



State of Rhode Island and Providence Plantations

DEPARTMENT OF ATTORNEY GENERAL

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*Peter F. Kilmartin, Attorney General*

July 14, 2011

Ms. Luly Massaro, Clerk  
Public Utilities Commission  
89 Jefferson Blvd.  
Warwick, RI 02888

**Re: Application for Limited Designation as an Eligible Telecommunications Carrier by Virgin Mobile USA (“Virgin Mobile”), L.P., Docket No. 4250**

Dear Ms. Massaro,

The Division of Public Utilities and Carriers (“Division”) submits the following comments related to the Application for Limited Designation as an Eligible Telecommunications Carrier (“ETC”) of Virgin Mobile dated May 20, 2011. The Division’s comments are based upon a review of the Commission’s Rules and Regulations Governing the Certification and Verification Procedures for Telecommunications Carriers Eligible to Receive Payments from the Federal Universal Service Fund and Certification and Verification Processes for Compliance with Providing Lifeline and Linkup Service (“Rules”), Virgin Mobile’s application, as well data responses provided by Virgin Mobile to the Division.

When an entity applies for ETC status in Rhode Island the entity must demonstrate that its application satisfies the requirements of Section II(A) and Section III(a)-(c) of the Rules. In its application, Virgin Mobile represents that it will offer all of the services designated in Section II(A). Virgin Mobile states that it will provide voice grade access to the public switched telecommunications network, which allows the customer to transmit voice communications. Application at 12. Virgin Mobile’s service enables customers with the capability to send and receive local calls and will offer dual tone multi-frequency or its functional equivalent, which allows carriers to supply prompt call set-up and call detail and enables modem usage. Id. at 12, 14. Virgin Mobile also will offer single-party service or its functional equivalent, and will provide access to emergency services, operator services and directory assistance to all its customers. Id. at 14-16. In its application, Virgin Mobile represents that it provides its service

on a prepaid or "pay-as-you-go" basis and that the FCC found that Virgin Mobile's service "mitigates concerns that low-income customer will incur significant charges for long distance calls, risking disconnection for their service." Id. at 15. Thus, the Division believes Virgin Mobile has satisfied the Rules' toll limitation service requirement as well.

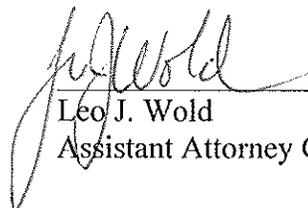
In its application Virgin Mobile details its prepaid Lifeline offering which the Division believes satisfies the ninth ETC designation requirement. Under the proposed offering, Virgin Mobile represents that Lifeline customers, "will receive free service so long as they do not elect to exceed 250 minutes of voice service per month with no additional charges for taxes or activation." Id. at 8. See also Virgin Mobile Response to Division Data Requests Nos. 1-7. Minutes used for calls placed to 911 emergency services and customer care are not attributable towards this amount; no other fees or surcharges are imposed on the customer so long as he/she stays below the 250 minute limit. See Virgin Mobile Response to Division Data Request No. 2-1. Accordingly, Lifeline customers will be able to access 911 emergency and customer care services regardless of whether they have any remaining minutes in their account. Application at 7-8.

On June 27, 2011, Virgin Mobile applied as a Class VI carrier under the Commission's Regulations and Fee Schedules for Telecommunications Providers. Pursuant to Part III(a) of the Rules, an ETC applicant is required to demonstrate that it is an authorized telecommunications carrier under the laws of the State of Rhode Island. If the Commission grants Virgin Mobile authority to operate as a Class VI carrier, then Virgin Mobile will have satisfied Part III(a) of the Rules. Virgin Mobile has also declared under pain and penalty of perjury that it will provide all federally-required and state required services throughout Rhode Island, advertises them in media of general circulation, Application at 16-17, and offers Lifeline services that fully comply with federal and state requirements. Application, Exhibit 1. See Rules, Part III(b) & (c).

Subject to approval by the Commission of Virgin Mobile's application as a Class VI carrier, as well as based upon the facts and conclusions set forth in these comments, the Division recommends that the Commission approve Virgin Mobile's Application for Limited Designation as an ETC dated May 20, 2011.

Respectfully submitted,

Division of Public Utilities and Carriers

  
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Leo J. Wold  
Assistant Attorney General

cc: Service List