

**COMMONWEALTH OF MASSACHUSETTS
DEPARTMENT OF TELECOMMUNICATIONS & CABLE**

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

D.T.C. 10-11

**VIRGIN MOBILE RESPONSES TO DEPARTMENT OF
TELECOMMUNICATIONS AND CABLE'S
RECORD REQUESTS**

Virgin Mobile USA, L.P. ("Virgin Mobile" or "Virgin") by its attorneys, responds to the Record Requests issued by the Department of Telecommunications and Cable ("Department" or DTC) at the hearing held in the above referenced docket on March 16, 2011 at the Department's offices. Certain responses provided herein contain information that is Confidential and those responses are being filed under seal pursuant to the Motion for Confidentiality that was granted on March 16, 2011 by the Hearing Officer. Sprint provides an explanation below of the reasons justifying the requested confidential treatment.

Justification of Confidential Treatment.

Record Request No. 3. The information requested – the length of time until Virgin Mobile realizes profitability for a Lifeline customer receiving only the base offer – constitutes proprietary information, confidential business information, or trade secrets that are not publicly available. The release of the information provided in this response would be competitively disadvantageous to Virgin Mobile. Additionally, release of this information would potentially disadvantage Lifeline subscribers as Virgin Mobile's competitors could use the information provided to narrowly tailor their Lifeline offers based on Virgin's profitability information. The requested information is only available

to a very limited number of Virgin Mobile personnel, and is information regarding which Virgin Mobile employs its best efforts to maintain secrecy. The information requested is commercial information that derives actual and potential independent economic value from not being known to, and not being ascertainable by proper means by, persons who can obtain economic value from its disclosure and use.

Record Request No. 5. The information requested – whether Virgin Mobile’s use of Sprint Nextel’s network is subject to the terms and conditions of an agreement governing such use – constitutes proprietary information, confidential business information, or trade secrets that are not publicly available. The release of the information provided in this response could be competitively disadvantageous to Virgin Mobile as information regarding Sprint Nextel’s internal management practices and procedures regarding corporate governance and subsidiary relationships, if disclosed, could position competitors to either better align their own business practices. The requested information is only available to a very limited number of Virgin Mobile personnel, and is information regarding which Virgin Mobile employs its best efforts to maintain secrecy. The information requested is commercial information that derives actual and potential independent economic value from not being known to, and not being ascertainable through proper means by, persons who can obtain economic value from its disclosure and use. Finally, no useful purpose could be served by the disclosure of the submitted information as it merely pertains to Sprint’s internal practices and procedures and has no bearing on its relationship with its customers, competitors or its ability and willingness to provide service as an Eligible Telecommunications Carrier.

Record Request No. 6. Information pertaining to the location of Virgin Mobile's (or Sprint Nextel Corporation's ("Sprint Nextel")) facilities within Massachusetts is both competitively sensitive information as well as the subject of concern due to certain directives and programs emanating from the federal Department of Homeland Security ("DHS"). DHS, pursuant to the Critical Infrastructure Information Act of 2002 (Homeland Security Act of 2002, Pub. L. 108-275, tit. II, subtit. B, sec. 211, 116 Stat. 2135, 2150 (Nov. 25, 2002) (6 U.S.C. 131-134)), has instituted certain programs and guidelines regarding the release of location information for Critical Industry Infrastructure ("CII")(see generally 6 C.F.R. Part 29 *et seq.*). To accommodate state and local governments' legitimate needs and desires to obtain such information, and balance those needs with DHS's imperative to protect CII, DHS has instituted a program whereby it serves as a repository for CII information and interfaces directly with state and local governments that have been accredited by DHS for the receipt of such information. DHS maintains a comprehensive manual regarding its program at the following website: http://www.dhs.gov/xlibrary/assets/pcii_program_procedures_manual.pdf

In an effort to reasonably comply with the Department's Record Request while maintaining compliance with DHS's policy regarding disclosure of CII, Virgin Mobile provides its responses to the Department's Record Request under seal. Virgin Mobile also notes for the Department that Virgin Mobile's response does not precisely identify facility location as such specific details are the subject of DHS concern. Virgin Mobile hopes that its approach to this response is satisfactory to the Department, taking into account the constraints over disclosure of the requested information.

Record Request No. 7. The information requested implicates some, most or all of the concerns listed immediately above. In an effort to comply with the Department's request while not running afoul of DHS's policies and guidelines on such matters, Virgin Mobile is filing under seal with the Department certain information regarding Sprint Nextel's industry-best Emergency Response Team ("ERT") program. This information is highly sensitive as its release could position persons to interrupt Sprint Nextel's disaster and emergency response. Additionally, certain elements of the materials provided are competitively sensitive as they provide details regarding Sprint Nextel's ability, approach and plans to provide Public Safety and Enterprise customers continuous service in emergency and disaster situations. To the extent that such services are a business differentiator, such information constitutes proprietary information, confidential business information, or trade secrets that are not publicly available. The release of the information provided in this response would be competitively disadvantageous to Sprint Nextel and/or Virgin Mobile. The requested information is only available to a limited number of Sprint Nextel personnel, and is information regarding which Sprint Nextel employs its best efforts to maintain the secrecy. The information requested is also commercial information that derives actual and potential independent economic value from not being known to, and not being ascertainable by proper means by, persons who can obtain economic value from its disclosure and use.

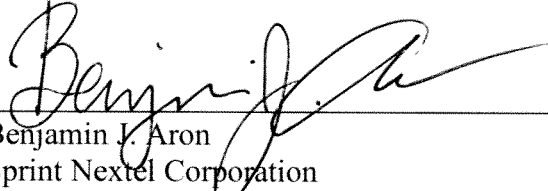
Record Request No. 8. The information requested – call and service quality metrics for Massachusetts – constitutes proprietary information, confidential business information, or trade secrets that are not publicly available. The release of the information provided in

this response would be competitively disadvantageous to Virgin Mobile. The requested information is only available to a very limited number of Virgin Mobile personnel, and is information regarding which Virgin Mobile employs its best efforts to maintain secrecy. The information requested is commercial information that derives actual and potential independent economic value from not being known to, and not being ascertainable through proper means by, persons who can obtain economic value from its disclosure and use.

Record Request No. 9. The information requested – customer intake guidelines or script used by call center representatives for inquiries regarding Assurance Wireless service – constitutes proprietary information, confidential business information, or trade secrets that are not publicly available. The release of the information provided in this response would be competitively disadvantageous to Virgin Mobile. The requested information is only available to a limited number of Virgin Mobile personnel, and is information regarding which Virgin Mobile employs its best efforts to maintain the secrecy. The information requested is commercial information that derives actual and potential independent economic value from not being known to, and not being ascertainable by proper means by, persons who can obtain economic value from its disclosure and use. While Virgin Mobile acknowledges that persons calling into the call center will hear elements of the submitted document read or paraphrased during an intake call, there is considerable detail in the submitted materials that a caller would not hear, and it is that information that makes the documentation submitted confidential. The information contained in the submitted materials would enable competitors to gain insight into Virgin

Mobile's business processes, programs, and software systems. No useful purpose would be served by making such information publicly available, and the release of the information provided could be disadvantageous to Lifeline customers as it might have a chilling effect on other companies' efforts to improve their own customer intake and customer relations practices.

Respectfully submitted,



Benjamin J. Aron
Sprint Nextel Corporation
12502 Sunrise Valley Drive
Reston, Virginia 20196
(703) 592-7618 Office
(703) 433-4804 Fax
Benjamin.aron@sprint.com

Dated: March 22, 2011

DTC Rec. Req. No. 1: Sprint will provide a copy of the materials (phone instruction book, VM Assurance Wireless Quick Start Guide, etc.) that customer initially receives with their phone.

Response: Sprint has attached to the public version of this response copies of the materials requested. Sprint has also provided a copy of a letter an Assurance Wireless customer customarily receives several days in advance of receipt of their phone announcing approval of their application.

Virgin Mobile USA, L.P.
DTC Docket No. 10-11
Responses to Record Requests
Witness: Ceyhun Cetin

Public

DTC Rec. Req. No. 2: Sprint will provide an Affidavit attesting to VM's ability to be an ongoing concern.

Response: Please see attached Affidavit. The affidavit is attached to the public version of this response.

Virgin Mobile USA, L.P.
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Witness: Elaine Divelbliss

Public

DTC Rec. Req. No. 3: The length of time until Assurance Wireless realizes profitability for a customer receiving only the base-plan.

Response: **[BEGIN VIRGIN MOBILE PROPRIETARY]**

[END VIRGIN MOBILE PROPRIETARY]

DTC Rec. Req. No. 4: Whether Virgin Mobile has a business cessation plan for Massachusetts? Is so, please describe such plan? If the plan is simply to comply with all rules, please so specify.

Response: Virgin Mobile does not have a business cessation plan for Massachusetts. In the event that Virgin Mobile were to seek to discontinue its Assurance Wireless Lifeline service, or otherwise cease operations in Massachusetts, it would follow all applicable rules, regulations, Orders, and statutes.

DTC Rec. Req. No. 5: Whether there is any formal agreement for Virgin Mobile to use Sprint Nextel's network?

Response: **[BEGIN VIRGIN MOBILE CONFIDENTIAL]**

[END VIRGIN MOBILE CONFIDENTIAL]

Virgin Mobile also directs the Department to the second half of Virgin Mobile's response to DTC Rec. Req. No. 6. There Virgin Mobile provides the Department with language from an FCC Order indicating that a subsidiary like Virgin Mobile typically enjoys beneficial use of its parent corporation's wireless facilities without arm's length transactions or other formal purchasing arrangements with the corporate parent.

DTC Rec. Req. No. 6: Whether there is a Sprint Nextel switch in Massachusetts, and if so, where?

Whether Sprint Nextel satisfies the FCC's requirement for facilities in a state?

Response: **[BEGIN VIRGIN MOBILE PROPRIETARY]**

[END VIRGIN MOBILE PROPRIETARY]

Sprint Nextel does satisfy the FCC's requirements for facilities in a state. Aside from the information provided above, Virgin Mobile directs the Department's attention to the following finding made by the FCC:

We also find that Virgin Mobile, a wholly owned affiliate of Sprint Nextel, "owns" Sprint Nextel's facilities for the purposes of the facilities requirement in Section 214(e) of the Act ... With Sprint Nextel's acquisition of Virgin Mobile, the wholesaler-reseller relationship changed such that Virgin Mobile now enjoys "beneficial use of Sprint's wireless facilities without arm's length transactions or purchase of service from Sprint. Based on these facts, we find that Virgin Mobile has its "own facilities" for the purposes of the section 214(e)(1) facilities requirement.

We disagree with the comments suggesting that Virgin Mobile cannot treat its parent's facilities as its own because the two are distinct legal entities or because Virgin Mobile has a distinct brand and customer base from Sprint. The Commission has previously rejected a formalistic definition of what constitutes a carrier's "own facilities" under section 24(e) in favor of a more flexible approach that meets the goals of universal service.

Order, *In the Matter of Telecommunications Carriers Eligible for Universal Service Support, Virgin Mobile USA, L.P. Petition for Designation as an Eligible Telecommunications Carrier in the States of Alabama, Connecticut, the District of Columbia, Delaware, and New Hampshire*, WC Docket No. 09-197, DA 10-2433, ¶¶ 15-16 (released December 29, 2010)(attached to Virgin Mobile's response to Interrogatory DTC 1-1 at Exhibit 1).

DTC Rec. Req. No. 7: Where Sprint Nextel's C.O.W.s for Massachusetts are permanently based?

Response: **[BEGIN VIRGIN MOBILE PROPRIETARY]**

[END VIRGIN MOBILE PROPRIETARY]

In an effort to more fully respond to the Department's Record Request and provide the Department information that will assist the Department in assessing Virgin Mobile's readiness for emergency and disaster scenarios, Virgin Mobile has filed under seal certain materials that will provide the Department with a greater insight into Sprint's approach to emergency and disaster readiness. The described materials are attached to the proprietary version of this response only.

DTC Rec. Req. No. 8: Sprint will provide its most recent call quality/service quality metrics for Massachusetts.

Response: **[BEGIN VIRGIN MOBILE PROPRIETARY]**

[END VIRGIN MOBILE PROPRIETARY]

DTC Rec. Req. No. 9: Sprint will provide its intake guidelines/script used by call center representatives for Assurance Wireless inquiries.

Response: See attached materials filed under seal. The described materials are attached to the proprietary version of this response only.