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BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

IN RE: INITIATION OF RULEMAKING)
TO AMEND RULE 25-4.0665,)
FLORIDA ADMINISTRATIVE CODE,)
LIFELINE SERVICE, AND TO) UNDOCKETED
REPEAL RULE 25-4.113,)
FLORIDA ADMINISTRATIVE CODE,)
REFUSAL OR DISCONTINUANCE)
OF SERVICE BY COMPANY)

COMMENTS OF VIRGIN MOBILE

Virgin Mobile USA, L.P. d/b/a Assurance Wireless (“Virgin Mobile”) submits these Comments on the Florida Public Service Commission’s (“Commission’s”) draft revisions to Rule 25-4.0665, Florida Administrative Code, as published in the Notice of Staff Rule Development Workshop issued on September 5, 2012 and discussed at the staff rule development workshop on September 19, 2012.¹

Proposed Section 25-4.0665(8)(b) requires the eligible telecommunications carrier (“ETC”) to “upon completion of initial enrollment . . . credit the subscriber’s bill for Lifeline service as of the date the eligible telecommunications carrier received the e-mail notification from the Commission.” This proposed rule assumes that the customer has already paid for service at a higher rate, and thus it does not take into consideration or appear to contemplate a prepaid Lifeline model. In Virgin Mobile’s case, once the company confirms the applicant’s eligibility, Virgin Mobile promptly sends an approval letter and, simultaneously, a handset to the

¹ Virgin Mobile appreciates the Commission’s consideration of its comments. By filing these comments, Virgin Mobile does not concede that the Commission has continuing jurisdiction over its ETC operations given the change in law clearly exempting CMRS providers from the jurisdiction of the Commission. See §§ 364.011, Florida Statutes; See also T-Mobile Letter to Adam Teitzman, filed July 27, 2012 in Docket No. 120150-TL, Annual Certification, High Cost Support T-Mobile South LLC, explaining the history of legislative changes in this area and the effect of those changes on the Commission’s jurisdiction over wireless ETCs in Florida.

customer's address with prepaid minutes on it. The customer simply begins using the Lifeline minutes, without having made any advance payment that would give rise to a Lifeline credit. Further, given that its customers never receive a bill, there is no bill to credit and Virgin Mobile cannot, therefore, provide a credit. If this section is determined to be necessary, adding certain qualifiers could make its application clearer. Virgin Mobile suggests the rule specify that 25-4.0665(8)(b) applies only to postpaid carriers, or perhaps even to wireline carriers only, as the rule only makes sense for those Lifeline business models.

Proposed Section 25-4.0665(8)(e) requires ETCs "within 20 calendar days of receiving the Commission's e-mail notification that the Lifeline service application is available for retrieval" to "provide a facsimile response to the Commission via the Commission's dedicated lifeline service facsimile telephone line . . . or an electronic response via the Commission's Lifeline secure website" for misdirected applications, applications for customers already receiving Lifeline service and rejected applicants. Virgin Mobile believes that such a requirement to inform the Commission would be both unnecessary and burdensome and should be removed from the rule before its adoption.

Today, if the applicant does not meet eligibility requirements, has duplicate service or submits information insufficient to render a decision, a denial letter sent to the applicant will identify the reason for denial. Virgin Mobile can serve Lifeline applicants throughout Florida, thus the issue of "misdirected" Lifeline applications does not arise for it. Where information is insufficient to make an eligibility determination, Virgin Mobile sends the applicant a letter requesting additional information. Informing the applicant directly of denial and reasons therefore, as well as the need for additional information, ensures that applicants receive the information as quickly as possible in order to facilitate their service in the most expeditious

fashion. Virgin Mobile has a strong competitive interest in ensuring that eligible customers are promptly enrolled in its Lifeline program. Virgin Mobile's Lifeline service is free to customers and Virgin Mobile does not receive compensation until the customer is determined to be eligible and properly enrolled. Adding the Commission-informing step to the process therefore serves no regulatory or public interest purpose.² Further, as noted in the workshop, this requirement would be burdensome because it would insert an additional step to the process and would cause the Florida process to be significantly different than what is required in other states. Although Virgin Mobile has not quantified the costs of this Florida-specific step, the Commission should avoid adding any unnecessary cost to the process without a demonstrated benefit. It is unclear how Lifeline service in Florida would be enhanced by requiring ETCs to provide facsimile or electronic information of this nature to the Commission.

For the reasons set forth herein, Virgin Mobile respectfully requests that the Commission adopt its recommended changes to the proposed rule amendments.

Respectfully submitted this 8th of October 2012.

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² If the Commission believes this step is necessary to address concerns regarding delay of customer applications for Lifeline service, it should limit application of this requirement to postpaid Lifeline providers who are already providing service to a customer at a higher rate. Unlike those providers, Virgin Mobile has no financial incentive to delay customer applications; its competitive interests are sufficient to ensure that eligible customers will be promptly and efficiently enrolled in the company's Lifeline service. Thus, the prepaid marketplace is capable of policing this aspect of Lifeline enrollment.