

**Ruth Nettles**

090245-TP

**From:** Beahn, John M [John.Beahn@skadden.com]  
**Sent:** Thursday, January 21, 2010 5:39 PM  
**To:** Filings@psc.state.fl.us  
**Subject:** Docket No. 090245-TP - Virgin Mobile USA, L.P.  
**Attachments:** Responses.pdf

On behalf of Virgin Mobile USA, L.P., enclosed please find responses to staff's third set of requests for additional information regarding the company's pending Petition for Limited Designation as an Eligible Telecommunications Carrier in the State of Florida (5 pages).

Should you have any questions regarding the attached, please contact the undersigned.

Respectfully submitted,

/s/ John M. Beahn  
Counsel to Virgin Mobile USA, L.P.

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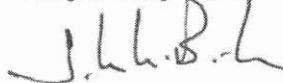
Re: Docket No. 090245-TP

Dear Sir or Madam:

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Respectfully submitted,



John M. Beahn

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

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66. In a telephone conversation between staff and Virgin Mobile, it was stated that there have been updates made by Virgin Mobile that it wanted to notify staff of. Please provide a list of the updates, so we can include it in the record, such as the change in amount of minutes offered to Lifeline customers each month and the approval of the compliance plan by the FCC.

Response:

A. Compliance Plan. On October 29, 2009, the FCC approved Virgin Mobile's compliance plan, which describes the measures the company will undertake to implement each of the conditions imposed by the FCC in its grant of forbearance and ETC designation for the states of New York, North Carolina, Tennessee and Virginia.<sup>1</sup>

As noted in prior submissions in this docket, Virgin Mobile previously operated as a mobile virtual network operator that did not own any network facilities. Accordingly, the company petitioned the FCC to forbear from enforcement of the section 214(e)(1)(A) facilities-based requirement for ETC designation. The FCC approved the company's forbearance request in a March 5, 2009 Order, conditioning its grant on Virgin Mobile's compliance with certain requirements aimed at enhancing Lifeline customers' access to public safety services and preventing misuse of the company's Lifeline offering. Included among these conditions was a requirement that the company: i) obtain a certification from each Public Safety Answering Point ("PSAP") whose territory overlaps with Virgin Mobile's Lifeline service area, confirming that the company provides its customers with 911 and E911 service, or ii) self-certify that Virgin Mobile meets the 911 and E911 requirements if, within 90 days of a request for certification, a PSAP has neither provided the certification nor affirmatively determined that Virgin Mobile does not provide its customers with access to 911 and E911.<sup>2</sup>

Virgin Mobile welcomed the FCC's desire to ensure that Lifeline customers of wireless resellers have meaningful access to emergency services. As the FCC has noted, the provision of 911 and E911 services is critical to the ability of emergency services personnel to promptly respond to a host of crises.<sup>3</sup> For these reasons, Virgin Mobile voluntarily committed to complying with the requirement

<sup>1</sup> See *Federal-State Joint Board on Universal Service; In the Matter of Virgin Mobile USA, L.P. Petition for Forbearance from 47 U.S.C. § 214(e)(1)(A); Petitions for Designation as an Eligible Telecommunications Carrier in the States of New York, North Carolina, Pennsylvania, Tennessee and Virginia*, Order, DA 09-2344 (rel. Oct. 29, 2009).

<sup>2</sup> See *Federal-State Joint Board on Universal Service; In the Matter of Virgin Mobile USA, L.P. Petition for Forbearance from 47 U.S.C. § 214(e)(1)(A); Petitions for Designation as an Eligible Telecommunications Carrier in the States of New York, North Carolina, Pennsylvania, Tennessee and Virginia*, Order, FCC 09-18 at ¶ 3 (rel. March 5, 2009) ("Forbearance Order").

<sup>3</sup> See *Petition of TracFone Wireless, Inc. for Forbearance from 47 U.S.C. § 214(e)(1)(A) and 47 C.F.R. § 54.201(i)*, Order, 20 FCC Rcd 15095, 15099 (2005).

that it obtain the required certification from each PSAP for the initial four states in which it received ETC authority from the FCC, and the company has complied with these conditions upon commencement of Lifeline services in these states.

As a consequence of the acquisition by Sprint Nextel Corp., Virgin Mobile respectfully submits that this condition is inapplicable to the company's request for ETC designation in the State of Florida. Virgin Mobile is unaware of any prior ETC designation involving a facilities-based wireless provider in which the FCC or the Florida PSC imposed a similar condition. Indeed, the FCC itself noted in its *Forbearance Order* that the condition applied only to wireless resellers—not facilities-based providers.<sup>4</sup> Applicability of this condition to a facilities-based wireless provider would hinder and delay the broader deployment of Lifeline services—without any attendant benefits for consumers. By adding unnecessary and burdensome costs and delays, the condition would serve only to harm customers by increasing the costs and delays associated with the deployment of wireless Lifeline services during a period of broad economic distress. Indeed, compliance with this condition in the states where Virgin Mobile has launched Lifeline service has imposed significant costs on the company, forcing it to redirect financial resources that otherwise would have been used to develop and market its Lifeline services. Accordingly, Virgin Mobile respectfully submits that application of the FCC's prior condition regarding PSAP certification would harm the public interest and should not be imposed on the PSC's approval of the instant request.

B. Lifeline Plan. Under the current Lifeline plan, eligible customers will receive 200 anytime prepaid minutes per month at no charge with additional service priced at \$0.20/minute and \$0.10/text message.<sup>5</sup>

67. Has Virgin Mobile reapplied for ETC status in Pennsylvania or Massachusetts?

Response: No. Virgin Mobile has not reapplied for ETC designation in Pennsylvania or Massachusetts, but the company intends to do so in the very near future.

68. What is the status of the ETC applications in California, Michigan and Texas?

Response: At its December 1, 2009 meeting, the Michigan Public Service Commission approved Virgin Mobile's request for limited ETC designation.<sup>6</sup> In its Order, the

<sup>4</sup> See *Forbearance Order* at ¶¶ 22, 27.

<sup>5</sup> Virgin Mobile expects that the company's Lifeline plan may change as the wireless market evolves. As such, the company requests that the PSC's grant of ETC designation provide it with the requisite authority to modify the parameters of the offering as marketplace conditions develop.

<sup>6</sup> See *In the Matter of the Application of Virgin Mobile USA, L.P. for Designation as an Eligible Telecommunications Carrier Pursuant to Section 214(e) of the Telecommunications Act of 1996*, Case No. U-15966, Opinion and Order (Dec. 1, 2009).

Michigan PSC determined that designation of Virgin Mobile as an ETC for purposes of participation in the Lifeline program "promotes the availability of universal service and is in the public interest." Virgin Mobile is continuing to work with the public utility commissions in Texas and California to finalize their review of the company's ETC applications.

69. Could Virgin Mobile provide an estimate of the amount of time that it will take Virgin Mobile to launch Lifeline in Florida if designated as an ETC?

Response: Virgin Mobile intends to launch Lifeline services in Florida shortly after the PSC grants its request. One issue that would delay launch of the company's Lifeline service is imposition of the PSAP certification requirement discussed above in response to request #66. Virgin Mobile's experience in the first four states where it has launched Lifeline service confirms that imposition of this condition would significantly delay launch of the company's Lifeline service in Florida. As a consequence of the acquisition of Virgin Mobile by Sprint Nextel Corp., Virgin Mobile respectfully submits that application of this condition would harm the public interest by materially delaying launch of the company's Lifeline service.

70. Virgin Mobile stated in data request question number 19 that it will provide a 30% monthly discount to customers no longer qualifying for Lifeline for 12 months. What would that bill be to your customers?

Response: Because Virgin Mobile operates on a pay-as-you-go basis, the company does not provide monthly bills to customers. To ensure that customers who are no longer eligible for Lifeline services receive the transitional discount, however, Virgin Mobile will provide either (i) a 30 percent discount on its standard 20-cent per minute rate or (ii) the option for customers to continue on the 200-minute plan at a rate of \$10 per month, in each case for use on their handset for a period of one year after they transition from the Lifeline service plan.

71. Is it still the plan for Virgin Mobile to add the free 100 Lifeline minutes to qualified customers at the beginning of each month?

Response: As noted above in response to request #66, Virgin Mobile's Lifeline plan currently includes 200 minutes of service free of charge. Customers can activate service at any time during a month, at which time they will receive their 200 minutes. Customers will receive additional minutes after a 30-day cycle; the minutes will not necessarily be added at the beginning of each month.

72. Would Virgin Mobile agree to contact any Lifeline customer after 60 days of inactivity on their phone to determine if the customer is still an active Lifeline customer and remove any customers from Lifeline service which do not provide a response?

Response: Virgin Mobile can agree to attempt to contact customers who are inactive for 60 days and encourage them to remain active. Virgin Mobile will deactivate any

customer who does not provide a response to the company's status inquiry or utilize service within 30 days of the inquiry.

73. Virgin Mobile's petition requests ETC designation "throughout the state of Florida." The list of wire centers included in Appendix A of Virgin Mobile's response to data request number 51 does not include all wire centers in Florida. Please acknowledge that Virgin Mobile has revised its original request for ETC designation "throughout the State of Florida," to only wire centers included in Appendix A of Virgin Mobile's responses to staff's second data request.

Response: Virgin Mobile hereby acknowledges that it has revised its original request for ETC designation throughout the State of Florida to include only the wire centers listed in Appendix A of the company's responses to staff's second set of data requests (dated October 21, 2009).