

**STEVENS & LEE**  
**LAWYERS & CONSULTANTS**

17 North Second Street  
16th Floor  
Harrisburg, PA 17101  
(717) 234-1090 Fax (717) 234-1099  
www.stevenslee.com

Direct Dial: (717) 255-7365  
Email: mag@stevenslee.com  
Direct Fax: (610) 988-0852

October 18, 2010

**VIA HAND DELIVERY**

Secretary Rosemary Chiavetta  
Pennsylvania Public Utility Commission  
Commonwealth Keystone Building  
P.O. Box 3265  
Harrisburg, PA 17105-3265

RECEIVED  
2010 OCT 18 PM 2:58  
PA PUC  
SECRETARY'S BUREAU

**Re: In the Matter of Virgin Mobile USA, L.P. – Petition for Limited Designation as an Eligible Telecommunications Carrier**  
**Docket No. P-2010-2155915**

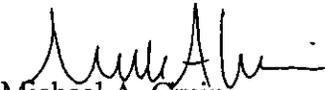
Dear Secretary Chiavetta:

Enclosed for filing please find an original plus three (3) copies of a Supplement to the Petition of Virgin Mobile USA, L.P. for Limited Designation as an Eligible Telecommunications Carrier. Upon filing please return a time-stamped copy of the Supplement to our courier.

Copies of this Supplement have been served in accordance with the attached Certificate of Service. Thank you, and if you have any questions, please do not hesitate to contact me.

Best Regards,

STEVENS & LEE

  
Michael A. Gruin

Encl.

cc: Certificate of Service  
Elizabeth Lion Januzzi, PA PUC Law Bureau

Philadelphia • Reading • Valley Forge • Lehigh Valley • Harrisburg • Lancaster • Scranton  
Williamsport • Wilkes-Barre • Princeton • Cherry Hill • New York • Wilmington

A PROFESSIONAL CORPORATION

**BEFORE THE  
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

_____ )	
In the Matter of )	
Virgin Mobile USA, L.P. )	Docket No. P-2010-2155915
Petition for Limited Designation as an )	
Eligible Telecommunications Carrier )	
_____ )	

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

**RECEIVED**  
2010 OCT 18 PM 2:58  
PA PUC  
SECRETARY'S BUREAU

Michael A. Guin  
PA ID No. 78625  
Stevens & Lee, P.C.  
17 N. 2nd St., 16th Floor  
Harrisburg, PA 17101  
717-255-7365  
mag@stevenslee.com

Elaine Divelbliss  
Virgin Mobile USA, L.P.  
10 Independence Blvd  
Warren, NJ 07059

October 18, 2010

## TABLE OF CONTENTS

<b>I.</b>	<b>INTRODUCTION</b> .....	2
	A.    Background.....	2
	B.    Virgin Mobile Lifeline Offering.....	3
<b>II.</b>	<b>VIRGIN MOBILE SATISFIES THE FEDERAL REQUIREMENTS FOR DESIGNATION AS AN ETC</b> .....	4
	A.    Virgin Mobile Satisfies the Requirements of 47 U.S.C. §214(e).....	4
	B.    Virgin Mobile Satisfies the Requirements of the FCC’s Rules and Orders Governing ETC Designations.....	5
	1.    47 C.F.R. § 54.101.....	5
	2.    47 C.F.R. § 54.201.....	9
	3.    47 C.F.R. § 54.202.....	10
	4.    47 C.F.R. § 54.203.....	17
	5.    47 C.F.R. § 54.205.....	17
	6.    47 C.F.R. § 54.207.....	17
	7.    47 C.F.R. § 54.209.....	18
	8.    47 C.F.R. § 54.410.....	18
<b>III.</b>	<b>VIRGIN MOBILE SATISFIES THE PENNSYLVANIA-SPECIFIC REQUIREMENTS FOR ETC DESIGNATION</b> .....	18
	A.    Section 3019(f) Requirements.....	18
	B.    Miscellaneous Requirements.....	20
<b>IV.</b>	<b>CONCLUSION</b> .....	20

**BEFORE THE  
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

_____	)	
In the Matter of	)	
	)	
Virgin Mobile USA, L.P.	)	Docket No. P-2010-2155915
	)	
Petition for Limited Designation as an	)	
Eligible Telecommunications Carrier	)	
_____	)	

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

In accordance with the September 10, 2010 Secretarial Letter issued in this matter, Virgin Mobile USA, L.P. (“Virgin Mobile” or the “Company”), by undersigned counsel, hereby submits this verified Supplement to its *Petition for Limited Designation as an Eligible Telecommunications Carrier*. All of the averments contained in the Company’s original Petition are incorporated and restated herein. This Supplement will address and confirm Virgin Mobile’s compliance with each of the Federal and Pennsylvania requirements for ETC designation as mandated by the Pennsylvania Public Utility Commission’s (“Commission”) *Final Policy Statement on Guidelines for Designation and Annual Recertification as an Eligible Telecommunications Carrier for Purposes of Federal Universal Support* (“ETC Policy Statement”).<sup>1</sup> As set forth more fully below, Virgin Mobile satisfies all Federal and Pennsylvania requirements for ETC designation, and therefore, Virgin Mobile respectfully requests that its Petition be approved on an expedited basis by the Commission.

<sup>1</sup> Docket No. M-2010-2164741 (Entered August 2, 2010).

## **I. INTRODUCTION**

### **A. Background**

Virgin Mobile was established as a joint venture between Sprint Nextel Corporation (“Sprint Nextel”) and the Virgin Group to offer prepaid wireless services using the Virgin Mobile brand and the nationwide Sprint wireless network. Virgin Mobile is a wholly owned subsidiary of Sprint Nextel. On January 29, 2010, Virgin Mobile filed its original Petition for Limited Designation as an Eligible Telecommunications Carrier (“Petition”), which sought ETC designation for the sole purpose of providing Lifeline services. The Petition described Virgin Mobile’s prepaid wireless plans and other service offerings, its existing ETC designations, and its prepaid Lifeline service offering. The Petition also addressed Virgin Mobile’s qualification for limited ETC status under Section 214 of the Communications Act of 1934, as amended (“Act”) and the Federal Communications Commission’s (“FCC”) regulations.

On August 2, 2010, the Commission issued its ETC Policy Statement, which clarified the minimum standards that petitions for ETC designation must meet in Pennsylvania. By Secretarial Letter dated September 10, 2010, the Commission requested that Virgin Mobile supplement its Petition to comply with the requirements of the ETC Policy Statement.

This Supplement addresses each of the Federal and Pennsylvania-specific standards required by the ETC Policy Statement for evaluation of ETC Designation Petitions, in the order set forth in the Statement. As demonstrated below, Virgin Mobile meets all of the requirements for limited ETC designation as required by the ETC Policy Statement, and as such Virgin Mobile’s Petition should be granted by the Commission.

B. Virgin Mobile Lifeline Offering

As described in its Petition, Virgin Mobile's Lifeline service offering will provide affordable and convenient wireless services to qualifying Pennsylvania customers, many of whom are otherwise unable to afford wireless services. Under the terms of the current plan, eligible customers will receive 250 anytime voice minutes per month at no charge with additional service priced at \$0.10/voice minute and \$0.10/text message.<sup>2</sup> In addition to free voice services, prepaid Lifeline customers will also have access to a variety of other standard features at no additional charge, including voice mail, caller I.D. and call waiting services. To ensure that customers receive uninterrupted access to 911 emergency and customer care services, Lifeline customers will be able access 911 emergency services regardless of whether they have any remaining minutes in their account. In addition, minutes used for calls placed to 911 emergency services and Virgin Mobile/Assurance Wireless customer care are not decremented from a customer's account. Finally, Virgin Mobile's Lifeline service plan includes all applicable taxes and fees and the Company also does not assess charges for activation or connection of the service. As a result, Lifeline customers will receive free service so long as they do not exceed 250 minutes of voice service per month with no additional charges for taxes or activation. By providing a wireless handset free of charge, moreover, Virgin Mobile can ensure that Lifeline-eligible customers in Pennsylvania will not incur any upfront costs for access to the Company's Lifeline services.

To guard against fraudulent use of Lifeline service, applicants for Lifeline service must provide a variety of information, including their name, residential address and relevant eligibility

---

<sup>2</sup> Virgin Mobile recently increased the amount of free minutes that eligible Lifeline customers receive to 250 per month—up from the 200 noted in the Company's Petition. *See* [http://newsroom.sprint.com/article\\_display.cfm?article\\_id=1649](http://newsroom.sprint.com/article_display.cfm?article_id=1649). Since filing the Petition, the Company has also lowered the rate for the purchase of individual text messages to \$0.10/message.

criteria. The enrollment form includes an applicant certification section where each applicant must attest and sign under penalty of perjury that the applicant receives Lifeline-supported service only from Virgin Mobile. The applicant must return the signed enrollment form and all supporting documentation to the address provided by the Company prior to commencement of Lifeline service. As an additional protection against fraudulent use of the Company's Lifeline services, Virgin Mobile tracks each applicant's primary residential address and cross checks this information against internal databases to confirm that a Virgin Mobile Lifeline account has not already been activated for that address or individual. If a name or address submitted by a Lifeline applicant is associated with a customer who already receives Virgin Mobile Lifeline service, or if the address provided is not a valid U.S. postal address, Virgin Mobile will review the application to ascertain whether the customer is attempting to activate multiple Virgin Mobile Lifeline accounts and, if so, deny the application.<sup>3</sup>

## **II. VIRGIN MOBILE SATISFIES THE FEDERAL REQUIREMENTS FOR DESIGNATION AS AN ETC**

### **A. Virgin Mobile Satisfies the Requirements of 47 U.S.C. §214(e)**

Section 214(e)(1) of the Act provides that applicants for ETC designation must be common carriers that will offer all of the services supported by the universal service fund ("USF"), either using their own facilities or a combination of their own facilities and the resale of another carrier's services. Applicants must also commit to advertise the availability and rates of such services.<sup>4</sup>

---

<sup>3</sup> It is important to note that Virgin Mobile does not have access to the customer lists of other ETCs and, thus, cannot cross match its customer list against another ETC's list.

<sup>4</sup> See 47 U.S.C. § 214(e)(1) and 47 C.F.R. § 54.201(d).

Virgin Mobile satisfies each of the above-listed requirements. Section 153(10) of the Act defines a common carrier as “any person engaged as a common carrier for hire, in interstate or foreign communications by wire or radio ....”<sup>5</sup> The FCC has determined on numerous occasions that providers of mobile wireless services shall be treated as common carriers for regulatory purposes. As a provider of wireless telecommunications services, therefore, Virgin Mobile is a common carrier eligible for designation as an ETC. As a wholly owned subsidiary of Sprint Nextel, Virgin Mobile will provide the supported services over an existing and owned wireless network in Pennsylvania in accordance with the Section 214(e)(1) requirements. Finally, as set forth in the original Petition, Virgin Mobile extensively advertises the availability of its services and charges using a variety of media of general distribution.

B. Virgin Mobile Satisfies the Requirements of the FCC’s Rules and Orders Governing ETC Designations

The FCC’s rules governing ETC designations evolved from its May 8, 1997 Report and Order (“*Universal Service Order*”) in CC Docket No. 96-45<sup>6</sup> and its March 17, 2005 Report and Order in the same proceeding (“*ETC Order*”).<sup>7</sup> Those rules and requirements are codified at 47 C.F.R. § 54.101, § 54.201-203, and § 54.205-209. As set forth below, Virgin Mobile’ satisfies all of the requirements of the *Universal Service Order*, the *ETC Order*, and the FCC’s regulations codifying the requirements of those Orders.

1. 47 C.F.R. § 54.101

---

<sup>5</sup> 47 U.S.C. § 153(10).

<sup>6</sup> See *Federal-State Joint Board on Universal Service*, CC Docket No. 96-45, Report and Order, 12 FCC Rcd 877 (1997).

<sup>7</sup> See *Federal-State Joint Board on Universal Service*, CC Docket No. 96-45, Report and Order, 20 FCC Rcd 6371 (2005).

Virgin Mobile currently provides all of the services and functionalities supported by the universal service program as set forth in sections 54.101(a)(1)-(9) of the FCC's regulations throughout its service territory in the Commonwealth of Pennsylvania.

a. Voice Grade Access to the Public Switched Telephone Network  
[47 C.F.R. § 54.101(a)(1)]

Virgin Mobile provides voice grade access to the public switched telephone network ("PSTN") and offers its customers services for connection to the PSTN at bandwidth rates between 300 and 3,000 MHz as required by the FCC's regulations.<sup>8</sup>

b. Local Usage [47 C.F.R. § 54.101(a)(2)]

As part of the voice grade access to the PSTN, an ETC must provide local calling services to its customers. The FCC's regulations do not require ETCs to offer a specific amount of local usage or mandate that ETCs provide a minimum number of free local calls or minutes. Instead, an applicant for ETC designation must demonstrate that it offers a local usage plan that is "comparable" to the plan offered by the incumbent local exchange carrier ("ILEC") in the relevant service territory.<sup>9</sup> In analyzing whether an ETC applicant's plan is comparable to the underlying ILEC's, the FCC reviews all aspects of the plan on a case-by-case basis, including the nature of the supported service, the size of the local calling area, the inclusion of additional services (e.g., caller I.D., etc.) and the amount of local usage.<sup>10</sup> The FCC has determined that a

---

<sup>8</sup> See 47 U.S.C. § 54.101(a)(1).

<sup>9</sup> 47 C.F.R. § 54.202(a)(4).

<sup>10</sup> See *ETC Order* at 6385 .

carrier satisfies the local usage requirements when it offers customers rate plans containing varying amounts of local usage.<sup>11</sup>

Virgin Mobile's proposed Lifeline offering fully complies with the local usage requirements established by the FCC. Not only will Virgin Mobile's offering be comparable to the underlying ILEC plans, but it also will exceed them in several respects. Contrary to the ILECs' plans, Virgin Mobile will offer customers a certain amount of service free of charge. Indeed, Virgin Mobile will provide its Lifeline customers with approximately 250 anytime voice minutes per month at no charge. Contrary to the ILEC plans, which contain relatively small local calling areas, Virgin Mobile customers can use these free minutes to place calls statewide (or even nationwide) because Virgin Mobile does not constrict customers' use by imposing a local calling area requirement. In addition to free voice services, Virgin Mobile will provide Lifeline customers with access to a variety of other features at no cost, including voice mail, caller I.D., call waiting services and enhanced 911 ("E911") capabilities. Most important, Virgin Mobile's Lifeline service will provide low-income Pennsylvania residents with the convenience and security offered by wireless services without interruption—even if their financial position deteriorates.

---

<sup>11</sup> See e.g., *Farmers Cellular, Inc.*, 18 FCC Rcd 3848, 3852 (2003); *Pine Belt Cellular, Inc. and Pine Belt PCS, Inc.*, 17 FCC Rcd 9589, 9593 (2002); *Western Wireless Corp., Petition for Designation as an Eligible Telecommunications Carrier in the State of Wyoming*, 16 FCC Rcd 48, 52 (2000).

c. DTMF Signaling or its Functional Equivalent [47 C.F.R. § 54.101(a)(3)]

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

d. Single-Party Service or its Functional Equivalent [47 C.F.R. § 54.101(a)(4)]

“Single-party service” means that only one party will be served by a subscriber loop or access line during a telephone transmission. Virgin Mobile provides the functional equivalent of single-party service to its wireless customers for the duration of each telephone call, and does not provide multi-party (or “party-line”) services.

e. Access to Emergency Services [47 C.F.R. § 54.101(a)(5)]

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

f. Access to Operator Services [47 C.F.R. § 54.101(a)(6)]

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

g. Access to Interexchange Services [47 C.F.R. § 54.101(a)(7)]

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

h. Access to Directory Assistance [47 C.F.R. § 54.101(a)(8)]

All Virgin Mobile customers are able to dial “411” to reach directory assistance services from their wireless handsets.

i. Toll Limitation [47 C.F.R. § 54.101(a)(9)]

Toll limitation allows customers to either block the completion of outgoing long distance calls or specify a certain amount of toll usage to prevent them from incurring significant long distance charges and risking disconnection. As described above, Virgin Mobile provides its wireless service on a prepaid, or pay-as-you-go, basis. Virgin Mobile’s service, moreover, is not offered on a distance-sensitive basis and minutes are not charged separately for local or domestic long distance services. Customers also must specifically authorize access for international services, for which additional charges may apply. In fact, the FCC determined in its previous grant of ETC designation that the nature of Virgin Mobile’s service mitigates concerns that low-income customers will incur significant charges for long distance calls, risking disconnection of their service.<sup>12</sup>

2. 47 C.F.R. § 54.201

A carrier is eligible under 47 C.F.R § 54.201 so long as it offers the services set forth in Section 54.101, either through its own facilities or a combination of its own facilities and the resale of another carrier’s services, and advertises the availability of the federal universal support services using media of general distribution. As set forth in the original Petition, Virgin Mobile is a wholly owned subsidiary of Sprint Nextel, and accordingly, Virgin Mobile is capable of, and currently provides, the supported services over its own existing network infrastructure in

---

<sup>12</sup> See *In re Virgin Mobile USA, L.P. Petitions for Designation as an Eligible Telecommunications Carrier in the State of New York; Virginia; North Carolina; Tennessee*, CC Docket No. 96-45, Order, 24 FCC Rcd 3381, 3392 (2009)(“VMU ETC Designation Order”).

Pennsylvania. Furthermore, Virgin Mobile will advertise the availability of its Lifeline services using media of general distribution. The Company advertises the availability of its services through newspapers, magazines, radio, the Internet, billboards and television. Virgin Mobile's third-party retail partners also heavily promote its services. These advertising campaigns have been highly effective in reaching low-income customers and promoting the availability of cost-effective wireless services to this consumer segment.

Virgin Mobile will supplement these methods of communication to specifically advertise and promote the availability of its Lifeline offerings to qualifying customers throughout the Commonwealth of Pennsylvania. Virgin Mobile intends to distribute brochures and posters at various Commonwealth and local social service agencies to inform customers of the availability of its Lifeline services. The Company also intends to promote these offerings to its existing customers—many of whom may otherwise qualify for Lifeline.

3. 47 C.F.R. § 54.202

Virgin Mobile also meets the additional requirements for ETC designation set forth in 47 C.F.R § 54.202, as discussed below.

a. 47 C.F.R § 54.202 (a)(1) – Service to All Customers on a Timely Basis Upon Reasonable Request

Virgin Mobile is committed to providing services throughout its proposed designated service area to all customers making a reasonable request for services, as required by 47 C.F.R § 54.202 (a)(1)(i). Virgin Mobile is committed to providing service on a timely basis to requesting customers within its service area where its network already passes the potential customer's premises, as required by 47 C.F.R § 54.202 (a)(1)(i)(A). Virgin Mobile will implement one or

more of the measures listed in Section 54.202(a)(1)(ii)(B) according to the terms of the FCC's order adopting the requirements for potential customers who reside within the Company's existing service territory, but who are unable to access the Company's network."

The "five-year plan" requirement set forth in 47 C.F.R. § 54.202(a)(1)(ii) is **not applicable** to Virgin Mobile's Petition for ETC designation. As set forth on page 1 of Virgin Mobile's original ETC Petition, Virgin Mobile seeks ETC designation in Pennsylvania only for purposes of participation in the USF's Lifeline program. The Company does not seek ETC designation to offer services supported by the federal high-cost program. The "five-year plan" requirement set forth in 47 C.F.R. § 54.202(a)(1)(ii) is meant to "demonstrate in detail how high-cost support will be used for service improvements that would not occur absent receipt of such support."<sup>13</sup> Because Virgin Mobile will not offer services supported by the federal high-cost program, the Company respectfully submits that the "five-year plan" requirement does not apply to the instant request.

b. 47 C.F.R. § 54.202(a)(2) – Functionality in Emergency Situations

As a wholly owned subsidiary of Sprint Nextel, Virgin Mobile is able to remain functional in emergency situations as required by section 47 C.F.R. § 54.202(a)(2). Sprint Nextel has established a variety of internal programs, policies, and teams dedicated to analyzing, assessing and responding to emergency situations. These programs, policies and teams ensure the timely and effective deployment of Sprint Nextel's products and services to allow the public and private sectors to function in emergency situations. Indeed, Sprint's network is monitored 24 hours a day, 7 days a week, 365 days a year by its network monitoring centers. Local

---

<sup>13</sup> ETC Order at 6381.

switching offices staffed by trained technicians and management coordinate with these larger operation centers, to ensure that Sprint's networks are properly maintained and network performance is at expected levels.

In addition, Sprint has reasonable amounts of back-up power to ensure functionality without an external power source, and has implemented reasonable practices to reroute traffic around damaged facilities and manage traffic spikes resulting from emergency situations. Each cell site in the Sprint network is equipped with battery back-up power. The company also is capable of rerouting traffic around damaged facilities. Many cell sites in the Sprint network provide overlapping coverage for neighboring areas, and such design redundancy ensures that coverage continues in the event of damage to a particular facility. In the event of a major failure of a cell site, neighboring sites could be adjusted to provide coverage to a wider service area. These practices significantly reduce the chance that emergencies, fiber cuts or equipment failure will result in a loss of service.

c. 47 C.F.R. § 54.202(a)(3) – Customer Service and Service Quality Standards

Virgin Mobile has demonstrated that it will satisfy applicable consumer protection and service quality standards, as required by 47 C.F.R. § 54.202(a)(3). In providing Lifeline services in the states where it is currently designated as an ETC, Virgin Mobile has demonstrated its ability to satisfy applicable consumer protection and service quality standards. Virgin Mobile's Lifeline customers will receive the same high-quality wireless services provided to all Company customers. Virgin Mobile has emphasized customer service as an essential pillar for its marketplace success since service launch. Indeed, the Company's success is testament to the principle that wireless carriers can provide lower-income customers with the same features,

functionalities and services demanded by higher-income consumers. This intense focus on customer service has been rewarded and customers have responded accordingly. As evidence of its commitment to high-quality service, Virgin Mobile has complied with the CTIA-The Wireless Association® Consumer Code for Wireless Service (“Consumer Code”) since its inception and will continue to comply with the Consumer Code once designated as an ETC. Virgin Mobile annually certifies its compliance with the Consumer Code, and the FCC has recognized the value of such compliance.<sup>14</sup> In prior years, the Company has also received numerous awards for its high-quality customer service, including the prestigious J.D. Power award for providing “An Outstanding Customer Service Experience” under J.D. Power’s Certified Call Center Program.

d. 47 C.F.R. § 54.202(a)(4) – Comparability to Incumbent LEC Service Plan

As discussed above, Virgin Mobile offers a local usage plan comparable to those offered by the incumbent LECs in the service areas for which it seeks designation, as required by 47 C.F.R. § 54.202(a)(4). Virgin Mobile’s proposed Lifeline offering fully complies with the local usage requirements established by the FCC. Not only will Virgin Mobile’s offering be comparable to the underlying ILEC plans, but it also will exceed them in several respects. Contrary to the ILECs’ plans, Virgin Mobile will offer customers a certain amount of service free of charge. As discussed above, Virgin Mobile will provide its Lifeline customers with approximately 250 anytime voice minutes per month at no charge. Contrary to the ILEC plans,

---

<sup>14</sup> See *Federal-State Joint Board on Universal Service Virginia Cellular, LLC Petition for Designation as an Eligible Telecommunications Carrier In the Commonwealth of Virginia*, Memorandum Opinion and Order, 19 FCC Rcd 1563, 1576-77, wherein the FCC endorsed the Consumer Code by considering adherence to the Consumer Code as a factor in the demonstration of a wireless carrier’s qualifications to be an eligible telecommunications carrier.

which contain relatively small local calling areas, Virgin Mobile customers can use these free minutes to place calls statewide (and even nationwide) because Virgin Mobile does not constrict customers' use by imposing a local calling area requirement. In addition to free voice services, Virgin Mobile will provide Lifeline customers with access to a variety of other features at no cost, including voice mail, caller I.D., call waiting services and "E911" capabilities. Most important, Virgin Mobile's Lifeline service will provide low-income Pennsylvania residents with the convenience and security offered by wireless services without interruption—even if their financial position deteriorates.

e. 47 C.F.R. § 54.202(a)(5) – Equal Access to LD Carriers

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

f. 47 C.F.R. § 54.202(c) – Public Interest Standard

Virgin Mobile's designation as an ETC is in the public interest, as required by 47 C.F.R. § 54.202(c). The FCC previously designated Virgin Mobile as an ETC for purposes of offering Lifeline services in the states of New York, North Carolina, Tennessee and Virginia. 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.<sup>16</sup> In light of these significant benefits, the FCC concluded that limited designation of Virgin Mobile as an ETC was in the public interest.<sup>17</sup>

One of the principal goals of the Act, as amended by the Telecommunications Act of 1996, is “to secure lower prices and higher quality services for American telecommunications consumers and encourage the rapid deployment of new telecommunications technologies” to all citizens, regardless of geographic location or income.<sup>18</sup> There is no question that designation of Virgin Mobile as an ETC in Pennsylvania will further the public interest by providing Pennsylvania consumers, especially low-income consumers, with lower prices and higher quality services, which a study found to be a vital economic resource for low-income consumers that leads to improved wage levels and personal safety.<sup>19</sup> Many lower-income customers in Pennsylvania have yet to reap the full benefits of the intensely competitive wireless market. Whether because of financial constraints, poor credit history or intermittent employment, these consumers often lack the countless choices available to most consumers. Chairman Cawley, himself, has acknowledged the limited number of wireline and wireless ETCs offering a Lifeline product within Pennsylvania.<sup>20</sup> Designating Virgin Mobile as an ETC in Pennsylvania, therefore, will enable it to expand the availability of affordable telecommunications services to qualifying Pennsylvania consumers, leading to lower prices and increased choice.

---

<sup>16</sup> VMU ETC Designation Order at ¶¶ 21, 30.

<sup>17</sup> See VMU ETC Designation Order at ¶ 29.

<sup>18</sup> Telecommunications Act of 1996, Pub. L. No. 104-104, 110 Stat. 56.

<sup>19</sup> See Sullivan, “A Review of Literature and Data from Two New Surveys,” April 2008.

<sup>20</sup> See *Petition of Verizon Pennsylvania, Inc. for Modification of Consent Order*, Final Order, Docket No. C-00881727 (June 21, 2009) (Cawley, J., concurring in part and dissenting in part).

The instant request for ETC designation must be examined in light of the Act's goals of providing low-income consumers with access to telecommunications services. The primary purpose of universal service is to ensure that consumers—especially low-income consumers—receive affordable and comparable telecommunications services. Given this context, designating Virgin Mobile as an ETC would benefit Pennsylvania consumers, especially its many low-income consumers eligible for Lifeline services. The Company's participation in the Lifeline program also undoubtedly would increase opportunities for it to serve Pennsylvania customers with appealing and affordable service offerings.

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

ETC designation in Pennsylvania would enable Virgin Mobile to offer appealing and affordable service offerings to low-income Pennsylvania customers to ensure that they are able to afford wireless services on a consistent and uninterrupted basis. Without question, prepaid wireless services have become essential for lower-income customers, providing them with value for their money, access to emergency services on wireless devices, and a reliable means of

contact for prospective employers, social service agencies or dependents.<sup>21</sup> Providing Virgin Mobile with the authority necessary to offer discounted Lifeline services to those most in danger of losing wireless service altogether undoubtedly promotes the public interest.

It should be noted that Virgin Mobile is not seeking designation below the study area level of a rural telephone company, and therefore, there is no need for the Commission to conduct a “cream-skimming” analysis under 47 C.F.R. § 54.202(c). Furthermore, Virgin Mobile at this time is not seeking ETC designation to serve any tribal lands in Pennsylvania, making 47 C.F.R. § 54.202(d) inapplicable to Virgin Mobile’s Petition. Finally, Virgin Mobile’s Petition does not seek ETC designation to offer services supported by the federal high-cost program, so 47 C.F.R. § 54.202(e) is not applicable to Virgin Mobile’s Petition.

4. 47 C.F.R. § 54.203

Because Virgin Mobile’s Petition does not involve service to an unserved area, 47 C.F.R. §54.203 is not applicable.

5. 47 C.F.R. § 54.205

If at some point in the future Virgin Mobile seeks to relinquish its ETC designation, Virgin Mobile will comply with the requirements of 47 C.F.R. §54.205

6. 47 C.F.R. § 54.207

---

<sup>21</sup> Indeed, a recent aggregate survey of Virgin Mobile customer usage patterns indicated that state and city welfare agencies are among the most frequently contacted by customers.

Virgin Mobile is not proposing to define a service area served by a rural telephone company to be other than such company's study area. As a result, 47 C.F.R. §54.207 is not applicable to the Company's pending request.

7. 47 C.F.R. § 54.209

Virgin Mobile certifies that it will comply with the annual reporting requirements contained in 47 C.F.R. §§ 54.209 to the extent applicable.

8. 47 C.F.R. § 54.410

Virgin Mobile will certify and verify consumer eligibility to participate in the Lifeline program in accordance with applicable FCC and Commission rules. See Section I-B of this Supplement for a full description of Virgin Mobile's consumer eligibility verification process.

**III. VIRGIN MOBILE SATISFIES THE PENNSYLVANIA-SPECIFIC REQUIREMENTS FOR ETC DESIGNATION**

A. Section 3019(f) Requirements

Section 3019(f) of the Pennsylvania Public Utility Code (66 Pa.C.S.A. §3019(f)) and the Commission's *Lifeline and Link-Up Order*<sup>22</sup> set forth the minimum requirements for ETCs which seek low income support from Lifeline and Link-up America Programs. Section 3019(f) includes the following requirements for ETCs:

- (1) All eligible telecommunications carriers certificated to provide local exchange telecommunications service shall provide lifeline service to all eligible telecommunications customers who subscribe to such service.

---

<sup>22</sup> *In Re: Lifeline and Link-Up Programs*, Docket No. M-00051871

(2) All eligible telecommunications customers who subscribe to lifeline service shall be permitted to subscribe to any number of other eligible telecommunications carrier telecommunications services at the tariffed rates for such services.

(3) Whenever a prospective customer seeks to subscribe to local exchange telecommunications service from an eligible telecommunications carrier, the carrier shall explicitly advise the customer of the availability of lifeline service and shall make reasonable efforts where appropriate to determine whether the customer qualifies for such service and, if so, whether the customer wishes to subscribe to the service.

(4) Eligible telecommunications carriers shall inform existing customers of the availability of lifeline service twice annually by bill insert or message. The notice shall be conspicuous and shall provide appropriate eligibility, benefits and contact information for customers who wish to learn of the lifeline service subscription requirements.

(5) ...[E]ligible telecommunications carriers shall provide the department of public welfare with lifeline service descriptions and subscription forms, contact telephone numbers, and a listing of the geographic area or areas they serve, for use by the department of public welfare in providing the notifications required by this paragraph.

(6) No eligible telecommunications carrier shall be required to provide after the effective date of this section any new lifeline service discount that is not fully subsidized by the federal universal service fund.

Virgin Mobile certifies that it will comply with each of Section 3019(f)'s requirements.

Virgin Mobile will provide its prepaid lifeline service to all eligible telecommunications customers who wish to subscribe to such service and who reside within Virgin Mobile's service area. The Company will also permit eligible customers to subscribe to any number of its other telecommunications services at the standard rates for such services. Virgin Mobile will establish protocols so that whenever a prospective customer in Pennsylvania seeks to subscribe to Virgin Mobile's service, Virgin Mobile will explicitly advise the customer of the availability of Lifeline service and shall make reasonable efforts to determine whether the customer qualifies for such service and, if so, whether the customer wishes to subscribe to the service. Furthermore, while Virgin Mobile will inform existing customers of the availability of Lifeline service twice annually by text or email message that complies with Section 3019(f)(4). Finally, Virgin Mobile

will provide the Commonwealth's Department of Public Welfare ("DPW") with its Lifeline service descriptions and subscription forms, contact telephone numbers, and a listing of the geographic area or areas it serves, for use by the DPW in providing the notifications under Section 3019(f)(5).

**B. Miscellaneous Requirements**

Virgin Mobile also commits to abide by the applicable requirements set forth in the Commission's *Lifeline and Link-Up Order* and *Tracking Report Order*.<sup>23</sup> These requirements include procedures for certification and verification of a customer's initial and continued eligibility for Lifeline services, including obligations that an ETC must attempt to certify a customer's program-based eligibility by referencing DPW's database. In addition, the ETC must verify the continued eligibility of a statistically valid sample of its customers by first cross checking DPW's database of eligible consumers. Virgin Mobile will also comply with the Commission's annual Lifeline Tracking Report requirement. The Company agrees with the Office of Consumer Advocate that adoption of these requirements will assure uniformity among Lifeline services offered by different ETCs.

**IV. CONCLUSION**

As discussed above, Virgin Mobile meets all of the requirements for limited ETC designation as required by the Commission's *ETC Policy Statement*. Designation of Virgin Mobile as an ETC in the Commonwealth of Pennsylvania accords with Section 214 of the Act, the FCC's regulations and Orders related to ETC designation, Section 3019(f) of the

---

<sup>23</sup> See In Re Section 3-15(f) Review Regarding Lifeline Tracking Report, Accident Report and Service Outage Report, 100 Pa. P.U.C. 553 (Dec. 30, 2005) ("*Tracking Report Order*").

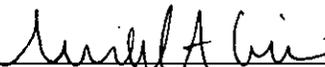
Pennsylvania Public Utility Code, and the Commission's *Lifeline and Link-Up Order*.

Designation of Virgin Mobile as an ETC is in the public interest and therefore Virgin Mobile's Petition for limited ETC designation should be granted.

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

Respectfully submitted,

VIRGIN MOBILE USA, L.P.

  
\_\_\_\_\_  
Michael A. Gruin  
PA ID No. 78625  
Stevens & Lee, P.C.  
17 N. 2nd St., 16th Floor  
Harrisburg, PA 17101  
717-255-7365  
mag@stevenslee.com

Elaine Divelbliss  
Virgin Mobile USA, L.P.  
10 Independence Blvd.  
Warren, NJ 07059  
Tel: 908-607-4017

October 18, 2010

**BEFORE THE  
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

\_\_\_\_\_  
In the Matter of )  
)

Virgin Mobile USA, L.P. )

Docket No. P-2010-2155915

Petition for Limited Designation as an )  
Eligible Telecommunications Carrier )  
\_\_\_\_\_ )

**VERIFICATION**

I, Elaine Divelbliss, Senior Counsel for Virgin Mobile USA, L.P., a Delaware Limited Partnership, verify that the information provided in the foregoing Supplement to Petition for Limited Designation as an Eligible Telecommunications Carrier is true and correct to the best of my knowledge, information, and belief and that I expect to be able to prove the same at a hearing held in this matter. I understand that false statements herein are made subject to the penalties of 18 Pa. C.S.A. § 4904, relating to unsworn falsifications to authorities.

10/15/10  
Date

  
\_\_\_\_\_

RECEIVED

2010 OCT 18 PM 2: 58

PA PUBLIC  
SECRETARY'S BUREAU

BEFORE THE  
PENNSYLVANIA PUBLIC UTILITY COMMISSION

\_\_\_\_\_)  
In the Matter of \_\_\_\_\_)  
Virgin Mobile USA, L.P. \_\_\_\_\_)  
Petition for Limited Designation as an \_\_\_\_\_)  
Eligible Telecommunications Carrier \_\_\_\_\_)  
\_\_\_\_\_)

Docket No. P-2010-2155915

CERTIFICATE OF SERVICE

I hereby certify that on this 18th day of October, 2010, copies of the foregoing Supplement to Petition have been served upon the persons listed below via First Class U.S. Mail in accordance with the requirements of 52 Pa. Code Sections 1.54 and 1.55.

Barrett C. Sheridan  
Office of Consumer Advocate  
555 Walnut Street  
Forum Place, 5th Floor  
Harrisburg, PA 17101-1921

William R. Lloyd, Jr.  
Office of Small Business Advocate  
Commerce Building, Suite 1102  
300 North Second Street  
Harrisburg, PA 17101

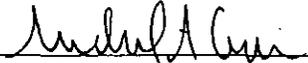
Office of Trial Staff  
Pennsylvania Public Utility Commission  
Commonwealth Keystone Building  
400 North Street  
Harrisburg, PA 17120

Hon. John P. Sabatina, Jr.  
Pennsylvania House of Representatives  
8100 Castor Ave.  
Philadelphia, PA 19152

Hon. Tony J. Payton, Jr.  
Pennsylvania House of Representatives  
308 Irvis Office Building  
PO Box 202179  
Harrisburg, PA 17120

Sheila Stickel, Executive Director  
Advocates for Universal Access  
PO Box 21914  
Seattle, WA 98111

DATE: October 18, 2010

  
\_\_\_\_\_  
Michael A. Gruin, Esq.