

**THE STATE CORPORATION COMMISSION
OF THE STATE OF KANSAS**

Before Commissioners: Mark Sievers, Chairman
Ward Loyd
Thomas E. Wright

In the Matter of Virgin Mobile, USA, L.P.'s)
Petition for Limited Designation as an Eligible) Docket No. 10-VMBZ-657-ETC
Telecommunications Carrier.)

**ORDER GRANTING VIRGIN MOBILE USA, L.P.'S PETITION FOR LIMITED
DESIGNATION AS AN ELIGIBLE TELECOMMUNICATIONS CARRIER AND
MOTION FOR WAIVER OF THE LIFELINE CALL PLAN RULE**

The above-captioned matter comes before the State Corporation Commission of the State of Kansas (Commission) for consideration and decision. Having examined its files and records, and being duly advised in the premises, the Commission finds and concludes as follows:

1. On April 12, 2010, Virgin Mobile USA, L.P. (Virgin Mobile) filed a Petition requesting designation as an Eligible Telecommunications Carrier (ETC) in certain service areas served by various rural telephone companies and certain exchanges served by Southwestern Bell Telephone Company d/b/a AT&T Kansas (AT&T Kansas) for the purpose of receiving low-income Federal Universal Service Fund (FUSF) support within the state of Kansas. Virgin Mobile's request requires redefining some service areas. Virgin Mobile's Application indicates it is not seeking to receive high-cost support, only Lifeline support.

2. On November 4, 2010, Virgin Mobile amended its Petition to include local counsel. No other changes were made to the Petition.

3. On February 11, 2011, Virgin Mobile filed a Motion for Waiver (Motion) of the Commission's Lifeline Calling Plan Rule.

4. On September 9, 2011, Staff of the Kansas Corporation Commission (Staff) filed its Report and Recommendation, recommending approval of Virgin Mobile's request for designation as an ETC for FUSF low-income purposes in the requested exchanges and study areas. Staff also recommended approval of Virgin Mobile's request for redefinition of the service areas to the exchange level for certain Local Exchange Carriers (LECs). Staff further recommended that the Commission conditionally approve Virgin Mobile's Motion for Waiver of the Lifeline Calling Plan Rule. Lastly, Staff recommended that the Commission require Virgin Mobile to take steps to ensure that Lifeline support is not paid to customers who are no longer using their Virgin Mobile Wireless device.

Federal ETC Requirements

5. A common carrier designated as an eligible telecommunications carrier will be eligible to receive universal support in accordance with 47 U.S.C. § 254 of the Federal Telecommunications Act of 1996 and shall, throughout the service area for which the designation is received: (A) offer the services that are supported by Federal universal service support mechanisms under section 254(c) of the Federal Act, either by using its own facilities or a combination of its own facilities and resale of another carrier's services (including the services offered by another eligible telecommunications carrier); and (B) advertise the availability of such service and the charges therefor using media of general distribution.

6. The Commission must evaluate the ability of Virgin Mobile to meet the criteria set out in 47 U.S.C. § 214(e)(2) which states that:

Upon request and consistent with the public interest, convenience, and necessity, the State commission *may*, in the case of an area served by a rural telephone company, and *shall*, in the case of all other areas, designate more than one common carrier as an eligible telecommunications carrier for a service area designated by the State commission ...

Virgin Mobile is requesting ETC designation in several rural service areas and non-rural service areas. In either case, the designation must be consistent with the public interest, convenience, and necessity. Therefore, the Commission will evaluate the public interest, convenience, and necessity for the entirety of Virgin Mobile's request.¹

Common Carrier Status

7. In order to be designated as an ETC, a company must be a common carrier as defined in Section 153(10) of the Federal Act. A common carrier is defined as: "[A]ny person engaged as a common carrier for hire, in interstate or foreign communication by wire or radio." Virgin Mobile stated that it meets this requirement because the Federal Communications Commission (FCC) has determined that Commercial Mobile Radio Service meets this definition, and therefore qualifies as a common carrier service.²

Services or Functionalities

8. 47 C.F.R. § 54.101(a) identifies the services or functionalities that will be supported by federal universal service support mechanisms. The applicant must provide all of the following services that are designated for federal support: (1) voice-grade access to the public switched network; (2) local usage; (3) dual-tone multi-frequency (DTMF); (4) single-party service or its functional equivalent; (5) access to emergency services; (6) access to operator services; (7) access to interexchange services; (8) access to directory assistance; and (9) toll limitation for qualifying low-income consumers.

9. The Commission determined in its October 2, 2006 Order in Docket No. 06-GIMT-446-GIT (446 Order) that it would follow the FCC's guidance and evaluate local usage by

¹ See *infra* Paragraphs 28-31.

² Petition for Limited Designation as an Eligible Telecommunications Carrier, Docket No. 10-VMBZ-657-ETC, p. 9 (April 12, 2010) [hereinafter Petition].

considering the comparability of a competitive ETC's offering on a case by case basis "by evaluating the total service package, including the local calling scope, included features, and usage that might otherwise be considered long distance." The Commission further stated that it would consider whether an ETC applicant offers unlimited calling to government, social service, health facilities, educational institutions and emergency numbers when considering comparability.³

10. In its Application, Virgin Mobile provided the following explanation of how it meets the aforementioned federal criteria:

- a. **Voice-grade access to the public switched network** – *Virgin Mobile provides voice grade access to the public switched telephone network ("PSTN") and offers its customers services at bandwidth rates between 300 and 3,000 MHz as required by FCC's regulations.*
- b. **Local usage** – *Virgin Mobile's proposed Lifeline offering fully complies with the local usage requirements established by the Commission and the FCC. Not only will Virgin Mobile's offering be comparable to the underlying [incumbent local exchange company (ILEC)] plans, but it also will exceed them in several respects. Contrary to the ILEC plans, Virgin Mobile will offer customers a certain amount of service free of charge. Virgin Mobile will provide its Lifeline customers with approximately 200 anytime minutes per month at no charge. Contrary to the ILEC plans, which contains relatively small local calling areas, Virgin Mobile customers can use these free minutes to place calls statewide (or even nationwide) because Virgin Mobile does not constrict customers' use by imposing a local calling area requirement. In addition to free voice services, Virgin Mobile will provide Lifeline customers with access to a variety of other features at no cost, including voice mail, caller ID, call waiting services and enhanced 911 ("E911") capabilities. Most important, Virgin Mobile's Lifeline service will provide low-income Kansas residents with the convenience and security offered by wireless services without interruption – even if their financial position deteriorates.*
- c. **Dual-tone multi-frequency (DTMF)** – *Virgin Mobile provides dual-tone multi-frequency ("DTMF") signaling to expedite the transmission of call set up and call detail information throughout its network. All wireless handsets offered for sale by the Company are DTMF-capable.*

³ Order Adopting Requirements for Designation of Eligible Telecommunications Carriers, Docket No. 06-GIMT-446-GIT, ¶¶ 7-8 (October 2, 2006) [hereinafter 446 Order].

- d. **Single party service or its functional equivalent** – *Virgin Mobile provides the functional equivalent of single-party service to its wireless customers for the duration of each telephone call and does not provide multi-party (or “party-line”) services.*
- e. **Access to emergency services** – *Virgin Mobile provides nationwide access to 911 emergency services for all of its customers. Virgin Mobile also complies with the FCC’s regulations governing the deployment and availability of E911 compatible handsets.*
- f. **Access to operator services** – *Virgin Mobile provides all of its customers with access to operator services.*
- g. **Access to interexchange service** – *Virgin Mobile’s service provides its customers with the ability to make interexchange, or long distance, telephone calls. Domestic long distance capabilities are included in Virgin Mobile’s service with no additional charges because minutes for local or domestic long distance services are not billed separately at different rates.*
- h. **Access to directory assistance** – *All Virgin Mobile customers are able to dial “411” to reach directory assistance services from their wireless handsets.*
- i. **Toll limitation for qualifying low-income consumers** – *Toll limitation allows customers to either block the completion of outgoing long distance calls or specify a certain amount of toll usage to prevent them from incurring significant long distance charges and risking disconnection. Virgin Mobile provides its wireless service on a prepaid, or pay-as-you-go, basis. Virgin Mobile’s service, moreover, is not offered on a distance-sensitive basis and minutes are not charged separately for local or domestic long distance services. Customers also must specifically authorize access for international services, for which additional charges may apply. The FCC determined in its previous grant of ETC designation that the nature of Virgin Mobile’s service mitigates concerns that low-income customers will incur significant charges for long distance calls, risking disconnection of their service.⁴*

11. Additionally, Staff explained that Virgin Mobile has branded its prepaid Lifeline service “Assurance Wireless Brought to You by Virgin Mobile.” The service will provide customers with the same features and functionalities enjoyed by all other Virgin Mobile prepaid customers, with one notable exception: prepaid Lifeline services will be free of charge. Under the current plan, eligible customers will receive 250 anytime prepaid minutes⁵ per month at no charge with additional service priced at \$0.10/minute and \$0.15/text message. In addition to free

⁴ See Petition of Virgin Mobile for Forbearance from 47 U.S.C. § 214(e)(1)(A) Order (rel. Mar 5, 2009), at ¶ 34.

⁵ Virgin Mobile advised Staff in response to DR 10, that effective October 20, 2010, Virgin Mobile increased the free monthly minutes from 200 free minutes to 250 free minutes where it deploys Lifeline services.

voice services, prepaid Lifeline customers also will have access to a variety of other standard features at no additional charge including voice mail, Caller ID and Call Waiting services. New customers may elect to receive a free Assurance Wireless-branded handset with E911 functionality. Current Virgin Mobile customers will be able to use their existing handsets to receive prepaid Lifeline services or may elect to receive a free Assurance Wireless handset.⁶

12. Staff stated that it does not believe the local usage that will be offered in Virgin Mobile's Lifeline Offerings is clearly comparable to the monthly rate for a residential access line in the relevant exchanges. Staff explained that local usage comparability would depend on the usage pattern of the particular customer. A customer that completes calls primarily within their exchange may not find the amount of local usage offered by Virgin Mobile to be comparable to the offering of the incumbent. However, a customer that completes calls outside of their exchange may find that the local usage is comparable. When one considers the calling scope, usage that might otherwise be considered long distance and mobility, a consumer may find Virgin Mobile's plans comparable to the incumbent's service offering. Staff concluded by stating that it is satisfied that Virgin Mobile as demonstrated an ability to provide the services or functionalities supported by the federal universal service support systems in the requested service areas.

Lifeline Calling Plan Rule

13. In the 446 Order, The Commission determined that ETCs must apply the Lifeline discount to the service plan a qualifying Lifeline customer chooses. The Commission stated: "ETCs are required to allow Lifeline customers to choose a calling plan and to apply the Lifeline

⁶ Staff Report and Recommendation, Docket No. 10-VMBZ-657-ETC, p. 4 (Sept. 9, 2011) [hereinafter Report and Recommendation].

discount to the plan selected by the customer. Any ETC that does not allow customer selection at this time must do so within 180 days of the date of this Order.”⁷

14. On February 11, 2011, Virgin Mobile filed a Motion for Waiver (Motion) of the Commission’s Lifeline Calling Plan Rule. In its Motion, Virgin Mobile stated that it is committed to offering its Lifeline customers a range of service options consistent with the Commission’s Lifeline Calling Plan Rule. To ensure that Lifeline customers have a variety of service plans, Virgin Mobile offers three Assurance Wireless service plans from which to select. Virgin Mobile stated these service plans offer greater value than non-Lifeline plans otherwise available to Kansas customers by Virgin Mobile.

15. Staff thoroughly investigated the claims made by Virgin Mobile in its Motion for Waiver. In the end, Staff stated that Virgin Mobile’s Assurance Wireless plans address the Commission’s concerns raised in conjunction with the Lifeline Calling Plan Rule and provides Lifeline customers with options and additional features. It is possible that few, if any, Lifeline customers would benefit if Virgin Mobile is required to apply the Lifeline discount to each of its calling plans. In addition, Staff stated that the associated costs may not outweigh the possible benefits to a few customers. Nonetheless, Staff expressed its concern about limiting the Lifeline customers to three calling plans.

16. Therefore, Staff recommended that the Commission grant conditional approval of Virgin Mobile’s Motion for Waiver. Staff recommended the Commission require Virgin Mobile to provide the Commission with periodic reports containing the number of complaints and inquiries it receives from Lifeline customers requesting the ability to subscribe to one of Virgin Mobile’s non-Lifeline calling plans in Kansas. Staff recommended the periodic reports be filed

⁷ Order Adopting Requirements for Designations of Eligible Telecommunications Carrier, Docket No. 06-GIMT-446-GIT, ¶ 77e (October 2, 2006) [hereinafter 446 Order].

on a quarterly basis for the first year following the Commission's Order regarding this request. Staff suggested the Commission reevaluate the Motion for Waiver after reviewing the filed reports.⁸ Based on the foregoing, the Commission grants conditional approval of Virgin Mobile's Motion for Waiver and orders Virgin Mobile to provide quarterly reports as discussed above. The Commission advises Virgin Mobile that it may reevaluate the Motion for Waiver after reviewing the filed reports.

Types of Facilities Used to Provide Service

17. Staff's Report and Recommendation stated that Virgin Mobile, a subsidiary of Sprint, has beneficial use of Sprint's wireless facilities and is appropriately classified as a facilities-based carrier for purposes of Section 214(e)(1) of the Communications Act.⁹ Staff concluded that Virgin Mobile is eligible to be designated an ETC for FUSF low-income support, when using its own wireless facilities, but not for lines served through resale arrangements.¹⁰

Service Areas

18. "Service area" is defined in § 214(e)(5) as:

a geographic area established by a State commission for the purpose of determining universal service obligations and support mechanisms. In the case of an area served by a rural telephone company, "service area" means such company's "study area" unless and until the [Federal Communications] Commission and the States, after taking into account recommendations of a Federal-State Joint Board instituted under section 410(c), establish a different definition of service area for such company.

19. "Service areas" or "operating areas" are defined in K.S.A. § 66-1,187(k) which provides that:

⁸ Report and Recommendation, p. 11.

⁹ The public utility commissions of the states of Florida, Louisiana, Maryland, Michigan and Texas, have each determined that Virgin Mobile operates as a facilities-based provider and will provide the supported services over its own facilities pursuant to section 214(e)(A) of the Communications Act.

¹⁰ Report and Recommendation, p. 11.

- (1) In the case of a rural telephone company, operating area or service area means such company's study area or areas as approved by the federal communications commission;
- (2) in the case of a local exchange carrier, other than a rural telephone company, operating area or service area means such carrier's local exchange service area or areas as approved by the commission.

20. Virgin Mobile is requesting ETC designation in certain service areas served by various rural telephone companies and certain exchanges served by AT&T Kansas. AT&T is a non-rural carrier for both federal and state support purposes; therefore Virgin Mobile is required to provide service throughout each requested exchange. Staff stated that it believes Virgin Mobile is eligible to be granted ETC designation in the requested exchanges if the Commission deems it is in the public interest.¹¹

21. LaHarpe Telephone Company (LaHarpe), MoKan Dial (Mo-Kan), Moundridge Telephone Company (Moundridge), Peoples Telecommunications (Peoples), S&A Telephone Company (S&A), Wamego Telephone Company (Wamego), Wheat State Telephone (Wheat State) and Zenda Telephone Company (Zenda) are considered rural telephone companies for both state and federal support purposes. Thus, the service area is the study area unless the Commission redefines the service area and the FCC concurs. Staff stated it believes Virgin Mobile is eligible to be designated as an ETC in these companies' study areas if the Commission determines it is in the public interest.¹²

22. Blue Valley Telecommunications (Blue Valley), Sunflower/Bluestem Telephone Company (Bluestem), Craw-Kan Telephone Cooperative (Craw-Kan), Golden Belt Telephone Association (Golden Belt), Haviland Telephone Company (Haviland), Home Telephone Company (Home), J.B.N. Telephone Company (J.B.N.), KanOkla Telephone Association

¹¹ Report and Recommendation, p. 12.

¹² Report and Recommendation, p. 12.

(KanOkla), Madison Telephone (Madison), Southern Kansas Telephone (Southern Kansas), Totah Communications (Totah), Tri-County Telephone Association (Tri-County), Twin Valley Telephone (Twin Valley), and Wilson Telephone Company (Wilson) are considered rural telephone companies for both state and federal support purposes. Thus, the service area is the study area unless the Commission redefines the service area and the FCC concurs. Virgin Mobile's FCC-licensed service area overlaps portions of, but not all of, the aforementioned rural local exchange carriers' study areas; thus, redefinition would be required.¹³

23. United Telephone Companies of Kansas d/b/a CenturyLink (CenturyLink)¹⁴ is considered a non-rural telephone company for state support purposes and a rural telephone company for federal support purposes. Thus, the service area is the study area unless the Commission redefines the service area and the FCC concurs. Virgin Mobile's FCC-licensed service area overlaps portions of, but not all of, two of the three CenturyLink study areas in Kansas: United Telephone Company of Kansas and United Telephone of Eastern Kansas; thus, redefinition would be required for those two service areas.¹⁵

24. Staff stated that the Federal-State Joint Board (Joint Board) recommended, in its November 8, 1996, *Recommended Decision*, that the FCC retain the current study areas of rural telephone companies as the service areas for such companies. The Joint Board further expressed the following concerns regarding the redefinition of rural telephone company service areas: (1) minimizing the potential for cream skimming; (2) recognizing that the 1996 Act places rural telephone companies on a different competitive footing from other LECs; and (3) recognizing

¹³ *Id.*

¹⁴ United Telephone Company of Kansas d/b/a CenturyLink, United Telephone Company of South Central Kansas d/b/a CenturyLink, United Telephone Company of Eastern Kansas d/b/a CenturyLink and Embark Missouri, Inc. d/b/a CenturyLink are collectively referred to as United Telephone Companies of Kansas d/b/a CenturyLink. CenturyLink has three separate study areas in Kansas: United Telephone of Kansas (United), United Telephone of Eastern Kansas (Eastern), and Embark Missouri, Inc. and United Telephone Company of South Central Kansas dba Embark (South Central).

¹⁵ Report and Recommendation, pp. 22-23.

the administrative burden of requiring rural telephone companies to calculate costs at something other than a study area level. The second concern is addressed through the public interest determination below. As for the third concern, Staff stated, “the manner in which a Rural Local Exchange Carrier (RLEC) calculates its costs would not be affected [by redefining the service area], unless the carrier elects to make such change. Therefore, Staff is not concerned with the Joint Board’s third issue.”¹⁶ As for the concern about “cream skimming,” Staff provided an analysis of each service area in which Virgin Mobile has requested redefinition and found that cream skimming was not an issue in any of the affected service areas.¹⁷

25. Five service areas at issue have already been redefined: CenturyLink-Eastern, CenturyLink-United, Sunflower/Bluestem, Home, and Haviland. Requests for redefinition have been granted by the KCC and petitions at the FCC are pending for an additional three service areas: Golden Belt, Tri-County, and Twin Valley. Staff recommended that the Commission approve Virgin Mobile’s request for redefinition for the remaining eight service areas at issue: Blue Valley, Craw-Kan, J.B.N., KanOkla, Madison, Southern Kansas, Totah, and Wilson. The service areas would be redefined to the exchange level and Virgin Mobile would need to file Petitions and receive concurrence from the FCC prior to receiving any FUSF low-income support for the requested exchanges. Staff also recommended that the Commission approve Virgin Mobile’s request for redefinition of the three service areas pending at the FCC, in the event the FCC rejects the pending petitions and Virgin Mobile is required to reapply. The Commission finds that the concerns of the Joint Board of this have been addressed, as discussed in Paragraphs 24 and 28-31, and that the requests for redefinition of these eleven service areas should be granted.

¹⁶ *Id.* at p. 15.

¹⁷ Report and Recommendation, pp. 22-33.

Advertising

26. Eligibility for federal universal service support is addressed by 47 C.F.R. § 214(e) of the Federal Act, which provides:

(1) **ELIGIBLE TELECOMMUNICATIONS CARRIERS.** – A common carrier designated as an eligible telecommunications carrier under paragraph (2) or (3) shall be eligible to receive universal service support in accordance with section 254 and shall, throughout the service area for which the designation is received –

(A) offer the services that are supported by Federal universal service support mechanisms under section 254(c), either using its own facilities or a combination of its own facilities and resale of another carrier's services (including the services offered by another eligible telecommunications carrier); and

(B) advertise the availability of such services and the charges therefor using media of general distribution.

27. Virgin Mobile stated that it currently does and will continue to advertise the availability of services supported by the universal service mechanisms throughout its serving area. The methods of advertising may include newspaper, direct mail, bill inserts, telephone directory advertising and local sign-up events. Virgin Mobile will use the media to advertise its universal service offerings and will comply with any advertising requirements adopted by the Commission or the FCC, including the verbiage required by Paragraph 12 of the 466 Order.

Public Interest

28. The FCC, in its Virginia Cellular Order, made findings regarding determination the public interest. While the FCC's decision is not binding on this Commission, the Commission found in its Alltel and RCC Minnesota Orders that examination of the additional factors enumerated in the FCC's order is reasonable.¹⁸

29. Virgin Mobile addressed the guidelines established in the Virginia Cellular Order as follows:

¹⁸ Order Granting ETC Designation and Addressing Additional Issues at ¶ 28, Docket No. 04-ALKT-283-ETC (Sept. 24, 2004); Order No. 14 Order Granting ETC Designation and Addressing Additional Issues at ¶ 26, Docket No. 04-RCCT-338-ETC.

- a. **The benefits of increased competitive choice** – *Designating Virgin Mobile as an ETC in Kansas ... will enable it to expand the availability of affordable telecommunications services to qualifying Kansas customers, leading to lower prices and increased choice.*
- b. **The ability to provide the support services throughout the designated service area within a reasonable time frame** – *Because Virgin Mobile provides the services over its own facilities in Kansas, the Company can commit to launching Lifeline services shortly after its designation as an ETC by the Commission.*
- c. **The impact of multiple designations on the universal service fund** – *Virgin Mobile's designation as an ETC solely for Lifeline purposes would not unduly burden the USF or otherwise reduce the amount of funding available to other carriers.*
- d. **The unique advantages and disadvantages of the competitor's service offerings** – *Unlike many other wireless service offers available in the market today, the Lifeline services provided by Virgin Mobile will contain many features specifically designated for low-income customers.*
- e. **Commitments to high-quality telecommunications services by the company** – *Virgin Mobile has complied with the CTIA-The Wireless Association® Consumer Code for Wireless Service ("Customer Code") since its inception and will continue to comply with the Consumer Code once designated as an ETC.*

30. Additionally, Staff explained that Virgin Mobile tracks customers' primary residential addresses and cross checks this information against internal databases to confirm that a Virgin Mobile Lifeline account has not already been activated for that address or individual. Staff also stated that Virgin Mobile has sufficient back-up power to remain functional without external power in emergency situations, is able to reroute traffic around damaged facilities, and can manage emergency traffic spikes, in accordance with the 446 Order. Based on the forgoing, the Commission finds that granting ETC designation to Virgin Mobile for each of the requested exchanges and study areas is in the public interest.

31. Staff also stated that Virgin Mobile will comply with the 60-day standard for inactivity. If a customer does not make a voice call or send a text message during a 60-day period, Virgin Mobile's Assurance Wireless will notify the customer that the customer is no

longer eligible for Assurance Wireless services. The customer must make a voice call or send a text message at least once during the 30-day period following such notification in order to have eligibility restored. At the end of the applicable 30-day period following notification of ineligibility, if the customer has not utilized the service, the customer will no longer receive a monthly allocation of free minutes and Assurance Wireless will no longer report the customer on USAC Form 497. The Commission finds that the 60-day standard for inactivity is reasonable and notes that these procedures address the concerns expressed by TracFone Wireless, Inc. in its letter filed in this Docket on November 1, 2010.

IT IS, THEREFORE, BY THE COMMISSION ORDERED THAT:

A. The Commission finds that Virgin Mobile USA, L.P. has demonstrated an ability to meet the federal requirements for being designated an ETC, and the Commission hereby designates Virgin Mobile USA, L.P. as an ETC in the requested study areas for the purpose of receiving only low-income Federal Universal Service Fund support. Virgin Mobile USA, L.P. shall be eligible to receive Lifeline support only when utilizing its own facilities and not for those lines served through resale arrangements.

B. Virgin Mobile USA, L.P.'s request for redefinition of eleven service areas to the exchange level, as discussed in Paragraph 25 of this Order, is hereby granted. Virgin Mobile shall file Petitions and receive concurrence from the FCC prior to receiving any FUSF low-income support for the requested exchanges.

C. Virgin Mobile USA, L.P. is advised that support received must be used for its intended purpose each year and the company must comply with other certification requirements developed by the Commission in Docket No. 05-GIMT-112-GIT and in any future proceedings. Additionally, Virgin Mobile USA, L.P. is reminded that any future decisions made by the

Commission resulting from its October 2, 2006 Order in Docket No. 06-GIMT-446-GIT, and any future decisions made by the Commission regarding additional ETC requirements, may impact the Company and the Company may be required to follow these to continue to receive support.

D. The Commission conditionally approves Virgin Mobile USA, L.P.'s Motion for Waiver of the Lifeline Calling Plan Rule. Virgin Mobile USA, L.P. shall provide the Commission with quarterly reports as discussed in Paragraph 16 of this Order. The Commission advises Virgin Mobile USA, L.P. that it may reevaluate the Motion for Waiver after reviewing the filed reports.

E. Virgin Mobile USA, L.P. shall adhere to its 60-day plan to ensure that Lifeline support is not paid to Virgin Mobile USA, L.P. for customers that are no longer using their Virgin Mobile Wireless device and not receiving the benefit of the Lifeline support.


F. The parties have fifteen days, plus three days if service of this Order is by mail, from the date of service of this Order in which to request rehearing on any matter decided herein. K.S.A. 66-118b, K.S.A. 2010 Supp. 77-529(a)(1).

G. The Commission retains jurisdiction over the subject matter and the parties for the purpose of entering such further order, or orders, as it may deem necessary.

BY THE COMMISSION IT IS SO ORDERED.

Sievers, Chmn.; Loyd, Com.; Wright, Com.

Dated: NOV 02 2011


ORDER MAILED NOV 03 2011
Patrice Petersen-Klein
Executive Director

aos

PLEASE FORWARD THE ATTACHED DOCUMENT (S) ISSUED IN THE ABOVE-REFERENCED DOCKET
TO THE FOLLOWING:

NAME AND ADDRESS	NO. CERT. COPIES	NO. PLAIN COPIES
ANDREW SCHULTE, ASSISTANT LITIGATION COUNSEL KANSAS CORPORATION COMMISSION 1500 SW ARROWHEAD ROAD TOPEKA, KS 66604-4027 ***Hand Delivered***		
JOHN M BEAHN, COUNSEL TO VIRGIN MOBILE USA LP SKADDEN ARPS SLATE MEAGHER & FLOM LLP 1440 NEW YORK AVENUE, NW WASHINGTON, DC 20005		
PETER LURIE, SR. VICE PRESIDENT VIRGIN MOBILE USA, L.P. 10 INDEPENDENCE BLVD WARREN, NJ 07059		

ORDER MAILED NOV 03 2011

The Docket Room hereby certified that on this _____ day of _____, 20_____, it caused a true and correct copy of the attached ORDER to be deposited in the United States Mail, postage prepaid, and addressed to the above persons.