

**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 WRITTEN OBJECTIONS AND RESPONSES
TO INFORMATION REQUESTS PROPOUNDED BY THE
DEPARTMENT OF TELECOMMUNICATIONS & CABLE**

Virgin Mobile USA, L.P. (“Virgin Mobile” or “Virgin”) by its attorneys, responds to the Interrogatories of the Department of Telecommunications and Cable (“Department” or DTC) propounded upon Virgin Mobile (collectively “Information Requests”) as follows.

GENERAL OBJECTIONS

Virgin Mobile makes the following general objections to the Department of Telecommunications & Cable’s (“Department” or “DTC”) Information Requests. Unless otherwise specified, each of the following General Objections is continuing, and is incorporated into the response to each request propounded by Department as if fully set forth therein. The assertion of the same, similar or additional objections in any specific response does not waive Virgin Mobile’s general objections set forth below.

1. Virgin Mobile objects to the instructions provided by Department to the extent such instructions impose obligations different or greater than set forth in the applicable procedural and discovery rules.
2. Virgin Mobile objects to these Information Requests to the extent that they are not reasonably calculated to lead to the discovery of admissible evidence and are not relevant to the subject matter of this proceeding.

3. Virgin Mobile objects to each and every Information Request to the extent that it purports to seek information about matters outside of the Commonwealth of Massachusetts.

4. Virgin Mobile objects to each and every Information Request to the extent it purports to seek information or documents that are protected from disclosure by the attorney-client privilege, attorney work product doctrine or other privilege.

5. Virgin Mobile objects to each and every Information Request to the extent Department seeks information or documents that are confidential, proprietary, and/or trade secret information protected from disclosure.

6. Virgin Mobile objects to each and every Information Request to the extent that it purports to require disclosure of information or documents that are not available to Virgin Mobile or that are equally or more readily available to Department than obtaining the information or documents from Virgin Mobile.

7. Virgin Mobile objects to these Information Requests to the extent that they are unduly burdensome, expensive, oppressive, or excessively time consuming as written.

8. Virgin Mobile objects to these Information Requests to the extent they seek information that is already in the possession of Department or already in the public record before the Department, or elsewhere.

9. Virgin Mobile objects to those Information Requests that seek to obtain "all" documents to the extent that such an Information Request is overbroad and unduly burdensome and seeks information that is neither relevant nor material to the subject matter of this proceeding nor reasonably calculated to lead to the discovery of admissible evidence.

10. Virgin Mobile objects to these Information Requests to the extent that they seek to impose an obligation on Virgin Mobile to respond on behalf of subsidiaries, affiliates, or other persons that are not parties to this proceeding on the grounds that such requests are overly broad, unduly burdensome and oppressive.

11. Virgin Mobile objects to these Information Requests to the extent that they are vague, ambiguous, overly broad, imprecise, or utilize terms that are subject to multiple interpretations but are not properly defined or explained for purposes of these requests.

12. Virgin Mobile is a large corporation with employees located in many different locations. In the course of its business, Virgin Mobile creates countless documents that are not subject to Department or Federal Communications Commission (“FCC”) retention of records requirements. These documents are kept in numerous locations that are frequently moved from site to site as employees change jobs or as the business is reorganized. Therefore, it is possible that not every document will be provided in response to these discovery requests. Rather, Virgin Mobile’s responses will provide, subject to any applicable objections, all of the information obtained by Virgin Mobile after a reasonable and diligent search conducted in connection with these requests. Virgin Mobile shall conduct a search of those files that are reasonably expected to contain the requested information. To the extent that the Information Requests purport to require more, Virgin Mobile objects on the grounds that compliance would impose an undue burden or expense.

13. The objections contained herein are not intended nor should they be construed to waive Virgin Mobile's right to other discovery involving or relating to the

subject matter of these Information Requests, responses or documents produced in response hereto.

14. Virgin Mobile's agreement to respond partially to these Information Requests should not be construed to mean that any documents or information responsive to the Information Request exist.

INDEX OF EXHIBITS TO INTERROGATORIES

Interrogatory	Exhibit	Description
DTC 1-1	Exhibit 1	FCC and State Commission Orders Granting ETC Designation to Virgin Mobile USA, L.P.
DTC 1-5	Exhibit 2	Map of Virgin Mobile USA, L.P. Massachusetts Service Area
DTC 1-6	Exhibit 3	Examples of Advertising for Virgin Mobile USA, L.P.'s Lifeline services (Assurance Wireless)
DTC 1-17	Exhibit 4	Virgin Mobile's Articles of Incorporation and a Certificate of Good Standing
DTC 1-4 DTC 1-8 DTC 1-10 DTC 1-15 DTC 1-19 DTC 1-20	Exhibit 5	Certification

D.T.C. 1-1 Regarding pages 3 and 4 of Virgin's Application, identify any additional states where Virgin has been designated an ETC and whether that designation is limited and how it is limited, including any specific requirements imposed on or volunteered by Virgin. Also provide complete and detailed documentation describing such limitations and/or specific requirements. If Virgin's ETC designation has been terminated in any state, identify the state and provide complete and detailed documentation describing the reasons therefore.

Objections: Virgin Mobile objects to the question on the grounds that the question is unduly burdensome and overbroad. Virgin Mobile objects on the grounds that the question seeks a response that would require a special study. Subject to and without waiving the foregoing objections, Virgin Mobile responds as follows.

Response:

As of the date of this submission, Virgin Mobile has been designated as an Eligible Telecommunications Carrier ("ETC") in the following jurisdictions: Alabama, Connecticut, Delaware, the District of Columbia, Florida, Indiana, Iowa, Louisiana, Maryland, Michigan, Mississippi, New Hampshire, New Jersey, New York, North Carolina, Pennsylvania, South Carolina, Tennessee, Texas, Virginia, Washington and West Virginia.

No state has denied Virgin Mobile's request for ETC designation. Virgin Mobile's ETC designation has not been terminated in any state.

In its Order dated March 5, 2009, the FCC granted forbearance of the ETC facilities requirement to Virgin Mobile, which at the time was a reseller of Sprint service, and designated Virgin Mobile as an ETC in New York, North Carolina, Tennessee and Virginia, subject to certain conditions, generally as follows:

- (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.

In its Order dated December 29, 2010, the FCC recognized Virgin Mobile as a facilities-based carrier in light of its November 2009 acquisition by Sprint Nextel Corporation, and reiterated two conditions consistent with its March 5, 2009 Order:

- (1) providing its Lifeline customers with 911 and E911 access regardless of activation status and availability of prepaid minutes; and
- (2) providing E911-compliant handsets to all of its Lifeline customers, and replacing, at no charge to the customer, any noncompliant handset of an existing customer that obtains Lifeline-supported services with an E911-compliant handset, consistent with prior determinations by the Commission (Dec. 29 Order at 6)

The PSAP certification requirement was explicitly omitted in light of Virgin Mobile's facilities-based status. In the December 29, 2010 Order ("Dec. 29 Order"), the FCC also designated Virgin Mobile as an ETC for Alabama, Connecticut, Delaware, the District of Columbia and New Hampshire subject to the following conditions:

- (a) requiring each customer to self-certify at time of service activation and annually thereafter that he or she is the head of household and receives Lifeline-supported service only from that carrier;
- (b) establishing safeguards to prevent its customers from receiving multiple Lifeline subsidies from that carrier at the same address;
- (c) dealing directly with the customer to certify and verify the customer's Lifeline eligibility; and
- (d) certifying that it is in full compliance with any applicable 911/E911 obligations including obligations relating to the provision, and support, of 911 and E911 service for each state in which the FCC designates it as a limited ETC. (Dec. 29 Order at 8-9)

In connection with the December 29, 2010 designations for Alabama, Connecticut, Delaware, the District of Columbia and New Hampshire, Virgin Mobile voluntarily committed to the following conditions:

- (a) making available state-specific customer data, including name and address, to each state PUC where it operates for the purpose of permitting the PUC to determine whether an existing Assurance Wireless Lifeline customer receives Lifeline service from another carrier,
- (b) promptly investigating any notification that it receives from a state PUC that one of its customers already receives Lifeline service from another carrier,
- (c) immediately deactivating the customer's Lifeline service and no longer reporting that customer on USAC Form 497 if Virgin Mobile's investigation concludes that the customer receives Lifeline services from another carrier in violation of the Commission's regulations, and
- (d) implementing a non-usage policy in all states where it provides Lifeline service requiring Virgin Mobile to identify customers that have not used its Lifeline service for 60 days and not seeking support for such customers if they do not actively use the Lifeline service during a 30-day grace period.

Certain states have imposed variations on certain of the requirements set forth above in addition to other administrative requirements set forth in the order issued by each respective state, which are attached hereto as Exhibit 1.

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D.T.C. 1-2 Identify each state where Virgin has a petition currently pending for ETC designation and describe the status of each petition. If a petition has been denied, provide a copy of the denial issued by the commission or government agency.

Objections: Virgin Mobile's response follows.

Response:

No state has denied Virgin Mobile's request for ETC designation.

In addition to Massachusetts, Virgin Mobile has ETC petitions pending in Arkansas, California, Georgia, Kansas, Kentucky, Maine, Ohio and Utah. On January 25, California staff issued an approval recommendation, which is expected to be voted on at the February 24 meeting of the California PUC. All other applications are under review.

D.T.C. 1-3 Identify any and all ongoing litigation that affect or may affect the services offered or intended to be offered by Virgin in the Commonwealth of Massachusetts, including but not limited to disputes over patents covering Virgin's services. Provide a copy of all judicial filings made in relation to such litigation.

Objections: Virgin Mobile objects on the grounds that the question is vague, ambiguous and not narrowly tailored in that it requests identification of "all ongoing litigation that affect or may affect the services offered or intended to be offered." Virgin Mobile objects to the question on the grounds that the question is unduly burdensome and overbroad. Virgin Mobile objects on the grounds that the question seeks a response that would require a special study. Subject to and without waiving the foregoing objections, Virgin Mobile responds as follows.

Response:

Virgin Mobile is aware of no such litigation at this time.

D.T.C. 1-4 Certify whether the FCC, any state commission, or government agency has, to date, rendered or entered a finding, conviction, or civil judgment against Virgin during the last three years. Provide a copy of any such finding, conviction, or civil judgment entered against Virgin.

Objections: Virgin Mobile's response follows.

Response:

Virgin Mobile has not been subject to an agency finding, conviction or civil judgment during the last three years other than the following:

On February 26, 2008, the Federal Communications Commission issued a Memorandum Opinion and Order (the "Order") denying the Company's Petition for Limited Waiver which was filed on November 7, 2006 and which sought a 10-month extension – to July 18, 2007 – to comply with FCC rules requiring Virgin Mobile to offer two handsets by September 18, 2006 that meet technical hearing aid compatibility requirements for inductive coupling. The Order ruled on 46 waiver requests, including Virgin Mobile's; in general, the FCC granted waivers to companies that came into compliance by January 1, 2007 or shortly thereafter. Virgin Mobile came into compliance with the hearing-aid compatible telephone rules on April 19, 2007. On September 4, 2009, the FCC's Enforcement Bureau issued an order reprimanding the Company but did not impose a fine for alleged non-compliance.

Virgin Mobile also attaches hereto a certification of its above stated response at Exhibit 5.

D.T.C. 1-5 State the date that Virgin began offering service in Massachusetts. Describe the scope of Virgin's existing business in Massachusetts, including geographic areas of operation, a description of services offered, and total number of Massachusetts customers. State whether Virgin is current with respect to filing annual returns with the Department.

Objections: Virgin Mobile objects to the question on the grounds that the question is unduly burdensome and overbroad. Virgin Mobile objects on the grounds that the question seeks a response that would require a special study. Virgin Mobile objects on the grounds that the information requested could reveal proprietary information, confidential business information, and trade secrets regarding Virgin Mobile's business interests and operations. Subject to and without waiving the foregoing objections, Virgin Mobile responds as follows.

Response:

Virgin Mobile began offering service in Massachusetts in June 2002. Virgin Mobile's geographic area of operation in Massachusetts is illustrated by the attached map (Exhibit 2). Virgin Mobile is national wireless communications provider specializing in prepaid service plans for voice, data, text, wireless broadband, email, and more.

As of December 31, 2010, the total number of Virgin Mobile subscribers in Massachusetts was **[BEGIN VIRGIN MOBILE PROPRIETARY]** **[END VIRGIN MOBILE PROPRIETARY]**.

Virgin Mobile is current in the filing of its annual returns with the Department.

D.T.C. 1-6 Describe where in Massachusetts and by what methods Virgin currently advertises its services and provide sample copies of same. Also, identify with specificity the media of general distribution (referenced on pages 17 and 18 of Virgin's Application) that Virgin intends to use for advertising the services and charges supported by Federal universal service support mechanisms pursuant to 47 USC § 254(c).

Objections: Virgin Mobile's response follows.

Response:

Virgin Mobile engages in national and local advertising for services not supported by Federal universal service support mechanisms pursuant to 47 USC § 254(c). In states in which Virgin Mobile is designated as an ETC and offers services supported by Federal universal service support mechanisms pursuant to 47 USC § 254(c), Virgin Mobile offers such services under its "Assurance Wireless by Virgin Mobile" brand. Virgin Mobile advertises the Assurance Wireless brand on television, online and, in certain markets, in newspapers. Virgin Mobile also relies on direct mail and partnerships with agencies serving Lifeline eligible clients to market its Lifeline service. Samples of newspapers advertisements, direct mail pieces and other marketing materials for Assurance Wireless are attached hereto as Exhibit 3.

D.T.C. 1-7 Virgin states on page 10 of its Application that it intends to use its own facilities as defined by the FCC in its offering and providing the services supported by federal universal service support mechanisms pursuant to 47 USC § 254(c). Virgin further states that “it no longer purchases network capacity from Sprint or any other entity.” State whether the Company purchases network capacity from any other entity and if so, describe with specificity the Company facilities to be used and the other carrier’s services and/or facilities to be used.

Objections: Virgin Mobile objects to the question on the grounds that the question is unduly burdensome and overbroad. Virgin Mobile objects on the grounds that the question seeks a response that would require a special study. Virgin Mobile objects on the grounds that the information requested could reveal proprietary information, confidential business information, and trade secrets regarding Virgin Mobile’s business interests and operations. Subject to and without waiving the foregoing objections, Virgin Mobile responds as follows.

Response:

Virgin Mobile service is provided exclusively on the Sprint Nationwide Network. Virgin Mobile does not purchase or resell the network service of any carrier.

D.T.C. 1-8 Certify whether Virgin is in a position to immediately offer each of the services supported by federal universal service support mechanisms pursuant to 47 USC § 254(c) and 47 CFR § 54.101.

Objections: Virgin Mobile on the grounds that the information requested could reveal proprietary information, confidential business information, and trade secrets regarding Virgin Mobile's business interests and operations. Subject to and without waiving the foregoing objections, Virgin Mobile responds as follows.

Response:

As noted in its Petition, Virgin Mobile's request for ETC designation complies with section 254(c) of the Communications Act of 1934, as amended, and 54.101 of the FCC's regulations because the Company provides all of the services and functionalities supported by the universal service program throughout its Massachusetts service territory. Virgin Mobile will provide each of the services supported by the federal USF immediately upon its launch of Lifeline services in the Commonwealth. These services include voice grade access to the public switched telephone network, local usage, dual tone multi-frequency signaling 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 services.¹

Virgin Mobile also attaches a certification to these answers in response to this question at Exhibit 5.

¹ The FCC previously determined that the prepaid nature of Virgin Mobile's Lifeline offering essentially functions as a toll control feature that satisfies the section 54.101(a)(9) requirement regarding toll limitation services. 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, 24 FCC Rcd at 3394, para. 34 (2009).

D.T.C. 1-9 Describe whether Virgin [Verizon] has any unique advantages, characteristics or features to its proposed service offerings as compared to the service offerings of the incumbent local exchange carrier (i.e., Verizon) and other ETCs (e.g., RCN of Massachusetts, Taconic Telephone Corporation, and TracFone) in the designated area.

Objections: Virgin Mobile objects to the question on the grounds that the question is unduly burdensome and overbroad. Virgin Mobile objects on the grounds that the question seeks a response that would require a special study. Virgin Mobile on the grounds that the information requested could reveal proprietary information, confidential business information, and trade secrets regarding Virgin Mobile's business interests and operations. Virgin Mobile objects on the grounds that the some of the information sought pertains to other carriers and is not within Virgin Mobile's control. Subject to and without waiving the foregoing objections, Virgin Mobile responds as follows.

Response:

Virgin Mobile's basic Lifeline service offering provides eligible customers with 250 anytime prepaid minutes per month at no charge with additional service priced at \$0.10/minute for local and long-distance calling and \$0.10/text message. Virgin Mobile has also recently implemented additional methods by which Lifeline customers entirely at their option can purchase blocks of additional services.² Under the first option, Lifeline customers can add \$5 to their account to purchase an additional 250 monthly minutes, providing them with a total of 500 voice minutes in a month (250 free minutes plus 250 additional minutes). Under the second option, Lifeline customers can add \$20 to their account to purchase an additional 750 voice minutes, providing them with a total of 1,000 voice minutes (250 free minutes plus 750 additional minutes). Customers choosing this second option will also receive 1,000 monthly text messages. There is no obligation that customers purchase these additional offerings or add money to their accounts, and all eligible customers will continue to receive 250 free monthly minutes.³

Virgin Mobile respectfully submits that its Lifeline offering is superior to all existing service plans available in Massachusetts, including ILEC rate plans, in many important respects. In addition to offering the convenience, security and mobility offered by wireless services, Virgin Mobile's plan is also free of the many limitations and

² A description of these service offerings is available on the Assurance Wireless website: <http://www.assurancewireless.com/Public/MorePrograms.aspx>.

³ Consistent with current practice, minutes and text messages do not carry forward from month-to-month. Customers can still purchase individual voice minutes and text messages for \$0.10.

restrictions that currently apply to services offered by other carriers. The rates for service under all plans include all applicable taxes and fees, and customers can use their monthly minutes to place calls statewide (or even nationwide) because none of the plans imposes a local calling area requirement. Each service plan also includes voicemail, caller I.D. and call waiting services at no additional charge. Virgin Mobile also does not assess additional charges for activation or connection of Lifeline service. As a result, Lifeline customers will receive free service with no additional charges for taxes or activation. Eligible customers can select any option on a month-to-month basis without subscribing to a long-term contract or incurring activation charges or connection fees. In the event that a customer selecting either the \$5/500 or \$20/1000 minute plan does not have sufficient funds in the Lifeline account at the time the minutes are to be deposited in a particular month, the customer would default to the free 250-minute plan for that month. Unlike other prepaid wireless Lifeline providers, Virgin Mobile is a facilities-based carrier and offers service exclusively on the Sprint Nationwide Network rather than reselling the services of various network providers.

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D.T.C. 1-10 Pursuant to 47 CFR § 54.202, certify whether Virgin will provide service on a timely basis and within a reasonable period of time as required by § 54.202(a)(1)(i)(A), (B).

Objections: Virgin Mobile's response follows.

Response:

Virgin Mobile will provide service on a timely basis and within a reasonable period of time as required by § 54.202(a)(1)(i)(A), (B). See Exhibit 5 which contains Virgin Mobile's certification of this response.

D.T.C. 1-11 Pursuant to 47 CFR § 54.202(a)(1)(ii), submit a five-year plan that describes with specificity proposed improvements or upgrades to the Company's network on a wire center-by-wire center basis throughout its proposed designated service area. If Virgin contends that it is not required to provide such a plan, provide authority for such contention.

Objections: Virgin Mobile objects to the question on the grounds that the question is unduly burdensome and overbroad. Virgin Mobile objects on the grounds that the question seeks a response that would require a special study. Virgin Mobile objects on the grounds that the information requested could reveal proprietary information, confidential business information, and trade secrets regarding Virgin Mobile's business interests and operations. Virgin Mobile objects to the question on the grounds that it is unlikely to lead to the discovery of admissible evidence. Subject to and without waiving the foregoing objections, Virgin Mobile responds as follows.

Response:

In its recent order designating Virgin Mobile as an ETC in the states of Alabama, Connecticut, Delaware, New Hampshire and in Washington D.C., the Federal Communications Commission ("FCC") exempted the Company from the requirements set forth in section 54.202(a)(1)(ii), which require ETCs to submit a five-year plan describing proposed network investments or upgrades.⁴ The state public utility commissions that have approved Virgin Mobile's requests for limited ETC designation have similarly exempted the Company from filing a proposed investment plan. Accordingly, Virgin Mobile respectfully submits that the requirements set forth in section 54.202(a)(1)(ii) of the FCC's rules do not apply to the pending request and asks that the D.T.C. waive application of the regulation.

⁴ See *Federal-State Joint Board on Universal Service; In the Matter of Virgin Mobile USA, L.P. Petitions for Designation as an Eligible Telecommunications Carrier in the States of Alabama, Connecticut, Delaware, New Hampshire and Washington D.C.*, Order, DA 10-2433 at fn. 60 (2010).

D.T.C. 1-12 Pursuant to 47 CFR § 54.202(a)(2), and referenced on pages 16 and 17 of its Application, describe the Company's ability to remain functional in emergency situations, including its contingency plans in the event of an emergency. Provide a detailed explanation of the Company's role in providing access to a reasonable amount of back-up power, including the length of time a cell site can be expected to run exclusively on battery power; rerouting of traffic around damaged facilities; the number of service technicians available to respond to emergency situations; and the capability of managing traffic spikes resulting from emergency situations.

Objections: Virgin Mobile objects to the question on the grounds that the question is unduly burdensome and overbroad. Virgin Mobile objects on the grounds that the question seeks a response that would require a special study. Virgin Mobile objects on the grounds that the information requested could reveal proprietary information, confidential business information, and trade secrets regarding Virgin Mobile's business interests and operations. Subject to and without waiving the foregoing objections, Virgin Mobile responds as follows.

Response:

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 (47 CFR § 54.202(a)(2)). Sprint Nextel has established a variety of internal programs, policies and teams dedicated to analyzing, assessing and responding to emergency situations. Sprint's response to emergencies is dynamic, and plans are developed to address the specific conditions, geographic impact and other factors presented by each emergency. Sprint Nextel has maintained its network in the face of natural disasters including hurricanes, blizzards, floods, earthquake, etc., as well as during utility emergencies such as black-outs, and during special events involving congregation of tens of thousands of people (sporting events, political rallies, etc.). As noted in the petition, 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. Finally, each cell site in the Sprint network is equipped with battery back-up power, and the company is capable of rerouting traffic around damaged facilities.

D.T.C. 1-13 Pursuant to 47 CFR § 54.202(a)(3), describe Virgin's ability to satisfy applicable consumer protection and service quality standards set forth in the Department's *Rules and Practices Relating to Telephone Service to Residential Customers* (D.P.U. 18448 (1977)). Provide copies of Virgin's employee training materials and company policies regarding handling customer complaints.

Objections: Virgin Mobile objects to the question on the grounds that the question is unduly burdensome and overbroad. Virgin Mobile objects on the grounds that the question seeks a response that would require a special study. Virgin Mobile objects on the grounds that the information requested could reveal proprietary information, confidential business information, and trade secrets regarding Virgin Mobile's business interests and operations. Subject to and without waiving the foregoing objections, Virgin Mobile responds as follows.

Response:

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.⁵ Virgin Mobile annually certifies its compliance with the Consumer Code, and the Commission and the FCC recognize the value of such compliance.⁶ In prior years, Virgin Mobile 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.

To the extent that the Department's Rules and Practices pertain to billing and payment practices, security deposits and discontinuance of service, Virgin Mobile respectfully submits that these provisions would not apply to prepaid service. Virgin Mobile does not issue bills to its Lifeline customers. Its Lifeline services are exclusively prepaid, which means that a customer must elect to add money to his or her account to use the service. The Virgin Mobile Lifeline plan is free of charge to the customer unless he or she elects to purchase service beyond the 250 free voice minutes allotted each month. The handset is provided free of charge, and no security deposit is required. A customer may

⁵ 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).

⁶ See also *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.

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discontinue service at any time without penalty by contacting Virgin Mobile. Virgin Mobile will deactivate a customer account, with 30 days notice where appropriate, under the following circumstances: 1) the customer provides notice of ineligibility; 2) the customer fails to respond to a request by Assurance Wireless to confirm eligibility by the response date; 3) the customer has responded to a request by Assurance Wireless to confirm eligibility but fails to submit adequate proof of eligibility status; 4) Assurance Wireless learns a customer is no longer eligible through communication with a state agency; or 5) in certain states, where a customer account remains inactive for a certain period (60 or 90 days).

D.T.C. 1-14 Pursuant to 47 CFR § 54.202(a)(4), demonstrate that Virgin offers a local usage plan comparable to the one offered by the incumbent local exchange carrier (i.e., Verizon) in the service area for which Virgin seeks designation. Provide a detailed description of the local usage plan referred to on pages 14 and 15 of Virgin's Application.

Objections: Virgin Mobile objects to the question on the grounds that the question is unduly burdensome and overbroad. Virgin Mobile objects on the grounds that the question seeks a response that would require a special study. Virgin Mobile objects on the grounds that the information requested could reveal proprietary information, confidential business information, and trade secrets regarding Virgin Mobile's business interests and operations. Subject to and without waiving the foregoing objections, Virgin Mobile responds as follows.

Response:

Virgin Mobile's basic Lifeline service offering provides eligible customers with 250 anytime prepaid minutes per month at no charge with additional service priced at \$0.10/minute for local and long-distance calling and \$0.10/text message. Virgin Mobile has also recently implemented additional methods by which Lifeline customers entirely at their option can purchase blocks of additional services.⁷ Under the first option, Lifeline customers can add \$5 to their account to purchase an additional 250 monthly minutes, providing them with a total of 500 voice minutes in a month (250 free minutes plus 250 additional minutes). Under the second option, Lifeline customers can add \$20 to their account to purchase an additional 750 voice minutes, providing them with a total of 1,000 voice minutes (250 free minutes plus 750 additional minutes). Customers choosing this second option will also receive 1,000 monthly text messages. There is no obligation that customers purchase these additional offerings or add money to their accounts, and all eligible customers will continue to receive 250 free monthly minutes.

Virgin Mobile respectfully submits that its Lifeline offering that is comparable to or superior to the local usage plan offered by the ILECs in the services are for which Virgin Mobile seeks designation. While the utility of the ILEC Lifeline plans ends at the customer's doorstep, Virgin Mobile's Lifeline customers enjoy the advantage of mobile communications that ILECs cannot offer, and which hundreds of millions of Americans enjoy. The rates for service under all Virgin Mobile Lifeline plans include all applicable taxes and fees, and customers can use their monthly minutes to place calls statewide (or

⁷ A description of these service offerings is available on the Assurance Wireless website: <http://www.assurancewireless.com/Public/MorePrograms.aspx>.

even nationwide) because none of the plans imposes a local calling area requirement.⁸ Each service plan also includes voicemail, caller I.D. and call waiting services at no additional charge. Virgin Mobile also does not assess additional charges for activation or connection of Lifeline service. As a result, Lifeline customers will receive free service with no additional charges for taxes or activation. Eligible customers can select any option on a month-to-month basis without subscribing to a long-term contract or incurring activation charges or connection fees. In the event that a customer selecting either the \$5/500 or \$20/1000 minute plan does not have sufficient funds in the Lifeline account at the time the minutes are to be deposited in a particular month, the customer would default to the free 250-minute plan for that month.

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 customer care are not decremented from a customer's account. As a result, Lifeline customers will receive free service so long as they do not elect to exceed 250 minutes of voice service per month with no additional charges for taxes or activation.

⁸ Customers may incur state sales tax and fees at the point of purchase should the customer choose to top-up their account.

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D.T.C. 1-15 Pursuant to 47 CFR § 54.202(a)(5), certify that Virgin acknowledges that the Department may require it to provide equal access to long-distance carriers in the event that no other eligible telecommunications carrier is providing equal access within the service area.

Objections: Virgin Mobile's response follows.

Response:

Virgin Mobile acknowledges that the Department may require it to provide equal access to long-distance carriers in the event that no other eligible telecommunications carrier is providing equal access within the service area. Please see attached certification of this response at Exhibit 5.

D.T.C. 1-16 Identify the rates (or charges) for each service offered by Virgin under 47 USC § 254(c) and identified in 47 CFR § 54.101(a).

Objections: Virgin Mobile objects to the question on the grounds that the question is unduly burdensome and overbroad. Virgin Mobile objects on the grounds that the question seeks a response that would require a special study. Subject to and without waiving the foregoing objections, Virgin Mobile responds as follows.

Response:

Virgin Mobile's basic Lifeline service offering provides eligible customers with 250 anytime prepaid minutes per month at no charge with additional service priced at \$0.10/minute for local and long-distance calling and \$0.10/text message. Virgin Mobile has also recently implemented additional methods by which Lifeline customers entirely at their option can purchase blocks of additional services.⁹ Under the first option, Lifeline customers can add \$5 to their account to purchase an additional 250 monthly minutes, providing them with a total of 500 voice minutes in a month (250 free minutes plus 250 additional minutes). Under the second option, Lifeline customers can add \$20 to their account to purchase an additional 750 voice minutes, providing them with a total of 1,000 voice minutes (250 free minutes plus 750 additional minutes). Customers choosing this second option will also receive 1,000 monthly text messages. There is no obligation that customers purchase these additional offerings or add money to their accounts, and all eligible customers will continue to receive 250 free monthly minutes.

The rates for service under all plans include all applicable taxes and fees, and customers can use their monthly minutes to place calls statewide (or even nationwide) because none of the plans imposes a local calling area requirement.¹⁰ Each service plan also includes voicemail, caller I.D. and call waiting services at no additional charge. Virgin Mobile also does not assess additional charges for activation or connection of Lifeline service. As a result, Lifeline customers will receive free service with no additional charges for taxes or activation. Eligible customers can select any option on a month-to-month basis without subscribing to a long-term contract or incurring activation charges or connection fees. In the event that a customer selecting either the \$5/500 or \$20/1000 minute plan does not have sufficient funds in the Lifeline account at the time the minutes are to be deposited in a particular month, the customer would default to the free 250-minute plan for that month.

⁹ A description of these service offerings is available on the Assurance Wireless website: <http://www.assurancewireless.com/Public/MorePrograms.aspx>.

¹⁰ Customers may incur state sales tax and fees at the point of purchase should the customer choose to top-up their account.

Virgin Mobile USA, L.P.
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PUBLIC

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 customer care are not decremented from a customer's account. As a result, Lifeline customers will receive free service so long as they do not elect to exceed 250 minutes of voice service per month with no additional charges for taxes or activation.

Virgin Mobile USA, L.P.
DTC Docket No. 10-11
Responses to DTC Set 1
Witness: Elaine Divelbliss

PUBLIC

D.T.C. 1-17 Provide a copy of Virgin Mobile's Articles of Incorporation and a Certificate of Good Standing from the state in which Virgin is incorporated.

Objections: Virgin Mobile's response follows.

Response:

The requested documentation is attached hereto as Exhibit 4.

Virgin Mobile USA, L.P.
DTC Docket No. 10-11
Responses to DTC Set 1
Witness: Elaine Divelbliss

PUBLIC

D.T.C. 1-18 State whether Virgin is a publicly traded company. If so, provide copies via CD or Internet link of all 10-Ks and 10-Qs (with any amendments) filed with the U.S. Securities and Exchange Commission during the last three years.

Objections: Virgin Mobile's response follows.

Response:

Virgin Mobile ceased to be a publicly traded company at the time of its acquisition by Sprint Nextel in November 2009. Virgin Mobile's parent company, Sprint Nextel Corporation, is a publicly traded company. Sprint Nextel maintains its 10-Ks and 10-Qs at the following website: <http://investors.sprint.com> under the heading "SEC Filings."

Virgin Mobile USA, L.P.
DTC Docket No. 10-11
Responses to DTC Set 1
Witness: Elaine Divelbliss

PUBLIC

D.T.C. 1-19 Certify whether Virgin has any outstanding tax liabilities or other late payments or liabilities due and owing to the Commonwealth of Massachusetts. If so, provide complete and detailed documentation identifying the amounts owed and explaining the reasons for such arrears.

Objections: Virgin Mobile's response follows.

Response:

To the best of my knowledge, Virgin Mobile has no outstanding tax liabilities or other late payments or liabilities due and owing to the Commonwealth of Massachusetts. The requested certification is attached as Exhibit 5.

D.T.C. 1-20 Certify whether Virgin has any outstanding tax liabilities or other late payments or liabilities due and owing to any government and/or quasi-public entities in any other jurisdictions. If so, provide complete and detailed documentation identifying the amounts owed and explaining the reasons for such arrears.

Objections: Virgin Mobile objects to the question on the grounds that the question is unduly burdensome and overbroad. Virgin Mobile objects on the grounds that the question seeks a response that would require a special study. Subject to and without waiving the foregoing objections, Virgin Mobile responds as follows.

Response:

The requested certification is attached hereto as Exhibit 5.

So far as I am aware, Virgin Mobile does not have any outstanding tax liabilities or other late payment or liabilities “due and owing to any government and/or quasi-public entities in any other jurisdictions.” Virgin Mobile employs best efforts to ensure timely payment of all valid tax liabilities and other payments due and owing to any government and/or quasi-public entities in all jurisdictions. Nevertheless, and while I have made diligent inquiries in order to make this certification, I note that Virgin Mobile is a large corporation with nationwide operations. In the course of its business, Virgin Mobile generates liabilities “due and owing to any government and/or quasi-public entities in any other jurisdictions” in a wide variety of contexts including lease fees, regulatory payments, taxes (at a state and local level), registration fees, license payments, etc. Thus, while I am comfortable providing this certification, and am confident in its accuracy, I feel the need to stress that the scope and the operations to which the question pertains are quite broad and therefore complicate the task of providing an answer.

D.T.C. 1-21 Virgin states on page 2 of its Application that it “does not impose credit checks or long-term service contracts as a prerequisite to obtaining service.” Describe in narrative form how Virgin will verify a customer’s eligibility for the USF’s Lifeline program without conducting a credit check.

Objections: Virgin Mobile’s response follows.

Response:

During the activation process, 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 meets the relevant eligibility criteria. In accordance with applicable requirements, applicants are also required to submit information and/or documentation evidencing their eligibility. To further certify eligibility, applicants must certify under penalty of perjury that they are head of their household and receive Lifeline-supported service only from Virgin Mobile. The applicant must return the signed enrollment form and all supporting documentation to the address on the application prior to commencement of Lifeline service.

To guard against fraudulent use of Lifeline service, 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.

D.T.C. 1-22 In footnote 9 on page 7 of its Application, Virgin requests that the “Department grant of ETC designation provide [Virgin] with the requisite authority to modify the parameters of the offering as marketplace conditions develop.” Describe in narrative form the conditions Virgin believes might develop and what modifications it anticipates making as a result. Also state what limitations, if any, would there be to such modifications.

Objections: Virgin Mobile’s response follows.

Response:

Virgin Mobile seeks the requisite authority to increase its base offer or introduce new offerings into the market in response to competition in the market or changing market conditions. For instance, Virgin Mobile originally launched its Lifeline offer with 200 free minutes when its primary competitor was offering 68 free minutes. Virgin Mobile’s competitor subsequently increased its offer, and Virgin Mobile raised its offer. Virgin Mobile has also recently introduced Lifeline offers for higher usage customers. In short, as the prepaid wireless Lifeline market continues to evolve, Virgin Mobile seeks the ability to shape its offerings to respond.