

**Diamond Williams**

090245-TP

**From:** Pam Keillor [pkeillor@radeylaw.com]  
**Sent:** Friday, June 11, 2010 4:41 PM  
**To:** Filings@psc.state.fl.us  
**Cc:** Catherine Beard; Curtis Williams; Kevin Cox; Mitchell Brecher; Lee Eng Tan  
**Subject:** Electronic Filing - Virgin Mobile's Request for Oral Argument  
**Attachments:** 2010-06-11 Virgin Mobile Request for Oral Argument.pdf

Electronic Filing

- a. Person responsible for this electronic filing:

Susan F. Clark  
 Radey Thomas Yon & Clark, P.A.  
 301 South Bronough Street, Suite 200  
 Tallahassee, Florida 32301  
 (850) 425-6654  
[sclark@radeylaw.com](mailto:sclark@radeylaw.com)

- b. Docket No. 090245-TP – In re: Petition for limited designation as eligible telecommunications carrier (ETC) by Virgin Mobile USA, L.P.
- c. Document being filed on behalf of Virgin Mobile USA, L.P.
- d. There are 4 pages.
- e. The document attached for electronic filing is Virgin Mobile USA, L.P.'s Request for Oral Argument on Its Motion to Dismiss with Prejudice Organize Now's, Lloyd Moore's and Gracie Fowler's Petition for Formal Proceeding

(See attached file: 2010-06-11 Virgin Mobile Request for Oral Argument)

Thank you for your assistance in this matter.

*Pam L. Keillor  
 Assistant to Susan F. Clark and Travis L. Miller  
 Radey Thomas Yon & Clark, P.A.  
 Post Office Box 10967 (32302)  
 301 South Bronough Street, Suite 200  
 Tallahassee, Florida 32301  
 (850) 425-6654 Main  
 (850) 425-6663 Direct  
 (850) 425-6694 Fax  
 Email: [pkeillor@radeylaw.com](mailto:pkeillor@radeylaw.com)*

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**Before the  
FLORIDA PUBLIC SERVICE COMMISSION**

In re: Petition for limited designation as ) DOCKET NO. 090245-TP  
eligible telecommunications carrier (ETC) )  
by Virgin Mobile USA, L.P. ) FILED: June 11, 2010  
\_\_\_\_\_ )

**VIRGIN MOBILE USA, L.P.'S REQUEST FOR ORAL ARGUMENT ON ITS  
MOTION TO DISMISS WITH PREJUDICE ORGANIZE NOW'S, LLOYD MOORE'S  
AND GRACIE FOWLER'S PETITION FOR FORMAL PROCEEDING**

Pursuant to Rule 25-22.0022, Florida Administrative Code, Virgin Mobile USA, L.P. ("Virgin Mobile") hereby requests oral argument on its Motion To Dismiss With Prejudice Organize Now's, Lloyd Moore's, and Gracie Fowler's Petition For Formal Proceeding ("Motion"). Oral argument will aid in the Commission's understanding and evaluation of the issues to be decided as follows:

1. The Petition for Formal Proceeding filed by Organize Now demonstrates a fundamental misunderstanding of Universal Service law, specifically as to the services that must be part of a qualifying Lifeline package and how that relates to the Commission's granting of an Eligible Telecommunications Carrier ("ETC") designation. Lifeline services are established by the Federal Communications Commission ("FCC") in conjunction with the Federal-State Board on Universal Service in a process set forth in the federal Communications Act of 1934 and related FCC regulations. To the extent the Commission would find it useful, oral argument would allow Virgin Mobile to further explain and respond to questions from the Commission about the interaction of these laws and how the standard for granting a Motion To Dismiss has been met.<sup>1</sup>

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<sup>1</sup> See *In re: Notice of adoption of existing interconnection agreement between BellSouth Telecommunications, Inc. d/b/a AT&T Florida d/b/a AT&T Southeast and Sprint Communications Company Limited Partnership, Sprint Communications Company L.P., Sprint Spectrum L.P., by NPCR, Inc. d/b/a Nextel Partners*, Docket No. 070368-TP; Order No. PSC-08-0415-FOF-TP; 2008 Fla. PUC Lexis 248 at \*8, 08 FPSC 6:115 (June 23, 2008) (granting

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2. The Petition calls into question the value provided by Virgin Mobile's Assurance Lifeline program and disingenuously attacks Virgin Mobile's use of the word "free" to describe Lifeline services that are truly free to the consumer. Only Virgin Mobile can best describe its Lifeline package and its business practices. Even taking all allegations in the Petition as true for purposes of the Motion, a clear understanding of Virgin Mobile's services and business practices could aid in the Commission's evaluation and resolution of the Motion. Moreover, as the questions the Commission may have about Virgin Mobile's business cannot be predicted in advance and addressed in writing, oral argument will aid the Commission.

3. The Petitioners' alleged grounds for standing to maintain a formal proceeding before the Commission are novel and specious. They describe the "injury" they will suffer if Virgin Mobile is granted an ETC designation by suggesting they would be better off if Virgin's Lifeline program contained different terms. This is of course no "injury" at all. Because the Petitioners have attempted to sidetrack extensive Florida jurisprudence on individual and associational standing by describing how their "substantial interests" are affected in a confusing and unorthodox manner, oral argument by counsel will aid the Commission's understanding and resolution of this issue.

4. While the purported purpose of the Petition is relief from the "onerous terms" of Virgin Mobile's Lifeline program, the frivolous nature and facial deficiencies of the Petition suggest that the underlying purpose of the Petition is only to prevent or delay *Virgin Mobile specifically* from obtaining ETC designation, a designation that is urgently needed and that will unequivocally benefit Florida consumers. Oral argument by counsel will aid the Commission's

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request for oral argument that would aid the Commission in "understanding and evaluating the legal bases" of the relief sought).

understanding and evaluation of this issue so that a timely resolution of the case is achieved.  
Delay only serves the competitive interests of other carriers, not Florida Lifeline customers.

WHEREFORE, Virgin Mobile requests oral argument of fifteen (15) minutes per side on its Motion at the Commission's convenience.

Respectfully submitted,

s/ Susan F. Clark  
Susan F. Clark, Florida Bar No. 179580  
Elizabeth McArthur, Florida Bar No. 354491  
RADEY THOMAS YON & CLARK, P.A.  
301 S. Bronough Street, Suite 200  
Tallahassee, Florida 32399  
(850) 425-6654 Telephone  
(850) 425-6694 Facsimile  
[sclark@radeylaw.com](mailto:sclark@radeylaw.com)  
[emcarthur@radeylaw.com](mailto:emcarthur@radeylaw.com)

Peter Lurie  
Elaine Divelbliss  
Virgin Mobile USA, L.P.  
10 Independence Blvd.  
Warren, NJ 07059  
(908) 607-4017 Telephone  
(908) 607-4078 Facsimile  
[plurie@virginmobileusa.com](mailto:plurie@virginmobileusa.com)  
[elaine.divelbliss@virginmobileusa.com](mailto:elaine.divelbliss@virginmobileusa.com)

**CERTIFICATE OF SERVICE**

This is to certify that a copy of the foregoing has been furnished by U.S. Mail or electronically to the parties listed below this 11<sup>th</sup> day of June, 2010.

Theresa Tan  
Florida Public Service Commission  
2540 Shumard Oak Boulevard  
Tallahassee, FL 32399-0850  
[LTan@psc.state.fl.us](mailto:LTan@psc.state.fl.us)

Gracie Fowler  
2125 Stanley Street  
Orlando, FL 32803

Catherine Beard  
Florida Public Service Commission  
2540 Shumard Oak Boulevard  
Tallahassee, FL 32399-0850  
[CBeard@psc.state.fl.us](mailto:CBeard@psc.state.fl.us)

D. Bruce May/Kevin W. Cox  
Holland & Knight LLP  
P.O. Drawer 810  
Tallahassee, FL 32302  
[kevin.cox@hklaw.com](mailto:kevin.cox@hklaw.com)

Curtis Williams  
Florida Public Service Commission  
2540 Shumard Oak Boulevard  
Tallahassee, FL 32399-0850  
[cjwillia@psc.state.fl.us](mailto:cjwillia@psc.state.fl.us)

Lloyd Moore  
P.O. Box 618607  
Orlando, FL 32861

Mitchell F. Brecher  
Greenberg Traurig, LLP  
2101 L Street N.W., Suite 1000  
Washington, D.C. 20037  
[brecherm@gtlaw.com](mailto:brecherm@gtlaw.com)

Organize Now  
231 East Colonial Drive  
Orlando, FL 32801

Sheila Stickel  
Advocates for Universal Access  
P.O. Box 21914  
Seattle, WA 98111

s/ Susan F. Clark  
Susan F. Clark