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December 29, 2010

RECEIVED

DEC-29-2010

**PUBLIC SERVICE
COMMISSION**

Jeffrey DeRouen
Executive Director
Kentucky Public Service Commission
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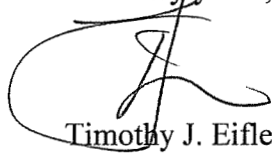
*RE: The Petition of Virgin Mobile USA, L.P. for Designation as an
Eligible Telecommunications Carrier in the Commonwealth of Kentucky*

Dear Mr. DeRouen:

Enclosed please find the original and ten copies of Virgin Mobile USA, L.P.'s Petition for Designation as an Eligible Telecommunications Carrier in the Commonwealth of Kentucky.

Please indicate receipt of this filing by placing your file stamp on the extra copy and returning to me via our runner.

Sincerely yours,



Timothy J. Eifler

c: Elaine Divelbliss

TJE: jms
Enclosures

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**COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION**

_____))
In the Matter of))
))
Virgin Mobile USA, L.P.) Case No. 2010-00 524
))
Petition for Limited Designation as an))
Eligible Telecommunications Carrier))
_____)

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

RECEIVED
DEC 28 2010
PUBLIC SERVICE
COMMISSION

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December 29, 2010

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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 Kentucky, 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 Kentucky customers with lower prices and higher quality wireless services. Many low-income customers in Kentucky 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.

**COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION**

_____)	
In the Matter of)	
Virgin Mobile USA, L.P.)	Case No. 2010-00 _____
Petition for Limited Designation as an)	
Eligible Telecommunications Carrier)	
_____)	

**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 Kentucky Public Service Commission (“Commission”) for designation as an eligible telecommunications carrier (“ETC”) in the Commonwealth of Kentucky. Virgin Mobile seeks ETC designation in Kentucky 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 Kentucky. Rapid approval 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 Kentucky residents as soon as possible. Accordingly, the Company respectfully requests that the Commission expeditiously approve the instant petition.

II. BACKGROUND

A. Company Overview

Virgin Mobile was established as a joint venture between Sprint Nextel Corporation (“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, 2009.¹

Virgin Mobile serves customers who are device and data-oriented with Beyond Talk™ plans that offer consumers control, flexibility and connectivity through various communication vehicles. Virgin Mobile’s attractive pricing extends to its unique “pay-as-you-go” broadband plans, which do not require a term commitment or purchase of any voice service. Unlike many wireless 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.

¹ See *International Authorizations Granted*, Public Notice, DA 09-2071 (rel. Sept. 17, 2009); Sprint Nextel notified the Commission of the transaction by letter on September 15, 2009.

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.² 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.³ 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 services and preventing misuse of the Company’s Lifeline offering. These conditions included the

² 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 3381 (rel. March 5, 2009)(“Order”).

³ Order at ¶¶ 21, 30.

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.⁴ 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.⁵

Subsequent to its November 2009 acquisition by Sprint Nextel, Virgin Mobile has been designated a facilities-based ETC in the states of Florida, Indiana, Louisiana, Maryland, Michigan,

⁴ See Order at ¶ 12.

⁵ 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 13413 (rel. Oct. 29, 2009).

Mississippi, New Jersey, Texas, Washington and West Virginia. These designations were made without reliance on the FCC's Order.

C. The Commission Has the Authority to Perform ETC Designations

The Commission has the requisite authority to perform the limited ETC designation requested herein. Section 214(e)(2) of the Act provides state public utility commissions with the "primary responsibility" for the designation of ETCs.⁶ Pursuant to this authority, the Commission has historically participated in determining whether to grant ETC status to an applying carrier, including any requesting wireless carrier.⁷ 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 Commission.

D. The Limited ETC Designation Request Is Consistent with Recent Precedent

Virgin Mobile's request for ETC designation to participate in the Lifeline program is consistent with the Commission's recent decision designating TracFone Wireless ("TracFone") as an ETC.⁸ Virgin Mobile requests that the Commission expeditiously process the instant ETC petition so that it can quickly commence providing qualifying lower-income Kentucky customers with

⁶ 47 U.S.C. § 214(e)(2).

⁷ See, e.g., *Petition of T-Mobile Central LLC and PowerTel/Memphis, Inc. for Designation as Eligible Telecommunications Carriers Pursuant to Section 214(e)(2) of the Communications Act of 1934*, Case No. 2010-00050 (Ky. PSC July 14, 2010); *In the Matter of Petition of NPCR, Inc. d/b/a Nextel Partners for Designation as an Eligible Telecommunications Carrier in the State of Kentucky* (Ky. PSC December 16, 2004).

⁸ See *Petition of TracFone Wireless, Inc. for Designation as an Eligible Telecommunications Carrier in the Commonwealth of Kentucky for the Limited Purposes of Offering Lifeline and Link-Up Service to Qualified Households*, Order, Case No. 2009-0010 (Sept. 23, 2010) ("*TracFone ETC Order*").

affordable USF-supported wireless services during these challenging times for all Commonwealth residents. Designation of Virgin Mobile as an ETC would further competition for wireless Lifeline services, providing many lower-income customers with a choice of affordable wireless service providers for the very first time. This competition would represent a significant step towards ensuring that all low-income customers share in the many benefits associated with access to wireless services, which a study found to be a vital economic resource for low-income consumers that leads to improved wage levels and personal safety.⁹ As Governor Beshear and the Commission emphasized recently when proclaiming September 13-19, 2010 as “Lifeline Awareness Week”, statistics suggest there are many eligible customers who are not yet aware of the programs.¹⁰ Increased competition among ETCs will inevitably lead to increased awareness of the availability of affordable Lifeline services.

III. VIRGIN MOBILE REQUESTS ETC DESIGNATION IN ITS KENTUCKY 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 Kentucky.¹¹ Virgin Mobile understands that its service area overlaps with many rural carriers in Kentucky, 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.

⁹ See Sullivan, “Cell Phones Provide Significant Economic Gains for Low-Income American Households: A Review of Literature and Data from Two New Surveys,” April 2008.

¹⁰ See http://psc.ky.gov/agencies/psc/press/092010/0914_r02.PDF.

¹¹ A list of the wire centers for which Virgin Mobile requests ETC designation is attached hereto as Exhibit 2.

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

Virgin Mobile requests ETC designation in Kentucky for the sole purpose of participating in the Lifeline program as a prepaid wireless carrier. Virgin Mobile will not seek funding from the 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 Kentucky. 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 Kentucky 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 2008.¹² The FCC, itself, concluded that designation of Virgin Mobile as an ETC would result only in a "minimal" increase in USF funding.¹³

The nature by which Lifeline support is provided to wireless carriers also obviates any concerns that multiple ETC designations in Kentucky would have a negative impact 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

¹² See *Universal Service Monitoring Report*, CC Docket 98-202, Table 2.2 (filed Jan. 13, 2010).

¹³ See *Order* at ¶ 24.

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.¹⁴ Virgin Mobile has also implemented new methods by which Lifeline customers entirely at their option can purchase blocks of additional services.¹⁵ Under the first new 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.¹⁶

¹⁴ Virgin Mobile expects that the Company’s Lifeline plan may change as the wireless market evolves. As such, the Company requests that the Commission’s grant of ETC designation provide it with the requisite authority to modify the parameters of the offering as marketplace conditions develop.

¹⁵ A description of these service offerings is available on the Assurance Wireless website: <http://www.assurancewireless.com/Public/MorePrograms.aspx>.

¹⁶ 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.

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. Consistent with the current offerings, 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.¹⁷ Finally, each service plan also includes voicemail, caller I.D. and call waiting services at no additional charge.

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.

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

¹⁷ Customers may incur Commonwealth sales tax and fees at the point of purchase should the customer choose to top-up their account.

charge, Virgin Mobile can ensure that Lifeline-eligible customers in Kentucky will not incur any upfront costs for access to the Company's Lifeline services.

To guard against potential 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.¹⁸

To ensure that USF funds are received only for customers who actively use their Lifeline services, Virgin Mobile will implement a non-usage policy in Kentucky. Under this policy, if a customer does not make a voice call or send a text message or otherwise demonstrate activity at least once during any continuous 60-day period, Virgin Mobile will promptly notify the customer that the customer is no longer eligible for Lifeline service subject to a 30-day grace period. During the 30-

¹⁸ 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.

day grace period, the customer's account would remain active, and Virgin Mobile will engage in outreach efforts to determine whether the customer desires to remain on its Lifeline service. If the customer's account does not show any customer-specific activity during the grace period (such as making or receiving a voice call, receiving or sending a text message, downloading data or adding money to the account), Virgin Mobile will deactivate Lifeline services for that customer. In addition, Virgin Mobile will not recover a federal USF subsidy for the free minutes provided to the customer during the grace period or thereafter report that customer on its Universal Service Administrative Company ("USAC") Form 497.

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-certifying 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.¹⁹ For these reasons, Virgin Mobile voluntarily committed to

¹⁹ 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).

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 acquisition by Sprint Nextel, Virgin Mobile respectfully submits that it is appropriately classified as a facilities-based carrier, making the foregoing condition regarding PSAP certification inapplicable to the instant request of Virgin Mobile as a facilities-based provider. 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.²⁰ 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."²¹ The concept of "own facilities," therefore, includes facilities for which a carrier "does not hold absolute title."²² 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,"²³ and that ownership extends to "others enjoying the beneficial use of property."²⁴ The FCC added that "our interpretation

²⁰ To date, Virgin Mobile's facilities-based status has been confirmed by the public utility commissions of the states of Florida, Indiana, Louisiana, Maryland, Michigan, Mississippi, New Jersey, Texas, Washington 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 Act. See Exhibit 3.

²¹ *In re Federal-State Joint Board on Universal Service*, 12 FCC Rcd 8776, ¶ 159 (1997) ("Universal Service First Report and Order").

²² *Id.*

²³ *Id.*

²⁴ *Id.* ¶ 158.

of the term ‘own facilities’ is consistent with the goals of universal service and that any contrary interpretation would frustrate the goals of the Act and lead to absurd results.”²⁵

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.”²⁶ 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, Sprint Nextel 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.²⁷ In addition, in its filings with USAC, 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

²⁵ *Id.* ¶ 161.

²⁶ *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).

²⁷ 2010 10-K Report available at: <http://www.sec.gov/Archives/edgar/data/101830/000119312510042491/d10k.htm>

Mobile customers are handled in the same fashion as calls made by any other 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 Commission 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.²⁸ 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 not serve the public interest.

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

Section 214(e)(1) of the Act requires that applicants for ETC designation 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

²⁸ See *Order* at ¶¶ 22, 27.

commit to advertise the availability and rates of such services.²⁹ As detailed below, Virgin Mobile satisfies each of the above-listed requirements.

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 ...”³⁰ 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 Kentucky. 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 Kentucky. The Company, moreover, will make these services and functionalities available to any qualifying Kentucky customer in the Company’s service area.

²⁹ See 47 U.S.C. § 214(e)(1) and 47 C.F.R. § 54.201(d).

³⁰ 47 U.S.C. § 153(10).

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.³¹

2. Local Usage

As part of the voice grade access to the PSTN, an ETC must provide local calling services to its customers. Neither the FCC’s nor the Commission’s regulations 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.³² In analyzing whether an ETC applicant’s plan is comparable to the underlying ILEC’s plan, the FCC has indicated that it 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 ID) and the amount of local usage.³³ The FCC has determined that a carrier satisfies the local usage requirements when it offers customers rate plans containing varying amounts of local usage.³⁴

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

³¹ See 47 U.S.C. § 54.101(a)(1).

³² 47 C.F.R. § 54.202(a)(4).

³³ See *Federal-State Joint Board on Universal Service*, Report and Order, 20 FCC Rcd 6371, 6385 (2005).

³⁴ 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).

Mobile will offer customers a certain amount of service free of charge. As discussed above, Virgin Mobile will provide its Lifeline customers with 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 free voice services, Virgin Mobile will provide Lifeline customers with access to a variety of other features at no cost, including voice mail, caller ID, call waiting services and E911 capabilities. Most important, Virgin Mobile's Lifeline service will provide low-income Kentucky 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 domestic 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 to the Company 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.³⁵

³⁵ See Order at ¶ 34.

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.³⁶ Sprint Nextel 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 Nextel'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.

³⁶ See 47 C.F.R. § 54.202(a)(2).

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.³⁷ The Company advertises the availability of its non-Lifeline services through newspapers, magazines, radio, the Internet, billboards and television. Virgin Mobile's handsets and service plans are promoted within Sprint stores and third-party retail partners also heavily promote its services. 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.

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 Kentucky. The Company also intends to promote these offerings to its existing customers—many of whom may otherwise qualify for Lifeline.

E. Equal Access to Long Distance Carriers

Virgin Mobile certifies its acknowledgement that the Commission may require it to provide equal access to long distance carriers in the event that no other ETC is providing equal access within the service area, as required by 47 C.F.R. § 54.202(a)(5).

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

³⁷ See 47 C.F.R. § 54.201.

of geographic location or income.³⁸ There is no question that designation of Virgin Mobile as an ETC in Kentucky will further the public interest by providing Kentucky consumers, especially low-income consumers, with lower prices and higher quality services. Many lower-income customers in Kentucky 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 Kentucky, therefore, will enable it to expand the availability of affordable telecommunications services to qualifying Kentucky 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 of universal service is to ensure that consumers—especially low-income consumers—receive affordable and comparable telecommunications services. Given this context, designating Virgin Mobile as an ETC would benefit Kentucky 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 Kentucky 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 often ignored consumer segment. Virgin Mobile will bring the same entrepreneurial spirit that has reinvigorated the wireless industry to the Kentucky Lifeline market, helping to redefine the wireless experience for many low-income consumers in the Commonwealth.

³⁸ Telecommunications Act of 1996, Pub. L. No. 104-104, 110 Stat. 56.

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. This competition would represent a significant step towards ensuring that all low-income customers share in the many benefits associated with access to wireless services.

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 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.³⁹ Virgin Mobile annually certifies its compliance with the Consumer Code, and the FCC has recognized the value of such compliance.⁴⁰ 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.

³⁹ 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).

⁴⁰ 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.

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 Kentucky would enable Virgin Mobile to offer appealing and affordable service offerings to low-income Kentucky customers to ensure that they are able to use 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 (including a stable *telephone number*) for prospective employers, social service agencies or dependents.⁴¹ 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.

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

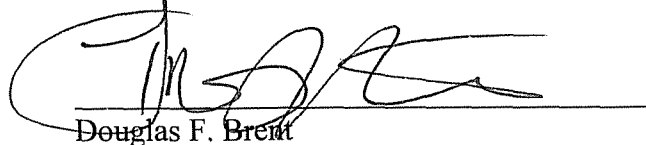
As discussed above, designation of Virgin Mobile as an ETC in the Commonwealth of Kentucky is in accord with the requirements of Section 214(e)(2) of the Act and is in the public interest.

⁴¹ 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.

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

Respectfully submitted,

VIRGIN MOBILE USA, L.P.

A handwritten signature in black ink, appearing to read 'D. Brent', is written over a horizontal line.

Douglas F. Brent
Timothy J. Eifler
STOLL KEENON OGDEN PLLC
2000 PNC Plaza
500 West Jefferson Street
Louisville, KY 40202

Counsel to Virgin Mobile USA, L.P.

Elaine Divelbliss
Virgin Mobile USA, L.P.
10 Independence Blvd.
Warren, NJ 07059
Tel: 908-607-4909

December 29, 2010

EXHIBIT 1
CERTIFICATION

Declaration of Virgin Mobile USA, L.P.

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

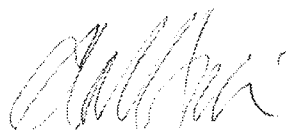
1. I am Senior Counsel for Virgin Mobile USA, L.P., a Delaware Limited Partnership with its principal place of business at 10 Independence Blvd, Warren, NJ 07059.

2. I have read Virgin Mobile's Petition for Limited Designation as an Eligible Telecommunications Carrier in the Commonwealth of Kentucky 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 December 28, 2010



Elaine M. Divelbliss
Senior Counsel

EXHIBIT 2
WIRE CENTERS

<u>CLLI</u>	<u>EXCHANGE</u>	<u>COMPANY</u>
RCMDKYMA	PAINTSVILLE	AERO COMMUNICATIONS, INC. - KY
ASLDKYXA	GRAYSON	ARMSTRONG TELECOMMUNICATIONS, INC. - KY
BNDNKYXA	BANDANA	BALLARD RURAL TELEPHONE COOP. CORP., INC
BRLWKYXA	BARLOW	BALLARD RURAL TELEPHONE COOP. CORP., INC
HETHKYXA	HEATH	BALLARD RURAL TELEPHONE COOP. CORP., INC
KEVLKYXA	KEVIL	BALLARD RURAL TELEPHONE COOP. CORP., INC
LACTKYXA	LA CENTER	BALLARD RURAL TELEPHONE COOP. CORP., INC
WCKLKYXA	WICKLIFFE	BALLARD RURAL TELEPHONE COOP. CORP., INC
ALLNKYMA	ALLEN	BELLSOUTH TELECOMM INC DBA SOUTH CENTRAL
BGDDKYMA	BAGDAD	BELLSOUTH TELECOMM INC DBA SOUTH CENTRAL
BRTWKYES	BARDSTOWN	BELLSOUTH TELECOMM INC DBA SOUTH CENTRAL
BVDMKYMA	BEAVER DAM	BELLSOUTH TELECOMM INC DBA SOUTH CENTRAL
BDFRKYMA	BEDFORD	BELLSOUTH TELECOMM INC DBA SOUTH CENTRAL
BNTNKYMA	BENTON	BELLSOUTH TELECOMM INC DBA SOUTH CENTRAL
BLFDKYMA	BLOOMFIELD	BELLSOUTH TELECOMM INC DBA SOUTH CENTRAL
BLSPKYMA	BLUFF SPRINGS	BELLSOUTH TELECOMM INC DBA SOUTH CENTRAL
BWLGKYRV	BOWLING GREEN	BELLSOUTH TELECOMM INC DBA SOUTH CENTRAL
BRMNKYMA	BREMEN	BELLSOUTH TELECOMM INC DBA SOUTH CENTRAL
BRGNKYMA	BURGIN	BELLSOUTH TELECOMM INC DBA SOUTH CENTRAL
CADZKYMA	CADIZ	BELLSOUTH TELECOMM INC DBA SOUTH CENTRAL
CLHNKYMA	CALHOUN	BELLSOUTH TELECOMM INC DBA SOUTH CENTRAL
CMBGKYMA	CAMPBELLSBURG	BELLSOUTH TELECOMM INC DBA SOUTH CENTRAL
CNTNKYMA	CANTON	BELLSOUTH TELECOMM INC DBA SOUTH CENTRAL
CRLSKYMA	CARLISLE	BELLSOUTH TELECOMM INC DBA SOUTH CENTRAL
CRTNKYMA	CARROLLTON	BELLSOUTH TELECOMM INC DBA SOUTH CENTRAL
CNTWKYMA	CENTERTOWN	BELLSOUTH TELECOMM INC DBA SOUTH CENTRAL
CNCYKYMA	CENTRAL CITY	BELLSOUTH TELECOMM INC DBA SOUTH CENTRAL
CHPLKYMA	CHAPLIN	BELLSOUTH TELECOMM INC DBA SOUTH CENTRAL
CYDNKYMA	CORYDON	BELLSOUTH TELECOMM INC DBA SOUTH CENTRAL
CRBOKYMA	CRAB ORCHARD	BELLSOUTH TELECOMM INC DBA SOUTH CENTRAL
COTNKYMA	CROFTON	BELLSOUTH TELECOMM INC DBA SOUTH CENTRAL
CYNTKYMA	CYNTHIANA	BELLSOUTH TELECOMM INC DBA SOUTH CENTRAL
DWSPKYES	DAWSON SPRINGS	BELLSOUTH TELECOMM INC DBA SOUTH CENTRAL
DRBOKYES	DRAKESBORO	BELLSOUTH TELECOMM INC DBA SOUTH CENTRAL
ERTNKYMA	EARLINGTON	BELLSOUTH TELECOMM INC DBA SOUTH CENTRAL
EDVLKYMA	EDDYVILLE	BELLSOUTH TELECOMM INC DBA SOUTH CENTRAL
EKTNKYMA	ELKTON	BELLSOUTH TELECOMM INC DBA SOUTH CENTRAL
EMNNKYES	EMINENCE	BELLSOUTH TELECOMM INC DBA SOUTH CENTRAL
EMNNKYPL	EMINENCE	BELLSOUTH TELECOMM INC DBA SOUTH CENTRAL
ENSRKYMA	ENSOR	BELLSOUTH TELECOMM INC DBA SOUTH CENTRAL
FNVLKYMA	FINCHVILLE	BELLSOUTH TELECOMM INC DBA SOUTH CENTRAL
FORDKYMA	FORD	BELLSOUTH TELECOMM INC DBA SOUTH CENTRAL
FRFTKYES	FRANKFORT	BELLSOUTH TELECOMM INC DBA SOUTH CENTRAL
FRFTKYMA	FRANKFORT	BELLSOUTH TELECOMM INC DBA SOUTH CENTRAL
FKLNKYMA	FRANKLIN	BELLSOUTH TELECOMM INC DBA SOUTH CENTRAL

<u>CLLI</u>	<u>EXCHANGE</u>	<u>COMPANY</u>
FRDNKYMA	FREDONIA	BELLSOUTH TELECOMM INC DBA SOUTH CENTRAL
FLTNKYMA	FULTON	BELLSOUTH TELECOMM INC DBA SOUTH CENTRAL
GRTWKYMA	GEORGETOWN	BELLSOUTH TELECOMM INC DBA SOUTH CENTRAL
GHNTKYMA	GHENT	BELLSOUTH TELECOMM INC DBA SOUTH CENTRAL
GBVLKYMA	GILBERTSVILLE	BELLSOUTH TELECOMM INC DBA SOUTH CENTRAL
GRACKYMA	GRACEY	BELLSOUTH TELECOMM INC DBA SOUTH CENTRAL
GNVLKYMA	GREENVILLE	BELLSOUTH TELECOMM INC DBA SOUTH CENTRAL
HABTKYMA	HABIT	BELLSOUTH TELECOMM INC DBA SOUTH CENTRAL
HANSKYMA	HANSON	BELLSOUTH TELECOMM INC DBA SOUTH CENTRAL
HDBGKYMA	HARRODSBURG	BELLSOUTH TELECOMM INC DBA SOUTH CENTRAL
HRFRKYMA	HARTFORD	BELLSOUTH TELECOMM INC DBA SOUTH CENTRAL
HWVLKYMA	HAWESVILLE	BELLSOUTH TELECOMM INC DBA SOUTH CENTRAL
HBVLKYMA	HEBBARDSVILLE	BELLSOUTH TELECOMM INC DBA SOUTH CENTRAL
HNSNKYMA	HENDERSON	BELLSOUTH TELECOMM INC DBA SOUTH CENTRAL
HCMNKYMA	HICKMAN	BELLSOUTH TELECOMM INC DBA SOUTH CENTRAL
ISLDKYMA	ISLAND	BELLSOUTH TELECOMM INC DBA SOUTH CENTRAL
JNCYKYMA	JUNCTION CITY	BELLSOUTH TELECOMM INC DBA SOUTH CENTRAL
KKVLKYMA	KIRKSVILLE	BELLSOUTH TELECOMM INC DBA SOUTH CENTRAL
LFYTKYMA	LAFAYETTE	BELLSOUTH TELECOMM INC DBA SOUTH CENTRAL
LGRNKYES	LAGRANGE	BELLSOUTH TELECOMM INC DBA SOUTH CENTRAL
LRBGKYMA	LAWRENCEBURG	BELLSOUTH TELECOMM INC DBA SOUTH CENTRAL
LBJTKYMA	LEBANON JUNCTION	BELLSOUTH TELECOMM INC DBA SOUTH CENTRAL
PARSKYMA	LITTLE ROCK	BELLSOUTH TELECOMM INC DBA SOUTH CENTRAL
LVMRKYMA	LIVERMORE	BELLSOUTH TELECOMM INC DBA SOUTH CENTRAL
LOUSKYES	LOUISA	BELLSOUTH TELECOMM INC DBA SOUTH CENTRAL
LSVLKY26	LOUISVILLE	BELLSOUTH TELECOMM INC DBA SOUTH CENTRAL
LSVLKYAN	LOUISVILLE	BELLSOUTH TELECOMM INC DBA SOUTH CENTRAL
LSVLKYBE	LOUISVILLE	BELLSOUTH TELECOMM INC DBA SOUTH CENTRAL
LSVLKYBR	LOUISVILLE	BELLSOUTH TELECOMM INC DBA SOUTH CENTRAL
LSVLKYCW	LOUISVILLE	BELLSOUTH TELECOMM INC DBA SOUTH CENTRAL
LSVLKYFC	LOUISVILLE	BELLSOUTH TELECOMM INC DBA SOUTH CENTRAL
LSVLKYHA	LOUISVILLE	BELLSOUTH TELECOMM INC DBA SOUTH CENTRAL
LSVLKYJT	LOUISVILLE	BELLSOUTH TELECOMM INC DBA SOUTH CENTRAL
LSVLKYO	LOUISVILLE	BELLSOUTH TELECOMM INC DBA SOUTH CENTRAL
LSVLKYSH	LOUISVILLE	BELLSOUTH TELECOMM INC DBA SOUTH CENTRAL
LSVLKYSL	LOUISVILLE	BELLSOUTH TELECOMM INC DBA SOUTH CENTRAL
LSVLKYSM	LOUISVILLE	BELLSOUTH TELECOMM INC DBA SOUTH CENTRAL
LSVLKYTS	LOUISVILLE	BELLSOUTH TELECOMM INC DBA SOUTH CENTRAL
LSVLKYVS	LOUISVILLE	BELLSOUTH TELECOMM INC DBA SOUTH CENTRAL
MACEKYMA	MACEO	BELLSOUTH TELECOMM INC DBA SOUTH CENTRAL
MARTKYMA	MARTIN	BELLSOUTH TELECOMM INC DBA SOUTH CENTRAL
MDBOKYMA	MIDDLESBORO	BELLSOUTH TELECOMM INC DBA SOUTH CENTRAL
MLBGKYMA	MILLERSBURG	BELLSOUTH TELECOMM INC DBA SOUTH CENTRAL
MLTNKYMA	MILTON	BELLSOUTH TELECOMM INC DBA SOUTH CENTRAL
SPFDKYMA	MOORESVILLE	BELLSOUTH TELECOMM INC DBA SOUTH CENTRAL
MGTWKYMA	MORGANTOWN	BELLSOUTH TELECOMM INC DBA SOUTH CENTRAL

<u>CLLI</u>	<u>EXCHANGE</u>	<u>COMPANY</u>
MRGPKYMA	MORTONS GAP	BELLSOUTH TELECOMM INC DBA SOUTH CENTRAL
MTEDKYMA	MT EDEN	BELLSOUTH TELECOMM INC DBA SOUTH CENTRAL
MTSTKYMA	MT STERLING	BELLSOUTH TELECOMM INC DBA SOUTH CENTRAL
MRRYKYMA	MURRAY	BELLSOUTH TELECOMM INC DBA SOUTH CENTRAL
NWHNKYMA	NEW HAVEN	BELLSOUTH TELECOMM INC DBA SOUTH CENTRAL
NRVLKYMA	NORTONVILLE	BELLSOUTH TELECOMM INC DBA SOUTH CENTRAL
OKGVKYES	OAK GROVE	BELLSOUTH TELECOMM INC DBA SOUTH CENTRAL
OWTNKYMA	OWENTON	BELLSOUTH TELECOMM INC DBA SOUTH CENTRAL
PDCHKYIP	PADUCAH	BELLSOUTH TELECOMM INC DBA SOUTH CENTRAL
PDCHKYLO	PADUCAH	BELLSOUTH TELECOMM INC DBA SOUTH CENTRAL
PDCHKYRL	PADUCAH	BELLSOUTH TELECOMM INC DBA SOUTH CENTRAL
PNVLKYMA	PAINTSVILLE	BELLSOUTH TELECOMM INC DBA SOUTH CENTRAL
PNTHKYMA	PANTHER	BELLSOUTH TELECOMM INC DBA SOUTH CENTRAL
PMBRKYMA	PEMBROKE	BELLSOUTH TELECOMM INC DBA SOUTH CENTRAL
PRVLKYMA	PERRYVILLE	BELLSOUTH TELECOMM INC DBA SOUTH CENTRAL
PKVLKYMA	PIKEVILLE	BELLSOUTH TELECOMM INC DBA SOUTH CENTRAL
PIVLKYMA	PINEVILLE	BELLSOUTH TELECOMM INC DBA SOUTH CENTRAL
PLRGKYMA	PLEASANT RIDGE	BELLSOUTH TELECOMM INC DBA SOUTH CENTRAL
PTRYKYMA	PORT ROYAL	BELLSOUTH TELECOMM INC DBA SOUTH CENTRAL
PRBGKYES	PRESTONSBURG	BELLSOUTH TELECOMM INC DBA SOUTH CENTRAL
PRTNKYES	PRINCETON	BELLSOUTH TELECOMM INC DBA SOUTH CENTRAL
RBRDKYMA	ROBARDS	BELLSOUTH TELECOMM INC DBA SOUTH CENTRAL
RSTRKYES	ROSE TERRACE	BELLSOUTH TELECOMM INC DBA SOUTH CENTRAL
RLVLKYMA	RUSSELLVILLE	BELLSOUTH TELECOMM INC DBA SOUTH CENTRAL
SCRMKYMA	SACRAMENTO	BELLSOUTH TELECOMM INC DBA SOUTH CENTRAL
SDVLKYMA	SADIEVILLE	BELLSOUTH TELECOMM INC DBA SOUTH CENTRAL
SLVSKYMA	SALVISA	BELLSOUTH TELECOMM INC DBA SOUTH CENTRAL
SEBRKYMA	SEBREE	BELLSOUTH TELECOMM INC DBA SOUTH CENTRAL
SHGVKYMA	SHARON GROVE	BELLSOUTH TELECOMM INC DBA SOUTH CENTRAL
SHVLKYMA	SHELBYVILLE	BELLSOUTH TELECOMM INC DBA SOUTH CENTRAL
SSVLKYMA	SIMPSONVILLE	BELLSOUTH TELECOMM INC DBA SOUTH CENTRAL
SLGHKYMA	SLAUGHTERS	BELLSOUTH TELECOMM INC DBA SOUTH CENTRAL
SRGHKYMA	SORGHO	BELLSOUTH TELECOMM INC DBA SOUTH CENTRAL
GTHRKYMA	SOUTH GUTHRIETN	BELLSOUTH TELECOMM INC DBA SOUTH CENTRAL
STCHKYMA	ST CHARLES	BELLSOUTH TELECOMM INC DBA SOUTH CENTRAL
STGRKYMA	STAMPING GROUND	BELLSOUTH TELECOMM INC DBA SOUTH CENTRAL
STFRKYMA	STANFORD	BELLSOUTH TELECOMM INC DBA SOUTH CENTRAL
STNLKYMA	STANLEY	BELLSOUTH TELECOMM INC DBA SOUTH CENTRAL
SNTNKYMA	STANTON	BELLSOUTH TELECOMM INC DBA SOUTH CENTRAL
SLPHKYMA	SULPHUR	BELLSOUTH TELECOMM INC DBA SOUTH CENTRAL
TYVLKYMA	TAYLORSVILLE	BELLSOUTH TELECOMM INC DBA SOUTH CENTRAL
TRENKYMA	TRENTON	BELLSOUTH TELECOMM INC DBA SOUTH CENTRAL
UTICKYMA	UTICA	BELLSOUTH TELECOMM INC DBA SOUTH CENTRAL
VIRGKYMA	VIRGIE	BELLSOUTH TELECOMM INC DBA SOUTH CENTRAL
WACOKYMA	WACO	BELLSOUTH TELECOMM INC DBA SOUTH CENTRAL
WDDYKYMA	WADDY	BELLSOUTH TELECOMM INC DBA SOUTH CENTRAL

<u>CLLI</u>	<u>EXCHANGE</u>	<u>COMPANY</u>
WLVLKYMA	WEST LOUISVILLE	BELLSOUTH TELECOMM INC DBA SOUTH CENTRAL
WSPNKYMA	WEST POINT	BELLSOUTH TELECOMM INC DBA SOUTH CENTRAL
WHVLKYMA	WHITESVILLE	BELLSOUTH TELECOMM INC DBA SOUTH CENTRAL
WLBGKYMA	WILLIAMSBURG	BELLSOUTH TELECOMM INC DBA SOUTH CENTRAL
WSBGKYMA	WILLISBURG	BELLSOUTH TELECOMM INC DBA SOUTH CENTRAL
WNCHKYPV	WINCHESTER	BELLSOUTH TELECOMM INC DBA SOUTH CENTRAL
BRBGKYXA	BRANDENBURG	BRANDENBURG TELEPHONE CO.
NGRTKYXA	NORTH GARRETT	BRANDENBURG TELEPHONE CO.
RDCLKYXA	RADCLIFF	BRANDENBURG TELEPHONE CO.
VNGVKYXA	VINE GROVE	BRANDENBURG TELEPHONE CO.
ALXNKYAL	ALEXANDRIA2	CINCINNATI BELL, INC.
BURLKYBN	BOONE1	CINCINNATI BELL, INC.
UNINKYAC	BOONE1	CINCINNATI BELL, INC.
FLRNKYFL	BOONE2	CINCINNATI BELL, INC.
BTLRKYBR	BUTLER	CINCINNATI BELL, INC.
CVTNKYCN	COVINGTON	CINCINNATI BELL, INC.
FTTHKYFT	COVINGTON	CINCINNATI BELL, INC.
LKPKKYLP	COVINGTON	CINCINNATI BELL, INC.
FLMOKYUA	FALMOUTH	CINCINNATI BELL, INC.
GLCOKYGC	GLENCOE	CINCINNATI BELL, INC.
INDPKYIN	INDEPENDENCE1	CINCINNATI BELL, INC.
WLTNKYWL	WALTON1	CINCINNATI BELL, INC.
WRSWKYWR	WARSAW	CINCINNATI BELL, INC.
CRTDKYCT	WILLIAMSTOWN	CINCINNATI BELL, INC.
WLTWKYWT	WILLIAMSTOWN	CINCINNATI BELL, INC.
FRPLKYXA	FAIRPLAY	DUO COUNTY TELEPHONE COOPERATIVE, INC.
JMTWKYXA	JAMESTOWN	DUO COUNTY TELEPHONE COOPERATIVE, INC.
CPMNKYXA	CHAPMAN	FOOTHILLS RURAL TELEPHONE COOPERATIVE CO
FLBGKYXA	FALLSBURG	FOOTHILLS RURAL TELEPHONE COOPERATIVE CO
SFVLKY01	STAFORDSVL	FOOTHILLS RURAL TELEPHONE COOPERATIVE CO
GRTHKYXE	GRETHEL	GEARHEART COMM. CO, INC. DBA COALFIELDS
HRLDKYXE	JENKINS	INTER MOUNTAIN CABLE DBA MIKROTEC COMMUN
LWPTKYXA	LEWISPORT	LEWISPORT TELEPHONE CO., INC.
AIVLKYXE	ADAIRVILLE	LOGAN TELEPHONE COOPERATIVE, INC.
AUBNKYXA	AUBURN	LOGAN TELEPHONE COOPERATIVE, INC.
DNMRKYXA	DUNMOR	LOGAN TELEPHONE COOPERATIVE, INC.
LGPTKYXA	LOGANSPORT	LOGAN TELEPHONE COOPERATIVE, INC.
LWBGKYXL	LEWISBRG	LOGAN TELEPHONE COOPERATIVE, INC.
ROCHKYXA	ROCHESTER	LOGAN TELEPHONE COOPERATIVE, INC.
SCVLKYXR	SCOTTSVILLE2	NORTH CENTRAL TELEPHONE COOPERATIVE, INC
BFLOKYXA	BUFFALO	SOUTH CENTRAL RURAL TELEPHONE COOP. CORP
CNMRKYXA	CANMER	SOUTH CENTRAL RURAL TELEPHONE COOP. CORP
CVCYKYXA	CAVE CITY	SOUTH CENTRAL RURAL TELEPHONE COOP. CORP
CNTRKYXA	CENTER	SOUTH CENTRAL RURAL TELEPHONE COOP. CORP
GLSGKYXR	GLASGOW2	SOUTH CENTRAL RURAL TELEPHONE COOP. CORP
HSVLKYXA	HISEVILLE	SOUTH CENTRAL RURAL TELEPHONE COOP. CORP

<u>CLLI</u>	<u>EXCHANGE</u>	<u>COMPANY</u>
LUCSKYXA	LUCAS	SOUTH CENTRAL RURAL TELEPHONE COOP. CORP
MGNLKYXA	MAGNOLIA	SOUTH CENTRAL RURAL TELEPHONE COOP. CORP
MFVLKYXA	MUNFORDVL	SOUTH CENTRAL RURAL TELEPHONE COOP. CORP
TMHLKYXA	TEMPLEHILL	SOUTH CENTRAL RURAL TELEPHONE COOP. CORP
HRCVKYXA	PARK CITY	SOUTH CENTRAL TELCOM, LLC
FRNGKYXA	FAIRDEALING	WEST KENTUCKY RURAL TELEPHONE COOP. CORP
HRDNKYXA	HARDIN	WEST KENTUCKY RURAL TELEPHONE COOP. CORP
KRKSXYXA	KIRKSEY	WEST KENTUCKY RURAL TELEPHONE COOP. CORP
LYGVKYXA	LYNN GROVE	WEST KENTUCKY RURAL TELEPHONE COOP. CORP
NWCNKYXA	NEW CONCORD	WEST KENTUCKY RURAL TELEPHONE COOP. CORP
HAZLKYXA	SOUTHHAZEL	WEST KENTUCKY RURAL TELEPHONE COOP. CORP
BEREKYXA	BEREA	WINDSTREAM KENTUCKY EAST, INC. - LEXINGT
BTVLKYXA	BRYANTSVILLE	WINDSTREAM KENTUCKY EAST, INC. - LEXINGT
BRSDKYXA	BURNSIDE	WINDSTREAM KENTUCKY EAST, INC. - LEXINGT
CMVLKYXA	CAMPBELLSVILLE	WINDSTREAM KENTUCKY EAST, INC. - LEXINGT
CTBGKYXA	CATLETTSBURG	WINDSTREAM KENTUCKY EAST, INC. - LEXINGT
CECLKYXA	CECILIA	WINDSTREAM KENTUCKY EAST, INC. - LEXINGT
CLMAKYXA	COLUMBIA	WINDSTREAM KENTUCKY EAST, INC. - LEXINGT
EZTWKYXA	ELIZABETHTOWN	WINDSTREAM KENTUCKY EAST, INC. - LEXINGT
GRSNKYXA	GARRISON	WINDSTREAM KENTUCKY EAST, INC. - LEXINGT
GLSGKYXA	GLASGOW1	WINDSTREAM KENTUCKY EAST, INC. - LEXINGT
GYSNKYXA	GRAYSON	WINDSTREAM KENTUCKY EAST, INC. - LEXINGT
GNBGKYXB	GREENSBURG	WINDSTREAM KENTUCKY EAST, INC. - LEXINGT
GNUPKYXA	GREENUP	WINDSTREAM KENTUCKY EAST, INC. - LEXINGT
HLBOKYXA	HILLSBORO	WINDSTREAM KENTUCKY EAST, INC. - LEXINGT
HGVLKYXA	HODGENVILLE	WINDSTREAM KENTUCKY EAST, INC. - LEXINGT
HTVLKYXE	HUSTONVILLE	WINDSTREAM KENTUCKY EAST, INC. - LEXINGT
LNCSKYXA	LANCASTER	WINDSTREAM KENTUCKY EAST, INC. - LEXINGT
LBNNKYXA	LEBANON	WINDSTREAM KENTUCKY EAST, INC. - LEXINGT
LXTNKYUK	LEXINGTON	WINDSTREAM KENTUCKY EAST, INC. - LEXINGT
LXTNKYXB	LEXINGTON	WINDSTREAM KENTUCKY EAST, INC. - LEXINGT
LXTNKYXC	LEXINGTON	WINDSTREAM KENTUCKY EAST, INC. - LEXINGT
LXTNKYXD	LEXINGTON	WINDSTREAM KENTUCKY EAST, INC. - LEXINGT
LXTNKYXE	LEXINGTON	WINDSTREAM KENTUCKY EAST, INC. - LEXINGT
LXTNKYXF	LEXINGTON	WINDSTREAM KENTUCKY EAST, INC. - LEXINGT
LXTNKYXG	LEXINGTON	WINDSTREAM KENTUCKY EAST, INC. - LEXINGT
LBRTKYXA	LIBERTY	WINDSTREAM KENTUCKY EAST, INC. - LEXINGT
LRTTKYXA	LORETTO	WINDSTREAM KENTUCKY EAST, INC. - LEXINGT
MEDSKYXA	MEADS	WINDSTREAM KENTUCKY EAST, INC. - LEXINGT
MDWYKYXA	MIDWAY	WINDSTREAM KENTUCKY EAST, INC. - LEXINGT
MNTIKYXA	MONTICELLO	WINDSTREAM KENTUCKY EAST, INC. - LEXINGT
NANCKYXA	NANCY	WINDSTREAM KENTUCKY EAST, INC. - LEXINGT
NCVLKYXA	NICHOLASVILLE	WINDSTREAM KENTUCKY EAST, INC. - LEXINGT
OLHLKYXA	OLIVE HILL	WINDSTREAM KENTUCKY EAST, INC. - LEXINGT
OWVLKYXA	OWINGSVILLE	WINDSTREAM KENTUCKY EAST, INC. - LEXINGT
PNLCKYXE	PAINT LICK	WINDSTREAM KENTUCKY EAST, INC. - LEXINGT

<u>CLLI</u>	<u>EXCHANGE</u>	<u>COMPANY</u>
RSSLKYXB	RUSSELL	WINDSTREAM KENTUCKY EAST, INC. - LEXINGT
SLLCKYXA	SALT LICK	WINDSTREAM KENTUCKY EAST, INC. - LEXINGT
SCVLKYXA	SCOTTSVILLE1	WINDSTREAM KENTUCKY EAST, INC. - LEXINGT
SHBGKYXA	SHARPSBURG	WINDSTREAM KENTUCKY EAST, INC. - LEXINGT
SHDNKYXA	SOUTH HARDIN	WINDSTREAM KENTUCKY EAST, INC. - LEXINGT
SSHRKYXA	SOUTH SHORE	WINDSTREAM KENTUCKY EAST, INC. - LEXINGT
VRSLKYXA	VERSAILLES	WINDSTREAM KENTUCKY EAST, INC. - LEXINGT
WLMRKYXA	WILMORE	WINDSTREAM KENTUCKY EAST, INC. - LEXINGT
BBVLKYXA	BARBOURVILLE	WINDSTREAM KENTUCKY EAST, INC. - LONDON
BRWLKYXA	BARDWELL	WINDSTREAM KENTUCKY EAST, INC. - LONDON
BRHDKYXA	BRODHEAD	WINDSTREAM KENTUCKY EAST, INC. - LONDON
BWVLKYXA	BROWNSVILLE	WINDSTREAM KENTUCKY EAST, INC. - LONDON
CLCTKYXA	CALVERT CITY	WINDSTREAM KENTUCKY EAST, INC. - LONDON
CLMBKYXA	COLUMBUS	WINDSTREAM KENTUCKY EAST, INC. - LONDON
EBRNKYAC	EAST BERNSTADT	WINDSTREAM KENTUCKY EAST, INC. - LONDON
EBNKKYXA	EUBANK	WINDSTREAM KENTUCKY EAST, INC. - LONDON
FBSHKYXA	FAUBUSH	WINDSTREAM KENTUCKY EAST, INC. - LONDON
FLLCKYXA	FLAT LICK	WINDSTREAM KENTUCKY EAST, INC. - LONDON
JHVLKYXA	JOHNSVILLE	WINDSTREAM KENTUCKY EAST, INC. - LONDON
LVTNKYXA	LIVINGSTON	WINDSTREAM KENTUCKY EAST, INC. - LONDON
MMCVKYXA	MAMMOTH CAVE	WINDSTREAM KENTUCKY EAST, INC. - LONDON
MTVRKYAI	MOUNT VERNON	WINDSTREAM KENTUCKY EAST, INC. - LONDON
PRCYKYXA	PARK CITY	WINDSTREAM KENTUCKY EAST, INC. - LONDON
SCHLKYXA	SCIENCE HILL	WINDSTREAM KENTUCKY EAST, INC. - LONDON
SOVLKYXA	SHOPVILLE	WINDSTREAM KENTUCKY EAST, INC. - LONDON
SMLDKYXA	SMITHLAND	WINDSTREAM KENTUCKY EAST, INC. - LONDON
SMGVKYXA	SMITHS GROVE	WINDSTREAM KENTUCKY EAST, INC. - LONDON
UNTWKYXA	UNIONTOWN	WINDSTREAM KENTUCKY EAST, INC. - LONDON
WHLLKYXA	WHITE LILY	WINDSTREAM KENTUCKY EAST, INC. - LONDON
MTWSKYXA	MT WASHINGTON	WINDSTREAM KENTUCKY WEST, INC.
SHPVKYXA	SHEPERDSVILLE	WINDSTREAM KENTUCKY WEST, INC.
ZNTNKYXA	ZONETON	WINDSTREAM KENTUCKY WEST, INC.

EXHIBIT 3

STATE PUBLIC UTILITY COMMISSION DECISIONS

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

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.

Docket No. 090245-TP

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

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. (CACCS) 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 CACCS 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).

Docket No. 090245-TP

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

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)

Docket No. 090245-TP

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

- (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 intervener 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.

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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.

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- 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.

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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

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- 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.

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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

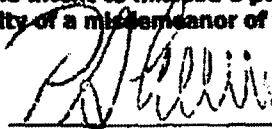
7. Company understands that in accordance with the Florida Lifeline program, eligible customers will receive a \$13.50 monthly discount on their phone bill, \$3.50 of which is

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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.



March 9, 2010

Signature
Peter Lurie

Business Address:
10 Independence Blvd.
Warren, NJ 07059

ABDLFLXA
ALCHFLXA
ALFAFLXA
ALFRFLXA
ALSPFLXA
ALTRFLXA
ALVAFLXA
ANMRFLXA
APPKFLXA
ARCDFLXA
ARCHFLMA
ASTRFLXA
AVPKFLXA
BAKRFLXA
BARTFLXA
BAYUFLXA
BBPKFLXA
BCGRFLXA
BCRTFLBT
BCRTFLMA
BCRTFLSA
BGPIFLMA
BHPKFLXA
BKVLFLJF
BLDWFLMA
BLGLFLMA
BLTWFLXA
BLVWFLXA
BNFYFLXA
BNNLFLMA
BNSPFLXA
BORAFLXA
BRBAFLXA
BRFRFLXA
BRJTFLXA
BRKRFLXA
BRNDFLXA
BRSNFLMA
BRTNFLXX
BSHNFLXA
BVHLFLXA
BWLGLFLXA
BYBHFLMA
GENVFLMA
GLBRFLMC
GLDLFLXA

BYSHFLXA
CCBHFLAF
CCBHFLMA
CDKYFLMA
CFLDFLMA
CFVLFLXA
CHLKFLXA
CHPLFLJA
CHSWFLXA
CHTHFLXA
CITRFLXA
CLHNFLXA
CLMTFLXA
CLTNFLXA
CLWRFLXA
CNSDFLXA
CNTMFLLE
COCOFLMA
COCOFLME
CPCRFLXA
CPCRFLXB
CPHZFLXA
CRCYFLXA
CRRVFLXA
CRVWFLXA
CRWDFLXA
CSCYFLBA
CSLBFLXA
CTDLFLXA
CYGRFLXA
CYLKFLXA
CYLKFLXB
DBRYFLDL
DBRYFLMA
DDCYFLXA
DELDLFLMA
DESTFLXA
DFSPFLXA
DLBHFLKP
DLBHFLMA
DLSPLFLMA
DNDNFLXA
DNLNFLWM
JCBHFLMA
JCBHFLSP
JCVLFLAR

DRBHFLMA
DUNDFLXA
DWPKFLXA
DYBHFLFN
DYBHFLMA
DYBHFLOB
DYBHFLOS
DYBHFLPO
EGLLFLBG
EGLLFLIH
ENWDFLXA
EORNFLMA
ESTSFLXA
EVRGFLXA
FHSDFLXA
FLBHFLMA
FLRHFLXA
FRBHFLFP
FRPTFLXA
FRSTFLXA
FTGRFLMA
FTLDFLCR
FTLDFLCY
FTLDFLJA
FTLDFLMR
FTLDFLOA
FTLDFLPL
FTLDFLSG
FTLDFLSU
FTLDFLWN
FTMBFLXA
FTMDFLXA
FTMYFLXA
FTMYFLXB
FTMYFLXC
FTPRFLMA
FTWBFLXA
FTWBFLXB
FTWBFLXC
FTWHFLXA
GCSPLFCN
GCVLFLMA
GDRGFLXA
LKWLFLXE
LLMNFLXA
LNLKFLXA

GLGCFLXA
GLRDFLXA
GNBOFLXA
GNDYFLXA
GNVFLXA
GNWDFLXA
GRETFLXA
GSVFLMA
GSVFLNW
GVLDFLXA
HAVNFLMA
HBSDFLMA
HDSNFLXA
HGLDFLXA
HGSPFLXA
HLNVFLMA
HLRDFLXA
HLWDFLHA
HLWDFLMA
HLWDFLPE
HLWDFLWH
HMSPFLXA
HMSTFLEA
HMSTFLHM
HMSTFLNA
HNCYFLXA
HNCYFLXN
HOWYFLXA
HSNGFLXA
HTISFLMA
HWTHFLMA
HYPKFLXA
IMKLFLXA
INLKFLXA
INRKFLXX
INTRFLXA
INTWFLXA
INVRFLXA
IONAFLXA
ISLMFLMA
JAY FLMA
JCBHFLAB
MLTNFLRA
MNDRFLAV
MNDRFLLO
MNDRFLLW

JCVLFLBW
JCVLFLCL
JCVLFLFC
JCVLFLIA
JCVLFLJT
JCVLFLLF
JCVLFLNO
JCVLFLOW
JCVLFLRV
JCVLFLSJ
JCVLFLSM
JCVLFLWC
JNGSFLXA
JPTRFLMA
JSPRFLXA
KGLKFLXA
KNVFLXA
KSSMFLXA
KSSMFLXB
KSSMFLXD
KYHGFLMA
KYLRFLLS
KYLRFLMA
KYSTFLXA
KYWSFLMA
LBLLFLXA
LDLKFLXA
LEE FLXA
LGBKFLXA
LHACFLXA
LKALFLXA
LKBNFLXB
LKBRFLXA
LKBTFLXA
LKCYFLMA
LKHLFLXA
LKLDFLXA
LKLDFLXE
LKLDFLXN
LKMRFLHE
LKPCFLXA
LKWLFLXA
ORCYFLXC
ORLDFLAP
ORLDFLCL
ORLDFLMA

LRGOFLXA
LRVFLXA
LSBGFLXA
LUTZFLXA
LVOKFLXA
LWTFYFLXA
LYHNFLOH
MALNFLXA
MAYOFLXA
MCINFLXA
MCLNFLXA
MCNPFLMA
MDBGFLPM
MDSNFLXA
MIAMFLAE
MIAMFLAL
MIAMFLAP
MIAMFLBA
MIAMFLBC
MIAMFLBR
MIAMFLCA
MIAMFLDB
MIAMFLFL
MIAMFLGR
MIAMFLHL
MIAMFLIC
MIAMFLKE
MIAMFLME
MIAMFLNM
MIAMFLNS
MIAMFLOL
MIAMFLPB
MIAMFLPL
MIAMFLRR
MIAMFLSH
MIAMFLSO
MIAMFLWD
MIAMFLWM
MICCFLLB
MLBRFLMA
MLBYFLXA
MLRSFLXA
PSDNFLXA
PTCTFLXA
PTCYFLXA
PTSJFLXA

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	SCPFLXA
MTVRFLXA	PCBHFLNT	SEKYFLXA
MXVLFLMA	PKCYFLXA	SGBEFLXA
MYCYFLXA	PLCSFLMA	SGBHFLXA
NDADFLAC	PLMTFLXA	SGKYFLMA
NDADFLBR	PLSLFLXA	SHLMFLXA
NDADFLGG	PLTKFLMA	SKWYFLXA
NDADFLOL	PMBHFLCS	SLHLFLXA
NFMYFLXA	PMBHFLFE	SLSPFLXA
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
OCAFFLXA	PNSCFLBL	SPRGFLXA
OCAFFLXB	PNSCFLFP	SRSTFLXA
OCAFFLXC	PNSCFLHC	SSDSFLXA
OCAFFLXJ	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	

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Attachment B

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	
TTVFLMA	
TVRSFLXA	
UMTLFLXA	
UNVRFLXA	
VENCFLXA	
VENCFLXS	
VERNFLMA	
VLPRFLXA	
VLPRFLXB	
VRBHFLBE	
VRBHFLMA	
WALDFLXA	
WCHLFLXA	
WELKFLMA	
WHSPFLXA	
WIMMFLXA	
WLBRFLXA	
WLCHFLXA	
WLCRFLXA	
WLHLFLXA	
WLSTFLXA	
WLWDFLXA	
WNDRFLXA	
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

FILLAN BUTLER
NOTARY PUBLIC, State of New York
No. 018245149000
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 Sticke!

Advocates for Universal Access

AUA: Everyone deserves an emergency phone and a plan they understand.

**BEFORE THE
MISSISSIPPI PUBLIC SERVICE COMMISSION**

In The Matter of

Virgin Mobile USA, L.P.

Docket No. 2010-UA-118

**Petition for Limited Designation as an
Eligible Telecommunications Carrier**

ORDER

Virgin Mobile USA, L.P. ("Virgin Mobile" or the "Company") on March 24, 2010, filed a Petition for Limited Designation as an Eligible Telecommunications Carrier ("ETC"). Virgin Mobile seeks ETC designation in Mississippi as a prepaid wireless carrier only for the purpose of participating in the Universal Service Fund's ("USF") Lifeline program. The request does not seek ETC designation to offer services supported by the USF's high-cost program. Virgin Mobile is a wholly owned subsidiary of Sprint Nextel Corporation ("Sprint Nextel"). Virgin Mobile filed its Application pursuant to 47 U.S.C. § 214(e)(1)-(2) and the Mississippi Public Service Commission's Order establishing requirements for ETC carriers in Docket 2005-AD-662.

The Mississippi Public Service Commission ("Commission"), being fully apprised and having considered the documents, pre-filed testimony and the record before it, as authorized by law, and after the Public Utilities Staff ("Staff") having investigated the matter and having no objection thereto and upon the Staff's recommendation, finds as follows:

1. The Commission has jurisdiction to enter this Order and the entry hereof is in the public interest.
2. Due and proper notice of the Application was given to all interested parties as required by law and the Commission's Public Utilities Rules of Practice and Procedure.

3. No protest, objection or other pleading contesting the granting of the requested action is before the Commission. The following parties filed interventions in the docket: BellSouth Telecommunications, Inc. d/b/a AT&T Mississippi; Cellular South Licenses, Inc.; and the Mississippi Rural Local Exchange Companies.

4. 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. Virgin Mobile became a wholly owned subsidiary of Sprint Nextel in November 2009. Virgin Mobile is authorized to do business in Mississippi.

5. Virgin Mobile offers prepaid plans without annual contracts, enabling customers to pay for minutes as they use them or to purchase monthly allotments 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. Virgin Mobile does not impose credit checks or long-term service contracts as a prerequisite to obtaining service. 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.

6. Virgin Mobile has branded its prepaid Lifeline service "Assurance Wireless Brought To You By Virgin Mobile." The service will provide customers with access to features and functionalities enjoyed by other Virgin Mobile prepaid customers, with one notable exception: monthly prepaid Lifeline service will be made available 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. In addition to free voice service, prepaid Lifeline customers can purchase text messages at a rate of \$0.10/message and can also purchase

messaging packs at the same rate as Virgin Mobile's non-Lifeline customers. Virgin Mobile Lifeline customers will have access to a variety of other standard features at no additional charge, including voice mail, caller I.D. and call waiting services. New Lifeline customers will receive a free Assurance Wireless-branded handset with E911 functionality. Current Virgin Mobile customers will either be able to use their existing handsets to receive prepaid Lifeline services, or will receive a free Assurance Wireless handset.

7. Virgin Mobile's designation as an ETC solely for Lifeline purposes should 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 2008.¹

8. 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 Mississippi. Virgin Mobile understands that its service area overlaps with a variety of rural carriers in Mississippi, but maintains that the public interest justifies its designation in these carriers' service areas because it only seeks ETC designation for purposes of participating in the Lifeline program.

9. Section 214(e)(1) of the Telecommunications Act and the *ETC Checklist* require that applicants for ETC designation 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

¹ See *Universal Service Monitoring Report*, CC Docket 98-202, Table 2.2 (filed Jan. 13, 2010).

availability and rates of such services.² The Commission finds, as set forth in the Petition, that Virgin Mobile satisfies those requirements. Virgin Mobile is a common carrier that will provide the services supported by the USF program, including:

- (a) voice grade access to the public switched network;
- (b) access to free “local usage”;
- (c) dual-tone multi-frequency signaling or its functional equivalent;
- (d) single party service;
- (e) access to 911 emergency services;
- (f) access to operator services;
- (g) access to directory assistance;
- (h) access to interexchange services; and
- (i) toll limitation services for qualifying low income customers.

Virgin Mobile will advertise the availability and rates for the supported services using media of general distribution.

10. As a wholly owned subsidiary of Sprint Nextel, Virgin Mobile has demonstrated that it is able to remain functional in emergency situations as required by Section 54.202(a)(2) of the FCC’s regulations and Section I.A.2 of the *ETC Checklist*.³ Virgin Mobile’s offering of local usage plans will be comparable to or exceed the underlying ILEC plans. Virgin Mobile acknowledges in its Petition that it may be required to provide equal access within its designated service territory in the event that no other ETC is providing equal access within that area.

² See 47 U.S.C. § 214(e)(1) and 47 C.F.R. § 54.201(d).

³ See 47 C.F.R. § 54.202(a)(2).

11. Since Virgin Mobile will be relying on the Nationwide Sprint Network's infrastructure and will be utilizing USF funds solely to participate in and to advertise its participation in the USF Lifeline program as a prepaid wireless carrier, not in the high-cost program, Virgin Mobile has requested that the Commission waive the *ETC Checklist* requirement for submission of an annual USF Utilization Plan. The Commission finds the request well taken and does hereby waive the requirement for Virgin Mobile of the filing of an annual USF Utilization Plan.

12. The Commission finds that the Petition is proposed in good faith, that the designation of Virgin Mobile as an ETC for the purpose of participating in the USF Lifeline program is in the public interest, and that Virgin Mobile is qualified financially, managerially and technically to be designated as an ETC in the State of Mississippi for the purpose of participating in the USF Lifeline program.

13. The Commission has concluded that it is in the public interest to grant Virgin Mobile's ETC Petition, subject to the following conditions:

(a) Each prospective Lifeline customer is to be provided an E-911-compliant handset at no charge to the Lifeline customer;

(b) Each Lifeline customer is to be provided at least 250 minutes of wireless airtime per month at no charge with additional minutes charged at a rate of \$.10/minute;

(c) Unused free airtime does not carry over to subsequent months. Each month, customer accounts will be replenished with at least 250 minutes of wireless airtime;

(d) Virgin Mobile will perform an enhanced eligibility review to ensure that each of its current and prospective Lifeline customers meets the Commission's eligibility rules for ETC designation set forth in the Commission's Orders dated December 28, 2007 and February 4, 2009

in Docket 2007-AD-487 and as those orders may be amended. The current procedure provides for customer submission of written documentation self-certifying their eligibility for participation in a qualifying program subject to penalty of perjury for submission of false information, or by the applicant's provision of documentation of participation in an eligible means-based program as an alternative to submission of the self-certification form. The procedure also provides for Virgin Mobile's annual verification of continued eligibility of participation in the Lifeline program through one of the two methodologies set forth in the rule or any combination thereof. Virgin Mobile also commits to the FCC's one lifeline discount per household rule which it will verify by requiring its customers to self-certify at the time of service activation that they are the respective head of the household and receive Lifeline-supported service only from Virgin Mobile. Further, Virgin Mobile commits that it will check its database of customers to prevent its customers from receiving multiple Virgin Mobile Lifeline subsidies at the same address;

(e) Lifeline customers who have disconnected their service can no longer be claimed by Virgin Mobile for USAC reimbursement purposes and Virgin Mobile must validate this disconnection. Virgin Mobile will also implement an inactivity policy for non-usage after sixty days and disconnect service if appropriate;

(f) Virgin Mobile will semiannually (by June 30 and December 31) provide the Staff as a confidential filing a DVD listing by name and address each of its Lifeline customers in Mississippi;

(g) Virgin Mobile will agree to adhere to the Commission's Public Utilities Rules of Practice and Procedure under Rule 23, CLEC Discontinuance of Service;

(h) Virgin Mobile will neither decrement customer accounts for minutes used during calls to 911 nor calls to Virgin Mobile or Assurance Wireless customer service centers;

(i) Virgin Mobile shall make available to its Mississippi Lifeline customers, when they can be feasibly implemented, additional service plans, to meet the needs of high-volume Lifeline customers;

(j) Within 30 days of approval of its ETC designation in Mississippi and prior to offering Lifeline services, Virgin Mobile must make an informational tariff filing outlining its rates, terms and conditions. The rates, terms and conditions shall include all provisions that apply to the Lifeline services offered by Virgin Mobile in Mississippi;

(k) Within 30 days of approval of its ETC designation in Mississippi and prior to offering Lifeline services, Virgin Mobile must make a compliance filing with the Commission reflecting Virgin Mobile's proposed language to be used in all advertising of Lifeline services and on its websites. This filing should also include a copy of Virgin Mobile's Lifeline Customer Application Form;

(l) Virgin Mobile shall file with the Commission any future material changes to its rates, terms, or conditions at least seven days prior to the effective date of the change;

(m) Virgin Mobile shall comply, as applicable, with the Commission's ETC Order dated April 6, 2007, in Docket No. 2005-AD-662, which includes quarterly reporting and certification requirements. In addition, Virgin Mobile shall comply, as applicable, with the Commission's Lifeline Orders dated December 28, 2007, and February 4, 2009, respectively, in Docket No. 2007-AD-487;

(n) Virgin Mobile is not seeking Link-Up support and will not charge activation fees;

(o) Virgin Mobile markets its services as Assurance Wireless;

(p) Virgin Mobile acknowledges that customers will not be subject to roaming charges; and

(q) Virgin Mobile will comply with all applicable rules and regulations of the Commission.

14. Virgin Mobile has requested ETC designation for its entire service area in Mississippi. A list of the wire centers for which Virgin Mobile requests ETC designation is attached to the Order as Exhibit A.

15. The Commission finds that Virgin Mobile to be entitled to be granted designation as an ETC in Mississippi based on timely complying with all conditions expressed in this Order. IT IS, THEREFORE, ORDERED as follows:

1. The Petition in the above-styled and numbered cause is granted and the Commission hereby designates Virgin Mobile as an ETC in the State of Mississippi for the purpose of participating in the USF Lifeline program through its offering of prepaid wireless service.

2. This Order shall be deemed issued on the day it is served upon the parties herein by the Executive Secretary of this Commission who shall note the service date in the file of this docket.

Chairman Brandon Presley voted Aye; Vice-Chairman Lynn Posey voted Aye;
and Commissioner Leonard Bentz voted Aye.

DATED this the 25th day of October, 2010.

MISSISSIPPI PUBLIC SERVICE COMMISSION



[Signature]
Brandon Presley, Chairman

[Signature]
Lynn Posey, Vice-Chairman

[Signature]
Leonard Bentz, Commissioner

ATTEST A TRUE COPY:

[Signature]
Brian H. Ray, Executive Secretary

This Order is effective the 25th day of October, 2010.

CLLI	LOCALITY	CARRIER
ABRDMSES	ABERDEEN	BELLSOUTH TELECOMM INC
AMRYMSMA	AMORY	BELLSOUTH TELECOMM INC
ASLDMSMA	ASHLAND	BELLSOUTH TELECOMM INC
BEMTMSMA	BLUE MOUNTAIN	BELLSOUTH TELECOMM INC
BENTMSSU	YAZOO CITY	BELLSOUTH TELECOMM INC
BGCHMSSU	BROOKHAVEN	BELLSOUTH TELECOMM INC
BILXMSDI	BILOXI-MAIN	BELLSOUTH TELECOMM INC
BILXMSMA	BILOXI-MAIN	BELLSOUTH TELECOMM INC
BKVLMSU	MACON	BELLSOUTH TELECOMM INC
BLDWMSMF	BALDWYN	BELLSOUTH TELECOMM INC
BNITMSMA	BENOIT	BELLSOUTH TELECOMM INC
BNVLSMA	BOONEVILLE	BELLSOUTH TELECOMM INC
BOTNMSMA	BOLTON	BELLSOUTH TELECOMM INC
BRHNMSMA	BROOKHAVEN	BELLSOUTH TELECOMM INC
BRNDMSES	BRANDON	BELLSOUTH TELECOMM INC
BRVLSMA	BURNSVILLE	BELLSOUTH TELECOMM INC
BRWDMSMA	BRIARWOOD	BELLSOUTH TELECOMM INC
BSLSMSMA	BAY ST LOUIS	BELLSOUTH TELECOMM INC
BTVLMSDS	BATESVILLE	BELLSOUTH TELECOMM INC
BUMTMSMA	BEAUMONT	BELLSOUTH TELECOMM INC
CAFBMSMA	COLUMBUS AFB	BELLSOUTH TELECOMM INC
CDWRMSMA	COLDWATER	BELLSOUTH TELECOMM INC
CFVLSMA	COFFEEVILLE	BELLSOUTH TELECOMM INC
CHNKSSU	MERIDIAN2	BELLSOUTH TELECOMM INC
CHTNMSMA	CHARLESTON	BELLSOUTH TELECOMM INC
CLDNMSMA	CALEDONIA	BELLSOUTH TELECOMM INC
CLMAMSMA	COLUMBIA	BELLSOUTH TELECOMM INC
CLNSMSMA	COLLINS	BELLSOUTH TELECOMM INC
CNTNMSMA	CANTON	BELLSOUTH TELECOMM INC
CNVMSMA	CENTREVILLE	BELLSOUTH TELECOMM INC
COMOMSMA	COMO	BELLSOUTH TELECOMM INC
COVLMSSU	MERIDIAN2	BELLSOUTH TELECOMM INC
CRNSMSMA	CRENSHAW	BELLSOUTH TELECOMM INC
CRNTMSMA	CORINTH	BELLSOUTH TELECOMM INC
CRSPMSMA	CRYSTAL SPRINGS	BELLSOUTH TELECOMM INC
CRTHMSMA	CARTHAGE	BELLSOUTH TELECOMM INC
CRTNMSMA	CARROLLTON	BELLSOUTH TELECOMM INC
CSVLMSSU	MERIDIAN2	BELLSOUTH TELECOMM INC
DCHLMSMA	DUCK HILL	BELLSOUTH TELECOMM INC
DFFEMSMA	DUFFEE	BELLSOUTH TELECOMM INC
DKLBMSMA	DEKALB	BELLSOUTH TELECOMM INC
DRNTMSMA	DURANT	BELLSOUTH TELECOMM INC
EDWRMSDS	EDWARDS	BELLSOUTH TELECOMM INC
ELVLSMA	ELLISVILLE	BELLSOUTH TELECOMM INC

CLLI	LOCALITY	CARRIER
ENTRMSMA	ENTERPRISE	BELLSOUTH TELECOMM INC
EUPRMSFA	EUPORA	BELLSOUTH TELECOMM INC
FLORMSMA	FLORA	BELLSOUTH TELECOMM INC
FORSMSMA	FOREST	BELLSOUTH TELECOMM INC
FYTMSMA	FAYETTE	BELLSOUTH TELECOMM INC
GDMNMSMA	GOODMAN	BELLSOUTH TELECOMM INC
GLPTMSLY	GULFPORT I	BELLSOUTH TELECOMM INC
GLSTMSMA	GLOSTER	BELLSOUTH TELECOMM INC
GNVLSMSMA	GREENVILLE	BELLSOUTH TELECOMM INC
GRNDMSMA	GRENADA	BELLSOUTH TELECOMM INC
HDLBMSMA	HEIDELBERG	BELLSOUTH TELECOMM INC
HLSPMSMA	HOLLY SPRINGS	BELLSOUTH TELECOMM INC
HMTNMSSU	ABERDEEN	BELLSOUTH TELECOMM INC
HODLMSMA	HOLLANDALE	BELLSOUTH TELECOMM INC
HPVLMSSU	FOREST	BELLSOUTH TELECOMM INC
HRLYMSMA	HURLEY	BELLSOUTH TELECOMM INC
HRNNMSDS	HERNANDO	BELLSOUTH TELECOMM INC
HSTNMSMA	HOUSTON	BELLSOUTH TELECOMM INC
HTBGMSWE	HATTIESBURG- WEST	BELLSOUTH TELECOMM INC
HZLHMSMA	HAZLEHURST	BELLSOUTH TELECOMM INC
INDPMSSU	COLDWATER	BELLSOUTH TELECOMM INC
INVRMSMA	INVERNESS	BELLSOUTH TELECOMM INC
ITBNMSMA	ITTA BENA	BELLSOUTH TELECOMM INC
JCSNMSBL	JACKSON	BELLSOUTH TELECOMM INC
JCSNMSCB	JACKSON	BELLSOUTH TELECOMM INC
JCSNMSCP	JACKSON	BELLSOUTH TELECOMM INC
JCSNMSMB	JACKSON	BELLSOUTH TELECOMM INC
JCSNMSNR	BRANDON	BELLSOUTH TELECOMM INC
JCSNMSPC	JACKSON	BELLSOUTH TELECOMM INC
KLMCMSMA	KILMICHAEL	BELLSOUTH TELECOMM INC
KSCSMSMA	KOSCIUSKO	BELLSOUTH TELECOMM INC
LAKEMSMA	LAKE	BELLSOUTH TELECOMM INC
LARLMSMA	LAUREL	BELLSOUTH TELECOMM INC
LBRTMSMA	LIBERTY	BELLSOUTH TELECOMM INC
LCDLMSMA	LUCEDALE	BELLSOUTH TELECOMM INC
LELDMSMA	LELAND	BELLSOUTH TELECOMM INC
LENAMSSU	CARTHAGE	BELLSOUTH TELECOMM INC
LMTNMSSS	LUMBERTON	BELLSOUTH TELECOMM INC
LXTNMSMA	LEXINGTON	BELLSOUTH TELECOMM INC
LYVLSMSMA	LYNVILLE	BELLSOUTH TELECOMM INC
MABNMSMA	MABEN	BELLSOUTH TELECOMM INC
MACNMSMA	MACON	BELLSOUTH TELECOMM INC
MAGEMMSMA	MAGEE	BELLSOUTH TELECOMM INC
MCCLMSMA	MCCOOL	BELLSOUTH TELECOMM INC
MCCMMSMA	MCCOMB	BELLSOUTH TELECOMM INC

CLLI	LOCALITY	CARRIER
MCCMMSSM	MCCOMB	BELLSOUTH TELECOMM INC
MCLNMSMA	MCLAIN	BELLSOUTH TELECOMM INC
MDSNMSSES	MADISON	BELLSOUTH TELECOMM INC
MGNLMSMA	MAGNOLIA	BELLSOUTH TELECOMM INC
MIZEMSMA	MIZE	BELLSOUTH TELECOMM INC
MNASMSMA	NAVAL AIR STATION	BELLSOUTH TELECOMM INC
MNDNMSMA	MENDENHALL	BELLSOUTH TELECOMM INC
MNTIMSMA	MONTICELLO	BELLSOUTH TELECOMM INC
MRDNMSTL	MERIDIANI(MAIN)	BELLSOUTH TELECOMM INC
MRHDMSMA	MOORHEAD	BELLSOUTH TELECOMM INC
MRKSMSHW	MARKS	BELLSOUTH TELECOMM INC
MRTNMSMA	MORTON	BELLSOUTH TELECOMM INC
MSPNMSMA	MOSS POINT	BELLSOUTH TELECOMM INC
MSTFMSCU	BAY ST LOUIS	BELLSOUTH TELECOMM INC
MTOLMSMA	MT OLIVE	BELLSOUTH TELECOMM INC
NTCHMSMA	NATCHEZ	BELLSOUTH TELECOMM INC
NTTNMSMA	NETTLETON	BELLSOUTH TELECOMM INC
NWALMSMA	NEW ALBANY	BELLSOUTH TELECOMM INC
NWTNMSHC	NEWTON-HICKORY(HCKORY)	BELLSOUTH TELECOMM INC
NWTNMSMA	NEWTON-HICKORY(NEWTON)	BELLSOUTH TELECOMM INC
OBDHMSMA	OBADIAH	BELLSOUTH TELECOMM INC
OCSPMSGO	OCEAN SPRINGS	BELLSOUTH TELECOMM INC
OKLDMSMA	OAKLAND	BELLSOUTH TELECOMM INC
OKLNMSMA	OKOLONA	BELLSOUTH TELECOMM INC
OSYKMSMA	SOUTH OSYKALA	BELLSOUTH TELECOMM INC
OXFRMSMA	OXFORD	BELLSOUTH TELECOMM INC
PCKNMSMA	PICKENS	BELLSOUTH TELECOMM INC
PCYNMSMA	PICAYUNE	BELLSOUTH TELECOMM INC
PGSNMSMA	PORT GIBSON	BELLSOUTH TELECOMM INC
PHLAMSMA	PHILADELPHIA	BELLSOUTH TELECOMM INC
PLHTMSMA	PELAHATCHIE	BELLSOUTH TELECOMM INC
PNTTMSMA	PONTOTOC	BELLSOUTH TELECOMM INC
PPVLMSMA	POPLARVILLE	BELLSOUTH TELECOMM INC
PRVSMSMA	PURVIS	BELLSOUTH TELECOMM INC
PSCGMSGGA	PASCAGOULA	BELLSOUTH TELECOMM INC
PSCGMSMA	PASCAGOULA	BELLSOUTH TELECOMM INC
PSCHMSLT	PASS CHRISTIAN	BELLSOUTH TELECOMM INC
PTCMSSU	HOLLY SPRINGS	BELLSOUTH TELECOMM INC
QTMNMSMA	QUITMAN	BELLSOUTH TELECOMM INC
RCTNMSMA	RIGHTON	BELLSOUTH TELECOMM INC
RLGHMSMA	RALEIGH	BELLSOUTH TELECOMM INC
ROXIMSMA	ROXIE	BELLSOUTH TELECOMM INC
SCOBMSMA	SCOOBA	BELLSOUTH TELECOMM INC

CLLI	LOCALITY	CARRIER
SHAWMSES	SHAW	BELLSOUTH TELECOMM INC
SHBTMSMA	SHUBUTA	BELLSOUTH TELECOMM INC
SHNNMSMA	SHANNON	BELLSOUTH TELECOMM INC
SHQLMSMA	SHUQUALAK	BELLSOUTH TELECOMM INC
SKVLMSMA	STARKVILLE	BELLSOUTH TELECOMM INC
SLTLMSSU	TUPELO	BELLSOUTH TELECOMM INC
SMDLMSSU	MCCOMB	BELLSOUTH TELECOMM INC
SMRLMSMA	SUMRALL	BELLSOUTH TELECOMM INC
SNRYMSMA	SEMINARY	BELLSOUTH TELECOMM INC
SNTBMSPS	SENATOBIA	BELLSOUTH TELECOMM INC
SOHNMSDC	MEMPHISMSI	BELLSOUTH TELECOMM INC
SRDSMSMA	SARDIS	BELLSOUTH TELECOMM INC
STRGMSSU	STARKVILLE	BELLSOUTH TELECOMM INC
TCHLMSMA	TCHULA	BELLSOUTH TELECOMM INC
TMSBMSMA	TOOMSUBA	BELLSOUTH TELECOMM INC
TRRYMSMA	TERRY	BELLSOUTH TELECOMM INC
TUNCMSMA	TUNICA	BELLSOUTH TELECOMM INC
TYTWMSMC	TYLERTOWN	BELLSOUTH TELECOMM INC
TYVLMSMA	TAYLORSVILLE	BELLSOUTH TELECOMM INC
UNINMSDS	UNION	BELLSOUTH TELECOMM INC
UTICMSDS	UTICA	BELLSOUTH TELECOMM INC
VADNMSMA	VAIDEN	BELLSOUTH TELECOMM INC
VCBGMSMA	VICKSBURG	BELLSOUTH TELECOMM INC
VNCLMSMA	VANCLEAVE	BELLSOUTH TELECOMM INC
VRNAMMSMA	VERONA	BELLSOUTH TELECOMM INC
WDVLMSMA	WOODVILLE	BELLSOUTH TELECOMM INC
WESTMSMA	WEST	BELLSOUTH TELECOMM INC
WGNSMSMA	WIGGINS	BELLSOUTH TELECOMM INC
WLGVMSSU	CARTHAGE	BELLSOUTH TELECOMM INC
WNRDMSSU	PORT GIBSON	BELLSOUTH TELECOMM INC
WSPNMSMA	WEST POINT	BELLSOUTH TELECOMM INC
WSSNMSMA	WESSON	BELLSOUTH TELECOMM INC
WYBOMSMA	WAYNESBORO	BELLSOUTH TELECOMM INC
YZCYMSMA	YAZOO CITY	BELLSOUTH TELECOMM INC
BGCKMSXA	BIG CREEK	BAY SPRINGS TELEPHONE CO., INC.
BYSPMSXA	BAYSPRINGS	BAY SPRINGS TELEPHONE CO., INC.
HMWDMSXA	HOMWOOD	BAY SPRINGS TELEPHONE CO., INC.
LOUNMSXA	LOUIN	BAY SPRINGS TELEPHONE CO., INC.
OLTYMSXA	OLDTYLRSVL	BAY SPRINGS TELEPHONE CO., INC.
PLVLMSXA	POLKVILLE	BAY SPRINGS TELEPHONE CO., INC.
PTMNMSXA	PITTMAN	BAY SPRINGS TELEPHONE CO., INC.
RSHLMSXA	ROSE HILL	BAY SPRINGS TELEPHONE CO., INC.
SOSOMMSXA	SOSO	BAY SPRINGS TELEPHONE CO., INC.
SYLVMSXA	SYLVARENA	BAY SPRINGS TELEPHONE CO., INC.
WHOKMSXA	WHITE OAK	BAY SPRINGS TELEPHONE CO., INC.
WLTRMSXA	WALTERS	BAY SPRINGS TELEPHONE CO., INC.

CELL	LOCALITY	CARRIER
BNTNMSSU	YAZOO CITY	CENTURYTEL ACQ., LLC D/B/A KMC TELECOM III
CLEVMSMA	CLEVELAND	CENTURYTEL ACQ., LLC D/B/A KMC TELECOM III
INDNMSMA	INDIANOLA	CENTURYTEL ACQ., LLC D/B/A KMC TELECOM III
WINOMSMA	WINONA	CENTURYTEL ACQ., LLC D/B/A KMC TELECOM III
BYHLMSXA	BYHALIA	CENTURYTEL OF NORTH MISSISSIPPI, INC.
CHLHMSXA	CHULAHOMA	CENTURYTEL OF NORTH MISSISSIPPI, INC.
OLBRMSXA	OLIVE BRANCH	CENTURYTEL OF NORTH MISSISSIPPI, INC.
TUPLMSMA	TUPELO	CROSSROADS WIRELESS, INC.
DCTRMSXA	DECATUR	DECATUR TELEPHONE CO., INC.
CHESMSXA	CHESTER	DELTA TELEPHONE CO., INC.
EGLKMSXA	EAGLE LAKE	DELTA TELEPHONE CO., INC.
ISOLMSXA	ISOLA	DELTA TELEPHONE CO., INC.
ARTSMSXA	ARTESICWFD	FRANKLIN TELEPHONE CO., INC.
BRLWMSXA	BARLOW	FRANKLIN TELEPHONE CO., INC.
CRSBMSXA	CROSBY	FRANKLIN TELEPHONE CO., INC.
EDTNMSXA	EDDICETON	FRANKLIN TELEPHONE CO., INC.
HRVLMSXA	HERMANVL	FRANKLIN TELEPHONE CO., INC.
JNCEMSXA	JANICE	FRANKLIN TELEPHONE CO., INC.
MDVLMSXA	MEADVILLE	FRANKLIN TELEPHONE CO., INC.
NWAGMSXA	NEWAUGUSTA	FRANKLIN TELEPHONE CO., INC.
NWHBMSXA	NEW HEBRON	FRANKLIN TELEPHONE CO., INC.
GNTWMSXA	GUNTOWN	FRONTIER COMMUNICATIONS OF MISSISSIPPI,
RINZMSXA	RIENZI	FRONTIER COMMUNICATIONS OF MISSISSIPPI,
FLTNMSXA	FULTON	FULTON TELEPHONE CO., INC.
GRTWMSXA	GEORGETOWN	GEORGETOWN TELEPHONE CO.
GLALMSXA	GLEN ALLAN	LAKESIDE TELEPHONE CO., INC.
MYRTMSXA	MYRTLE	MYRTLE TELEPHONE CO., INC.
SNFLMSXA	SUNFLOWER	SLEDGE TELEPHONE CO., INC.
SMVLMSXA	SMITHVILLE	SMITHVILLE TELEPHONE CO., INC.
BSFDMSXA	BASSFIELD	WINDSTREAM MISSISSIPPI, INC.
FLRNMSXA	FLORENCE	WINDSTREAM MISSISSIPPI, INC.
PRNTMSXA	PRENTISS	WINDSTREAM MISSISSIPPI, INC.

ORIGINAL

STATE OF INDIANA

INDIANA UTILITY REGULATORY COMMISSION

IN THE MATTER OF VIRGIN MOBILE)
USA, L.C. PETITION FOR LIMITED) CAUSE NO. 41052 ETC 55
DESIGNATION AS AN ELIGIBLE)
TELECOMMUNICATIONS CARRIER) APPROVED: NOV 10 2010

BY THE COMMISSION:
Larry S. Landis, Commissioner
David E. Veleta, Administrative Law Judge

On February 4, 2010, Virgin Mobile USA, L.P. ("Petitioner," or "Virgin Mobile") filed its Verified Petition for Limited Designation as an Eligible Telecommunications Carrier ("Petition") with the Indiana Utility Regulatory Commission ("Commission"). In its Petition, Virgin Mobile requested that the Commission designate it as an Eligible Telecommunications Carrier ("ETC") as defined by §214(e)(1) of the Federal Communications Act of 1934, as amended ("Act") for purposes of offering prepaid wireless services supported by the Federal Universal Service Fund's ("USF") Lifeline program. Petitioner does not seek authority to provide services supported by the USF's high-cost program.

On April 5, 2010, Petitioner filed its direct testimony and exhibits. On May 24, 2010, the Indiana Office of Utility Consumer Counselor ("OUCC") prefiled its direct testimony of Senior Analyst Ronald L. Keen. On June 11, 2010, Petitioner prefiled its rebuttal testimony. On June 16 and July 9, 2010, the Commission issued Docket Entries requiring Virgin Mobile to respond to certain questions and provide certain information. Virgin Mobile filed its responses on July 6 and August 11, 2010.

On September 22, 2010, pursuant to notice duly published according to law, an evidentiary hearing was convened at 9:30 a.m. in Room 224 of the PNC Center, 101 West Washington Street, Indianapolis, Indiana. At the hearing, Virgin Mobile and the OUCC appeared and participated. No members of the general public were present or sought to testify at the hearing. The testimony and exhibits of the parties were admitted into evidence and the witnesses were made available for cross-examination.

The Commission, having examined all of the evidence of record and being duly advised in the premises, now finds as follows:

1. **Notice and Jurisdiction.** Proper, legal and timely notice of the hearing in this Cause was given and published by the Commission as provided for by law. The proofs of publication of the notice of the hearing have been incorporated into the record of this proceeding. Pursuant to the Act, 47 U.S.C. § 151 *et seq.* and applicable Federal Communications Commission ("FCC") Rules, 47 C.F.R. §§ 54.201 and 54.203, the Commission is authorized to designate ETCs, thereby enabling those so designated to apply for federal universal service support under Section 254 of the Act and in accordance with Commission orders of generic

application in Cause Nos. 40785, 41052 and 42067. The Commission therefore has jurisdiction over the subject matter of this Cause.

2. **Petitioner's Characteristics.** Petitioner is a communications service provider which offers commercial mobile radio service and wireless broadband service pursuant to the authority granted by the Commission in its March 31, 2010 Order in Cause No. 43854. Petitioner is also a telecommunications carrier as defined by 47 U.S.C. § 153(44).

3. **Requirements for ETC Designation.** By our Order issued on November 5, 1997 in Cause No. 40785, the Commission adopted the FCC's original eligibility requirements for designation of ETCs within the State of Indiana. Accordingly, each Indiana ETC receiving federal universal service support is required by 47 C.F.R. § 54.101(b) to offer the nine (9) universal services or functionalities set out in 47 C.F.R. § 54.101(a)(1)-(a)(9). In addition to offering these nine universal services, to be eligible for designation as an ETC applicants are required by 47 C.F.R. §§ 54.405 and 54.411 to offer qualifying low-income customers "Lifeline" and "Link-Up" programs. The Petition seeks only a limited designation and thus is presented for the limited purpose of participating in the USF's "Lifeline" program as a prepaid wireless carrier. If the Petition is approved, 47 C.F.R. § 54.201(d)(2) will require Petitioner as an ETC receiving federal universal support for Lifeline to publicize the availability and cost of the nine supported services and the Lifeline program using media of general distribution throughout the service areas for which the designation is requested. Pursuant to the Commission's November 5, 1997 Order in Cause No. 40785, carriers seeking ETC designation in Indiana are also required to file proposed Lifeline tariffs and boundary maps depicting the area(s) for which ETC designation is sought.

On March 17, 2005, the FCC released new ETC eligibility guidelines mandating that future ETC designations would require a public interest analysis for applicants regardless of whether the proposed designation area is served by a rural or non-rural carrier. Federal-State Joint Board on Universal Service, 20 F.C.C.R. 6371 ¶42-43 (March 17, 2005) ("2005 FCC ETC Order"). The 2005 FCC ETC Order also required applicants for ETC designation to: (1) provide a five-year plan demonstrating how high-cost universal support will be used to improve its coverage, service quality or capacity in every wire center for which it seeks designation and expects to receive universal service support; (2) demonstrate their ability to remain functional in emergency situations; (3) demonstrate that they will satisfy consumer protection and service quality standards; (4) offer local usage plans comparable to those offered by the incumbent local exchange carrier ("ILEC") in areas for which they seek designation; and (5) acknowledge that they may be required to provide equal access if all other ETCs in the designated service area relinquish their designations. The Commission adopted the FCC's new eligibility guidelines by its June 8, 2005 Order in Cause No. 41052 ETC 47.

4. **Evidence Presented.**

(a) **Petitioner's Evidence.** Petitioner, as a wholly owned subsidiary of Sprint Nextel Corporation ("Sprint Nextel"), provides nationwide prepaid wireless services. As a result, Virgin Mobile has beneficial use of Sprint's wireless facilities and thus operates as a facilities-based carrier in the State of Indiana like other Sprint Nextel subsidiaries operating in

the state. Virgin Mobile commenced wireless service in Indiana in 2002. Virgin Mobile provides facilities-based wireless services in Indiana and therefore the Company intends to launch Lifeline services as soon as possible should the Commission approve its Petition. Virgin Mobile presented the testimony of Elaine Divelbliss, Senior Counsel for Virgin Mobile, at the September 22, 2010 Evidentiary Hearing.

Ms. Divelbliss explained that many lower-income customers in Indiana have yet to reap the full benefits of the wireless market. She testified that because of financial constraints, poor credit history or intermittent employment, these consumers may lack the choices available to most consumers. She stated that Virgin Mobile's Lifeline services will expand the availability of affordable telecommunications services to qualifying customers, leading to lower prices and increased choice in Indiana. Ms. Divelbliss explained that Virgin Mobile has branded its prepaid Lifeline service "Assurance Wireless Brought To You By Virgin Mobile." She stated that under the current plan, eligible customers will receive 200 anytime prepaid minutes per month at no charge, with additional service priced at \$0.10/minute and \$0.10/text message.

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. She explained that Lifeline customers will not be required to pay for handsets. She added that Virgin Mobile's Lifeline service plan includes all applicable taxes and fees. The Company also does not assess charges for activation or connection of the service. This means that Lifeline-eligible customers in Indiana will not incur any upfront costs for access to the Company's Lifeline services.

Ms. Divelbliss explained how customers will sign up for service. She noted that Virgin Mobile has been designated an ETC for the limited purpose of offering Lifeline service in 11 states. She also explained that Virgin Mobile is a wholly owned subsidiary of Sprint Nextel and is thus able to provide Lifeline-supported services over an existing, owned and operated network infrastructure. She explained that since the Company no longer operates as a reseller of telecommunications, there is no need to impose certain conditions on the grant of ETC designation. She asserted that a condition requiring Virgin Mobile to obtain certifications from public service answering points ("PSAPs") regarding its ability to provide enhanced 911 ("E911") functionality is unnecessary.

Ms. Divelbliss asserted how Virgin Mobile remains functional in emergency situations. She also discussed how Virgin Mobile will advertise the availability of its Lifeline services using a variety of media in conformance with the regulations of this Commission and the FCC. Ms. Divelbliss explained that Virgin Mobile's designation as an ETC solely for Lifeline purposes would not unduly burden the USF or otherwise reduce the amount of funding available to other carriers. Ms. Divelbliss testified that Virgin Mobile will comply with the Lifeline certification and verification requirements.

Ms. Divelbliss testified that internal Virgin Mobile analysis confirms that many low-income customers still discontinue service because of economic constraints, especially during this period of economic dislocation. In her view, ETC designation in Indiana would enable Virgin Mobile to offer appealing and affordable service offerings to these customers to ensure

Virgin Mobile to offer appealing and affordable service offerings to these customers to ensure that they are able to afford wireless services on a consistent and uninterrupted basis. Ms. Divelbliss discussed the benefits that lower-income customers receive from access to wireless service, and provided a study to support these benefits with her testimony. Finally, Ms. Divelbliss also discussed the competitive benefits associated with designating Virgin Mobile as an ETC in Indiana.

(b) **OUCC's Evidence.** The OUCC presented direct testimony from its Senior Analyst, Ronald L. Keen. Mr. Keen testified that he reviewed the Petition, Petitioner's responses to data requests issued by the OUCC and Commission Orders from other ETC proceedings. Mr. Keen presented a detailed analysis of the federal and state requirements regarding the designation of ETCs and explained how Virgin Mobile met those requirements. Mr. Keen noted that Virgin Mobile has become the prepaid component of the Sprint Nextel family of wireless service providers. He testified that because Sprint Nextel is a designated ETC, it has already demonstrated to the Commission's satisfaction that it is able to meet the relevant requirements.

Mr. Keen discussed Virgin Mobile's submissions in other states and presented a public interest analysis. Mr. Keen noted that network improvements made by Virgin Mobile's parent company (which is already an ETC) will directly benefit Virgin Mobile's customers. Mr. Keen also noted that Virgin Mobile states that it complies with the Cellular Telecommunications Industry Association Consumer Code ("CTIA Code") and annually re-certifies that it will remain in compliance with the CTIA Code. Based on his analysis, Mr. Keen recommended that the Commission approve Virgin Mobile's request for ETC designation and that the Commission require Virgin Mobile through its parent company, Sprint Nextel, to accommodate reasonable requests for service as required by the 2005 FCC ETC Order.

5. **Commission Findings.** Based on the evidence in the record, we have determined that Petitioner meets the eligibility criteria for ETC designation as contained in Section 214(e)(1), as set out more fully below.

(a) **Common Carrier Status.** The first requirement for ETC designation is status as a common carrier under federal law. A common carrier is generally defined by 47 U.S.C. § 153(10) as a person engaged as a common carrier on a for-hire basis in interstate telecommunications utilizing either wire or radio technology (except for radio broadcasters). As a provider of wireless telecommunications services, we find that Virgin Mobile is a "common carrier" for purposes of obtaining ETC designation under 47 U.S.C. § 214(e)(1).

(b) **Services Required to be Offered by an ETC.** The evidence confirms that upon designation as an ETC in Indiana, Virgin Mobile will provide all of the functionalities required of an ETC in 47 C.F.R. §54.101(a) as follows:

(i) **Voice-grade access to the public switched telephone network.** The FCC has concluded that voice grade service means the ability to make and receive phone calls within a specified bandwidth and frequency range. 47 U.S.C. § 54.101(a)(1). We find that Petitioner meets this requirement. No evidence was presented that Petitioner's customers would

not be able to make and receive calls on the public switched telephone network in accordance with the federal rules. Accordingly, we find that Petitioner satisfies this requirement.

(ii) Local usage. ETCs must include local usage beyond providing simple access to the public switched telephone network as part of a universal service offering. 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. 47 C.F.R. § 54.202(a)(4). In analyzing whether an ETC applicant’s plan is comparable to the underlying ILECs, 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.) and the amount of local usage. *See* 2005 FCC ETC Order, ¶33. As the record demonstrates, Virgin Mobile will offer users the ability to send and receive local phone calls wherever the Company offers service. Mr. Keen noted that Virgin Mobile intends to offer Lifeline customers “access to a variety of other features at no cost, including voice mail, caller I.D., call waiting services and E911 capabilities.” Petitioner’s offering will be comparable to the underlying ILEC plans, and therefore satisfies this requirement.

(iii) Dual-Tone, Multi-Frequency (“DTMF”) signaling, or its functional equivalent. DTMF is a method of signaling that facilitates the transportation of call set-up and call detail information. As noted by Mr. Keen, the FCC permits Commercial Mobile Radio Service (“CMRS”) carriers to provide signaling which is a functional equivalent to DTMF to satisfy this requirement. Petitioner’s evidence shows that the telephone handset to be provided free-of-charge to eligible Lifeline customers is DTMF-capable as required by 47 C.F.R. § 54.101(a)(3). Accordingly, the record reflects that Petitioner satisfies this requirement.

(iv) Single-party service or its functional equivalent. Petitioner 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. Accordingly, the record reflects that Petitioner satisfies this requirement.

(v) Access to emergency services. The ability to reach a public emergency service provider by dialing 911 is a required service in any universal service offering. Mr. Keen testified that Petitioner provides nationwide access to 911 emergency services for all of its customers by virtue of its use of the Nationwide Sprint PSC Network. Because Sprint Nextel is a designated ETC, it has already demonstrated to the Commission’s satisfaction that it is able to meet this requirement. Thus, we find Petitioner has satisfied this requirement.

(vi) Access to operator services. Access to operator services is defined as any automatic or live assistance provided to a consumer to arrange for the billing or completion, or both, of a telephone call. 47 C.F.R. § 54.101(a)(6). Petitioner meets this requirement by providing all of its customers with access to operator services. Thus, we find Petitioner has satisfied this requirement.

(vii) Access to directory assistance. Petitioner meets the requirement of access to directory assistance by providing customers with the ability to dial “411” to reach directory assistance.

(viii) Access to interexchange service. Petitioner meets the requirement of access to interexchange service by providing all of its customers with the ability to make interexchange, or long distance, telephone calls. Domestic long distance capabilities are included in Petitioner's service with no additional charges because minutes for local or long distance services are not billed separately at different rates.

(ix) Toll limitation for qualifying low-income consumers. 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. Petitioner provides its wireless service on a prepaid, or pay-as-you-go, basis. Moreover, Petitioner's service 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 Petitioner's service mitigates concerns that low-income customers will incur significant charges for long distance calls, risking disconnection of their service. *Virgin Mobile USA, L.P. Petition for Forbearance from 47 U.S.C. § 214(e)(1)(A); Petitions for Limited Eligible Telecommunications Carrier Designation in New York, Pennsylvania, Virginia, North Carolina, and Tennessee*, CC Docket No. 96-45, Order, 24 FCC Rcd 3381 at ¶34 (2009) ("Virgin Mobile Forbearance Order"). Mr. Keen testified that since Virgin Mobile offers only prepaid cellular service, the limitation requirement is satisfied by virtue of the fact that service will automatically end when the prepaid bank of minutes runs out – regardless of whether prepaid minutes were used on local or long-distance calls. Accordingly, we find Petitioner's service satisfies this requirement.

(c) Lifeline Service Offering Requirements. In its Petition, direct testimony, and late-filed exhibit, Petitioner provided a description of its proposed prepaid Lifeline offering. According to the Petition, 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 service will be made available free of charge to the customer. Petitioner also provided a copy of its proposed Lifeline service terms and conditions as an exhibit to its response to the Commission's June 16, 2010 Docket Entry. *See* Petitioner's Exhibit 3. The evidence shows that Petitioner agrees to comply with all applicable Lifeline requirements after its request for ETC designation is granted.

(d) Functionality in Emergency Situations. FCC regulations require that applicants for ETC designation demonstrate their ability to remain functional in emergency situations. 47 C.F.R. § 54.209(a)(2). Ms. Divilbliss explained that as a wholly owned subsidiary of Sprint Nextel, Virgin Mobile is able to remain functional in emergency situations as required by the requirements of the FCC and this Commission. She explained that Sprint Nextel has established a variety of internal programs, policies and teams dedicated to analyzing, assessing and responding to emergency situations. She added that Sprint Nextel 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. Based on the foregoing, we find that Petitioner satisfactorily meets this requirement.

(e) **Advertising Requirements.** Virgin Mobile showed that it will advertise the availability and costs of its Lifeline and USF supported service offering using media of general distribution, including newspapers, magazines, radio, the Internet, billboards and television, in conformance with the regulations of the FCC. Virgin Mobile indicated that it will supplement these methods of communication to specifically advertise and promote the availability of its Lifeline offerings to qualifying customers throughout the State of Indiana. In addition, Virgin Mobile may market its Lifeline services through its RE*Generation pro-social initiative, 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. The evidence of record indicates that the Petitioner will comply with all applicable advertising requirements.

(f) **Petitioner's Designated ETC Service Areas.** The FCC's rules define a "service area" as a "geographic area established by a state commission for the purpose of determining universal service obligations and support mechanisms." 47 C.F.R. § 54.207(a). Virgin Mobile provides its services exclusively over the Nationwide Sprint PCS Network and does not provide service in territories not covered by the network. Petitioner provided a list of the wire centers in which it is requesting ETC designation as well as a map of Petitioner's proposed designated service area in response to the Commission's June 16 Docket Entry. Virgin Mobile requests to be designated as an ETC in the coverage area for the Nationwide Sprint PCS Network in Indiana.

(g) **Public Interest Considerations.** As noted above, the designation of Virgin Mobile as an ETC requires a public interest analysis. 2005 FCC ETC Order, ¶¶42 and 43. In the absence of statutory strictures for evaluating the public interest, the FCC has recommended that ETC designations 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 telecommunication services at just, reasonable, and affordable rates; and promoting the deployment of advanced telecommunications and information services to all regions of the nation, including rural and high-cost areas." 2005 FCC ETC Order, ¶40.

(i) **Use of ETC funding.** Petitioner has indicated that it will not use funds from the federal Lifeline program to provide free handsets to Lifeline customers. *See* Petitioner's Exhibit 3 at 2. We find that this is consistent with current FCC regulations on the use of such funds. *See In re Federal-State Joint Board on Universal Service, Promoting Deployment and Subscriberhip in Unserved and Underserved Areas, Including Tribal and Insular Areas*, 18 FCC Rcd 10958 at ¶18 (2003).

(ii) **Impact on the Universal Service Fund.** We have previously recognized that the FCC has undertaken various steps to address the explosive growth in high-cost universal support disbursements. *Perry-Spencer Communications, Inc.*, Cause No. 41052 ETC 53 at 10 (IURC 7/24/08). Notably, however, Virgin Mobile is not seeking access to funding from the federal USF to provide service to high-cost areas. As Ms. Divelbliss explained,

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, the Lifeline program ensures that universal service fund support only funds the carrier that serves the customer.

However, we also recognize that costs for the low income portion of the universal service fund are increasing rapidly. OUCC's Exhibit 1 at 30. While it is in the public interest that lifeline eligible customers get connected to affordable telecommunications service, preventing misuse of the Lifeline program is necessary to control unnecessary growth of the fund and increased USF surcharges for all Indiana telecommunications customers. We are concerned that prepaid wireless providers may be especially vulnerable to misapplication of the program due to the appeal of free phones and free minutes. Therefore, we find that it is in the public interest to impose extra safeguards on Virgin Mobile.

To ensure that Virgin Mobile's Lifeline offering does not unnecessarily increase USF expenditures, we condition our grant on Virgin Mobile's adoption of a policy terminating service to inactive customers. Specifically, if a customer does not make a voice call or send a text message at least once during any 90-day period, Virgin Mobile will notify the customer that the customer is no longer eligible for Lifeline service. The customer must make a voice call or send a text message at least once during the 30-day period following such notification in order to have eligibility restored. At the end of the applicable 30-day period following notification of ineligibility, if the customer has not utilized the service, the customer will no longer receive a monthly allocation of free minutes and Virgin Mobile will no longer report the customer on FCC Form 497. Provided these requirements are satisfied, we find that Virgin Mobile's designation should not have an excessive impact on the universal service fund.

We note that Petitioner also mitigated concerns regarding fraud and misapplication of the program by evidence indicating Virgin Mobile has a robust IT infrastructure to determine what accounts are open and what accounts are closed. Petitioner's Exhibit C and TR at 26. The Petitioner is able to track Lifeline customers for both the Sprint post-paid and Virgin Mobile prepaid entities. TR at 9. Virgin mobile is also able to report revenues when required by Indiana law for customers purchasing their services, either directly or through third parties. Petitioner's Exhibit C. Virgin Mobile's testimony also provides assurances that the company will take seriously the conditions to prevent misuse of the Lifeline program and indicates that they have the technical ability to do so.

(iii) Consumer Protection. The FCC found that an ETC applicant must make a specific commitment to objective measures to protect consumers. *See* 2005 *FCC ETC Order*. Virgin Mobile states in its petition that it complies with the CTIA Code and has done so since that CTIA Code's inception and will continue to comply with the CTIA Code once designated as an ETC. Petitioner's Exhibit 3. A review and analysis conducted by the OUCC indicates that Virgin Mobile meets all requirements of the CTIA Code. OUCC's Exhibit 1 at 82.

(iv) Creamskimming. The FCC identified creamskimming as an appropriate factor to consider in "areas where an ETC applicant seeks designation below the study area level of a rural company." *See* 47 CRF 54.202(c). That analysis is unnecessary in

this case, as Virgin Mobile seeks ETC designation to serve entire rural ILEC study areas in this proceeding. *See* 2005 FCC ETC Order. In addition, the FCC has concluded that applicants seeking ETC designation solely for Lifeline purposes need not perform a creamskimming analysis. *See 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 State of New York, North Carolina, Tennessee and Virginia, Order, 24 FCC Rcd 3381, fn. 101 (2009).*

(v) Increased customer choice. Currently in Indiana all incumbent local exchange carriers are required to provide the Lifeline discount to eligible customers. Non-ILEC Lifeline providers include one wireless provider and three competitive local exchange carriers. None of the current Lifeline providers offer the prepaid model of telecommunications service or specialize in serving the low-income segment of the population. The record reflects that the Petitioner's prepaid plans without annual contracts bring increased consumer choice to the Lifeline eligible customers in Indiana. Ms. Divelbliss also testified that Virgin Mobile's Lifeline plans will provide affordable and convenient wireless services to qualifying customers who may not otherwise be able to afford wireless services. Unlike other carriers that currently offer Lifeline service in Indiana, Virgin Mobile does not impose credit checks or long-term service contracts as prerequisites to obtaining service. Based on the record, we find that Petitioner's designation as an ETC will increase the level of customer choice and may promote competition by expanding the availability of wireless services to qualifying Indiana customers, leading to lower prices.

(vi) Affordable rates. We must also consider whether designation as an ETC will "ensur[e] the availability of quality telecommunications services at just, reasonable, and affordable rates[.]" 2005 FCC ETC Order, ¶40. Petitioner presented evidence that under the current plan, eligible customers will receive 200 anytime prepaid minutes per month at no charge with additional service priced at \$0.10/minute and \$0.10/text message. In addition, customers may elect to receive an Assurance Wireless-branded handset free of charge. Ms. Divelbliss added that Virgin Mobile's Lifeline service plan includes all applicable taxes and fees, and that the company 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 their 200 voice minute allotment) with no additional charges for taxes or activation. In a late filed exhibit, dated October 29, 2010, Virgin Mobile increased its core offer and added two additional options for Lifeline customers who have higher minute use per month. The core offer increased to 250 minutes of free talk time. A \$5.00 package increases the amount of minutes to 500 per month and a \$20.00 Talk and Text package increases the minutes to 1000 and adds 1000 text messages. While Lifeline customers will need to continue to understand their individual calling patterns and weigh the best value between traditional and prepaid Lifeline plans, we are persuaded that Virgin Mobile's plans will provide affordable alternatives for many of Indiana's Lifeline eligible customers. The OUCC did not dispute the affordability of Petitioner's rates. Accordingly, we find that the designation of Virgin Mobile as an ETC would serve the public interest by ensuring the availability of quality telecommunications services at just, reasonable and affordable rates.

(vii) Advantage & Disadvantages of the Offering. The record reflects that Petitioner's service offering is comparable and may even exceed ILEC Lifeline and local service plans in some respects. We concur with the FCC's assessment of the benefits associated with Petitioner's offering:

Virgin Mobile's universal service Lifeline offering will provide a variety of benefits to Lifeline-eligible consumers, including increased consumer choice and mobility. In addition, the prepaid feature, which essentially functions as a toll control feature, may be an attractive alternative to Lifeline eligible consumers who are concerned about usage charges or long-term contracts.

Virgin Mobile Forbearance Order, ¶38. Accordingly, we find that Virgin Mobile has satisfied this criterion of our public interest inquiry.

(viii) Facilities-Ownership. Virgin Mobile provides service over the Nationwide Sprint PCS Network and only seeks ETC designation for those wire centers representing the existing coverage area for the Sprint PCS network in Indiana. Virgin Mobile has beneficial use of Sprint's wireless facilities, 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. The FCC has concluded that, for universal service purposes, the term "own facilities" in Section 214(e)(1)(A) of the Communications Act refers to property which a carrier "considers its own" or for which it "enjoy[s] the beneficial use."¹ The FCC has reasoned that the concept of "own facilities" therefore includes facilities for which a carrier "does not hold absolute title." The FCC has also 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," and that ownership extends to "others enjoying the beneficial use of property." Thus, we find that Petitioner meets the facilities-ownership criterion of our public interest inquiry.

(ix) Deployment of, or improvement to, Indiana Network Facilities. The record reflects that Virgin Mobile is a prepaid brand of the Sprint Nextel family of wireless services. The record also reflects that Petitioner's parent, Sprint Nextel, is constantly upgrading and expanding its Indiana network and infrastructure, directly benefiting Indiana consumers. Accordingly, we find that Virgin Mobile's designation as an ETC will bring benefits to Indiana's telecommunications infrastructure.

(x) Commitment to Provide Service Upon Reasonable Request. Pursuant to 47 C.F.R. § 54.202(a)(1)(i), an ETC applicant must commit to provide service upon reasonable request throughout its designated service area. The OUCC recommended that the Commission require Virgin Mobile and Sprint Nextel to work collaboratively to accommodate all requests for service in accordance with the 2005 FCC ETC Order. We note that as an ETC solely for purposes of participating in the Lifeline program, Virgin Mobile will only be able to

¹ *In re Federal-State Joint Board on Universal Service*, 12 FCC Rcd 8776, ¶ 159 (1997) ("Universal Service First Report and Order").

provide Lifeline services to those low-income customers that qualify for service. We also note that Virgin Mobile has not requested access to high-cost funding. Petitioner has agreed to abide by the obligations imposed on Sprint Nextel as a condition to its 2007 ETC designation. We find that it is reasonable for Virgin Mobile through its parent company Sprint Nextel to accommodate requests for service as required by the 2005 FCC ETC Order. If the potential customer is within Sprint Nextel's designated service area and its existing network coverage, Virgin Mobile will provide service on a timely basis. If the potential customer is within Sprint Nextel's designated service area but outside its existing network coverage, Virgin Mobile through Sprint Nextel will provide service within a reasonable period of time if service can be provided at reasonable cost by:

- (a) Modifying or replacing the requesting customer's equipment;
- (b) Deploying a roof-mounted antenna or other equipment;
- (c) Adjusting the nearest cell tower;
- (d) Adjusting network or customer facilities;
- (e) Reselling services from another carrier's facilities to provide service; or
- (f) Employing, leasing or constructing an additional cell site, cell extender, repeater or other similar equipment.

See Re Designation of Eligible Telecommunications Carriers, Cause No. 41052 ETC 47 (IURC 3/7/2007) at 10-11. Accordingly, we find Petitioner has demonstrated its willingness and ability to provide service throughout its requested service area.

(xi) Additional Public Interest Analysis. ETC designation confers both benefits and burdens upon the petitioning telecommunications service provider. Because the designation gives the provider the right to apply for federal universal service funds, it is of the utmost importance that the provider be in compliance regarding its obligations to contribute to public interest funds and not have a competitive advantage over other Indiana telecommunications carriers by avoidance of such obligations. We find that it would not be competitively neutral to designate an ETC permitting it to collect a public subsidy, yet not contribute its fair share to public interest funds from which its network and its customers benefit. We are administratively aware that Virgin Mobile appears to comply with Indiana laws and policies regarding public interest funds for which the Commission has administrative oversight, including the public utility fee pursuant to IC 8-1-6 and the Indiana Universal Service Fund pursuant to the Commission's March 17, 2004 Order in Cause No. 42144. However, Virgin Mobile indicated that it does not contribute to the Indiana Telecommunications Relay Access Corporation ("InTrac") fee pursuant to IC 8-1-2.8 due to the nature of the surcharge collection method imposed by state statute. *See* Petitioner's Exhibit C. We note that the administrator of the InTrac fund has not submitted a Complaint to the Commission, therefore we make no finding concerning whether Virgin Mobile has violated any statute. However, we find that it is in the public interest that Virgin Mobile submit a compliance plan to address InTrac contributions on a prospective basis until such a time as the Administrator of the InTrac fund or state law addresses this issue on a comprehensive basis.

Based on the foregoing public interest analysis, we conclude that designating Virgin Mobile as an ETC will promote the public interest and further the goals of the Act.

6. **Regulatory Oversight.** This Commission has previously recognized certain specific regulatory requirements that competitive wireless ETC applicants must satisfy in order to secure and maintain their ETC status in Indiana. *See e.g., Re Nextel*, Cause No 41052 ETC 43 (IURC 3/17/2004), at 28-30; *Re Cinergy Metronet*, Cause No. 41052 ETC 50 (IURC 1/31/2007) at 26. Such regulatory requirements stem from the FCC's mandate that state commissions certify that federal USF support is being used "only for the provision, maintenance and upgrading of facilities and services for which the support is intended," consistent with 47 U.S.C. § 254(e). Absent such a certification, carriers will not receive such support. 47 C.F.R. §§ 54.313. In order for this Commission to satisfy its ETC certification requirements to the FCC, this Commission requires ETC applicants to file a tariff with the Commission and track their USF expenditures. *See Re Universal Service Investigation*, Cause No. 40785 (IURC 11/5/1997).

The record reflects Petitioner intends to comply with the Commission's Lifeline tariff filing requirement and has provided the Commission with its terms and conditions of service. *Id.* Petitioner also confirmed that it is familiar with and agrees to comply with USF tracking requirements this Commission previously established to ensure that funds received from Universal Service Administrative Company ("USAC") for Indiana are devoted to furthering universal service goals within Petitioner's designated service area. Accordingly, we find that Petitioner's terms and conditions of service should be incorporated into Petitioner's Lifeline tariff for Indiana and filed with the Commission's Communications Division for review prior to Petitioner making its universal service offering available to eligible consumers in Indiana.

7. **Prospective ETC Reporting Requirements.** Finally, we find that Petitioner should be required to meet the prospective reporting requirements established by the 2005 FCC ETC Order to the extent applicable given Petitioner's limited designation as an ETC for Lifeline services only. To this end, Petitioner shall submit the following information on an annual basis:

- (a) Detailed information on any outage lasting at least 30 minutes, for any service area in which an ETC is designated for any facilities that it owns, operates, leases, or otherwise utilizes that potentially affects at least ten percent of the end users served in a designated service area, or that potentially affects a 911 special facility (as defined in subsection (e) of Section 4.5 of the Outage Reporting Order. *See In the Matter of New Part 4 in Commission's Rules Concerning Disruptions to Communications Services*, ET Docket 04-35, Released August 14, 2004). An outage is defined as a significant degradation in the ability of an end user to establish and maintain a channel of communications as a result of failure or degradation in the performance of a communications provider's network. Specifically, the ETC's annual report must include: (1) the date and time of onset of the outage; (2) a brief description of the outage and its resolution; (3) the particular services affected; (4) the geographic areas affected by the outage; (5) steps taken to prevent a similar situation in the future; and (6) the number of customers affected. As noted above, Petitioner has beneficial use of Sprint's wireless facilities. Sprint is designated as an ETC in Indiana and is also subject to this reporting requirement. In order to avoid duplicative reporting, we find that Petitioner may join in the report filed by Sprint Nextel for this or other reporting

requirements provided that any such report clearly indicate the participating entities.

- (b) The number of requests for service from potential customers within its service areas that were unfulfilled for the past year. The ETC must also detail how it attempted to provide service to those potential customers;
- (c) The number of complaints per 1,000 handsets or lines;
- (d) Certification that the ETC is complying with applicable service quality standards and consumer protection rules, e.g., the CTIA Consumer Code for Wireless Service;
- (e) Certification that the ETC is able to function in emergency situations;
- (f) Certification that the ETC is offering a local usage plan comparable to that offered by the incumbent LEC in the relevant service areas; and
- (g) Certification that the carrier acknowledges that the Commission 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.

2005 FCC ETC Order at ¶69 (footnotes omitted); 47 C.F.R. § 54.209.

Virgin Mobile's compliance filings should be filed under this Cause, due on August 15th of each year beginning in 2011, unless otherwise directed by the Commission.

8. Conditions on Virgin Mobile's Designation as an Eligible Telecommunications Carrier. In accordance with the Commission's findings above, Virgin Mobile shall be subject to the following conditions:

- (a) Virgin Mobile shall deactivate an Assurance Wireless account if the customer has no usage for ninety (90) consecutive days. No fewer than eight business days before deactivation, Virgin Mobile shall send the customer a written notice by mail about the potential deactivation and ways to avoid unwanted deactivation. The customer shall have a thirty (30) day grace period from the deactivation date to reactivate the Assurance Wireless account and restore the minutes accrued during the 90 day non-usage period and the 30 day grace period.
- (b) Virgin Mobile shall offer Lifeline eligible customers a minimum of 250 free minutes per month and charge a maximum of 10 cents for each additional minute and each text message. Virgin Mobile shall file a tariff of their proposed offering, including the two additional packages offered in the late filed exhibit, dated October 29, 2010, and notify the Commission in the form of a new tariff if any terms, conditions or allocation of free minutes changes.

- (c) Virgin Mobile shall provide the Commission with a copy of its annual Lifeline Verification survey results that it files with the USAC by August 31 of each year.
- (d) On a quarterly basis Virgin Mobile shall provide the number of Lifeline customers that it enrolls each month. Virgin Mobile shall also report the number of deactivated Lifeline customers each month and the reasons for deactivation (e.g., no usage for 90 consecutive days, annual verification unsuccessful or voluntary exit). Quarterly reports shall be filed with the Commission no later than 30 days after the end of each quarter. Virgin Mobile will continue to make such quarterly filings until otherwise instructed by the Commission.
- (e) To safeguard against misuse of the Lifeline service plan, Virgin Mobile shall deal directly with the customer and require each customer to self certify under penalty of perjury that they are the only member of a household receiving the Lifeline discount and that they do not receive the Lifeline discount for any other phone. Lifeline customers shall provide copies of documentation demonstrating that they are eligible for Lifeline based upon participation in one of the qualifying low income programs or based upon income.
- (f) Virgin mobile shall notify each Lifeline customer on an annual basis and request that they confirm their continued eligibility by requiring that the customer self-certify that they continue to be eligible for the discount based upon their income or participation in a qualifying low income program. Such verification will be
- (g) required in order for the consumer to continue to purchase prepaid airtime at the discounted rate.
- (h) In the event the ILAP becomes law, Virgin Mobile shall seek IURC approval of their new Lifeline offering subject to the additional Indiana discount.
- (i) Virgin Mobile shall submit a plan indicating how they will contribute to the InTrac fund for dual party relay services for speech and hearing impaired individuals going forward on equitable basis.
- (j) Virgin Mobile shall continue to pay applicable fees, such as the public utility fee pursuant to IC 8-1-6, the IUSF fee pursuant to the Commission's Final Order in Cause 42144, the wireless emergency enhanced 911 fee pursuant to IC 36-8-16.5-30.5 and any other applicable fees.
- (k) Virgin Mobile shall submit a compliance plan indicating how they will implement the above conditions.

We therefore find, based on the evidence presented, that Virgin Mobile has met all of the ETC eligibility requirements and that the public interest supports granting ETC status for the purpose of participation in the Lifeline program to Virgin Mobile at this time. We find that Virgin Mobile offers a quality service with unique advantages. We further find that making this prepaid service available to eligible customers will increase customer choice and will not adversely affect the USF. Virgin Mobile has demonstrated that it has the ability through the Sprint Nextel network to satisfy the obligation to serve the designated service areas within a reasonable time frame. Finally, we note that the Commission has the statutory authority to investigate, as it deems necessary, Virgin Mobil's compliance with this Order and its eligibility for ETC designation. Accordingly, we find that Virgin Mobile's Petition should be granted. We further find that Virgin Mobile should be subject to the prospective reporting requirements and conditions set forth herein.

IT IS THEREFORE ORDERED BY THE INDIANA UTILITY REGULATORY COMMISSION that:

1. Virgin Mobile USA, L.P.'s application for designation as an Eligible Telecommunications Carrier for the limited purpose of participation in the Universal Service Fund's Lifeline program, for the service areas identified in Petitioner's evidence, shall be and hereby is granted.

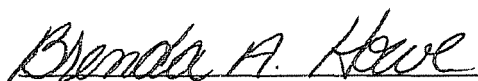
2. Virgin Mobile USA, L.P.'s request for authority to apply for or receive universal service funds pursuant to 47 U.S.C. § 254 shall be and hereby is granted, subject to Petitioner's continued compliance with the terms, conditions and reporting requirements of this Order and other applicable laws.

3. This Order shall be effective on and after the date of its approval.

ATTERHOLT, LANDIS, MAYS AND ZIEGNER CONCUR:

APPROVED: NOV 1 0 2010

I hereby certify that the above is a true and correct copy of the Order as approved.



Brenda A. Howe
Secretary to the Commission

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; Campiti-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 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**

COMMISSIONERS

STATE OF MARYLAND

DOUGLAS R. M. NAZARIAN
CHAIRMAN

HAROLD D. WILLIAMS
SUSANNE BROGAN
LAWRENCE BRENNER
THERESE M. GOLDSMITH



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

WILLIAM DONALD SCHAEFER TOWER • 6 ST. PAUL STREET • BALTIMORE, MARYLAND 21202-6806

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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



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 signaling 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 signalling 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.

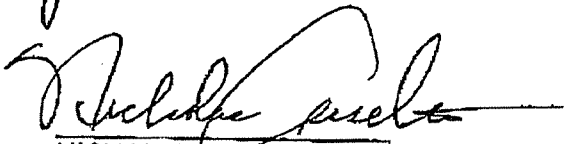
DATED: 8/4/10


BOARD OF PUBLIC UTILITIES
BY:


LEE A. SOLOMON
PRESIDENT


JEANNE M. FOX
COMMISSIONER


JOSEPH L. FIORDALISO
COMMISSIONER

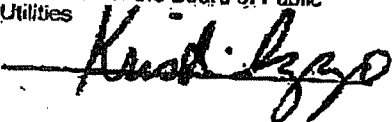

NICHOLAS ASSELTA
COMMISSIONER


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

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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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**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

**BEFORE THE WASHINGTON STATE
UTILITIES AND TRANSPORTATION COMMISSION**

In the Matter of the Petition of	)	DOCKET UT-100203
)	
VIRGIN MOBILE USA, L.P.,	)	ORDER 01
)	
	)	ORDER GRANTING THE
	)	EXEMPTION FROM PROVISIONS
	)	OF WAC 480-123-030(1)(d),
For an Exemption from WAC 480-123-030(1)(d) and Designation as an Eligible Telecommunications Carrier	)	INVESTMENT PLAN, AND
	)	DESIGNATION AS AN ELIGIBLE
	)	TELECOMMUNICATIONS
	)	CARRIER
.....)	

INTRODUCTION AND BACKGROUND

- 1 On February 1, 2010, Virgin Mobile USA, L.P. (Virgin Mobile or Company) filed a petition with the Washington Utilities and Transportation Commission (UTC or Commission) requesting designation as an Eligible Telecommunications Carrier (ETC) pursuant to Section 214 (e)(2) of the Communications Act of 1934, as amended (the Act), and Washington Administrative Code (WAC) 480-123-030. Virgin Mobile seeks ETC designation in Washington for the purpose of providing its pre-paid Lifeline service to qualified low-income households. It will only seek the Lifeline portion (Tier One to Tier Three) of low-income support from the federal Universal Service Fund, which subsidizes eligible low-income households' monthly charges for basic telephone services. Virgin Mobile does not seek the Link-Up support, which subsidizes the non-recurring connection fee for basic telephone services. Virgin Mobile seeks ETC designation only for service areas where its parent company, Sprint Nextel Corporation (Sprint Nextel), has facility coverage (Appendix A). Virgin Mobile does not seek to participate in the state Lifeline program, Washington Telephone Assistance Program (WTAP).
- 2 Virgin Mobile filed two supplements to its original petition on August 12, 2010 and November 1, 2010, respectively. The two supplements clarify details of the Company's Lifeline offering. In the second supplement, the Company also informs the Commission that it revised the Lifeline rate plan to increase the customer benefits and offer two more pre-paid options for Lifeline customers to purchase additional minutes.
- 3 Virgin Mobile's ETC petition received one written comment. On October 25, 2010, TracFone Wireless, Inc. (TracFone) filed a letter, advising the Commission that all wireless ETCs similar to TracFone should be subject to the same requirements as those that have been imposed on TracFone. Specially, TracFone emphasizes the importance of non-usage requirements and procedures by which TracFone de-enrolls a Lifeline customer if the customer has no usage over 60 consecutive days. It encourages the

Commission to require all ETCs that provide free minutes of airtime to comply with the same non-usage procedure.

- 4 The Commission has jurisdiction over ETC petitions. Section 214 (e) of the Act authorizes state regulatory commissions to designate a qualified common carrier as an ETC for the purpose of receiving federal Universal Service Fund.¹ By rule, WAC 480-123-040, the Commission has the authority to approve petitions from carriers requesting ETC designation. The Commission's authority to grant or deny petitions for ETC designation includes the authority to impose conditions.²

DISCUSSION

Virgin Mobile and its Lifeline Offering

- 5 Virgin Mobile was a joint venture between Sprint Nextel Corporation (Sprint Nextel) and Virgin Group. On November 24, 2009, Virgin Mobile became a wholly owned subsidiary of Sprint Nextel. The Virgin Mobile brand offers prepaid wireless services using the Sprint Nextel wireless network nationwide. Virgin Mobile was designated by the Federal Communications Commission (FCC) as an ETC to receive federal Lifeline support in New York, North Carolina, Tennessee and Virginia.³ It has also obtained Lifeline-only ETC designation from state regulatory commissions in Florida, Louisiana, Maryland, Michigan, Mississippi, New Jersey, Texas and West Virginia.
- 6 In the initial petition, Virgin Mobile proposes to offer its prepaid Lifeline service under the brand name "Assurance Wireless Brought To You By Virgin Mobile."⁴ The Company will provide a free cell phone handset and 200 anytime prepaid minutes each month at no charge to eligible Lifeline customers. In addition to free voice services, customers will have access to standard features at no additional charges including voice mail, caller ID and call waiting.
- 7 On August 12, 2010, Virgin Mobile filed the first supplement to its petition. The supplement clarifies several details of its Lifeline offering, including the rate of \$0.10 for each additional minute and \$0.10 for each additional text message, E911-compatible handsets, free 911 calls and free customer service calls, and the Lifeline customer enrollment procedure. The Company also reaffirms that it is able to remain functional in emergency situations.

¹ 47 U.S.C. § 214(e)(2). See also 47 C.F.R. § 54.201(d).

² UT-093012, *In the Matter of the Petition of TracFone Wireless, Inc. for Exemption from WAC 480-123-030(1)(d), (f) and (g); and Designation as an Eligible Telecommunications Carrier for the Purpose of Receiving Lifeline Support from the Federal Universal Service Fund (UTC TracFone Proceeding)*, Order 03 (Dated June 24, 2010), ¶78.

³ *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 (released March 5, 2009) (FCC Forbearance Order on Virgin Mobile).

⁴ The official website for Virgin Mobile's Wireless Lifeline program is <http://www.assurancewireless.com/>.

- 8 On November 1, 2010, Virgin Mobile filed another supplement to its petition. It informs the commission that it revised the Lifeline plan to offer eligible customers 250 free voice minutes each month and commits to offer no less than 250 free voice minutes each month until the commission recertifies its ETC designation. Virgin Mobile will also provide two additional pre-paid options by which a Lifeline customer can purchase blocks of additional services. The first option offers a block of 250 additional voice minutes for \$5; the second option offers a block of 750 additional minutes and 1000 text messages for \$20.⁵ In the same supplement, the Company states that it will implement an annual verification procedure consistent with the FCC's forbearance requirement. It also clarifies that it does not offer a tribal Lifeline plan different from its standard Lifeline plan at this time and will not seek Tier Four Lifeline support from the federal Universal Service Fund.⁶

Federal ETC Requirements

- 9 Staff reviewed Virgin Mobile's petition and finds it qualifies for ETC designation if the designation is accompanied with proposed conditions specified in Appendix B. As specified in 47 U.S.C. § 214(e)(2), state commissions may designate additional carriers as ETCs if such designation is "consistent with the public interest, convenience, and necessity" and the carrier seeking designation as an ETC meets the two requirements of 47 U.S.C. § 214(e)(1):
- (A) offer the services that are supported by federal universal service support mechanisms under section 254(c), either using its own facilities or a combination of its own facilities and resale of another carrier's services (including the services offered by another eligible telecommunications carrier); and
 - (B) advertise the availability of such services and the charges therefore using media of general distribution.⁷
- 10 Virgin Mobile demonstrates in its petition and supplements that it is capable of delivering telecommunications services supported by the federal Universal Service Fund and that it will advertise the services via media of general distribution. Virgin Mobile's Lifeline plan will positively benefit low-income consumers in Washington. Staff recommends additional conditions to ensure the Company will provide Lifeline services in a manner consistent with the public interest. The proposed conditions are also consistent with the ETC designation conditions the commission imposed on TracFone.⁸

⁵ The blocks of minutes purchased under these two options will expire at the end of the customer's 30-day service cycle.

⁶ Residents of tribal lands will be able to enroll in Virgin Mobile's standard Lifeline program. Virgin Mobile will seek approval from the commission prior to commencing an enhanced Lifeline plan for tribal customers and seeking Tier Four Lifeline support for tribal customers.

⁷ 47 U.S.C. § 214(e)(2). See also 47 C.F.R. § 54.201(d).

⁸ UT-093012, *UTC TracFone Proceeding*, Order 03 (Dated June 24, 2010) and Order 05 (Dated October 13, 2010).

Washington State ETC Requirements and Exemption from the Requirement of an Investment Plan

- 11 Virgin Mobile's petition meets all but one requirement specified in WAC 480-123-030. WAC 480-123-030(1)(d) requires all ETC applicants to provide a substantive plan of the investments to be made with initial federal support during the first two years in which support is received and a substantive description of how those expenditures will benefit customers. The Company seeks exemption from this requirement because it is intended to be relevant to ETCs that receive high cost funds. Virgin Mobile only seeks Lifeline support. The Company is expected to pass the Lifeline credits to Lifeline customers and expand Lifeline enrollment, but the Company will not be expected to use the support to invest in facilities. Therefore, staff recommends the commission grant Virgin Mobile's request to be exempted from WAC 480-123-030(1)(d).

FCC Forbearance Conditions on Virgin Mobile's ETC Designation

- 12 In 2007, Virgin Mobile petitioned the FCC to forbear from the requirement under section 214(e)(1)(A) of the Act that a carrier designated as an ETC must provide services, at least in part, over its own facilities. The FCC granted the forbearance conditioned upon the same set of requirements as it imposed on TracFone. Those conditions include providing 911 and enhanced 911(E911) regardless of activation status and availability of prepaid minutes; providing E911-compliant handsets; obtaining a certification from each Public Safety Answering Point on 911 capability; requiring customers to self-certify on their eligibility; and establishing safeguard to prevent more than Lifeline account at the same address.
- 13 Virgin Mobile states that when it petitioned for the forbearance and ETC designation from the FCC, it was a Mobile Virtual Network Operator who did not have its own facilities. At the time, it was purchasing Sprint Nextel's network capacity under a wholesale contract. However, since being acquired by Sprint Nextel in November 2009, it has become a wholly owned and fully integrated subsidiary of Sprint Nextel. It has the beneficial use of Sprint Nextel affiliates' property and is under direct operational and financial management from Sprint. Based on the Company's current status as a facility-based wireless carrier, it does not require forbearance from the own-facility requirement in Section 214(e)(1)(A) of the Act. Thus, the FCC's forbearance conditions should no longer be applied.
- 14 Staff agrees with Virgin Mobile's position that it is now a facility-based wireless carrier, just like other Sprint Nextel subsidiaries. The FCC forbearance conditions, which were imposed to mitigate the non-facility deficiency prior to the merger between Sprint Nextel and Virgin Mobile, should not apply in this case. After examining the Company's petition and supplements, staff finds that Virgin Mobile has, in essence, met all the forbearance conditions. Therefore, the Commission no longer needs to explicitly impose the FCC forbearance conditions in this Order.

⁹ FCC Forbearance Order on Virgin Mobile, pp.6-7, ¶12.

Washington State Conditions on Virgin Mobile's ETC Designation

- 15 Virgin Mobile's proposed pre-paid Lifeline plan is very similar to TracFone's. Therefore, staff recommends the commission impose the same set of conditions in the TracFone proceeding, as modified, on Virgin Mobile's ETC designation.¹⁰ Staff notes that these conditions were proposed on TracFone's ETC designation not just because of TracFone's status as a wireless reseller. Rather, they intend to address staff's concerns on various aspects of public interest, especially with regard to pre-paid offering. The main concern is that prepaid wireless Lifeline programs offer a monthly allotment of minutes at no cost to customers, which may lead to potential fraud, waste and abuse of the federal Universal Service Fund. Without relevant conditions, the existing federal certification and verification procedures on pre-paid wireless Lifeline customers' eligibility may not be sufficient to ensure the integrity of the federal Lifeline program. Other public interest considerations are reflected on conditions with regard to collaboration with the state E911 administrator, procedures dealing with potential cessation of business, number conservation and general rule compliance. Therefore, the same set of conditions should also be imposed on Virgin Mobile's ETC designation because the rationale underlying each condition is applicable in this proceeding.¹¹

Impact on the Universal Service Fund

- 16 FCC states in its forbearance order that it does not "expect designating Virgin Mobile as a Lifeline ETC will significantly burden the Universal Service Fund and thus negatively affect consumers through increased pass-through charges of the carriers' contribution obligations...Any increase in the size of the fund would be minimal and is outweighed by the benefit of increasing eligible participation in the Lifeline program, furthering the statutory goal of providing access to low-income consumers."¹²
- 17 Staff considers Virgin Mobile's Lifeline plan is a valuable addition to the currently available wireless Lifeline plans. Like TracFone's pre-paid offer, it especially meets the needs of some Lifeline customers who value mobility of phone services and have relatively low usage. The participation rate in the Lifeline program is still low. Designating Virgin Mobile as an ETC will facilitate the competition in the market segment that serves low-income population and benefit the families in need.

FINDINGS AND CONCLUSIONS

- 18 (1) The Commission has jurisdiction over eligible telecommunications carriers in Washington and the subject matter of this Order pursuant to 47 U.S. C. § 214(e)(2), 47 C.F.R. §§ 54.201(b)-(c) and WAC 480-123-040.

¹⁰ UT-093012, *UTC TracFone Proceeding*, Modified Settlement Agreement (Dated October 26, 2010).

¹¹ For detailed discussion of conditions on TracFone's ETC designation, see UT-093012, *UTC TracFone Proceeding*, Staff Memo for the November 25, 2009 Open Meeting, UTC TracFone Orders 03 and Order 05.

¹² *FCC Forbearance Order on Virgin Mobile*, pp.11-12, ¶24.

- 19 (2) Virgin Mobile currently provides service in the exchanges listed in the Appendix A to this Order. The Company offers all services that are to be supported by the federal universal service support mechanisms set forth in 47 U.S.C. § 254(c) and 47 C.F.R. § 54.101(a).
- 20 (3) Subject to the conditions in this Order, Virgin Mobile meets the requirements for ETC designation under 47 U.S. C. § 214(e)(1), 47 C.F.R. § 54.201(d) and WAC 480-123-030.
- 21 (4) The Commission finds that granting the Company's petition for an exemption from the requirement of submitting an investment plan in WAC 480-123-030(1)(d) is consistent with the public interest, the purposes underlying regulation, and applicable statutes.
- 22 (5) The Commission finds that granting the Company's petition for designation as an Eligible Telecommunications Carrier for the limited purpose of receiving federal Lifeline support, subject to the conditions in this Order, will advance the purposes of universal service found in 47 U.S.C. § 254. The designation will benefit low-income households in Washington. The designation is in the public interest and should be granted subject to the conditions set forth in Appendix B to this Order.
- 23 (6) The Commission should retain jurisdiction over the subject matter and the parties to effectuate the terms of this Order.

ORDER

THE COMMISSION ORDERS:

- 24 (1) The Commission grants the petition of Virgin Mobile USA, L.P. for an exemption from WAC 480-123-030(1)(d) which requires an ETC applicant to provide a substantive two-year plan of the investments to be made with initial federal support and the associated customer benefits.
- 25 (2) The Commission grants the petition of Virgin Mobile USA, L.P. for designation as an Eligible Telecommunications Carrier for the limited purpose of receiving Lifeline support (Tier One to Tire Three) from the federal Universal Service Fund in service areas specified in Appendix A to this Order. The designation is subject to the conditions set forth in Appendix B to this Order.
- 26 (3) Virgin Mobile USA, L.P. must comply with applicable federal laws and regulations on ETC obligations and requirements.

- 27 (4) Virgin Mobile USA, L.P. must comply with Washington state rules on ETC obligations and requirements set forth in WAC 480-123.
- 28 (5) The Commission retains jurisdiction over the subject matter and the parties to this proceeding.
- 29 (6) The Commission has authority to modify, suspend, or revoke Virgin Mobile USA, L.P.'s ETC designation granted in this Order at a future date.

DATED at Olympia, Washington, and effective November 10, 2010.

WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION

JEFFREY D. GOLTZ, Chairman

PATRICK J. OSHIE, Commissioner

Appendix A

Virgin Mobile USA L.P.
Areas for Eligible Telecommunications Carrier Designation

<u>INCUMBENT LOCAL EXCHANGE CARRIER</u>	<u>EXCHANGE</u>
ASOTIN TELEPHONE CO.	
	ANATONE
	ASOTIN
CENTURYTEL OF COWICHE, INC.	
	COWICHE
	RIMROCK
	TIETON
CENTURYTEL OF INTER-ISLAND, INC.	
	BLAKELY ISLAND
	EAST SOUND
	FRIDAY HARBOR
	LOPEZ
CENTURYTEL OF WASHINGTON, INC.	
	AMES LAKE
	ARLETTA
	ASHFORD
	BASIN CITY
	CARNATION
	CATHLAMET
	CHENEY
	CHINOOK
	CONNELL
	COULEE CITY
	CURTIS
	EDWALL-TYLER
	ELTOPIA
	EUREKA
	FALL CITY
	FORKS
	GIG HARBOR
	HARRINGTON
	HUMPTULIPS
	KAHLOTUS

<u>INCUMBENT LOCAL EXCHANGE CARRIER</u>	<u>EXCHANGE</u>
	KETTLE FALLS
	KINGSTON
	LAKEBAY
	LIND
	MATHEWS CORNER
	MCCLEARY
	MEDICAL LAKE
	MESA
	MONTESANO
	MORTON
	NORTH BEND
	OCEAN PARK
	OCOSTA
	ODESSA
	ORTING
	OTHELLO
	PACKWOOD
	PUGET ISLAND
	RANDLE
	REARDAN
	RITZVILLE-BENGE
	SOUTH PRAIRIE
	SPANGLE
	SPRAGUE
	TWISP
	VADER
	VASHON
	WASHTUCNA
	WILSON CREEK
ELLENSBURG TELEPHONE CO.	
	ELLENSBURG
FRONTIER COMMUNICATIONS NORTHWEST INC.	
	ACME-DEMING-WHATCOMCTY
	ALGER
	ANACORTES
	ARLINGTON
	BENTON CITY

<u>INCUMBENT LOCAL EXCHANGE CARRIER</u>	<u>EXCHANGE</u>
	BIG LAKE
	BLAINE-BIRCH BAY-GTLD
	BOTHELL
	BURLINGTON
	CAMAS-WASHOUGAL
	CASHMERE
	CHELAN
	CONCRETE
	CONWAY
	CUSTER-GTLD
	DEMING-WHATCOMCTY
	EDISON
	ENTIAT
	EVERETT
	EVERSON-GTLD
	FAIRFIELD
	FERNDALE-GTLD
	GARFIELD
	GEORGE
	GRANITE FALLS
	GRAYLAND
	HALLS LAKE
	KENNEWICK
	KIRKLAND
	LA CONNER
	LATAH
	LAUREL-WHATCOMCTY
	LEAVENWORTH
	LYMAN-HAMILTON
	LYNDEN
	MANSFIELD
	MAPLE FALLS
	MARBLEMOUNT
	MARYSVILLE
	MONROE
	MOUNT VERNON
	NACHES

<u>INCUMBENT LOCAL EXCHANGE CARRIER</u>	<u>EXCHANGE</u>
	NEWPORT
	NILE
	OAK HARBOR
	PALOUSE
	PULLMAN
	QUINCY
	RICHLAND
	RICHMOND BEACH
	ROCKFORD
	ROSALIA
	SEDRO WOOLLEY
	SEDRO WOOLLEY-CONTEL
	SILVER LAKE
	SKYKOMISH
	SNOHOMISH
	SOAP LAKE
	STANWOOD
	STEVENS PASS
	SULTAN
	SUMAS-GTLD
	TEKOA
	WATERVILLE
	WENATCHEE
	WESTPORT
HOOD CANAL TELEPHONE CO.	
	UNION
INLAND TELEPHONE CO.	
	DEWATO
	PRESCOTT
	ROSLYN
	UNION TOWN
KALAMA TELEPHONE CO.	
	KALAMA
LEWIS RIVER TELEPHONE CO., INC.	
	LA CENTER
MASHELL TELECOM, INC.	
	EATONVILLE

<u>INCUMBENT LOCAL EXCHANGE CARRIER</u>	<u>EXCHANGE</u>
MCDANIEL TELEPHONE CO.	
	MOSSYROCK
	ONALASKA
	SALKUM
PIONEER TELEPHONE CO.	
	ENDICOTT
QWEST CORPORATION	
	ABERDEEN-HOQUIAM
	AUBURN
	BAINBRIDGE ISLAND
	BATTLE GROUND
	BELFAIR
	BELLEVUE
	BELLINGHAM-GTLD
	BLACK DIAMOND
	BREMERTON
	BUCKLEY
	CASTLE ROCK
	CENTRALIA
	CHEHALIS
	CLE ELUM
	COLFAX
	COLVILLE
	COPALIS
	DEER PARK
	DES MOINES
	EASTON
	ELK
	ENUMCLAW
	EPHRATA
	GRAHAM
	GREEN BLUFF
	HOODSPORT
	ISSAQUAH
	KENT
	LIBERTY LAKE
	LONGVIEW-KELSO

<u>INCUMBENT LOCAL EXCHANGE CARRIER</u>	<u>EXCHANGE</u>
	LOON LAKE
	MAPLE VALLEY
	MOSES LAKE
	NEWMAN LAKE
	OLYMPIA
	OTHELLO
	PATEROS
	PORT ANGELES
	PORT LUDLOW
	PORT ORCHARD
	PORT TOWNSEND
	PUYALLUP
	RENTON
	RIDGEFIELD
	ROCHESTER
	ROY
	SEATTLE
	SEQUIM
	SHELTON
	SILVERDALE
	SPOKANE
	SPRINGDALE
	SUMNER
	TACOMA
	TACOMA WAVERLY
	VANCOUVER
	WAITSBURG
	WARDEN
	WINLOCK
	YAKIMA
ST. JOHN TELEPHONE CO.	
	ST JOHN
TENINO TELEPHONE CO.	
	TENINO
TOLEDO TELEPHONE CO., INC.	
	TOLEDO
UNITED TELEPHONE - NORTHWEST	

<u>INCUMBENT LOCAL EXCHANGE CARRIER</u>	<u>EXCHANGE</u>
	CHIMACUM-CENTER
	COLUMBIA
	DALLESFORT
	GOLDENDALE
	GRANDVIEW
	GRANGER
	HARRAH
	HOOD CANAL
	LYLE
	MABTON-BICKLETON
	MATTAWA
	PATERSON
	PORT ANGELES-GARDINER
	POULSBO
	PROSSER
	ROOSEVELT
	STEVENSON
	TOPPENISH-ZILLAH
	TROUT LAKE
	WAPATO
	WHITE SALMON
	WHITE SWAN
	WHITSTRAN
	WILLARD
WESTERN WAHKIAKUM COUNTY TELEPHONE CO.	
	GRAYS RIVER
	NASELLE
WHIDBEY TELEPHONE CO.	
	POINT ROBERTS
	SOUTH WHIDBEY
YCOM NETWORKS, INC.	
	YELM

Appendix B

Washington State Conditions on Designation of Virgin Mobile as an Eligible Telecommunications Carrier

1. Virgin Mobile's designation as an Eligible Telecommunications Carrier (ETC) shall be for an interim period of one year from the effective date of the Commission's Order approving such designation, subject to Commission review. Before the end of one year after the effective date of the Order, Virgin Mobile may seek to renew its designation pursuant to WAC 480-123-030 through -040. Virgin Mobile's designation for the interim period shall continue until the Commission's decision to the designation.
2. Within 30 days of approval of its ETC designation in Washington and prior to offering Lifeline services, Virgin Mobile must make a compliance filing for approval by the Commission containing the following:
 - a. Virgin Mobile's Lifeline rate plans, terms and conditions. The rates, terms and conditions shall include all provisions that apply to the Lifeline services offered by Virgin Mobile in Washington state and detailed procedures explaining how customers can participate in a particular Lifeline plan.
 - b. Virgin Mobile's proposed language to be used in all advertising of Lifeline services and on its websites. The language shall include information directing customers to the Washington State Office of the Attorney General for complaints regarding any Lifeline service issues.
 - c. Virgin Mobile's Lifeline Customer Application Form.

Commission Staff shall review Virgin Mobile's compliance filing and recommend to the Commission whether it should be approved or rejected within ten business days. Virgin Mobile shall not offer Lifeline services until the Commission has approved its compliance filing.
3. Virgin Mobile shall file with the Commission any future changes to its rates, terms, or conditions at least one day prior to the effective date of the change.
4. The information on Virgin Mobile's rates, terms and conditions shall be provided in a package sent to Lifeline customers after enrollment in Virgin Mobile's Lifeline program, as well as at Virgin Mobile's official Lifeline websites.
5. Virgin Mobile shall also provide Lifeline customers with the choice of all other rate plans available to its regular customers.

6. During this interim period (i.e., the time until the Commission issues an order recertifying Virgin Mobile's ETC designation for Lifeline services), Virgin Mobile must offer a minimum of 250 minutes. The Company may invoke Condition No. 3 only for the purpose of increasing the number of minutes in the Lifeline plan.
7. Virgin Mobile shall deactivate an Assurance Wireless account if the customer has no usage for 60 consecutive days. No fewer than eight business days before deactivation, Virgin Mobile shall send the customer a written notice by mail about the potential deactivation and ways to avoid unwanted deactivation. The customer shall have a 30 day grace period from the deactivation date to reactivate the Assurance Wireless account by making a call. When a customer reactivates the account, the customer will be able to use the allotment of free minutes deposited into the customer's account by Virgin Mobile.
8. On a quarterly basis beginning with the quarter ending on December 31, 2010, Virgin Mobile shall provide the number of Lifeline customers that it enrolls each month. Virgin Mobile shall also report the number of deactivated Lifeline customers each month by service plan and the reasons for deactivation (e.g., no usage for 60 consecutive days, annual verification unsuccessful, or voluntary exit). Quarterly reports shall be filed with the Commission no later than 30 days after the end of each quarter.
9. Virgin Mobile shall respond within 30 days to Commission Staff's information requests on Virgin Mobile's Lifeline operations, including but not limited to Lifeline customers' usage patterns and Lifeline customer records.
10. Virgin Mobile shall cooperate with the Commission and the Department of Social and Health Services (DSHS) to work out a procedure to verify Virgin Mobile Lifeline customers' eligibility.
11. Virgin Mobile must not deduct airtime minutes for calls to customer care made from the customer's handset by dialing 611. Virgin Mobile shall explicitly state the policy of free 611 calls in its Lifeline service agreements. Virgin Mobile may require the customer to call the toll-free customer care number from another phone if necessary to resolve technical issues related to the handset or its programming.
12. By March 31 of each year, Virgin Mobile shall file with the Commission its complete Lifeline customer records of the prior calendar year. The customer records are subject to review of the Commission and DSHS. The records must have all the necessary information and be in an electronic format required by DSHS. After the Commission and DSHS notify Virgin Mobile of the results of the review, Virgin Mobile must take appropriate measures to either correct the customer records or stop providing services to ineligible customers and report the resolutions to the agencies within 60 days of the notice.

13. Virgin Mobile shall provide the Commission a copy of its annual Lifeline Verification survey results that it files with the Universal Service Administration Company (USAC) by August 31 of each year.
14. Virgin Mobile shall file with the Commission, by March 31 of each year, a report on the number of complaints, categorized by the different nature of complaints, that it received from Washington Lifeline customers during the prior calendar year (e.g., billing disputes and service quality complaints). This report shall include complaints filed with Virgin Mobile, the Commission's Consumer Protection and Communications Section, the Washington State Office of the Attorney General, and the Federal Communications Commission (FCC). The Commission reserves the rights to revoke Virgin Mobile's ETC designation if Virgin Mobile fails to provide reasonable quality of service.
15. Virgin Mobile shall cooperate with the Washington State Enhanced 911 Program (E911) and all Public Safety Answering Points on E911 issues and shall, upon request, designate a representative to serve as a member or alternate member of the Washington State E911 Advisory Committee or its Communications Sub-committee.
16. Virgin Mobile shall participate in the Washington State E911 Program's "What's Your Location" public information campaign if the E911 Program requests the participation of wireless carriers.
17. Virgin Mobile shall collaborate with the Washington State E911 Program to test the compatibility of its handsets with the new Emergency Service Information Network in Washington, including supplying handsets representative of Virgin Mobile's proprietary software and technical assistance should call delivery discrepancies be discovered.
18. Virgin Mobile shall comply with rules on cessation of business as specified in WAC 480-120-083.
 - a. Prior to cessation of business, Virgin Mobile shall make arrangements with its underlying carriers to provide minutes already sold to customers under the same terms and conditions it has with the customers, or provide refunds to the existing customers.
 - b. Virgin Mobile shall provide written notice to the following persons at least 30 days in advance of cessation of service:
 - i. The Commission;
 - ii. The state 911 program;
 - iii. Each of its customers;
 - iv. The national number administrator.

- c. The notice to the Commission and the state 911 program must include the same information required by WAC 480-120-083 (3).
 - d. The notice to the customers must include the same information required by WAC 480-120-083 (4).
 - e. The notice to the national number administrator must include the same information required by WAC 480-120-083 (7).
 - f. Virgin Mobile shall file with the Commission at least 30 days in advance of its cessation of business and request the relinquishment of its ETC designation in Washington.
19. Virgin Mobile shall collect and maintain necessary records and documentation to ensure its compliance with the applicable FCC and Commission requirements, including existing requirements and any future modifications. The records and documentation shall be provided to Commission staff upon request.
20. Virgin Mobile shall cooperate with Commission staff on phone number conservation issues and shall comply with 47 C.F.R. §52.
21. Virgin Mobile shall comply with all applicable federal and Washington state statutes and regulations.

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, 2010, 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.

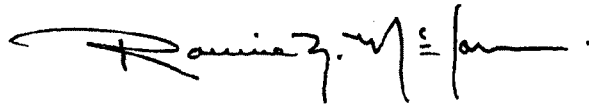
IT IS FURTHER ORDERED that this matter be, and hereby is, removed from the Commission's docket of open cases.

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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