

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

In the Matter of	)	
	)	
Telecommunications Carriers Eligible for	)	WC Docket No. 09-197
Universal Service Support	)	
	)	
Federal-State Joint Board on Universal Service	)	CC Docket No. 96-45
	)	
Conexions Petition for Forbearance	)	

**ORDER**

**Adopted: September 28, 2010****Released: October 1, 2010**

By the Commission:

**I. INTRODUCTION**

1. In this order, we grant in part and deny in part a petition for forbearance filed by Conexions, LLC d/b/a Conexion Wireless (Conexions).<sup>1</sup> Conexions, a wireless reseller, requested that the Commission forbear from the requirement that carriers designated as eligible telecommunications carriers (ETCs) for purposes of federal universal service support provide services, at least in part, over their own facilities. The Commission grants Conexions forbearance with respect to the Lifeline program, consistent with Commission precedent, but denies Conexions' request to extend forbearance with respect to Link Up. As a result, Conexions may seek ETC designation to offer discounted service to qualified low-income consumers through the universal service Lifeline program. Conexions will be subject to the same conditions that the Commission has imposed on other wireless resellers in granting similar requests. If Conexions is granted ETC designation for the purpose of providing Lifeline service, these conditions will help ensure that its low-income consumers have access to 911 and enhanced 911 services and will help protect the universal service fund against waste, fraud, and abuse. We deny Conexions' petition for forbearance for the purpose of participating in the Link Up program because the company has not demonstrated that granting its request satisfies the three-prong statutory test for forbearance.<sup>2</sup>

**II. BACKGROUND**

2. Congress directed the Commission to establish the universal service support mechanisms to help ensure that "[q]uality services [are] available at just, reasonable, and affordable rates" for consumers throughout the nation, "including low-income consumers."<sup>3</sup> The Commission's Lifeline program furthers this goal by reducing the price of monthly telephone service for low-income consumers,

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<sup>1</sup> Conexions, LLC Petition for Forbearance Pursuant to 47 U.S.C. § 160 from the Own Facilities Requirement for Eligible Telecommunications Carrier Status, CC Docket No. 96-45 (filed July 8, 2009) (Petition); Letter from Brian Cox, President, Conexions, LLC, to Marlene H. Dortch, Secretary, FCC (filed Oct. 1, 2009). The Wireline Competition Bureau extended the statutory deadline to act on Conexions' request to October 6, 2010. *See Federal-State Joint Board on Universal Service; Conexions Petition for Forbearance*, CC Docket No. 96-45, Order, 25 FCC Rcd 7990 (Wireline Comp. Bur. 2010).

<sup>2</sup> 47 U.S.C. § 160(a).

<sup>3</sup> 47 U.S.C. § 254(b)(1), (3).

and the Commission's Link Up program furthers this goal by reducing the connection charge for commencing telephone service at a low-income consumer's principal place of residence.<sup>4</sup>

3. The Communications Act of 1934, as amended (the Act), provides that only an entity designated as an eligible telecommunications carrier shall be eligible for universal service support.<sup>5</sup> To become an ETC, a common carrier must offer the services supported by the federal universal service support mechanisms "either using its own facilities or a combination of its own facilities and resale of another carrier's services" to each customer in its designated service area. Carriers designated as ETCs generally must participate in the Lifeline and Link Up programs and are reimbursed for the revenues foregone as a direct result of their participation in these programs.<sup>6</sup>

4. The Commission has granted several petitions for forbearance from the facilities requirement for ETC designation in section 214(e) of the Act.<sup>7</sup> In each of those cases, the Commission forbore from applying the facilities requirement only insofar as those carriers sought ETC designation solely for the purpose of receiving Lifeline support.<sup>8</sup> Moreover, the Commission conditioned forbearance on satisfaction of certain obligations (if the carrier is designated as an ETC) tailored to the concerns arising from the carrier's lack of facilities and proposed service offerings.

5. *Conexions' Forbearance Petition.* Conexions is a non-facilities-based commercial mobile radio service (CMRS) provider (i.e., wireless reseller) that provides wireless telecommunications services. On July 8, 2009, Conexions filed a petition requesting that the Commission forbear from applying the facilities requirement so that it could become an ETC for the purpose of participating in the Lifeline and Link Up programs.<sup>9</sup> Conexions states that its request satisfies the statutory requirements for

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<sup>4</sup> Through the Lifeline program, low-income consumers may receive discounts of up to \$13.50 off the monthly cost of telephone service, with the federal program reimbursing the ETC up to \$10 each month. 47 C.F.R. § 54.401(a)(2). In Tribal areas, the federal program reimburses ETCs up to an additional \$25 each month. 47 C.F.R. § 54.405(a)(4). Through the Link Up program, low-income consumers may receive discounts of up to \$30 off the connection charge. 47 C.F.R. § 54.411(a)(1). In Tribal areas, low-income consumers may receive discounts of up to an additional \$70 off the connection charge. 47 C.F.R. § 54.411(a)(3).

<sup>5</sup> 47 U.S.C. § 254(e).

<sup>6</sup> See 47 C.F.R. § 54.407(b)–(c). ETCs designated for the limited purpose of participating in the Lifeline program, in contrast, may only receive Lifeline support.

<sup>7</sup> 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*); *Virgin Mobile USA, L.P. Petition for Forbearance from 47 U.S.C. § 214(e)(1)(A); Petition for Designation as an Eligible Telecommunications Carrier in the State of New York; Petition for Designation as an Eligible Telecommunications Carrier in the Commonwealth of Virginia; Petition for Limited Designation as an Eligible Telecommunications Carrier in the State of North Carolina; Petition for Limited Designation as an Eligible Telecommunications Carrier in the State of Tennessee*, CC Docket No. 96-45, Order, 24 FCC Rcd 3381 (2009) (*Virgin Mobile Forbearance Order*); *Federal-State Joint Board on Universal Service; Telecommunications Carriers Eligible for Universal Service Support; i-wireless, LLC Petition for Forbearance from 47 U.S.C. § 214(e)(1)(A)*, CC Docket No. 96-45, WC Docket No. 09-197, Order, 25 FCC Rcd 8784 (2010) (*i-wireless Forbearance Order*); *Telecommunications Carriers Eligible for Universal Service Support; Federal-State Joint Board on Universal Service; Head Start Petition for Forbearance; Consumer Cellular Petition for Forbearance; Midwestern Telecommunications Inc. Petition for Forbearance; Line Up, LLC Petition for Forbearance*, WC Docket No. 09-197, CC Docket No. 96-45, Order, 25 FCC Rcd 10510 (2010) (*Global Forbearance Order*).

<sup>8</sup> See *Virgin Mobile Forbearance Order*, 24 FCC Rcd at 3381, para. 1; *i-wireless Forbearance Order*, 25 FCC Rcd at 8784, para. 1; *Global Forbearance Order*, 25 FCC Rcd at 10510–11, para. 1.

<sup>9</sup> Petition at 1–2, 10. On August 10, 2009, the Bureau issued a public notice seeking comment on Conexions' petition. *Comment Sought on Conexions Petition for Forbearance from Eligible Telecommunications Carrier Facilities Requirement*, CC Docket No. 96-45, Public Notice, 24 FCC Rcd 10591 (Wireline Comp. Bur. 2009). The National Association of State Utility Consumer Advocates (NASUCA) and the National Emergency Number (continued . . . )

forbearance and is in the public interest.<sup>10</sup> Further, Conexions agrees to abide by the same conditions that the Commission imposed on other wireless resellers when the agency granted forbearance from the ETC facilities requirement to allow the other wireless resellers to receive Lifeline support.<sup>11</sup>

### III. DISCUSSION

6. The Act requires the Commission to forbear from applying any requirement of the Act or our regulations to a telecommunications carrier if and only if the Commission determines that:

(1) enforcement of the requirement is not necessary to ensure that the charges, practices, classifications, or regulations by, for, or in connection with that telecommunications carrier are just and reasonable and are not unjustly or unreasonably discriminatory; (2) enforcement of the requirement is not necessary for the protection of consumers; and (3) forbearance from applying the requirement is consistent with the public interest.<sup>12</sup> We examine the facilities requirement from which Conexions seeks forbearance in light of the statutory goal of providing low-income consumers with access to telecommunications services and in light of the specific programs in which the petitioner seeks to participate. We first evaluate the petition in the context of the Lifeline program. We then turn to the issue of whether Conexions has demonstrated that the statutory requirements for forbearance are met in the context of the Link Up program.

#### A. Forbearance for Lifeline

7. We conditionally grant the request for forbearance from the facilities requirement of section 214(e) for the purpose of allowing Conexions to seek ETC designation to provide Lifeline support only.

8. *Just and Reasonable.* A provision or regulation is “necessary” if there is a strong connection between the requirement and regulatory goal.<sup>13</sup> Under section 10(a)(1) of the Act, we must consider whether enforcement of the facilities-based requirement of section 214(e) for a pure wireless reseller that seeks ETC designation for Lifeline support is necessary to ensure that the charges, practices, classifications, or regulations are just and reasonable and not unjustly or unreasonably discriminatory.<sup>14</sup>

9. We conclude that the section 214(e) facilities requirement is not necessary to ensure that Conexions’ charges, practices, and classifications for Lifeline service are just and reasonable and not unjustly or unreasonably discriminatory.<sup>15</sup> As a reseller, Conexions faces existing or potential competition, which should ensure that its rates are just and reasonable and not unjustly or unreasonably discriminatory. We expect that, if Conexions is granted limited ETC status, its Lifeline offerings will compete, at a minimum, with the Lifeline offerings of the incumbent wireline carriers in the area.

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Association (NENA) filed comments on the petition. Conexions and the Community Action Partnership filed reply comments.

<sup>10</sup> See Petition at 7–14. We interpret the petition to request forbearance not only from the statutory facilities requirement, 47 U.S.C. § 214(e)(1)(A), but also from our parallel regulatory requirements, 47 C.F.R. § 54.201(d)(1), (i). We have previously read these requirements to have the same scope and purpose as the statutory provision. See, e.g., *Virgin Mobile Forbearance Order*, 24 FCC Rcd at 3386–87 n.41.

<sup>11</sup> Petition at 11; see, e.g., *TracFone Forbearance Order*, 20 FCC Rcd at 15098–99, 15104, paras. 6, 19; *Virgin Mobile Forbearance Order*, 24 FCC Rcd at 3386–87, 3392, paras. 12, 26.

<sup>12</sup> 47 U.S.C. § 160(a)–(b). In making the public interest determination, section 10(b) requires the Commission to consider whether forbearance will promote competitive market conditions.

<sup>13</sup> See *CTIA v. FCC*, 330 F.3d 502, 512 (D.C. Cir. 2003).

<sup>14</sup> 47 U.S.C. § 160(a)(1); 47 U.S.C. § 214(e).

<sup>15</sup> See *TracFone Forbearance Order*, 20 FCC Rcd at 15100, para. 12; *Virgin Mobile Forbearance Order*, 24 FCC Rcd at 3389, para. 20; *i-wireless Forbearance Order*, 25 FCC Rcd at 8787, para. 9; *Global Forbearance Order*, 25 FCC Rcd at 10514, para. 9.

Conexions may also face competition from competitive ETCs, including other wireless resellers that have received similar forbearance.<sup>16</sup> We also expect that this competition will spur innovation among carriers in their Lifeline offerings, expanding the choice of Lifeline products for eligible consumers. For these reasons, we find that the first prong of section 10(a) is met. In the limited context of Lifeline support, we find that the facilities requirement is not necessary to ensure that Conexions' charges, practices, and classifications are just and reasonable.

10. *Consumer Protection.* Section 10(a)(2) requires the Commission to consider whether enforcement of the facilities-based requirement of section 214(e) for a pure wireless reseller that seeks ETC designation only for Lifeline support is necessary for the protection of consumers. We find that imposing the facilities requirement on Conexions is not necessary for the protection of consumers so long as the carrier complies with the obligations described below. Specifically, we conclude that forbearance from this provision will benefit consumers. Indeed, if Conexions is granted ETC status for the purpose of receiving universal service support to provide Lifeline service, it would offer Lifeline-eligible consumers an additional choice of providers for accessing telecommunications services. The prepaid feature of Conexions' service offerings may be an attractive alternative for consumers who need the mobility, security, and convenience of a wireless phone, but who are concerned about usage charges or long-term contracts.

11. Given the importance of public safety and in light of the fact that a Lifeline ETC is generally a low-income customer's only connection to the public switched telephone network, however, we condition this grant of forbearance on Conexions' compliance with certain obligations if it is designated as an ETC. These conditions are consistent with those we have imposed on other wireless resellers.<sup>17</sup> Specifically, our forbearance is conditioned on Conexions:

- (1) providing its Lifeline customers with 911 and E911 access, regardless of activation status and availability of minutes;
- (2) providing its Lifeline customers with E911-compliant handsets and replacing, at no additional charge to the customer, noncompliant handsets of existing Lifeline-eligible customers who obtain Lifeline-supported service;
- (3) complying with conditions (1) and (2) as of the date it provides Lifeline service; and
- (4) obtaining a certification from each public safety answering point (PSAP) where Conexions seeks to provide Lifeline service confirming that the carrier provides its customers with 911 and E911 access. Alternatively, under certain conditions described below, Conexions may self-certify that it provides such access.

12. To satisfy condition (4) above, Conexions must request certification from the PSAP serving the relevant area. If, within the "evaluation period" (described below), the PSAP neither provides certification nor makes an affirmative finding that Conexions does not provide its customers with access to 911 and E911 service, Conexions may self-certify that it provides access to 911 and E911 services. The evaluation period commences when Conexions requests certification from the PSAP and notifies the PSAP of Conexions' right to self-certify. The evaluation period runs for 90 days but will be tolled if a PSAP reasonably requests information or equipment to evaluate the carrier's request and tolling will continue until Conexions responds with that information or equipment.<sup>18</sup> If a PSAP determines that Conexions will not offer its Lifeline customers appropriate access to emergency services, or if the PSAP

<sup>16</sup> See 47 C.F.R. § 54.405(a) (requiring ETCs to offer Lifeline service).

<sup>17</sup> See *TracFone Forbearance Order*, 20 FCC Rcd at 15101-02, paras. 15-16; *Virgin Mobile Forbearance Order*, 24 FCC Rcd at 3390-91, paras. 21-23; *i-wireless Forbearance Order*, 25 FCC Rcd at 8788, para. 11; *Global Forbearance Order*, 25 FCC Rcd at 10515, para. 11.

<sup>18</sup> *Virgin Mobile Forbearance Order*, 24 FCC Rcd at 3391, para. 22.

has concerns regarding Conexions' ability to provide such access, and if the PSAP notifies the carrier of its concerns during the evaluation period, the evaluation period will be extended by an additional 90 days and Conexions may not self-certify compliance until it has addressed the PSAP's concerns.<sup>19</sup> Conexions must provide the PSAP with a copy of the relevant self-certification at the time it is effective.<sup>20</sup> Moreover, if a PSAP finds, after such self-certification, that Conexions does not provide its customers with 911 and E911 access, Conexions must notify the Commission of this finding upon receiving notice and must explain how Conexions plans to address the PSAP's concerns and provide Lifeline customers with appropriate 911 and E911 access.<sup>21</sup> In addition, before self-certifying, Conexions must obtain from the underlying carrier from whom Conexions purchases service in that area a certification that the underlying carrier routes emergency calls from Conexions' customers to the PSAP in the same manner that the underlying carrier routes emergency calls from its own customers.<sup>22</sup>

13. The foregoing obligations shall apply in any state in which Conexions is designated an ETC as a condition of serving customers without using its own facilities. Additionally, Conexions must furnish to the Commission, upon request, copies of all certifications required by the fourth obligation.<sup>23</sup>

14. The Commission has an obligation to promote "safety of life and property" and to "encourage and facilitate the prompt deployment throughout the United States of a seamless, ubiquitous, and reliable end-to-end infrastructure" for public safety.<sup>24</sup> The provision of 911 and E911 services is critical to our nation's ability to respond to a host of crises, and the Commission has a longstanding and continuing commitment to a nationwide communications system that promotes the safety and welfare of all Americans, including Lifeline customers.<sup>25</sup> We find that these obligations are necessary to ensure that Conexions' Lifeline customers will have meaningful access to emergency services.<sup>26</sup>

15. We find that, subject to the 911 and E911 conditions and the self-certification and other conditions set out above, the facilities requirement is not necessary for consumer protection with respect to Conexions' receipt of Lifeline support. We therefore conclude that the second element of section 10(a) is satisfied.

16. *Public Interest.* Section 10(a)(3) requires that we consider whether enforcement of the facilities-based requirement of section 214(e) for a pure wireless reseller that seeks ETC designation for Lifeline support is in the public interest. In evaluating whether forbearance is in the public interest, we follow the path that we laid out in earlier forbearance orders. We note first that the Commission's traditional concern with a carrier doubling its recovery by reselling facilities that are already supported by the high-cost fund does not apply in the low-income context because Lifeline support is directly passed through to low-income consumers rather than built into the rates of facilities-based carriers.<sup>27</sup> We also

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<sup>19</sup> *Id.* at 3390 n.67.

<sup>20</sup> *Id.*

<sup>21</sup> *Id.*

<sup>22</sup> *Id.* at 3391, para. 22. Like other certifications, the carrier is required to retain these underlying carrier certifications and provide them to the Commission upon request.

<sup>23</sup> See, e.g., *id.* at 3390, para. 22.

<sup>24</sup> *Applications of Nextel Communications, Inc. and Sprint Corporation For Consent to Transfer Control of Licenses and Authorizations*, WT Docket No. 05-63, Memorandum Opinion and Order, 20 FCC Rcd 13967, 14020, para. 144 (2005).

<sup>25</sup> *Id.*

<sup>26</sup> See *TracFone Forbearance Order*, 20 FCC Rcd at 15101-02, paras. 15-16; *Virgin Mobile Forbearance Order*, 24 FCC Rcd at 3390-91, para. 21-23; *i-wireless Forbearance Order*, 25 FCC Rcd at 8788, para. 12; *Global Forbearance Order*, 25 FCC Rcd at 10515, para. 12.

<sup>27</sup> See, e.g., *i-wireless Forbearance Order*, 25 FCC Rcd at 8789, para. 15.



note that Lifeline support is designed to reduce the monthly cost of telecommunications service for qualifying low-income consumers and is directly reflected in the price that the low-income customer pays.<sup>28</sup> Requiring a Lifeline provider to own the facilities it uses to offer service does not necessarily further the statutory goal of the low-income program.<sup>29</sup> We therefore find that the public interest is served by forbearing from the facilities requirement in section 214(e) to allow Conexions to receive Lifeline support.<sup>30</sup>

17. Continued growth of the universal service fund has highlighted in recent years the importance of the Commission's ongoing commitment to fight waste, fraud, and abuse. Accordingly, in addition to the consumer protection conditions outlined above, we find that it is necessary to require Conexions to assume additional obligations designed to protect against waste, fraud, and abuse.<sup>31</sup> Specifically, we condition our forbearance from the facilities requirement on Conexions:

- (5) requiring each customer to self-certify at the time of service activation and annually thereafter that he or she is the head of household and receives Lifeline-supported service only from that carrier;
- (6) establishing safeguards to prevent customers from receiving multiple Lifeline subsidies from that carrier at the same address;
- (7) dealing directly with the customer to certify and verify the customer's Lifeline eligibility; and
- (8) submitting to the Wireline Competition Bureau, within 30 days of the effective date of this order, a compliance plan outlining the measures that Conexions will take to implement the obligations contained in this order.

18. We find that these obligations are necessary safeguards to help deter waste, fraud, and abuse.<sup>32</sup> These obligations apply in any state in which Conexions is designated as an ETC and plans to serve any customers without using its own facilities. We require Conexions to identify the penalties for perjury on the customer self-certification forms described above and to retain copies of those self-certifications and provide them, as well as documentation of how the carrier obtained the certification, to the Commission upon request.<sup>33</sup>

19. We disagree with parties that argue that the Commission should condition forbearance on Conexions' compliance with additional obligations, such as complying with state-level 911 and E911 obligations, or that the Commission should withhold forbearance until Conexions describes with

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<sup>28</sup> 47 C.F.R. §§ 54.401, 54.504.

<sup>29</sup> See, e.g., *i-wireless Forbearance Order*, 25 FCC Rcd at 8789, para. 15.

<sup>30</sup> See *id.*

<sup>31</sup> We have imposed the same conditions on other wireless resellers for which we granted forbearance from the facilities requirement. See *TracFone Forbearance Order*, 20 FCC Rcd at 15103-04, 15105, paras. 18, 25; *Virgin Mobile Forbearance Order*, 24 FCC Rcd at 3392, para. 25; *i-wireless Forbearance Order*, 25 FCC Rcd at 8790, para. 16; *Global Forbearance Order*, 25 FCC Rcd at 10517, para. 16.

<sup>32</sup> These obligations are in addition to, and do not supplant, the certification and verification eligibility already required by our rules for federal default states and any similar state rules for the non-federal default states. See, e.g., 47 C.F.R. § 54.410. On May 4, 2010, the Commission asked the Federal-State Joint Board on Universal Service to review the Commission's eligibility, verification, and outreach rules for the Lifeline and Link Up universal service programs. See *Federal-State Joint Board on Universal Service; Lifeline and Link Up*, CC Docket No. 96-45, WC Docket No. 03-109, Order, 25 FCC Rcd 5079 (2010).

<sup>33</sup> See *TracFone Forbearance Order*, 20 FCC Rcd at 15103-04, 15105, paras. 18, 25; *Virgin Mobile Forbearance Order*, 24 FCC Rcd at 3392, para. 25 & n.74; *i-wireless Forbearance Order*, 25 FCC Rcd at 8790, para. 17; *Global Forbearance Order*, 25 FCC Rcd at 10517, para. 17.

particularity the service plans that will be associated with its Lifeline offering.<sup>34</sup> We find that it is appropriate to leave those assessments to whichever governmental entity addresses Conexions' petitions for ETC designation. In most cases, the state commission will decide whether to grant ETC designation, and state commissions are generally in a better position to assess whether a particular offering will benefit that state's low-income consumers and whether to condition ETC designation on compliance with state-level 911 and E911 obligations.<sup>35</sup>

20. In conclusion, we find that granting forbearance to Conexions, subject to the conditions set forth above, so that Conexions may seek ETC designation to participate in the Lifeline program will further the statutory goal of providing low-income subscribers access to telecommunications and emergency services, while protecting the universal service fund against waste, fraud, and abuse.<sup>36</sup> To the extent, however, that our predictive judgment proves incorrect and these conditions prove to be inadequate safeguards, parties may file appropriate petitions with the Commission to reconsider this forbearance ruling.<sup>37</sup>

### B. Forbearance for Link Up

21. We decline to grant Conexions' request for forbearance from the facilities requirement for the purpose of seeking ETC designation to receive Link Up support.<sup>38</sup> Petitioners seeking forbearance bear the burden of proof and must show that each of the statutory elements of forbearance is met.<sup>39</sup> Conexions has not done so in the context of the Link Up program. Conexions has not shown, taking into account the differences between the Lifeline and Link Up programs, why it needs forbearance from the facilities requirement for Link Up specifically nor why the public interest would be served by such forbearance.<sup>40</sup> General references to the statutory goal of ensuring that low-income consumers have access to telecommunications services do not suffice to replace a particularized argument necessary to

<sup>34</sup> See NASUCA Comments at 2 (“[I]t does not appear that the Commission can find that forbearance is in the public interest here without more specificity as to how Conexions plans to apply the federal support it will receive upon designation as a Lifeline ETC.”); NENA Comments at 1 (“[W]e believe the condition of compliance with ‘applicable 911/E911 obligations’ can and should be imposed on the prior grant of forbearance and therefore run with any later ETC authorizations.”).

<sup>35</sup> Of course, if a state commission does not have jurisdiction to designate a carrier as a limited-purpose ETC, we will consider that carrier's application as well as whether any additional obligations are necessary for that particular designation to be in the public interest. See 47 U.S.C. § 214(e)(6).

<sup>36</sup> Conexions has committed to complying with all the conditions set forth in this order. See Petition at 11 & n.33.

<sup>37</sup> See *Petition for Forbearance of the Verizon Telephone Companies Pursuant to 47 U.S.C. § 160(c)*, WC Docket No. 01-338, Memorandum Opinion and Order, 19 FCC Rcd 21496, 21508–09, para. 26 & n.85 (2004); see also *Petition of SBC Communications Inc. for Forbearance from Structural Separations Requirements of Section 272 of the Communications Act of 1934, As Amended, and Request for Relief to Provide International Directory Assistance Services*, CC Docket No. 97-172, Memorandum Opinion and Order, 19 FCC Rcd 5211, 5223–24, para. 19 & n.66 (2004); *Cellnet Communications, Inc. v. FCC*, 149 F.3d 429, 442 (6th Cir. 1998).

<sup>38</sup> See Petition at 7–14; cf. *i-wireless Forbearance Order*, 25 FCC Rcd at 8791–92, para. 21; *Global Forbearance Order*, 25 FCC Rcd at 10519, para. 21.

<sup>39</sup> See, e.g., *Petition to Establish Procedural Requirements to Govern Proceedings for Forbearance under Section 10 of the Communications Act of 1934, As Amended*, WC Docket No. 07-267, Report and Order, 24 FCC Rcd 9543, 9554–55, para. 20 (2009) (“We now state explicitly that the burden of proof is on forbearance petitioners at the outset and throughout the proceeding.”); *Petitions of Qwest Corporation for Forbearance Pursuant to 47 U.S.C. § 160(c) in the Denver, Minneapolis-St. Paul, Phoenix, and Seattle Metropolitan Statistical Areas*, WC Docket No. 07-97, Memorandum Opinion and Order, 23 FCC Rcd 11729, 11750, 11754–58, paras. 28, 36, 39 (2008) (noting that Qwest had failed to meet its burden of persuasion regarding sufficiency of market share).

<sup>40</sup> See Petition at 7–14 (discussing Link Up only in the context of its discussion of Lifeline).

justify forbearance from statutory requirements.<sup>41</sup> We thus find that Conexions has failed to meet its burden to show that forbearing from the facilities requirement in the context of the Link Up program is in the public interest, and we deny its request.<sup>42</sup>

#### IV. ORDERING CLAUSES

22. IT IS FURTHER ORDERED that, pursuant to the authority contained in sections 4(i), 4(j), 10, 214, and 254 of the Communications Act of 1934, as amended, 47 U.S.C. §§ 154(i), 154(j), 214, 254, the petition for forbearance filed by Conexions, LLC IS GRANTED IN PART to the extent discussed herein and conditioned on fulfillment of the obligations set forth in this order and otherwise DENIED.

23. IT IS FURTHER ORDERED that, pursuant to the authority contained in sections 4(i), 4(j), 10, 214, and 254 of the Communications Act of 1934, as amended, 47 U.S.C. §§ 154(i), 154(j), 214, 254, we forbear from applying sections 54.201(d)(1) and (i) of the Commission's rules, 47 C.F.R. § 54.201(d)(1), (i), to Conexions, LLC to the extent discussed herein and conditioned on fulfillment of the obligations set forth in this order.

24. 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

Marlene H. Dortch  
Secretary

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<sup>41</sup> See *Amendment of the Commission's Rules Concerning Maritime Communications*, PR Docket No. 92-257, Third Report and Order and Memorandum Opinion and Order, 13 FCC Rcd 19853, 19879–80, para. 55 (1998) (“MariTEL's request cannot be granted because it is too vague, both as to the specific provisions from which we should forbear from enforcing, and as to why forbearance would be in the public interest.”).

<sup>42</sup> We have reached the same conclusion in similar cases. See *i-wireless Forbearance Order*, 25 FCC Rcd at 8791–92, para. 21; *Global Forbearance Order*, 25 FCC Rcd at 10519, para. 21.