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October 8, 2010

VIA OVERNIGHT DELIVERY

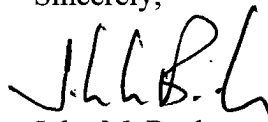
Julie Orchard
Utah Public Service Commission
Heber M. Wells Building, 4th Floor
160 East 300 South
Salt Lake City, UT 84111

Re: Docket No. 10-2521-01: Petition of Virgin Mobile USA for Limited Designation as an Eligible Telecommunications Carrier

Dear Ms. Orchard:

Enclosed please find an original and five (5) copies, and a CD containing an electronic copy in Adobe Acrobat, of Virgin Mobile USA's Direct Testimony and Exhibits in the above-captioned proceeding. An additional copy is included to be date stamped and returned in the enclosed envelope. Please contact me if you have any questions.

Sincerely,



John M. Beahn

Counsel to Virgin Mobile USA, L.P.

Enclosures

BEFORE THE PUBLIC SERVICE COMMISSION OF UTAH

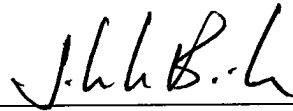
_____))
In the Matter of Virgin Mobile USA, L.P.))
Petition for Limited Designation as an) Docket No. 10-2521-01
Eligible Telecommunications Carrier))
_____))

VIRGIN MOBILE USA, L.P.'S DIRECT TESTIMONY AND EXHIBITS

Virgin Mobile USA, L.P. (“Virgin Mobile” or the “Company”), by counsel, hereby files its Direct Testimony and Exhibits with the Public Service Commission of Utah in the above-captioned matter. Virgin Mobile’s Direct Testimony and Exhibits include the testimony of Elaine Divelbliss and Exhibits 1 through 4, inclusive, identified therein.

Respectfully submitted,

VIRGIN MOBILE USA, L.P.



John M. Beahn
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Tel: 202-371-7392

Counsel to Virgin Mobile USA, L.P.

October 8, 2010

DIRECT TESTIMONY OF ELAINE DIVELBLISS

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Q1: WHAT IS YOUR NAME AND OCCUPATION?

A: My name is Elaine Divelbliss. I am a Senior Counsel in Sprint’s Prepaid Group with primary responsibility over the business and regulatory affairs of Virgin Mobile USA, L.P. (“Virgin Mobile” or the “Company”).

Q2: WHAT IS YOUR BACKGROUND?

A: I joined Virgin Mobile USA in September 2008 as Associate Counsel with responsibility for litigation and selected regulatory matters. Subsequent to the acquisition of Virgin Mobile by Sprint, my title is Senior Counsel. Prior to joining Virgin Mobile, I practiced in the litigation department of Simpson Thacher & Barlett LLP in New York City for ten years.

Q3: HAVE YOU REVIEWED THE APPLICATION AND OTHER DOCUMENTS FILED BY VIRGIN MOBILE IN THIS PROCEEDING?

A: Yes.

Q4: WHAT IS VIRGIN MOBILE?

A: Virgin Mobile is a wholly owned subsidiary of Sprint Nextel Corporation (“Sprint Nextel”) that provides nationwide prepaid wireless services. The Company was originally established as a joint venture between Sprint and Sir Richard Branson’s Virgin Group to offer prepaid wireless services in the United States through the resale of the nationwide Sprint network. Virgin Mobile became a wholly owned subsidiary of Sprint

1 on November 24, 2009 upon completion of the companies' previously announced
2 transaction. As a result of the transaction, Virgin Mobile operates as a facilities-based
3 carrier in the State of Utah, with the same access to the Sprint Nationwide PSC Network
4 as other Sprint subsidiaries operating in the state.

5 Q5: WHAT TYPES OF SERVICES DOES THE COMPANY PROVIDE?

6 A: The Company provides prepaid wireless services. Virgin Mobile's value proposition
7 enables customers to select among an array of flexible service plans that allow them to
8 pay for minutes as they use them or purchase monthly buckets of minutes in advance.
9 The Company also offers text and multimedia messaging and an array of mobile
10 entertainment and information services, including music, games and graphics.

11 Q6: HOW ARE VIRGIN MOBILE'S WIRELESS SERVICES DIFFERENT FROM OTHER
12 CARRIERS' OFFERINGS?

13 A: Unlike many carriers, Virgin Mobile does not impose credit checks or long-term service
14 contracts as a prerequisite to obtaining service. Many Virgin Mobile customers are from
15 lower-income backgrounds and did not previously enjoy access to an attractive,
16 comprehensive and high-quality wireless service because of financial constraints or poor
17 credit history. Virgin Mobile estimates that approximately one-third of its present
18 customers are new to wireless services and 35 percent have an annual household income
19 below \$35,000. Many of these customers also use Virgin Mobile's services sparingly,
20 with a substantial percentage spending less than \$10 per month.

21 Q7: DOES VIRGIN MOBILE CURRENTLY PROVIDE SERVICE IN UTAH?

22 A: Yes. Virgin Mobile offers facilities-based wireless services in Utah.

1 Q8: HOW LONG HAS VIRGIN MOBILE PROVIDED WIRELESS SERVICES IN UTAH?

2 A: Virgin Mobile commenced wireless service in Utah in July 2002.

3 Q9: DOES VIRGIN MOBILE CONTRIBUTE TO THE UTAH ENHANCED 911
4 FUND?

5 A: Yes.

6 Q10: DOES VIRGIN MOBILE PROVIDE HIGH-QUALITY WIRELESS SERVICES?

7 A: Yes. Virgin Mobile has emphasized customer service as an essential pillar for its
8 marketplace success since service launch. The Company's success is testament to the
9 principle that wireless carriers can provide lower-income customers with the same
10 features, functionalities and services demanded by higher-income consumers. Nearly 75
11 percent of Virgin Mobile's customers indicate that they would recommend the service to
12 a friend. In prior years, the Company has also received numerous awards for its high-
13 quality customer service, including the prestigious J.D. Power award for providing "An
14 Outstanding Customer Service Experience" under its Certified Call Center Program.

15 Q11: WHAT IS THE NATURE OF VIRGIN MOBILE'S ETC DESIGNATION REQUEST?

16 A: Virgin Mobile requests ETC designation in Utah for the limited purpose of participating
17 in the federal Universal Service Fund's ("USF") Lifeline program.

18 Q12: WHAT IS THE AREA IN WHICH VIRGIN MOBILE REQUESTS DESIGNATION AS
19 AN ETC?

1 A: Virgin Mobile seeks ETC designation in all the wire centers in Utah where it currently
2 has network coverage. These wire centers were included as Exhibit 3 with the
3 Company's application.

4 Q13: IS VIRGIN MOBILE SEEKING ETC AUTHORITY TO ACCESS HIGH-COST
5 FUNDING?

6 A: No. Virgin Mobile's request does not seek authority to provide services supported by the
7 USF's high-cost program.

8 Q14: IS VIRGIN MOBILE SEEKING TO ACCESS UTAH USF FUNDS?

9 A: No.

10 Q15: WHY DOESN'T VIRGIN MOBILE USE THE EXISTING ETC DESIGNATION OF
11 ITS SPRINT SPECTRUM, L.P. AFFILIATE TO PROVIDE LIFELINE SERVICES?

12 A: The Sprint Spectrum, L.P. ("Sprint Spectrum") ETC designation granted the company
13 with the authority to access both high-cost and Lifeline USF funds. Because Virgin
14 Mobile is seeking ETC designation solely for Lifeline purposes, it has decided to seek
15 ETC designation in its own name. In addition, the Sprint Spectrum ETC designation is
16 limited solely to exchanges served by Qwest. Virgin Mobile is seeking ETC designation
17 for its entire service territory in Utah, which includes exchanges served by other carriers.

18 Q16: HOW WILL VIRGIN MOBILE'S LIFELINE SERVICES BENEFIT UTAH
19 CUSTOMERS?

1 A: Virgin Mobile's Lifeline service will provide affordable and convenient wireless services
2 to qualifying Utah customers, many of whom are otherwise unable to afford wireless
3 services. Many lower-income customers in Utah have yet to reap the full benefits of the
4 intensely competitive wireless market. Whether because of financial constraints, poor
5 credit history or intermittent employment, these consumers often lack the choices
6 available to most consumers. Virgin Mobile's Lifeline services will expand the
7 availability of affordable telecommunications services to qualifying customers, leading to
8 lower prices and increased choice in Utah.

9 Q17: WHAT ARE THE RATES AND TERMS OF VIRGIN MOBILE'S LIFELINE
10 SERVICE OFFERING?

11 A: Virgin Mobile has branded its prepaid Lifeline service "Assurance Wireless Brought To
12 You By Virgin Mobile." Under the current plan, eligible customers will receive 250
13 anytime voice minutes per month at no charge with additional service priced at
14 \$0.10/minute and \$0.10/text message. In addition to free voice services, prepaid Lifeline
15 customers will also have access to a variety of other standard features at no additional
16 charge, including voice mail, caller I.D. and call waiting services.

17 Q18: HAVE THERE BEEN ANY CHANGES TO THE OFFERING SINCE VIRGIN
18 MOBILE SUBMITTED ITS APPLICATION?

19 A: Yes. Since filing the application, the Company increased the number of free monthly
20 minutes that customers will receive to 250. The Company also decreased the price for
21 individual text messages to \$0.10 per message.

1 Q19: HAVE THESE BEEN THE ONLY CHANGES TO THE OFFERING SINCE THE
2 COMPANY FILED ITS APPLICATION?

3 A: Yes.

4 Q20: DO LIFELINE CUSTOMERS HAVE TO PAY FOR THEIR HANDSETS?

5 A: No. New customers may elect to receive an Assurance Wireless-branded handset free of
6 charge. Current Virgin Mobile customers will be able to use their existing handsets to
7 receive prepaid Lifeline services, or may elect to receive a free Assurance Wireless
8 handset. The handset provided free of charge to Lifeline customers is sold separately by
9 the Company to its non-Lifeline customers for \$9.99 and marketed as the Kyocera Jax.

10 Q21: WILL LIFELINE CUSTOMERS PAY TAXES AND FEES?

11 A: Virgin Mobile's Lifeline service plan includes all applicable taxes and fees. The
12 Company also does not assess charges for activation or connection of the service. As a
13 result, Lifeline customers will receive free service so long as they do not exceed 250
14 minutes of voice service per month with no additional charges for taxes or activation. By
15 providing a wireless handset free of charge, moreover, Virgin Mobile can ensure that
16 Lifeline-eligible customers in Utah will not incur any upfront costs for access to the
17 Company's Lifeline services.

18 Q22: HOW AND WHEN WILL THE 250 FREE MONTHLY MINUTES BE DELIVERED
19 TO CUSTOMER HANDSETS?

20 A: Customers can activate Lifeline service at any time during a given month, at which time
21 the 250 free minutes will be automatically credited to the customer's Lifeline account.

1 Customers will receive subsequent 250-minute allotments at the beginning of each 30-
2 day cycle.

3 Q23: HOW WILL CUSTOMERS SIGN UP FOR SERVICE?

4 A: Currently, applicants for Lifeline service request or complete an enrollment form by
5 contacting a toll-free telephone number established by the Company. Applicants must
6 provide all of the information on the enrollment form, including their name, residential
7 address and relevant eligibility criteria. A copy of the enrollment form is attached to my
8 testimony as Exhibit 1. Upon completion of the enrollment form, the Company mails the
9 form to each applicant for signature. Once a signed application and supporting
10 documentation are received and approved, the handset is shipped to the customer the next
11 business day after the review is complete. The customer must program the handset by
12 following the instructions on the screen and entering their account PIN. After the handset
13 is programmed by the customer, 250 minutes are immediately applied to the customer's
14 account. At the end of each of the customer's 30-day service cycles, additional 250
15 minute allotments are deposited into the customer's account. In the near future, Virgin
16 Mobile expects to supplement the enrollment process described above with two
17 additional methods. Under the first method, consumers will access the enrollment form
18 through a secure website and complete the form online, which will include an electronic
19 signature to verify that all statements and information are accurate under penalty of
20 perjury. Under the second method for enrollment, applicants for Lifeline service will
21 complete an enrollment form by contacting a toll-free telephone number established by
22 the Company. Applicants will be required to provide all of the information currently
23 required by the existing enrollment procedure, including their name, residential address

1 and relevant eligibility criteria, and will be required to make a declaration under penalty
2 of perjury that will be recorded regarding the accuracy of statements and information.
3 Prospective customers will be informed that they can speak to a live operator if they have
4 questions regarding the enrollment process, their certification or any aspect of Lifeline
5 services.

6 Q24: CAN CUSTOMERS PRINT OUT AND MAIL IN A LIFELINE APPLICATION
7 WITHOUT CONTACTING THE TOLL-FREE NUMBER?

8 A: The application is available on the Partner area of the Assurance Wireless website for
9 access by partner agencies and organizations. It would be possible for an applicant to
10 access the online version and print it, but this form of application is not readily accessible
11 to customers.

12 Q25: HAS VIRGIN MOBILE CONTRACTED WITH ANY COMPANY TO ASSIST IT
13 WITH ITS LIFELINE SERVICES?

14 A: Yes. Virgin Mobile has hired Solix Inc. to be its Lifeline administrator.

15 Q26: HOW DOES VIRGIN MOBILE PAY SOLIX FOR ITS SERVICES?

16 A: The terms of Virgin Mobile's contract with Solix are confidential, but I can confirm that
17 Solix's fees are not based on the number of Lifeline applications approved for
18 service.

19 Q27: HAS VIRGIN MOBILE BEEN DESIGNATED AS AN ETC IN OTHER STATES?

1 A: Yes. Virgin Mobile has received ETC designation for the limited purpose of offering
2 Lifeline services in eleven states: Florida, Louisiana, Maryland, Michigan, New Jersey,
3 New York, North Carolina, Tennessee, Texas, Virginia and West Virginia. The FCC
4 designated the Company in the states of New York, North Carolina, Tennessee and
5 Virginia. The designations the Company has received from state public utility
6 commissions are attached to my testimony as Exhibit 2. Virgin Mobile has not had an
7 application for ETC designation denied in any jurisdiction.

8 Q28: DID THE FCC IMPOSE ANY CONDITIONS ON ITS GRANT OF ETC
9 DESIGNATION TO VIRGIN MOBILE?

10 A: Based on Virgin Mobile's pre-merger status as a reseller of Sprint network service, the
11 FCC's March 5, 2009 grant of ETC designation to the Company for the states of New
12 York, North Carolina, Tennessee and Virginia was approved in connection with the
13 Company's request for forbearance from the facilities-based requirement contained in
14 section 214(e)(1)(A) of the Communications Act of 1934, as amended ("Act"). Because
15 Virgin Mobile was a reseller at the time of the FCC's grant, the FCC imposed a variety of
16 conditions on its grant of forbearance and ETC designation, including Virgin Mobile's
17 compliance with certain requirements aimed at enhancing Lifeline customers' access to
18 public safety services and preventing misuse of the Company's Lifeline offering.
19 Included among these conditions was a requirement that the Company, as a non-
20 facilities-based carrier, obtain a certification from each public safety answering point
21 ("PSAP") whose territory overlaps with Virgin Mobile's service area, confirming that the
22 Company provides its customers with 911 and E-911 service or if, within 90 days of a
23 request for certification, a PSAP has neither provided the certification nor affirmatively

1 determined that Virgin Mobile does not provide its customers with access to 911 and E-
2 911, self-certify that it meets the 911 and E-911 requirements. Virgin Mobile voluntarily
3 committed to complying with this condition for the initial four states approved in
4 connection with the Company's forbearance request. The FCC has approved the
5 Company's plan to comply with these conditions for these states.

6 Q29: DOES THE PSAP CERTIFICATION CONDITION APPLY TO THE COMPANY'S
7 REQUEST FOR ETC DESIGNATION IN UTAH?

8 A: In light of its November 2009 acquisition by Sprint, Virgin Mobile respectfully submits
9 that the foregoing condition regarding PSAP certification is inapplicable to the instant
10 request of Virgin Mobile as a facilities-based provider. Virgin Mobile is now a wholly
11 owned, fully integrated subsidiary of Sprint with beneficial use of the Sprint Nationwide
12 PCS Network. As a matter of statutory construction and regulatory policy, there is no
13 rational basis for the Public Service Commission of Utah ("Commission") to impose a
14 condition that the FCC specifically stated would apply to any "prepaid wireless reseller"
15 that sought ETC designation for purposes of providing Lifeline services. Because the
16 Commission has the "primary responsibility" for the designation of ETCs in Utah
17 pursuant to section 214(e)(2) of the Act, and the condition precedent for the imposition of
18 the PSAP certification requirement does not exist, the Commission has the necessary
19 authority to designate Virgin Mobile as an ETC without imposing the PSAP certification
20 requirement. Indeed, the public utility commissions of Florida, Louisiana, Maryland,
21 Michigan, New Jersey, Texas and West Virginia have considered this issue and
22 designated Virgin Mobile as a facilities-based ETC under section 214(e)(1)(A) of the Act
23 without imposing any requirement for the Company to obtain PSAP certifications.

1 Q30: IS THERE ANY OPERATIONAL REASON FOR THE COMMISSION TO IMPOSE
2 THE CONDITION ON ITS GRANT OF ETC DESIGNATION TO THE COMPANY?

3 A: No. Given that the Company no longer operates as a reseller of telecommunications
4 services, the rationale underlying imposition of the condition no longer exists. Virgin
5 Mobile's ability to provide Lifeline-supported services over an existing, owned and
6 operated network infrastructure in Utah eliminates any need for the Commission to
7 impose the condition in connection with the instant request. Virgin Mobile is no more
8 subject to the condition for the instant request than the other facilities-based wireless
9 carriers that have sought ETC designation from the Commission for the purposes of
10 offering services supported by the low-income program.

11 Q31: HAVE ANY STATE PUBLIC UTILITY COMMISSIONS IMPOSED THE PSAP
12 CERTIFICATION CONDITION AS A CONDITION TO GRANT OF ETC
13 STATUS?

14 A: No.

15 Q32: DOES VIRGIN MOBILE SATISFY THE REQUIREMENTS FOR ETC
16 DESIGNATION IN UTAH?

17 A: Yes. Virgin Mobile satisfies all of the requirements for ETC designation in Utah. Virgin
18 Mobile's request for ETC designation complies with section 214(e)(1) of the Act because
19 it is a common carrier that provides all of the services and functionalities supported by
20 the universal service program as set forth in section 54.101 of the FCC's regulations
21 using its own facilities throughout its service territory in the State of Utah. In addition,

1 the Company will make these services and functionalities available to any qualifying
2 Utah customer in the Company's designated service territory.

3 Q33: WHAT ARE THE SPECIFIC FUNCTIONALITIES THAT VIRGIN MOBILE WILL
4 PROVIDE ONCE DESIGNATED AS AN ETC IN UTAH?

5 A: Upon designation as an ETC in Utah, Virgin Mobile will provide all of the services and
6 functionalities required by the FCC's rules and the regulations of the Commission,
7 including voice grade access to the public switched telephone network, local usage
8 capabilities, dual-tone multi-frequency signaling or its functional equivalent, single-party
9 service or its functional equivalent, access to emergency services, access to operator
10 services, access to interexchange services, access to directory assistance services and
11 access to toll limitation services.

12 Q34: HOW WILL VIRGIN MOBILE PROVIDE THESE SERVICES?

13 A: The supported services will be provided in the following manner:

14 1. Voice Grade Access to the Public Switched Telephone Network

15 Virgin Mobile provides voice grade access to the public switched telephone network and
16 offers its customers services at bandwidth rates between 300 and 3,000 MHz as required
17 by the FCC's regulations.

18 2. Local Usage

19 Virgin Mobile's proposed Lifeline offering fully complies with the local usage
20 requirements established by the FCC and the Commission. Not only will Virgin
21 Mobile's offering be comparable to the underlying plans offered by the incumbent local
22 exchange carriers ("ILECs") in Utah, as required by the FCC's regulations, but it will

1 also exceed them in several respects. Contrary to the ILECs' plans, Virgin Mobile will
2 offer customers a certain amount of service free of charge. As discussed above, Virgin
3 Mobile will provide its Lifeline customers with approximately 250 anytime minutes per
4 month at no charge. Contrary to the ILEC plans, which contain relatively small local
5 calling areas, Virgin Mobile customers can use these free minutes to place calls statewide
6 (or even nationwide) because Virgin Mobile does not constrict customers' use by
7 imposing a local calling area requirement. In addition to free voice services, Virgin
8 Mobile will provide Lifeline customers with access to a variety of other features at no
9 cost, including voice mail, caller I.D., call waiting services and enhanced 911 ("E911")
10 capabilities. Most important, Virgin Mobile's Lifeline service will provide low-income
11 Utah residents with the convenience and security offered by wireless services without
12 interruption—even if their financial position deteriorates.

13 3. DTMF Signaling or its Functional Equivalent

14 Virgin Mobile provides dual tone multi-frequency ("DTMF") signaling to expedite the
15 transmission of call set up and call detail information throughout its network. All
16 wireless handsets offered for sale by the Company are DTMF-capable.

17 4. Single-Party Service or its Functional Equivalent

18 Virgin Mobile provides the functional equivalent of single-party service to its wireless
19 customers for the duration of each telephone call, and does not provide multi-party (or
20 "party-line") services.

21 5. Access to Emergency Services
22

1 Virgin Mobile provides nationwide access to 911 emergency services for all of its
2 customers. Virgin Mobile also complies with the FCC's regulations governing the
3 deployment and availability of E911 compatible handsets.

4 6. Access to Operator Services

5 Virgin Mobile provides all of its customers with access to operator services.

6 7. Access to Interexchange Services

7 Virgin Mobile's service provides its customers with the ability to make interexchange, or
8 long distance, telephone calls. Domestic long distance capabilities are included in Virgin
9 Mobile's service with no additional charges because minutes for local and domestic long
10 distance services are not billed separately at different rates.

11 8. Access to Directory Assistance

12 All Virgin Mobile customers are able to dial "411" to reach directory assistance services
13 from their wireless handsets. Directory assistance services cost \$1.75 per call.

14 9. Toll Limitation

15
16 Toll limitation allows customers to either block the completion of outgoing long distance
17 calls or specify a certain amount of toll usage to prevent them from incurring significant
18 long distance charges and risking disconnection. As described above, Virgin Mobile
19 provides its wireless service on a prepaid, or pay-as-you-go, basis. Virgin Mobile's
20 service, moreover, is not offered on a distance-sensitive basis and minutes are not
21 charged separately for local or domestic long distance services. Customers also must
22 specifically authorize access for international services, for which additional charges may
23 apply. The FCC determined in its previous grant of ETC designation that the nature of

1 Virgin Mobile's service mitigates concerns that low-income customers will incur
2 significant charges for long distance calls, risking disconnection of their service.

3 Q35: WILL VIRGIN MOBILE PROVIDE THE SUPPORTED SERVICES THROUGH ITS
4 OWN FACILITIES?

5 A: Virgin Mobile will provide the supported services through its own facilities, and will not
6 resell the services of other carriers. As described above, Virgin Mobile was acquired by
7 Sprint in November 2009 and is now a wholly owned subsidiary of Sprint. As such,
8 Virgin Mobile has beneficial use of Sprint's wireless facilities and is appropriately
9 classified as a facilities-based carrier for purposes of section 214(e)(1) of the Act.

10 Q36: IS VIRGIN MOBILE COMMITTED TO PROVIDING SERVICE TO ALL
11 CUSTOMERS MAKING A REASONABLE REQUEST FOR SERVICE IN THE
12 PROPOSED DESIGNATION AREA?

13 A: Yes. Virgin Mobile is committed to providing service to all customers in the proposed
14 designation area upon receipt of a reasonable request for service.

15 Q37: IS VIRGIN MOBILE COMMITTED TO COMPLYING WITH THE CELLULAR
16 TELECOMMUNICATIONS AND INTERNET INDUSTRY ASSOCIATION
17 CONSUMER CODE FOR WIRELESS SERVICE?

18 A: Yes.

19 Q38: HOW QUICKLY CAN VIRGIN MOBILE COMMENCE LIFELINE SERVICE?

20 A: Because Virgin Mobile already provides facilities-based wireless services in Utah, the
21 Company intends to launch Lifeline services as soon as possible after the Commission

1 approves its pending petition. In Virgin Mobile's experience, the Company usually
2 commences Lifeline services in a state within 1-2 weeks of designation as an ETC in the
3 state.

4 Q39: CAN YOU EXPLAIN HOW VIRGIN MOBILE REMAINS FUNCTIONAL IN
5 EMERGENCY SITUATIONS?

6 A: As a wholly owned subsidiary of Sprint, Virgin Mobile is able to remain functional in
7 emergency situations in accordance with the requirements of the FCC and the
8 Commission. Sprint has established a variety of internal programs, policies and teams
9 dedicated to analyzing, assessing and responding to emergency situations. Sprint's
10 network is monitored 24 hours a day, 7 days a week, 365 days a year by its network
11 monitoring centers. Local switching offices staffed by trained technicians and
12 management coordinate with these larger operation centers, to ensure that Sprint's
13 networks are properly maintained and network performance is at expected levels. In
14 addition, the company has reasonable amounts of back-up power to ensure functionality
15 without an external power source, and has implemented reasonable practices to reroute
16 traffic around damaged facilities and manage traffic spikes resulting from emergency
17 situations. These practices significantly reduce the chance that emergencies, fiber cuts or
18 equipment failure will result in a loss of service.

19 Q40: HOW WILL VIRGIN MOBILE ADVERTISE THE AVAILABILITY OF ITS
20 LIFELINE SERVICES?

21 A: Virgin Mobile will advertise its Lifeline services using a variety of media in conformance
22 with the regulations of the Commission and the FCC. In the states where it currently

1 provides Lifeline services, Virgin Mobile advertises the services through television,
2 brochures, in-person events, posters, direct mail, newspapers and the Internet. Virgin
3 Mobile also markets Lifeline services through social service agencies and partnerships
4 with not-for-profit organizations. These marketing efforts have been highly successful
5 in reaching eligible low-income customers and promoting the availability of Lifeline
6 services. Examples of Virgin Mobile's Lifeline advertising materials are attached as
7 Exhibit 3 to my testimony.

8 Q41: WHAT IMPACT WILL VIRGIN MOBILE HAVE ON THE UNIVERSAL SERVICE
9 FUND IF GRANTED ETC STATUS FOR LIFELINE PURPOSES?

10 A: Virgin Mobile's designation as an ETC solely for Lifeline purposes would not unduly
11 burden the federal USF or otherwise reduce the amount of funding available to other
12 carriers. The secondary role of Lifeline support with respect to overall USF expenditures
13 is well documented. The FCC, itself, concluded that designation of Virgin Mobile as an
14 ETC would result only in a "minimal" increase in USF funding. The nature by which
15 Lifeline support is provided also obviates any concerns regarding the impact on the
16 federal USF. Lifeline support is provided on a customer-specific basis, and only after a
17 carrier has acquired and begun to serve an eligible customer does the carrier receive
18 Lifeline support for that customer. By tying support to actual service of a customer,
19 moreover, the Lifeline program ensures that USF support only funds the carrier that
20 actually "wins" the customer's service.

21 Q42: WILL VIRGIN MOBILE COMPLY WITH THE LIFELINE CERTIFICATION AND
22 VERIFICATION REQUIREMENTS?

1 A: Yes. Virgin Mobile will abide by the applicable regulations of the FCC and the
2 Commission regarding certification and verification of customer eligibility.

3 Q43: ARE LOWER-INCOME CUSTOMERS IN NEED OF DISCOUNTED WIRELESS
4 SERVICES?

5 A: Yes. Internal Virgin Mobile analysis confirms that many low-income customers still
6 discontinue service because of economic constraints, especially during this period of
7 severe economic dislocation. ETC designation in Utah would enable Virgin Mobile to
8 offer appealing and affordable service offerings to these customers to ensure that they are
9 able to afford wireless services on a consistent and uninterrupted basis.

10 Q44: WHAT PUBLIC INTEREST BENEFITS DO LOWER-INCOME CUSTOMERS
11 RECEIVE FROM WIRELESS SERVICES?

12 A: Access to wireless services provides lower-income customers with a variety of benefits,
13 including enhanced upward economic mobility and increased personal safety. A study
14 detailing these benefits is attached to my testimony as Exhibit 4.

15 Q45: VIRGIN MOBILE HAS SOUGHT DESIGNATION BELOW THE STUDY AREA OF
16 CERTAIN RURAL LECS. DOES THE COMMISSION NEED TO CONDUCT A
17 CREAM-SKIMMING ANALYSIS?

18 A: No. Virgin Mobile's application seeks only low-income Lifeline support from the federal
19 USF. Low-income support and high-cost support are very different, and the purpose of a
20 cream-skimming analysis is to prevent a competitive ETC receiving high-cost support
21 from targeting high density wire centers in a rural LEC service area to the detriment of
22 the rural LEC. The FCC considered this very question in Virgin Mobile's application

1 before it, and declined to conduct a cream-skimming analysis because Virgin Mobile
2 sought ETC designation for Lifeline support only.

3 Q46: ARE THERE ANY COMPETITIVE BENEFITS ASSOCIATED WITH
4 DESIGNATING VIRGIN MOBILE AS AN ETC IN UTAH?

5 A: Designation of Virgin Mobile as an ETC would promote competition and increase the
6 pressure on other carriers to target low-income consumers with service offerings tailored
7 to their needs, greatly benefiting this consumer segment. Because Virgin Mobile will
8 bring the same entrepreneurial spirit that has reinvigorated the wireless industry to
9 serving lower-income Utah customers, other carriers will have the incentive to improve
10 their existing service offerings and tailor service plans to contain service terms and
11 features appealing to lower-income customers.

12 Q47: DOES THIS CONCLUDE YOUR TESTIMONY?

13 A: Yes.

EXHIBIT 1

CUSTOMER ENROLLMENT FORM



IF YOU HAVE QUESTIONS ABOUT THIS FORM PLEASE CALL PHONE 1-888-898-4888 or TTY 1-XXX-XXX-XXXX

Please verify your eligibility:

- 1. You may use either Section B or Section C to qualify
2. Sign and date the form in Section D
3. Attach documents to support your eligibility listed in Section B or C
4. Mail the application to Virgin Mobile Lifeline, PO Box 100 Artesia, CA 90702

A. PERSONAL INFORMATION

The person below MUST BE the same person applying for the discount. Please do not forget to sign the application below in Section D.

«First_Nm» «Middle_Int» «Last_Nm»
«Service_Address_Line_1»
«Service_Address_Line_2»
«Service_City»,«Mailing_State_Cd» «Zip_Cd»

B. PROGRAM-BASED ELIGIBILITY

Fill in all bubbles for all program(s) the person in Section A is currently enrolled. For the National School Lunch and Head Start programs, a household dependent enrolled in the program satisfies the enrollment requirement.

- Medicaid
Food Stamps
Supplemental Security Income (SSI) (Not the same as Social Security Benefits)
Temporary Assistance to Needy Families (TANF)
Federal Public Housing Assistance (FPHA)
Low-Income Energy Assistance Program (LIHEAP)
National School Lunch Program's Free Lunch Program

You must attach a copy of a program identification card or other social service agency document that shows you currently participate in one of the programs listed above. (Supporting documentation will NOT be returned)

- OR -

C. INCOME-BASED ELIGIBILITY

Calculate TOTAL household income by reporting the income of all adult persons residing in your home in the appropriate category:

Table with Household Size and Maximum Yearly Income columns. Includes a list of required proof of income documents and a note that supporting documentation will not be returned.

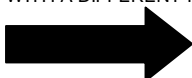
D. SIGNATURE

BY SIGNING BELOW, I CERTIFY UNDER PENALTY OF PERJURY THAT THE INFORMATION CONTAINED WITHIN THIS APPLICATION IS TRUE AND CORRECT AND THAT I AM HEAD OF MY HOUSEHOLD AND ONLY RECEIVE LIFELINE SERVICE FROM VIRGIN MOBILE.

I UNDERSTAND THAT COMPLETION OF THIS APPLICATION DOES NOT CONSTITUTE IMMEDIATE APPROVAL FOR THE VIRGIN MOBILE LIFELINE PROGRAM. I AUTHORIZE VIRGIN MOBILE USA OR ITS DULY APPOINTED REPRESENTATIVE TO ACCESS ANY RECORDS (INCLUDING FINANCIAL RECORDS) REQUIRED TO VERIFY MY STATEMENTS HEREIN AND TO CONFIRM MY ELIGIBILITY FOR THE VIRGIN MOBILE LIFELINE PROGRAM.

I UNDERSTAND THAT I MAY BE REQUIRED TO VERIFY MY CONTINUED ELIGIBILITY FOR LIFELINE AT ANY TIME. FAILURE TO VERIFY ELIGIBILITY WILL RESULT IN TERMINATION OF THE VIRGIN MOBILE LIFELINE PROGRAM.

I UNDERSTAND THAT LIFELINE IS ONLY AVAILABLE FOR ONE LANDLINE OR WIRELESS PHONE LINE PER HOUSEHOLD. IF I CURRENTLY HAVE A LIFELINE PLAN WITH A DIFFERENT PHONE SERVICE PROVIDER, I WILL NOTIFY MY CURRENT PROVIDER WHEN I AM APPROVED FOR THE VIRGIN MOBILE LIFELINE PROGRAM.



Signature

Date

Printed Name



«CustomerID»

EXHIBIT 2
STATE PUC DECISIONS

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; Campti-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 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**

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 Staffs 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.

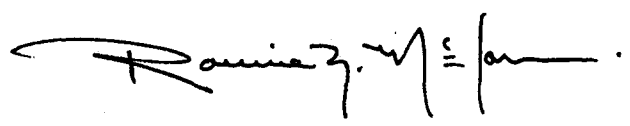
IT IS FURTHER ORDERED that this matter be, and hereby is, removed from the Commission's docket of open cases.

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

RZM:s
100246aa.wpd

DOCKET NO. 38056

**APPLICATION OF VIRGIN MOBILE § PUBLIC UTILITY COMMISSION
USA, L.P. FOR DESIGNATION AS AN §
ELIGIBLE TELECOMMUNICATIONS § OF TEXAS
CARRIER IN THE STATE OF TEXAS §
FOR THE LIMITED PURPOSE OF §
OFFERING LIFELINE SERVICES §**

**RECEIVED
MAY 18 AM 10:12
PUBLIC UTILITY COMMISSION
FILING CLERK**

**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 facilities³ or a combination of its own facilities and the resale of another carrier's services:
 - (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

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

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

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.

(S E A L)

TLT

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.

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 MPSC 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).

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)

- (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.

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.

- 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.

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

- 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.

Docket No. 090245-TP

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

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	BYSHFLXA	DRBHFLMA
ALCHFLXA	CCBHFLAF	DUNDFLXA
ALFAFLXA	CCBHFLMA	DWPKFLXA
ALFRFLXA	CDKYFLMA	DYBHFLFN
ALSPFLXA	CFLDFLMA	DYBHFLMA
ALTRFLXA	CFVLFLXA	DYBHFLOB
ALVAFLXA	CHLKFLXA	DYBHFLOS
ANMRFLXA	CHPLFLJA	DYBHFLPO
APPKFLXA	CHSWFLXA	EGLLFLBG
ARCDFLXA	CHTHFLXA	EGLLFLIH
ARCHFLMA	CITRFLXA	ENWDFLXA
ASTRFLXA	CLHNFLXA	EORNFLMA
AVPKFLXA	CLMTFLXA	ESTSFLXA
BAKRFLXA	CLTNFLXA	EVRGFLXA
BARTFLXA	CLWRFLXA	FHSDFLXA
BAYUFLXA	CNSDFLXA	FLBHFLMA
BBPKFLXA	CNTMFLLE	FLRHFLXA
BCGRFLXA	COCOFLMA	FRBHFLFP
BCRTFLBT	COCOFLME	FRPTFLXA
BCRTFLMA	CPCRFLXA	FRSTFLXA
BCRTFLSA	CPCRFLXB	FTGRFLMA
BGPIFLMA	CPHZFLXA	FTLDFLCR
BHPKFLXA	CRCYFLXA	FTLDFLCY
BKVLFLJF	CRRVFLXA	FTLDFLJA
BLDWFLMA	CRVWFLXA	FTLDFLMR
BLGLFLMA	CRWDFLXA	FTLDFFLOA
BLTWFLXA	CSCYFLBA	FTLDFLPL
BLVWFLXA	CSLBFLXA	FTLDFLSG
BNFYFLXA	CTDLFLXA	FTLDFLSU
BNNLFLMA	CYGRFLXA	FTLDFLWN
BNSPFLXA	CYLKFLXA	FTMBFLXA
BORAFLXA	CYLKFLXB	FTMDFLXA
BRBAFLXA	DBRYFLDL	FTMYFLXA
BRFRFLXA	DBRYFLMA	FTMYFLXB
BRJTFLXA	DDCYFLXA	FTMYFLXC
BRKRFLXA	DELDFLMA	FTPRFLMA
BRNDFLXA	DESTFLXA	FTWBFLXA
BRSNFLMA	DFSPFLXA	FTWBFLXB
BRTNFLXX	DLBHFLKP	FTWBFLXC
BSHNFLXA	DLBHFLMA	FTWHFLXA
BVHLFLXA	DLSPFLMA	GCSPLFCN
BWLGFLXA	DNDNFLXA	GCVLFLMA
BYBHFLMA	DNLNFLWM	GDRGFLXA
GENVFLMA	JCBHFLMA	LKWFLXE
GLBRFLMC	JCBHFLSP	LLMNFLXA
GLDLFLXA	JCVLFLAR	LNLKFLXA

GLGCFLXA
GLRDFLXA
GNBOFLXA
GNDYFLXA
GNVFLXA
GNWDFLXA
GRETFLXA
GSVFLMA
GSVFLNW
GVLDLFLXA
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
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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

RILLAN BUTLER
NOTARY PUBLIC, State of New York
No. 012006149000
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.



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 signaling 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.

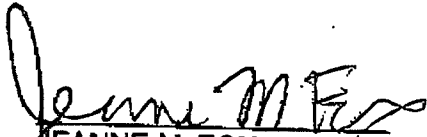
Virgin Mobile shall not seek access to funds from the federal Universal Service Fund for the purpose of providing service to high cost areas.

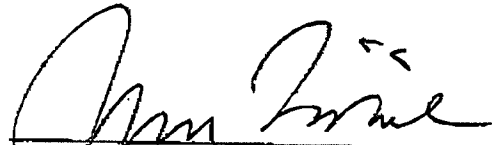
This ETC Designation is issued on the representation that the statements contained in the Petitioner's application are true, and the undertakings therein contained shall be adhered to and be enforceable unless a specific waiver is granted by the Board pursuant to the authority contained in N.J.S.A. 48:1-1 et seq.

DATED: 8/4/10

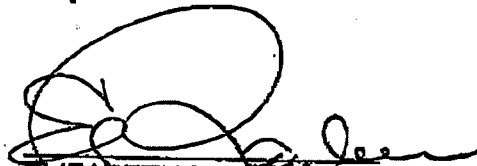
BOARD OF PUBLIC UTILITIES
BY:


LEE A. SOLOMON
PRESIDENT

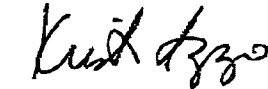

JEANNE M. FOX
COMMISSIONER


JOSEPH L. FIORDALISO
COMMISSIONER

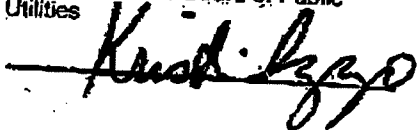

NICHOLAS ASSELTA
COMMISSIONER


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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EXHIBIT 3
ADVERTISING MATERIALS



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- Low Income Home Energy Assistance (LIHEAP)
- National School Lunch Program's Free Lunch Program

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EXHIBIT 4
SULLIVAN STUDY

Cell Phones Provide Significant Economic Gains for Low-Income American Households

A Review of Literature and Data from Two
New Surveys

April, 2008

by Nicholas P. Sullivan

Author

*You Can Hear Me Now: How Microloans and Cell Phones
Are Connecting the World's Poor to the Global Economy
2007*

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Executive Summary

Americans, and particularly those in lower-income groups, are deriving clear economic benefits from cell phones—even though low-income groups are far less likely to own a cell phone.

The average amount of money earned by those who said they use their cell phone to get work or make money was \$748.50 last year, according to analysis by polling firm Opinion Research Corp. (ORC). For households in the bottom two quintiles making \$35,000 or less, the mean reported earning was \$530. This translates to income gains of \$4.5 billion, and suggests that – if the 38% of these 45.2 million low-income, bottom quintile households that do not now have cell phones were to start using them, and earn money at the same rate as those households that do own cell phones—it would add \$2.9 billion to household incomes.

This new study on cell phone usage in America is based on two new surveys—a scientific national sampling of 1005 households by ORC and a statistically large online sampling of 110,000 TracFone prepaid phone users. While the study examines all cell phone owners, the focus is primarily on benefits to those in the bottom two quintiles of household income (less than \$35,000), who are much less likely to own cell phones. Those who do not now own a cell phone tend to be older (37% are retired), less educated (29% have a high school education or less; 25% have some college but not completed), low income (38% make less than \$35,000 a year) or unemployed (30%). This suggests that a significant minority of Americans who are most in need are not benefiting from the economic gains that other Americans attribute to their cell phones.

Another dominant finding is that super majorities from every demographic segment say the cell phone is “extremely important” for “emergency use,” and overwhelmingly prefer a cell phone to a landline phone as a security blanket. Nearly half of respondents (48%) in the ORC survey have used their phone to call or text during an emergency situation, a fifth (20%) have received an emergency call or text on their cell phone, and nearly a third (32%) have bought a cell phone for a relative to use in emergency situations. By more than a 3-1 ratio, Americans say they prefer a cell phone to a landline phone for emergency use.

To a certain extent, these security results confirm the expected. But whereas much has been made of the social and cultural impact of “anytime anywhere” communications, these new insights into the productivity value at the household level (rather than the firm level) are notable. More than three-quarters of those polled by ORC use their cell phones to discuss work or money, and nearly a third of those working say their cell phone has helped them make money, get new work or customers. Far more respondents in blue collar jobs say their cell phone has gotten them work or money (40%) than those in white collar professions (27%)—as do far more prepaid (43%) than postpaid (28%) cell phone owners. The gains for low-income Americans are notable given that the average number of minutes (280 per month) was below the overall average (303), and income tends to rise with minutes used.

But the income gains and potential noted above may be conservative figures, as the ORC research was conducted by landline phone and may not have reached those who are more active cell phone users, or those who rely exclusively on cell phones, which is an estimated 5-10% of U.S. households. Nor were respondents asked to quantify sums above \$1,000, and 50% of respondents cited gains of more than \$1,000.

In the much larger (albeit non-scientific) Tracfone survey, where 30% of *working* households (not retired, student, unemployed) attributed gains to their cell phones, the average annual gain cited was a much higher \$2,361 per household. (Respondents were asked to quantify sums up to \$10,000 and above.) Using this calculus, if non-cell phone households in the two lower income quintiles were to acquire phones and earn money at the same rate, it would translate to \$11.1 billion in new income gains. Thus, pending further research, it is fair to use the ORC data as a lower bound and the TracFone data as an upper bound, putting put the potential economic gain for low-income households in the \$2.9 to \$11 billion range.

The ORC polling showed that another economic benefit for all income segments was time savings, with more affluent households saving more time, a function of using more minutes. Further, prepaid users, who are typically less educated and from lower income households, and who use far fewer minutes (209) than average, overwhelmingly cite monthly cost savings compared to contract cell phones. In many cases, prepaid users have been

unable to keep up with large and unanticipated monthly phones bill for postpaid phones and switched to prepaid phones. While ORC pollsters did not ask respondents to quantify savings, TracFone respondents estimated monthly savings of \$35 compared to postpaid phones, for an annualized total savings of \$419. Combining these savings with the income gains significantly increases the already notable economic benefit to low-income households.

The overall conclusion is that the cell phone is extremely important to Americans for personal safety, and a huge boon to an individual's economic productivity and earning power. The cell phone is particularly important to blue collar, less educated and low-income segments, even though those groups are far less likely to own cell phones.

Overview

In the United States, telephone penetration rates (the number of households with any telephone access) are dropping even as sales of mobile phones skyrocket. [Mobile subscribers numbered 243 million in the middle of 2007 (CTIA annual survey).] The U.S. now has the second lowest telephone penetration rate in the developed world.

Why are households in the richest country in the world losing telephone access—in a country where universal access has been codified by regulators since 1934, and where the number of cell phones far exceeds the number of households? What benefits of telephony are being lost along with access? Are any of the well-documented benefits of cell phones seen in the developing world being replicated amongst low-income groups in the U.S.? These are the questions this paper addresses.

Most of the recent studies on the impact of cell phones on poor populations have focused on the developing world, where the sales growth and penetration increase have been exponential and dramatic, and where the vast majority of the world's poor reside. Studies on the impact of cell phones in the developed world, and the U.S. in particular, are scant in number. Studies that do exist focus on social interaction and cultural and generational shifts, on ICT and Internet broadband access, on productivity at the firm (not household) level, or on high-level issues of infrastructure investment and competition.

Timeline studies on the impact of universal telephony (landline) are more common. These studies show national income gains in developed countries, particularly during the 1970-1990 period but more incremental in recent years, since service levels are so high that very little incremental productivity or economic gains are derived from adding small percentage of phones. But the studies notably make little demographic breakout, and thus don't focus on the so-called "forgotten poor" in the developed world.

This is the first study that specifically targets the impact of cell phones on poor and low-income households in the U.S. (the bottom two quintiles with annual incomes less than \$35,000) and comes at a time when the household penetration rate is dropping, and more people are transitioning to wireless phones only. Meanwhile, efforts to achieve universal service, which have shown some signs of success in some states, focus exclusively on fixed line

phones. In addition, this study attempts to draw some comparison between users of prepaid cell phone users, who tend to be from lower income groups, and contract (postpaid) cell phones.

Methodology

In addition to a review of existing literature, the findings presented in this paper are based on two new surveys, both of which focused on the security and economic benefits of mobile phones. The primary survey was a scientific, randomized (computer generated nth-caller) and representative national probability sample of 1005 U.S. households, conducted by Opinion Research Corp. Interviews were conducted with 504 men and 501 women 18 years of age and older, living in private households in the continental United States, during the weekend of Oct 25-28, 2007, by fixed-line phone interviews (i.e., cell phones were not used). Random digit dialing to both listed and unlisted numbers was used.

Respondents split roughly evenly amongst those who used landline only (233), used both cell and landline equally (292), used both but primarily landline (241), and used both but primarily cell (221). Among cell phone users, 167 (22%) said they were prepaid cell phone customers. Because all calls were made to landlines, the survey did not capture those who either had no phones, or had a cell phone only.

There were 753 cell phone users in the survey (75%), and most of the follow-up questions were addressed to these respondents. Those with incomes less than \$35,000 and less than \$50,000 were less likely to own cell phones, while those with household incomes higher than \$50,000 and those from dual-income households were more likely to own a cell phone. Households with three or more people, and those with more children, were more likely to use cell phones, as were those with more education.

The second survey of more than 110,000 TracFone prepaid customers (“National Survey on Social and Economic Impact of Cell Phones”), was conducted during September 2007. This was not a scientific, randomized survey of the U.S. population. TracFone customers were notified by email, and self-selected respondents filled out a survey form on the Internet. However, the number of responses do make it a statistically significant drill-

down survey on the attitudes of prepaid phone owners; further, 12% of respondents used a cell phone only, which gives a snapshot of a growing minority of Americans.

Neither survey, of course, probed households without any phone access, thus theories presented here on why household penetration rate is slipping derive from a review of the literature and best guesses based on a combination of the surveys and focus groups.

General Findings

The most dominant finding from both surveys was that super majorities from every demographic segment say the cell phone is “extremely important” for “emergency use,” and overwhelmingly prefer a cell phone to a landline phone as a security blanket. Nearly half of respondents have used their phone to call or text during an emergency situation, and nearly a third have bought a cell phone for a relative to use in emergency situations.

On the economic side, more than three-quarters of those working either full- or part-time, use their cell phones to discuss work or money, with 45% attributing more than a quarter of their calls to work. Nearly a third of those working say their cell phone has helped them make money, get new work or customers. Far more respondents in blue collar jobs say their cell phone has gotten them work or jobs (40%) than those in white collar professions (27%); not surprisingly, heavier cell phone users derived more economic gains. The average amount of money earned for all cell phone users was \$748 last year, and higher (\$874) for those who rely primarily on the cell phone. Households making less than \$35,000 a year, despite far fewer minutes used, earned an average of \$530, which translates into an aggregate economic benefit of \$4.5 billion for that cohort.

In addition, three-quarters mention another economic benefit, which is saving time. The average amount of time saved was 2.6 hours per week.

More than half (58%) said if they had to choose only one phone, it would be a cell phone rather than a landline phone. Those who do not now have a cell phone tend to be older (37% are retired), less educated (29% have a high

school education or less), from households with less than \$35,000 annual income (38%) or unemployed (30%).

This suggests that a significant minority of Americans are not benefiting from the safety and economic gains that other Americans attribute to their cell phones. Based on income gains for those who do have phones, the data suggest that if non-owners were to acquire cell phones and use them as productively as others in their cohort, it would add anywhere from \$2.9 billion to \$11.1 billion to income for households earning less than \$35,000.

Overall, the findings suggest that the cell phone is a viable alternative to a landline phone and for practical purposes is more valuable than a landline phone. For those who cannot afford two phones, the cell phone is a better option. Further, for those who cannot afford a contract cell phone, the prepaid phone is a viable alternative. In the TracFone survey, for example, 34% of Hispanics (1935 respondents) said they had a prepaid cell phone as their only phone.

Organization of Paper

This paper first addresses the declining household penetration levels in the U.S., and suggests several reasons why it may be occurring in a period of exploding cell phone sales. I review the literature and theories on the impact of cell phones on safety and crime prevention, before reviewing my own survey results. Finally, I review the literature on the economic impact of telecom in the developed world, before describing my own surveys that focus on the United States. A conclusion follows.

The Decline in Household Penetration

Household phone penetration in the U.S. rose from 91.8% in 1984, just before the breakup of AT&T, to 94% in 1997, and to 95.5% in March 2003. Given the rapid rise in cell phone sales and subscriptions, one would expect the phone-penetration rate to remain steady or keep rising, even given that more and more households convert to wireless phone only. But by March 2006, the penetration rate had dropped to 92.9% (FCC 2007), a statistically significant decline, with younger households showing the greatest decline, and larger households the least decline. Virtually every state and every income group shows a decline in penetration. Approximately 3.7 million fewer U.S.

households now have the ability to dial 911 in an emergency (Zimmerman, 2007). With the exception of Portugal, all of the EU 15 member countries and Canada have higher household telephone penetration rates than the U.S (Gabel & Gideon, 2006).

Since lower penetration rates are typically observed at lower income levels, particularly among recent immigrants, illegal immigrants, Hispanic and African-American households, not to mention large numbers of white households, and because communications has been proven to be so important to personal and economic security (and reproved by these new surveys), it's important to understand the reasons behind the lower penetration and how it has impacted income potential.

Universal service has been a goal of U.S. policy makers since the Communications Act of 1934 codified its terms: "To make available, so far as possible, to all the people of the United States, a rapid, efficient, Nation-wide, and world-wide wire and radio communication service with adequate facilities at reasonable charges." The initial use of the term "universal service," by AT&T president Vail in 1907, was corporate speak for a monopoly as opposed to the "dual service" allowed under competition. Nonetheless, the goal of universal service, reaching all households at a reasonable cost, was part of the rationale for allowing AT&T's Bell-system monopoly.

**Possible Explanations
for Declining
Penetration Rates**

Typically, high long-distance rates have subsidized lower local calling rates; high business rates have subsidized lower residential rates; and higher urban rates have subsidized rural rates. Since the Telecommunications Act of 1996, there has been significant "rate rebalancing" to move toward market-value pricing.

Many have written about the market distortions caused by the inherent subsidies, although most studies find that the elasticity of connection with respect to price is low, and there are relatively small gains in penetration when prices are lowered (Crandall and Waverman 2000; Garbacz and Thompson 2005; Rosston and Wimmer 2000). Studies suggest that the initial connection fee is more of an impediment to access than the monthly usage fees.

Controlling costs.

A recent paper (Milne, 2006) suggests that traditional regulatory provisions for ‘social tariffs’ have been focused on fixed lines—when people in developed countries on low or irregular incomes are increasingly abandoning fixed lines for the flexibility of prepaid mobile phones. Pre-payment eliminates bills and provides full user control of cash outgoings, both features that people on slim budgets tend to appreciate. For people who make little use of the phone, the relevant tariffs often reduce cash outlays overall compared with a fixed line (relatively high call charges being offset by low or zero regular payments).

Milne suggests that much of the innovation with prepaid phones is occurring in the developing world, but could have useful applications in developed countries. For example, over-the-air person-to-person credit transfers could be very popular for ‘rescuing’ friends and family members when their call credit unexpectedly runs out. And mobile commerce (allowing small payments, such as parking fees, through mobile phones), now spreading rapidly among the ‘unbanked’ in the developing world (particularly in South Asia and sub-Saharan Africa), could be especially valuable to some groups in developed countries—for example, elderly people who have traditionally preferred to use cash but now have difficulty getting out and about.

Dual phone ownership.

Another perspective on penetration declines (Gideon and Gabel, 2006) suggests that local rate rebalancing brought on by competition (Knittel 2004) and the consequent rise in landline pricing might be a possible cause for an increase in disconnects, although the authors note the many papers showing low elasticities of price related to service.

A more likely cause of disconnects, the authors hypothesize, is the cost impact of dual-phone ownership, a function of an increase in wireless phones per capita. As households add wireless phones to their “monthly nut,” the bills can get out of control. Contract wireless phones lead to volatile, unpredictable and large phone bills that result in disconnecting both landline and cell phone. In other cases, low-income households may even substitute a wireless for a

landline phone to save money, but then experience unpredictably high bills — from paying for received calls as well as outgoing, confusing details of calling plans, and usage of minutes beyond the fixed price package. In both cases, the household's telephone service may be cut off.

Households with cell phone service only are most vulnerable. They are most likely to be students, renters, single-person households, and low-income households (Tucker et al, 2005). These wireless subscribers are disconnected, and then unable to reconnect landline service due to outstanding balances or poor credit history.

Given these scenarios, it's surprising that in Gideon and Gabel's econometric regressions, poverty itself is not a particular driver of the penetration decrease, although they find the recent decline in penetration levels partially driven by an increase in black and recent immigrant populations, which tend to be lower-income households.

Our own surveys tend to support this hypothesis. In our TracFone survey, 65% of those who relied on just a prepaid cell phone had household incomes less than \$35,000. (Since Opinion Research Corp. conducted surveys by landline phone, no respondents relied exclusively on cell phones.)

Inadequate consumer protection laws.

States with inadequate consumer protection laws also see higher levels of disconnects, as consumers who purchase wireline and wireless from the same provider can be disconnected from both for nonpayment of their wireless bill. As a test of the thesis that consumer laws are at fault, the authors included a dummy variable in their econometric regressions for states where Qwest provides service.

Qwest is the only ILEC that does not own a wireless network (although it is a reseller of wireless service). As a consequence, Qwest is likely to be less aggressive in marketing wireless service to its landline customers. In states where Qwest operates there was an increase in telephone penetration, supporting the authors' hypothesis that aggressive marketing of additional

services may be making bills less predictable and pushing people off the network.

Although the authors do not differentiate between prepaid and postpaid wireless accounts, it should be noted that prepaid customers cannot be cut off (although they can, of course, voluntarily stop using the phone for extended periods with minimal repercussions). This would suggest that those with prepaid phones, and therefore less volatile and more controllable bills without hidden costs, would be less likely to lose all telephone service if, in fact, dual-phone ownership is a determining factor in dual disconnects.

Lifeline and Link-Up Programs.

Government-led efforts to extend telephone service through programs such as Lifeline and Link Up have been effective to a point, particularly where there have been “full or high assistance” levels of support. Between 1984 and 1997, low-income households (less than \$10,000 in 1984 dollars, which is essentially the poverty line for a family of four in 2006 dollars) with assistance increased their penetration level from 79.3% to 85.5% (FCC, 2007), nearly double the increase rate of households without assistance. But between 1997 and 2006, the gains have been minimal (1.2%) for those states offering “full or high assistance” levels. In states with “intermediate” (-.2%) or “low” (-2.7%) assistance levels, penetration rates amongst the poorest households have dropped.

While the level of assistance obviously shows impact, FCC data also shows that between 2003 and 2006, the percentage of households with telephone service dropped roughly 3 percentage points in every single income group, clearly supporting the theory that poverty alone cannot explain the declines.

However effective Lifeline and Link-Up programs may or may not be, it's clear that neither program is currently effective in stemming the disconnection tide that is contributing to one of the lowest phone penetration rates in the developed world. Current efforts to improve the effectiveness of these programs, including a surge of over \$600 million in support for the Lifeline Across America, are being implemented without evidence that they are likely to work, according to Gideon and Gabel.

Garbacz and Thompson (2003) also find that in the U.S. both “untargeted and targeted universal service policies for households during the period 1970-2000 were ineffective, inefficient and generally counter-productive.”

The Mobile Phone’s Role in Safety and Security

One of the drivers behind universal service is importance of communications for health and safety concerns, especially for people living in rural or remote areas. As it turns out, the cell phone is exponentially more valuable and important as a hedge against danger and emergency than the landline phone.

When it comes to citizen safety and cell phones, the presumption is that cell phones provide people with a way to communicate if stranded or hurt, or to report a crime in progress. People anywhere under emergency duress of any kind—even stuffed in the trunk of a car—can call 911 for help. The particular value of the cell phone in this context was fully realized during the 9/11 attacks, when cell phones not only allowed people to say their last goodbyes, but more likely than not prevented a second plane from hitting a key target in Washington, D.C., as passengers aboard Flight 93 learned from the ground about the other planes hitting the World Trade Center.

The Department of the Interior, in its “Safe and Secure” memo, noting that a violent crime is committed every 15 seconds in the U.S., urges people to carry a cell phone and preprogram it to dial the police emergency number (911 or otherwise). “If you hit the preprogrammed 911 button and can’t talk, the police might still be able to find you... Many police departments have electronic locators.” The report suggests that if you don’t have a cell phone, “fake it—if the criminal thinks that you are calling for help, he/she may leave you alone.”

Since the Virginia Tech campus murders in spring 2007, many college campuses have set up emergency texting systems to alert students to danger. Increasingly, public safety officials auto broadcast evacuation information during emergencies to landline and/or cell phones, alerting home owners during the 2007 wildfires in San Diego (landline), or students at St. John’s University campus during a 2007 shooting incident (cell phones).

According to a recent Forrester Research study, approximately 35% of the United State's mobile subscriber population has used text messaging, although texting is largely confined to younger age groups. Given the growing dominance of this communication platform, text messaging provides an additional and viable way for organizations and communities to communicate important information—including safety alerts, preparation procedures and security notifications with students, parents, faculty and staff.

**New Surveys:
The Mobile Phone
as a Safety and
Security Device**

Our own surveys show that the primary importance of a cell phone for the vast majority of owners is for use in an emergency. It's interesting to reflect that the idea of "emergency use" was the rationale that many early adopters gave when spending money on what many perceived to be a luxury item—the question is whether people have that idea ingrained in their perception of a cell phone or whether it is more grounded in reality. Survey results suggest the latter, with a high degree of cohesiveness between the two surveys.

In the ORC survey, 82% said emergency use was extremely important, and 13% said somewhat important. In the TracFone survey, the results were 89% and 9%, respectively. While the ORC responses were uniformly positive across all segments, there were a few groups that were significantly more likely to say yes than others: females more so than males; 45-54 years more so than 55+ (probably due to the higher incidence of teenage children); people from the Northeast and South more so than people from North Central states; and urban more so than rural. Income, education, and household size had no such skews.

Nearly half (48%) said they had used a cell phone to make a call or send a text message in an emergency. College grads were more likely to have done so than high school grads, and those making more than \$75,000 a year were more likely than those making less than \$25,000 a year. Only 20% of the ORC respondents reported receiving a call or text in an emergency.

When asked if they had ever bought a cell phone for a relative to use in emergency situations, 32% ORC respondents said yes; when asked which phone was more important to them in an emergency, 62% of ORC respondents

said a cell phone (and 18% said a cell phone and landline were equally important).

It's interesting to note that if people had to choose one phone to use for all purposes, 58% said they would choose a cell phone (with an overall preference for contract phones)—with college grads and high-income groups preferring contract cell, and low-income preferring prepaid.

The results on the value of a cell phone for safety and emergencies are overwhelmingly uniform, segment by segment, in naming “emergency use” as the primary use of the mobile phone—and in naming the mobile phone as superior in that regard to the landline phone. This carries implications for policy makers. If one of the drivers behind universal service is to insure that people have telephone access in a health or safety emergency, the phone of choice for the vast majority of Americans—young and old, male and female, poor and rich—is a cell phone.

Economic Impact of Cell Phones

It is by now a widespread assumption that increases in telephone penetration (and ICT overall) lead to an increase in labor productivity and national income gains. This is in part because one aspect of telecommunications infrastructure, which distinguishes it from other public infrastructure projects, is the so-called “network effect”: the more users, the more value is derived by those users (as seen clearly by the success of Microsoft’s operating system). The impact of such a network externality—which decreases transaction costs—is that any economic gains deriving from it will not be linear, but will accelerate as critical mass is achieved.

Garbacz and Thompson (Sun Moon Lake Publishers, 2003), comparing the Economic Freedom Index to telephone penetration and universal access threshold (set as 300 mainlines per 1,000 people) as a driver of production efficiency, find that real GDP per worker is a function of telephone access, which “significantly reduces production inefficiency and therefore is conducive to greater productivity.”

The definitive study on the causal relationship between telecommunications and income gains is a study of 21 OECD countries over a 20-year period

(1970-1990) (Roller and Waverman 2001). The paper employs a “two-model technique,” which allows the authors to factor out “reverse causality,” i.e., the fact that an increase in demand for telecommunication services could be a function of economic growth due to other causes.

When controlling for fixed effects (including labor and capital) Roller and Waverman conclude that for the OECD country average over that 20-year span, the impact of telecommunications is .59 percentage points of annual GNP growth. Given that the OECD countries’ GDP grew at a compounded annual rate of 1.96 percent from 1970-1990, they attribute a little less than one-third of growth to telecommunications investment and penetration. While the U.S. and Canada had near-universal service in 1970, Portugal, France, and Italy, for example, had only 6, 8, and 12 phones per 100 people, respectively.

When dividing countries according to low, medium or high levels of penetration, the authors find that with high penetration rates the “impact of aggregate economic growth is substantially larger...in fact, twice as large for the high end as for the low and medium ends.” They conclude that in a country with a penetration rate of 40% (phones per 1,000), which approaches a household penetration rate in excess of 90% (assuming 2-2.5 people per household), the growth rate will be double that of a country with 20% penetration levels, all other factors held fixed. These increasing returns on investment are consistent with the presence of network externalities—and show that the goal of universal service is not only a question of equity, but a recognition of the income-enhancing properties of telecommunications.

Mobile Phones and Economic Gains

In a similar study of developing countries that focuses on mobile phones (Waverman, Meschi & Fuss, 2005), the authors find that “mobile telephony has a positive and significant impact on economic growth, and this impact may be twice as large in developing countries compared to developed countries,” which already have fully-articulated fixed line networks.

Waverman et al conclude that all else held equal, a low-income country with 10 more mobile phones per 100 people than another country would enjoy a per capita growth rate higher by .59 percentage points. The results suggest that long-run growth in the Philippines could be as much as 1% higher than in

Indonesia, were the mobile gap evident in 2003 maintained (the Philippines had 27 mobiles per 100, compared to 9 for Indonesia). This study was followed by a 2007 McKinsey study of telephone penetration in China, which came to virtually the same conclusion.

Consumer Surplus from Mobile Phones

While the two Waverman studies are valid—and their credibility is particularly enhanced since they essentially replicate findings in developed and developing countries—it’s possible they underestimate the added labor productivity that the addition of wireless phones can make to a developed economy such as that of the U.S. In a study for the CTIA on the U.S. wireless telecom industry, Ovum cites the Waverman study as being a “top down econometric” study and asserts the need to consider a “bottom up case study” approach (Entner, R. & Lewin, D., 2005).

To quantify the productivity gains in the U.S. at the firm level, Ovum looked at 8,172 job types involving 132.7 million employees as outlined in the Current Employment Statistics for 2004. Ovum then identified 4,983 job types with 75.8 million employees that would benefit from wireless telecom, although the benefits are hard to quantify.

Another metric is the “consumer surplus,” which measures the amount consumers are willing to pay for an item minus the cost they actually pay. To the extent that it can be accurately measured, the consumer surplus is a clear indication of a product’s value to consumers (which in this case also includes businesses). Here, Ovum estimates a mobile-phone consumer surplus of \$157 billion for the year 2004; previous estimates from other analysts were \$80 to \$150 billion for 2003 (Jerry Hausman), and \$80 billion for 2003 (Thomas Hazlett’s testimony to the U.S. Senate).

Ovum compares the consumer surplus of \$157 billion to the producer surplus of \$10.3 billion, which means that 94% of the total surplus goes to consumers. By contrast, the producer surplus in the U.K., where carriers charge more and achieve twice as much EBITDA as U.S. carriers, the producer surplus is 12% of the total surplus. If U.S. carriers were to charge the same price as U.K. carriers, Ovum contends, the consumer surplus would be cut in half.

**New Surveys:
Economic Impact
of Mobile Phones
in the U.S.**

At the consumer level, the relative importance of telecommunications compared to other possible household expenditures can be gleaned by long-term spending patterns by households in OECD countries. Starting from an Index of 100 in 1990, spending on communications has increased more than that for health, education, housing, transport, clothing and other key categories (OECD, 2005).

Moving beyond the macro-economic impact of ICT on aggregate GNP, this paper strives to answer two micro-economic income-related questions: how do Americans perceive the economic benefits of their cell phones; and, in particular, what benefits do poor and low-income demographic segments in the U.S., which include many recent and illegal immigrants and others with no or low credit ratings, that have relatively low phone penetration rates, attribute to their cell phones? In an age of declining phone penetration rates, the issues are important for policy makers.

Importance of mobile phones for work or business.

When ORC asked respondents to rank the uses of their cell phone in order of importance, 66% said the cell phone was “extremely” or “somewhat” important for work or business. Those who were employed, used contract phones, and had higher incomes were more likely to say yes.

Interestingly, the breakdown segments for the 37% who cited the cell phone as “extremely” important were pretty evenly split across the board—with prepaid and postpaid virtually identical at 36% and 37%, respectively—with slight skews toward the 25-44 age group, males, and African Americans.

Calls devoted to work or money.

Monthly cell phone use is much higher among those who are employed (343.3 minutes) than among those who are retired (178) or not employed (275). When those working full- or part-time were asked if they made phone calls related to work or money, 75% said yes, with a decided skew toward those with more education and higher incomes. As might be expected, respondents in households with less than \$35,000 income said fewer of their calls (20%)

were about work or money than households with incomes of \$75,000 or more (29%)—nonetheless, low income respondents clearly perceive the cell phone at least in part as a work tool. More than half of those from households making less than \$25,000 make calls about money or work, although only 16% attribute actual income to the phone.

Of all those making calls about work, 41% said more than a quarter of their calls were about money. For the 21% of those who said more than half their calls were about work or money, nearly a third (31%) use prepaid phones, compared to 19% for postpaid owners. Again, these callers were more likely to be white collar and well educated. Note, however, that postpaid subscribers typically use far more minutes (331) than prepaid owners (209), who are much more price sensitive. The survey did not distinguish between a personal cell phone and a company owned phone.

The mean percentage of *all* mobile calls about work or money was 27.2%; excluding those who said they don't use their phone for work, the mean was 35.9%.

The mobile phone as money maker.

In the ORC survey, 31% of those working either full- or part-time said their “cell phone has helped make money, get work, or get new customers,” with 43% of men answering yes, and only 16% of women. Surprisingly, (given the likelihood of less education and household income), 43% of prepaid users said yes, compared to just 28% postpaid owners. Far more blue collar (40%) than white collar professionals (27%) say their cell phone has helped them make money. Combining these two findings, intuition suggests that that self-employed blue-collar trades people are more likely to rely on their cell phone as their primary communications device—and choose a prepaid phone because it is less expensive than a contract cell phone.

More than half (62%) of those who had earned money thanks to their cell phone said they had earned more than \$500 in the previous year—and 50% had earned more than \$1,000. More than half the men in the \$500-plus category attributed earnings of more than \$1,000 to their cell phone. The overall average income gain was \$748, and would likely be much higher had

ORC asked respondents to quantify gains of more than \$1,000. (In the Tracfone survey, where respondents were asked to quantify gains up to \$10,000 and above, the average earning was \$2,361.) Although the survey did not distinguish between those who were self-employed and those who worked for employers, intuition suggests that a plurality if not a majority of those attributing concrete income gains were self-employed, or perhaps sales agents on commission.

The Tracfone survey, however, did break out the self-employed (6,018 total respondents) from the total TracFone universe (110,000 respondents). A significant 44.2% of the self-employed call the phone “extremely important” as a work tool, with 30.4% allocating more than half their calls to work, and 41% saying the phone had helped them get work or earn money. And nearly half of those (49.2%) attributed more than \$1,000 in earning to the phone (11.4% earned between \$5,000 and \$10,000; and 10% earned more than \$10,000).

Saving time and money.

Beyond income, both surveys showed clear economic benefits in terms of time and money saved. The same number of people (75%) who said they used the phone for work said the cell phone saves them time. (In the TracFone survey, 75% also said their cell phone saves them time.) Younger people, those with higher incomes, those with bigger families, and those with larger households, are more likely to mention larger time savings. The average amount of time saved per week was 2.6 hours. Those who rely primarily on their cell phone (as opposed to landline) are much more likely to save more than three hours a week.

On saving money, the question was asked only of prepaid phone owners, as the primary reason to use a prepaid phone is to lower costs. In the ORC random sampling survey, 65% of prepaid owners said the phone saves them money, compared to a landline or contract cell phone. In the TracFone survey, 80% said their prepaid phone saves them money, compared to landline or contract cell phones, with a majority (59%) saying they save more than \$25 a month, including 12% who save \$50-\$100. The average monthly savings for TracFone users was \$35 a month, or \$419 a year.

Intuition would suggest that there is little overlap between those who say they are saving money and those who say they are making money, as evidence suggests that using more minutes (and thus spending more) leads to more income gains, but the survey did not tease out that information. Either way, it's important to include time and cost savings in the calculus of overall economic benefit.

The majority (75%) of cell phone owners use the phone for work-related purposes, although it is not the most important function of the phone. The phone is most important as a security blanket in case of emergency, and secondarily as a way to stay in touch with family and relatives. The amount of calls devoted to work or money is a function of whether the cell phone is a primary phone, and a function of the type of work people do. For instance, blue collar workers appear to rely more heavily on the cell phone as a work tool than white collar professionals, which may indicate that they are self-employed. The amount of money people make (and time they save) is largely a function of the number of minutes they use per month (although education levels also play a major role), and because low-income households are more price sensitive, they use fewer minutes and earn less on average. However, because low-income households are the least likely to own cell phones, it is by adding phones in this cohort (less than \$35,000) that the largest income gains would be realized, potentially upwards of \$10 billion or more.

Conclusions

As policy makers struggle to identify ways to increase penetration levels in low-income households, this paper examines the benefits of mobiles phones for low-income households, through a review of the literature and two new surveys.

In an era of exponential growth in the wireless market, the telephone penetration rate in the U.S. is dropping, and now ranks second to last in the developed world. The reasons for this are not clear, but the most plausible explanation is that as more households take out multiple wireless phones, the volatility of monthly bills results in losing both landline and mobile phones. Declining rates of penetration are particularly acute in states with weak consumer protection laws. Although penetration declines are evident across

the income spectrum, those with lower incomes have always had much lower penetration levels, in the 75-85% range, well shy of universal service.

At the same time, more households are relying on mobile phones exclusively. In low-income segments of the population, particularly Hispanics and households with less than \$35,000 income, large numbers are turning to the prepaid phone as their only phone. Whether this is out of choice or necessity is unclear. But it seems likely that many of these households may have lost both landline and wireless phones, don't have the credit to re-subscribe, and adopt prepaid as a way to rejoin the communications grid.

The primary benefit of cell phones is as a security blanket in case of emergency. This is true across the board for all demographic segments, with almost no variation. Similarly, all demographic segments choose the mobile phone as more valuable than the landline phone for emergency use.

A major secondary benefit is economic: income gains because of reduced transaction costs, time savings, and, for prepaid users, money savings over landline and contract cell phones. Clearly, the mobile phone in a developed country will not have the radical and positive accelerator affect it does on the GDP in a developing country, where phone penetration levels are below 20%. However, as more low-income households convert to mobile phones only, and particularly prepaid mobile phones, there is evidence of economic gain at the micro (household) level. And if larger numbers of low-income households were to adopt cell phones and use them productively, aggregate income gains might easily top \$10 billion.

While income gains in our surveys were generally higher at higher income levels, in large part because the affluent can afford to use more minutes, more than half of working households making less than \$25,000 make calls about money or work, and far more blue collar workers than white collar professionals say their cell phone has helped them make money. Similarly, majorities from all income segments cited time savings, with more affluent households saving more time, again a function of minutes used. Prepaid users, who are typically less educated and from lower income households, overwhelmingly cite monthly cost savings compared to landline or contract cell phones.

The overall conclusion is that the cell phone is extremely important to Americans for personal safety, and a huge boon to an individual's economic security. By and large, it is perceived to be more practical than the landline phone by significant minorities and, in some cases, super majorities, depending on the segment interviewed. And for significant percentages of some populations, the prepaid cell phone is their only phone.


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VERIFICATION

I, Elaine Divelbliss, do hereby declare under penalty of perjury, that the foregoing testimony is true and correct to the best of my knowledge and belief.

Executed on October 2, 2010



Elaine Divelbliss
Virgin Mobile USA, L.P.