

**BEFORE THE WASHINGTON  
UTILITIES AND TRANSPORTATION COMMISSION**

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

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<sup>1</sup> 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.

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.<sup>2</sup>

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,<sup>3</sup> 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

7 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

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<sup>2</sup> Virgin Mobile Petition to Renew ¶29.

<sup>3</sup> *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*").

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.<sup>4</sup>

8 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.

9 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**

10 (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.

11 (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.

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<sup>4</sup> WAC 480-123-040.

- 12 (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.
- 13 (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.
- 14 (5) This matter came before the Commission at its regularly scheduled open meeting on October 16, 2014.

**ORDER**

**THE COMMISSION ORDERS:**

- 15 (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.
- 16 (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.
- 17 (3) The Commission retains jurisdiction over the subject matter and the parties to this proceeding.

DATED at Olympia, Washington, and effective October 16, 2014.

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.
- a. 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.
  - b. Virgin Mobile shall provide written notice to the following persons at least 30 days in advance of cessation of service:
    - (i) The Commission;
    - (ii) The state 911 program;
    - (iii) Each of its customers;
    - (iv) The national number administrator.
  - c. The notice to the Commission and the state 911 program must include the same information required by WAC 480-120-083(3).
  - d. The notice to customers must include the same information required by WAC 480-120-083(4).
  - e. The notice to the national number administrator must include the same information required by WAC 480-120-083(7).
  - f. 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.
- 15 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.
- 16 Virgin Mobile shall cooperate with Commission Staff on phone number conservation issues and shall comply with 47 C.F.R. § 52.

- 17 Virgin Mobile shall comply with all applicable federal and Washington state statutes and regulations, including E911 tax contributions.
- 18 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**

<b><u>INCUMBENT LOCAL EXCHANGE CARRIER</u></b>	<b><u>EXCHANGE</u></b>
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

<b><u>INCUMBENT LOCAL EXCHANGE CARRIER</u></b>	<b><u>EXCHANGE</u></b>
	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

<b><u>INCUMBENT LOCAL EXCHANGE CARRIER</u></b>	<b><u>EXCHANGE</u></b>
	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

<u>INCUMBENT LOCAL EXCHANGE CARRIER</u>	<u>EXCHANGE</u>
	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

<u>INCUMBENT LOCAL EXCHANGE CARRIER</u>	<u>EXCHANGE</u>
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

<b><u>INCUMBENT LOCAL EXCHANGE CARRIER</u></b>	<b><u>EXCHANGE</u></b>
	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	

<u>INCUMBENT LOCAL EXCHANGE CARRIER</u>	<u>EXCHANGE</u>
	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