**BEFORE THE WASHINGTON**

**UTILITIES AND TRANSPORTATION COMMISSION**

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| In the Matter of the Petition of  VIRGIN MOBILE USA, L.P.  Petitioner,  RCC Minnesota, Inc.  For an Exemption from WAC 480-123-030(1)(d) and Designation as an Eligible Telecommunications Carrier  . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . | ) ) ) ) ) ) ) ) )  )  ) | DOCKET UT-100203UT-023033  ORDER 02  ORDER RENEWING ELIGIBLE TELECOMMUNICATIONS CARRIER DESIGNATION AND EXEMPTION FROM RULE WITH AMENDED CONDITIONS |

BACKGROUND

1. On November 14, 2011, Virgin Mobile USA, L.P. (Virgin Mobile or Company) filed a petition with the Washington Utilities and Transportation Commission (Commission) to renew its designation as an Eligible Telecommunications Carrier (ETC) pursuant to Section 214(e)(2) of the Communications Act of 1934 and WAC 480-123 (Petition).
2. The Commission originally designated Virgin Mobile as an ETC on November 10, 2010, in Order 01 in this docket for the purpose of receiving Low Income Support[[1]](#footnote-1) from the federal Universal Service Fund. The Commission also granted the Company an exemption from WAC 480-123-030(1)(d), which requires the Company to file a substantive investment plan. The Commission imposed 21 conditions on Virgin Mobile’s ETC designation to ensure it was consistent with the public interest, including a requirement that the Company seek renewal of its ETC status within one year. Those conditions are set forth in Appendix B to Order 01.
3. In support of its Petition, Virgin Mobile states that it satisfied the requirements of WAC 480-123-030 in its original petition and that, except for the provision for which a waiver was granted, its operations remain unchanged. The Company further states that it has complied with all 21 conditions the Commission imposed in Appendix B to Order 01, and provides a summary explanation of its compliance for each individual condition.
4. Virgin Mobile states that its service continues to advance the purposes of universal service outlined in 47 U.S.C. § 254. Virgin Mobile states that its designation as an ETC remains in the public interest because ETC service benefits low-income households in Washington.[[2]](#footnote-2)
5. Commission Staff (Staff) agrees that Virgin Mobile complied with the terms and conditions of Order 01, and also complied with the new rules implemented by the Federal Communications Commission’s (FCC) 2012 Lifeline and Link Up Reform Order,[[3]](#footnote-3) which strengthens eligibility verification and the one Lifeline per household policy; enforces deactivation after 60 consecutive days of non-usage; requires certification of all Lifeline customers on an annual basis; and provides results of annual recertification to the FCC and relevant state commissions.
6. Staff supports granting Virgin Mobile’s Petition with new conditions that better reflect federal rule changes, and removing previous conditions that are no longer applicable. Staff believes that federal monitoring and enforcement in today’s lifeline market obviates the need for a one-year interim condition. The Company agrees to these revised conditions, which are attached to this Order as Appendix A.

DISCUSSION

1. Common carriers receiving designation as ETCs under 47 U.S.C. § 214 are eligible to receive subsidies from the federal Universal Service Fund. State utility commissions are responsible for designating common carriers as ETCs for the purpose of receiving such funds, and may impose conditions on a common carrier so designated. The Commission will approve applications from carriers requesting ETC designation if the application meets the requirements of WAC 480-123-030, the designation will advance some or all of the purposes of universal service found in 47 U.S.C. § 254, and the designation is in the public interest.[[4]](#footnote-4)
2. The Commission agrees with Staff that the Company has demonstrated that it continues to meet the criteria for designation as an ETC set forth in Order 01, including offering all services supported by the federal universal service support mechanisms set forth in 47 U.S.C. § 254. Virgin Mobile should also continue to be exempt from WAC 480-123-030(1)(d) because Virgin Mobile is not a high cost fund recipient. Virgin Mobile has also demonstrated compliance with the 21 conditions set forth in Appendix B to Order 01.
3. The Commission also agrees with Staff that the amended conditions set forth in Appendix A to this Order are appropriate given the FCC’s recent order requiring a forbearance compliance plan and adoption of more stringent requirements for the federal Lifeline program. The Commission agrees with Staff that the Company may continue to be designated as an ETC and is entitled to a continued exemption from WAC 480-123-030(1)(d) subject to the amended conditions set forth in Appendix A to this Order.

FINDINGS AND CONCLUSIONS

1. (1) The Commission has jurisdiction over eligible telecommunications carriers in Washington and the subject matter of this Order pursuant to 47 U.S. C. § 214(e)(2), 47 C.F.R. §§ 54.201(b)-(c) and WAC 480-123-040.
2. (2) Virgin Mobile is a telecommunications company doing business in the state of Washington as an Eligible Telecommunications Carrier. Virgin Mobile has demonstrated that it continues to meet the requirements for designation as an ETC, subject to the conditions set out in Appendix A to this Order.
3. (3) Virgin Mobile’s continued designation as an ETC will advance the purpose of universal service because the Company will offer voice telephony services, which facilitate universal service.
4. (4) Virgin Mobile has also demonstrated that its designation as an ETC is in the public interest because its services will benefit low-income customers.
5. (5) This matter came before the Commission at its regularly scheduled open meeting on October 16, 2014.

### ORDER

**THE COMMISSION ORDERS:**

1. (1) Virgin Mobile USA, L.P.’s request for continued designation as an ETC in service areas specified in Appendix B is hereby GRANTED, subject to the conditions set forth in Appendix A.

1. (2) Virgin Mobile USA, L.P.’s request for continued exemption from WAC 480-123-030(1)(d) is hereby GRANTED, subject to the conditions set forth in Appendix A.
2. (3) The Commission retains jurisdiction over the subject matter and the parties to this proceeding.

DATED at Olympia, Washington, and effective October 16, 2014February 26, 2009.

WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION

DAVID W. DANNER, Chairman

JEFFREY D. GOLTZ, Commissioner

**Appendix A**

**Washington State Conditions on Designation of Virgin Mobile USA, L.P.**

**as an Eligible Telecommunications Carrier**

1. Virgin Mobile USA, L.P. (Virgin Mobile or Company) shall utilize federal default eligibility criteria only, i.e., stop utilizing Washington Telephone Assistance Program’s eligibility criteria that are not on the federal list, no later than November 1, 2014. All existing customers who enrolled in the Company’s Lifeline plan prior to November 1, 2014, based on criteria other than programs on the federal default list must be grandfathered.
2. Virgin Mobile shall file with the Commission any future changes to its rates, terms, conditions, or Lifeline customer application form at least one day prior to the effective date of the change.
3. The information on Virgin Mobile’s rates, key terms and conditions, e.g., return policy, usage definition, refill methods, annual recertification requirement, and customer service contact, shall be provided in a package sent or given to Lifeline customers after enrollment in Virgin Mobile’s Lifeline program, as well as at Virgin Mobile’s official Lifeline website.
4. For the rate plans free of charge to customers, Virgin Mobile must offer at least one plan with a minimum of 250 minutes per month. The Company may invoke Condition No. 2 only for the purpose of increasing the number of minutes or enhancing the features in the Lifeline plan, but not decreasing the number of minutes.
5. Virgin Mobile shall deactivate a Lifeline account if the customer has no usage for 60 consecutive days pursuant to 47 C.F.R. § 54.407(c)(2). No fewer than eight business days before deactivation, Virgin Mobile shall send the customer a written notice by mail about the potential deactivation and ways to avoid unwanted deactivation. The customer shall have a 30 day grace period from the deactivation date to reactivate the Lifeline account by incurring “usage” as defined in 47 C.F.R. § 54.407(c)(2).  When a customer reactivates the account, Virgin Mobile must deposit the minutes the customer is entitled to for the grace period.
6. On a quarterly basis, Virgin Mobile shall provide the number of Lifeline customers that it enrolls each month. Virgin Mobile shall also report the number of deactivated Lifeline customers each month by service plan and the by reasons for deactivation, e.g., no usage for 60 consecutive days, annual verification unsuccessful, or voluntary exit. Quarterly reports shall be filed with the Commission no later than 30 days after the end of each quarter.
7. 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.
8. Virgin Mobile shall cooperate with the Commission and the Department of Social and Health Services (DSHS) to work out a procedure to verify Virgin Mobile Lifeline customers’ eligibility. Virgin Mobile shall maintain access to DSHS’s online query database to verify the eligibility of Lifeline applicants who qualify based on their participation in Medicaid, Supplemental Nutrition Assistance Program, Supplemental Security Income and Temporary Assistance for Needy Families. This condition shall be required until the national Lifeline eligibility database is fully functional.
9. Virgin Mobile must not deduct airtime minutes for calls to customer care made from the customer’s handset by dialing 611. Virgin Mobile shall explicitly state the policy of free 611 calls in its Lifeline service agreements. Virgin Mobile may require the customer to call the toll-free customer care number from another phone if necessary to resolve technical issues related to the handset or its programming.
10. Virgin Mobile shall have DSHS audit its Washington Lifeline customers’ eligibility (including program eligibility and duplication with other Lifeline providers) at least once a year. By January 31 of each year, Virgin Mobile shall provide DSHS with the complete record of its Washington Lifeline customers who qualify based on their participation in Medicaid, Supplemental Nutrition Assistance Program, Supplemental Security Income, and Temporary Assistance for Needy Families in the prior calendar year. The records must have all the necessary information and be in an electronic format required by DSHS. After DSHS notifies Virgin Mobile of the results of the review, 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 Commission and DSHS within 60 days of the DSHS notice. This condition shall be required until the national Lifeline eligibility database is fully functional.
11. Virgin Mobile shall provide the Commission a copy of its annual Lifeline Re-certification results within 30 days of the date it files those results with the Universal Service Administration Company (USAC) each year.
12. Virgin Mobile shall file with the Commission, by March 31 of each year, a report on the number of complaints, categorized by the different nature of complaints that it received from Washington Lifeline customers during the prior calendar year, e.g., billing disputes and service quality complaints. This report shall include complaints filed with Virgin Mobile, the Commission’s Consumer Protection and Communications Section, the Washington State Office of the Attorney General, and the Federal Communications Commission (FCC). This report shall not include calls from customers with regard to general inquiries such as account balance, additional purchases, service availability, or technical support. The Commission reserves the rights to revoke Virgin Mobile’s ETC designation if Virgin Mobile fails to provide reasonable quality of service.
13. Virgin Mobile shall cooperate with the Washington State Enhanced 911 Program (E911) and all Public Safety Answering Points on E911 issues and shall, upon request, designate a representative to serve as a member or alternate member of the Washington State E911 Advisory Committee or its Communications Sub-committee.
14. Virgin Mobile shall comply with rules on cessation of business as specified in WAC 480-120-083.
15. Prior to cessation of business, Virgin Mobile shall make arrangements with its underlying carriers to provide minutes already sold to customers under the same terms and conditions it has with the customers, or provide refunds to the existing customers.

1. Virgin Mobile shall provide written notice to the following persons at least 30 days in advance of cessation of service:

* 1. The Commission;
  2. The state 911 program;
  3. Each of its customers;
  4. The national number administrator.

1. The notice to the Commission and the state 911 program must include the same information required by WAC 480-120-083(3).
2. The notice to customers must include the same information required by WAC 480-120-083(4).
3. The notice to the national number administrator must include the same information required by WAC 480-120-083(7).
4. Virgin Mobile shall file with the Commission at least 30 days in advance of its cessation of business and request the relinquishment of its ETC designation in Washington.
5. Virgin Mobile shall collect and maintain necessary records and documentation to ensure its compliance with the applicable FCC and Commission requirements, including existing requirements and any future modifications. The records and documentation shall be provided to Commission Staff upon request.
6. Virgin Mobile shall cooperate with Commission Staff on phone number conservation issues and shall comply with 47 C.F.R. § 52.
7. Virgin Mobile shall comply with all applicable federal and Washington state statutes and regulations, including E911 tax contributions.
8. Virgin Mobile shall file with the Commission of the results of any audits (including in-depth data validations) or investigations on the Company’s Lifeline operation in any states or jurisdictions conducted by the FCC or USAC within 14 calendar days from the receipt of results. The Company must also notify the Commission of any ongoing investigation that has resulted in monetary or administrative penalty (e.g., suspension of Universal Service Fund reimbursement, suspension of Lifeline program operation) within 14 calendar days of the occurrence of such events. To the extent the Company deems the above information confidential, the Company may submit the notification on a confidential basis consistent with Commission rules.

**Appendix B**

**Virgin Mobile USA, L. P.**

**Areas for Eligible Telecommunications Carrier Designation**

| **INCUMBENT LOCAL EXCHANGE CARRIER** | **EXCHANGE** |
| --- | --- |
| ASOTIN TELEPHONE CO. | |
|  | ANATONE |
|  | ASOTIN |
| CENTURYTEL OF COWICHE, INC. | |
|  | COWICHE |
|  | RIMROCK |
|  | TIETON |
| CENTURYTEL OF INTER-ISLAND, INC. | |
|  | BLAKELY ISLAND |
|  | EAST SOUND |
|  | FRIDAY HARBOR |
|  | LOPEZ |
| CENTURYTEL OF WASHINGTON, INC. | |
|  | AMES LAKE |
|  | ARLETTA |
|  | ASHFORD |
|  | BASIN CITY |
|  | CARNATION |
|  | CATHLAMET |
|  | CHENEY |
|  | CHINOOK |
|  | CONNELL |
|  | COULEE CITY |
|  | CURTIS |
|  | EDWALL-TYLER |
|  | ELTOPIA |
|  | EUREKA |
|  | FALL CITY |
|  | FORKS |
|  | GIG HARBOR |
|  | HARRINGTON |
|  | HUMPTULIPS |
|  | KAHLOTUS |
|  | KETTLE FALLS |
|  | KINGSTON |
|  | LAKEBAY |
|  | LIND |
|  | MATHEWS CORNER |
|  | MCCLEARY |
|  | MEDICAL LAKE |
|  | MESA |
|  | MONTESANO |
|  | MORTON |
|  | NORTH BEND |
|  | OCEAN PARK |
|  | OCOSTA |
|  | ODESSA |
|  | ORTING |
|  | OTHELLO |
|  | PACKWOOD |
|  | PUGET ISLAND |
|  | RANDLE |
|  | REARDAN |
|  | RITZVILLE-BENGE |
|  | SOUTH PRAIRIE |
|  | SPANGLE |
|  | SPRAGUE |
|  | TWISP |
|  | VADER |
|  | VASHON |
|  | WASHTUCNA |
|  | WILSON CREEK |
| ELLENSBURG TELEPHONE CO. | |
|  | ELLENSBURG |
| FRONTIER COMMUNICATIONS NORTHWEST INC. | |
|  | ACME-DEMING-WHATCOMCTY |
|  | ALGER |
|  | ANACORTES |
|  | ARLINGTON |
|  | BENTON CITY |
|  | BIG LAKE |
|  | BLAINE-BIRCH BAY-GTLD |
|  | BOTHELL |
|  | BURLINGTON |
|  | CAMAS-WASHOUGAL |
|  | CASHMERE |
|  | CHELAN |
|  | CONCRETE |
|  | CONWAY |
|  | CUSTER-GTLD |
|  | DEMING-WHATCOMCTY |
|  | EDISON |
|  | ENTIAT |
|  | EVERETT |
|  | EVERSON-GTLD |
|  | FAIRFIELD |
|  | FERNDALE-GTLD |
|  | GARFIELD |
|  | GEORGE |
|  | GRANITE FALLS |
|  | GRAYLAND |
|  | HALLS LAKE |
|  | KENNEWICK |
|  | KIRKLAND |
|  | LA CONNER |
|  | LATAH |
|  | LAUREL-WHATCOMCTY |
|  | LEAVENWORTH |
|  | LYMAN-HAMILTON |
|  | LYNDEN |
|  | MANSFIELD |
|  | MAPLE FALLS |
|  | MARBLEMOUNT |
|  | MARYSVILLE |
|  | MONROE |
|  | MOUNT VERNON |
|  | NACHES |
|  | NEWPORT |
|  | NILE |
|  | OAK HARBOR |
|  | PALOUSE |
|  | PULLMAN |
|  | QUINCY |
|  | RICHLAND |
|  | RICHMOND BEACH |
|  | ROCKFORD |
|  | ROSALIA |
|  | SEDRO WOOLLEY |
|  | SEDRO WOOLLEY-CONTEL |
|  | SILVER LAKE |
|  | SKYKOMISH |
|  | SNOHOMISH |
|  | SOAP LAKE |
|  | STANWOOD |
|  | STEVENS PASS |
|  | SULTAN |
|  | SUMAS-GTLD |
|  | TEKOA |
|  | WATERVILLE |
|  | WENATCHEE |
|  | WESTPORT |
| HOOD CANAL TELEPHONE CO. | |
|  | UNION |
| INLAND TELEPHONE CO. | |
|  | DEWATO |
|  | PRESCOTT |
|  | ROSLYN |
|  | UNION TOWN |
| KALAMA TELEPHONE CO. | |
|  | KALAMA |
| LEWIS RIVER TELEPHONE CO., INC. | |
|  | LA CENTER |
| MASHELL TELECOM, INC. | |
|  | EATONVILLE |
| MCDANIEL TELEPHONE CO. | |
|  | MOSSYROCK |
|  | ONALASKA |
|  | SALKUM |
| PIONEER TELEPHONE CO. | |
|  | ENDICOTT |
| QWEST CORPORATION | |
|  | ABERDEEN-HOQUIAM |
|  | AUBURN |
|  | BAINBRIDGE ISLAND |
|  | BATTLE GROUND |
|  | BELFAIR |
|  | BELLEVUE |
|  | BELLINGHAM-GTLD |
|  | BLACK DIAMOND |
|  | BREMERTON |
|  | BUCKLEY |
|  | CASTLE ROCK |
|  | CENTRALIA |
|  | CHEHALIS |
|  | CLE ELUM |
|  | COLFAX |
|  | COLVILLE |
|  | COPALIS |
|  | DEER PARK |
|  | DES MOINES |
|  | EASTON |
|  | ELK |
|  | ENUMCLAW |
|  | EPHRATA |
|  | GRAHAM |
|  | GREEN BLUFF |
|  | HOODSPORT |
|  | ISSAQUAH |
|  | KENT |
|  | LIBERTY LAKE |
|  | LONGVIEW-KELSO |
|  | LOON LAKE |
|  | MAPLE VALLEY |
|  | MOSES LAKE |
|  | NEWMAN LAKE |
|  | OLYMPIA |
|  | OTHELLO |
|  | PATEROS |
|  | PORT ANGELES |
|  | PORT LUDLOW |
|  | PORT ORCHARD |
|  | PORT TOWNSEND |
|  | PUYALLUP |
|  | RENTON |
|  | RIDGEFIELD |
|  | ROCHESTER |
|  | ROY |
|  | SEATTLE |
|  | SEQUIM |
|  | SHELTON |
|  | SILVERDALE |
|  | SPOKANE |
|  | SPRINGDALE |
|  | SUMNER |
|  | TACOMA |
|  | TACOMA WAVERLY |
|  | VANCOUVER |
|  | WAITSBURG |
|  | WARDEN |
|  | WINLOCK |
|  | YAKIMA |
| ST. JOHN TELEPHONE CO. | |
|  | ST JOHN |
| TENINO TELEPHONE CO. | |
|  | TENINO |
| TOLEDO TELEPHONE CO., INC. | |
|  | TOLEDO |
| UNITED TELEPHONE - NORTHWEST | |
|  | CHIMACUM-CENTER |
|  | COLUMBIA |
|  | DALLESPORT |
|  | GOLDENDALE |
|  | GRANDVIEW |
|  | GRANGER |
|  | HARRAH |
|  | HOOD CANAL |
|  | LYLE |
|  | MABTON-BICKLETON |
|  | MATTAWA |
|  | PATERSON |
|  | PORT ANGELES-GARDINER |
|  | POULSBO |
|  | PROSSER |
|  | ROOSEVELT |
|  | STEVENSON |
|  | TOPPENISH-ZILLAH |
|  | TROUT LAKE |
|  | WAPATO |
|  | WHITE SALMON |
|  | WHITE SWAN |
|  | WHITSTRAN |
|  | WILLARD |
| WESTERN WAHKIAKUM COUNTY TELEPHONE CO. | |
|  | GRAYS RIVER |
|  | NASELLE |
| WHIDBEY TELEPHONE CO. | |
|  | POINT ROBERTS |
|  | SOUTH WHIDBEY |
| YCOM NETWORKS, INC. | |
|  | YELM |

1. Virgin Mobile was designated as an ETC for the purpose of receiving both Lifeline and Link Up support in the federal Low Income Support program, which provides subsidy to monthly telephone service expense and the initial charges for commencing telephone service, respectively. In its 2012 Lifeline Reform Order, the Federal Communications Commission (FCC) eliminated Link Up support on non-Tribal lands for all ETCs. As a result, Virgin Mobile no longer receives Link Up support. [↑](#footnote-ref-1)
2. Virgin Mobile Petition to Renew ¶29. [↑](#footnote-ref-2)
3. *In the* Matter *of Lifeline and Link Up Reform and Modernization, Lifeline and Link Up, Federal-State Joint Board on Universal Service, Advancing Broadband Availability Through Digital Literacy Training*, WC Docket No. 11-42, WC Docket No. 03-109, CC Docket No. 96-45, WC Docket No. 12-23, Report and Order and Further Notice of Proposed Rulemaking, FCC 12-11 (rel. Feb 6, 2012) (“*Lifeline and Link Up Reform Order*”). [↑](#footnote-ref-3)
4. WAC 480-123-040. [↑](#footnote-ref-4)