

Agenda Date: October 16, 2014  
Item Number: A17

**Docket:** UT-100203  
Company Name: Virgin Mobile USA, L.P.

Staff: Jing Roth, Senior Regulatory Analyst  
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Roger Hahn, Regulatory Analyst  
William Weinman, Assistant Director – Telecommunications

### **Recommendation**

Issue an order granting Virgin Mobile USA, L.P. an exemption from WAC 480-123-030(1)(d) with regard to the filing of an investment plan and renew the company's designation as an Eligible Telecommunications Carrier for the purpose of receiving Lifeline support from the federal Universal Service Fund in Washington subject to the conditions in Attachment 1 to this memo. Generally, this renewal eliminates the one-year interim period condition imposed in Order No. 1 and updates other conditions to include changes made by the Federal Communications Commission.

### **I. Background**

On February 1, 2010, Virgin Mobile USA, L. P. (Virgin Mobile or company) petitioned the Washington Utilities and Transportation Commission (UTC or commission) for designation as an Eligible Telecommunications Carrier (ETC) for the purpose of receiving Low Income Support from the federal Universal Service Fund pursuant to Section 214(e)(2) of the Communications Act of 1934, as amended (the Act), and WAC 480-123-030. The company also petitioned for an exemption from provisions of WAC 480-123-030(1)(d), filing of investment plan. On November 10, 2010, the commission issued the Order to grant the exemption and designate Virgin Mobile as an ETC subject to the conditions.<sup>1</sup> Condition 1 of the Commission Order requires the company to seek to renew its ETC designation before the end of one year after the designation.

On November 14, 2011, Virgin Mobile filed a petition with the commission to renew designation as an ETC in compliance with the commission order.

Virgin Mobile is a wholly owned subsidiary of Sprint Corporation. It utilizes Sprint's wireless communications infrastructure. It started its Washington Lifeline operation in December, 2010. The company markets its Lifeline plans under the brand name "Assurance Wireless." It is currently the largest Lifeline service provider in Washington with about 84,000 Lifeline customers in Washington as of February 28, 2014. The company asserted in its ETC renewal petition that it has complied with all conditions in the commission's ETC designation order.

### **II. Discussion**

The commission has jurisdiction over ETC petitions. Section 214 (e) of the Act authorizes state

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<sup>1</sup> UT-100203, Order 01.

regulatory commissions to designate a qualified common carrier as an ETC for the purpose of receiving federal Universal Service Fund.<sup>2</sup> By rule, WAC 480-123-040, the commission has the authority to approve petitions from carriers requesting ETC designation. The commission's authority to grant or deny petitions for ETC designation includes the authority to impose conditions.<sup>3</sup>

Staff believes that Virgin Mobile qualifies for ETC designation pursuant to 47 U.S.C. § 214(e)(2). It offers the services that are supported by federal universal service support mechanisms. It advertises the availability of such services and the charges using media of general distribution.

The commission imposed conditions on Virgin Mobile's interim ETC designation to ensure that the designation is consistent with the public interest. Staff believes that Virgin Mobile has complied with all conditions in the 2010 ETC designation order. Staff identified two potential problem areas and has discussed with the company to improve its compliance practices.

- Condition 9 states that "Virgin Mobile shall respond within 30 days to Commission Staff's information requests on Virgin Mobile's Lifeline operations, including but not limited to Lifeline customers' usage patterns and Lifeline customer records."

Virgin Mobile did not consistently provide a response to staff questions within 30 days. Staff discussed the issue with the company in April 2014. The company agrees to improve its internal communication flow. It has designated a staff from its Lifeline administrative contractor to ensure timely responses to commission staff inquiries. Communication has improved since then.

- Condition 12 requires the company to provide its annual customer records to the Department of Social and Health Services (DSHS) for verification and that "Virgin Mobile must take appropriate measures to either correct the customer records or stop providing services to ineligible customers and report the resolutions to the agencies within 60 days of the notice."

DSHS provided a customer verification report to Virgin Mobile in May, 2013. The report identified customers who could not be verified, who appeared not eligible for Lifeline benefits or who were receiving Lifeline benefit from a landline company. Due to the implementation of the federal National Lifeline Accountability Database in late 2013 and early 2014, Virgin Mobile did not take corrective action on customer eligibility issues identified by DSHS in 2013. The company conferred with staff and provided a report to the commission regarding the resolution of ineligible customers on June 19, 2014. Staff considers the resolution satisfactory. Staff understands the special circumstance that led to the company's delayed response. The company commits that it will provide timely resolution report in the future.

With the exceptions above, Virgin Mobile has complied with all relevant federal and state rules and regulations on Lifeline. It has procedures in place to verify customers' eligibility to curb

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<sup>2</sup> 47 U.S.C. § 214(e)(2). See also 47 C.F.R. § 54.201(c).

<sup>3</sup> UT-093012, Order 03 (June 24, 2010), ¶ 78.

waste, fraud and abuse of the federal Lifeline fund. The company has been audited by the federal Lifeline administrator several times but has never received a Notice of Apparent Liability from the Federal Communications Commission.

### **III. Conclusion**

Virgin Mobile has complied with all federal and state statutes and rules on ETC designation as well as the conditions that the commission imposed in the 2010 ETC designation order. Staff believes the renewal of its ETC designation is consistent with public interest. The company will continue to use federal Lifeline support to offer affordable wireless services to low-income households.

Staff recommends the commission issue an order to continue to grant Virgin Mobile USA, L.P. the exemption from WAC 480-123-030(1)(d) with regard to the filing of an investment plan and renew the company's designation as an Eligible Telecommunications Carrier for the purpose of receiving Lifeline support from the federal Universal Service Fund in Washington subject to the conditions in Attachment 1 to this memo.

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