

COMMONWEALTH OF PENNSYLVANIA



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September 12, 2011

Rosemary Chiavetta
Secretary
Pennsylvania Public Utility Commission
Commonwealth Keystone Building
400 North Street
Harrisburg, PA 17120

RE: In the Matter of TAG Mobile, LLC
Docket No. P-2011-2241542

Dear Secretary Chiavetta:

Enclosed for filing are the Comments of the Office of Consumer Advocate, in the above-referenced proceeding.

Copies have been served as indicated on the Certificate of Service.

Respectfully Submitted,

A handwritten signature in cursive script that reads "Barrett Sheridan".

Barrett C. Sheridan
Assistant Consumer Advocate
PA Attorney I.D. # 61138

Enclosure

cc: Certificate of Service
Elizabeth A. Lion Januzzi, Law Bureau

148967

BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION

In the Matter of TAG Mobile, LLC : Docket No. P-2011-2241542

COMMENTS OF THE
OFFICE OF CONSUMER ADVOCATE

On May 13, 2011, TAG Mobile, LLC (TAG) filed a Petition with the Pennsylvania Public Utility Commission (PUC or Commission) requesting limited designation as an Eligible Telecommunications Carrier (ETC) in TAG's service area in Pennsylvania pursuant to Section 214(e) of the Communications Act.¹ TAG filed a Supplement to its Petition on August 17, 2011. According to TAG, its service area overlaps with the service territories of all or most Pennsylvania incumbent local exchange companies (ILECs). Supplement at 2-3. TAG proposes to offer prepaid wireless service in Pennsylvania, relying on a combination of owned or leased facilities and resale of another wireless carrier's services. *Id.* at 1, 5, 8-11. TAG requests designation as an ETC to offer Lifeline and Link-Up service with federal universal service fund (USF) support. The Commission published notice of TAG's Petition in the Pennsylvania Bulletin on 20, 2011, opening TAG's Petition for comment.² The OCA supports TAG's request for ETC designation, subject to the clarifications and conditions set forth below.

¹ 47 U.S.C. § 214(e).

² 41 Pa.B. 4603 (2011).

The OCA generally supports designation of additional common carriers, whether wireline or wireless, to offer low income Pennsylvania consumers more choices for affordable telecommunications service with Lifeline and Link-Up support from the federal USF. Such universal service support should benefit eligible consumers by allowing them to obtain and keep local calling service, and provide access to E911, long distance and other services. The OCA recognizes that consumers who are eligible for Lifeline may have a preference between wireline and wireless, postpaid or prepaid, annual contract, stand-alone voice service, or voice service purchased with other features. Alternatively, a deposit requirement or poor wireless coverage may, as a practical matter, reduce a consumer's options for Lifeline service even if several ETCs are designated to offer Lifeline. Designation of additional Pennsylvania ETCs to offer Lifeline and Link-Up may promote the ability of low income consumers to obtain and continue to receive affordable telephone service.

Since the federal Universal Service Fund, including Lifeline and Link-Up support, is funded by other consumers in Pennsylvania and other states, the OCA agrees with the Commission that petitions for ETC designation should be subject to a thorough review.³ As the FCC recently noted, Lifeline and Link-Up universal service was designed to provide carriers with reimbursement for revenues foregone by providing discounted service, not "to provide a profit for service providers."⁴ Accordingly, designation as an ETC to offer Lifeline and Link-Up must be in the public interest.⁵

³ See, Final Policy Statement on Commonwealth of Pennsylvania's Guidelines for Designation as an Eligible Telecommunications Carrier (ETC) for Purposes of Federal Universal Service Support, Docket No. M-2010-2164741, Order (Aug. 2, 2010), 40 Pa.B. 5662 (Oct. 2, 2010)(ETC Guidelines Order). The Commission's ETC Guidelines are codified at 52 Pa. Code § 69.2501 (ETC Guidelines).

⁴ In the Matter of Lifeline and Link-Up Reform and Modernization, WC Docket No. 11-42, Notice of Proposed Rulemaking ¶ 14, 2011 FCC Lexis 987 (rel. Mar. 4, 2011)(Lifeline and Link-Up Reform NPRM).

⁵ ETC Guidelines Order; see also 47 C.F.R. § 54.202(c).

Through the ETC Guidelines, the Commission has identified the baseline information, incorporating federal and Pennsylvania criteria, which carriers requesting designation as an ETC should provide to facilitate the Commission's review of such petitions. As part of its grant of Lifeline ETC designation to Virgin Mobile USA, L.P., the Commission imposed conditions to protect consumers and the integrity of the federal USF.⁶

The OCA submits that the Commission's ETC Guidelines provide a sound starting point for review of TAG's Petition for limited ETC designation to offer wireless service with Lifeline and Link-Up support. As the Commission recognized in the Virgin Mobile Order, other conditions may also be appropriate to protect consumers, the federal universal service fund and assure that grant of designation is in the public interest. The OCA has reviewed TAG's Petition and Supplement against both the Commission's ETC Guidelines and conditions which apply to other, similarly situated wireless ETCs. Based on TAG's Petition and Supplement, the OCA submits that TAG meets some of the minimum federal standards and reflects a commitment to follow Pennsylvania's specific criteria regarding eligibility, certification and verification – subject to some needed clarification, as discussed below. Further, TAG has committed to some of the conditions that the Commission imposed in the Virgin Mobile Order, including cooperating with the Bureau of Consumer Services to resolve Lifeline and Link-Up related consumer complaints and, providing the Commission with copies of certain reports filed by TAG with the Universal Service Administrative Company. Petition at 26, 28; see Virgin Mobile Order at 30.

⁶ Re: Petition of Virgin Mobile USA, L.P. for Limited Designation as an Eligible Telecommunications Carrier for the Purpose of Offering Lifeline Service, Docket No. P-2010-2155915, Order (Dec. 22, 2010)(Virgin Mobile Order), amended in part, Opinion and Order (Feb. 14, 2011)(Virgin Mobile Partial Rescission Order).

The OCA comments will be limited to review of additional information necessary and certain issues that still require clarification by TAG before approval may be granted:

- 1) TAG should commit to not deduct airtime when a Lifeline customer contacts TAG or receives wireless communications from TAG. Such costs are related to TAG's provision of universal service and should be borne by TAG.
- 2) TAG's proposed customer connection charge with Link-Up support require review, in light of proposed federal regulatory reforms.
- 3) TAG should confirm its plans to deploy "internal resources rather than [rely] on a contracted, outside services provider" for Lifeline certification, verification and annual recertification. Petition at 28. TAG should inform the Commission of any changes. The OCA has recommended that ETCs deal directly with their Lifeline and Link-Up customers with regard to certification of initial eligibility, verification and annual recertification.
- 4) The Commission should accept TAG's commitment to work with the Bureau of Consumer Services to resolve TAG customer complaints related to Lifeline and Link-Up. See Petition at 26, 28. However, TAG's Terms and Conditions should be revised in two ways to be consistent. The Commission's jurisdiction over such complaints should take precedence over TAG's binding arbitration requirement for resolution of disputes. Also, Pennsylvania law, not Texas law should control. See Petition Exh. B, pp. 18-19.
- 5) There are additional conditions which apply to other ETCs for the protection of consumers and the federal USF which the Commission should impose on TAG.

Subject to TAG's clarification of certain issues, and acceptance of all conditions, the OCA submits that designation of TAG as an ETC eligible to offer telecommunications service with Lifeline and Link-Up support would be in the public interest.

I. COMMENTS

A. Introduction

The OCA supports designation of additional Pennsylvania telecommunications carriers as ETCs to allow low income consumers more choice of telephone service made affordable with Lifeline and Link-Up support from the federal Universal Service Fund. At present, consumers in Pennsylvania have a choice of wireline service with Lifeline support from Pennsylvania incumbent local exchange carriers (ILECs), Lifeline 135 from a few competitive local exchange carriers (CLECs),⁷ or possibly wireless from Sprint Nextel,⁸ NEP Cellcorp,⁹ TracFone,¹⁰ and Virgin Mobile.¹¹ Both TracFone and Virgin Mobile offer voice service on a prepaid basis with Lifeline support, without any customer connection charge.

Through the ETC Guidelines, the Commission has given clear notice that ETCs should be prepared to comply with Pennsylvania law and Commission orders which govern Pennsylvania's Lifeline and Link-Up program.¹² Section 3019(f) of the Public Utility Code requires Pennsylvania ETCs to give notice of the availability of Lifeline and Link-Up to customers and assist the Department of Public Welfare (DPW) in giving notice to new public

⁷ From 1999 to 2005, the Commission required all local exchange carriers, even if not designated as an ETC, to offer Lifeline and Link-Up service. See Re NextLink Pennsylvania, Inc., 93 Pa.P.U.C. 172 (1999)(Global Order)[subsequent appellate history omitted]; see In re: Lifeline and Link-Up Programs, Docket No. M-00051871, Final Opinion and Order (Pa. PUC May 23, 2005)(In re: Lifeline and Link-Up). Since 2005, several large CLECs stopped offering Lifeline and Link-Up.

⁸ See NPCR, Inc. d/b/a Nextel Partners, 19 FCC Rcd 16530 (2004).

⁹ See e.g. In the Matter of the Federal-State Joint Board: NEP Cellcorp., CC Docket No. 96-45, Order (rel. April 29, 2010).

¹⁰ In the Matter of the Federal-State Joint Board: TracFone Wireless, Inc., CC Docket No. 96-45, 23 FCC Rcd 2606, (rel. Apr. 11, 2008).

¹¹ Virgin Mobile Order.

¹² ETC Guidelines, 52 Pa. Code § 69.2501(b).

assistance recipients.¹³ The Commission has established Lifeline and Link-Up eligibility criteria, as well as procedures for certification and verification of a consumer's initial and continuing eligibility.¹⁴ ETCs are required to report to the Commission annual changes in Pennsylvania Lifeline and Link-Up enrollment.¹⁵ As the Commission identified in the Virgin Mobile Order, additional conditions may apply to assure that designation is in the public interest.¹⁶

B. More Information and Conditions Should Apply, Before TAG Can Meet The Federal Criteria for ETC Designation

Through the ETC Guidelines, the Commission has committed to review petitions for ETC designation pursuant to specific federal law, FCC Orders, and federal regulations including the FCC's regulations governing ETC designations set forth at 47 C.F.R. §§ 54.101, 54.201-203, and 54.205-54.209.¹⁷ TAG's Petition addresses the FCC's ETC designation requirements. For example, TAG describes the facilities, including a leased switch, which TAG proposes to combine with resale of other wireless carriers' facilities, as support for designation as an ETC under Section 214(e)(6) of the Communications Act. Petition at 5, 8-11. TAG describes how it offers each of the services and functionalities which ETCs are required to offer and support, pursuant to Section 54.101(a)(1)-(9), including voice grade access to the public switched network, local usage, access to 911 and E911, and toll limitation service. Id. at 9-15. Additionally, TAG addresses how it will provide service to customers upon reasonable request, remain functional in emergency situations, and provide quality of service and protect consumer

¹³ 66 Pa.C.S. § 3019(f).

¹⁴ In Re: Lifeline and Link-Up.

¹⁵ Re Section 3015(f) Review Regarding Lifeline Tracking Report, Accident Report and Service Outage Report, 100 Pa.P.U.C. 553 (Dec. 30, 2005)(Tracking Report Order).

¹⁶ Virgin Mobile Order at 2, 30-33.

¹⁷ ETC Guidelines, 52 Pa. Code § 69.2501(a).

privacy. Id. 8-16. TAG also commits to advertise the availability of Lifeline and Link-Up and to report some information required by the FCC annually. Id. at 14-17.

1. TAG Should Modify Its Proposed Lifeline Service Plans So Lifeline Customers Are Not Charged For Communications To Or From TAG

As filed, the OCA submits that there are many positive aspects of TAG's proposed Lifeline service offerings. TAG proposes to offer Lifeline customers a choice of prepaid wireless service plans, with different amounts of minutes. Supplement, Exh. C. A TAG Lifeline customer may choose between 150 minutes, with unused minutes allowed to roll over, or 250 minutes, with no roll over of unused minutes. A Lifeline customer may text "at the rate of 3 texts, whether sent or received, per Plan minute." Id. "Plan minutes are not decremented for 211 calling," the service which provides Pennsylvania consumers with access to community and social services information. Petition, Exh. B, p. 2.

However, TAG's Terms and Conditions state that it provides "611 access to Customer Service where available." Petition, Exh. B, p. 2. "Depending on state specific rules, 611 access and Customer Service calls may decrement Plan minutes." Id. The OCA submits that Pennsylvania Lifeline customers who opt for wireless service should not be charged airtime for any and all wireless communications to and from the wireless ETC. The OCA submits that some communications between TAG and Lifeline consumers, such as needed to verify a customer's continued eligibility, would be an unavoidable part of TAG's fulfillment of its obligations as an ETC. These costs should be presumed to be part of the administrative costs associated with designation as an ETC and the provisioning of Lifeline service. The OCA submits that charges for calls to TAG's operator service through 611 or Customer Care or any wireless communications from TAG to the Lifeline customer should not diminish the consumer's

store of available minutes, whether paid for by the federal USF or the consumer. The fundamental premise of universal service is to promote the ability of more consumers to contact one another – not to pay to contact customer service. From TAG’s Terms and Conditions, it appears that TAG can arrange to allow Lifeline customers to make or receive these communications without decrease in airtime. Id. TAG should modify its Lifeline Plans to provide Pennsylvania Lifeline consumers with this benefit.

In the Virgin Mobile Order, the Commission noted that the FCC has adopted a case-by-case approach to evaluating whether an ETC petitioner’s Lifeline service meets the comparable local usage requirement.¹⁸ The Commission approved Virgin Mobile’s proposed “plan for prepaid 250 anytime voice minutes per month at no charge with additional service priced at \$0.10/voice minutes and \$0.10 text messages.”¹⁹ The PUC granted Virgin Mobile designation as an ETC to offer Lifeline based in part on Virgin Mobile’s “express statement that calls to Virgin Mobile’s customer service did not count against plan minutes, and communication from Virgin Mobile to customers does not count against plan usage.”²⁰ The Commission determined that Virgin Mobile’s proposal “complies with the local usage requirements established by the FCC.”²¹ Subject to TAG’s modification of its Lifeline Plans and system to assure that Lifeline customers are not charged for calls to and from TAG, the OCA submits that TAG’s Lifeline Plans may meet the comparable local usage requirement and public interest standard.

¹⁸ Virgin Mobile Order at 14.

¹⁹ Id. at 11, 14-15.

²⁰ Virgin Mobile Order at 4.

²¹ Id., at 15

2. TAG's Request For Link-Up Support Requires Clarification

TAG has proposed to use Link-Up support to reduce its “activation charge by \$30.00, the remainder of which is waived for qualifying low income customers resulting in no out of pocket expense for the Lifeline customer.”²² Petition at 8. TAG states that a customer is eligible for TAG's Link-Up benefit a second or subsequent time only if the customer's address has changed.²³ Id. TAG's Terms and Conditions describe service plans, including activation charges and possible promotional waivers, open to non-Lifeline and non-Link-Up customers. Id., Exh. B. p. 3. TAG's Terms and Conditions describe its “Link-Up Plan” as including “a free mobile Device and free Device activation.” Id., Exh. B, p. 4. TAG's Terms and Conditions imply that if a customer has not received Lifeline for the prior 12 months, the customer may qualify for a new Link-Up credit. Id.

The OCA has two specific concerns regarding TAG's Link-Up Plan and several general concerns. First, Link-Up support is not available to cover the costs of wireless handsets, which the Federal Communications Commission has determined are more appropriately treated as customer premise equipment.²⁴ Second, the mere lapse of time does not qualify a consumer for a second or more Link-Up benefit at the same address.²⁵ TAG should clarify that it is not seeking Link-Up support from the federal USF to reimburse TAG for the costs of handsets

²² Link-Up support may reduce “the carrier's customary charge for commencing telecommunications service for a single telecommunications connection at a customer's principal place of residence. The reduction shall be half of the customary charge or \$30.00, whichever is less.” 47 C.F.R. § 54.411(a)(1).

²³ Section 54.411(c) provides that consumers may receive Link-Up support “for a second or subsequent time only for a principal place of residence with an address different from the residence address at which the Link-Up assistance was previously provided.” 47 C.F.R. § 54.411(c).

²⁴ See, *Federal-State Joint Board on Universal Service*, CC Docket No. 96-45, Twenty-Fifth Report and Order, 18 FCC Rcd 10958 (2003), ¶ 18; see also, *Federal-State Joint Board on Universal Service*, CC Docket No. 96-45, Twelfth Report and Order, 15 FCC Rcd 12208 (2000), ¶ 61.

²⁵ See 47 C.F.R. § 54.411.

provided at no cost to the eligible low income consumer. TAG should also modify its Terms and Conditions to eliminate the suggestion that duplicate Link-Up support is available, so long as the customer has not received Low Income Program support in the prior 12 months.

The OCA notes that the Commission has not, at this time, ruled on a request by a prepaid wireless carrier to be eligible to reduce its service connection fee with Link-Up support. Virgin Mobile, for example, does not impose such a charge. In theory, if provided with sufficient information, consumers should be able to determine whether Lifeline service with an initial connection charge or activation fee offers advantages compared to Lifeline service offered without connection fees. However, TAG's proposal to effectively set the activation fee at zero for Link-Up customers may change how the Link-Up and Lifeline customer shops. The OCA notes that the FCC is examining the Link-Up support mechanism as part of its effort to modernize and reform the Low Income support program. As part of the pending proposed rulemaking, the FCC is considering refinement of the concept of "customary charges," specifically whether to reduce the amount of Link-Up support in light of the role of automation in establishing service connections, and other steps to avoid waste and abuse.²⁶ While TAG may qualify for designation as an ETC to offer Link-Up assistance, the OCA notes that the availability and value of Link-Up may change as the result of FCC reform and revision of federal regulations.

C. TAG's Approach to Certification, Verification and Outreach Requires Clarification

Certification is the process of determining whether a consumer meets the criteria to qualify for Lifeline and Link-Up support. Verification is the process of determining whether a

²⁶ Lifeline and Link-Up Reform NPRM, ¶¶ 71-79. The FCC has proposed to redefine "'customary charge for commencing telecommunications service' as the ordinary initiation charge that an ETC routinely imposes on all customers within a state." See also, Public Notice: Further Inquiry Into Four Issues in the Universal Service Lifeline/Link Up Reform and Modernization Proceeding, WC Docket No. 11-042, et al (rel. Aug. 5, 2011).

customer currently receiving Lifeline support is still eligible. Outreach and advertising involves informing potentially eligible consumers about the availability of Lifeline and Link-Up universal service support. In its Petition, TAG states its intent “at this time to meet the Lifeline certification, verification, and annual recertification through deployment of internal resources rather than reliance on a contracted, outside services provider.” Petition at 27-28. TAG commits to comply with the federal requirements and so make Lifeline and Link-Up available to eligible consumers and obtain a signed certificate as proof of the customer’s eligibility. *Id.* at 16-17. TAG also acknowledges and commits to comply with Pennsylvania’s more specific certification and verification procedures, including use of the Department of Public Welfare data base to confirm customer eligibility, rather than rely on self-certification. *Id.* at 26-28. TAG has addressed and committed to follow Pennsylvania specific requirements, as directed by the Commission’s ETC Guidelines. TAG also commits to comply with federal and state requirements regarding outreach. *Id.* at 16, 25-26.

The OCA submits that if TAG’s plans to meet the Lifeline certification, verification, and annual recertification obligations of an ETC change, then TAG should inform the Commission. The OCA also recommends that TAG provide more information regarding how it will engage in outreach. The OCA has recommended that ETCs have direct contact with Lifeline and Link-Up applicants for the purpose of determining eligibility and subsequent verification of continued eligibility. In the Virgin Mobile Order, the Commission did approve Virgin Mobile’s plan to use a third party administrator, Solix, Inc., based on consideration of Solix’ specific procedures.²⁷ However, the Commission cautioned that:

The use of a third party administrator in no way relieves Virgin Mobile of the duty to prevent fraud and abuse, and any failure of

²⁷ Virgin Mobile Order at 6.

Solix, Inc., to comply with the eligibility verification requirements imposed by this order, will be imputed to Virgin Mobile and will be grounds for revocation of the ETC designation.²⁸

The Commission left open the possibility of imposing additional requirements such as a duty to deal directly with the customer, to address any indications of fraud or abuse of the Lifeline program.²⁹ The OCA submits that more information from TAG about its plans may help assure that the integrity of Pennsylvania's Lifeline and Link-Up program is preserved.

D. The Commission's Authority To Assist Lifeline and Link-Up Customers In the Resolution Of Complaints Should Take Priority Over TAG's Binding Arbitration Requirement

In its ETC Petition, TAG "agrees to work with the BCS [Bureau of Consumer Services] to resolve informal complaints, and to submit to Commission jurisdiction on formal complaints filed with BCS by the TAG Mobile Lifeline customers, on Lifeline related issues other than matters related to rates and entry." Petition at 28. Additionally, TAG agreed "to provide notice to consumers of their right to contact BCS and the Commission's contact information, if complaints brought to TAG Mobile's customer service division are not resolved." Id. The OCA submits that TAG's commitment is an important protection for Pennsylvania consumers. The OCA recommends that the Commission accept TAG's commitment, subject to two clarifications. First, TAG's Terms and Conditions include the requirement that consumers submit to binding arbitration to resolve disputes with TAG. Petition, Exh. B, pp. 17-19. Second, TAG's Terms and Conditions state "[s]ubject to federal law or unless the Agreement specifically provides otherwise, this Agreement is governed solely by the laws of the state of Texas, without regard to the conflicts of law rules." Id. at 19. The OCA submits that the process for providing Pennsylvania Lifeline consumers served by TAG with access to the Bureau of Consumer

²⁸ Id.

²⁹ Id.

Services to resolve certain disputes must take priority over any conflicting provisions of TAG's Terms and Conditions. Similarly, Pennsylvania Lifeline and Link-Up consumers should have the protections of Pennsylvania law related to TAG's provision of universal service as an ETC designated by the Commission. As a condition of grant of ETC designation, the OCA recommends that TAG should modify its Terms and Conditions to reflect these Pennsylvania specific protections.

E. Grant Of ETC Designation Should Be Conditioned On TAG's Compliance With Certain Additional Conditions To Protect Consumers And The Federal Universal Service Fund

In the Virgin Mobile Order, the Commission noted that “[p]repaid wireless carriers offering Lifeline present unique compliance and monitoring concerns.”³⁰ The Commission accepted certain commitments by Virgin Mobile to protect consumers and the federal USF and imposed others. TAG has committed to some such as providing the Commission with additional reports and cooperating with BCS for complaint resolution. However, the OCA submits that there are other conditions which should also apply to TAG, and other similar prospective ETCs, as described below.

1. Changes In Lifeline Service

TAG should be required required to petition the Commission prior to making any future change to TAG's Lifeline service offering(s) that would represent a limitation or reduction of the Lifeline services/equipment provided free of charge. The Commission has already imposed this condition on Virgin Mobile to protect against diminishment in the value of Lifeline service provided in exchange for Lifeline support from the federal universal service fund.³¹ The

³⁰ Virgin Mobile Order at 30.

³¹ Virgin Mobile Order at 32, Ordering ¶ 3.

OCA recommends that the Commission clarify that a diminishment in value may occur if the amount of Lifeline support increases, without a corresponding increase in the amount of wireless Lifeline service (for example more minutes of calling) purchased with federal Lifeline support. The OCA notes that there are proposals before the Federal Communications Commission that recommend increasing the maximum subscriber line charges (SLCs) charged by incumbent local exchange carriers (ILEC). The amount of Lifeline support available to competitive ETCs is tied in part to the level of the ILEC's SLC.³² So an increase in the SLC may provide a competitive ETC with more Lifeline support. The receipt of additional Lifeline support without a change in the amount of Lifeline service provided free of charge may qualify as a diminishment in value. The OCA recommends that the Commission impose on TAG the same condition as the Commission imposed on Virgin Mobile plus this clarification.

2. Change In Corporate Control

The Commission imposed on Virgin Mobile the obligation “to petition this Commission for a renewal of its ETC designation status” in the event of a change of corporate control.³³ The Commission explained that such a petition will allow it to “timely re-examine any such changes and ascertain whether a particular telecommunications entity should continue to be availed of its previously granted ETC status designation or whether such status and/or applicable conditions should be altered.”³⁴ The OCA submits that grant to TAG of designation as an ETC should include the same condition.

³² See 47 C.F.R. § 54.403(a).

³³ Virgin Mobile Order at 31.

³⁴ Id.

3. Copies of Advertising and Outreach Materials

The OCA submits that TAG's commitment to provide the Commission with advertising and outreach materials should be clarified. In the Virgin Mobile Order, the Commission agreed with OCA that "a requirement that Virgin Mobile annually provide the Commission with copies of all advertisements and consumer notices for review... is warranted."³⁵ The Commission directed that "[a]s a condition of its grant of designation, Virgin Mobile agrees to annually provide the Commission's Bureau of Consumer Services copies of all advertising, promotional and general lifeline program-related notices and communications." Id. at 26. In its Petition, TAG commits to provide the Commission's BCS with copies of Lifeline information and subscription forms, as provided to DPW offices. Petition at 25. The Commission should require TAG to provide annually the same advertising and consumer notices to the Commission's BCS for review, consistent with the Virgin Mobile Order.

4. Lifeline Verification

The OCA submits that TAG should be required to annually verify that its Lifeline customers are the head of household and only receive Lifeline service from TAG. TracFone and Virgin Mobile are subject to this condition.³⁶ The OCA submits that prepaid wireless ETCs such as TAG should be subject to this additional verification requirement, subject to future change based on the FCC's Lifeline and Link-Up modernization and reform rulemaking and related Commission action.

5. Deactivating Lifeline Service

³⁵ Virgin Mobile Order at 5.

³⁶ See, e.g. In the Matter of the Federal-State Joint Board: TracFone Wireless, Inc., CC Docket No. 96-45, 23 FCC Rcd 2606, (rel. Apr. 11, 2008); Virgin Mobile Order at 5.

Even if a carrier imposes an obligation that Lifeline customers notify the ETC that the consumer is no longer eligible for Lifeline or that the consumer is ending Lifeline from the ETC, there may be occasions when the Lifeline customer's wireless handset goes unused. The OCA notes that Virgin Mobile and other wireless ETCs have implemented deactivation policies, to prevent Lifeline support going to wireless handsets which may no longer be in use. In its Supplement, TAG added the commitment to implement a non-usage policy as an addition to its Terms and Conditions. Supplement at 4. The OCA submits that TAG should clarify at what point during its monitoring of a customer's inactive Lifeline service will TAG cease requesting Lifeline reimbursement from the federal USF. The OCA submits that the Commission should accept TAG's commitment as support for a grant of ETC designation, subject to TAG's clarification of this point.

II. CONCLUSION

The Office of Consumer Advocate supports designation of TAG Mobile, LLC as an Eligible Telecommunications Carrier for the purpose of offering Lifeline and Link-Up service with federal universal service support, but such designation must be subject to TAG's refinement of its Lifeline service plan, clarification of information presented in TAG's Petition, and acceptance of the conditions identified in these Comments.

Respectfully Submitted,



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DATED: September 12, 2011
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CERTIFICATE OF SERVICE

In the Matter of TAG Mobile, LLC : Docket No. P-2011-2241542

I hereby certify that I have this day served a true copy of the foregoing document, Comments of the Office of Consumer Advocate, upon parties of record in this proceeding in accordance with the requirements of 52 Pa. Code Section 1.54 (relating to service by a participant), in the manner and upon the persons listed below:

Dated this 12th day of September 2011.

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