



## COMMONWEALTH OF MASSACHUSETTS

### DEPARTMENT OF TELECOMMUNICATIONS AND CABLE

D.T.C. 10-11

September 9, 2011

In the Matter of the Application of Virgin Mobile USA, L.P.'s Petition for Limited Designation as an Eligible Telecommunications Carrier.

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### **ORDER APPROVING PETITION**

#### **I. INTRODUCTION**

On October 18, 2010, Virgin Mobile USA, L.P. ("Virgin Mobile"), a wholly-owned subsidiary of Sprint Nextel Corporation ("Sprint"), filed a petition ("Petition") with the Department of Telecommunications and Cable ("Department") for designation as an eligible telecommunications carrier ("ETC") pursuant to 47 U.S.C. § 214(e)(2) of the Communications Act of 1934, as amended ("Act"), 47 C.F.R. §§ 54.101 through 54.207, and the rules and regulations of the Department, in order to offer its wireless Lifeline service in Massachusetts. The Department has reviewed the standards that must be applied when evaluating any prospective ETC provider. *See Fed.-State J. Bd. on Universal Serv.*, 20 F.C.C.R. 6371, *Rep. & Order* at 6372-73 (rel. Mar. 17, 2005) ("*Universal Service Order*"). After reviewing the evidentiary record in this proceeding, the Department is, for the reasons discussed below, granting Virgin Mobile's Petition, subject to the conditions specified herein, agreed to by Virgin

Mobile, and designed to promote public safety among Lifeline customers and safeguard against waste, fraud, and abuse in the Lifeline program.

## II. PROCEDURAL HISTORY

In its Petition, Virgin Mobile requests to receive low-income federal Universal Service Fund (“USF”) support for the purpose of providing supported services to customers in exchanges throughout its network territory in Massachusetts (“Designated Service Area”).<sup>1</sup> Petition at 1. Virgin Mobile is not requesting high-cost support. *Id.*

The Department held a public hearing on December 16, 2010, to give members of the public an opportunity to provide comments regarding Virgin Mobile’s Petition. *In re Virgin Mobile*, D.T.C. 10-11, *Notice of Pub. Hearing* at 1 (Nov. 8, 2010). Pursuant to the Department’s procedural schedule, it issued 22 information requests to Virgin Mobile on January 21, 2011. *In re Virgin Mobile*, D.T.C. 10-11, *1st Set of Info. Requests* at 2-5 (Jan. 21, 2011). Virgin Mobile responded to the Department’s information requests on February 3, 2011, and supplemented its responses on March 14, 2011. *In re Virgin Mobile*, D.T.C. 10-11, Virgin Mobile Written Objections & Responses to Information Requests Propounded by the Dep’t of Telecomms. & Cable (“Response to Info Request”); *In re Virgin Mobile*, D.T.C. 10-11, Virgin Mobile Suppl. Response.

The Department held an evidentiary hearing on March 16, 2011. During the evidentiary hearing, Elaine Divelbliss and Benjamin Aron, respectively, senior counsel and counsel for Sprint, offered testimony. Virgin Mobile March 16, 2011, Public Hearing Transcript (“TR”) at

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<sup>1</sup>The Designated Service Area is shown in Exhibit 2 to Virgin Mobile Written Objections & Responses to Information Requests Propounded by the Dep’t of Telecomms. & Cable.

4:13-4:20. During the hearing, the Department reviewed Virgin Mobile's Petition and its responses to the Department's information requests. The evidentiary record consists of Virgin Mobile's responses to the Department's 22 information requests; the statements made by Ms. Divelbliss and Mr. Aron at the evidentiary hearing; and Virgin Mobile's responses to the nine record requests made by the Department at the evidentiary hearing.

### III. FINDINGS AND ANALYSIS

Virgin Mobile is seeking limited designation as an ETC in order to provide its Lifeline service in Massachusetts. Lifeline is a universal service support mechanism designed to provide low-income consumers with discounted monthly telephone service for a single line per residence. *In re Lifeline & Link-Up*, 19 F.C.C.R. 8302, *Report & Order & Further Notice of Rulemaking* at 8306-8307 (rel. Apr. 29, 2004). If Virgin Mobile were designated as an ETC in Massachusetts, it would receive federal reimbursements from the Low Income Program of the USF for every qualifying low-income consumer throughout its Designated Service Area to whom it provides with Lifeline service.

The Act provides that state regulatory commissions, upon request and consistent with the public interest, convenience, and necessity, shall designate more than one common carrier as an ETC for a service area designated by the state commission if the carrier meets the requirements of the Act. 47 U.S.C § 214(e). The Federal Communications Commission ("FCC") has emphasized in its *Universal Service Order* that relevant state regulatory commissions are required to carefully consider a petition by a telecommunications carrier ("carrier") for certification as an ETC. *Universal Service Order* at 6384. For the reasons discussed below,

Virgin Mobile's Petition satisfies the requirements of the Act, and Virgin Mobile is granted limited designation as an ETC.

A. ETC Requirements

Under 47 U.S.C. § 254(e) and the applicable FCC rules, only a carrier designated as an ETC is eligible to receive USF support<sup>2</sup> for a designated service area. 47 U.S.C. §§ 214(e), 254(e); 47 C.F.R. § 54.201. State regulatory commissions have the primary responsibility for making ETC designations, either upon their own motion or by a carrier's request. 47 U.S.C. § 214(e)(2). In Massachusetts, the Department exercises jurisdiction over carriers pursuant to G. L. c. 159, § 12. The Department has broad power to regulate telephone service, including the designation of a carrier as an ETC. 47 U.S.C. § 214(e)(2). Accordingly, it is the Department's responsibility to confirm that a carrier such as Virgin Mobile meets the ETC service requirements.

To qualify for ETC status, a carrier must meet the following six requirements:<sup>3</sup>

1. Be a "common carrier" as defined by the Federal Telecommunications Act of 1996, § 3(10).
2. Offer the following services<sup>4</sup> ("Supported Services") using its own facilities, or a combination of its own facilities and the resale of another carrier's services:<sup>5</sup>
  - a. Voice grade access to the public switched network;
  - b. Local usage;
  - c. Dual tone multi-frequency signaling or its functional equivalent;

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<sup>2</sup> USF support is in turn categorized as high cost; low-income; rural health care; and schools and libraries. *See* 47.C.F.R. 54.701(A)(b).

<sup>3</sup> 47 C.F.R. § 54.201(b)-(d).

<sup>4</sup> 47 C.F.R. § 54.101(a).

<sup>5</sup> 47 C.F.R. § 54.201(d)(1).

- d. Single-party service or its functional equivalent;
  - e. Access to emergency services (911 or enhanced 911);
  - f. Access to operator services;
  - g. Access to interexchange service;
  - h. Access to directory assistance; and
  - i. Toll limitation for qualifying low-income consumers.
3. Additionally, the carrier must:
- a. Certify that it will provide service on a timely basis for customers within its service area, or within a reasonable period of time if the customer is outside its existing network area;
  - b. Demonstrate its ability to remain functional in emergency situations;
  - c. Demonstrate it will satisfy applicable consumer protection and service quality standards;
  - d. Demonstrate that it offers a local usage plan comparable to the one offered by the incumbent local exchange carrier (“ILEC”) within the designated service area; and
  - e. Certify it acknowledges that the Department may require it to provide equal access within the designated service area.<sup>6</sup>
4. Provide Lifeline service<sup>7</sup> to qualifying low-income consumers.
5. Advertise the availability of Supported Services and charges thereof in media of general distribution,<sup>8</sup> and “[p]ublicize the availability of Lifeline service in a manner reasonably designed to reach those likely to qualify for the service.”<sup>9</sup>

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<sup>6</sup> 47 C.F.R. § 54.202(a). As part of being designated an ETC, a carrier must provide a five-year plan describing proposed improvements to its network. 47 C.F.R. § 54.202(a)(1)(ii). In 2009, the FCC exempted Virgin Mobile, a pure reseller at that time, from this requirement because, *inter alia*, Virgin Mobile only sought Lifeline support. *In re Virgin Mobile USA, L.P. Petition for Forbearance from 47 U.S.C. § 214(e)(1)(A)*, FCC 09-18, at 15 n.96 (rel. Mar. 5, 2009). Virgin Mobile asserts that § 54.202(A)(1)(ii) does not apply to its pending request and asks the Department to waive the application of the regulation. Response to Info Request 1-11. The Department waives the application of the regulation in this instance without reaching a decision on its applicability because Virgin Mobile similarly only seeks Lifeline support.

<sup>7</sup> “Lifeline means a retail local [telephone] service offering: That is available only to qualifying low-income consumers, and no qualifying consumer is permitted to receive more than one Lifeline subsidy concurrently.” 47 C.F.R. § 54.401(a).

<sup>8</sup> 47 C.F.R. § 54.201(d)(2).

<sup>9</sup> 47 C.F.R. § 54.405(b).

6. Its designation as an ETC must be in the public interest.<sup>10</sup>

B. The Department's Analysis

Based on the Department's review of the record, and as explained below, the Department is satisfied that Virgin Mobile meets the six aforementioned requirements to qualify for ETC status. That is, Virgin Mobile is a common carrier that has demonstrated it will provide Supported Services using its own facilities, provide Lifeline services to qualifying low-income consumers, advertise the availability of the same in accordance with regulatory requirements, and Virgin Mobile's designation as an ETC is in the public interest.

*1. Virgin Mobile is a "common carrier" that will provide the required Supported Services using its own facilities.*

The Department finds that Virgin Mobile is a "common carrier" under the Act, which is defined as "any person engaged as a common carrier for hire, in interstate or foreign communications by wire or radio[.]" 47 U.S.C. § 153(10). The Department finds that as a wholly-owned subsidiary of Sprint, Virgin Mobile will provide Supported Services using its own facilities in satisfaction of 47 C.F.R. § 54.201(d). Petition at 13-18. Indeed, Virgin Mobile already provides Supported Services over its existing network infrastructure in Massachusetts. *Id.* at 13. If its Petition is granted, Virgin Mobile would be the first wireless carrier in the Commonwealth to provide Lifeline service using its own facilities. TR 43:5-44:3.

Accordingly, Virgin Mobile meets the first two of the above-mentioned requirements necessary to qualify for ETC status.

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<sup>10</sup> 47 C.F.R. § 54.202(c); *Universal Service Order* at 6388; *In re VCI*, D.T.C. 07-8 at 11-12 (May 21, 2008).

2. *Virgin Mobile's Lifeline service will be provided to qualifying low-income customers in accordance with 47 C.F.R. §§ 54.202 and 54.405.*

In its filings and testimony, Virgin Mobile has committed to providing Lifeline service to low-income customers in its Designated Service Area under the brand "Assurance Wireless." Petition at 7. If granted limited ETC designation, eligible customers who sign up for Virgin Mobile's Lifeline service will receive a free wireless handset and 250 free minutes per month. *Id.* Customers will be able to check their balance of free minutes and be sent an alert should the balance of their minutes become low. TR at 15:8-15:21. Customers may then purchase an additional 250 minutes for \$5.00 or an additional 750 minutes and one thousand text messages for \$20.00. TR at 11:6-12:3. Customers will be able to access customer service and 911 on their wireless handsets without activation or the availability of prepaid minutes. TR at 12:8-12:15.

Virgin Mobile has certified, as required by 47 C.F.R. § 54.202(a)(1), that it will provide its Lifeline service on a timely basis to requesting customers within its Designated Service Area where its network already passes the potential customer's premises; and it will provide Lifeline service within a reasonable period of time to customers within Virgin Mobile's licensed service area but outside its existing network coverage. Responses to Info Requests 1-10, 1-15.

In accordance with 47 C.F.R. § 54.202(a)(2), Virgin Mobile has demonstrated that it has the ability to remain functional in emergency situations. Response to Info Request 1-12. According to Virgin Mobile:

Sprint Nextel [Virgin Mobile's parent] has established and honed a variety of internal programs, policies and teams dedicated to analyzing, assessing and responding to emergency situations. Sprint's response to emergencies is dynamic, and plans are developed to address the specific conditions, geographic impact and other factors presented by each emergency. Sprint Nextel has maintained its

network in the face of natural disasters including hurricanes, blizzards, floods, earthquake, etc., as well as during utility emergencies such as black-outs, and during special events involving congregation of tens of thousands of people (sporting events, political rallies, etc.).

*Id.* See also Virgin Mobile Responses to Dep't of Telecomms. & Cable's Record Requests, Response No. 7 (filed under seal).

The Department also finds that Virgin Mobile has demonstrated that it will satisfy applicable consumer protections and service quality standards as required by 47 C.F.R. § 54.202(a)(3). Virgin Mobile's Posthearing Brief at 5 ("Posthearing Brief") (Virgin Mobile "will furnish the Supported Services while satisfying all applicable consumer protection standards and maintaining exceptional service quality."). Indeed, Virgin Mobile has agreed to provide the Department with reports regarding consumer complaints, and to participate in complaint resolution by the Department's Consumer Division. TR at 72:14-73:2.

In accordance with 47 C.F.R. § 54.202(a)(4), Virgin Mobile also represents that its proposed Lifeline offering is comparable to plans offered by the ILEC in its Designated Service Area. Posthearing Brief at 14-15. That is, Virgin Mobile will offer customers rate plans that contain varying amounts of local usage. Response to Info Request 1-9. In Virgin Mobile's case, it will offer 250 anytime minutes at no charge to the customer. *Id.* According to Virgin Mobile, it will also exceed the underlying ILEC plans in several respects, including free nationwide long-distance, voicemail, caller I.D., call waiting services, and enhanced 911. *Id.*

Accordingly, Virgin Mobile meets the third requirement necessary to qualify for ETC status.



3. *Virgin Mobile advertises its Supported Services in media of general distribution and plans to publicize the availability of its Lifeline service to qualifying customers.*

In accordance with 47 C.F.R. § 54.201, Virgin Mobile has committed to advertise the availability of its Supported Services using media of general distribution, including television, newspapers, and direct mail, pursuant to FCC regulations. Petition at 17-18. Additionally, as required by 47 C.F.R. § 54.405, Virgin Mobile has agreed to publicize the availability of Lifeline service in a manner reasonably designed to reach those likely to qualify for the service. TR at 56:24-59:20. Virgin Mobile intends to advertise its Lifeline service on television and radio, in newspapers, and in direct-mailings targeted to low-income zip codes. TR at 56:24-57:13. Virgin Mobile also plans to promote the availability of its Lifeline service through informational brochures distributed through non-profit organizations providing community assistance, like the United Way, to increase its reach to those who qualify for Lifeline service. TR at 57:24-58:18. Based on its experience and advertising practices in other markets, Virgin Mobile asserts that it is highly effective in reaching low-income customers and promoting the availability of its wireless Lifeline service. Posthearing Brief at 10. Based on these representations, the Department finds that Virgin Mobile is committed to satisfying the requirements of 47 C.F.R. §§ 54.201 and 54.405.

One of the Department's responsibilities in its role as the state agency making ETC designation is to protect Massachusetts consumers from advertising and marketing materials that may be misleading or confusing. G. L. c. 159, § 34; Mass. Dep't of Telecomms. & Cable, 2010 Annual Report at 3, 8 11, 17-19. Accordingly, ETCs must provide the Department with copies of all advertising and marketing materials distributed in Massachusetts to promote Lifeline

services. *Id.*; TR at 57:14-57:19. Moreover, Virgin Mobile agreed to include the Department's contact information in its Massachusetts-specific advertising. TR at 73:6-73:8.

Accordingly, Virgin Mobile meets the fourth and fifth requirements necessary to qualify for ETC status.

4. *Limited designation of Virgin Mobile as an ETC is in the public interest.*

Prior to designating a common carrier as an ETC, the Department must make an affirmative finding that such designation is "consistent with the public interest, convenience and necessity." *Universal Service Order* at 6388; *In re VCI*, D.T.C. 07-8 at 11-12. Virgin Mobile bears the burden of proving that granting its Petition is in the public interest. *See Universal Service Order* at 6390 (in determining whether the designation of an ETC will serve the public interest, the FCC places the burden of proof on the petitioner). For the reasons discussed below, the Department is satisfied that granting Virgin Mobile's Petition is in the public interest. Thus, Virgin Mobile meets the final requirement necessary to qualify for ETC status.

In analyzing whether a petition for ETC designation is in the public interest, the Department considers multiple factors, including the benefits of increased consumer choice, and the unique advantages and disadvantages of the competitor's service offering. *Id.* at 6388, 6390. This test must be applied in a consistent manner with the principles of preserving and advancing universal service and ensuring that quality services are available at just, reasonable, and affordable rates. 47 U.S.C. § 254(b)(1)-(2). Other factors that may be relevant in analyzing whether ETC designation is in the public interest include: the availability of new choices for customers; affordability; quality of service; service to unserved or underserved customers; and comparison of benefits relative to public cost. *Universal Service Order* at 6389, n.111. As each

petitioner seeking ETC designation will likely be unique, the Department's exercise is necessarily fact-specific to each petition. *Universal Service Order* at 6391.

a. Additional competition is in the public interest.

In Massachusetts, there are currently six common carriers designated as ETCs, of which, only one—TracFone Wireless, Inc.—is a wireless ETC provider.<sup>11</sup> By designating Virgin Mobile as an ETC, the Department will be expanding the availability of Lifeline service to qualifying Massachusetts residents in Virgin Mobile's Designated Service Area. Since Virgin Mobile will not charge the consumer for a wireless handset or the first 250 minutes of service each month, and charge \$5.00 for an additional block of 250 minutes, low-income consumers will also gain access to an additional choice for wireless telephony.

Virgin Mobile contends that by increasing competition for the provision of Lifeline service, there will be increasing pressure on carriers to target low-income customers with service offerings tailored to their needs. Posthearing Brief at 14; TR at 43:8-44:16, 85:12-86:22. While Virgin Mobile presents no support for this statement, the Department believes it reasonable to infer that presenting low-income consumers with another choice for wireless telephony will likely increase the incentive for companies serving the same consumers to do more in order to retain them. *See* TR at 85:12-86:1 (“[I]t’s definitely been Assurance Wireless’s experience that, as we enter new markets and add it to the competition, the customer benefits in the form of increased offers by competitors and in some cases [...] better terms.”).

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<sup>11</sup> Dep’t of Telecomm. & Cable, Link-Up & Lifeline Brochure (Dec. 1, 2009).

- b. An ETC with robust plans for maintaining functionality is in the public interest.

During the evidentiary hearing, Virgin Mobile explained that in the event of an expected spike in network traffic, such as large sporting events, or significant damage to its network, Sprint is able to deploy “cells on wheels,” also referred to by Virgin Mobile as “COWs,” to maintain service for its customers. TR at 61:21-65:24. According to Virgin Mobile, Sprint’s COWs are stationed nationally across its service territory and if they are not in Massachusetts and needed to address a network problem, “they can get here in a hurry[.]” TR at 65:22-65:24. Virgin Mobile also provided the Department with proprietary documentation describing its Emergency Response Team and its capabilities. TR at 61:2-61:22. The Department finds that the addition of a carrier with robust plans for maintaining functionality in emergency situations is in the public interest.

- c. Virgin Mobile’s certification and verification procedures are in the public interest.

For Virgin Mobile to receive USF reimbursements for its Lifeline customers in Massachusetts, it must comply with Massachusetts procedures to certify and verify a customer’s eligibility. 47 C.F.R. § 54.410(a)(1), (c)(1). Virgin Mobile states that to ensure only those who are qualified are availing themselves of its Lifeline service, customers will have to contact Virgin Mobile directly to self-certify, under penalty of perjury, that they qualify for Lifeline service. TR 33:17-34:16. That is, customers must certify that they are within the relevant income threshold, and that household is not already receiving Lifeline service. *Id.* These procedures have also been adopted by the FCC as a means of preventing waste, fraud, and abuse of the Lifeline program. *See In re Telecomm. Carriers Eligible for Universal Serv. Support, Virgin*

*Mobile USA, L.P. Petition for Designation as an Eligible Telecomm. Carrier*, WC Docket No. 09-197, Order at 8 (rel. Dec. 29, 2010) (“*Virgin Mobile ETC Order*”); *In re Fed.-State Joint Bd. on Universal Serv., Petition of TracFone Wireless, Inc. for Forbearance from 47 U.S.C. § 214(e)(1)(A) & 47 C.F.R. § 54.201(i)*, CC Docket No. 96-45, Order at 9 (rel. Sept. 8, 2005).

Specifically, the FCC has held:

Consistent with previous findings of the [FCC] and the goals of promoting the public interest and safeguarding the Lifeline fund, we condition Virgin Mobile’s limited ETC designation [...] on Virgin Mobile: (a) requiring each customer to self-certify [under penalty of perjury] 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 one carrier; (b) establishing safeguards to prevent its customers from receiving multiple Lifeline subsidies from that carrier at the same address; (c) dealing directly with the customer to certify and verify the customer’s Lifeline eligibility[.]

*Virgin Mobile ETC Order*, WC Docket No. 09-197, Order at 8.

Furthermore, to reduce the level of USF support Virgin Mobile may receive for inactive accounts, if a customer account is inactive for 60 days, Virgin Mobile will suspend the collection of the USF support for the account during the pendency of a subsequent 30 day grace-period in which it begins an outreach process to the inactive customer. TR at 81:17-82:2. In the event Virgin Mobile cannot re-engage the customer, the company will discontinue the customer’s service so that it does not receive the USF support for the grace-period. *Id.* The commitment by Virgin Mobile to implement these procedures was embraced by the FCC as an appropriate measure to guard against waste, fraud, and abuse of the Lifeline program. *Virgin Mobile ETC Order*, WC Docket No. 09-197, Order at 9.

These eligibility and termination procedures exist largely to preserve and safeguard the Lifeline fund so that the intended beneficiaries can continue accessing Lifeline service. In furtherance of these policy goals, the Department believes that all ETCs receiving USF support, including wireless providers (facilities-based or otherwise), must comply with all applicable certification, verification, and termination procedures as outlined above for Virgin Mobile.

In addition, the Department requires that ETCs operating in Massachusetts conduct an annual audit of a random and statistically valid sample of its customers to verify subscriber eligibility and submit a report of its results to the Department. *See TracFone Wireless, Inc., Annual Verification of SafeLink Wireless Lifeline Subscribers*, D.T.C. 09-9, Order at 16 (June 30, 2010); *See TracFone Wireless, Inc., Annual Verification of SafeLink Wireless Lifeline Subscribers*, D.T.C. 10-6, Order at 4 (Oct. 19, 2010).<sup>12</sup> The audit is intended to prevent fraud

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<sup>12</sup> Attachment 1 to the June 30, 2010 and October 19, 2010 orders contain “Additional Audit Report Instructions” as follows:

1. Submit a detailed report of each audited subscriber listed by subscriber identification number [...] and additionally classify each subscriber by reason for de-enrollment, specifically:
  - a. No response: subscriber did not respond at all.
  - b. Incomplete response: subscriber responded in some way—for instance, subscriber provided an incomplete response by mailing back the audit form but failed to provide documentation of program participation.
  - c. Duplicate service: subscribers indicated that they were receiving services from another ETC.
  - d. De-enroll: subscriber cancelled service. Not applicable for subscribers who fit into another category.
  - e. Fraud: subscriber mistakenly/fraudulently enrolled.
  - f. No longer eligible: subscriber indicated that they had become ineligible at some point after enrollment.
2. Continue to indicate the initial enrollment method for each subscriber.
3. Complete the Annual Lifeline Certification and Verification form, including columns A through E, and submit to both the Department and to USAC. Available at

and abuse among customers, and is consistent with the FCC's annual audit requirement. *In re Lifeline & Link-Up*, 19 F.C.C.R. 8302, Report & Order & Further Notice of Proposed Rulemaking at Appendix J (rel. Apr. 29, 2004). Virgin Mobile has stated that it will adhere to this audit and reporting requirement in Massachusetts. TR at 32:19-37:2.

d. Additional information reporting by Virgin Mobile is in the public interest.

During the pendency of its Petition, Virgin Mobile demonstrated a willingness to address the Department's questions and concerns regarding Virgin Mobile's proposed Lifeline service in Massachusetts and has committed to complying with the Department's rules governing billing and termination insofar as they apply to wireless providers. TR 67:8-69:22. Indeed, during the evidentiary hearing, Virgin Mobile agreed to provide the Department with supplemental information reporting that permits the monitoring of Virgin Mobile's Lifeline service deployment and operations in addition to the annual audit of its subscriber base and the submission of its advertising and marketing materials. TR at 57:14-5:19, 72:8-75:3. The supplemental information reporting is intended to assist the Department in (i) reducing and eliminating waste, fraud, and abuse in the Lifeline program; and (ii) reducing and eliminating consumer confusion regarding Virgin Mobile's Lifeline service. Specifically, Virgin Mobile agrees that if it is granted limited designation as an ETC, it will:

1. Provide quarterly reporting to the Department of customer accounts terminated for inactivity (TR at 72:14-72:22);

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[http://www.usac.org/\\_res/documents/li/pdf/Annual-Lifeline-Certification-Verification-letter-for-OMB-and-USAC.pdf](http://www.usac.org/_res/documents/li/pdf/Annual-Lifeline-Certification-Verification-letter-for-OMB-and-USAC.pdf).

2. Provide reporting of consumer complaints to the Department regarding its Lifeline service and agree to participate in dispute resolution by the Department's Consumer Division (TR at 72:23-73:2);
3. Provide reporting to the Department of USF support received for Massachusetts consumers (TR at 73:3-73:5);
4. File with the Department, within 60 days of the approval of its Petition, its terms and conditions of service, applicable to qualifying Lifeline service customers. Further, Virgin Mobile shall have an ongoing obligation to notify the Department of any future changes to its rates, terms, or conditions (TR at 44:17-46:16);
5. Include the Department's contact information for consumer complaints in its marketing materials for its Lifeline service (TR at 73:6-73:8); and
6. Provide Public Safety Answering Points (PSAP) self-certification to the Department (TR at 75:1-75:3).

Virgin Mobile's willingness to provide the above reports and information to the Department supports the Department's determination that granting Virgin Mobile USA, L.P.'s Petition for Limited Designation as an Eligible Telecommunications Carrier in the Designated Service Area is in the public interest.

#### C. Conclusion

For the reasons discussed above, the Department concludes that Virgin Mobile meets the six requirements to qualify for ETC status. That is, Virgin Mobile is a common carrier offering Supported Services using its own facilities; will provide Lifeline services to qualifying low-income consumers; is committed to advertising such services in media of general distribution and to publicize Lifeline services in a manner reasonably designed to reach likely qualifying consumers; and granting it limited designation as an ETC for the purpose of offering Lifeline service in Massachusetts is in the public interest. Therefore, the Department grants Virgin



Mobile USA, L.P.'s Petition for Limited Designation as an Eligible Telecommunications Carrier. This designation is subject to the conditions specified herein, agreed to by Virgin Mobile, and designed to promote public safety among Lifeline customers and safeguard against waste, fraud, and abuse in the Lifeline program.

#### IV. ORDER

Consistent with the above, and subject to the aforementioned conditions, the Department hereby GRANTS Virgin Mobile USA, L.P.'s Petition for Limited Designation as an Eligible Telecommunications Carrier.

BY ORDER OF THE DEPARTMENT,

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Geoffrey G. Why, Commissioner

#### **RIGHT OF APPEAL**

Appeals of any final decision, order or ruling of the Department of Telecommunications and Cable may be brought pursuant to applicable state and federal laws.