

**In the Matter Of:**

In Re: Virgin Mobile - Petition for Designation as an ETC

**HEARING, DOCKET NO. 18-2521-02**

*October 22, 2018*

*Job Number: 503523*



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1 October 22, 2018

9:05 a.m.

2 P R O C E E D I N G S

3 PRESIDING OFFICER HAMMER: Let's go on the  
4 record, please. Good morning everyone. This is the time and  
5 place noticed for hearing in the matter of Virgin Mobile USA,  
6 L.P., Petition For Limited Designation as an Eligible  
7 Telecommunications Carrier. It's Commission Docket No.  
8 18-2521-02. My name is Michael Hammer and I am the  
9 commission's designated presiding officer for this hearing.  
10 Let's go ahead and take appearances, please.

11 MS. BERTELSEN: Good morning, Your Honor. My  
12 name is Sharon Bertelsen from the law firm of Ballard Spahr.  
13 I'm representing Virgin Mobile, USA, L.P.

14 MR. JETTER: Good morning. I'm Justin Jetter  
15 with the Utah Attorney General's Office. I'm here today  
16 representing the Utah Division of Public Utilities. The  
17 division has one witness on the phone, Casey Coleman.

18 MS. MURRAY: My name is Cheryl Murray. I'm with  
19 the Office of Consumer Services. And I am without an  
20 attorney this morning, and I apologize for the delay that  
21 created.

22 PRESIDING OFFICER HAMMER: No problem at all.  
23 But you're comfortable proceeding?

24 MS. MURRAY: Oh, sure.

25 MS. BERTELSEN: Your Honor, we do have two people

1 on the telephone from Virgin Mobile.

2 PRESIDING OFFICER HAMMER: Would you --

3 MS. BROWNING: Good morning. This is Diane  
4 Browning. I am regulatory counsel for Sprint Corporation,  
5 which is the parent company of Virgin Mobile.

6 MR. APPLEBY: And I'm James Appleby. I'm senior  
7 manager regulatory policy.

8 PRESIDING OFFICER HAMMER: Thank you. With that,  
9 Ms. Bertelsen, do you plan to call a witness?

10 MS. BERTELSEN: Yes. Were you going to ask if  
11 there's any preliminary matters?

12 PRESIDING OFFICER HAMMER: Are there?

13 MS. BERTELSEN: No. We would like to call James  
14 Appleby, who has already introduced himself. He is a  
15 regulatory policy manager for Sprint and he has submitted  
16 pre-file testimony in this case. And he is available for  
17 cross-examination after direct testimony.

18 PRESIDING OFFICER HAMMER: All right. Is there  
19 any objection to Mr. Appleby testifying by telephone today?

20 MR. JETTER: No.

21 PRESIDING OFFICER HAMMER: All right.

22 Mr. Appleby, do you swear to tell the truth?

23 MR. APPLEBY: Yes.

24 PRESIDING OFFICER HAMMER: Thank you. Go ahead,  
25 Ms. Bertelsen.

1 JAMES A. APPLEBY,  
2 called as a witness, having been first duly sworn, was  
3 examined and testified as follows:

4 DIRECT EXAMINATION

5 BY MS. BERTELSEN:

6 Q. Thank you. Mr. Appleby, please state your name,  
7 business address and full title for the record.

8 A. My name is James A. Appleby. I am a senior  
9 manager of regulatory policy. And my business address is  
10 6450 Sprint Parkway, Overland Park, Kansas, 66251.

11 Q. Mr. Appleby, do you have in front of you a  
12 document dated June 7, 2018 captioned Virgin Mobile USA,  
13 L.P.'s Direct Testimony which consists of the testimony of  
14 James A. Appleby?

15 A. Yes, I do.

16 Q. Was that document prepared by you or under your  
17 immediate supervision?

18 A. I prepared it, yes.

19 Q. And do you have any additions or corrections to  
20 that direct testimony?

21 A. I do not.

22 Q. Mr. Appleby, if I were to ask you the same  
23 questions today under oath, would your answers be the same?

24 A. Yes.

25 Q. And will you please provide a summary of what

1 **Virgin Mobile is offering?**

2 A. Virgin Mobile's enhanced offer to consumers that  
3 have a smartphone, an android smartphone, will receive 750  
4 voice minutes and two gigs of mobile broadband service. The  
5 voice service also includes unlimited texts, voicemail,  
6 caller ID and national long distance calling without any  
7 charges.

8 **Q. Thank you. Have you reviewed the stipulation and**  
9 **settlement agreement?**

10 A. I have.

11 **Q. Are you aware of any opposition to that**  
12 **stipulation and settlement agreement?**

13 A. No, I'm not.

14 **Q. Thank you. I have no further direct questions at**  
15 **this time. I move for the admission into evidence of James**  
16 **Applebee's direct testimony and the stipulation and**  
17 **settlement agreement, please.**

18 MR. JETTER: No objections.

19 PRESIDING OFFICER HAMMER: It's admitted.

20 Any cross-examination, Mr. Jetter?

21 MR. JETTER: I have no questions. Thank you.

22 PRESIDING OFFICER HAMMER: Ms. Murray?

23 MS. MURRAY: No thank you.

24 PRESIDING OFFICER HAMMER: Any other witnesses,  
25 Ms. Bertelsen?

1 MS. BERTELSEN: No, Your Honor.

2 PRESIDING OFFICER HAMMER: Thank you. Mr.  
3 Jetter?

4 MR. JETTER: Thank you, Your Honor. The division  
5 would like to call and have sworn in Casey Coleman.

6 PRESIDING OFFICER HAMMER: Mr. Coleman, can you  
7 hear me?

8 MR. COLEMAN: Yes.

9 PRESIDING OFFICER HAMMER: And let me ask first,  
10 there's no objection to Mr. Coleman testifying by telephone?

11 MS. BERTELSEN: No objection.

12 MS. MURRAY: No.

13 PRESIDING OFFICER HAMMER: Mr. Coleman, do you  
14 swear to tell the truth?

15 MR. COLEMAN: Yes.

16 PRESIDING OFFICER HAMMER: Thank you.

17 CASEY J. COLEMAN,  
18 called as a witness, having been first duly sworn, was  
19 examined and testified as follows:

20 DIRECT EXAMINATION

21 BY MR. JETTER:

22 **Q. Mr. Coleman, would you please state your name and**  
23 **occupation for the record this morning?**

24 A. My name is Casey J. Coleman. I'm a utility  
25 technical consultant for the Division of Public Utilities.



1 Q. Thank you. And in the course of your employment  
2 with the division, have you had the opportunity to review the  
3 application as well as the amended application filed by the  
4 applicant, Virgin Mobile, USA, along with the settlement  
5 stipulation?

6 A. Yes.

7 Q. And is it correct that the division supports the  
8 settlement and stipulation agreement?

9 A. Yes.

10 Q. Are you aware of any opposition to this  
11 agreement from comments from the public or outside of the  
12 division?

13 A. No.

14 Q. And, finally, do you believe that approval of the  
15 stipulation and settlement agreement is just, reasonable and  
16 in the public interest?

17 A. Yes.

18 Q. Thank you. I have no further questions. Mr.  
19 Coleman is available for cross.

20 PRESIDING OFFICER HAMMER: Ms. Bertelsen?

21 MS. BERTELSEN: I have no questions for Mr.  
22 Coleman. Thank you.

23 PRESIDING OFFICER HAMMER: Ms. Murray?

24 MS. MURRAY: No. Thank you.

25 PRESIDING OFFICER HAMMER: All right. Mr.

1 Jetter, anything else?

2 MR. JETTER: Nothing further for the division.

3 Thank you.

4 PRESIDING OFFICER HAMMER: Thank you. And thank  
5 you, Mr. Coleman. Ms. Murray?

6 MS. MURRAY: My name is Cheryl Murray. My  
7 business address is 160 East 300 South, Salt Lake City, Utah.  
8 And I'm a utility analyst for the Office of Consumer  
9 Services.

10 PRESIDING OFFICER HAMMER: Let me stop you. Are  
11 you intending to testify?

12 MS. MURRAY: Oh, I am.

13 PRESIDING OFFICER HAMMER: Then let me swear you  
14 in. Ms. Murray, do you swear to tell the truth?

15 MS. MURRAY: Yes, I do.

16 PRESIDING OFFICER HAMMER: Thank you. Please  
17 proceed.

18 CHERYL MURRAY,  
19 called as a witness, having been first duly sworn, testified  
20 as follows:

21 MS. MURRAY: On behalf of the office, I've  
22 reviewed all of the documents that have been filed in this  
23 docket. In addition, I have issued a data request to the  
24 company and reviewed Virgin Mobile's responses. I've also  
25 participated in discussions that led to the stipulation that

1 is before the commission today.

2 The office believes that the -- that Virgin  
3 Mobile meets the requirements to qualify for Utah Universal  
4 Service Funds and therefore the office is a party to that  
5 stipulation. As a condition of signing the stipulation, the  
6 office required the inclusion of various elements that we  
7 assert are important to achieving public interest.

8 Some of those elements are use of a Utah specific  
9 fact sheet that provides customers information about the new  
10 services they will receive; a commitment that Virgin Mobile  
11 will comply with all state service quality and consumer  
12 protection requirements; acknowledgement that approval of the  
13 application is conditioned upon payment of all applicable  
14 state and local regulatory fees to which they are subject;  
15 and that Virgin Mobile is currently in compliance with  
16 regulatory requirements governing the payment of applicable  
17 state and local regulatory fees.

18 Virgin Mobile agreed to these and other  
19 conditions and they are included in the stipulation. The  
20 office also notes that in its original application filed  
21 earlier this year, Virgin Mobile proposed to provide one  
22 gigabyte of data as is currently required by the FCC.

23 As the schedule in this docket was amended and it  
24 became clear that approval would be closer to the FCC  
25 deadline to provide two gigabytes of data December 1st, 2018,

1 Virgin Mobile changed its offering from one gigabyte to two  
2 gigabytes to prevent having to change customers' available  
3 data so shortly after it began service if approved. The  
4 office views Virgin Mobile's decision as appropriate and  
5 considerate of the customers they will serve.

6 In conclusion, the office believes that the  
7 stipulation is just and reasonable in result and in the  
8 public's interest and recommends that the commission approve  
9 it. That concludes my testimony.

10 PRESIDING OFFICER HAMMER: Thank you. Ms.  
11 Bertelsen, any questions?

12 MS. BERTELSEN: I have no cross-examination of  
13 Ms. Murray. Thank you.

14 PRESIDING OFFICER HAMMER: Mr. Jetter?

15 MR. JETTER: No questions for me. Thank you.

16 PRESIDING OFFICER HAMMER: Thank you, Ms. Murray.  
17 Is there anything else before we adjourn?

18 MR. JETTER: Nothing from the division.

19 MS. BERTELSEN: Nothing further.

20 MS. MURRAY: Nothing.

21 PRESIDING OFFICER HAMMER: Thank you, everyone.

22 MS. BERTELSEN: Thank you.

23 MR. JETTER: Thank you.

24 PRESIDING OFFICER HAMMER: We're adjourned.

25 (The hearing was concluded at 9:15 a.m.)

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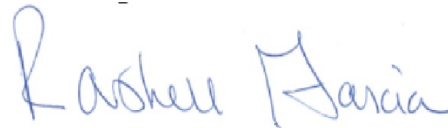
C E R T I F I C A T E

STATE OF UTAH )  
 :ss  
COUNTY OF SALT LAKE )

THIS IS TO CERTIFY that the foregoing hearing was taken before me, Rashell Garcia, Certified Shorthand Reporter and Notary Public in and for the State of Utah, residing in Salt Lake City.

That the proceedings were reported by me in Stenotype, and thereafter caused to be transcribed by computer, and that a full, true, and correct transcription of said proceedings so taken and transcribed is set forth in the foregoing pages, numbered from 2 to 12, inclusive.

I further certify that I am not of kin or otherwise associated with any of the parties to said cause of action, and that I am not interested in the event thereof.



Rashell Garcia CSR, RPR  
License No. 144

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