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June 9, 2010

Ms. Marlene H. Dortch
Secretary
Federal Communications Commission
445 12th Street, SW
12th Street Lobby, TW-A325
Washington D.C. 20554

Re: *Ex Parte* Communication; WC Docket No. 09-197

Dear Ms. Dortch:

On June 8, 2010, the undersigned met with Sharon Gillett and Lisa Gelb from the Wireline Competition Bureau to discuss matters related to Virgin Mobile USA's ("Virgin Mobile") pending request to modify its compliance with the conditions imposed in the Commission's prior grant of eligible telecommunications carrier ("ETC") designation to the Company. We also discussed Virgin Mobile's outstanding petitions for limited ETC designation in the states of Alabama, Connecticut, Delaware, New Hampshire and Washington D.C.

During our meeting, I asserted that both of the supplemental enrollment methods proposed by Virgin Mobile comply with the Commission's rules. Indeed, the Commission already has accepted the use of an Internet-based enrollment system for Lifeline customers in approving the compliance plan previously submitted by TracFone Wireless.[1] With respect to the Company's outstanding requests for ETC designation, I noted that the Florida Public Service Commission recently designated Virgin Mobile as a limited ETC and determined that the Company is a facilities-based carrier for purposes of Section 214(e)(1) of the Communications Act of 1934, as amended. A copy of that order is attached hereto.

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[1] *In re Federal-State Joint Board on Universal Service, TracFone Wireless, Inc.*, Order, 23 FCC Rcd ¶ 23 (2008).

Pursuant to Section 1.1206 of the Commission's rules, a copy of this letter and the materials distributed at the meeting are being filed electronically with your office. Should you have any questions, please do not hesitate to contact the undersigned.

Sincerely,

/s/ Antoinette Cook Bush

Counsel to Virgin Mobile USA, L.P.

Attachment

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-10-0323-PAA-TP ISSUED: May 19, 2010

The following Commissioners participated in the disposition of this matter:

NANCY ARGENZIANO, Chairman
LISA POLAK EDGAR
NATHAN A. SKOP
DAVID E. KLEMENT
BEN A. "STEVE" STEVENS III

NOTICE OF PROPOSED AGENCY ACTION
ORDER GRANTING ELIGIBLE TELECOMMUNICATIONS CARRIER DESIGNATION

BY THE COMMISSION:

NOTICE is hereby given by the Florida Public Service Commission that the action discussed herein is preliminary in nature and will become final unless a person whose interests are substantially affected files a petition for a formal proceeding, pursuant to Rule 25-22.029, Florida Administrative Code.

I. 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, we found that with the enactment of Section 364.011, Florida Statutes (F.S.), the Florida Legislature granted this Commission limited authority over CMRS providers for those matters specifically authorized by federal law. Therefore, pursuant to Section 214(e)(2) of the Telecommunications Act of 1996 (the Act), which authorizes states to designate ETC carriers, we have 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 USA, L.P. (Virgin Mobile) as a limited ETC in New York, North Carolina, Tennessee, and Virginia for the purpose of receiving only Lifeline support from

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

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

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

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

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

On May 3, 2010, TracFone filed "Comments in Opposition to Virgin Mobile's Amended Eligible Telecommunications Carrier Petition," Advocates for Universal Access (AUA)[2] filed a "request for reconsideration and demand for a public comment period," and Virgin Mobile filed responses to TracFone's "Comments in Opposition." On May 5, 2010, Virgin Mobile filed a "Response to Advocates for Universal Access Comments." On May 14, 2010, TracFone withdrew its comments.

We have 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.

II. 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.

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 using either its own facilities or a combination of its own facilities and resale of another carrier's facilities. The services are:

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[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.
[3] 47 U.S.C. Section 214(e)(2), 47 CFR Section 54.201(b).
[4] 47 U.S.C. Section 254(e)(2).
[5] 47 CFR Section 54.201(c)

(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;

(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.

Upon review of Virgin Mobile's petition for designation as an ETC in Florida, as well as additional documents filed with the FPSC and with the FCC, we find that Virgin Mobile has complied with the above requirements to be eligible as an ETC in Florida and has demonstrated its ability to provide the nine services identified in 47 CFR 54.101 using its own facilities.

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 petition[8] 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

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[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.

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 we now had 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." We 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] Accordingly, we find that Virgin Mobile is now a facilities-based wireless provider and forbearance from the facilities requirement is unnecessary in this docket.

Advocates for Universal Access (AUA)

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 requested that we withdraw our staff's 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 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

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[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 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.

> 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.

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.

Analysis of Comments and Responses

We have reviewed the filings made by 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. Our 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, our 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 this 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 had the opportunity to attend and participate at the Commission's agenda conference when staff's recommendation was being considered. Upon issuance of this PAA Order, persons whose interests are substantially affected and disagree with our 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. Our 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 compliant[13] in all counties where they serve in Florida.

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 deployment of advanced telecommunications and information services to all regions of the nation, including rural and high-cost areas.[14] We have previously determined that before designating a carrier as an ETC, we shall 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.[15]

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:

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[13] 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.

[14] *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.

[15] *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.

- 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 $0.10 per minute and $0.15 per text; and,
- 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 this Commission.

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.[16] 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

[16] See 47 U.S.C. Section 214(e)(1)(B)

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,[17] 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 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.

III. 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 this Commission 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 we have the authority to revoke ETC designation if Virgin Mobile is non-compliant.

Based on our review, along with Virgin Mobile's commitment to abide by both state and federal rules and procedures, we find that Virgin Mobile's petition to be designated as an ETC is in the public interest. If Virgin Mobile should decide in the future to seek High Cost universal service funds, it shall file a petition and make a showing that it would be in the public interest to grant such a request. Our staff shall 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, Virgin Mobile shall be granted limited ETC designation status in the AT&T, Verizon, and CenturyLink wire centers listed in Attachment B for the sole purpose of offering Lifeline discounts to qualifying consumers in Florida. Granting of ETC designation shall be contingent on Virgin Mobile providing the following:

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[17] 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.

- E911 compliant handsets shall be provided to Virgin Mobile's new customers and Virgin Mobile shall 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 this Commission'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 shall 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.

- If Virgin Mobile should decide in the future to seek High Cost universal service funds, it shall file a petition and make a showing that it would be in the public interest to grant such a request.

Based on the foregoing, it is

ORDERED by the Florida Public Service Commission that Virgin Mobile USA, L.P.'s Application for Eligible Telecommunications Status is hereby granted as set forth in the body of this Order. It is further

ORDERED that the provisions of this Order, issued as proposed agency action, shall become final and effective upon the issuance of a Consummating Order unless an appropriate petition, in the form provided by Rule 28-106.201, Florida Administrative Code, is received by the Commission Clerk, 2540 Shumard Oak Boulevard, Tallahassee, Florida 32399-0850, by the close of business on the date set forth in the "Notice of Further Proceedings" attached hereto. It is further

ORDERED that in the event this Order becomes final, this docket shall be closed.

By ORDER of the Florida Public Service Commission this 19th day of May, 2010.

ANN COLE
Commission Clerk

(SEAL)

AJT

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 administrative hearing that is available under Section 120.57, Florida Statutes, as well as the procedures and time limits that apply. This notice should not be construed to mean all requests for an administrative hearing will be granted or result in the relief sought.

Mediation may be available on a case-by-case basis. If mediation is conducted, it does not affect a substantially interested person's right to a hearing.

The action proposed herein is preliminary in nature. Any person whose substantial interests are affected by the action proposed by this order may file a petition for a formal proceeding, in the form provided by Rule 28-106.201, Florida Administrative Code. This petition must be received by the Office of Commission Clerk, 2540 Shumard Oak Boulevard, Tallahassee, Florida 32399-0850, by the close of business on June 9, 2010.

In the absence of such a petition, this order shall become final and effective upon the issuance of a Consummating Order.

Any objection or protest filed in this/these docket(s) before the issuance date of this order is considered abandoned unless it satisfies the foregoing conditions and is renewed within the specified protest period.

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

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
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ASTRFLXA
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BCRTFLBT
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BCRTFLSA
BGPIFLMA
BHPKFLXA
BKVLFLJF
BLDWFLMA
BLGLFLMA
BLTWFLXA
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CPHZFLXA
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CTDLFLXA
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DNLNFLWM
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MLRSFLXA
PSDNFLXA
PTCTFLXA

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MTDRFLXA
MTLDFLXA
MTVRFLXA
MXVLFLMA
MYCYFLXA
NDADFLAC
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NDADFLGG
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NFMYFLXA
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NNPLFLXA
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OCNFFLXA
OKCBFLXA
OKHLFLMA
OKLWFLXA
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OLTWFLLN
ORCYFLXA
STRKFLXA
STRTFLMA
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ORSPFLXA
OSPRFLXA
OVIDFLCA
PACEFLPV
PAHKFLMA
PANCFLXA
PCBHFLNT
PKCYFLXA
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PLMTFLXA
PLSLFLXA
PLTKFLMA
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PMBHFLFE
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PMBHFLNP
PMBHFLTA
PMPKFLMA
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PRRYFLXA
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WNGRFLXA
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PTCYFLXA
PTSJFLXA
PTSLFLMA
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RSKNFLXA
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SBNGFLXA
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SNDSFLXA
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STMKFLXA
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SVSPFLXA
TAFBFLXA
TAMPFLXE
TAMPFLXX
THNTFLXA
TLCHFLXA
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TRSPFLXA
TTVLFLMA
TVRSFLXA
UMTLFLXA
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YBCTFLXA
YNFNFLMA
YNTWFLMA
YULEFLMA
ZLSPFLXA
ZPHYFLXA
SYHSFLCC