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SKADDEN, ARPS, SLATE, MEAGHER & FLOM LLP

1440 NEW YORK AVENUE, N.W.
WASHINGTON, D.C. 20005-2111

TEL: (202) 371-7000
FAX: (202) 393-5760
www.skadden.com

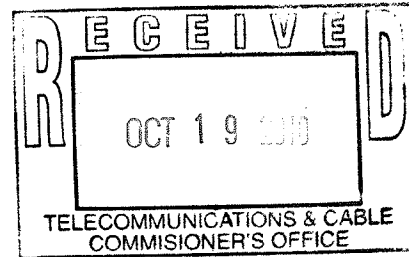
DIRECT DIAL
(202) 371-7392
DIRECT FAX
(202) 661-9192
EMAIL ADDRESS
JOHN.BEHN@SKADDEN.COM

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October 18, 2010



VIA OVERNIGHT DELIVERY

Catrice C. Williams
Secretary
Department of Telecommunications and Cable
1000 Washington Street, Suite 820
Boston, MA 02118-6500

Dear Ms. Williams:

On behalf of Virgin Mobile USA, L.P., enclosed are an original and one (1) copy of a Petition for Limited Designation as an Eligible Telecommunications Carrier in the State of Massachusetts. Please date-stamp the extra copy of this filing, and return it in the self-addressed, postage-prepaid envelope provided.

Should you have any questions regarding this filing, please do not hesitate to contact the undersigned at 202-371-7392.

Respectfully submitted,

John M. Beahn

Counsel to Virgin Mobile USA, L.P.

Enclosures

**Before the
MASSACHUSETTS DEPARTMENT OF TELECOMMUNICATIONS AND CABLE**

)	
In the Matter of)	
)	
Virgin Mobile USA, L.P.)	Docket No. <u>10-11</u>
)	
Petition for Limited Designation as an)	
Eligible Telecommunications Carrier)	
)	

**PETITION FOR LIMITED DESIGNATION AS AN
ELIGIBLE TELECOMMUNICATIONS CARRIER**

John M. Beahn
Skadden, Arps, Slate, Meagher & Flom LLP
1440 New York Avenue, N.W.
Washington D.C. 20005

Elaine Divelbliss
Virgin Mobile USA, L.P.
10 Independence Blvd.
Warren, NJ 07059

October 18, 2010

TABLE OF CONTENTS

I.	INTRODUCTION	1
II.	BACKGROUND	2
	A. Company Overview	2
	B. Previous ETC Designations	3
	C. The Department Has the Authority to Perform ETC Designations	5
III.	VIRGIN MOBILE REQUESTS ETC DESIGNATION IN ITS MASSACHUSETTS SERVICE AREA FOR PARTICIPATION IN THE LIFELINE PROGRAM	5
	A. Virgin Mobile Requests ETC Designation for its Entire Service Territory.....	5
	B. Virgin Mobile Requests ETC Designation for Participation in the Lifeline Program.....	6
	C. Description of Prepaid Lifeline Offering.....	7
	D. Applicability of Forbearance Conditions.....	9
IV.	VIRGIN MOBILE SATISFIES THE REQUIREMENTS FOR DESIGNATION AS AN ETC	12
	A. Virgin Mobile Is a Common Carrier.....	13
	B. Virgin Mobile Will Provide the Supported Services	13
	1. Voice Grade Access to the Public Switched Telephone Network.....	13
	2. Local Usage	14
	3. DTMF Signaling or its Functional Equivalent.....	15
	4. Single-Party Service or its Functional Equivalent.....	15
	5. Access to Emergency Services	15
	6. Access to Operator Services	15
	7. Access to Interexchange Services.....	15
	8. Access to Directory Assistance.....	16
	9. Toll Limitation	16
	C. Functionality in Emergency Situations.....	16
	D. Advertising of Supported Services	17
V.	DESIGNATION OF VIRGIN MOBILE AS AN ETC WOULD PROMOTE THE PUBLIC INTEREST	18
VI.	ANTI-DRUG ABUSE CERTIFICATION	21
VII.	CONCLUSION.....	21

SUMMARY

Virgin Mobile USA, L.P. (“Virgin Mobile” or the “Company”), a wholly owned subsidiary of Sprint Nextel Corporation (“Sprint Nextel”), is seeking designation as an Eligible Telecommunications Carrier (“ETC”) in the Commonwealth of Massachusetts, pursuant to section 214(e)(2) of the Communications Act of 1934, as amended (“Act”), for purposes of offering prepaid wireless services supported by the Universal Service Fund’s (“USF”) Lifeline program. As discussed herein, Virgin Mobile meets all of the necessary requirements for ETC designation under section 214(e)(1) of the Act to offer services supported by the Lifeline program. Designation of the Company would promote the public interest because it would provide qualifying Massachusetts customers with lower prices and higher quality wireless services. Many low-income customers in Massachusetts have yet to benefit from the intensely competitive wireless market because of financial constraints, poor credit history or intermittent employment and many existing customers lose access to wireless services when their financial position deteriorates as a consequence of losing a job, a medical condition or any other adverse event—all unfortunately too common during a challenging economic period. Virgin Mobile’s prepaid Lifeline service offerings are ideally suited to provide these customers with reliable wireless services. As an ETC, Virgin Mobile would be able to provide affordable, and even free, services to these consumers—many of whom are among the intended beneficiaries of USF support.

**Before the
MASSACHUSETTS DEPARTMENT OF TELECOMMUNICATIONS AND CABLE**

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**PETITION FOR LIMITED DESIGNATION AS AN
ELIGIBLE TELECOMMUNICATIONS CARRIER**

I. INTRODUCTION

Virgin Mobile USA, L.P. (“Virgin Mobile” or the “Company”), by undersigned counsel, and pursuant to section 214(e)(2) of the Communications Act of 1934, as amended (“Act”), 47 U.S.C. § 214(e)(2), hereby petitions the Massachusetts Department of Telecommunications and Cable (“Department”) for designation as an eligible telecommunications carrier (“ETC”) in the Commonwealth of Massachusetts. Virgin Mobile seeks ETC designation in Massachusetts only for purposes of participation in the Universal Service Fund’s (“USF”) Lifeline program. The instant request does not seek ETC designation to offer services supported by the high-cost program. As more fully described below, Virgin Mobile satisfies the requirements for designation as an ETC in the Commonwealth of Massachusetts. Rapid grant of Virgin Mobile’s request, moreover, would advance the public interest because it would enable the Company to commence much needed Lifeline services to lower-income Massachusetts residents as soon as possible. Accordingly, the Company respectfully requests that the Department expeditiously approve the instant ETC designation petition.

II. BACKGROUND

A. Company Overview

Virgin Mobile was established as a joint venture between Sprint Nextel and Sir Richard Branson's Virgin Group to offer prepaid wireless services using the Virgin Mobile brand and the Nationwide Sprint Network. On November 24, 2009, Virgin Mobile became a wholly owned subsidiary of Sprint Nextel upon completion of the companies' previously announced transaction. The FCC approved Sprint Nextel's acquisition of Virgin Mobile effective September 11, 2009. *See International Authorizations Granted*, Public Notice, DA 09-2071 (rel. Sept. 17, 2009).

The Company's innovative prepaid plans without annual contracts, along with its differentiated service offerings and high-quality customer service, have redefined the prepaid wireless marketplace and brought significant competition to the overall wireless market. Virgin Mobile's value proposition enables customers to select among an array of flexible service plans that allow them to pay for minutes as they use them or purchase monthly buckets of minutes in advance. The Company also offers text and multimedia messaging and an array of mobile entertainment and information services, including music, games and graphics on all handsets.

Unlike many carriers, Virgin Mobile does not impose credit checks or long-term service contracts as a prerequisite to obtaining service. Many customers are from lower-income backgrounds and did not previously enjoy access to an attractive, comprehensive and high-quality wireless service because of financial constraints or poor credit history. Virgin Mobile estimates that approximately one-third of its present customers are new to wireless services and 35 percent have an annual household income below \$35,000. Many of these customers also use Virgin Mobile's services sparingly, with a substantial percentage spending less than \$10 per month. By marketing and expanding the availability of appealing wireless services to consumers otherwise unable to afford

them, and those previously ignored by traditional carriers, Virgin Mobile has effectively expanded access to wireless services. Unfortunately, during this challenging economic period, many existing customers have to forgo access to wireless services entirely when their financial position deteriorates, making it more difficult for prospective employers and dependent family members to reach them and losing wireless access to emergency services.

B. Previous ETC Designations

The Federal Communications Commission (“FCC”) previously designated Virgin Mobile as an ETC for purposes of offering Lifeline services in the states of New York, North Carolina, Tennessee and Virginia.¹ In approving the Company’s requests, the FCC determined that Virgin Mobile would “offer Lifeline-eligible consumers a choice of providers for accessing telecommunications services not available to such consumers today” and “expand participation of qualifying consumers” in the Lifeline program—a longstanding goal.² In light of these significant benefits, the FCC concluded that limited designation of Virgin Mobile as an ETC was in the public interest.

At that time, Virgin Mobile operated as a mobile virtual network operator that did not own any network facilities, so the *Order* granted the Company’s request for forbearance from enforcement from the section 214(e)(1)(A) facilities-based requirement for ETC designation. The FCC conditioned its grant of forbearance, as well as its grant of ETC designation, on Virgin Mobile’s compliance with certain requirements aimed at enhancing Lifeline customers’ access to public safety

¹ See *Federal-State Joint Board on Universal Service; In the Matter of Virgin Mobile USA, L.P. Petition for Forbearance from 47 U.S.C. § 214(e)(1)(A); Petitions for Designation as an Eligible Telecommunications Carrier in the States of New York, North Carolina, Pennsylvania, Tennessee and Virginia*, Order, FCC 09-18 (rel. March 5, 2009)(“*Order*”).

² *Order* at ¶¶ 21, 30.

services and preventing misuse of the Company's Lifeline offering. These conditions included the following: (a) providing Lifeline customers with 911 and enhanced 911 ("E911") access immediately upon commencement of service and regardless of activation status or the availability of prepaid minutes; (b) offering E911-compliant handsets to new Lifeline customers upon activation of service and replacing any non-compliant handsets, at no additional charge, for existing customers who obtain Lifeline service; (c) obtaining a certification from each Public Safety Answering Point ("PSAP") whose territory overlaps with Virgin Mobile's Lifeline service area, confirming that the Company provides its customers with 911 and E911 service or if, within 90 days of a request for certification, a PSAP has neither provided the certification nor affirmatively determined that Virgin Mobile does not provide its customers with access to 911 and E911, self-certifying that Virgin Mobile meets the 911 and E911 requirements; (d) requiring customers to self-certify under penalty of perjury upon service activation and annually thereafter that they are the head of their household and receive Lifeline-supported service only from Virgin Mobile; and, (e) establishing applicable safeguards to prevent its customers from activating multiple Lifeline accounts, including tracking each Lifeline customer's primary residential address.³ In 2009, the FCC approved the Company's plan describing the measures it would undertake to implement each of these conditions for the first four states in which it received ETC designation.⁴

Subsequent to its November 2009 acquisition by Sprint, Virgin Mobile has been designated a facilities-based ETC in the states of Florida, Louisiana, Maryland, Michigan, New Jersey, Texas and West Virginia. These designations were made without reliance on the FCC's *Order*.

³ See *Order* at ¶ 12.

⁴ See *Federal-State Joint Board on Universal Service; In the Matter of Virgin Mobile USA, L.P. Petition for Forbearance from 47 U.S.C. § 214(e)(1)(A); Petitions for Designation as an Eligible Telecommunications Carrier in the States of New York, North Carolina, Pennsylvania, Tennessee and Virginia*, Order, DA 09-2344 (rel. Oct. 29, 2009).

C. The Department Has the Authority to Perform ETC Designations

The Department has the requisite authority to perform the limited ETC designation requested herein. Section 214(e)(2) of the Communications Act provides state public utility commissions with the “primary responsibility” for the designation of ETCs.⁵ Under the Act, a state public utility commission with jurisdictional authority over ETC designations must designate a common carrier as an ETC if the carrier satisfies the requirements of section 214(e)(1). By offering all of the services supported by the federal USF and advertising the availability of such services, Virgin Mobile currently meets all of the requirements of section 214 of the Act, warranting its designation as an ETC by the Department.

III. VIRGIN MOBILE REQUESTS ETC DESIGNATION IN ITS MASSACHUSETTS SERVICE AREA FOR PARTICIPATION IN THE LIFELINE PROGRAM

A. Virgin Mobile Requests ETC Designation for its Entire Service Territory

As a non-rural carrier, Virgin Mobile is required to describe the areas within which it requests ETC designation. The Company requests ETC designation for its entire service area in Massachusetts.⁶ Virgin Mobile understands that its service area overlaps with several rural carriers in Massachusetts, but maintains that the public interest factors described below justify its designation in these carriers’ service areas, especially because it only seeks ETC designation for purposes of participating in the Lifeline program. Virgin Mobile’s authorized service area covers the service territory of the following non-rural telephone company:

Verizon New England, Inc.

⁵ 47 U.S.C. § 214(e)(2). Virgin Mobile originally submitted its request for limited designation as an ETC in Massachusetts to the FCC in June 2008. The Company withdrew the request after the Department asserted that it maintained jurisdiction over ETC designation requests of wireless carriers. *See In the Matter of Federal-State Joint Board on Universal Service, Virgin Mobile USA, L.P., Petition for Limited Designation as an Eligible Telecommunications Carrier in the Commonwealth of Massachusetts*, Order, DA 08-2649 (Dec. 3, 2008).

⁶ A list of the wire centers for which Virgin Mobile requests ETC designation is attached hereto as Exhibit 2.

Virgin Mobile's authorized service area covers the service territories of the following rural telephone companies:

Grandby Telephone and Telegraph Co. of MA
Richmond Telephone Company
Sentinel Tree Telephone Company, Inc.
Taconic Telephone Corporation

B. Virgin Mobile Requests ETC Designation for Participation in the Lifeline Program

Virgin Mobile requests ETC designation in Massachusetts for the sole purpose of participating in the Lifeline program as a prepaid wireless carrier. Virgin Mobile will not seek to provide services supported by the USF's high-cost program. As more fully described below, the instant request to participate in the Lifeline program promotes the goals of universal service and offers many benefits to low-income customers in the Commonwealth of Massachusetts. The Lifeline services provided by Virgin Mobile will contain many features specifically designed for qualifying customers. Indeed, Virgin Mobile's Lifeline plans will provide affordable and convenient wireless services to qualifying Massachusetts customers, many of whom are otherwise unable to afford wireless services.

Virgin Mobile's designation as an ETC solely for Lifeline purposes also would not unduly burden the USF or otherwise reduce the amount of funding available to other carriers. The secondary role of Lifeline support with respect to overall USF expenditures is well documented. According to the most recent monitoring report released by the Federal-State Joint Board on Universal Service, Lifeline funding represented approximately 10% of total USF expenditures in 2008.⁷ The FCC,

⁷ See *Universal Service Monitoring Report*, CC Docket 98-202, Table 2.2 (filed Jan. 13, 2010).

itself, concluded that designation of Virgin Mobile as an ETC would result only in a “minimal” increase in USF funding.⁸

The nature by which Lifeline support is provided to wireless carriers also obviates any concerns that multiple ETC designations in Massachusetts would have on the USF. Lifeline support is provided on a customer-specific basis, and only after a carrier has acquired and begun to serve an eligible customer does the carrier receive Lifeline support for that customer. By tying support to actual service of a customer, moreover, the Lifeline program ensures that USF support only funds the carrier that actually “wins” the customer’s service.

C. Description of Prepaid Lifeline Offering

Virgin Mobile has branded its prepaid Lifeline service “Assurance Wireless Brought To You By Virgin Mobile.” The service will provide customers with the same features and functionalities enjoyed by all other Virgin Mobile prepaid customers, with one notable exception: prepaid Lifeline services will be free of charge. Under the current plan, eligible customers will receive 250 anytime prepaid minutes per month at no charge with additional service priced at \$0.10/minute and \$0.10/text message.⁹ In addition to free voice services, prepaid Lifeline customers also will have access to a variety of other standard features at no additional charge, including voice mail, caller I.D. and call waiting services. To ensure that customers receive uninterrupted access to 911 emergency and customer care services, Lifeline customers will be able access 911 emergency and customer care services regardless of whether they have any remaining minutes in their account. In addition, minutes used for calls placed to 911 emergency services and Virgin Mobile/Assurance Wireless

⁸ See Order at ¶ 24.

⁹ Virgin Mobile expects that the Company’s Lifeline plan may change as the wireless market evolves. As such, the Company requests that the Department’s grant of ETC designation provide it with the requisite authority to modify the parameters of the offering as marketplace conditions develop.

customer care are not decremented from a customer's account. Finally, Virgin Mobile's Lifeline service plan includes all applicable taxes and fees and the Company also does not assess charges for activation or connection of the service. As a result, Lifeline customers will receive free service so long as they do not exceed 250 minutes of voice service per month with no additional charges for taxes or activation.

New customers may elect to receive a free Assurance Wireless-branded handset with E911 functionality. Current Virgin Mobile customers will be able to use their existing handsets to receive prepaid Lifeline services, or may elect to receive a free Assurance Wireless handset. The handset provided free of charge to Lifeline customers is sold separately by the Company to its non-Lifeline customers for \$9.99 and marketed as the Kyocera Jax. By providing a wireless handset free of charge, Virgin Mobile can ensure that Lifeline-eligible customers in Massachusetts will not incur any upfront costs for access to the Company's Lifeline services.

To guard against fraudulent use of Lifeline service, applicants for Lifeline service must provide a variety of information, including their name, residential address and relevant eligibility criteria. The enrollment form includes an applicant certification section where each applicant must attest and sign under penalty of perjury that the applicant receives Lifeline-supported service only from Virgin Mobile. The applicant must submit the signed enrollment form and all supporting documentation as required by federal or state guidelines to the Company prior to commencement of Lifeline service. As an additional protection against fraudulent use of the Company's Lifeline services, Virgin Mobile tracks each applicant's primary residential address and cross checks this information against internal databases to confirm that a Virgin Mobile Lifeline account has not already been activated for that address or individual. If a name or address submitted by a Lifeline applicant is associated with a customer who already receives Virgin Mobile Lifeline service, or if the

address provided is not a valid U.S. postal address, Virgin Mobile will review the application to ascertain whether the customer is attempting to activate multiple Virgin Mobile Lifeline accounts and, if so, deny the application.¹⁰

D. Applicability of Forbearance Conditions

As noted above, the FCC's *Order* granting Virgin Mobile forbearance from the section 214(e)(1)(A) requirements imposed certain conditions on the Company. Included among these conditions was a requirement that the Company obtain a certification from each PSAP whose territory overlaps with Virgin Mobile's service area, confirming that the Company provides its customers with 911 and E911 service or if, within 90 days of a request for certification, a PSAP has neither provided the certification nor affirmatively determined that Virgin Mobile does not provide its customers with access to 911 and E911, self-certify that it meets the 911 and E911 requirements. This condition generally arose from the Company's status as a non-facilities-based provider of wireless services. Virgin Mobile appreciates the FCC's desire to ensure that Lifeline customers of wireless resellers have meaningful access to emergency services. As the FCC has noted, the provision of 911 and E911 services is critical to the ability of emergency services personnel to promptly respond to a host of crises.¹¹ For these reasons, Virgin Mobile voluntarily committed to complying with this condition for the initial four states in which it received ETC authority from the FCC, and the Company has complied with the condition upon commencement of Lifeline services in these states. In light of the recent acquisition by Sprint Nextel, Virgin Mobile respectfully submits

¹⁰ It is important to note that Virgin Mobile does not have access to the customer lists of other ETCs and, thus, cannot cross match its customer list against another ETC's list.

¹¹ 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)*, Order, 20 FCC Rcd 15095, 15099 (2005).

that it is appropriately classified as a facilities-based carrier, making the foregoing condition regarding PSAP certification is inapplicable to the instant request.

As a wholly owned subsidiary of Sprint Nextel, Virgin Mobile has beneficial use of Sprint's wireless facilities and is a facilities-based carrier for purposes of section 214(e)(1) of the Act, even though absolute, direct legal title to Virgin Mobile's wireless communications facilities lies with its parent and sibling corporate enterprises that are part of the Sprint family.¹² The FCC has concluded that, for universal service purposes, the term "own facilities" refers to property which a carrier "considers its own" or for which it "enjoy[s] the beneficial use."¹³ The concept of "own facilities" therefore includes facilities for which a carrier "does not hold absolute title."¹⁴ The FCC explained that the concept of ownership under section 214(e) is flexible and includes, in addition to property to which a carrier holds direct legal title, "property that a carrier considers its own,"¹⁵ and that ownership extends to "others enjoying the beneficial use of property."¹⁶ The FCC added that "our interpretation of the term 'own facilities' is consistent with the goals of universal service and that any contrary interpretation would frustrate the goals of the [Communications] Act and lead to absurd results."¹⁷

¹² To date, Virgin Mobile's facilities-based status has been confirmed by the public utility commissions of the states of Florida, Louisiana, Maryland, Michigan, New Jersey, Texas and West Virginia, each of which has determined that Virgin Mobile operates as a facilities-based provider and will provide the supported services over its own facilities pursuant to section 214(e)(1)(A) of the Communications Act. *See* Exhibit 3.

¹³ *In re Federal-State Joint Board on Universal Service*, 12 FCC Rcd 8776, ¶ 159 (1997) ("Universal Service First Report and Order").

¹⁴ *Id.*

¹⁵ *Id.*

¹⁶ *Id.* ¶ 158.

¹⁷ *Id.* ¶ 161.

As a facilities-based carrier, Virgin Mobile is no longer a reseller of wireless telecommunications services. The FCC defines “resellers” as entities that “purchase airtime from facilities-based providers and resell service to the public for profit.”¹⁸ Thus, to be considered a “reseller” under telecommunications law, Virgin Mobile would have to purchase wholesale network capacity from Sprint and resell it to its own customers. Since its acquisition by Sprint Nextel, Virgin Mobile no longer purchases network capacity from Sprint or any other entity, and Virgin Mobile makes no payments for the use of any network or transmission services. Because Virgin Mobile is a wholly owned subsidiary of Sprint Nextel and does not make payments for network or transmission services, Nextel Sprint does not characterize the revenue it receives from Virgin Mobile-branded sales as wholesale revenue or revenue generated from resale activities. Sprint Nextel accounted for all customers and revenue from Virgin Mobile-branded services as Sprint Prepaid customers and revenue in its most recent filings with the Securities and Exchange Commission.¹⁹ In addition, in its filings with the Universal Service Administrative Company, Sprint Nextel no longer reports Virgin Mobile’s revenue as wholesale revenue on line 315 on its quarterly or annual USF filings.

As a wholly owned subsidiary of Sprint Nextel, Virgin Mobile provides the same 911 and E911 services to its customers as any other Sprint wireless customer receives using Sprint’s existing 911 and E911 facilities and PSAP relationships. Indeed, all 911 emergency calls made by Virgin Mobile customers are handled in the same fashion as calls made by any other Sprint customer. When a Virgin Mobile customer calls 911, the call is received by Sprint Corporate Security, which maintains responsibility for routing to the appropriate PSAP, just as with any other 911 call made by

¹⁸ *In re Implementation of Section 6002(B) of the Omnibus Budget Reconciliation Act of 1993*, Annual Report and Analysis of Competitive Market Conditions With Respect to Commercial Mobile Services, Thirteenth Report, 24 FCC Rcd 6185, ¶ 17 (2009).

¹⁹ 2010 10-K Report available at:
<http://www.sec.gov/Archives/edgar/data/101830/000119312510042491/d10k.htm>

a Sprint customer. If a PSAP were required to directly contact the company because of a disconnection, the call would be handled by Sprint Corporate Security, which has access to all Virgin Mobile customer information—just as it does for all other Sprint operating subsidiaries. With this background in mind, there remains no useful purpose for Virgin Mobile to obtain PSAP certifications regarding its compliance with its 911 and E911 obligations because the process is identical to that for 911 calls made by Sprint customers, as other states have found.

Finally, Virgin Mobile is unaware of any prior ETC designation involving a facilities-based wireless provider in which the FCC or the Department has imposed a similar condition. The FCC itself noted in its *Order* that the conditions related to emergency services, including the PSAP certification requirement, applied only to wireless resellers.²⁰ Applicability of this condition to a facilities-based wireless provider would hinder the broader deployment of Lifeline services—without any attendant benefits for consumers. Accordingly, Virgin Mobile respectfully submits that application of the prior condition related to PSAP certification to the instant request would harm the public interest.

IV. VIRGIN MOBILE SATISFIES THE REQUIREMENTS FOR DESIGNATION AS AN ETC

Section 214(e)(1) of the Act and section 54.201(d) of the FCC's rules provide that applicants for ETC designation must be common carriers that will offer all of the services supported by the USF, either using their own facilities or a combination of their own facilities and the resale of another carrier's services. Applicants must also commit to advertise the availability and rates of such services.²¹ As detailed below, Virgin Mobile satisfies each of the above-listed requirements.

²⁰ See *Order* at ¶¶ 22, 27.

²¹ See 47 U.S.C. § 214(e)(1) and 47 C.F.R. § 54.201(d).

A. Virgin Mobile Is a Common Carrier

Section 153(10) of the Act defines a common carrier as “any person engaged as a common carrier for hire, in interstate or foreign communications by wire or radio ...”²² The FCC has determined on numerous occasions that providers of mobile wireless services shall be treated as common carriers for regulatory purposes. As a provider of wireless telecommunications services, therefore, Virgin Mobile is a common carrier eligible for designation as an ETC.

B. Virgin Mobile Will Provide the Supported Services

As described above, Virgin Mobile is a wholly owned subsidiary of Sprint Nextel. Accordingly, Virgin Mobile is capable of, and currently provides, the supported services over an existing network infrastructure in Massachusetts. Virgin Mobile’s request for ETC designation complies with section 214(e)(1) of the Act because it provides all of the services and functionalities supported by the universal service program as set forth in section 54.101 of the FCC’s regulations throughout its service territory in the Commonwealth of Massachusetts. The Company, moreover, will make these services and functionalities available to any qualifying Massachusetts customer in the Company’s service area.

1. Voice Grade Access to the Public Switched Telephone Network

Virgin Mobile provides voice grade access to the public switched telephone network (“PSTN”) and offers its customers services at bandwidth rates between 300 and 3,000 MHz as required by the FCC’s regulations.²³

²² 47 U.S.C. § 153(10).

²³ See 47 U.S.C. § 54.101(a)(1).

2. Local Usage

As part of the voice grade access to the PSTN, an ETC must provide local calling services to its customers. The FCC's regulations do not require ETCs to offer a specific amount of local usage or mandate that ETCs provide a minimum number of free local calls or minutes. Instead, an applicant for ETC designation must demonstrate that it offers a local usage plan that is "comparable" to the plan offered by the ILEC in the relevant service territory.²⁴ In analyzing whether an ETC applicant's plan is comparable to the underlying ILEC's, the FCC reviews all aspects of the plan on a case-by-case basis, including the nature of the supported service, the size of the local calling area, the inclusion of additional services (e.g., caller I.D., etc.) and the amount of local usage.²⁵ The FCC has determined that a carrier satisfies the local usage requirements when it offers customers rate plans containing varying amounts of local usage.²⁶

Virgin Mobile's proposed Lifeline offering fully complies with the local usage requirements established by the FCC. Not only will Virgin Mobile's offering be comparable to the underlying ILEC plans, but it also will exceed them in several respects. Contrary to the ILECs' plans, Virgin Mobile will offer customers a certain amount of service free of charge. As discussed above, Virgin Mobile will provide its Lifeline customers with approximately 250 anytime minutes per month at no charge. Contrary to the ILEC plans, which contain relatively small local calling areas, Virgin Mobile customers can use these free minutes to place calls statewide (or even nationwide) because Virgin Mobile does not constrict customers' use by imposing a local calling area requirement. In addition to

²⁴ 47 C.F.R. § 54.202(a)(4).

²⁵ See *Federal-State Joint Board on Universal Service*, Report and Order, 20 FCC Rcd 6371, 6385 (2005).

²⁶ See e.g., *Farmers Cellular, Inc.*, 18 FCC Rcd 3848, 3852 (2003); *Pine Belt Cellular, Inc. and Pine Belt PCS, Inc.*, 17 FCC Rcd 9589, 9593 (2002); *Western Wireless Corp., Petition for Designation as an Eligible Telecommunications Carrier in the State of Wyoming*, 16 FCC Rcd 48, 52 (2000).

free voice services, Virgin Mobile will provide Lifeline customers with access to a variety of other features at no cost, including voice mail, caller I.D., call waiting services and enhanced 911 (“E911”) capabilities. Most important, Virgin Mobile’s Lifeline service will provide low-income Massachusetts residents with the convenience and security offered by wireless services without interruption—even if their financial position deteriorates.

3. DTMF Signaling or its Functional Equivalent

Virgin Mobile provides dual tone multi-frequency (“DTMF”) signaling to expedite the transmission of call set up and call detail information throughout its network. All wireless handsets offered for sale by the Company are DTMF-capable.

4. Single-Party Service or its Functional Equivalent

“Single-party service” means that only one party will be served by a subscriber loop or access line during a telephone transmission. Virgin Mobile provides the functional equivalent of single-party service to its wireless customers for the duration of each telephone call, and does not provide multi-party (or “party-line”) services.

5. Access to Emergency Services

Virgin Mobile provides nationwide access to 911 emergency services for all of its customers. Virgin Mobile also complies with the FCC’s regulations governing the deployment and availability of E911 compatible handsets.

6. Access to Operator Services

Virgin Mobile provides all of its customers with access to operator services.

7. Access to Interexchange Services

Virgin Mobile’s service provides its customers with the ability to make interexchange, or long distance, telephone calls. Domestic long distance capabilities are included in Virgin Mobile’s service

with no additional charges because minutes for local or long distance services are not billed separately at different rates.

8. Access to Directory Assistance

All Virgin Mobile customers are able to dial “411” to reach directory assistance services from their wireless handsets.

9. Toll Limitation

Toll limitation allows customers to either block the completion of outgoing long distance calls or specify a certain amount of toll usage to prevent them from incurring significant long distance charges and risking disconnection. As described above, Virgin Mobile provides its wireless service on a prepaid, or pay-as-you-go, basis. Virgin Mobile’s service, moreover, is not offered on a distance-sensitive basis and minutes are not charged separately for local or domestic long distance services. Customers also must specifically authorize access for international services, for which additional charges may apply. The FCC determined in its previous grant of ETC designation that the nature of Virgin Mobile’s service mitigates concerns that low-income customers will incur significant charges for long distance calls, risking disconnection of their service.²⁷ Finally, Virgin Mobile will provide equal access to long distance services to the extent no other ETC in its designated service territory provides equal access.

C. Functionality in Emergency Situations

As a wholly owned subsidiary of Sprint Nextel, Virgin Mobile is able to remain functional in emergency situations as required by section 54.202(a)(2) of the FCC’s regulations.²⁸ Sprint Nextel

²⁷ See Order at ¶ 34.

²⁸ See 47 C.F.R. § 54.202(a)(2).

has established a variety of internal programs, policies and teams dedicated to analyzing, assessing and responding to emergency situations. These programs, policies and teams ensure the timely and effective deployment of Sprint Nextel's products and services to allow the public and private sectors to function in emergency situations. Indeed, Sprint's network is monitored 24 hours a day, 7 days a week, 365 days a year by its network monitoring centers. Local switching offices staffed by trained technicians and management coordinate with these larger operation centers, to ensure that Sprint's networks are properly maintained and network performance is at expected levels.

In addition, Sprint has reasonable amounts of back-up power to ensure functionality without an external power source, and has implemented reasonable practices to reroute traffic around damaged facilities and manage traffic spikes resulting from emergency situations. Each cell site in the Sprint network is equipped with battery back-up power. The company also is capable of rerouting traffic around damaged facilities. Many cell sites in the Sprint network provide overlapping coverage for neighboring areas, and such design redundancy ensures that coverage continues in the event of damage to a particular facility. In the event of a major failure of a cell site, neighboring sites could be adjusted to provide coverage to a wider service area. These practices significantly reduce the chance that emergencies, fiber cuts or equipment failure will result in a loss of service.

D. Advertising of Supported Services

Virgin Mobile will advertise the availability and rates for the services described above using media of general distribution in conformance with the FCC's regulations.²⁹ The Company advertises the availability of its services through newspapers, magazines, radio, the Internet, billboards and television. Virgin Mobile's third-party retail partners also heavily promote its services. These

²⁹ See 47 C.F.R. § 54.201.

advertising campaigns have been highly effective in reaching low-income customers and promoting the availability of cost-effective wireless services to this consumer segment.

Virgin Mobile will supplement these methods of communication to specifically advertise and promote the availability of its Lifeline offerings to qualifying customers throughout the Commonwealth of Massachusetts. The Company also intends to promote these offerings to its existing customers—many of whom may qualify for Lifeline.

V. DESIGNATION OF VIRGIN MOBILE AS AN ETC WOULD PROMOTE THE PUBLIC INTEREST

One of the principal goals of the Act, as amended by the Telecommunications Act of 1996, is “to secure lower prices and higher quality services for American telecommunications consumers and encourage the rapid deployment of new telecommunications technologies” to all citizens, regardless of geographic location or income.³⁰ There is no question that designation of Virgin Mobile as an ETC in Massachusetts will further the public interest by providing Massachusetts consumers, especially low-income consumers, with lower prices and higher quality services. Many lower-income customers in Massachusetts have yet to reap the full benefits of the intensely competitive wireless market. Whether because of financial constraints, poor credit history or intermittent employment, these consumers often lack the countless choices available to most consumers. Designating Virgin Mobile as an ETC in Massachusetts, therefore, will enable it to expand the availability of affordable telecommunications services to qualifying Massachusetts customers, leading to lower prices and increased choice.

The instant request for ETC designation must be examined in light of the Act’s goals of providing low-income consumers with access to telecommunications services. The primary purpose

³⁰ Telecommunications Act of 1996, Pub. L. No. 104-104, 110 Stat. 56.

of universal service is to ensure that consumers—especially low-income consumers—receive affordable and comparable telecommunications services, which a study found to be a vital economic resource for low-income consumers that leads to improved wage levels and personal safety.³¹ Given this context, designating Virgin Mobile as an ETC would benefit Massachusetts consumers, especially its many low-income consumers eligible for Lifeline services. The Company's participation in the Lifeline program also undoubtedly would increase opportunities for it to serve Massachusetts customers with appealing and affordable service offerings.

Designation of Virgin Mobile as an ETC would also promote competition and increase the pressure on other carriers to target low-income consumers with service offerings tailored to their needs, greatly benefiting this much ignored consumer segment. Virgin Mobile will bring the same entrepreneurial spirit that has reinvigorated the wireless industry to the Massachusetts Lifeline market, helping to redefine the wireless experience for many low-income consumers in the Commonwealth. Other carriers, therefore, will have the incentive to improve their existing service offerings and tailor service plans to contain service terms and features appealing to lower-income customers.

Virgin Mobile's Lifeline customers will receive the same high-quality wireless services provided to all Company customers. Virgin Mobile has emphasized customer service as an essential pillar for its marketplace success since service launch. Indeed, the Company's success is testament to the principle that wireless carriers can provide lower-income customers with the same features, functionalities and services demanded by higher-income consumers. This intense focus on customer service has been rewarded and customers have responded accordingly. As evidence of its

³¹ See Sullivan, "A Review of Literature and Data from Two New Surveys," April 2008.

commitment to high-quality service, Virgin Mobile has complied with the CTIA-The Wireless Association® Consumer Code for Wireless Service (“Consumer Code”) since its inception and will continue to comply with the Consumer Code once designated as an ETC.³² Virgin Mobile annually certifies its compliance with the Consumer Code, and the FCC has recognized the value of such compliance.³³ In prior years, the Company has also received numerous awards for its high-quality customer service, including the prestigious J.D. Power award for providing “An Outstanding Customer Service Experience” under J.D. Power’s Certified Call Center Program.

While Virgin Mobile has experienced success in deploying wireless services to low-income consumers, internal Company analysis suggests that many low-income customers still intermittently discontinue service because of economic constraints. ETC designation in Massachusetts would enable Virgin Mobile to offer appealing and affordable service offerings to low-income Massachusetts customers to ensure that they are able to afford wireless services on a consistent and uninterrupted basis. Without question, prepaid wireless services have become essential for lower-income customers, providing them with value for their money, access to emergency services on wireless devices, and a reliable means of contact for prospective employers, social service agencies or dependents.³⁴ Providing Virgin Mobile with the authority necessary to offer discounted Lifeline services to those most in danger of losing wireless service altogether undoubtedly promotes the public interest.

³² Virgin Mobile’s compliance with the Consumer Code also satisfies its obligations under the FCC’s regulations. *See* 47 C.F.R. § 54.202(a)(3).

³³ *See Federal-State Joint Board on Universal Service Virginia Cellular, LLC Petition for Designation as an Eligible Telecommunications Carrier In the Commonwealth of Virginia*, Memorandum Opinion and Order, 19 FCC Rcd 1563, 1576-77, wherein the FCC endorsed the Consumer Code by considering adherence to the Consumer Code as a factor in the demonstration of a wireless carrier’s qualifications to be an eligible telecommunications carrier.

³⁴ Indeed, a recent aggregate survey of Virgin Mobile customer usage patterns indicated that state and city welfare agencies are among the most frequently contacted by customers.

VI. ANTI-DRUG ABUSE CERTIFICATION

Virgin Mobile certifies that no party to this Petition is subject to denial of federal benefits, including FCC benefits, pursuant to Section 5301 of the Anti-Drug Abuse Act of 1988.

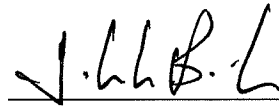
VII. CONCLUSION

As discussed above, designation of Virgin Mobile as an ETC in the Commonwealth of Massachusetts accords with the requirements of section 214(e)(2) of the Act and is in the public interest.

WHEREFORE, for all of the foregoing reasons, Virgin Mobile respectfully requests that the Department designate Virgin Mobile as an ETC in the Commonwealth of Massachusetts solely for purposes of participating in the Lifeline program.

Respectfully submitted,

VIRGIN MOBILE USA, L.P.



John M. Beahn
Skadden, Arps, Slate, Meagher & Flom LLP
1440 New York Avenue, N.W.
Washington D.C. 20015
Tel: 202-371-7392

Counsel to Virgin Mobile USA, L.P.

Elaine Divelbliss
Virgin Mobile USA, L.P.
10 Independence Blvd.
Warren, NJ 07059
Tel: 908-607-4017

October 18, 2010

EXHIBIT 1
CERTIFICATION

Declaration of Virgin Mobile USA, L.P.

I, Elaine Divelbliss, do hereby declare under penalty of perjury as follows:

1. I am a Senior Counsel of Virgin Mobile USA, L.P., a Delaware Limited Partnership with its principal place of business at 10 Independence Blvd, Warren, NJ 07059.

2. I have read Virgin Mobile's Petition for Limited Designation as an Eligible Telecommunications Carrier in the Commonwealth of Massachusetts and confirm the information contained therein to be true and correct to the best of my knowledge.

3. To the best of my knowledge, Virgin Mobile, including all officers, directors, or persons holding five percent or more of the outstanding stock or shares (voting or non-voting) of the Company, are not subject to denial of federal benefits, including FCC benefits, pursuant to Section 5301 of the Anti-Drug Abuse Act of 1988, 21 U.S.C. § 862.

4. I declare under penalty of perjury that the foregoing is true and correct to the best of my knowledge.

Executed on October 18, 2010

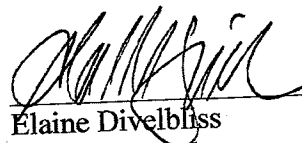

Elaine Divelbliss
Senior Counsel

EXHIBIT 2
WIRE CENTERS

CLLI	EXCHANGE	ILEC
GRNBMAXA	GRANBY	GRANBY TELEPHONE & TELEGRAPH CO.
RCMDMAXA	RICHMOND	RICHMOND TELEPHONE CO.
HNCCMAXA	HANCOCK	TACONIC TELEPHONE CORP.
ACSHMAPL	NEW BEDFORD	VERIZON NEW ENGLAND INC.
ACTNMAMA	ACTON	VERIZON NEW ENGLAND INC.
ADMSMAMA	ADAMS	VERIZON NEW ENGLAND INC.
AGWMMARO	SPRINGFIELD	VERIZON NEW ENGLAND INC.
AMHRMAFE	AMHERST-ATT	VERIZON NEW ENGLAND INC.
AMHRMASP	AMHERST-ATT	VERIZON NEW ENGLAND INC.
AMSBMAPL	SOUTH HAMPTON	VERIZON NEW ENGLAND INC.
ANDVMAEL	ANDOVER	VERIZON NEW ENGLAND INC.
ARTNMAPL	ARLINGTON	VERIZON NEW ENGLAND INC.
ASHBMASO	ASHBY	VERIZON NEW ENGLAND INC.
ASHMMAPL	ASHBURNHAM	VERIZON NEW ENGLAND INC.
ASLDMAMA	FRAMINGHAM	VERIZON NEW ENGLAND INC.
ASNTMAMA	ASSONET	VERIZON NEW ENGLAND INC.
ATHOMARI	ATHOL	VERIZON NEW ENGLAND INC.
ATLBMABA	ATTLEBORO	VERIZON NEW ENGLAND INC.
AUBNMALG	AUBURN	VERIZON NEW ENGLAND INC.
AYERMAPL	AYER	VERIZON NEW ENGLAND INC.
BCKTMAWA	BECKET	VERIZON NEW ENGLAND INC.
BDFRMAPA	LEXINGTON	VERIZON NEW ENGLAND INC.
BITNMAWI	BRIGHTON	VERIZON NEW ENGLAND INC.
BKLIMAGG	BROOKLINE	VERIZON NEW ENGLAND INC.
BKLIMAMA	BROOKLINE	VERIZON NEW ENGLAND INC.
BLMTMALE	BELMONT	VERIZON NEW ENGLAND INC.
BLNDMAGL	BLANDFORD	VERIZON NEW ENGLAND INC.
BLRCMAAN	BILLERICA	VERIZON NEW ENGLAND INC.
BLTWMAJA	BELCHERTOWN	VERIZON NEW ENGLAND INC.
BMFDMAWA	BRIMFIELD	VERIZON NEW ENGLAND INC.
BOTNMAMA	BOLTON	VERIZON NEW ENGLAND INC.
BRLNMAHI	BERLIN	VERIZON NEW ENGLAND INC.
BRNRMACH	BERNARDSTON	VERIZON NEW ENGLAND INC.
BRNSMAMA	BARNSTABLE	VERIZON NEW ENGLAND INC.
BRNTMAWA	BRAINTREE	VERIZON NEW ENGLAND INC.
BRPKMAWI	SPRINGFIELD	VERIZON NEW ENGLAND INC.
BRWRMACH	BRIDGEWATER	VERIZON NEW ENGLAND INC.
BRWSMAYA	BREWSTER	VERIZON NEW ENGLAND INC.
BRYVMAUN	BRYANTVILLE	VERIZON NEW ENGLAND INC.
BSRVMAST	DENNIS	VERIZON NEW ENGLAND INC.

CLLI	EXCHANGE	ILEC
BSTNMABE	BOSTON-CENTRAL	VERIZON NEW ENGLAND INC.
BSTNMABO	BOSTON-CENTRAL	VERIZON NEW ENGLAND INC.
BSTNMAFR	BOSTON-CENTRAL	VERIZON NEW ENGLAND INC.
BSTNMAHA	BOSTON-CENTRAL	VERIZON NEW ENGLAND INC.
BURLMABE	BURLINGTON	VERIZON NEW ENGLAND INC.
BVRLMAEL	BEVERLY	VERIZON NEW ENGLAND INC.
BYTNMAMA	BOYLSTON	VERIZON NEW ENGLAND INC.
BZBYMAPE	BUZZARDS BAY	VERIZON NEW ENGLAND INC.
CATNMANM	CHARLTON	VERIZON NEW ENGLAND INC.
CHCPMARI	CHICOPEE	VERIZON NEW ENGLAND INC.
CHCPMAWE	CHICOPEE	VERIZON NEW ENGLAND INC.
CHESMAMU	CHESTER	VERIZON NEW ENGLAND INC.
CHFRMANO	LOWELL	VERIZON NEW ENGLAND INC.
CHHMMAOH	CHATHAM	VERIZON NEW ENGLAND INC.
CHLMAST	CHILMARK	VERIZON NEW ENGLAND INC.
CHLSMACH	CHELSEA	VERIZON NEW ENGLAND INC.
CLRNMAYA	COLRAIN	VERIZON NEW ENGLAND INC.
CLTNMACH	CLINTON	VERIZON NEW ENGLAND INC.
CNCRMAWA	CONCORD	VERIZON NEW ENGLAND INC.
CNTNMAWA	CANTON	VERIZON NEW ENGLAND INC.
CNWYMASH	CONWAY	VERIZON NEW ENGLAND INC.
CRVRMAMA	CARVER	VERIZON NEW ENGLAND INC.
CTMTMADE	CATAUMET	VERIZON NEW ENGLAND INC.
DDHMMAWA	DEDHAM	VERIZON NEW ENGLAND INC.
DGTNMAEL	DIGHTON	VERIZON NEW ENGLAND INC.
DLTNMACA	DALTON	VERIZON NEW ENGLAND INC.
DNNSMAYA	DENNIS	VERIZON NEW ENGLAND INC.
DNVSMahi	DANVERS	VERIZON NEW ENGLAND INC.
DRCHMAAD	DORCHESTER	VERIZON NEW ENGLAND INC.
DRCTMAMM	LOWELL	VERIZON NEW ENGLAND INC.
DXBRMACH	DUXBURY	VERIZON NEW ENGLAND INC.
EBSTMASA	EAST BOSTON	VERIZON NEW ENGLAND INC.
EBWRMABE	EAST BRIDGEWATER	VERIZON NEW ENGLAND INC.
EDGLMAMA	EAST DOUGLAS	VERIZON NEW ENGLAND INC.
EDGRMAPP	EDGARTOWN	VERIZON NEW ENGLAND INC.
EHMPMARA	EASTHAMPTON	VERIZON NEW ENGLAND INC.
ELNMMAPL	EAST LONGMEADOW	VERIZON NEW ENGLAND INC.
ESSXMASP	ESSEX	VERIZON NEW ENGLAND INC.
ESTNMANM	EASTON	VERIZON NEW ENGLAND INC.
FKLNMAMC	FRANKLIN	VERIZON NEW ENGLAND INC.
FLMOMAMG	FALMOUTH	VERIZON NEW ENGLAND INC.
FLRVMANM	FALL RIVER	VERIZON NEW ENGLAND INC.
FRMNMAUN	NATICK	VERIZON NEW ENGLAND INC.

CLLI	EXCHANGE	ILEC
FTBGMAMA	FITCHBURG	VERIZON NEW ENGLAND INC.
FXBOMACO	FOXBORO	VERIZON NEW ENGLAND INC.
GFTNMAWO	GRAFTON	VERIZON NEW ENGLAND INC.
GLCSMAEL	GLOUCESTER	VERIZON NEW ENGLAND INC.
GLVLMAHI	GILBERTVILLE	VERIZON NEW ENGLAND INC.
GNDLMASU	WORCESTER	VERIZON NEW ENGLAND INC.
GNFDMACH	GREENFIELD	VERIZON NEW ENGLAND INC.
GRBRMASC	GREAT BARRINGTON	VERIZON NEW ENGLAND INC.
GRNRMAWE	GARDNER	VERIZON NEW ENGLAND INC.
GRTNMAHO	GROTON	VERIZON NEW ENGLAND INC.
GRTWMAWI	GEORGETOWN	VERIZON NEW ENGLAND INC.
GRVIMAWG	GRANVILLE	VERIZON NEW ENGLAND INC.
HBTNMAMA	HUBBARDSTON	VERIZON NEW ENGLAND INC.
HDSNMAFR	HUDSON	VERIZON NEW ENGLAND INC.
HLDNMAHO	HOLDEN	VERIZON NEW ENGLAND INC.
HLSTMACH	HOLLISTON	VERIZON NEW ENGLAND INC.
HLYKMAMA	HOLYOKE	VERIZON NEW ENGLAND INC.
HMPDMAMA	HAMPDEN	VERIZON NEW ENGLAND INC.
HMTNMAWI	HAMILTON	VERIZON NEW ENGLAND INC.
HNDLMASO	HINSDALE	VERIZON NEW ENGLAND INC.
HNHMMAGR	HINGHAM	VERIZON NEW ENGLAND INC.
HNTNMAMA	HUNTINGTON	VERIZON NEW ENGLAND INC.
HNVRMACO	HANOVER	VERIZON NEW ENGLAND INC.
HPTNMAHR	HOPKINTON	VERIZON NEW ENGLAND INC.
HRVRMALI	HARVARD	VERIZON NEW ENGLAND INC.
HRWCMAMA	HARWICH	VERIZON NEW ENGLAND INC.
HSTNMAMA	HOUSATONIC	VERIZON NEW ENGLAND INC.
HTFDMACH	HATFIELD	VERIZON NEW ENGLAND INC.
HVHLMAWI	HAVERHILL	VERIZON NEW ENGLAND INC.
HYNSMAOC	HYANNIS	VERIZON NEW ENGLAND INC.
HYPKMAHA	HYDE PARK	VERIZON NEW ENGLAND INC.
INORMARL	SPRINGFIELD	VERIZON NEW ENGLAND INC.
IPSWMACO	IPSWICH	VERIZON NEW ENGLAND INC.
KGTNMASL	KINGSTON	VERIZON NEW ENGLAND INC.
LCSRMAGR	LEICESTER	VERIZON NEW ENGLAND INC.
LDLWMAWI	LUDLOW	VERIZON NEW ENGLAND INC.
LEE MAHI	LEE	VERIZON NEW ENGLAND INC.
LENXMAWA	LENOX	VERIZON NEW ENGLAND INC.
LGMDMALO	LONGMEADOW	VERIZON NEW ENGLAND INC.
LMNSMASC	LEOMINSTER	VERIZON NEW ENGLAND INC.
LNBGMASC	LUNENBURG	VERIZON NEW ENGLAND INC.
LTTNMAKI	LITTLETON	VERIZON NEW ENGLAND INC.
LWLLMAAP	LOWELL	VERIZON NEW ENGLAND INC.

CLLI	EXCHANGE	ILEC
LXTNMAWA	LEXINGTON	VERIZON NEW ENGLAND INC.
LYFDMACA	LYNNFIELD	VERIZON NEW ENGLAND INC.
LYNNMACH	LYNN	VERIZON NEW ENGLAND INC.
MARNMAMI	MARION	VERIZON NEW ENGLAND INC.
MDLBMAJA	MIDDLEBORO	VERIZON NEW ENGLAND INC.
MEFDMAPL	MEDFIELD	VERIZON NEW ENGLAND INC.
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MLBRMAGR	MILLBURY	VERIZON NEW ENGLAND INC.
MLDNMAEL	EVERETT	VERIZON NEW ENGLAND INC.
MLFLMACR	MILLERS FALLS	VERIZON NEW ENGLAND INC.
MLFRMAWA	MILFORD	VERIZON NEW ENGLAND INC.
MLISMAMA	MILLIS	VERIZON NEW ENGLAND INC.
MLTNMAAD	MILTON	VERIZON NEW ENGLAND INC.
MNCHMASU	MANCHESTER	VERIZON NEW ENGLAND INC.
MNFDMABR	MANSFIELD	VERIZON NEW ENGLAND INC.
MNMTMAMA	PLYMOUTH	VERIZON NEW ENGLAND INC.
MNSNMAMA	MONSON	VERIZON NEW ENGLAND INC.
MRBLMAPL	MARBLEHEAD	VERIZON NEW ENGLAND INC.
MRBOMAMA	MARLBORO	VERIZON NEW ENGLAND INC.
MRFDMAMA	MARSHFIELD	VERIZON NEW ENGLAND INC.
MRMCMACE	MERRIMAC	VERIZON NEW ENGLAND INC.
MSHPMAGN	OSTERVILLE	VERIZON NEW ENGLAND INC.
MTAGMACE	MONTAGUE	VERIZON NEW ENGLAND INC.
MTPSMAMH	MATTAPOISETT	VERIZON NEW ENGLAND INC.
MYNRMAWA	MAYNARD	VERIZON NEW ENGLAND INC.
NADMMASU	NORTH ADAMS	VERIZON NEW ENGLAND INC.
NATLMAOE	NORTH ATTLEBORO	VERIZON NEW ENGLAND INC.
NATNMAMA	NORTHAMPTON	VERIZON NEW ENGLAND INC.
NBFDMASM	NORTH BROOKFIELD	VERIZON NEW ENGLAND INC.
NBFRMAAE	NEW BEDFORD	VERIZON NEW ENGLAND INC.
NBPTMAGR	NEWBURYPORT	VERIZON NEW ENGLAND INC.
NCHLMAGR	LOWELL	VERIZON NEW ENGLAND INC.
NCKTMAUN	NANTUCKET	VERIZON NEW ENGLAND INC.
NDHMMAPI	DOVER	VERIZON NEW ENGLAND INC.
NFRMMAED	FRAMINGHAM	VERIZON NEW ENGLAND INC.
NRBOMASC	NORTHBORO	VERIZON NEW ENGLAND INC.
NRDGMACE	NORTH READING	VERIZON NEW ENGLAND INC.
NRFDMAA	NORTHFIELD	VERIZON NEW ENGLAND INC.
NRTNMATA	NORTON	VERIZON NEW ENGLAND INC.
NRWDMAVE	NORWOOD	VERIZON NEW ENGLAND INC.
NRWLMAMA	NORWELL	VERIZON NEW ENGLAND INC.
NTCKMAEC	NATICK	VERIZON NEW ENGLAND INC.
NWTNMAWA	NEWTON	VERIZON NEW ENGLAND INC.

CLLI	EXCHANGE	ILEC
OKHMMARU	OAKHAM	VERIZON NEW ENGLAND INC.
ORLNMAYA	ORLEANS	VERIZON NEW ENGLAND INC.
ORNGMASM	MILLERS FALLS	VERIZON NEW ENGLAND INC.
OSVLMAWB	OSTERVILLE	VERIZON NEW ENGLAND INC.
OTISMAEO	OTIS	VERIZON NEW ENGLAND INC.
OXFRMAWH	OXFORD	VERIZON NEW ENGLAND INC.
PBDYMACE	PEABODY	VERIZON NEW ENGLAND INC.
PLMOMACO	PLYMOUTH	VERIZON NEW ENGLAND INC.
PLMRMAPL	PALMER	VERIZON NEW ENGLAND INC.
PPRLMAHI	PEPPERELL	VERIZON NEW ENGLAND INC.
PRTNMABO	PRINCETON	VERIZON NEW ENGLAND INC.
PRVNMAWI	PROVINCETOWN	VERIZON NEW ENGLAND INC.
PTFDMAAA	PITTSFIELD	VERIZON NEW ENGLAND INC.
PTFDMAFE	PITTSFIELD	VERIZON NEW ENGLAND INC.
PTRSMAEA	PETERSHAM	VERIZON NEW ENGLAND INC.
QNCYMAHA	QUINCY	VERIZON NEW ENGLAND INC.
RCPTMAMA	ROCKPORT	VERIZON NEW ENGLAND INC.
RDNGMALI	READING	VERIZON NEW ENGLAND INC.
REVRMABE	REVERE	VERIZON NEW ENGLAND INC.
RHBTMABA	REHOBOTH	VERIZON NEW ENGLAND INC.
RKLDMAWE	ROCKLAND	VERIZON NEW ENGLAND INC.
RNDHMAME	RANDOLPH	VERIZON NEW ENGLAND INC.
ROCHMANO	ROCHESTER	VERIZON NEW ENGLAND INC.
RSSLMAMA	RUSSELL	VERIZON NEW ENGLAND INC.
RTLDMAMA	RUTLAND	VERIZON NEW ENGLAND INC.
RWLYMAHA	ROWLEY	VERIZON NEW ENGLAND INC.
RXBRMAWA	ROXBURY	VERIZON NEW ENGLAND INC.
SAGSMACE	SAUGUS	VERIZON NEW ENGLAND INC.
SALMMANO	SALEM	VERIZON NEW ENGLAND INC.
SBDGMAMA	SOUTHBRIDGE	VERIZON NEW ENGLAND INC.
SBTNMAEF	SOUTH BOSTON	VERIZON NEW ENGLAND INC.
SCNSMABH	SIASCONSET	VERIZON NEW ENGLAND INC.
SCTTMAFP	SCITUATE	VERIZON NEW ENGLAND INC.
SDBRMABP	SUDBURY	VERIZON NEW ENGLAND INC.
SDFDMACO	SOUTH DEERFIELD	VERIZON NEW ENGLAND INC.
SGMRMAYA	SAGAMORE	VERIZON NEW ENGLAND INC.
SGTNMAWA	STOUGHTON	VERIZON NEW ENGLAND INC.
SHFDMAMA	SHEFFIELD	VERIZON NEW ENGLAND INC.
SHRNMAHI	SHARON	VERIZON NEW ENGLAND INC.
SHRWMAGR	SHREWSBURY	VERIZON NEW ENGLAND INC.
SHRYMACH	SHIRLEY	VERIZON NEW ENGLAND INC.
SLFLMACR	SHELBURNE FALLS	VERIZON NEW ENGLAND INC.
SOVLMACE	SOMERVILLE	VERIZON NEW ENGLAND INC.

CLLI	EXCHANGE	ILEC
SPNCMAME	SPENCER	VERIZON NEW ENGLAND INC.
STBGMAMA	STURBRIDGE	VERIZON NEW ENGLAND INC.
STBRMAPI	STOCKBRIDGE	VERIZON NEW ENGLAND INC.
STNGMABR	STERLING	VERIZON NEW ENGLAND INC.
SWCKMACO	SOUTHWICK	VERIZON NEW ENGLAND INC.
TMTNMAME	TEMPLETON	VERIZON NEW ENGLAND INC.
TNTNMAPL	TAUNTON	VERIZON NEW ENGLAND INC.
TPFDMACE	TOPSFIELD	VERIZON NEW ENGLAND INC.
TRFLMAAA	TURNERS FALLS	VERIZON NEW ENGLAND INC.
TWBYMARO	LOWELL	VERIZON NEW ENGLAND INC.
TWNSMARA	TOWNSEND	VERIZON NEW ENGLAND INC.
TYNGMAKE	TYNGSBORO	VERIZON NEW ENGLAND INC.
UPTNMAPI	UPTON	VERIZON NEW ENGLAND INC.
UXBRMACO	UXBRIDGE	VERIZON NEW ENGLAND INC.
VYHVMAED	VINEYARD HAVEN	VERIZON NEW ENGLAND INC.
WAHMMABI	WAREHAM	VERIZON NEW ENGLAND INC.
WAREMABA	WARE	VERIZON NEW ENGLAND INC.
WBSTMANE	WEBSTER	VERIZON NEW ENGLAND INC.
WBTNMAPR	WEST BOYLSTON	VERIZON NEW ENGLAND INC.
WHMNMAWA	WHITMAN	VERIZON NEW ENGLAND INC.
WHVLMAPA	WHITINSVILLE	VERIZON NEW ENGLAND INC.
WKFDMABE	WAKEFIELD	VERIZON NEW ENGLAND INC.
WLBGMAMA	WILLIAMSBURG	VERIZON NEW ENGLAND INC.
WLBRMAMA	WILBRAHAM	VERIZON NEW ENGLAND INC.
WLHMMASP	WALTHAM	VERIZON NEW ENGLAND INC.
WLHMMawe	WALTHAM	VERIZON NEW ENGLAND INC.
WLLFMAMA	WELLFLEET	VERIZON NEW ENGLAND INC.
WLMGMAMA	WILMINGTON	VERIZON NEW ENGLAND INC.
WLPLMASS	WALPOLE	VERIZON NEW ENGLAND INC.
WLSLMALA	WELLESLEY	VERIZON NEW ENGLAND INC.
WLTWMAWA	WILLIAMSTOWN	VERIZON NEW ENGLAND INC.
WMNSMAEL	WESTMINSTER	VERIZON NEW ENGLAND INC.
WNCHMAMA	WOBURN	VERIZON NEW ENGLAND INC.
WNDNMAGR	WINCHENDON	VERIZON NEW ENGLAND INC.
WNTHMAMA	WINTHROP	VERIZON NEW ENGLAND INC.
WNWBMAMA	WEST NEWBURY	VERIZON NEW ENGLAND INC.
WPBDMAPI	PEABODY	VERIZON NEW ENGLAND INC.
WRCSMACE	WORCESTER	VERIZON NEW ENGLAND INC.
WRHMMASO	WRENTHAM	VERIZON NEW ENGLAND INC.
WRRNMAQU	WARREN	VERIZON NEW ENGLAND INC.
WRXBMABE	JAMAICA PLAIN	VERIZON NEW ENGLAND INC.
WSBGMALE	WEST STOCKBRIDGE	VERIZON NEW ENGLAND INC.
WSBOMASU	WESTBORO	VERIZON NEW ENGLAND INC.

CLLI	EXCHANGE	ILEC
WSFDMAWA	WESTFIELD	VERIZON NEW ENGLAND INC.
WSFRMADE	WESTFORD	VERIZON NEW ENGLAND INC.
WSPTMADR	WESTPORT	VERIZON NEW ENGLAND INC.
WTTWMAWC	WATERTOWN	VERIZON NEW ENGLAND INC.
WYLDMABP	WAYLAND	VERIZON NEW ENGLAND INC.
WYMOMAMI	WEYMOUTH	VERIZON NEW ENGLAND INC.

EXHIBIT 3

STATE PUBLIC UTILITY COMMISSION DECISIONS

LOUISIANA PUBLIC SERVICE COMMISSION

ORDER NUMBER S-31282

VIRGIN MOBILE USA, L.P.
EX PARTE

Docket Number S-31282 In re: Virgin Mobile USA, L.P., ex parte. In re: Petition for Limited Designation as an Eligible Telecommunications Carrier in the State of Louisiana by Virgin Mobile USA, L.P.

(Decided at the Open Session dated June 23, 2010)

Overview

Virgin Mobile USA, L.P. ("Virgin Mobile" or "the Company") filed an application with this Commission seeking designation as an Eligible Telecommunications Carrier ("ETC") pursuant to 47 U.S.C. § 214(e)(2) of the Communications Act of 1934, as amended (the "Act"),¹ in those areas served by the non-rural ILEC, i.e. AT&T, in Louisiana, *and* in areas served by rural telephone companies for the sole purpose of providing Lifeline service to qualifying Louisiana customers. Virgin Mobile specified in its petition that it is applying for ETC designation "only for purposes of participation in the Universal Service Fund's ("USF") Lifeline program" and that its "request does not seek ETC designation to offer services supported by the high-cost program."

The Act provides that state commissions, upon request and consistent with the public interest, convenience, and necessity, may in an area served by a rural telecommunications carrier, and shall in all other areas, 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.

Applicable Law

The Louisiana Public Service Commission ("Commission") exercises jurisdiction over public utilities in Louisiana pursuant to Article IV, Section 21(B) of the Louisiana Constitution, which states:

The commission shall regulate all common carriers and public utilities and have such other regulatory authority as provided by law. It shall adopt and enforce reasonable rules, regulations and procedures necessary for the discharge of its duties, and shall have other powers and perform other duties as provided by law.

The Commission is given broad power to regulate telephone utilities and may adopt all

¹ 47 U.S.C. § 214(e) (2).

reasonable and just rules, regulations, and orders affecting or connected with the service or operation of such business.

Pursuant to the Act, state commissions are given the authority to designate those common carriers that meet the service requirements found in 47 C.F.R. § 54.101 as "Eligible Telecommunications Carriers" ("ETCs") entitling them to universal service support in accordance with 47 U.S.C. § 254.

The service requirements enumerated in 47 C.F.R. § 54.101 are as follows:

- 1) Voice grade access to the public switched network;
- 2) Local usage;
- 3) Dual tone multi-frequency signaling or its functional equivalent;
- 4) Single-party service or its functional equivalent;
- 5) Access to emergency services;
- 6) Access to operator services;
- 7) Access to interexchange service;
- 8) Access to directory assistance; and
- 9) Toll limitation for qualifying low-income consumers.

Under 47 U.S.C. § 254 (c), a common carrier seeking ETC status must offer all of the above services and must advertise the availability of such services using media of general distribution.² Section 214(e)(1) of the Act further provides that an ETC must offer service using its own facilities or a combination of its own facilities and resale of another carrier's services. Accordingly, pursuant to 47 C.F.R. § 54.201(i), state commissions generally cannot designate as an ETC a carrier that offers services supported by federal universal service support mechanisms exclusively through resale of another carrier's service.

To ensure compliance with the public interest requirement codified at Section 214(e)(2) of the Act, the Commission issued General Order R-27841, which established a list of thirteen public interest criteria that are to be applied on a case specific basis in connection with all requests for ETC designation in areas served by rural telephone carriers:

1. Benefits of increased competitive choice resulting from the designation.

² 47 U.S.C. § 254 (1)

2. Impact of multiple designations on the Universal Service Fund. Specifically, the Commission, upon the petition of any rural ILEC, shall determine if any changes by the FCC in the rules affecting how rural ILECs received Federal USF support causes a material negative impact on the rural ILECs level of Federal USF support. The Commission shall render a decision on any petition filed by a rural ILEC regarding its finding within 90 days. In the event the Commission finds the change has had an actual material negative impact and that decertifying a wireless ETC will mitigate such reduction in funding, the competitive ETC certification shall be considered to no longer be in the public interest by the LPSC and shall be immediately revoked by the LPSC, to the extent that revoking such certification will mitigate such reduction. Nothing herein shall impact a competitive ETC's certification in non-rural areas, if any.
3. Unique advantages and disadvantages of the competitive service offering.
4. Commitment to quality of service by the competitive provider.
5. Submission of records and documentation, on a quarterly basis, declaring the carriers plans for use of universal service funding received as a result of this Commission's designation, including updates as to the progress of said projects.
6. For wireless carriers, compliance with the CTIA Consumer Code for Wireless Services and submission of the number of consumer complaints per 1000 mobile headsets to the LPSC on a quarterly basis.
7. Information regarding the number of requests for service in the designated area that go unfulfilled and adoption of a process setting forth specific steps that will be considered if a request for service is received from a customer within the designated ETC service area, but outside the existing signal coverage area.
8. Compliance with all existing and future state and federal 911 and E-911 mandates.
9. Compliance with Section 401B of the LPSC's Regulations for Competition in the Local Telecommunications Market. For all areas serviced by a wireless ETC in which the carrier received federal USF funds, the wireless ETC shall file retail rates with the LPSC's regulations prior to implementing any such retail rates. As a condition of receiving ETC status, each wireless carrier agrees that the LPSC shall have the authority to reject any retail rate found by the LPSC to be artificially low or below the wireless ETC's costs of providing service, without considering federal USF funding. Additionally, the wireless ETC shall not offer any promotion in the rural service area that it does not offer in the remainder of its service area. Lifeline and Linkup offerings will not be subject to this provision.
10. Compliance with Section 302(A) of the LPSC's Regulations for Competition in the Local Telecommunications Market. (Annual Report Filings).
11. Compliance with Sections 301A-C and 401 of the Commission's TSP Billing Order.

12. Compliance with any additional requirements established by the Commission in Docket R-27733.

13. Conduction of a rural cream-skimming analysis.

Background and Procedural History

The Commission has previously designated ETC status to the following carriers serving non-rural service areas: Sprint Corporation,³ Alltel Communications Wireless, Inc.,⁴ Cox Communications,⁵ LBH, LLC,⁶ VCI Company,⁷ Nexus Communications,⁸ ABC Telecom,⁹ Image Access,¹⁰ BLC Management,¹¹ dPi,¹² Everycall Communications, Inc.,¹³ Tennessee Telephone Services, L.L.C.,¹⁴ Triarch Marketing d/b/a Triarch Communications,¹⁵ Fast Phones, Inc.,¹⁶ TracFone Wireless,¹⁷ and Affordable Phone Services, Inc.¹⁸

Formerly a prepaid reseller of commercial mobile radio service ("CMRS") obtained from Sprint Nextel Corporation ("Sprint"), Virgin Mobile became a wholly owned subsidiary of Sprint on November 24, 2009 pursuant to approval by the Federal Communications Commission ("FCC").¹⁹ Prior to the merger of Sprint and Virgin Mobile, the FCC decided to forbear from applying to Virgin Mobile the facilities-based requirement of Section 214(e)(1) of the Act, provided that the Company complied with the following conditions:

(a) That the Company provide Lifeline customers with 911 and enhanced 911 (E911) access regardless of activation status and availability of prepaid minutes;

(b) That the Company provide Lifeline customers with E911-compliant handsets and replace, at no additional charge to the customer, non-compliant handsets of existing customers who obtain Lifeline-supported service;

(c) That the Company comply with conditions (a) and (b) as of the date Virgin Mobile provides Lifeline service;

³ LPSC Order No. U-28009.

⁴ LPSC Special Order No. 27-2006.

⁵ LPSC Order No. U-26437.

⁶ LPSC Special Order No. 43-2006.

⁷ LPSC Special Order No. 3-2007.

⁸ LPSC Order No. S-30699.

⁹ LPSC Order No. S-30601.

¹⁰ LPSC Order No. S-30637.

¹¹ LPSC Order No. S-30589.

¹² LPSC Order No. S-30502.

¹³ LPSC Order No. S-30891.

¹⁴ LPSC Order No. S-30982.

¹⁵ LPSC Order No. S-31003.

¹⁶ LPSC Order No. S-31090.

¹⁷ LPSC Order No. S-31097.

¹⁸ LPSC Order No. S-31222.

¹⁹ See *International Authorizations Granted*, Public Notice, DA 09-2071 (rel. Sept. 17, 2009).

(d) That the Company obtain a certification from each Public Safety Answering Point ("PSAP") where Virgin Mobile provides Lifeline service confirming that Virgin Mobile provides its customers with 911 and E911 access or if, within 90 days of Virgin Mobile's request for certification, a PSAP has not provided the certification and the PSAP has not made an affirmative finding that Virgin Mobile does not provide its customers with access to 911 and E911 service within the PSAP's service area, Virgin Mobile may self-certify that it meets the basic and E911 requirements;

(e) That the Company require its customers to self-certify at time of service activation and annually thereafter that they are the head of household and receive Lifeline-supported service only from Virgin Mobile; and

(f) That the Company establish safeguards to prevent its customers from receiving multiple Virgin Mobile Lifeline subsidies at the same address.²⁰

On February 18, 2010 Virgin Mobile filed this request for designation as an ETC carrier within the territory of AT&T, a non-rural carrier, *and* in areas served by rural telephone companies for the sole purpose of providing Lifeline service to qualifying Louisiana customers. Notice of the request was published in the Commission's Official Bulletin dated March 5, 2010, with an intervention period of twenty-five (25) days. On March 30, 2010 the Small Company Committee of the Louisiana Telecommunications Association ("SCC"), on behalf of itself and each of its members,²¹ filed notice of intervention pursuant to Rule 10 of this Commission's Rules of Practice and Procedure. This matter was thereafter converted from an "S" docket to a "U" docket.

A status conference was conducted before Administrative Law Judge Michelle Finnegan on May 4, 2010, at which time Virgin Mobile announced that it would submit an amendment to its original Petition stipulating to the five commitments contained in the Commission's Order No. S-31097 designating TracFone Wireless as a limited ETC for the sole purpose of obtaining federal low-income/Lifeline universal service support. Specifically, Virgin Mobile agreed to stipulate to the following conditions:

²⁰ See *Federal-State Joint Board on Universal Service; In the Matter of Virgin Mobile USA, L.P. Petition for Forbearance from 47 U.S.C. § 214(e)(1)(A); Petitions for Designation as an Eligible Telecommunications Carrier in the States of New York, North Carolina, Pennsylvania, Tennessee and Virginia*, Order, FCC 09-18, at 7 (rel. March 5, 2009) ("Virgin Mobile Forbearance Order").

²¹ The members of the SCC that participated in this docket were: Cameron Telephone Company, LLC; Campti-Pleasant Hill Telephone Co., Inc.; CenturyTel of Chatham, LLC; CenturyTel of Central Louisiana, LLC; CenturyTel of East Louisiana, LLC; CenturyTel of Evangeline, LLC; CenturyTel of North Louisiana, LLC; CenturyTel of Northwest Louisiana, Inc.; CenturyTel of Ringgold, LLC; CenturyTel of Southeast Louisiana, Inc.; CenturyTel of Southwest Louisiana, LLC; Delcambre Telephone Co., LLC; East Ascension Telephone Co., LLC; Elizabeth Telephone Company, LLC; Kaplan Telephone Co., Inc.; Lafourche Telephone Co., Inc.; Northeast Louisiana Telephone Co., Inc.; Reserve Telephone Co., Inc.; and Star Telephone Co., Inc.

- 1) Virgin Mobile's ETC designation shall be limited to and for the sole purpose of obtaining federal Lifeline universal service support;
- 2) Virgin Mobile shall be ineligible to receive federal high cost universal service support;
- 3) If the Commission designates Virgin Mobile as an ETC, such designation shall have no effect on the definition of rural LEC study areas;
- 4) If the Commission designates Virgin Mobile as an ETC, such designation will have no ability to affect the designation of rural LEC study areas on a going forward basis; and
- 5) Virgin Mobile will comply with the requirements of the Commission's General Order No. R-27841, including the reporting requirements established therein.

On May 14, 2010, Virgin Mobile submitted an Amendment to Petition and Stipulation, stipulating to the above-listed commitments in addition to the previous commitments, limitations and requests included in the Company's original Petition.

On May 21, 2010, the SCC submitted a Non-Opposition to Virgin Mobile's Amended Petition and Stipulation, in which the SCC requested that the instant matter be reverted to Staff Level for conclusion. Because no disputed issue remained between Staff, Virgin Mobile or the SCC, Staff and the Company filed a Motion to Revert to Staff Level Proceeding on May 25, 2010. On June 7, 2010 Administrative Law Judge Finnegan issued a Ruling on Motion to Revert to Staff Level Proceeding, granting the parties' Motion and reverting the instant matter to an uncontested Staff level proceeding that would thereafter be classified as an "S" docket.

As set forth in the application, Virgin Mobile is a wholly owned subsidiary of Sprint, and offers all of the supported services required by the act through Sprint's facilities. Additionally, Virgin Mobile will advertise the availability of these services and the charges for those services through media of general distribution as required by FCC Rules. Furthermore, Virgin Mobile will comply with the public interest requirements established by the Commission in General Order No. R-27841, including the reporting requirements.

Staff's Recommendation and Commission Consideration

After reviewing Virgin Mobile's application, Staff was of the opinion that the request should be granted and that Virgin Mobile should be designated as a limited ETC for the sole purpose of obtaining federal low income/Lifeline universal service fund support, subject to the

conditions enumerated in its May 14, 2010 Amendment to Petition and Stipulation. Staff noted that Virgin Mobile specifically requested ETC status only for the purpose of receiving low-income universal support, i.e. Lifeline. Staff noted that Virgin Mobile seeks designation as an ETC both in areas served by AT&T, a non-rural carrier, and in areas served by rural telephone companies. The Commission's General Order No. R-27841 establishes public interest requirements that are mandatory for common carriers seeking designation as ETCs in high cost rural service areas. Although Virgin Mobile is seeking only low-income/Lifeline support and is not seeking high cost universal service support, the Company expressed its non-opposition to complying with the public interest requirements of General Order No. R-27841.

Staff also observed that the FCC imposed the conditions of the *Virgin Mobile Forbearance Order* upon the Company at a time when Virgin Mobile was a pure reseller of CMRS services, and that Virgin Mobile is now a wholly-owned subsidiary of Sprint that will be offering services through Sprint's existing Louisiana network infrastructure. Accordingly, Staff recommended that the Company should not be subject to the PSAP certification requirement imposed by the FCC in order to be certified as a limited ETC in the state of Louisiana.

Furthermore, in its Report and Order released March 17, 2005, FCC Docket No. 96-45, the FCC instructed states to conduct a public interest analysis regardless of whether the area sought is rural or non-rural. In its review, Staff concluded that the designation of Virgin Mobile as an ETC would be in the public interest, as the request is very similar to those previously granted by the Commission, particularly those involving CLECs. However, because Staff recommended that Virgin Mobile be designated as a limited ETC for the sole purpose of receiving low income/Lifeline support only, Staff recommended that Virgin Mobile's designation as an ETC have no effect on the definition of Rural LEC federal study areas, and should furthermore have no ability to affect such study areas.²²

Finally, as Lifeline funds are designed only to lower the costs of telecommunications services on an eligible per-customer basis, the designation of Virgin Mobile as an ETC will have no impact on the size of the universal service fund.

Accordingly, Staff recommended that Virgin Mobile be designated as a limited ETC for the sole purpose of obtaining federal low income/Lifeline universal service fund support, subject

²² Staff's analysis, recommendations and conclusions were limited to the facts of this docket and were based and conditioned on the fact that Virgin Mobile is not seeking and does not qualify for any federal High Cost USF support.

to the following conditions previously stipulated to by the Company in its May 14, 2010

Amendment to Petition and Stipulation:

- 1) That Virgin Mobile's designation be limited to Lifeline universal service support;
- 2) That Virgin Mobile be ineligible to receive federal high cost universal service support;
- 3) That Virgin Mobile's designation as an ETC will have no effect on the definition of rural LEC study areas;
- 4) That Virgin Mobile's designation as an ETC will have no ability to affect the designation of rural LEC study areas on a going forward basis; and
- 5) That Virgin Mobile be required to comply with the requirements of the Commission's General Order no. R-27841, including the reporting requirements established therein.

Staff's Recommendation was considered by the Commission at its June 23, 2010 Business and Executive Session. On motion of Commissioner Skrmetta, seconded by Commissioner Holloway, and unanimously adopted, the Commission voted to accept the Staff Recommendation and grant the request for designation as a limited ETC.

IT IS THEREFORE ORDERED THAT:

1. Virgin Mobile USA, L.P. is hereby designated as a limited ETC for the sole purpose of obtaining federal low-income/Lifeline universal service support, and said designation is limited to Lifeline universal service support only.
2. Virgin Mobile USA, L.P. shall be ineligible to receive federal high cost universal service support.
3. Virgin Mobile USA, L.P.'s designation as a limited ETC shall have no effect on the definition of rural LEC study areas.
4. Virgin Mobile USA, L.P.'s designation as a limited ETC shall have no ability to affect the designation of rural LEC study areas on a going forward basis.
5. Virgin Mobile USA, L.P. is required to comply with the requirements of the Commission's General Order No. R-27841, including the reporting requirements established therein.
6. This Order shall be effective immediately.

**BY ORDER OF THE COMMISSION
BATON ROUGE, LOUISIANA**

July 12, 2010

/s/ LAMBERT C. BOISSIERE, III
DISTRICT III
CHAIRMAN LAMBERT C. BOISSIERE, III

/s/ JAMES M. FIELD
DISTRICT II
VICE CHAIRMAN JAMES M. FIELD

/s/ FOSTER L. CAMPBELL
DISTRICT V
COMMISSIONER FOSTER L. CAMPBELL

/s/ ERIC F. SKRMETTA
DISTRICT I
COMMISSIONER ERIC F. SKRMETTA


EVE KAHAO GONZALEZ
SECRETARY

/s/ CLYDE C. HOLLOWAY
DISTRICT IV
COMMISSIONER CLYDE C. HOLLOWAY



Agenda Date: 08/04/10
Agenda Item: 4B

STATE OF NEW JERSEY
Board of Public Utilities
Two Gateway Center
Newark, NJ 07102
www.nj.gov/bpu/

TELECOMMUNICATIONS

IN THE MATTER OF VIRGIN MOBILE USA, LP)
PETITION FOR LIMITED DESIGNATION AS AN)
ELIGIBLE TELECOMMUNICATIONS CARRIER)

ORDER OF APPROVAL

DOCKET NO. TO10020093

Peter Lurie, Esq., for Virgin Mobile USA, L.P.

(SERVICE LIST ATTACHED)

BY THE BOARD:

By petition dated January 29, 2010, Virgin Mobile USA, LP ("Virgin Mobile" or "Company"), a wholly-owned subsidiary of Sprint-Nextel Corporation ("Sprint Nextel"), petitioned the New Jersey Board of Public Utilities ("Board" or "BPU") seeking approval to be designated as an Eligible Telecommunications Carrier ("ETC") solely to provide Lifeline service to qualified New Jersey consumers, pursuant to Section 214(e)(2) of the Communications Act, as amended by the Telecommunications Act of 1996. The Company will not seek approval for funding from the High Cost portion of the federal Universal Service Fund, nor for Link-Up funds, which are used to offset the initial installation of telephone service. Designation as an ETC would permit Virgin Mobile to receive universal service support for these services. Virgin Mobile requests the ETC designation for the entire State of New Jersey.

The Federal Communications Commission previously designated Virgin Mobile as an ETC for purposes of offering Lifeline service in the states of New York, North Carolina, Tennessee and Virginia.¹ In approving the Company's requests, the FCC determined that Virgin Mobile would "offer Lifeline-eligible consumers a choice of providers for accessing telecommunications services not available to such consumers today" and "expand participation of qualifying consumers" in the Lifeline program—a longstanding goal.² The FCC concluded that limited designation of Virgin Mobile as an ETC was in the public interest. Virgin Mobile has also been designated an ETC in the State of Michigan.³

¹ I/M/O Virgin Mobile USA, L.P. Petition for Forbearance from 47 U.S.C. §214(e)(1)(A); Petitions for Designation as an Eligible Telecommunications Carrier in the States of New York, Pennsylvania, Virginia North Carolina and Tennessee Order, 24 F.C.C.R. 3381 (rel. March 5, 2009) ("Forbearance Order").

² Forbearance Order, 24 F.C.C.R. at 3390, 3393.

³ I/M/O of the Application of Virgin Mobile USA, L.P. for Designation as an Eligible Telecommunications Carrier Pursuant to Section 214 (e) of the Telecommunications Act of 1996, Case U-15966, Opinion and Order (Dec. 1, 2009).

Section 214(e)(2) of the federal Telecommunications Act of 1996 authorizes state commissions to designate ETC status for federal universal service purposes. A telecommunications carrier may be designated as an ETC provided that the carrier demonstrates a commitment to: (a) offer the services that are supported by federal universal support mechanisms, and (b) advertise the availability of such services.

Virgin Mobile attests that it "[o]ffers the services that are supported by federal universal support mechanisms" using its own facilities, pursuant to the requirements of 47 C.F.R. § 54.201(d)(1). Virgin Mobile asserts that it will provide Lifeline-eligible customers 200 minutes of free monthly service. Additionally, Lifeline-eligible customers will be permitted to purchase additional usage cards at a rate of \$0.10 per minute. Text messaging is available at \$0.10 per message but is charged separately through prepaid purchases. Virgin Mobile's plan does not allow rollover minutes.

In addition, Virgin Mobile will provide Lifeline customers an Enhanced 911 ("E911") compatible handset at no cost. Virgin Mobile also asserts that its customers will always be able to contact 911 or E911 from their wireless handset, regardless of whether they have depleted their free Lifeline minutes or additional airtime.

Furthermore, Virgin Mobile asserts that it meets all the requirements for designation as an ETC. 47 C.F.R. § 54.101(a) requires the following services and functionality be provided: (1) Voice grade access to the public switched telephone network; (2) Local usage; (3) Dual tone multi-frequency signalling or its functional equivalent; (4) Single-party service or its functional equivalent; (5) Access to 911 or E911 emergency service (6) Access to operator services; (7) Access to interexchange service; (8) Access to directory assistance; and (9) Toll limitation for qualified low-income customers.

By letter dated May 27, 2010, , Advocates for Universal Access ("AUA"), an organization from Seattle, Washington,, filed a letter petition requesting intervention status and submitting comments on Virgin Mobile's petition. The group writes that while it supports Virgin Mobile's petition, it is concerned that Virgin Mobile's proposal ignores conditions of the FCC Forbearance Order. Specifically, AUA argues that Virgin Mobile should be ordered to adhere to the conditions in the Forbearance Order in order to ensure access to emergency services. AUA also seeks clarification on the cost of text messages and how they are paid and whether 800-numbers, customer service and/or information calls are charged against a customer's minutes.

By letter dated June 14, 2010, Virgin Mobile responded to the AUA stating that contrary to AUA's assertions, Virgin Mobile is a facilities-based provider, and as a wholly-owned subsidiary of Sprint Corporation, Virgin Mobile has beneficial use of Sprint's facilities and no resale agreement is in place. Therefore, Virgin Mobile argues, the Board has clear authority to grant the Company's request without the conditions previously applied to resale carriers. In addition, Virgin Mobile states that its customers have the same access to E911/911 services as any other Sprint customer, i.e., there are no additional steps required to determine the name or billing address on an account.

Lastly, Virgin Mobile argues that it has one of the most attractive Lifeline offerings in the market. Customers may purchase additional minutes when they exceed the free 200 minutes at a cost of \$0.10/minute and text messaging is available at a rate of \$0.10/text message on a prepaid basis. These additional minutes and text messages must be purchased in advance, so customers cannot inadvertently incur costs that they are unable to pay.

On July 8, 2010, Staff received an informal electronic message from the National Consumer Research Alliance ("NCRA") requesting that the Board direct Virgin Mobile to make texting part

of the free monthly allowance of minutes, allow unused minutes to roll over every month and make all Virgin Mobile to Virgin Mobile calls free.

DISCUSSION

To qualify as an ETC, a carrier must provide nine services identified in 47 C.F.R. § 54.101. The Board **FINDS** that the services Virgin Mobile states that it will provide to Lifeline-eligible customers satisfy the requirements of 47 U.S.C. Section 214(e) and 47 C.F.R. § 54.101. The services required to be provided under the law and those to be provided by Virgin Mobile are:

- 1) **Voice grade access to the public switched network** – Voice grade access enables a user of telecommunications services to transmit voice communications, including signaling the network that the caller wishes to place a call, and to receive voice communications, including receiving a signal indicating there is an incoming call. For the purposes of this part, bandwidth for voice grade access should be, at a minimum, 300 to 3,000 Hertz. Virgin Mobile states that it complies with this requirement by enabling customers to transmit voice communications, including signaling to the network that a caller wishes to place a call, and enabling customers to receive voice communications, including receiving a signal indicating there is an incoming call;
- 2) **Local usage** – Local usage means an amount of minutes of use of exchange service, provided free of charge to end users. Under Virgin Mobile's proposal, customers can send and receive local calls wherever Virgin Mobile provides service. Virgin Mobile includes local usage in its calling plan;
- 3) **Dual tone multi-frequency signaling or its functional equivalent** – Dual tone multi-frequency ("DTMF") is a method of signaling that facilitates the transportation of signaling through the network, which shortens call set-up time. According to Virgin Mobile, all handsets provided by Virgin Mobile are DTMF capable;
- 4) **Single-party service** – Single-party service permits users to have exclusive use of a wireline subscriber loop or access line for each call placed, or in the case of wireless telecommunications carriers, which use spectrum shared among users to provide service, a dedicated message path for the length of a user's particular transmission. Virgin Mobile provides customers with single-party access for the duration of every call, and it does not provide "multi-party" or "party-line" services;
- 5) **Access to emergency services** – Access to emergency services includes access to services, such as 911 or E911 provided by local governments or other public safety organizations. 911 or E911 is defined as a service that permits a telecommunications user, by dialing the three-digit code "911", to call emergency services through a PSAP operated by the local government. E911 is defined as a 911 service that includes the ability to provide automatic numbering information ("ANI"), which enables the PSAP to call back if the call is disconnected, and automatic location information ("ALI"), which permits emergency service providers to identify the geographic location of the calling party. Access to emergency services includes access to 911 and E911 services to the extent the local government in an eligible carrier's service area has implemented 911 or E911 systems;
- 6) **Access to operator services** – Access to operator services is defined as access to any automatic or live assistance to a consumer to arrange for billing and/or completion of a telephone call. Virgin Mobile contends that its customers have access to operator services;

- 7) Access to interexchange service – Access to interexchange service is defined as the use of the loop, as well as that portion of the switch that is paid for by the end user, or the functional equivalent of these network elements in the case of a wireless carrier, necessary to access an interexchange carrier's network. Virgin Mobile states that its customers are able to complete toll calls and are not charged separately for interexchange calls. Long distance calling is included in Virgin Mobile's service, with no additional charge to the customer;
- 8) Access to directory assistance – Access to directory assistance is a service that includes, but is not limited to, making available to customers, upon request, information contained in directory listings. Virgin Mobile states that all customers are able to reach directory assistance services from their handsets; and
- 9) Toll limitation for qualifying low-income consumers – Toll limitation or blocking restricts all direct dial toll access. There will be no toll limitation because Virgin Mobile provides a fixed number of minutes per month service, which means that there will be no disconnect for non-payment.

The Board has reviewed Virgin Mobile's petition for designation as an ETC in New Jersey, as well as additional documents filed with this Board and with the FCC. The Board is satisfied that Virgin Mobile has complied with the above requirements to be eligible as an ETC in New Jersey and Virgin Mobile has demonstrated its ability to provide the nine services identified in 47 C.F.R. § 54.101.

Virgin Mobile has provided an initial plan outlining their media advertising in order to advertise the offered Lifeline service, as required in 47 U.S.C. § 214(e)(1). Virgin Mobile will use retail outlets and other methods for Lifeline advertising and for customers to purchase its prepaid cards. The Company states that it will advertise the availability and rates for the services described above using media of general distribution in conformance with the regulations of the FCC. The Company advertises the availability of its services through newspapers, magazines, radio, the Internet, billboards and television. Virgin Mobile's third-party retail partners also heavily promote its services. According to the Company, these advertising campaigns have been highly effective in reaching low-income customers and promoting the availability of cost-effective wireless services to this consumer segment.

As a safeguard to prevent more than one Lifeline supported service per household, customers will not be able to receive Lifeline certification through a retail provider. Customers will have to contact Virgin Mobile directly to self-certify for Lifeline. Customers must self-certify, under penalty of perjury, that they qualify for Lifeline service either by being a participant of one of New Jersey's eligible programs, or because they are within the relevant threshold of income level.

The Board is satisfied that Virgin Mobile's petition for designation as an ETC for the limited purpose of Lifeline support eligibility should be approved subject to several conditions, as described below. These conditions, combined with Virgin Mobile's commitment to provide Lifeline service in New Jersey in accordance with its E911 obligations, convinces the Board that this optional service will be of value to eligible New Jersey customers.

In addition, the Board is satisfied that the issues raised by AUA and NCRA have been properly addressed by the recommended conditions and/or are competitive issues that will be addressed by the marketplace. Moreover, the Board FINDS that the conditions contained in this Order are necessary to ensure that customers of Virgin Mobile's Lifeline service have reliable access to 911 and E911 emergency services.

Therefore, the Board FINDS that Virgin Mobile has met all statutory and regulatory requirements for designation as an ETC. The Board also concludes that it has the authority to grant ETC status to wireless carriers. Section 214(e)(2) provides that a state commission shall designate as an ETC a carrier that meets the requirements of 47 U.S.C. §214(e)(1).

The Board HEREBY APPROVES the petition and ORDERS that Virgin Mobile be designated an ETC and approved to offer Lifeline service.

The request for ETC designation to offer Lifeline service is HEREBY APPROVED, subject to:

- Certification from each PSAP where Virgin Mobile provides Lifeline service, or from the state Office of Emergency Telecommunications Services on behalf of each PSAP in New Jersey, confirming that Virgin Mobile provides its customers with access to basic and E911 regardless of activation status and the availability of prepaid minutes. These certifications must be filed with the Board in this proceeding. Service shall not be provided to any Lifeline customer in an area where such certification has not been granted or received;
- Certification that the handsets to be provided to Virgin Mobile customers are E911 compliant;
- Each of Virgin Mobile's Lifeline customers in New Jersey will receive 200 minutes of airtime each month for all months in which the customer is enrolled in the program and any unused minutes will not roll over to the following month;
- Eligibility for participation in Virgin Mobile's Lifeline program will be based upon customer enrollment in one of the eight qualifying New Jersey public assistance programs. The eight qualifying programs are: Medicaid; Food Stamp Program; General Assistance ("GA"); Supplemental Security Income ("SSI"); Home Energy Assistance Program ("HEAP"); Lifeline Utility Credit/Tenants Lifeline Assistance; Pharmaceutical Assistance to the Aged and Disabled ("PAAD"); and Temporary Assistance to Needy Families/Work First New Jersey ("TANF/WFNJ"). Additionally those persons 65 or older whose household incomes are at or below 150% of the federal poverty level are also eligible.⁴ The eligibility requirements are subject to modification by the Board, and applicants will be required to self-certify under penalty of perjury that they are enrolled in one of those qualifying public assistance programs;
- Self-certification of Virgin Mobile's customers under penalty of perjury that they meet the eligibility requirements prior to service being activated and also annual certification that the customer is the head of household and is only receiving a Lifeline discount from Virgin Mobile and from no other carrier;
- Tracking of Lifeline customer's primary residential address and certification that there is only one customer receiving Lifeline at each residential address;

⁴ See I/M/O Petition by Warwick Valley Telephone Company for Approval to Provide Lifeline Services, BPU Docket No. TT97080605 (November 18, 1997); and I/M/O Application of Verizon New Jersey Inc. for Approval (i) of a New Plan for an Alternative Form of Regulation and (ii) to Reclassify Multi-Line Rate Regulated Business Services as Competitive Services, and Compliance Filing Application of Verizon New Jersey Inc. for Approval (i) of a New Plan for an Alternative Form of Regulation and (ii) to Reclassify Multi-Line Rate Regulated Business Services as Competitive Services, and Compliance Filing, BPU Docket No. TO01020095 (August 19, 2003), Attachment A.

- Virgin Mobile must deal directly with its customers to certify and verify Lifeline eligibility;
- Virgin Mobile shall ensure that 100% of federal universal service funds flow through directly to Lifeline customers. The Board reserves the right to conduct audits as needed to determine that the funds are used for permitted purposes;
- Virgin Mobile's ETC designation may, at any time, be suspended or revoked by order of the Board;
- Virgin Mobile shall make all service offerings, including Lifeline, available on its Web site;
- Virgin Mobile shall file, within 30 days of approval of its ETC application, its terms and conditions of service, applicable to qualifying low-income customers. Further, Virgin Mobile shall have the ongoing obligation to notify the Board of any future changes to its rates, terms or conditions;
- Virgin Mobile shall file, within 30 days of approval of its ETC application, proposed language to be used in all advertising of Lifeline service and on its Web site. The language should include information directing customers to the Board's Telecommunications Division for complaints regarding any service issues. The Staff shall have the right to review and make changes to any proposed language;
- Virgin Mobile shall file the following information on August 31, 2011 (and updated information every August 31 thereafter), unless otherwise ordered by the Board:
 1. Virgin Mobile shall report all instances in which it receives customer complaints. Virgin Mobile shall be required to provide the nature and number of customer complaints, and their resolution annually on August 31, 2011, and updated every August 31 thereafter.
 2. Actual total federal funds received in 2010, and estimated total funds to be received in 2011.
- Virgin Mobile must reach satisfactory resolution of complaints filed with the Board's Telecommunications Division on a timely basis.
- Virgin Mobile must provide its customers with access to live customer assistance operators.

Based upon the above conditions, the Board **HEREBY DESIGNATES** Virgin Mobile as an ETC solely to provide Lifeline service to all qualifying customers who request such service in New Jersey.

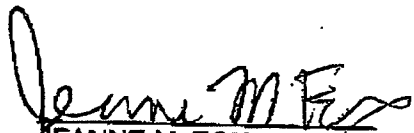
Virgin Mobile shall not seek access to funds from the federal Universal Service Fund for the purpose of providing service to high cost areas.


This ETC Designation is issued on the representation that the statements contained in the Petitioner's application are true, and the undertakings therein contained shall be adhered to and be enforceable unless a specific waiver is granted by the Board pursuant to the authority contained in N.J.S.A. 48:1-1 et seq.


DATED: 8/4/10


BOARD OF PUBLIC UTILITIES
BY:


LEE A. SOLOMON
PRESIDENT


JEANNE M. FOX
COMMISSIONER


JOSEPH L. FIORDALISO
COMMISSIONER

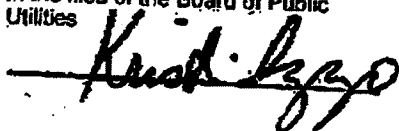

NICHOLAS ASSELTA
COMMISSIONER


ELIZABETH RANDALL
COMMISSIONER

ATTEST:


KRISTI IZZO
SECRETARY

I HEREBY CERTIFY that the within document is a true copy of the original in the files of the Board of Public Utilities



**VIRGIN MOBILE USA, LP. DESIGNATION AS AN
ELIGIBLE TELECOMMUNICATIONS CARRIER IN NEW JERSEY**

BPU DOCKET NO. TO10020093

Anthony Centrella, Director
Division of Telecommunications
Board of Public Utilities
Two Gateway Center
Newark, NJ 07102

John DeLuca
Harold Bond
Division of Telecommunications
Board of Public Utilities
Two Gateway Center
Newark, NJ 07102

Lawanda Gilbert, Esq.
Counsel's Office
Board of Public Utilities
Two Gateway Center
Newark, NJ 07102

Jessica Campbell
Division of Law
124 Halsey Street, 5th Floor
Newark, NJ 07102

Christopher White
Ratepayer Advocate
Division of Rate Counsel
31 Clinton Street, 11th Floor
P.O. Box 46005
Newark, NJ 07101

Peter Lurie, Esq.
Virgin Mobile USA, L.P.
10 Independence Blvd.
Warren, NJ 07059

John M. Beahn
Skadden, Arps, Slate, Meagher, & Flom LLP
1140 New York Avenue, N.W.
Washington, D.C. 20005

DOCKET NO. 38056

**APPLICATION OF VIRGIN MOBILE
USA, L.P. FOR DESIGNATION AS AN
ELIGIBLE TELECOMMUNICATIONS
CARRIER IN THE STATE OF TEXAS
FOR THE LIMITED PURPOSE OF
OFFERING LIFELINE SERVICES**

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§

**PUBLIC UTILITY COMMISSION
OF TEXAS**

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FILING CLERK

**ORDER NO. 6
NOTICE OF APPROVAL FOR DESIGNATION AS
AN ELIGIBLE TELECOMMUNICATIONS CARRIER**

Procedural History

On March 15, 2010, Virgin Mobile USA, L.P. (Virgin Mobile or the Company) filed an application for limited designation as an eligible telecommunications carrier (ETC) throughout the State of Texas pursuant to 47 U.S.C. § 214(e) and P.U.C. SUBST. R. 26.418. Virgin Mobile seeks ETC designation only for the limited purpose of participation in the Universal Service Fund's (USF) Lifeline program as a prepaid wireless carrier. Virgin Mobile is not seeking authority to offer services in high-cost areas under the Federal Universal Service Fund (FUSF) or the Texas Universal Service Fund (TUSF).

Virgin Mobile is seeking limited ETC designation in all wire centers of the non-rural incumbent local exchange carriers AT&T Texas and Verizon as identified in Exhibit 2 of the original application and Exhibit 5 of the supplemental application. Virgin Mobile is a facilities-based commercial mobile radio service (CMRS) provider and is a wholly owned subsidiary of Sprint Nextel Corporation.

On March 16, 2010, the Commission issued Order No. 1 in this proceeding which established a procedural schedule, including deadlines for comment, motions to intervene, and publication of notice in the *Texas Register*. Notice was published in the *Texas Register* on March 26, 2010. The Applicant provided a copy of the application to the Office of Public Utility Counsel at the time of filing. Pursuant to P.U.C. SUBST. R. 26.418(g)(2)(A)(i), the effective date shall be no earlier than 30 days after the filing date of the application or 30 days after notice is completed, whichever is later.

On March 29 and April 2, 2010, Virgin Mobile filed supplements to the application. Order No. 4 issued on April 22, 2010, abated this docket. On May 6, 2010, the Applicant filed a request to unabate this proceeding. On May 13, 2010, Commission Staff filed its final recommendation requesting administrative approval of the application of Virgin Mobile for ETC status for the limited purpose of providing Lifeline service based on the following:

Designation as Eligible Telecommunications Carrier

To qualify for ETC status, a carrier must meet the following criteria:¹

1. The carrier must be a common carrier, as that term is defined by the Federal Telecommunications Act of 1996 (FTA), Section 3(10).
2. The carrier must offer the following services² using its own facilities or a combination of its own facilities and the resale of another carrier's services:³
 - (a) voice grade access to the public switched network;
 - (b) local usage;
 - (c) dual tone multi frequency signaling or its functional equivalent;
 - (d) single party service or its equivalent;
 - (e) access to 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 customers.
3. The carrier must advertise the availability of the above services and charges for the services in a media of general distribution.⁴
4. The carrier must provide Lifeline and Link Up support, and may not collect a deposit from a customer receiving such support if the customer also elects toll blocking.⁵
5. Pursuant to 47 C.F.R. 54.201(c), prior to designating an additional eligible telecommunications carrier for an area served by a rural telephone company, the state commission shall find that the designation is in the public interest.

¹ 47 C.F.R. § 54.201(b)-(d).

² 47 C.F.R. § 54.101.

³ 47 C.F.R. § 54.201.

⁴ 47 C.F.R. § 54.201.

⁵ 47 C.F.R. § 54.405.

Virgin Mobile meets all of the requirements to be designated as an ETC. As a wholly owned subsidiary of Sprint Nextel, Virgin Mobile will provide the above referenced services throughout the entire proposed study area using its own facilities. Virgin Mobile will serve the public interest by providing Texas consumers, especially low-income consumers, with affordable and comparable telecommunications services.

Ordering Paragraph

In accordance with Commission Staff's recommendation and for all the reasons stated therein, pursuant to the FTA § 214(e)(2) and P.U.C. SUBST. R. 26.418, Virgin Mobile's application for limited ETC designation, as supplemented, is **APPROVED**.

SIGNED AT AUSTIN, TEXAS the 18th day of May 2010.

PUBLIC UTILITY COMMISSION OF TEXAS



ANDREW KANG
ADMINISTRATIVE LAW JUDGE

STATE OF MICHIGAN
BEFORE THE MICHIGAN PUBLIC SERVICE COMMISSION

* * * * *

In the matter of the application of)	
VIRGIN MOBILE USA, L.P. , for designation)	
as an eligible telecommunications carrier)	Case No. U-15966
pursuant to Section 214(e)(2) of the)	
Telecommunications Act of 1996.)	
_____)	

At the March 18, 2010 meeting of the Michigan Public Service Commission in Lansing,
Michigan.

PRESENT: Hon. Orjiakor N. Isiogu, Chairman
Hon. Monica Martinez, Commissioner
Hon. Greg R. White, Commissioner

ORDER

On April 29, 2009, Virgin Mobile USA, L.P. (Virgin Mobile), filed an application under Section 214(e)(2) of the federal Telecommunications Act of 1996 (FTA), 47 USC § 214(e)(2), for designation as an eligible telecommunications carrier (ETC) for purposes of universal service fund (USF) support. Virgin Mobile filed amended applications on July 21, 2009, August 3, 2009, and September 25, 2009. On December 9, 2009, the Commission issued an order approving the ETC application for Lifeline support, upon completion of conditions.

On February 16, 2010, Virgin Mobile filed an application to amend or replace the existing ETC designation, to correct and expand the service area of its Lifeline service and to enable Virgin Mobile's ETC designation to reflect its acquisition by Sprint Nextel Corporation (Sprint Nextel),

as a facilities-based wireless carrier. Virgin Mobile filed an amended application on March 1, 2010.

After reviewing Virgin Mobile's application, the Commission finds that Virgin Mobile satisfies the requirements for designation as a facilities-based ETC. 47 USC 214(e)(1)(A). The Commission also finds that Virgin Mobile's request to expand its Lifeline service to the additional rate centers found in the amended Exhibit 4 submitted March 1, 2010, should be granted because the Commission is persuaded that ETC designation for Virgin Mobile promotes the availability of universal service and is in the public interest. Thus, the application filed by Virgin Mobile for ETC designation for purposes of receiving Low Income USF support for Lifeline is granted. With the change in ETC designation from a wireless reseller to a facilities-based carrier, all of the conditions listed on page 4 of the December 1, 2009 Commission order are dismissed.

Virgin Mobile, under this designation, will comply with enhanced service requirements, as required by the FCC's Report and Order (FCC 05-46), CC Docket 96-45, and the Commission's October 18, 2005 order in Case No. U-14530. This ETC designation will be for the remainder of 2010. Virgin Mobile will need to reapply for this designation for 2011, and annually thereafter.

Moreover, the Commission concludes, as it did in its November 20, 2001 order in Case No. U-13145, that it need not solicit comment on the application, which would only further delay the action on this application.

THEREFORE, IT IS ORDERED that the application filed by Virgin Mobile USA, L.P., for designation as an eligible telecommunications carrier for purposes of Lifeline universal service fund support is granted.

The Commission reserves jurisdiction and may issue further orders as necessary.

Any party desiring to appeal this order must do so by the filing of a claim of appeal in the Michigan Court of Appeals within 30 days of the issuance of this order, under MCL 484.2203(12).

MICHIGAN PUBLIC SERVICE COMMISSION

Orjiakor N. Isiogu, Chairman

Monica Martinez, Commissioner

Greg R. White, Commissioner

By its action of March 18, 2010.

Mary Jo Kunkle, Executive Secretary

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Petition for limited designation as eligible telecommunications carrier (ETC) by Virgin Mobile USA, L.P.	DOCKET NO. 090245-TP ORDER NO. PSC-10-0444-CO-TP ISSUED: July 12, 2010
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CONSUMMATING ORDER

BY THE COMMISSION:

By Order No. PSC-10-0323-PAA-TP, issued May 19, 2010, this Commission proposed to take certain action, subject to a Petition for Formal Proceeding as provided in Rule 25-22.029, Florida Administrative Code. On June 9, 2010, Organize Now, Lloyd Moore, and Gracie Fowler filed a Petition for Formal Proceeding disputing Order PSC-10-0323-PAA-TP. On July 12, 2010, Organize Now, Lloyd Moore, and Gracie Fowler filed a Notice of Withdrawal of Petition for Formal Proceeding. It is, therefore,

ORDERED by the Florida Public Service Commission that Order No. PSC-10-0323-PAA-TP has become effective and final. It is further

ORDERED that this docket shall be closed.

By ORDER of the Florida Public Service Commission this 12th day of July, 2010.

/s/ Ann Cole

ANN COLE

Commission Clerk

This is an electronic transmission. A copy of the original signature is available from the Commission's website, www.floridapsc.com, or by faxing a request to the Office of Commission Clerk at 1-850-413-7118.

(SEAL)

TLT

ORDER NO. PSC-10-0444-CO-TP
DOCKET NO. 090245-TP
PAGE 2

NOTICE OF FURTHER PROCEEDINGS OR JUDICIAL REVIEW

The Florida Public Service Commission is required by Section 120.569(1), Florida Statutes, to notify parties of any judicial review of Commission orders that is available pursuant to Section 120.68, Florida Statutes, as well as the procedures and time limits that apply. This notice should not be construed to mean all requests for judicial review will be granted or result in the relief sought.

Any party adversely affected by the Commission's final action in this matter may request judicial review by the Florida Supreme Court in the case of an electric, gas or telephone utility or the First District Court of Appeal in the case of a water and/or wastewater utility by filing a notice of appeal with the Office of Commission Clerk and filing a copy of the notice of appeal and the filing fee with the appropriate court. This filing must be completed within thirty (30) days after the issuance of this order, pursuant to Rule 9.110, Florida Rules of Appellate Procedure. The notice of appeal must be in the form specified in Rule 9.900(a), Florida Rules of Appellate Procedure.

"REVISED"

State of Florida



Public Service Commission

**CAPITAL CIRCLE OFFICE CENTER • 2540 SHUMARD OAK BOULEVARD
TALLAHASSEE, FLORIDA 32399-0850**

-M-E-M-O-R-A-N-D-U-M-

DATE: May 6, 2010 ~~April 23, 2010~~

TO: Office of Commission Clerk (Cole)

FROM: Division of Regulatory Analysis (Beard, Casey)
Office of the General Counsel (Tan)

RE: Docket No. 090245-TP -- Petition for limited designation as eligible telecommunications carrier (ETC) by Virgin Mobile USA, L.P.

AGENDA: 05/18/10 ~~05/04/10~~ -- Regular Agenda -- Proposed Agency Action - Interested Persons May Participate

COMMISSIONERS ASSIGNED: All Commissioners

PREHEARING OFFICER: Argenziano

CRITICAL DATES: None

SPECIAL INSTRUCTIONS: None

FILE NAME AND LOCATION: S:\PSC\RAD\WP\090245.RCM.05-18-10.DOC

Case Background

On March 13, 2007, the Florida Public Service Commission (FPSC or Commission) addressed the issue of whether or not the FPSC has jurisdiction to designate commercial mobile radio service (CMRS) providers as eligible telecommunications carriers (ETCs)¹. By Order No. PSC-07-0288-PAA-TP, issued April 3, 2007, in Docket Nos. 060581-TP and 060582-TP, the FPSC found that with the enactment of Section 364.011, Florida Statutes (F.S.), the Florida Legislature granted the FPSC limited authority over CMRS providers for those matters specifically authorized by federal law. Therefore, pursuant to Section 214(e)(2) of the

¹ ETC designation allows companies to receive high-cost and low-income monies from the Federal Universal Service Fund.

Telecommunications Act of 1996 (the Act), which authorizes states to designate ETC carriers, the FPSC has jurisdiction over CMRS providers for the purpose of considering ETC petitions.

By Order 09-18, released March 5, 2009, the Federal Communications Commission (FCC) designated Virgin Mobile as a limited ETC in New York, North Carolina, Tennessee, and Virginia for the purpose of receiving only Lifeline support from the USF. Virgin Mobile has pending ETC designation petitions at the FCC for Alabama, Connecticut, Delaware, New Hampshire, and the District of Columbia. Virgin Mobile also has pending state applications for ETC status in California and Texas.

On April 29, 2009, Virgin Mobile USA, L.P. (Virgin Mobile) filed a petition with the FPSC for limited designation as an ETC to receive universal service Lifeline support in the State of Florida. Virgin Mobile was not seeking high-cost funds from the Universal Service Fund (USF). On April 1, 2010, that petition was withdrawn and an amended petition was filed.

Virgin Mobile is a wireless pre-paid telephone service provider. In 2002, Virgin Mobile was established as a joint venture between Sprint-Nextel and the Virgin Group. Virgin Mobile was established to focus on the pay-as-you-go or prepaid market. Sprint-Nextel serves as the backbone for Virgin Mobile's service, including the network infrastructure and wireless transmission facilities. In November 2009, Sprint-Nextel completed its acquisition as the new owner of Virgin Mobile.

As a result of the acquisition, Virgin Mobile attests that it is a wholly owned subsidiary of Sprint-Nextel. Virgin Mobile has acknowledged to staff that Virgin Mobile operates as a facilities-based carrier and no longer resells services in the State of Florida. Prior to the November 2009 acquisition, Virgin Mobile filed a petition with the FCC seeking forbearance from the facilities-based requirements in Section 214(e)(1)(A), which requires that a carrier be at least, in part, facilities-based to be eligible for designation as an ETC. By Order 09-18, issued March 5, 2009, in Docket 96-45, the FCC granted Virgin Mobile forbearance from the facilities-based requirement. Virgin Mobile attests that since it is no longer a reseller, the forbearance is no longer applicable.

Similar proceedings have taken place in Michigan, where the Michigan PSC stated in a March 18, 2010 Order that, "After reviewing Virgin Mobile's application, the Commission finds that Virgin Mobile satisfies the requirements for designation as a facilities-based ETC. 47 USC 214(e)(1)(A). . . . Thus, the application filed by Virgin Mobile for ETC designation for purposes of receiving Low Income USF support for Lifeline is granted. With the change in ETC designation from a wireless reseller to a facilities-based carrier, all of the conditions listed on page 4 of the December 1, 2009 Commission order are dismissed." A Virgin Mobile ETC designation petition in Michigan was approved by the Michigan PSC on December 1, 2009.

On April 14, 2010, the Maryland Public Service Commission (MPSC) reviewed Virgin Mobile's petition for designation as an ETC at its scheduled Administrative Meeting. At that meeting, the MSPC granted Virgin Mobile designation as an ETC following a 30-day comment period.

On April 19, 2010, TracFone Wireless Inc., (TracFone) and Capital Area Community Services, Inc. (CACS) filed a joint petition for Leave to Intervene and Joint Petition for rehearing in Michigan regarding the recent decision by Michigan to grant Virgin Mobile ETC designation. TracFone and CACS are not questioning the designation of Virgin Mobile as an ETC, but are questioning the criteria Virgin Mobile has to comply with now that it is a wholly owned subsidiary instead of a reseller.

On May 3, 2010, TracFone filed “Comments in Opposition to Virgin Mobile’s Amended Eligible Telecommunications Carrier Petition.” Advocates for Universal Access (AUA)² filed a “request for reconsideration and demand for a public comment period,” and Virgin Mobile filed responses to TracFone’s “Comments in Opposition.” On May 5, 2010, Virgin Mobile filed a “Response to Advocates for Universal Access Comments.” The comments and responses are addressed within this recommendation.

The Commission has jurisdiction pursuant to Section 214(e)(2) of the Act, Sections 364.10(2) and 364.11, F.S., to address a petition by a CMRS provider seeking designation as an ETC.

² Advocates for Universal Access asserts it is “a wireless industry watchdog formed around the principle that every American should have access to an emergency mobile phone and a plan they understand.” It was incorporated in the State of Washington on March 26, 2010, and is a “for profit” corporation, but not registered in Florida.

Discussion of Issues

Issue 1: Should Virgin Mobile be granted limited ETC status in Florida for the purpose of offering Lifeline discounts to qualifying consumers in Florida?

Recommendation: Yes. Staff recommends that Virgin Mobile be granted limited ETC designation status in the AT&T, Verizon, and CenturyLink wire centers listed in Attachment B of this recommendation for the sole purpose of offering Lifeline discounts to qualifying consumers in Florida. Granting of ETC designation should be contingent on Virgin Mobile providing the following:

- E911 compliant handsets should be provided to Virgin Mobile's new Lifeline customers and Virgin Mobile should replace any non-compliant handsets for its existing customers who are approved as Lifeline customers at no charge;
- Each Lifeline customer shall receive 200 free anytime minutes each month;
- Self-certification of Virgin Mobile Lifeline customers under penalty of perjury once service has been activated. In addition to the FPSC's annual Lifeline verification eligibility requirement, annual certification verifying that the head of household is only receiving Lifeline discounts from Virgin Mobile;
- Tracking of Lifeline customer's primary residential address and certification that there is only one customer receiving Virgin Mobile Lifeline at each residential address;
- Virgin Mobile should deal directly with its customers who do not utilize the Lifeline Automatic Enrollment function, to certify and verify Lifeline eligibility; and
- Submission of a quarterly report showing the number of customers who have been deactivated for not having any activity on their phone in a 60-day period, not passing annual verification, and voluntarily being deactivated.

(Beard, Casey)

Staff Analysis: Under FCC rules, state commissions have primary responsibility to designate providers as ETCs.³ Designation as an ETC is required in order for a provider to be eligible to receive monies from the federal USF. Section 254(e) of the Act provides that "only an eligible telecommunications carrier designated under Section 214(e) shall be eligible to receive specific federal universal service support."⁴ According to Section 214(e)(1), a common carrier designated as an ETC must offer and advertise the services supported by the federal Universal Service mechanisms throughout a designated service area.

³ 47 U.S.C. Section 214(e)(2), 47 CFR Section 54.201(b).

⁴ 47 U.S.C. Section 254(e)(2).

ETC Certification Requirements

The Code of Federal Regulations (CFR) addresses a state commission's responsibilities related to an ETC designation:⁵

Upon request and consistent with the public interest, convenience, and necessity, the state commission may, in the case of an area served by a rural telephone company, and shall, in the case of all other areas, designate more than one common carrier as an eligible telecommunications carrier for a service area designated by the state commission, so long as each additional requesting carrier meets the requirements of paragraph (d) of this section. Before designating an additional eligible telecommunications carrier for an area served by a rural telephone company, the state commission shall find that the designation is in the public interest.

To qualify as an ETC, a carrier must provide the nine services identified in 47 CFR 54.101 throughout the service area for which designation is received either using its own facilities or a combination of its own facilities and resale of another carrier's facilities. The services are:

- (1) Voice grade access to the public switched network Voice grade access is defined as a functionality that enables a user of telecommunications services to transmit voice communications, including signaling the network that the caller wishes to place a call, and to receive voice communications, including receiving a signal indicating there is an incoming call;
- (2) Local Usage Local usage indicates the amount of minutes of use of exchange service, provided free of charge to end users;
- (3) Dual-tone multi-frequency signaling or its functional equivalent Dual-tone multi-frequency ("DTMF") is a method of signaling that facilitates the transportation of signaling through the network, thus shortening call set-up time;
- (4) Single-party service or its functional equivalent Single-party service is telecommunications service that permits users to have exclusive use of a wireline subscriber loop or access line for each call placed, or in the case of wireless telecommunications carriers which use spectrum shared among users to provide service, a dedicated message path for the length of a user's particular transmission;
- (5) Access to emergency services Access to emergency services includes access to services, such as 911 and enhanced 911, provided by local governments or other public safety organizations;

⁵ 47 CFR Section 54.201(c)

- (6) Access to operator services Access to operator services is defined as access to any automatic or live assistance to a consumer to arrange for billing and/or completion of a telephone call;
- (7) Access to interexchange service Access to interexchange service is defined as the use of the loop, as well as that portion of the switch that is paid for by the end user, or the functional equivalent of these network elements in the case of a wireless carrier, necessary to access an interexchange carrier's network;
- (8) Access to directory assistance Access to directory assistance is defined as access to a service that includes, but is not limited to, making available to customers, upon request, information contained in directory listings; and
- (9) Toll limitation for qualifying low-income consumers Toll limitation or blocking restricts all direct-dial toll access.

In addition to providing the above services, 47 CFR 54.405(b) specifies that ETCs must publicize the availability of Lifeline service in a manner reasonably designed to reach those likely to qualify for the service.

Additional ETC Certification Requirements

In addition to requiring the above services, the FCC, on March 17, 2005, issued a Report and Order that established additional criteria that all ETC applicants must satisfy in order to be granted ETC status by the FCC. In this Order, the FCC determined that an ETC applicant must also demonstrate:

- 1) a commitment and ability to provide the supported services throughout the designated area;
- 2) the ability to remain functional in emergency situations;
- 3) ability to satisfy consumer protection and service quality standards;
- 4) provision of local usage comparable to that offered by the incumbent LEC; and
- 5) an acknowledgement that the applicant may be required by the FCC to provide equal access if all other ETCs in the designated service area relinquish their designations pursuant to Section 214(e)(4) of the Act.

The FCC encouraged states to also adopt these criteria, and the FPSC has done so in Docket No. 010977-TL, by Order No. PSC-05-0824-FOF-TL, issued August 15, 2005.

Staff has reviewed Virgin Mobile's petition for designation as an ETC in Florida, as well as additional documents filed with the FPSC and with the FCC. Staff has verified that Virgin Mobile has complied with the above requirements to be eligible as an ETC in Florida and Virgin Mobile has demonstrated its ability to provide the nine services identified in 47 CFR 54.101 using resale services.

Facilities Requirement – Forbearance Petition

Only an ETC can be eligible to receive high-cost or low-income universal service support.⁶ To be eligible for ETC designation, a carrier must meet certain statutory requirements including offering service over its own facilities or a combination of its own facilities and resale of another carrier's service.⁷

On December 5, 2007, Virgin Mobile filed a petition⁸ with the FCC requesting forbearance from the facilities requirement since it was, at that time, a pure reseller of wireless services. On March 5, 2009, the FCC conditionally granted Virgin Mobile's request to forbear from the facilities requirement in New York, Virginia, North Carolina, and Tennessee.⁹ In the same order, the FCC conditionally granted Virgin Mobile's petitions for limited designation as an ETC eligible only to receive universal service Lifeline support in those four states.

Due to the Pennsylvania Public Utility Commission's assertion of jurisdiction over wireless ETC designations, the FCC dismissed without prejudice Virgin Mobile's petition for designation as an ETC in Pennsylvania. When a state asserts jurisdiction over wireless ETC designations, it is up to that state to decide whether or not the FCC facilities forbearance and ETC applicant compliance plan should be applicable in their state. In TracFone's FCC ETC designation order, the FCC acknowledged that the FPSC now has jurisdiction to consider CMRS applications for ETC designation and dismissed without prejudice the petition filed by TracFone seeking designation as an ETC in Florida.¹⁰ The FCC suggested that "Should the Florida Public Service Commission consider granting a petition by TracFone for designation as a limited ETC in Florida, we would encourage it to require TracFone to adhere to the compliance plan we approve herein." The FPSC considered the FCC's suggestion and chose to follow the same compliance plan which included the requirement of PSAP certification by TracFone.¹¹

Virgin Mobile was purchased by Sprint-Nextel in November 2009, and is now a wholly owned subsidiary of Sprint-Nextel. Virgin Mobile no longer purchases wholesale services from Sprint-Nextel. Virgin Mobile's revenues are now reported as Sprint-Nextel revenues on the Sprint-Nextel Securities and Exchange Commission 10-K filing, and on form 499 at the Universal Service Administrative Company.¹² Staff believes Virgin Mobile is now a facilities-

⁶ 47 U.S.C. § 254(e).

⁷ 47 CFR §54.201(d)

⁸ Virgin Mobile USA, L.P. Petition for Forbearance, CC Docket No. 96-45 (filed Dec. 5, 2007).

⁹ In the Matter of Virgin Mobile USA L.P. Petition for Forbearance from 47 U.S.C. §214(e)(1)(A), CC Docket No. 96-45, FCC 09-18, ¶ 35, Released March 5, 2009.

¹⁰ In the Matter of Federal-State Joint Board on Universal Service, TracFone Wireless, Inc. Petition for Designation as an Eligible Telecommunications Carrier in New York, Florida, Virginia, Connecticut, Massachusetts, Alabama, North Carolina, Tennessee, Delaware, New Hampshire, Pennsylvania and the District of Columbia, CC Docket No. 96-45, FCC 08-100, Released April 11, 2008.

¹¹ In re: Application for designation as an eligible telecommunications carrier (ETC) by TracFone Wireless, Inc. for limited purpose of offering lifeline service to qualified households, Docket No. 070586-TP, Order No. PSC-08-0418-PAA-TP, issued June 23, 2008.

¹² All intrastate, interstate and international providers of telecommunications within the United States, with very limited exceptions, must file the FCC Form 499-A Telecommunications Reporting Worksheet. The Form 499-A is used to "true up" universal service billings. The data from the form is also shared with the administrators of the

based wireless provider and forbearance from the facilities requirement is unnecessary in this docket.

Comments Received

TracFone

On May 3, 2010, TracFone filed "Comments in Opposition to Virgin Mobile's Amended Eligible Telecommunications Carrier Petition." In its comments, TracFone asserts the following:

- Virgin Mobile's Status as a Wholly-Owned Subsidiary of Sprint Nextel Does Not Transform it into a Facilities-Based Carrier.
- The Staff's Memorandum Would Deny Florida Lifeline Consumers the Benefits of the Public Safety Safeguards Imposed by the FCC to Ensure that Low Income Households Have Access to 911 and Enhanced 911 Service.
- The Commission Lacks Authority to Determine that the FCC's Virgin Mobile Forbearance Order is No Longer Applicable.

TracFone requests that the Commission find that Virgin Mobile is not a facilities-based wireless carrier. TracFone also requests that if the Commission does designate Virgin Mobile as an ETC, it should find that Virgin Mobile remains subject to the conditions in the FCC's Virgin Mobile Forbearance Order, including the Public Safety Answering Point (PSAP) certification condition.

Advocates for Universal Access (AUA)

Also on May 3, 2010, AUA filed a "request for reconsideration and demand for a public comment period," asserting that "Virgin Mobile is not a facilities-based provider." AUA argues that "no Notice or Opportunity for Comment was presented to the general public," and "the PSC's memorandum recommending approval is pre-mature, because it was released prior to the end of the traditional 30-day comment period in which comments would typically be received by the public." AUA requests that the FPSC withdraw the staff recommendation and allow a 30-day comment period, and a 30-day response period prior to any recommendation.

On April 30, 2010, AUA also sent an e-mail (See Attachment D) to Florida County PSAP coordinators and other Florida E-911 persons stating:

The PSC is trying to take away your ability to oversee this local public safety function without your comments or input. And, the PSC could do this despite a Federal Communications Commission (FCC) order requiring Virgin Mobile to obtain PSAP Certifications. Tell the PSC that YOU oversee this vital public safety function, and not THEM. Tell the PSC to reconsider this issue because Virgin Mobile should obtain PSAP Certifications for Lifeline. Call the Florida PSC and tell them: Virgin Mobile is not a facilities-based carrier.

Telecommunications Relay Service (TRS), the Local Number Portability fund (LNP), the North American Numbering Plan Administrator fund (NANPA), and the FCC for assessment of other fees and obligations.

Virgin Mobile Response to TracFone's "Comments in Opposition"

On May 3, 2010, Virgin Mobile filed responses to TracFone's "Comments in Opposition." Virgin Mobile states that it is now, and has been, a facilities-based wireless provider since it was purchased by Sprint-Nextel in November 24, 2009. Virgin Mobile claims that "Virgin Mobile's Lifeline offer is more attractive to consumers and competitively superior to TracFone's SafeLink offer." Virgin Mobile asserts that TracFone's filing "is an attempt to forestall this potent competition, thereby effectively depriving lower-income Florida residents of competition and a more attractive wireless service."

Virgin Mobile believes "The Commission should reject TracFone's legally erroneous and procedurally defective arguments and instead designate Virgin Mobile as a facilities-based ETC and further the Commission's important work of assuring the availability of high-quality, low-cost telecommunications services to all Florida consumers." Virgin Mobile provided a signed Affidavit confirming that Virgin Mobile operates as a facilities-based carrier in the State of Florida under the FCC's interpretation of the requirements of Section 214(e)(1)(A) of the Communications Act of 1934, as amended. (See Attachment C).

Virgin Mobile Response to Advocates for Universal Access Comments

On May 5, 2010, Virgin Mobile filed a "Response to Advocates for Universal Access Comments." Virgin Mobile states that AUA's claim that it should be given "the traditional 30-day comment period" is misplaced, and that AUA cites no statute or rule requiring any such comment period. Virgin Mobile states that AUA's allegations of "challenges" for 911 access by Virgin Mobile customers are completely baseless. Virgin Mobile explains that when a Virgin Mobile customer calls 9-1-1, the call is received by Sprint Corporate Security, which maintains responsibility for routing to the appropriate PSAP, just as with any other 9-1-1 call made on Sprint's network. There is no handoff to any "exigent circumstances hotline for Virgin Mobile," as fabricated by AUA. Thus, there is no useful purpose for a separate certification of 9-1-1 and E-9-1-1 compliance: the process is identical to that for 9-1-1 calls made by Sprint customers.

Staff Analysis of Comments and Responses

Neither TracFone or AUA are parties or have requested "Interested Party" status in this docket. Staff reviewed each filing made by TracFone, AUA, and Virgin Mobile, reviewed the FCC definitions of wireless reseller and facilities-based provider, and reviewed Sprint-Nextel's Securities and Exchange Commission 10-K filing. Staff sent data requests to Virgin Mobile on May 19, 2009, September 16, 2009, January 6, 2010, and March 8, 2010, to obtain additional information on Virgin Mobile's filing. In addition, staff conducted a noticed conference call with Virgin Mobile on April 26, 2010, to discuss Virgin Mobile's position that it is now a facilities-based provider.

AUA appears to be misinformed as to the Commission's Proposed Agency Action (PAA) process and ability of affected persons to participate in it. Virgin Mobile's ETC petition was originally filed on April 29, 2009, with an Amended Petition filed April 2, 2010, after Sprint-Nextel purchased Virgin Mobile. AUA had the opportunity to file comments in this docket at

anytime over this twelve-month period. AUA will have the opportunity to attend the Commission's agenda conference to address the Commission when staff's recommendation is being considered. Once a Commission decision is made and a PAA Order is issued, persons whose interests are substantially affected and disagree with the Commission decision may file a petition for formal hearing pursuant to Rule 25-22.029, Florida Administrative Code, during the 21-day protest period.

AUA's e-mail to the PSAP Coordinators failed to mention that Sprint-Nextel purchased Virgin Mobile in November 2009, and is now a wholly owned subsidiary of Sprint-Nextel and no longer a wireless reseller required to obtain PSAP certification. Staff unsuccessfully attempted to contact AUA to determine if it would like to be an interested party or become an intervenor in this docket. Staff left voicemails and sent e-mails but received no replies. Apparently, AUA uses an executive voice mail service and the only physical address found was that of a mailbox rental store in Seattle. The President & Executive Director of AUA is the Principal of "The Advocacy Group," a public affairs and lobbying group in Seattle.¹³

Staff discussed PSAP certification with the Florida Statewide 911 Coordinator, explaining that Virgin Mobile was bought by Sprint-Nextel and is now a wholly owned subsidiary of Sprint-Nextel using only its network. The Florida 911 Coordinator stated that he does not see any issue regarding Virgin Mobile 911 service in Florida. The 911 Coordinator explained that Sprint-Nextel is Phase II compliant¹⁴ in all counties where they serve in Florida.

Staff concurs with Virgin Mobile's responses to TracFone and AUA's comments. Staff believes that Virgin Mobile has been, and is now, a facilities-based provider in the State of Florida and should be treated as such in its ETC designation petition. Staff questions the reasons behind TracFone's comments. While TracFone offers 68 minutes of free airtime each month to Lifeline-eligible consumers, Virgin Mobile will be offering 200 minutes of free airtime each month to Lifeline subscribers.

Public Interest Determinations

Under Section 214 of the Act, the FCC and state commissions must determine that an ETC designation is consistent with the public interest, convenience and necessity for rural areas. They also must consider whether an ETC designation serves the public interest consistent with Section 254 of the Act. Congress did not establish specific criteria to be applied under the public interest tests in Sections 214 or 254. The public interest benefits of a particular ETC designation must be analyzed in a manner that is consistent with the purposes of the Act itself, including the fundamental goals of preserving and advancing universal service; ensuring the availability of quality telecommunications services at just, reasonable, and affordable rates; and promoting the

¹³ http://advocacygroup.net/who_we_are.php

¹⁴ Phase II 911 service provides the capability to receive the call back number and the location information (latitude and longitude) provided for the cellular caller from the service provider.

deployment of advanced telecommunications and information services to all regions of the nation, including rural and high-cost areas.¹⁵ The FPSC has determined that before designating a carrier as an ETC, it should make an affirmative determination that such designation is in the public interest, regardless of whether the applicant seeks designation in an area served by a rural or non-rural carrier.¹⁶

Virgin Mobile states that approval of its ETC petition would be in the public interest by allowing Virgin Mobile to provide low-income Florida consumers with more affordable and higher quality wireless services. Many lower-income consumers have not yet reaped the full benefits of the intensely competitive wireless marketplace. Whether because of financial constraints, poor credit, or intermittent employment, these consumers often lack the countless choices available to most consumers. Virgin Mobile believes that designating it as an ETC would enable it to expand the availability of affordable telecommunications services to qualifying Florida consumers, which would lead to lower prices and increased consumer choice. According to Virgin Mobile, designating it as an ETC would further the fundamental goals of universal service policy by broadening the availability of telecommunications services to low-income Florida consumers, who are the intended beneficiaries of universal service.

Virgin Mobile Lifeline Offering

Prior to commencement of service, Virgin Mobile will require applicants to attest and sign under penalty of perjury that they meet the relevant eligibility criteria and that they are head of their household and will be receiving Lifeline-supported service only from Virgin Mobile. Virgin Mobile's Lifeline offering includes the following:

- Lifeline-eligible customers will receive a free handset once they are approved for service in Florida;
- Existing Virgin Mobile customers will be permitted to avail themselves of the free handset offer or continue to use their current handset once approved for Lifeline service;
- Customers will not be required to enter into a long-term service contract;
- Customers will automatically receive 200 anytime minutes each month at no charge (minutes do not rollover if not used);
- Additional minutes can be purchased through prepaid cards wherever Virgin Mobile products and services for \$0.20 per minute and \$0.10 per minute text; and,

¹⁵ In the Matter of Federal-State Joint Board on Universal Service, CC Docket No. 96-45, Order FCC 05-46 (¶40), Adopted: February 25, 2005, Released: March 17, 2005.

¹⁶ In re: Petition for designation as eligible telecommunications carrier (ETC) by Easy Telephone, Inc., Docket No. 090337-TX, PSC-10-0125-PAA-TX, issued March 2, 2010, p.4; In re: Application for designation as eligible telecommunications carrier (ETC) by Express Phone Service, Inc., Docket No. 080169-TX, PSC-08-0836-PAA-TX, issued December 24, 2008, p.4.

- Voice mail, caller ID, and call waiting will be included.

Virgin Mobile has acknowledged the requirements of the Florida Lifeline program, and it has agreed to adhere to the program which provides qualified customers a total of \$13.50 in Lifeline assistance credits consisting of: \$6.50 in federal subscriber line charges, \$1.75 in federal support for states that have approved the credit, and \$1.75 which is a 50% match of federal support for having a state Lifeline program requiring a \$3.50 credit under the Florida eligibility criteria. Virgin Mobile indicates that it will provide the \$3.50 credit to qualified clients, advertise the availability of Lifeline, and begin offering these services as soon as possible after meeting any requirements implemented by the FPSC.

Virgin Mobile has also indicated that its accounts with the FCC and the Universal Service Administrative Company (USAC) are current, and it is not aware of any outstanding complaints or violations with either entity. As part of the petition process, Virgin Mobile has agreed to abide by any applicable Florida Statutes, Florida Administrative rules, and FPSC Orders pertaining to the Lifeline program, and commits to use federal universal service support only for the provision of services for which the support is intended.

Lifeline Advertising

Virgin Mobile will advertise the availability and rates for the services described above in its Florida service areas using media of general distribution as required by Section 214(e)(1)(B) of the Act.¹⁷ Virgin Mobile will target locations where consumers receive benefits that make them eligible for Lifeline services, including various state and local social service agencies, to inform customers of the availability of its Lifeline services. Virgin Mobile will coordinate its efforts with public and private assistance agencies to ensure the availability of Lifeline services reaches the broadest audience possible. Virgin Mobile also will develop outreach efforts for non-English speakers, and increase awareness of the Lifeline program at existing third-party retail outlets through distribution of brochures. In addition, Virgin Mobile may market its Lifeline services through its Re*Generation pro-social program, which is a program that connects at-risk youth with young people who want to make a difference through partnerships with innovative not-for-profit organizations. Finally, Virgin Mobile will promote its Lifeline offerings to its existing customers, many of whom will qualify for Lifeline, through emails and text messaging campaigns.

Transitional Lifeline

To comply with the requirement of Transitional Lifeline,¹⁸ Virgin Mobile stated that it will comply with the requirement of providing a 30 percent monthly discount to customers no longer qualifying for Lifeline for a period of 12 months. Because of the pay-as-you-go nature of

¹⁷ See 47 U.S.C. Section 214(e)(1)(B)

¹⁸ Transitional Lifeline requires that each local exchange telecommunications company shall offer discounted residential basic local telecommunications service at 70 percent of the residential local telecommunications service rate for any Lifeline subscriber who no longer qualifies for Lifeline. A Lifeline subscriber who requests such service shall receive the discounted price for a period of one year after the date the subscriber ceases to be qualified for Lifeline. In no event, shall this preclude the offering of any other discounted services which comply with Sections 364.08, 364.09, and 364.10 F.S., per 364.105 F.S.

its offering, Virgin Mobile will provide one of two options for transitional Lifeline customers: (a) a 30 percent discount on its standard \$0.20 per minute rate or (b) a 30 percent discount on the 200-minute plan at a rate of \$10 per month. In both options (a) and (b) the transition would be for a period of one year on the customer's handset.

Conclusion

Virgin Mobile states it is able to provide all services and functionalities supported by the universal service program, detailed in CFR Section 54.101(a). Virgin Mobile understands all ETC requirements of the FCC and the FPSC and has agreed to abide by all applicable Florida Statutes, Florida Administrative Rules, and FPSC Orders (See Attachment A certification). Virgin Mobile also understands that the FPSC has the authority to both grant and revoke ETC designation if Virgin Mobile is non-compliant.

Based on staff's review, along with Virgin Mobile's commitment to abide by both state and federal rules and procedures, staff believes that Virgin Mobile's petition to be designated as an ETC is in the public interest and should be approved. If Virgin Mobile should decide in the future to seek High Cost universal service funds, it should be required to file a petition and make a showing that it would be in the public interest to grant such a request. Upon a decision by the Commission, staff will continue the necessary oversight to ensure that Virgin Mobile, along with all other ETCs in Florida, are upholding these principles and attaining the goals and objectives of both the state and federal universal service programs.

Based on the above, staff recommends that Virgin Mobile be granted limited ETC designation status in the AT&T, Verizon, and CenturyLink wire centers listed in Attachment B of this recommendation, for the sole purpose of offering Lifeline discounts to qualifying consumers in Florida. Granting of ETC designation should be contingent on Virgin Mobile providing the following:

- E911 compliant handsets should be provided to Virgin Mobile's new customers and Virgin Mobile should replace any non-compliant handsets for its existing customers who are approved as Lifeline customers at no charge;
- Each Lifeline customer shall receive 200 free anytime minutes each month;
- Self-certification of Virgin Mobile Lifeline customers under penalty of perjury once service has been activated. In addition to the FPSC's annual Lifeline verification eligibility requirement, annual certification verifying that the head of household is only receiving Lifeline discounts from Virgin Mobile;
- Tracking of Lifeline customer's primary residential address and certification that there is only one customer receiving Virgin Mobile Lifeline at each residential address;
- Virgin Mobile should deal directly with its customers who do not utilize the Lifeline Automatic Enrollment function, to certify and verify Lifeline eligibility; and

Docket No. 090245-TP

Date: May 6, 2010 ~~April 23, 2010~~

- Submission of a quarterly report showing the number of customers who have been deactivated for not having any activity on their phone in a 60-day period, not passing annual verification, and voluntarily being deactivated.

Docket No. 090245-TP

Date: May 6, 2010 ~~April 23, 2010~~

Issue 2: Should this docket be closed?

Recommendation: If no person whose substantial interests are affected by the proposed agency action files a protest within 21 days of the issuance of the order, this docket should be closed upon the issuance of a consummating order. (Tan)

Staff Analysis: At the conclusion of the protest period, if no protest is filed this docket should be closed upon the issuance of a consummating order.

APPLICANT CERTIFICATION

State of New Jersey
County of Somerset

My name is Peter Lurie, I am employed by Virgin Mobile USA, L.P., located at 10 Independence Blvd., Warren, NJ, as its Senior Vice President - Legal. I am an officer of the Company and am authorized to provide the following certifications on behalf of the Company. This certification is being given to support the Eligible Telecommunications Carrier petition filed by my Company with the Florida Public Service Commission (PSC).

Company hereby certifies the following:

1. Company will follow all applicable Florida Statutes, Florida Administrative Rules, and Florida PSC Orders relating to Universal Service, Eligible Telecommunications Carriers, and the Florida Link-Up and Lifeline Program.
2. Company will follow all applicable FCC rules, FCC Orders, and regulations contained in the Telecommunications Act of 1996 regarding Universal Service, ETCs, Link-Up and Lifeline, and toll limitation service.
3. Company agrees that the Florida PSC may revoke a carrier's ETC status for good cause after notice and opportunity for hearing, for violations of any applicable Florida Statutes, Florida Administrative Rules, Florida PSC Orders, failure to fulfill requirements of Sections 214 or 254 of the Telecommunications Act of 1996, or if the PSC determines that it is no longer in the public interest for the company to retain ETC status.
4. Company understands that if its petition for ETC status is approved, it will be for limited ETC status to provide Lifeline service only, and the Company will be eligible only to receive low-income support from the Universal Service Fund.
5. Company understands that the PSC shall have access to all books of account, records and property of all eligible telecommunications carriers.
6. Company agrees that upon request, it will submit to the PSC a copy of Form 497 forms filed with USAC to:

Florida Public Service Commission
Division of Regulatory Analysis, Market Practices Section
2540 Shumard Oak Drive
Tallahassee, Florida 32399-0850


7. Company understands that in accordance with the Florida Lifeline program, eligible customers will receive a \$13.50 monthly discount on their phone bill, \$3.50 of which is

Docket No. 090245-TP
Date: May 6, 2010 ~~April 23, 2010~~

Attachment A

provided by the ETC, and \$10.00 of which is reimbursable from the Federal Universal Service Fund.

I am aware that pursuant to Section 837.06, F.S., whoever knowingly makes a false statement in writing with the intent to mislead a public servant in the performance of his or her official duty shall be guilty of a misdemeanor of the second degree.



Signature
Peter Lurie

March 9, 2010

Business Address:
10 Independence Blvd.
Warren, NJ 07059

Date: May 6, 2010 ~~April 23, 2010~~

ABDLFLXA	BYSHFLXA	DRBHFLMA
ALCHFLXA	CCBHFLAF	DUNDFLXA
ALFAFLXA	CCBHFLMA	DWPKFLXA
ALFRFLXA	CDKYFLMA	DYBHFLFN
ALSPFLXA	CFLDFLMA	DYBHFLMA
ALTRFLXA	CFVLFLXA	DYBHFLFB
ALVAFLXA	CHLKFLXA	DYBHFLFS
ANMRFLXA	CHPLFLJA	DYBHFLPO
APPKFLXA	CHSWFLXA	EGLLFLBG
ARCDFLXA	CHTHFLXA	EGLLFLIH
ARCHFLMA	CITRFLXA	ENWDFLXA
ASTRFLXA	CLHNFLXA	EORNFLMA
AVPKFLXA	CLMTFLXA	ESTSFLXA
BAKRFLXA	CLTNFLXA	EVGRFLXA
BARTFLXA	CLWRFLXA	FHSDFLXA
BAYUFLXA	CNSDFLXA	FLBHFLMA
BBPKFLXA	CNTMFLLE	FLRHFLXA
BCGRFLXA	COCOFLMA	FRBHFLFP
BCRTFLBT	COCOFLME	FRPTFLXA
BCRTFLMA	CPCRFLXA	FRSTFLXA
BCRTFLSA	CPCRFLXB	FTGRFLMA
BGPIFLMA	CPHZFLXA	FTLDFLCR
BHPKFLXA	CRCYFLXA	FTLDFLCY
BKVFLJF	CRRVFLXA	FTLDFLJA
BLDWFLMA	CRVWFLXA	FTLDFLMR
BLGLFLMA	CRWDFLXA	FTLDFLOA
BLTWFLXA	CSCYFLBA	FTLDFLPL
BLVWFLXA	CSLBFLXA	FTLDFLSG
BNFYFLXA	CTDLFLXA	FTLDFLSU
BNNFLMA	CYGRFLXA	FTLDFLWN
BNSPFLXA	CYLKFLXA	FTMBFLXA
BORAFLXA	CYLKFLXB	FTMDFLXA
BRBAFLXA	DBRYFLDL	FTMYFLXA
BRFRFLXA	DBRYFLMA	FTMYFLXB
BRJTFLXA	DDCYFLXA	FTMYFLXC
BRKRFLXA	DELDFLMA	FTPRFLMA
BRNDFLXA	DESTFLXA	FTWBFLXA
BRSNFLMA	DFSPFLXA	FTWBFLXB
BRTNFLXX	DLBHFLKP	FTWBFLXC
BSHNFLXA	DLBHFLMA	FTWHFLXA
BVHLFLXA	DLSPFLMA	GCSPFLCN
BWLGFLXA	DNDNFLXA	GCVLFLMA
BYBHFLMA	DNLNFLWM	GDRGFLXA
GENVFLMA	JCBHFLMA	LKWFLXEX
GLBRFLMC	JCBHFLSP	LLMNFLXA
GLDLFLXA	JCVLFLAR	LNLKFLXA

GLGCFLXA	JCVLFLBW	LRGOFLXA
GLRDFLXA	JCVLFLCL	LRVLFLXA
GNBOFLXA	JCVLFLFC	LSBGFLXA
GNDYFLXA	JCVLFLIA	LUTZFLXA
GNVLFLXA	JCVLFLJT	LVOKFLXA
GNWDFLXA	JCVLFLLF	LWTYFLXA
GRETFLXA	JCVLFLNO	LYHNFLOH
GSVLFLMA	JCVLFLOW	MALNFLXA
GSVLFLNW	JCVLFLRV	MAYOFLXA
GVLDFLXA	JCVLFLSJ	MCINFLXA
HAVNFLMA	JCVLFLSM	MCLNFLXA
HBSDFLMA	JCVLFLWC	MCNPFLMA
HDSNFLXA	JNGSFLXA	MDBGFLPM
HGLDFLXA	JPTRFLMA	MDSNFLXA
HGSPFLXA	JSPRFLXA	MIAMFLAE
HLNVFLMA	KGLKFLXA	MIAMFLAL
HLRDFLXA	KNVLFLXA	MIAMFLAP
HLWDFLHA	KSSMFLXA	MIAMFLBA
HLWDFLMA	KSSMFLXB	MIAMFLBC
HLWDFLPE	KSSMFLXD	MIAMFLBR
HLWDFLWH	KYHGFLMA	MIAMFLCA
HMSPFLEXA	KYLRFLLS	MIAMFLDB
HMSTFLEA	KYLRFLMA	MIAMFLFL
HMSTFLHM	KYSTFLXA	MIAMFLGR
HMSTFLNA	KYWSFLMA	MIAMFLHL
HNCYFLXA	LBLLFLXA	MIAMFLIC
HNCYFLXN	LDLKFLXA	MIAMFLKE
HOWYFLXA	LEE FLXA	MIAMFLME
HSNGFLXA	LGBKFLXA	MIAMFLNM
HTISFLMA	LHACFLXA	MIAMFLNS
HWTHFLMA	LKALFLXA	MIAMFLOL
HYPKFLXA	LKBNFLXB	MIAMFLPB
IMKLFLXA	LKBRFLXA	MIAMFLPL
INLKFLXA	LKBTFLXA	MIAMFLRR
INRKFLXX	LKCYFLMA	MIAMFLSH
INTRFLXA	LKHLFLXA	MIAMFLSO
INTWFLXA	LKLDFLXA	MIAMFLWD
INVRFLXA	LKLDFLXE	MIAMFLWM
IONAFLXA	LKLDFLXN	MICCFLBB
ISLMFLMA	LKMRFLHE	MLBRFLMA
JAY FLMA	LKPCFLXA	MLBYFLXA
JCBHFLAB	LKWFLFLXA	MLRSFLXA
MLTNFLRA	ORCYFLXC	PSDNFLXA
MNDRFLAV	ORLDFLAP	PTCTFLXA
MNDRFLLO	ORLDFLCL	PTCYFLXA
MNDRFLLW	ORLDFLMA	PTSJFLXA

Date: May 6, 2010 ~~April 23, 2010~~

MNLKFLXA	ORLDFLPC	PTSLFLMA
MNSNFLMA	ORLDFLPH	PTSLFLSO
MNTIFLXA	ORLDFLSA	QNCYFLXA
MOISFLXA	ORPKFLMA	RAFRFLXA
MOLNFLXA	ORPKFLRW	RSKNFLXA
MRDCFLXA	ORSPFLXA	RYHLFLXA
MRHNFLXA	OSPRFLXA	SARKFLXA
MRNNFLXA	OVIDFLCA	SBNGFLXA
MRTHFLVE	PACEFLPV	SBSTFLFE
MTDRFLXA	PAHKFLMA	SBSTFLMA
MTLDFLXA	PANCFLXA	SCPKFLXA
MTVRFLXA	PCBHFLNT	SEKYFLXA
MXVLFLMA	PKCYFLXA	SGBEFLXA
MYCYFLXA	PLCSFLMA	SGBHFLXA
NDADFLAC	PLMTFLXA	SGKYFLMA
NDADFLBR	PLSLFLXA	SHLMFLXA
NDADFLGG	PLTKFLMA	SKWYFLXA
NDADFLOL	PMBHFLCS	SLHLFLXA
NFMYFLXA	PMBHFLFE	SLSPLFLXA
NFMYFLXB	PMBHFLMA	SMNLFLXA
NGBHFLXA	PMBHFLNP	SNANFLXA
NKLRFLMA	PMBHFLTA	SNDSFLXA
NNPLFLXA	PMPKFLMA	SNFRFLMA
NPLSFLXC	PNCRFLXA	SNISFLXA
NPLSFLXD	PNCYFLCA	SNRSFLXA
NPRCFLXA	PNCYFLMA	SNSNFLXA
NRPTFLXA	PNGRFLXA	SNSPFLXA
NRSDFLXA	PNISFLXA	SPBGFLXA
NSBHFLMA	PNLNFLXA	SPBGFLXS
NWBYFLMA	PNLSFLXA	SPCPFLXA
OCALFLXA	PNSCFLBL	SPRGFLXA
OCALFLXB	PNSCFLFP	SRSTFLXA
OCALFLXC	PNSCFLHC	SSDSFLXA
OCALFLXJ	PNSCFLPB	SSPRFLXA
OCNFFLXA	PNSCFLWA	STAGFLBS
OKCBFLXA	PNVDFLMA	STAGFLMA
OKHLFLMA	POINFLXA	STAGFLSH
OKLWFLXA	PRRNFLMA	STAGFLWG
OLDSFLXA	PRRYFLXA	STCDFLXA
OLTWFLLN	PRSHFLXA	STGRFLXA
ORCYFLXA	PRSNFLFD	STMKFLXA
STRKFLXA	WNGRFLXA	SVSSFLXA
STRTFLMA	WNHNFLXC	SWTHFLXA
SVSPFLXA	WNPKFLXA	SYHSFLCC
TAFBFLXA	WPBHFLHH	
TAMPFLXE	WPBHFLLE	

TAMPFLXX	WPBHFLRB
THNTFLXA	WPBHFLRP
TLCHFLXA	WSSDFLXA
TLHSFLXA	WSTVFLXA
TLHSFLXB	WWSPFLHI
TLHSFLXC	WWSPFLSH
TLHSFLXD	YBCTFLXA
TLHSFLXE	YNFNFLMA
TLHSFLXF	YNTWFLMA
TLHSFLXG	YULEFLMA
TLHSFLXH	ZLSPFLXA
TMTRFLXA	ZPHYFLXA
TRENFLMA	
TRSPFLXA	
TTVLFLMA	
TVRSFLXA	
UMTLFLXA	
UNVRFLXA	
VENCFLXA	
VENCFLXS	
VERNFLMA	
VLPRFLXA	
VLPRFLXB	
VRBHFLBE	
VRBHFLMA	
WALDFLXA	
WCHLFLXA	
WELKFLMA	
WHSPFLXA	
WIMMFLXA	
WLBFLXA	
WLCHFLXA	
WLCRFLXA	
WLHLFLXA	
WLSTFLXA	
WLWDFLXA	
WNRFLXA	
WPBHFLAN	
WPBHFLGA	
WPBHFLGR	

AFFIDAVIT

I, Peter Lurie, do hereby declare under penalty of perjury as follows:


1. I am the Senior Vice President of Virgin Mobile USA, L.P., a Delaware Limited Partnership with its principal place of business at 10 Independence Blvd, Warren, NJ 07059. I submit this affidavit in connection with the Florida Public Service Commission's review of the Amended Petition of Virgin Mobile USA, L.P. for Designation as an Eligible Telecommunications Carrier for the Limited Purpose of Offering Lifeline Services.
2. I certify that, as a wholly owned subsidiary of Sprint Nextel Corporation ("Sprint"), Virgin Mobile no longer resells the wireless services of Sprint, any of its operating subsidiaries or any other carrier.
3. I further confirm that Virgin Mobile operates as a facilities-based carrier in the State of Florida under the Federal Communications Commission's interpretation of the requirements of Section 214(e)(1)(A) of the Communications Act of 1934, as amended.
4. I declare under penalty of perjury that the foregoing is true and correct to the best of my knowledge.

Executed on May 3, 2010



Peter Lurie
Senior Vice President

Subscribed and sworn before me
This 3rd day of March 2010.


Notary Public

WILLIAM BUTLER
NOTARY PUBLIC, State of New York
No. 01808140008
Qualified in Kings County
Commission Expires July 3, 2010

Docket No. 090245-TP
Date: May 6, 2010 April 23, 2010

Attachment D

From: sheila@advocatesua.com [mailto:sheila@advocatesua.com]
Sent: Friday, April 30, 2010 10:34 AM
To: sheila@advocatesua.com
Subject: URGENT PSC ALERT for all 9-1-1 County Coordinators

URGENT ALERT

To All Florida 9-1-1 County Coordinators:

The Florida Public Service Commission (PSC) may approve Virgin Mobile to provide Lifeline Services in Florida WITHOUT your PSAP certification, approval or drive testing! **The hearing is scheduled for this Tuesday, May 4th.**

I'm writing to you from Advocates for Universal Access. We are a wireless industry watchdog organization with particular concerns in the areas of emergency access and consumer pricing. We have been watching different wireless resellers entering the Lifeline market (these are federally funded programs providing discount or free phone service for low-income families). Every other pre-paid wireless company has been required to get PSAP approval, and Virgin Mobile should, too. This case at the Florida PSC got our attention and we wanted the 9-1-1 community in Florida to be aware of it.

The PSC is trying to take away your ability to oversee this local public safety function without your comments or input. And, the PSC could do this despite a Federal Communications Commission (FCC) order requiring Virgin Mobile to obtain PSAP Certifications.

Tell the PSC that YOU oversee this vital public safety function, and not THEM. Tell the PSC to reconsider this issue because Virgin Mobile should obtain PSAP Certifications for Lifeline.

Call the Florida PSC and tell them: Virgin Mobile is not a facilities-based carrier. When a Virgin Mobile customer calls 9-1-1, the call displays on the network it is riding on - usually Sprint. Reference case number 090245-TP. Contact PSC Executive Director Timothy J. Devlin at (850) 413-6068 or comment online at www.floridaPSC.com and click "Contact Us" to fill out a comment form.

- You must act quickly, because a hearing is scheduled on this matter May 4th, 2010.

- Thank you,
Sheila Stickle
Advocates for Universal Access
AUA: Everyone deserves an emergency phone and a plan they understand.

PUBLIC SERVICE COMMISSION
OF WEST VIRGINIA
CHARLESTON

FINAL

9/21/2010

Entered: August 31, 2010

CASE NO. 10-0246-C-PC

VIRGIN MOBILE USA, L.P.

Petition for consent and approval for limited
designation as an eligible telecommunications carrier.

RECOMMENDED DECISION

On February 24, 2010, Virgin Mobile USA, L.P. (Virgin Mobile), a public telephone utility, Warren, New Jersey, filed a petition with the Public Service Commission, pursuant to Section 214(e)(2) of the *Telecommunications Act of 1934*, as amended (*Act*), seeking designation as an eligible telecommunications carrier (ETC) solely for the purposes of offering prepaid wireless telecommunications services supported by the Universal Service Fund (USF) Lifeline program. Virgin Mobile asserted that it meets all of the qualifications necessary to be designated as an ETC under *Act* §214(e)(1) to offer services supported by the Lifeline program.

On March 25, 2010, Staff Attorney Chris Howard filed the Initial Joint Staff Memorandum, attaching the March 22, 2010 Utilities Division Initial Recommendation from Utilities Analyst David Kennedy, indicating that, once it had completed its investigation, Commission Staff would submit a substantive recommendation. Virgin Mobile became a wholly owned subsidiary of Sprint Nextel Corporation (Sprint Nextel) on November 24, 2009, after Sprint Nextel obtained approval of the acquisition from the Federal Communications Commission (FCC), effective September 1, 2009, and obtained approval for the acquisition from the Commission in Case No. 09-1563-C-PC by Order entered on October 28, 2009. The FCC designated Virgin Mobile as an ETC for the limited purpose of providing service under the Lifeline program in the states of New York, North Carolina, Tennessee and Virginia, with the FCC granting forbearance from the facilities-based requirement. Virgin Mobile anticipates that, in West Virginia, eligible customers qualifying under the Lifeline program will receive 200 free anytime minutes each month, including components such as voice mail, caller ID and call waiting. In addition to the 200 free minutes, eligible customers will be able to obtain additional calling time at \$0.10 per minute for voice services and \$0.15 per minute for text messaging services. Staff detailed the specific requirements that Virgin Mobile must meet before the Commission can designate it as an ETC.

By the Commission Referral Order entered on April 7, 2010, the Commission referred this case to the Division of Administrative Law Judges (ALJ Division) for decision on or before September 22, 2010.

On April 26, 2010, Virgin Mobile filed responses to data requests from Staff.

On May 24, 2010, Staff Attorney Howard submitted the Final Joint Staff Memorandum, attaching the May 19, 2010 Utilities Division Final Recommendation from Mr. Kennedy. Staff opined that Virgin Mobile had failed to provide the Commission with sufficient information required by the *Act* so that the Commission could designate Virgin Mobile with ETC status. Unless Virgin Mobile provides all of the information and documentation required, Staff recommended that the Commission deny the petition. The *Act*, as amended in 1996, provides that only designated ETCs are eligible to receive funds from the USF. In order to be designated as an ETC, a carrier must be a common carrier as determined by federal law; offer services using its own facilities or a combination of its own facilities and resale, throughout the designated service area; advertise the availability of its service offering using media of general distribution; and provide universal service obligations throughout a designated geographic area. In addition, the *Act* mandates that ETCs must also provide nine specific support services, i.e., voice grade access to the public switched telephone network; local usage; dual-tone multi-frequency (DTMF) signal or its functional equivalent; single party service or its functional equivalent; access to emergency services; access to operator services; access to interexchange services; access to directory assistance; and toll limitation for qualifying low-income customers. Staff concedes that Virgin Mobile has satisfied the common carrier requirement. As a wholly owned subsidiary of Sprint Nextel, Virgin Mobile no longer operates as a reseller, but, instead, operates as a facilities-based carrier for purposes of §214(e)(1)(A) of the *Act*. Virgin Mobile has asserted that it will advertise the availability and rates in conformance with the FCC requirements. Virgin Mobile would provide the universal service obligations throughout a designated geographic area, which is its entire service territory in West Virginia and which covers the service territories of two non-rural telephone companies, i.e., Citizens Telecommunications Company of West Virginia and Verizon West Virginia Inc., and three rural telephone companies, i.e., Armstrong Telephone Company, Hardy Telecommunications, Inc., and West Side Telephone Company. Virgin Mobile provides voice grade access to the public switched telephone network (PSTN) and offers its customers service at bandwidth rates between 300 and 3,000 MHZ as required by the FCC. As part of providing voice grade access, an applicant must demonstrate that it offers a local usage plan that is comparable to the plan offered by the incumbent local exchange carrier (ILEC) in the relevant service territory. Virgin Mobile's offering not only is comparable to the services provided by the ILECs, but will exceed them in several respects, i.e., while the ILECs offer no free minutes, Virgin Mobile proposes to offer 200 anytime free minutes per month. Also, contrary to the ILECs' offering of service only to a small geographical area, Virgin Mobile plans to allow its customers to use these free minutes to make calls to any area in the United States. Virgin Mobile will provide the functional equivalent of the requirement for the DTMF signal, single party service, access to emergency services, access to operator services, access to interexchange services (at no extra charge), access to directory assistance and toll limitation for qualifying low-income customers. Staff opined that Virgin Mobile's application does not address a proposed certification process or the criteria for customer

eligibility, relying only on statements by its customers that they meet eligibility requirements for the Lifeline service. Staff recommended denial of the petition until this issue was addressed.

On June 11, 2010, Virgin Mobile responded to Commission Staff's final recommendations contained in Staff's May 24, 2010 filing. Virgin Mobile asserted that applicants for the Lifeline services are allowed to self-certify under penalty of perjury and that Virgin Mobile will use a form similar to the one used by the West Virginia Department of Health and Human Resources (DHHR). Currently, Virgin Mobile offers one application method, which includes completing the registration form that certifies that the customer is eligible for the Lifeline program and that authorizes the DHHR to release to Virgin Mobile any information necessary to confirm customer eligibility for the Lifeline program. This signed form must be returned to Virgin Mobile before the customer can participate in the Lifeline program. Based on its experience and feedback from its customers in seven other states, Virgin Mobile is developing two additional application methods in order to streamline the application process and make the Lifeline service more readily available to eligible customers, which Virgin Mobile anticipates will become available in late summer 2010. One of these methods utilizes a secure online application process that obtains the same information as the written form and requires an electronic signature that is provided under penalty of perjury. The other method is to contact Virgin Mobile through a toll-free telephone number and provide that same information under penalty of perjury. Virgin Mobile plans to clearly inform the customers of the penalties of perjury prior to accepting either of these methods of self-certification. Virgin Mobile believes that the June 11, 2010 filing clarifies any questions which Staff may have had about its filing and requested that the Commission grant it the requested ETC status.

On June 17, 2010, Advocates for Universal Access, LLC (AUA), submitted a filing that questioned whether Virgin Mobile was providing all of the services that would actually assist low-income customers to have greater access to mobile services, and requested that the Commission grant it intervenor status.

On June 28, 2010, Virgin Mobile filed a document stating its opposition to AUA's petition to intervene, indicating that AUA was not a legal entity authorized to transact business in West Virginia and was not represented by legal counsel. AUA is a Seattle-based entity claiming to be a consumer advocacy group without substantiating this claim. Virgin Mobile also asserted that AUA had failed to state a sufficient legal interest in the proceeding by failing to identify any specific group or class of customers it purports to represent in West Virginia or any other state. AUA has not disclosed its ownership, funding, membership, governing authorities or its working relationship with other parties in the industry. Virgin Mobile indicated that AUA merely has stated some concerns in hopes of delaying the petition and that AUA has tried this unsuccessfully in other jurisdictions. Virgin Mobile also asserted that AUA would not measurably or constructively add to the scope of the case, i.e., Staff's review of the application is extensive and exhaustive of all requirements of law. Virgin Mobile believes that AUA's participation in the proceeding will cause only confusion and delay. Virgin Mobile again requested that the Commission grant the application, since it has met all of the requirements for designation as an ETC for the limited purposes of participating in the USF to enhance Virgin Mobile's ability to provide the Lifeline program in West Virginia.

By the Procedural Order issued on July 27, 2010, in light of the additional information filed by Virgin Mobile, the Administrative Law Judge (ALJ) required Commission Staff to file a final substantive recommendation by August 6, 2010. The ALJ indicated that, absent good cause shown by Commission Staff, the ALJ would enter a recommended decision granting Virgin Mobile the requested ETC status.

On July 29, 2010, West Virginia Health Right, Inc. (WVHR), who indicated that it is an advocate for the impoverished uninsured, submitted a letter expressing its interest in the proceeding, indicating that the Commission should consider the fact that, in other states, Virgin Mobile charged a fee in advance for text messaging; did not roll over to the next month any unused minutes of the 200 free minutes; and the price which Virgin Mobile proposed to charge for text messaging is unclear.

On August 4, 2020, Dollar Energy Fund, West Virginia Utility Assistance Program (WVUAP), submitted a letter of concern about Virgin Mobile's proposal, mirroring those concerns of WVHR.

On August 5, 2010, Staff Attorney Howard submitted the Further Joint Staff Memorandum, attaching the August 4, 2010 Utilities Division Further Final Recommendation prepared by Mr. Kennedy. Staff believes that Virgin Mobile has now addressed its concerns as well as those of AUA. Staff noted that the Commission has granted ETC status to two other prepaid wireless service providers, each of which have a slightly different offering of services, including the Lifeline service. Staff believes that, if the Commission grants the petition and confers ETC status on Virgin Mobile, the public will be protected by the fact that three prepaid wireless service providers who provide the Lifeline service would be available. Staff opined that the forbearance from the facilities-based requirement previously granted by the FCC imposed additional requirements on Virgin Mobile. Staff opined that, since Virgin Mobile subsequently has become a wholly owned subsidiary of Sprint Nextel, imposition of the FCC's additional requirements attached to the forbearance from the facilities-based requirement would not be necessary. Staff recommended that the Commission grant the petition and confer ETC status on Virgin Mobile for the purpose of offering prepaid wireless Lifeline service supported by the USF to low-income households in West Virginia. Staff cautioned that the approval should be limited to participating in the Lifeline program and not for the Linkup high-cost program. Staff understands that Lifeline service under the brand name Assurance Wireless in West Virginia (Assurance Wireless) will be provided by Virgin Mobile. Staff indicated that its recommendation is predicated upon Virgin Mobile offering the following:

1. Eligible customers will not be charged an activation or connection fee and are not required to make a cash deposit in order to commence service;
2. Eligible customers qualifying under the Lifeline program will be able to use their existing handsets or elect to receive a free Assurance Wireless branded handset with E911 capability;

3. Eligible customers qualifying under the Lifeline program will receive 200 free minutes each month. Unused free minutes do not roll over to the next month, and expire at the end of the 30-day service cycle;
4. Eligible customers qualifying under the Lifeline program will receive free voice mail, caller ID and Call Waiting features which will remain in effect after the 200 free minutes have been consumed; and
5. Eligible customers qualifying under the Lifeline program will be able to obtain additional prepaid calling time at the rate of \$0.10 per minute for voice and at the rate of \$0.10 per minute for text messaging services. Purchased minutes do not expire at the end of the 30-day service cycle and remain available until used or the customer account is terminated.

Staff indicated that it did not recommend approval of the request for "the authority to modify the parameters of the offering as market conditions develop," since such authority is too vague and broad to warrant inclusion as part of granting ETC status. Also, Staff opined that petitions to intervene by advocates should be denied, since the advocates cannot show a legal interest in the matter, as required by Rule 12.6.a. of the Commission's *Rules of Practice and Procedure (Procedural Rules)*. Since the only issue is whether the Commission is prohibited from ruling on this matter in accordance with the FCC forbearance order, the petition should be granted as discussed above, since the Commission has jurisdiction to either grant or reject a petition for ETC status under Section 241(e) of the *Act*.

On August 6, 2010, The Salvation Army (TSA) submitted a letter expressing its interest in the proceeding, indicating that the Commission should consider the fact that Virgin Mobile seeks to charge a fee in advance for text messaging services.

Also on August 6, 2010, West Virginia Community Action Partnerships, Inc. (WVCAP), submitted a letter of concern mirroring the concerns of WVUAP and WVHR.

Also on August 6, 2010, Tyler Mountain/Cross Lanes Community Services (TM/CLCS) submitted a letter voicing its concern that Virgin Mobile would be charging for text messaging services in advance without rolling over those minutes to the next month.

On August 10, 2010, Daymark, Inc., submitted a letter mirroring the concerns of WVCAP, WVUAP and WVHR.

Also on August 10, 2010, Virgin Mobile submitted a letter responding to Commission Staff's final substantive recommendation filed on August 5, 2010. Virgin Mobile pointed out an inconsistency in Staff's recommendation, showing a rate for text messaging of \$0.15 per minute at one location in the document and a rate of \$0.10 per minute at another location. Virgin Mobile clarified that its proposed rate for text messaging is \$0.10 per text message.

DISCUSSION

Having considered all of the above, since no dispute remains to be resolved in this proceeding, as evidenced by the responses to Staff's final recommendation and the lack of a reply from Staff to the response filed by Virgin Mobile, the ALJ will consider the parties to have waived their rights under *West Virginia Code* §24-1-9(b) to file proposed findings of fact and conclusions of law, or briefs, in this proceeding, or to a hearing.

The ALJ holds that, since Staff recommended that the Commission grant the petition and confer ETC status on Virgin Mobile for the purpose of offering prepaid wireless Lifeline service supported by the USF to low-income households in West Virginia, and not for the Linkup high-cost program, he will grant ETC status to Virgin Mobile as recommended by Staff. It is not reasonable to approve the request for "the authority to modify the parameters of the offering as market conditions develop," since such authority is too vague and broad to warrant inclusion as part of granting ETC status. Also, the ALJ holds that the petitions to intervene filed by the advocates should be denied, since the advocates cannot show a legal interest in the matter, as required by *Procedural Rule* 12.6.a. Since the only issue is whether the Commission is prohibited from ruling on this matter in accordance with the FCC forbearance order, the petition should be granted as discussed above, since the Commission has jurisdiction to either grant or reject a petition for ETC status under Section 241(e) of the *Act*.

FINDINGS OF FACT

1. Virgin Mobile filed a petition with the Commission, pursuant to Section 214(e)(2) of the *Act*, as amended, seeking ETC designation solely for the purposes of offering prepaid wireless telecommunications services supported by the USF Lifeline program. Virgin Mobile asserted that it meets all of the qualifications necessary to be designated as an ETC under *Act* §214(e)(1) to offer services supported by the Lifeline program. (See, February 24, 2010 petition).

2. Commission Staff initially expressed concern that Virgin Mobile's application did not address a proposed certification process or the criteria for customer eligibility, relying only on statements by its customers that they meet the eligibility requirements for the Lifeline service. Staff believed that all other requirements for ETC designation had been met by Virgin Mobile. (See, May 24, 2010 filing).

3. Virgin Mobile asserted that applicants for the Lifeline services are allowed to self-certify under penalty of perjury and that Virgin Mobile will use a form similar to the one used by the DHHR. Currently, Virgin Mobile offers one application method, which includes completing the registration form that certifies that the customer is eligible for the Lifeline program and that authorizes the DHHR to release to Virgin Mobile any information necessary to confirm customer eligibility for the Lifeline program. This signed form must be returned to Virgin Mobile before the customer can participate in the Lifeline program. Based on its experience and feedback from its customers in seven other states, Virgin Mobile is developing two additional application methods in

order to streamline the application process and make the Lifeline service more readily available to eligible customers, which Virgin Mobile anticipates will become available in late summer 2010. One of these methods utilizes a secure online application process that obtains the same information as the written form and requires an electronic signature that is provided under penalty of perjury. The other method is to contact Virgin Mobile through a toll-free telephone number and provide that same information under penalty of perjury. Virgin Mobile plans to clearly inform the customers of the penalties of perjury prior to accepting either of these methods of self-certification. (See, June 11, 2010 filing).

4. AUA, WVHR, WVUAP, TSA, WVCAP, TM/CLCS and Daymark, Inc., questioned whether Virgin Mobile was providing all of the services that would actually assist low-income customers to have greater access to mobile services; questioned Virgin Mobile's proposal to charge a fee in advance for text messaging; complained that the 200 free minutes did not roll over to the next month; and asserted that the price which Virgin Mobile proposed to charge for text messaging is unclear, and AUA requested that the Commission grant it intervenor status. (See, June 29, July 29, and August 4, 6 and 10, 2010 filings).

5. Virgin Mobile has now addressed Staff's concerns as well as those of AUA. Staff noted that the Commission has granted ETC status to two other prepaid wireless service providers, each of which have a slightly different offering of services, including the Lifeline service. Staff believes that, if the Commission grants the petition and confers ETC status on Virgin Mobile, the public will be protected by the fact that three prepaid wireless service providers who provide the Lifeline service would be available. (See, Further Joint Staff Memorandum, with attachment, filed on August 5, 2010).

6. In its further recommendation, Staff recommended that the Commission grant the petition and confer ETC status on Virgin Mobile for the purpose of offering prepaid wireless Lifeline service to low income households in West Virginia supported by the USF. The approval should be limited to participating in the Lifeline program and not for the Linkup high-cost program. Virgin Mobile will provide the Lifeline service under the brand name Assurance Wireless. (See, Further Joint Staff Memorandum, with attachment, filed on August 5, 2010).

7. Staff's approval recommendation is predicated upon Virgin Mobile offering the following:

- (a) Eligible customers will not be charged an activation or connection fee and are not required to make a cash deposit in order to commence service;
- (b) Eligible customers qualifying under the Lifeline program will be able to use their existing handsets or elect to receive a free Assurance Wireless branded handset with E911 capability;

- (c) Eligible customers qualifying under the Lifeline program will receive 200 free minutes each month. Unused free minutes do not roll over to the next month, and expire at the end of the 30-day service cycle;
- (d) Eligible customers qualifying under the Lifeline program will receive free voice mail, caller ID and Call Waiting features which will remain in effect after the 200 free minutes have been consumed; and
- (e) Eligible customers qualifying under the Lifeline program will be able to obtain additional prepaid calling time at the rate of \$0.10 per minute for voice and at the rate of \$0.10 per minute for text messaging services. Purchased minutes do not expire at the end of the 30-day service cycle and remain available until used or the customer account is terminated.

(See, Further Joint Staff Memorandum, with attachment, filed on August 5, 2010).

8. Staff did not recommend approval of Virgin Mobile's request for "the authority to modify the parameters of the offering as market conditions develop," since such authority is too vague and broad to warrant inclusion as part of granting ETC status. (See, Further Joint Staff Memorandum, with attachment, filed on August 5, 2010).

9. Staff opined that petitions to intervene by advocates should be denied, since the advocates cannot show a legal interest in the matter, as required by *Procedural Rule* 12.6.a. (See, Further Joint Staff Memorandum, with attachment, filed on August 5, 2010).

10. Staff opined that the only issue is whether the Commission is prohibited from ruling on this matter in accordance with the FCC forbearance order. (See, Further Joint Staff Memorandum, with attachment, filed on August 5, 2010).

11. Staff recommended that the petition should be granted as discussed above, since the Commission has jurisdiction to either grant or reject a petition for ETC status under Section 241(e) of the *Act*. (See, Further Joint Staff Memorandum, with attachment, filed on August 5, 2010).

12. Virgin Mobile submitted a letter responding to Commission Staff's August 5, 2010 final substantive recommendation, pointing out an inconsistency in Staff's recommendation, i.e., showing a rate for text messaging of \$0.15 per minute at one location in the document and a rate of \$0.10 per minute at another location. Virgin Mobile clarified that its proposed rate for text messaging is \$0.10 per text message. (See, August 10, 2010 filing).

CONCLUSIONS OF LAW

1. Since Staff recommended that the Commission grant the petition and confer ETC status on Virgin Mobile for the purpose of offering prepaid wireless Lifeline service supported by the USF

to low-income households in West Virginia and not for the Linkup high-cost program, predicated upon Virgin Mobile offering the following:

- (a) Eligible customers will not be charged an activation or connection fee and are not required to make a cash deposit in order to commence service;
- (b) Eligible customers qualifying under the Lifeline program will be able to use their existing handsets or elect to receive a free Assurance Wireless branded handset with E911 capability;
- (c) Eligible customers qualifying under the Lifeline program will receive 200 free minutes each month. Unused free minutes do not roll over to the next month, and expire at the end of the 30-day service cycle;
- (d) Eligible customers qualifying under the Lifeline program will receive free voice mail, caller ID and Call Waiting features which will remain in effect after the 200 free minutes have been consumed; and
- (e) Eligible customers qualifying under the Lifeline program will be able to obtain additional prepaid calling time at the rate of \$0.10 per minute for voice and at the rate of \$0.10 per minute for text messaging services. Purchased minutes do not expire at the end of the 30-day service cycle and remain available until used or the customer account is terminated;

it is reasonable to grant ETC status to Virgin Mobile as recommended by Staff.

2. It is not reasonable to approve the request for "the authority to modify the parameters of the offering as market conditions develop."

3. While it is reasonable to consider the concerns voiced by the various advocacy organizations, it is not reasonable to grant Intervenor status to any of those advocacy organizations, since they have not demonstrated a legal interest in the petition.

4. Since the only issue is whether the Commission is prohibited from ruling on this matter in accordance with the FCC forbearance order, it is reasonable to grant the petition as discussed above, since the Commission has jurisdiction to either grant or reject a petition for ETC status under Section 241(e) of the *Act*.

ORDER

IT IS, THEREFORE, ORDERED that the petition filed with the Commission on February 24, 2010, by Virgin Mobile USA, L.P., pursuant to Section 214(e)(2) of the *Telecommunications Act of 1934*, as amended, seeking designation as an eligible telecommunications carrier solely for the

purposes of offering prepaid wireless telecommunications services supported by the Universal Service Fund Lifeline program, be, and hereby is, granted.

IT IS FURTHER ORDERED that Virgin Mobile make provision for the following:

- (a) Eligible customers will not be charged an activation or connection fee and are not required to make a cash deposit in order to commence service;
- (b) Eligible customers qualifying under the Lifeline program will be able to use their existing handsets or elect to receive a free Assurance Wireless branded handset with E911 capability;
- (c) Eligible customers qualifying under the Lifeline program will receive 200 free minutes each month. Unused free minutes do not roll over to the next month, and expire at the end of the 30-day service cycle;
- (d) Eligible customers qualifying under the Lifeline program will receive free voice mail, caller ID and Call Waiting features which will remain in effect after the 200 free minutes have been consumed; and
- (e) Eligible customers qualifying under the Lifeline program will be able to obtain additional prepaid calling time at the rate of \$0.10 per minute for voice and at the rate of \$0.10 per minute for text messaging services. Purchased minutes do not expire at the end of the 30-day service cycle and remain available until used or the customer account is terminated.

IT IS FURTHER ORDERED that the petition to intervene filed by Advocates for Universal Access, on June 17, 2010, be, and hereby is, denied.

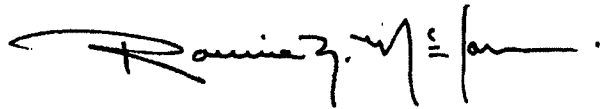
IT IS FURTHER ORDERED that this matter be, and hereby is, removed from the Commission's docket of open cases.

IT IS FURTHER ORDERED that the Executive Secretary serve a copy of this order upon the Commission by hand delivery; by electronic service upon all parties of record who have filed an e-service agreement with the Commission; and by United States Certified Mail, return receipt requested, upon all parties of record who have not filed an e-service agreement with the Commission.

Leave hereby is granted to the parties to file written exceptions supported by a brief with the Executive Secretary of the Commission within fifteen (15) days of the date this Recommended Decision is mailed. If exceptions are filed, the parties filing exceptions shall certify to the Executive Secretary that all parties of record have been served said exceptions.

If no exceptions are so filed this Recommended Decision shall become the order of the Commission, without further action or order, five (5) days following the expiration of the aforesaid fifteen (15) day time period, unless it is ordered stayed or postponed by the Commission.

Any party may request waiver of the right to file exceptions to an Administrative Law Judge's recommended decision by filing an appropriate petition in writing with the Executive Secretary. No such waiver will be effective until approved by order of the Commission, nor shall any such waiver operate to make any Administrative Law Judge's recommended decision the order of the Commission sooner than five (5) days after approval of such waiver by the Commission.



Ronnie Z. McCann
Deputy Chief Administrative Law Judge

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PUBLIC SERVICE COMMISSION

#17, 4/14/10 AM; ML#121433, TE-10097

April 14, 2010

Mr. Peter Lurie
Senior Vice President
Virgin Mobile USA, L.P.
10 Independence Blvd.
Warren, NJ 07059

Dear Mr. Lurie:

The Commission has reviewed the Petition for Designation as an Eligible Telecommunications Carrier in Maryland for limited purpose of offering Lifeline Services filed on February 12, 2010 by Virgin Mobile USA, L.P.

After considering this matter at the April 14, 2010 Administrative Meeting, the Commission granted the company designation as an Eligible Telecommunications carrier pursuant to 47 U.S.C. § 214(e) for the limited purpose of offering Lifeline service to qualified households in Maryland following a 30-day comment period.

By Direction of the Commission,

/s/ *Terry J. Romine*

Terry J. Romine
Executive Secretary

TJR/gjd