether the company has been accurate and truthful in representations made to the Commission, in seeking approval of its compliance plan or in other contacts, and to state and Federal agencies.[25] The Bureau may deny a compliance plan without prejudice in the event that a company does not respond to an inquiry to the Bureau's satisfaction within a time prescribed by the Bureau.[26]

11. In the instant matter, the Bureau sought additional information from Conexions relevant to the carrier's ability and likelihood to comply with the Lifeline program rules and necessary for the Bureau to determine whether Conexions' compliance plan is satisfactory. In addition to the minimum information set forth in the *Compliance Plan Public Notice* and consistent with the Commission's efforts to root out potential waste, fraud, and abuse in the Lifeline program, the Bureau sought information regarding the conduct, including past conduct, of Conexions' current and former owners, management, or employees in connection with the provision of Lifeline service, and Conexions' position on how its policies and procedures ensure that the company, its current and former employees, and/or its current or

[22] *See* Conexions' Second Amended Compliance Plan at 25-26.

[23] The Bureau formally asked for this information in both letters sent to Conexions on Dec. 6, 2012 and May 23, 2013. *See* Bureau Dec. 6 Letter; Bureau May 23 Letter.

[24] *See Lifeline Reform Order*, 27 FCC Rcd at 6816, para. 380, n.1000.

[25] *See id.* at 6816, para. 379, 6819, paras. 387-88; *see also supra* note 11 (explaining the various state actions).

[26] *See Lifeline Reform Order*, 27 FCC Rcd at 6656, paras. 378-380; *see generally Compliance Plan Public Notice* (describing the types of matters that the Bureau looks for in a compliance plan that may ultimately require the filing of amendments).

former affiliates, contractors, or agents comply with the Lifeline program rules and requirements. Conexions has failed to respond fully to the Bureau's questions, provide the necessary information, or file a satisfactory compliance plan as directed. Without making any judgments as to whether any malfeasance on the part of specific individuals or affiliated companies should be addressed in our evaluation of Conexions' compliance plan, we simply cannot complete our evaluation regarding Conexions' likelihood to comply with the program rules without complete responses to our inquiries. Based on Conexions' failure to provide this information and the information describe above, we therefore conclude that Conexions' compliance plan does not conform to the Commission's requirements as set forth in the *Lifeline Reform Order*. Based on the above described facts and circumstances, the Bureau does not approve Conexions' compliance plan.

12. As a result of this denial, Conexions is no longer eligible to receive support in any jurisdiction until such time as the Bureau approves a new compliance plan or Conexions obtains an ETC designation as a facilities-based ETC from the Commission and/or a state commission pursuant to section 214(e) of the Act.[27]

III. ORDERING CLAUSES

13. Accordingly, IT IS ORDERED, pursuant to authority contained in sections 1-4, 214, and 254 of the Communications Act of 1934, as amended, 47 U.S.C. §§ 151-154, 214(e), 254, and sections 0.91 and 0.291 of the Commission's rules, 47 C.F.R. §§ 0.91, 0.291, that the request for approval of the compliance plan filed by Conexions, LLC d/b/a Conexion Wireless IS DENIED.

14. IT IS FURTHER ORDERED that, pursuant to section 1.102(b)(1) of the Commission's rules, 47 C.F.R. § 1.102(b)(1), this Order SHALL BE EFFECTIVE upon release.

FEDERAL COMMUNICATIONS COMMISSION

Julie A. Veach
Chief
Wireline Competition Bureau

[27] 47 U.S.C. § 214(e). We note that Conexions is not actively providing Lifeline service to any customers and there is no need to address a transition plan for existing Lifeline subscribers.