Before the
Federal Communications Commission
Washington D.C. 20554

In the Matter of	)	
Federal-State Joint Board on Universal Service	)	
Virgin Mobile USA, L.P.	)	WC Docket No. 09-197
Petition for Limited Designation as an Eligible Telecommunications Carrier in the State of New Hampshire	)	

PETITION FOR LIMITED DESIGNATION AS AN ELIGIBLE TELECOMMUNICATIONS CARRIER IN THE STATE OF NEW HAMPSHIRE

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SUMMARY

Virgin Mobile USA, L.P. ("Virgin Mobile" or the "Company"), a wholly owned subsidiary of Sprint Nextel Corporation, is seeking designation as an Eligible Telecommunications Carrier ("ETC") in the State of New Hampshire, pursuant to section 214(e)(6) 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. While the Act reserves ETC designation authority to state public utility commissions ("PUCs"), the Federal Communications Commission ("Commission") may perform ETC designations for entities not subject to the jurisdiction of a state PUC. The New Hampshire Public Utilities Commission has provided an affirmative statement that it does not exercise jurisdiction over wireless providers for purposes of ETC designations. Accordingly, pursuant to section 214(e)(6) of the Act, the Commission has authority to designate Virgin Mobile as an ETC in the State of New Hampshire.

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 New Hampshire customers with lower prices and higher quality wireless services. Many low-income customers in New Hampshire 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 service offerings are ideally suited to provide these customers with reliable and free wireless services. As an ETC, Virgin Mobile would be able to provide affordable services to these consumers—many of whom are among the intended beneficiaries of USF support.

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PETITION FOR LIMITED DESIGNATION AS AN ELIGIBLE TELECOMMUNICATIONS CARRIER IN THE STATE OF NEW HAMPSHIRE

1. INTRODUCTION

Virgin Mobile USA, L.P. ("Virgin Mobile" or the "Company"), by undersigned counsel, pursuant to section 214(e)(6) of the Communications Act of 1934, as amended ("Act"), and section 54.201 *et seq.* of the regulations of the Federal Communications Commission ("FCC" or "Commission"), hereby petitions the Commission for designation as an eligible telecommunications carrier ("ETC") in the State of New Hampshire. Virgin Mobile seeks ETC designation in New Hampshire 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.

Because the New Hampshire Public Utilities Commission ("New Hampshire PUC") lacks jurisdiction to consider Virgin Mobile's request for designation as an ETC, the Commission,

under section 214(e)(6) of the Act, has jurisdiction to consider and grant the instant request.[1] As discussed more fully below, Virgin Mobile satisfies the requirements for designation as an ETC in the State of New Hampshire. Rapid grant of Virgin Mobile's request, moreover, would advance the public interest because it would enable the Company to commence much needed Lifeline services to lower-income New Hampshire residents as soon as possible. Accordingly, the Company respectfully requests that the Commission expeditiously approve the instant ETC designation petition.

II. BACKGROUND

A. Company Overview

Virgin Mobile was established as a joint venture between Sprint Nextel Corporation ("Sprint") and Sir Richard Branson's Virgin Group to offer prepaid wireless services using the Virgin Mobile brand and the nationwide Sprint network.[2] The Company's innovative prepaid plans without annual contracts, along with its differentiated service offerings and high-quality customer service, have redefined the prepaid wireless marketplace and brought significant competition to the overall wireless market. Virgin Mobile's value proposition enables customers to select among an array of flexible service plans that allow them to pay for minutes as they use them or purchase monthly buckets of minutes in advance. The Company also offers text and multimedia messaging and an array of mobile entertainment and information services, including music, games and graphics on all handsets.

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[1] *See* 47 U.S.C. § 214(e)(6).

[2] On November 24, 2009, Virgin Mobile became a wholly owned subsidiary of Sprint upon completion of the companies' previously announced transaction. The Commission approved Sprint's acquisition of Virgin Mobile effective September 11, 2009. *See International Authorizations Granted*, Public Notice, DA 09-2071 (rel. Sept. 17, 2009).

Unlike many carriers, Virgin Mobile does not impose credit checks or long-term service contracts as a prerequisite to obtaining service. Many customers are from lower-income backgrounds and did not previously enjoy access to an attractive, comprehensive and high-quality wireless service because of financial constraints or poor credit history. Virgin Mobile estimates that approximately one-third of its present customers are new to wireless services and 35 percent have an annual household income below $35,000. Many of these customers also use Virgin Mobile's services sparingly, with a substantial percentage spending less than $10 per month. By marketing and expanding the availability of appealing wireless services to consumers otherwise unable to afford them, and those previously ignored by traditional carriers, Virgin Mobile has effectively expanded access to wireless services. Unfortunately, during this challenging economic period, many existing customers have to forgo access to wireless services entirely when their financial position deteriorates, making it more difficult for prospective employers and dependent family members to reach them and losing wireless access to emergency services.

B. Previous ETC Designations

The Commission previously designated Virgin Mobile as an ETC for purposes of offering Lifeline services in the states of New York, North Carolina, Tennessee and Virginia.[3] In approving the Company's requests, the Commission determined that Virgin Mobile would offer "Lifeline-eligible consumers a choice of providers for accessing telecommunications services not

[3] *See Federal-State Joint Board on Universal Service; In the Matter of Virgin Mobile USA, L.P. Petition for Forbearance from 47 U.S.C. § 214(e)(1)(A); Petitions for Designation as an Eligible Telecommunications Carrier in the States of New York, North Carolina, Pennsylvania, Tennessee and Virginia*, Order, FCC 09-18 (rel. March 5, 2009)("*Order*"). Virgin Mobile has also been designated an ETC in the State of Michigan. *See In the Matter 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 No. U-15966, Opinion and Order (Dec. 1, 2009).

available to such consumers today" and "expand participation of qualifying consumers" in the Lifeline program—a longstanding Commission goal.[4] In light of these significant benefits, the Commission concluded that limited designation of Virgin Mobile as an ETC was in the public interest.[5]

At that time, Virgin Mobile operated as a mobile virtual network operator that did not own any network facilities, so the *Order* also granted the Company's request for forbearance from enforcement from the section 214(e)(1)(A) facilities-based requirement for ETC designation. The Commission 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 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

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4 *Order* at ¶¶ 21, 30.

5 *See Order* at ¶ 29.

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.[6] The Commission recently 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.[7]

III. THE NEW HAMPSHIRE PUBLIC UTILITIES COMMISSION HAS PROVIDED AN AFFIRMATIVE STATEMENT THAT IT DOES NOT REGULATE CMRS CARRIERS FOR ETC DESIGNATION PURPOSES

Section 254(e) of the Act provides that "only an eligible telecommunications carrier designated under Section 214(e) shall be eligible to receive specific universal service support."[8] The Act reserves the authority to designate entities as ETCs to state public utility commissions. Pursuant to section 214(e)(6), however, the Commission may designate as an ETC "a common carrier providing telephone exchange service and exchange access that is not subject to the jurisdiction of a state commission . . .."[9] The Commission has established that a carrier must demonstrate that it "is not subject to the jurisdiction of a state commission" before it may review any ETC designation application.[10] The Commission also has stated that any carrier seeking

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6 *See Order* at ¶ 12.

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

8 47 U.S.C. § 254(e).

9 47 U.S.C. § 214(e)(6).

10 *Procedures for FCC Designation of Eligible Telecommunications Carriers Pursuant to Section 214(e)(6) of the Communications Act*, Public Notice, 12 FCC Rcd 29947, 29948 (1997).

ETC designation from it must provide an "affirmative statement" from the state commission that it lacks jurisdiction to perform the ETC designation.[11]

The New Hampshire PUC has provided an affirmative statement that it lacks jurisdiction over wireless providers for purposes of ETC designations.[12] The letter enclosed as Exhibit 1 meets the Commission's requirements for an affirmative statement from a state commission that requests for ETC designation are not within its jurisdiction and should be sought from the FCC. Accordingly, Virgin Mobile requests that the Commission designate it as "a common carrier providing telephone exchange service and exchange access that is not subject to the jurisdiction of a State commission . . .."[13]

IV. VIRGIN MOBILE REQUESTS ETC DESIGNATION IN ITS NEW HAMPSHIRE SERVICE AREA FOR PARTICIPATION IN THE LIFELINE PROGRAM

A. Virgin Mobile Requests ETC Designation for its Entire Service Area in New Hampshire

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 New Hampshire. Virgin Mobile understands that its service area overlaps with several rural carriers in New Hampshire, but maintains that the public interest factors described below justify its designation in these carriers' service areas, especially because it only seeks ETC designation for purposes of participating in the Lifeline program. Virgin Mobile's authorized service area covers the service territory of the following non-rural telephone company:

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[11] *See Federal-State Joint Board on Universal Service; Promoting Deployment and Subscribership in Unserved and Underserved Areas, Including Tribal and Insular Areas*, Twelfth Report and Order and Further Notice of Proposed Rulemaking, 15 FCC Rcd 12208, 12264 (2000).

[12] *See* Exhibit 1.

[13] 47 U.S.C. § 214(e)(6).

FairPoint Communications, Inc.

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

Bretton Woods Telephone Co.
Dixville Telephone Co.
Dunbarton Telephone Co.
Granite State Telephone Inc.
Hollis Telephone Co. d/b/a TDS Telecom
Kearsarge Telephone Co. d/b/a TDS Telecom
Merrimack County Telephone Co. d/b/a TDS Telecom
Northland Telephone Co. Union Telephone Co Verizon
Wilton Telephone Co. d/b/a TDS Telecom

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

Virgin Mobile requests ETC designation in New Hampshire for the sole purpose of participating in the Lifeline program as a prepaid wireless carrier. Virgin Mobile will not seek to provide services supported by the USF's high-cost program. As more fully described below, the instant request to participate in the Lifeline program promotes the goals of universal service and offers many benefits to low-income customers in the State of New Hampshire. 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 New Hampshire customers, many of whom are otherwise unable to afford wireless services.

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 200 anytime prepaid minutes per month at no charge with additional service priced at $0.10/minute and $0.15/text message.[14] 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. 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.

D. Applicability of Forbearance Conditions

As noted above, the Commission's *Order* granting Virgin Mobile forbearance from the section 214(e)(1)(A) requirements imposed certain conditions on the Company. Included among these conditions was a requirement that the Company obtain a certification from each PSAP whose territory overlaps with Virgin Mobile's service area, confirming that the Company provides its customers with 911 and E911 service or if, within 90 days of a request for certification, a PSAP has neither provided the certification nor affirmatively determined that Virgin Mobile does not provide its customers with access to 911 and E911, self-certify that it meets the 911 and E911 requirements. This condition generally arose from the Company's status as a non-facilities-based provider of wireless services. Virgin Mobile appreciates the Commission's desire to ensure that Lifeline customers of wireless resellers have meaningful access to emergency services. As the Commission 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

[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.

crises.[15] For these reasons, Virgin Mobile voluntarily committed to complying with this condition for the initial four states in which it received ETC authority from the Commission, and the Company has complied with the condition upon commencement of Lifeline services in these states.

In light of the recent acquisition by Sprint, Virgin Mobile respectfully submits that the foregoing condition regarding PSAP certification is inapplicable to the instant request of Virgin Mobile as a facilities-based provider. Virgin Mobile is unaware of any prior ETC designation involving a facilities-based wireless provider in which the Commission has imposed a similar condition. The Commission itself noted in its *Order* that the conditions related to emergency services, including the PSAP certification requirement, applied only to wireless resellers.[16] Applicability of this condition to a facilities-based wireless provider would hinder the broader deployment of Lifeline services—without any attendant benefits for consumers. Indeed, by adding an unnecessary and burdensome requirement, the condition would serve only to harm customers by increasing the costs and delays associated with the deployment of wireless Lifeline services. Complying with this condition in the states where Virgin Mobile has launched Lifeline service has imposed significant cost on the Company, forcing it to redirect financial resources that otherwise would have been used to develop and market its Lifeline services. Accordingly, Virgin Mobile respectfully submits that application of the prior condition related to PSAP certification to the instant request would harm the public interest.

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[15] *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).

[16] *See Order* at ¶¶ 22, 27.

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

Section 214(e)(1) of the Act and section 54.201(d) of the Commission's rules provide that applicants for ETC designation must be common carriers that will offer all of the services supported by the USF, either using their own facilities or a combination of their own facilities and the resale of another carrier's services. Applicants must also commit to advertise the availability and rates of such services.[17] 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 . . .."[18] The Commission 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. Accordingly, Virgin Mobile is capable of, and currently provides, the supported services over an existing network infrastructure in New Hampshire. 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

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[17] *See* 47 U.S.C. § 214(e)(1) and 47 C.F.R. § 54.201(d).

[18] 47 U.S.C. § 153(10).

Commission's regulations throughout its service territory in the State of New Hampshire. The Company, moreover, will make these services and functionalities available to any qualifying New Hampshire customer in the Company's service area.

1. Voice Grade Access to the Public Switched Telephone Network

Virgin Mobile provides voice grade access to the public switched telephone network ("PSTN") and offers its customers services at bandwidth rates between 300 and 3,000 MHz as required by the Commission's regulations.[19]

2. Local Usage

As part of the voice grade access to the PSTN, an ETC must provide local calling services to its customers. The FCC has determined that a carrier satisfies the local usage requirements when it offers customers rate plans containing varying amounts of local usage.[20] Virgin Mobile offers a variety of rate plans that provide its customers with local usage capabilities included within the flat per minute or per monthly rate. The Company also commits to complying with any minimum local usage requirements adopted by the FCC in the future.

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.

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[19] *See* 47 C.F.R. § 54.101(a)(1).

[20] *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).

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 Commission'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 Commission determined in its previous grant of ETC designation that the nature of Virgin Mobile's service mitigates concerns that low-income customers will incur significant charges for long distance calls, risking disconnection of their service.[21]

C. Functionality in Emergency Situations

As a wholly owned subsidiary of Sprint, Virgin Mobile is able to remain functional in emergency situations as required by section 54.202(a)(2) of the Commission's regulations.[22] Sprint 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's products and services to allow the public and private sectors to function in emergency situations. Indeed, Sprint's network is monitored 24 hours a day, 7 days a week, 365 days a year by its network monitoring centers. Local switching offices staffed by trained technicians and management coordinate with these larger operation centers, to ensure that Sprint's networks are properly maintained and network performance is at expected levels.

In addition, Sprint has reasonable amounts of back-up power to ensure functionality without an external power source, and has implemented reasonable practices to reroute traffic around damaged facilities and manage traffic spikes resulting from emergency situations. Each

[21] *See Order* at ¶ 34.

[22] *See* 47 C.F.R. § 54.202(a)2).

cell site in the Sprint network is equipped with battery back-up power. The company also is capable of rerouting traffic around damaged facilities. Many cell sites in the Sprint network provide overlapping coverage for neighboring areas, and such design redundancy ensures that coverage continues in the event of damage to a particular facility. In the event of a major failure of a cell site, neighboring sites could be adjusted to provide coverage to a wider service area. These practices significantly reduce the chance that emergencies, fiber cuts or equipment failure will result in a loss of service.

D. Advertising of Supported Services

Virgin Mobile will advertise the availability and rates for the services described above using media of general distribution in conformance with the Commission's regulations.[23] The Company advertises the availability of its services through newspapers, magazines, radio, the Internet, billboards and television. Virgin Mobile's third-party retail partners also heavily promote its services. These 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 State of New Hampshire. 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 Company also will heavily promote these offerings to its existing

[23] *See* 47 C.F.R. § 54.201.

customers—many of whom may otherwise qualify for Lifeline—through email and text messages.

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

One of the principal goals of the Act, as amended by the Telecommunications Act of 1996, is "to secure lower prices and higher quality services for American telecommunications consumers and encourage the rapid deployment of new telecommunications technologies" to all citizens, regardless of geographic location or income.[24] There is no question that designation of Virgin Mobile as an ETC in New Hampshire will further the public interest by providing New Hampshire consumers, especially low-income consumers, with lower prices and higher quality services. Many lower-income customers in New Hampshire 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 New Hampshire, therefore, will enable it to expand the availability of affordable telecommunications services to qualifying New Hampshire 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, which a study found to be a vital economic resource for low-income consumers that leads to improved wage levels and

[24] Telecommunications Act of 1996, Pub. L. No. 104-104, 110 Stat. 56.

personal safety.[25] Given this context, designating Virgin Mobile as an ETC would benefit New Hampshire 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 New Hampshire customers with appealing and affordable service offerings.

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

Virgin Mobile's Lifeline customers will receive the same high-quality wireless services provided to all Company customers. Virgin Mobile has emphasized customer service as an essential pillar for its marketplace success since service launch. Indeed, the Company's success is testament to the principle that wireless carriers can provide lower-income customers with the same features, functionalities and services demanded by higher-income consumers. This intense focus on customer service has been rewarded and customers have responded accordingly. Over 90 percent of Virgin Mobile's customers indicate that they would recommend the service to a friend, while nearly 80 percent already have done so. As evidence of its commitment to high-quality service, Virgin Mobile has complied with the CTIA-The Wireless Association®

[25] *See* Sullivan, "A Review of Literature and Data from Two New Surveys," April 2008.

Consumer Code for Wireless Service ("Consumer Code") since its inception and will continue to comply with the Consumer Code once designated as an ETC.[26] Virgin Mobile annually certifies its compliance with the Consumer Code, and the FCC has recognized the value of such compliance.[27] 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 its Certified Call Center Program.

While Virgin Mobile has experienced success in deploying wireless services to low-income consumers, internal Company analysis suggests that many low-income customers still intermittently discontinue service because of economic constraints. ETC designation in New Hampshire would enable Virgin Mobile to offer appealing and affordable service offerings to low-income New Hampshire customers to ensure that they are able to afford wireless services on a consistent and uninterrupted basis. Without question, prepaid wireless services have become essential for lower-income customers, providing them with value for their money, access to emergency services on wireless devices, and a reliable means of contact for prospective employers, social service agencies or dependents.[28] 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.

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[26] 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).

[27] *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.

[28] 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.

VII. 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.[29]

[29] *See* Exhibit 2.

VIII. CONCLUSION

As discussed above, designation of Virgin Mobile as an ETC in the State of New Hampshire accords with the requirements of section 214(e)(6) of the Act and is in the public interest.

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

Respectfully submitted,

VIRGIN MOBILE USA, L.P.

/s/

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EXHIBIT 1

AFFIRMATIVE STATEMENT OF THE NEW HAMPSHIRE PUBLIC UTILITIES COMMISSION

CHAIRMAN
Thomas B. Getz

COMMISSIONERS
Clifton C. Below
Amy L. Ignatius

EXECUTIVE DIRECTOR
AND SECRETARY
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THE STATE OF NEW HAMPSHIRE

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September 22, 2009

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Re: Conexions, LLC

Dear Mr. Keller:

This is in response to your letter to the Commission, received July 10, 2009, concerning the above-referenced telecommunications carrier. You requested a statement from the Commission that Conexions, LLC (Conexions) is not subject to the jurisdiction of the Commission, inasmuch as this will affect how Conexions proceeds with efforts to become designated as an Eligible Telecommunications Carrier (ETC) for purposes of receiving universal service support pursuant to the federal Telecommunications Act.

You attention is directed to a published order of the Commission, *RCC Minnesota, Inc.*, 88 NH PUC 611 (2003) (Order No. 24,245). In that order, the Commission acknowledged that it lacks state-law authority to regulate wireless carriers, *id.* at 615, citing Section 362:6 of the New Hampshire Revised Statutes Annotated, and therefore the Commission concluded that the agency is likewise devoid of jurisdiction to consider a request for ETC designation from the carrier. In my judgment, Conexions as a user of both cellular and PCS (personal communications service) spectrum to provide commercial mobile radio service, may rely on the *RCC Minnesota* decision for the proposition that the Federal Communications Commission, as opposed to the New Hampshire Public Utilities Commission, is the appropriate agency to consider Conexions's bid for ETC status.

Please feel free to call me at 603-271-6005 if I can be of further assistance.

Sincerely,

F. Anne Ross
General Counsel

EXHIBIT 2

CERTIFICATION

Declaration of Virgin Mobile USA, L.P.

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.

2. I have read Virgin Mobile's Petition for Limited Designation as an Eligible Telecommunications Carrier in the State of New Hampshire 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 February 17, 2010

Peter Lurie, Senior Vice President

Subscribed and sworn before me
This 17 day of February 2010.

Elizabeth E. Blonk
Notary Public

ELIZABETH E. BLONK
NOTARY PUBLIC OF NEW JERSEY
My Commission Expires February 27, 2011