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REBECCA DEMPSEY
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CHARLES V. GARCIA
CAROL S. HELMS
K. STEPHEN ROYCE
JULIE S. RIVERS
HEATHER TRAVIS BOONE
SCOTT P. HATCHER
SCOTT E. TURNER

LAURA M. CASTILLE
ALEXIS SHANNEZ DUDELCHYK

ROBERT A. CORCHINE
CARLOS J. PADILLA
CARL J. WALDHART

OF COUNSEL:
JOHN F. MCCARTHY, JR.
JOHN F. KENNEDY

REPLY TO ALBUQUERQUE OFFICE

June 12, 2024

**VIA REGULAR FIRST CLASS MAIL
and ELECTRONIC MAIL TO:**

NMPRC Records Bureau
PO Box 1269
Santa Fe, NM 87504

PRC.Records@prc.nm.gov

Re: Verified Application of Vexus Fiber, LLC for Designation as an Eligible Telecommunications Carrier for the Limited Purpose of Offering Lifeline and Linkup Benefits to Qualified Households

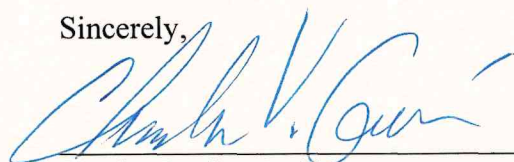
Greetings:

On behalf of Vexus Fiber, LLC we enclose for filing a completed ***Verified Application of Vexus Fiber, LLC for Designation as an Eligible Telecommunications Carrier for the Limited Purpose of Offering Lifeline and Linkup Benefits to Qualified Households***, and exhibits. Also enclosed is a check (No.1084) made out to the NMPRC for the amount of the application fee.

Should you have any questions or concerns regarding the Application or Exhibits, please let us know.

Thank you for your attention to this matter.

Sincerely,



Charles V. García, Esq.
CUDDY & McCARTHY, LLP
201 Third Street, N.W., Suite 1300
Albuquerque, New Mexico 87102
Tel. (505) 888-1335
Fax: (888) 977-3816
CGarcia@CuddyMcCarthy.com

Encl. (2)

CUDDY & McCARTHY,LLP
ABQ OPERATING ACCOUNT
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BEFORE THE NEW MEXICO PUBLIC REGULATION COMMISSION

In the Matter of the Verified Application of)
Vexus Fiber, LLC for Designation as an)
Eligible Telecommunications Carrier for the)
Limited Purpose of Offering Lifeline and)
Linkup Benefits to Qualified Households)
Pursuant to 17.11.11 NMAC,)

Case No. _____

Vexus Fiber, LLC,)
Applicant.)

**VERIFIED APPLICATION OF VEXUS FIBER, LLC FOR
DESIGNATION AS AN ELIGIBLE TELECOMMUNICATIONS CARRIER FOR THE
LIMITED PURPOSE OF OFFERING LIFELINE AND LINKUP BENEFITS TO
QUALIFIED HOUSEHOLDS PURSUANT TO 17.11.11 NMAC AND REQUEST FOR
EXPEDITED CONSIDERATION**

Vexus Fiber, LLC (“Vexus”) was approved by the Federal Communications Commission (“FCC”) as a broadband provider in the Affordable Connectivity Program (“ACP”) for the State of New Mexico on January 4, 2024, under application number EBBA0002922. A copy of the FCC’s Carrier Participation Approval for Vexus is attached hereto as Exhibit 1. Pursuant to Title 17, Chapter 11, Parts 10 (State Rural Universal Service Fund) and 11 (Lifeline and Linkup Benefits) of the New Mexico Administrative Code (“17.11.10 NMAC” or “Rule 17.11.10” and “17.11.11 NMAC” or “Rule 17.11.11,” respectively), Vexus submits this application (the “Application”) seeking designation as an Eligible Telecommunications Carrier (“ETC”) for the limited purpose of receiving financial support from federal programs designed to support expansion of Broadband service in unserved and underserved areas, including immediate access to the federal Lifeline program to be in a position to offer Lifeline and Linkup benefits to qualified households in the service areas in which it provides telecommunications services in New Mexico. This request is made pursuant to Section 214(e)(2) of the Communications Act of

1934¹, and Sections 54.101 through 54.207 of the FCC's rules.² Vexus' receipt of ACP Lifeline support under the FCC's rules is contingent on Vexus receiving an ETC designation from the New Mexico Public Regulation Commission ("NMPRC").

Due to the lack of additional Congressional funding for the ACP, the FCC ended the program effective June 1. These same households that relied upon the ACP benefits may also qualify for the FCC's Lifeline program and may qualify for Lifeline and Linkup benefits under the NMPRC's Rule 17.11.11. In order to make these benefits available to qualified households that are customers in its Service Area in New Mexico, Vexus must obtain its ETC designation. As such, Vexus requests expedited consideration of its Application to make Lifeline and Linkup benefits available to qualified households in its Service Area in New Mexico. Vexus' designation as an ETC in its study/census block group area will facilitate its participation in federal Lifeline funding programs designed to expand broadband service offerings to unserved and underserved areas in New Mexico and to enhance provision of service to qualifying low-income consumers in New Mexico. The NMPRC's approval of Vexus' Application will advance the public interest by enabling Vexus to provide Lifeline and Linkup benefits to qualified low-income New Mexico households in its Service Areas given that the federal funding for the ACP has not been renewed.

I. BACKGROUND ON VEXUS

Vexus is a private company founded in 1981 under its original name, NTS Communications ("NTSC") and was based in Lubbock, Texas. Vexus is incorporated in Delaware as a limited liability company, with its principal office located at 912 South Main Street, Suite 106, Sikeston, Missouri 63801. Vexus is an indirect, wholly-owned subsidiary of

¹ 47 U.S.C. § 214(e)(2).

² 47 C.F.R. § 54.101 through 54.207.

Metronet Holdings, LLC (“MH”), a Delaware limited liability company, with its principal executive office located at 3701 Communications Way, Evansville, Indiana 47715. MH provides telecommunications services, voice over internet protocol services (“VoIP”), and broadband services in certain portions of seventeen (17) states, including Arizona, Colorado, Florida, Illinois, Indiana, Iowa, Kentucky, Louisiana, Michigan, Minnesota, Missouri, New Mexico, North Carolina, Ohio, Texas, Virginia, and Wisconsin.

Vexus operates a state-of-the-art network architecture offering high-quality FTTP (fiber-to-the-premise) service to consumers throughout west Texas and Louisiana and has initiated services in New Mexico. Vexus offers customers hosted PBX and fiber-based internet, as well as, managed services and colocation solutions. Vexus currently has over 100,000 customers in Texas, Louisiana, New Mexico, Arizona (LD voice), and Missouri. Vexus is also authorized by the FCC to provide domestic (interstate) and international telecommunications services. Vexus currently has 663 employees to support the FTTP services it provides to its customers, including 18 employees currently residing in New Mexico.

The New Mexico State Corporation Commission previously granted Vexus’ predecessor, NTSC, a certificate of public convenience and necessity to operate as a reseller of long-distance telecommunications services in 1989 in Docket No. 88-0037-TC. The NMPRC granted NTSC a Certificate of Registration as a competitive local exchange carrier (“CLEC”) of telecommunications services by order dated February 20, 2001, in Case No. 3528. Vexus previously advised the NMPRC by letter dated March 27, 2020, of the change in its name from NTSC to “NTS Communications, LLC d/b/a Vexus;” and the change in its legal name from NTS Communications, LLC d/b/a Vexus to “Vexus Fiber, LLC” by letter dated September 20, 2022. Copies of these letters are attached hereto as Exhibit 2. Vexus is registered to do business in

New Mexico and submits a copy of its New Mexico Secretary of State Certificate of Registration by Conversation hereto as Exhibit 3.

Vexus will rely on its significant managerial and technical expertise, as more fully described below, in delivering telecommunications services to its customers in New Mexico.

II. VEXUS FIBER NETWORK IN NEW MEXICO

Vexus has worked for the past two years expanding its broadband markets to enter into the New Mexico market. As of January 30, 2024, Vexus had its very first broadband customer in Albuquerque. Vexus intends to build a Fiber-to-the-Home (“FTTH”) network in the cities of Rio Rancho, Santa Fe, and Las Cruces for the purpose of providing residents with a new high-speed broadband alternative to existing cable and phone networks. Initial offerings will include gigabit speeds at prices comparable to existing offerings. Vexus has committed to build its network to 97% of Albuquerque residents by 2029 and to meet density requirements of 30 homes per fiber mile in Rio Rancho. Vexus will employ local technical, customer service, and sales professionals, and estimates an investment of at least \$450 million in the New Mexico fiber network project over the next 3-5 years, while hiring over 280-300 full-time employees during that period. The break-out for Vexus’ planned investment and employees is as follows:

ABQ—243,000 passings over the next 5 years. \$250M investment ~150 full-time employees.
Santa Fe—40,700 passings over the next 3 years. \$50M investment ~50 full-time employees.
Las Cruces—44,400 passings over the next 3 years. \$50M investment ~50 full-time employees.
Rio Rancho—40,000 passings over the next 3 years. \$50M investment ~30 full-time employees.

Vexus already owns facilities located in Albuquerque and Las Cruces, as well as leased warehouses in Santa Fe and Albuquerque.

III. VEXUS MEETS THE STATUTORY AND REGULATORY REQUIREMENTS FOR ETC DESIGNATION

Vexus meets all applicable federal and state requirements for designation as an ETC, including 47 U.S.C. §214(e), 47 C.F.R. § 54.201, *et seq.* and NMPRC Rule 17.11.10.24.

a. Vexus' ETC Service Area.

Vexus requests ETC designation for the New Mexico Service Area, which is encompassed by the approved jurisdiction for which it received its FCC Carrier Participation Approval, as identified in Exhibit 1.

b. Vexus Meets All Federal Requirements for ETC Designation.

i. Vexus Will Offer Supported Services, on a Common Carrier Basis, Throughout the Proposed Service Area.

For purposes of this designation, Vexus will provide broadband internet access service and standalone voice service to the public throughout the Service Area on a common carrier basis. Vexus is a common carrier for purposes of 47 U.S.C. § 214(e)(1) and 47 C.F.R. § 54.201(d).

ii. Vexus Will Offer Supported Services Using Its Own Facilities.

Pursuant to 47 C.F.R. § 54.201(d)(1), Vexus will satisfy the requirement for offering the services supported by Lifeline throughout the Service Area using its owned facilities. As described above, Vexus is a facilities-based FTTP provider with its own switching facilities, and other associated facilities, and with plans to complete a FTTH build-out in Rio Rancho, Santa Fe, and Las Cruces therefore, Vexus will offer the supported services using its own facilities or a combination of its own facilities and resale of another carrier's service. Currently, Vexus maintains fiber facility headend sites in Albuquerque, Las Cruces, and Santa Fe. These facilities are designed to house all core and edge network gear. Each facility is equipped with multiple

network racks, dual air conditioning units, fire suppression systems, and AC/DC power plants. For redundancy, dual fiber paths run into each facility and out to various cabinets and uplink connections. Ultimately, all fiber transmission is fed through the Vexus headend and into customers' homes. Both phone and internet services will be transmitted along the fiber-optic network. Vexus deploys internet and phone access to its customers through an all-fiber access GPON and XGPON network. Vexus offers customers hosted PBX and fiber-based internet. ONTs are deployed at the customer premise and then provisioned for Session Initiated Protocol ("SIP") that goes through its third-party white-label Managed Service Provider's ("MSP"), Momentum, switch.

iii. Vexus Will Offer Voice Telephony Service.

Pursuant to 47 C.F.R. § 54.101(a)(1) and (b), Vexus will provide voice telephony services, including: (a) voice-grade access to the public switched telephone network ("PSTN") or its functional equivalent; (b) minutes of use for local service provided at no additional charge to end users; (c) access to emergency services; and (d) toll limitation services to qualifying low-income consumers in accordance with 47 C.F.R. §§ 54.500, *et seq.* Vexus will offer voice services on a standalone basis at rates that are reasonably comparable to urban rates.

I. Vexus Will Provide Voice-Grade Access to the Public Switched Telephone Network.

Pursuant to 47 C.F.R. § 54.101(a), Vexus will provide voice-grade access to the PSTN by providing interconnected VoIP. Vexus will use third-party provisioning of voice services consistent with the requirements and goals of Lifeline, including using a white-label MSP voice platform that Vexus has certified to meet quality and performance standards exceeding those

required by Lifeline. In this baseline plan, Vexus would provide telephone services connecting consumers to its MSP's platform using its network capacity, which is available to consumers through their customer premises equipment. Consumers will have the option of using a third-party, conventional phone connected to a SIP standards-compliant analog terminal adaptor or a native-IP Phone selected from a list of certified models.

The MSP solution (Momentum) represents Vexus' baseline plan for a standalone voice service offering. Vexus continues to assess integrating alternative standalone voice applications into the Vexus network, including other third-party providers, or possibly developing its own proprietary solution. Vexus may adopt such approaches in the event that further testing demonstrates alternative solutions would provide a superior experience to the end customer or, if Vexus determines the end user would benefit from the existence of multiple voice solutions to introduce competition and redundancy into the supply chain – all while fully complying with Lifeline and ETC requirements.

The FCC, in its *USF/ICC Transformation Order*, made clear that eligible voice telephony services under Section 54.101(a) include the provision of voice service “over any platform, including the PSTN and IP networks.”³ The FCC further has explained that “a broadband provider may satisfy its voice obligation by offering voice service through an affiliate or by offering a managed voice solution (including VoIP) through a third-party vendor.”⁴ Vexus will

³ *Connect America Fund et al.*, Report and Order and Further Notice of Proposed Rulemaking, 26 FCC Rcd. 17663, 17685, para. 78 (2011) (“*USF/ICC Transformation Order*”).

⁴ See *WCB Reminds Connect America Fund Phase II Applicants of the Process for Obtaining Federal Designation as an Eligible Telecommunications Carrier*, WC Docket Nos. 09-197, 10-90, Public Notice, DA 18-714, 3-4 (rel. July 10, 2018) (“*FCC ETC Procedures Notice*”).

provide interconnected VoIP throughout the Service Area, sufficient for voice-grade access to the PSTN pursuant to Section 54.101(a).

2. Vexus Will Provide Local Usage at No Additional Charge.

As part of the voice-grade access to the PSTN, an ETC must provide minutes of local service at no additional charge to end-users. The FCC has not specified a minimum amount of local usage that an ETC must offer. Vexus will offer voice rate plans in the Service Area that include local calling at no additional charge and will comply with any and all minimum local usage requirements adopted by the FCC or states with jurisdiction over Vexus' standalone voice service.

3. Vexus Will Provide Access to Emergency Services.

ETCs are required to provide access to the emergency services provided by local government or other public safety organizations, such as 911 and enhanced 911, to the extent the local government in an ETC's service area has implemented 911 or enhanced 911 systems. Vexus will satisfy this requirement by providing 911 and E911 for all of its customers, to the extent the local governments in its Service Area have implemented 911 and E911.

4. Vexus Will Offer Toll Limitation Services for Qualifying Low-Income Consumers.

In its *Lifeline and Link Up Reform Order*, the FCC explained that toll limitation would no longer be deemed a supported service as of 2014.⁵ Accordingly, Vexus will not seek reimbursement for toll limitation services. Vexus currently has no Lifeline customers in New Mexico because only carriers designated as an ETC can participate in the Lifeline program.

⁵ *In the Matter of Lifeline and Link Up Reform and Modernization, et. al.*, WC Docket No. 11-42, Report and Order, FCC 12-11, para. 229 (Feb. 6, 2012).

Once designated as an ETC in New Mexico, however, Vexus will participate in Lifeline, as required by the FCC's rules, and will provide toll blocking service in accordance with 47 C.F.R. §§ 54.500, *et seq.* To the extent the NMPRC may require Vexus to supplement its Application to address the provision of Lifeline program services, Vexus will do so.

iv. Vexus Will Offer Broadband Internet Access Services.

Pursuant to 47 C.F.R. § 54.101(a)(2), Vexus will offer broadband internet access service with the capability to transmit data to, and receive data by wire from, all or substantially all internet endpoints, including any capabilities that are incidental to and enable the operation of the communications service, but excluding dial-up service. Vexus will offer broadband at rates that are reasonably comparable to rates offered in urban areas.

v. Vexus Will Provide Lifeline to Qualified Low-Income Consumers.

As indicated above, Vexus is specifically seeking its ETC designation in order to provide Lifeline services as required by 47 C.F.R. § 54.405, and will provide Lifeline to qualifying low-income households and publicize the availability of Lifeline service in a manner reasonably designed to reach those likely to qualify for the service.

vi. Vexus Will Advertise the Availability of Supported Services.

Pursuant to 47 U.S.C. § 214(e)(2) and 47 C.F.R. § 54.201(d), Vexus will advertise the availability and rates of each of the supported services detailed above and the availability of Lifeline benefits throughout its ETC Service Area by media of general distribution. Vexus already provides Lifeline services in other states and attached hereto as Exhibit 4 are copies of advertisements of Vexus' Lifeline offering, including the terms, conditions, and processes for Lifeline services.

vii. Vexus Will Comply with the Service and Performance Requirements Applicable to the Support It Receives.

Pursuant to 47 C.F.R. § 54.202(a)(1)(i), Vexus will comply with the service and performance requirements applicable to the support that it receives, including the performance requirements associated with Lifeline support. Vexus will maintain a direct relationship with its customers not only in New Mexico but all existing customers located throughout Texas and Louisiana. Vexus prides itself on being a locally-owned and operated business. All customers are able to contact any member of our Customer Care Team at 1-888-658-2150, by visiting our website chat at www.vexusfiber.com, or walking into one of our 21 retail stores including our offices in Albuquerque and Santa Fe. The Lubbock Call Center operates 24 hours a day, 7 days a week (24X7). The Network Ops Center is open and monitored 24X7 to address any outages. Customers have the option of making payments at any of our retail stores, lockbox remit, credit card, or on-line bill pay. Vexus Fiber handles all billing questions from its Lubbock Call Center and can be reached at 1-888-658-2150. As with all customers, our goal is to make sure our customers receive the best products and services that are an excellent value. If customers do not receive assistance through our Customer Care Team, they are encouraged to contact the President's Hot Line at 1-844-456-0661 or 4jimG@vexusfiber.com. Further, Vexus will comply with all applicable state and federal consumer protection and service quality standards associated with the receipt of Lifeline support.

viii. Vexus Will Remain Functional in Emergency Situations.

Pursuant to 47 C.F.R. § 54.202(a)(2), Vexus will have sufficient backup power to remain functional without an external power source in emergency situations, will be able to reroute traffic around damaged facilities, and will be able to manage traffic spikes resulting from emergency situations. The Vexus traffic routing system ensures that every user is served with

bandwidth before users demanding more bandwidth get additional throughput assigned, which gives the Vexus network robustness in the event of emergencies requiring high throughput.

- ix. Vexus Is Not Subject to a Denial of Federal Benefits under the Anti-Drug Abuse Act of 1988.

Pursuant to 47 C.F.R. § 1.2002, Vexus is not subject to a denial of federal benefits pursuant to section 5301 of the Anti-Drug Abuse Act of 1988, as implemented in the Commission's rules.

c. Vexus Meets All State Requirements for ETC Designation

To the extent not already described above, Vexus meets the requirements of NMPRC Rule 11.10.24 as follows:

- i. Include a description of the proposed service area for which it seeks designation that is consistent with the federal requirements relating to service areas set forth in 47 CFR 54.207;

See Section III(a).

- ii. Demonstrate that the entity meets the requirements in Section 214(e) of the federal act (47 U.S.C. Section 214(e)) to be designated as a federal ETC;

See Section III(b).

- iii. Demonstrate that the proposed designation is in the public interest;

See Section IV below.

- iv. Demonstrate the proposed ETC is financially and technically competent to provide the supported services.

Through support from its parent company HC, and with receipt of federal support through the Lifeline program, Vexus has the financial resources to provide Lifeline

supported services in New Mexico to qualified households. A service order form will identify the qualifications of the Lifeline program and customers will be required to provide proof of qualification as the program dictates. As stated in the introduction to this Application, Vexus received its certificate as a CLEC and long-distance provider in New Mexico in 2001 and shortly thereafter began providing services. Vexus has demonstrated that it has the financial and technical capability to provide services. Vexus offers multiple services in New Mexico, including voice products. Vexus already owns fiber and network equipment needed to provide the supported services, and will make the investment in the State to expand those services. Vexus will design its fiber network to contain multiple redundant connections. To ensure reliability, this system is monitored twenty-four hours per day, seven days per week, three hundred sixty-five days per year, at Network Operating Centers located in Lubbock, Texas. In addition, Vexus employs local technical, customer service, sales professionals, engineers, and as described above, estimates an investment of at least \$450 million in the New Mexico fiber network project over the next 3-5 years, while hiring 280-300 employees during that period. While Vexus' network design facilitates reliability, such as mitigation of weather-related impacts, Vexus' network operations staff is always available to assist its customers.

The Vexus management team is led by Jim Gleason (CEO), Keith Davidson (CFO), and Larry Eby (COO). Gleason, Davidson, and Eby have over 90 years of experience (combined) in the Cable TV/Telecom industry. Throughout their management careers, they have managed systems in Missouri, Arkansas, Indiana, Illinois, Tennessee, Kentucky, Louisiana, Mississippi, South Carolina, Minnesota, South Dakota, and Iowa. The resources available to Vexus Fiber have allowed them to currently serve more than 100,000 customers throughout Texas, Louisiana, New Mexico, and Arizona. Since its initial acquisition in 2019, Vexus has quadrupled its customer base from 15,934 to 100,000.

v. Include the information required by 17.11.10.25 NMAC;

To the extent applicable to this petition, Vexus requests a waiver of 17.11.10.25 NMAC. Vexus has limited its Application in this case seeking ETC designation for the purpose of receiving financial support from the federal Lifeline program and qualify for Lifeline and Linkup Benefits under the NMPRC's rules. Vexus is not seeking an ETC designation at this time for the purpose of qualifying for financial support from the Universal Service Fund ("USF").

vi. Provide a five-year plan demonstrating how support from the fund will be used to improve the petitioner's coverage, service quality or capacity throughout the service area for which it seeks designation;

Consistent with FCC treatment of entities designated as ETCs for limited purposes, Vexus requests a waiver of the requirement to submit a five-year build-out plan.⁶ Vexus notes that the FCC has waived the requirement to submit a five-year plan per 47 C.F.R. § 54.202(a)(1)(ii) for limited support recipients because "the [FCC] adopted more specific measures to track deployment, including annual reporting of service to geocoded locations and certification of compliance with benchmark milestones" and "such obligations were no longer essential to the [FCC's] ability to monitor ETC use of support for its intended purpose."⁷ As recognized by the FCC, Vexus will be subject to performance and other compliance obligations at the FCC that are sufficient to ensure that Vexus provides Lifeline-supported service in a timely manner and that Lifeline support is used only for its intended purpose.

vii. Demonstrate the petitioner's ability to remain functional in emergency situations;

See Section III(b)(viii).

⁶ See FCC ETC Procedures Notice at 4-5.

⁷ See FCC ETC Procedures Notice at 4-5.

- viii. Demonstrate that the petitioner will satisfy consumer protection and service quality standards;

See Section III(b)(vii).

- ix. Offer local usage plans comparable to those offered by incumbent local exchange carriers in the areas for which the petitioner seeks designation;

See Section III(b)(iii)(2).

- x. Acknowledge that the petitioner may be required to provide equal access if all other ETCs in the designated area relinquish their designations;

Vexus acknowledges that it may be required to provide equal access if all other ETCs in the Service Area relinquish their designations.

- xi. Demonstrate that granting ETC status to the petitioner in the designated area is likely to result in more customer choice;

As described in Section IV, designation of Vexus as an ETC in the Service Area will allow Vexus to leverage funds to improve and expand broadband and voice service offerings in the Service Area, providing an additional competitive choice for broadband and voice services.

- xii. Address the impact of designation of the petitioner on the size of the fund;

Granting ETC status to Vexus will not have any significant adverse effects on the USF. Vexus seeks funding from federal programs including Lifeline for qualifying low-income households and the amount designated for these programs is already determined. As a result, Vexus' participation as a recipient of federal support should not adversely impact the USF.

- xiii. Address the unique advantages and disadvantages of the petitioner's service offering;

The primary advantage to Vexus' service offering is the access to broadband service with symmetrical upload/download speeds of at least 150 Mbps broadband service in areas where such service is not available. Vexus' fiber optic networks will provide

customers with access to symmetrical upload/download speeds of up to 5 Gigabytes per second (5 Gbps). Further, customers will be able to bundle their internet access and voice services into one package which will be more efficient and less costly to the customers.

- xiv. Demonstrate the petitioner's willingness and ability to offer service throughout the designated service area within a reasonable time frame;

Vexus will provide service throughout the Service Area consistent with the requirements of the FCC for Lifeline recipients. Specifically, Vexus will commercially offer voice and broadband service consistent with the speed and latency requirements in urban areas and will invest capital to extend, upgrade, and maintain its network platform, fiber plant, and to train its staff. Vexus will utilize federal Lifeline support to provide voice and broadband services via underground fiber.

- xv. Provide such other information as the commission or the administrator may find appropriate.

Vexus commits to provide the NMPRC with required updates related to its plans for utilization of federal funding, including, as applicable, updates as to the progress of deployment of service. Vexus further commits to provide the NMPRC with any reports that are required in connection with its selection for any award of federal funding.

IV. DESIGNATING VEXUS FIBER AS AN ETC IS IN THE PUBLIC INTEREST.

Expedited designation of Vexus as an ETC in the Service Area in New Mexico will serve the public interest by ensuring that the Company is eligible to receive federal Lifeline support and expand broadband coverage in and throughout the Service Area. In New Mexico, the voice and broadband services Vexus will deploy, including Lifeline support, will advance the goal of Lifeline to ensure continued and rapid deployment of broadband networks to unserved

Americans. The Lifeline support will allow Vexus to accelerate service for those who need it most and prioritize deployment to the underserved and qualified low-income households in the Service Area. Vexus respectfully requests the NMPRC to expeditiously consider its Application and implement a rapid schedule for consideration of its Application, and take all steps necessary to move this Application to final action. Precedent for expedited consideration of Vexus Application by the NMPRC includes multiple ETC applications for the purpose of allowing the applicants to obtain federal funding.⁸

ETC designation will benefit users in New Mexico by enabling Vexus to utilize Lifeline support in the expansion of Vexus' FTTP Platform and network and increase the number of qualifying low-income households that can benefit from Vexus' high-quality voice and data services. Vexus' online and in-person, real-time distribution methods will enable it to bring Lifeline service to qualifying households throughout its New Mexico Service Area.

The NMPRC's grant of Vexus' request to expand its designated service area also would promote competition and increase customer choice for low-income households residing in the Service Area. Indeed, its presence as a competitor will lead to additional competition within the Lifeline market, especially throughout its Service Area, which should help improve the rate of program participation by eligible subscribers. For the foregoing reasons, approval of this application is in the public interest.

⁸ See, *In the Matter of the Application of SW Dinehnet, LLC for Designation as an Eligible Telecommunications Carrier*, NMPRC Case No. 18-00260-UT; *In the Matter of Federal Eligible Telecommunications Carrier Designation Proceedings for FCC Connect America Fund Phase II Auction Winners*, NMPRC Case No. 18-00284-UT; *In the Matter of the Verified Petition of Kit Carson Electric Cooperative, Inc. and Kit Carson Internet for Designation as an Eligible Telecommunications Carrier*, NMPRC Case No. 20-00126-UT; and *In the Matter of ETC Designations for Federal Rural Digital Opportunity Fund Grantees*, NMPRC Case No. 21-00016-UT.

V. CONCLUSION.

As described above, Vexus satisfies all state and federal requirements for ETC designation for access to federal Lifeline program in the Service Area. Furthermore, designating Vexus as an ETC for purposes of receiving Lifeline support is in the public interest because it will enable Vexus to receive support that will facilitate rapid deployment of broadband and VoIP service to the Service Area in New Mexico at speeds and latency comparable to existing service systems in urban locations. It will also allow Vexus' customers to utilize the Lifeline program to replace the expired ACP. Vexus respectfully requests that the NMPRC expeditiously review and grant this ETC Application.

VI. NOTICES.

Pleadings, orders, notices, or other correspondence and communications regarding this Application should be provided to:

Robin Davidson
Compliance Officer
VEXUS FIBER, LLC
912 S. Main Street
Suite 106
Sikeston, MO 63801
Robin.Davidson@vexusfiber.com
(573) 481-2763

With a copy to:

Daniel Wheeler
General Counsel
VEXUS FIBER, LLC
4006 W. Loop 289
Lubbock, TX 79407
Dan.Wheeler@vexusfiber.com
(806) 788-2915

and

Charles V. García
CUDDY & McCARTHY, LLP
201 Third Street NW, Suite 1300
Albuquerque, NM 87102
CGarcia@CuddyMcCarthy.com
(505) 888-1335

Respectfully submitted,

CUDDY & McCARTHY, LLP

By: /s/ Charles V. García
Charles V. García
CUDDY & McCARTHY, LLP
201 Third Street NW, Suite 1300
Albuquerque, NM 87102
CGarcia@CuddyMcCarthy.com
Tel. (505) 888-1335
Fax (888) 977-3816

Patricia Salazar Ives
CUDDY & McCARTHY, LLP
1701 Old Pecos Trail
P.O. Box 4160
Santa Fe, NM 87502-4160
Tel. (505) 988-4476
PIves@CuddyMcCarthy.com

ATTORNEYS FOR VEXUS FIBER, LLC

Exhibit 1

FCC Approval and Service Area

From: IT Service Desk
To: Robin Davidson
Subject: FCC: Affordable Connectivity Program Participation Decision for EBBA0002922
Date: Thursday, January 4, 2024 5:26:02 PM
Attachments: sys_attachment.dosys_id=a0b8f0021be2a41048c6ed7bbc4bcb94



Affordable Connectivity Program
Carrier Participation Approval

Approval Date: 01-04-2024
Application Number: EBBA0002922

Carrier Contact Information

Contact Name: Robin Davidson
Entity Name: Vexus Fiber, LLC

Approved Carrier Information

Entity Name: Vexus Fiber, LLC
FRN: 0004266938
UEI: R2DJCALJP4J2
Address:
912 S. Main, Suite 106
Sikeston, MO 63801
Holding Company: Metronet Holdings, LLC

Approved Jurisdictions:
New Mexico

The Wireline Competition Bureau (Bureau) has completed its review of your application to participate as a broadband provider in the Affordable Connectivity Program (ACP). After review of the application and the supporting documentation submitted on behalf of the carrier identified above, the Bureau has approved the carrier to participate in the ACP in the approved jurisdictions referenced above.

This approval is only for the carrier identified above to participate in the approved jurisdictions. If the carrier submitted a request for approval of an alternative household eligibility verification process, the carrier will receive a separate determination once the Bureau has reviewed the described eligibility verification process.

The carrier is reminded that it must review and comply with all applicable ACP rules, requirements, and procedures. This includes the necessary ACP election procedures administered by the Universal Service Administrative Company. For more information regarding this election process and other ACP requirements, refer to the USAC website at <https://www.usac.org/about/affordable-connectivity-program/>.

***Please do not reply to this email;** this address is not monitored. You may add comments and questions to your applications on the Affordable Connectivity Program portal within your application.*

[Unsubscribe](#) | [Notification Preferences](#)

Ref:MSG14106182CONFIDENTIAL: This email and any files transmitted with it are confidential and intended solely for the use of Vexus Fiber and to whom they are addressed. If you have received this email in error, please notify the system manager. This message contains confidential information and is intended only for the individual named. If you are not the named addressee, you should not disseminate, distribute or copy this email. Please notify the sender immediately by email if you have received this email by mistake and delete this email from your system. If you are not the intended recipient, you are notified that disclosing, copying, distributing or taking any action in reliance on the contents of this information is strictly prohibited.

Exhibit 2

NMPRC Notices on Name Changes



March 27, 2020

VIA ELECTRONIC MAIL

Ms. Melanie Sandoval
Records Management Bureau
New Mexico Public Regulation Commission
P.O. Box 1269
Santa Fe, NM 87504

Re: Notice of Name Change; NTS Communications, LLC; Certificate of Registration to
Provide Local Exchange Telecommunications Services within the State of New Mexico
(Case No. 3528)

Dear Ms. Sandoval:

Pursuant to Section 17.11.19.14 of the New Mexico Administrative Code, NTS
Communications, LLC, (NTS) provides notice that it has changed the name under which it
conducts business in the State of New Mexico to NTS Communications, LLC d/b/a Vexus.

This filing is made electronically in accordance with the Temporary NMPRC Electronic Filing
Policy adopted on March 20, 2020.

If you have any questions about this notice you may contact me via telephone at 806-788-2915
or via e-mail at dan.wheeler@ntscom.com

Sincerely,

Daniel Wheeler
General Counsel

Morgan Lewis

Catherine Wang
Brett P. Ferenchak
Kimberly Morning
catherine.wang@morganlewis.com
brett.ferenchak@morganlewis.com
kimberly.morning@morganlewis.com

September 20, 2022

VIA E-FILING

Melanie Sandoval, Records Management Bureau Chief
New Mexico Public Regulation Commission
P.E.R.A. Building
1120 Paseo De Peralta
Santa Fe, New Mexico 87504
melanie.sandoval@state.nm.us
prc.records@state.nm.us

Re: Notification Regarding Proposed *Pro Forma* Changes in the Ownership of NTS Communications, LLC d/b/a Vexus Fiber

Dear Ms. Sandoval:

By this letter, NTS Communications, LLC d/b/a Vexus Fiber ("Vexus" or "Licensee") notifies the Commission of various proposed intra-company transactions (collectively, the "Transactions") that will result in *pro forma* changes in the ownership of Licensee. Pursuant to N.M. Admin. Code tit. 17, §§ 17.11.16.14 and 17.11.21.15, prior Commission action is not required for the Transactions. Accordingly, Licensee submits this letter for informational purposes.

In support of this filing, Licensee provides the following information:

Description of the Licensee

Vexus is a Delaware limited liability company with principal offices at 912 South Main Street Suite 106, Sikeston, Missouri 63801. Vexus is an indirect, wholly-owned subsidiary of Metronet Holdings, LLC ("Holdings"). Holdings is a holding company that, through direct and indirect wholly-owned subsidiaries (collectively, "Metronet"), including Vexus, provides or is authorized to provide telecommunications services, voice over Internet protocol services ("VoIP"), broadband services, or multichannel video programming services in certain portions of Arizona, Colorado, Florida, Illinois, Indiana, Iowa, Kentucky, Louisiana, Michigan, Minnesota, Missouri, New Mexico, North Carolina, Ohio, Texas,

Morgan, Lewis & Bockius LLP

1111 Pennsylvania Avenue, NW
Washington, DC 20004
United States

📞 +1.202.739.3000
📠 +1.202.739.3001

Melanie Sandoval, Records Management Bureau Chief
September 20, 2022
Page 2

Virginia and Wisconsin. Holdings has a principal executive office at 3701 Communications Way, Evansville, Indiana 47715.

Vexus provides integrated communications services, which includes voice, video, and data over its FTTP and other networks in Arizona, New Mexico, Louisiana, and Texas. In New Mexico, Vexus holds a Certificate of Registration to provide competitive local exchange telecommunications services which was issued in Case No. 3528 and a Certificate of Public Convenience and Necessity to operate as a reseller of long distance telecommunications services issued in Docket No. 88-0037-TC. Vexus also is authorized by the Federal Communications Commission ("FCC") to provide domestic (interstate) and international telecommunications services.

Designated Contacts

Questions, correspondence or other communications concerning this filing should be directed to:

Catherine Wang
Brett P. Ferenczak
Kimberly Morning
Morgan, Lewis & Bockius LLP
1111 Pennsylvania Ave., N.W.
Washington, DC 20004-2541
Tel: 202-739-3000
Fax: 202-739-3001
catherine.wang@morganlewis.com
brett.ferenczak@morganlewis.com
kimberly.morning@morganlewis.com

With copies to:

John Campbell, EVP and General
Counsel
MetroNet Holdings, LLC
8837 Bond Street
Overland Park, KS 66214
john.campbell@metronet.com

Description of the *Pro Forma* Ownership Changes

In order to better align Metronet's businesses with current and future customer focus and growth and to obtain more favorable financing arrangements, Metronet will complete a series of intra-company transactions, some of which may be separated by weeks or months, that will result in *pro forma* changes to the direct and intermediate ownership of

Melanie Sandoval, Records Management Bureau Chief
September 20, 2022
Page 3

the Licensee (the "*Pro Forma* Ownership Change"). The *Pro Forma* Ownership Change will result in a change in the holding company structure of Licensee but no change in the ultimate parent company, which will remain Holdings, or in Holdings' owners. Therefore, the *Pro Forma* Ownership Change is *pro forma* in nature. Diagrams depicting Metronet's corporate ownership/control structures that may exist for weeks or months, including the current and anticipated post-Transactions corporate organization structures, are provided as **Exhibit A**.

Also, as part of the Transactions, NTS Communications, LLC d/b/a Vexus Fiber will change its legal name to Vexus Fiber, LLC. Upon completion of the changes in its legal name, Vexus will submit notice of the name change, along with supporting documentation.

Public Interest Considerations

The Transactions will serve the public interest. As stated above, the Transactions will better align the businesses and markets of Metronet within its corporate family. The Transactions also will enable Metronet to have access to financing necessary to continue to maintain and expand its network and services. Licensee will continue to have the managerial, technical and financial qualifications to provide communications services in New Mexico supported by experienced management. The Transactions will not affect customers' services, rates or terms and conditions.

* * * *

Pursuant to the Commission's Permanent NMPRC Electronic Filing Policy, this notification has been sent by email to prc.records@state.nm.us. Please do not hesitate to contact us if you have any questions.

Respectfully submitted,



Catherine Wang
Brett Ferencak
Kimberly Morning

Counsel for NTS Communications, LLC d/b/a Vexus Fiber

VERIFICATION

I, J. Keith Davidson, am the Chief Financial Officer of NTS Communications, LLC d/b/a Vexus (the "Company"); that I am authorized to make this Verification on behalf of this Company; that the foregoing filing was prepared under my direction and supervision; and that the contents thereof with respect to the Company are true and correct to the best of my knowledge, information, and belief.



J. Keith Davidson
Chief Financial Officer

Exhibit 3

New Mexico Secretary of State
Business Registration



STATE OF NEW MEXICO
MAGGIE TOULOUSE OLIVER
SECRETARY OF STATE

Certificate of Registration by Conversion

OF

Vexus Fiber, LLC

1364934

CONVERTED FROM

Vexus Fiber, Inc.

1364934

Delaware

The Office of the Secretary of State certifies that the evidence of Conversion and Application for Registration for a Foreign Limited Liability Company, duly signed and verified pursuant to the provisions of the

Business Corporation Act
Limited Liability Company Act

53-11-1 to 53-18-12 NMSA 1978
53-19-1 to 53-19-74 NMSA 1978

have been received and are found to conform to law. Accordingly, by virtue of the authority vested in it by law, the Office of the Secretary of State issues this Certificate of Registration by Conversion and attaches hereto, a duplicate of the Application for Registration for a Foreign Limited Liability Company Company.

Dated: **February 17, 2023**

In testimony whereof, the Office of the Secretary of State has caused this certificate to be signed on this day in the City of Santa Fe, and the seal of said office to be affixed hereto.



Maggie Toulouse Oliver

Maggie Toulouse Oliver
Secretary of State

Exhibit 4

Vexus Fiber Lifeline Advertisements

Need help paying for your phone and Internet service?

Vexus Fiber's Lifeline discount may be able to help. Lifeline is a government program that provides a monthly discount on phone and Internet service to eligible households.*

Since 1985, the Lifeline program has helped millions of eligible Americans stay connected to family, work, doctors and emergency services by making phone and Internet service more affordable.

*Lifeline is available to one person per household for either one telephone line or one internet connection, but not both.

To see if you qualify for Lifeline, please visit:

VexusFiber.com/Lifeline/Assist



¿Necesita ayuda para pagar su servicio de teléfono e Internet?

El descuento Lifeline de Vexus Fiber puede ser útil ayudar. Lifeline es un programa gubernamental que ofrece un descuento mensual en el teléfono y servicio de Internet para hogares elegibles.*

Desde 1985, el programa Lifeline ha ayudado millones de estadounidenses elegibles permanecen conectados a la familia, trabajo, médicos y urgencias servicios haciendo teléfono e Internet. servicio más asequible.

*Lifeline está disponible para una persona por hogar para una línea telefónica o una conexión a Internet, pero no ambas.

**Para ver si califica
para Lifeline, visite:**

VexusFiber.com/Lifeline/Assist



BEFORE THE NEW MEXICO PUBLIC REGULATION COMMISSION

In the Matter of the Verified Application of)
Vexus Fiber, LLC for Designation as an)
Eligible Telecommunications Carrier for the)
Limited Purpose of Offering Lifeline and)
Linkup Benefits to Qualified Households)
Pursuant to 17.11.11 NMAC,)

Case No. _____

Vexus Fiber, LLC,)
Applicant.)

VERIFICATION

STATE OF MISSOURI)
) ss
COUNTY OF New Madrid)

I, **ROBIN DAVIDSON**, upon being first duly sworn according to law, under oath, state that:

I am the Compliance Officer for Vexus Fiber, LLC ("Vexus"); that I am authorized to make this Verification and certification on behalf of Vexus; that I am familiar with Vexus' telecommunications operations; that the foregoing Application for Designation as an Eligible Telecommunications Carrier for the Limited Purpose of Offering Lifeline and Linkup Benefits to Qualified Households Pursuant to 17.11.11 NMAC ("Application") was prepared under my direction and supervision; and that the contents of Vexus' Application are true and correct to the best of my knowledge, information and belief. I declare under penalty of perjury that the foregoing verification is true and correct.

CERTIFICATE OF SERVICE

I **HEREBY** certify that a true and correct copy of the foregoing *Verified Application of Vexus Fiber, LLC for Designation as an Eligible Telecommunications Carrier for the Limited Purpose of Offering Lifeline and Linkup Benefits to Qualified Households Pursuant to 17.11.11 NMAC and Request for Expedited Consideration* was delivered via electronic mail to the following parties on June 12, 2024.

John Bogatko

John.Bogatko@state.nm.us

Mike Ripperger

Mike.Ripperger@state.nm.us

Peggy Martinez-Rael

Peggy.Martinez-Rael@state.nm.us

Oluwatosin Olofinsao

Oluwatosin.Olofinsao@state.nm.us

Robin Davidson

Robin.Davidson@vexusfiber.com

Daniel Wheeler

Daniel.Wheeler@vexusfiber.com

Charles V. Garcia

CGarcia@CuddyMcCarthy.com

Pat Salazar Ives

PIves@CuddyMcCarthy.com

Respectfully submitted,

CUDDY & McCARTHY, LLP

By: /s/ Charles V. García

Charles V. García

CUDDY & McCARTHY, LLP

201 Third St. NW, Suite 1300

Albuquerque, NM 87102

Tel. (505) 888-1335

Fax (888) 977-3816

CGarcia@CuddyMcCarthy.com

Patricia Salazar Ives

CUDDY & McCARTHY, LLP

1701 Old Pecos Trail

P.O. Box 4160

Santa Fe, NM 87502-4160

Tel. (505) 988-4476

PIves@CuddyMcCarthy.com

ATTORNEYS FOR VEXUS FIBER, LLC