

PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

**Communications Division
Carrier Oversight and Programs Branch**

**RESOLUTION T-17284
May 05, 2011**

RESOLUTION

RESOLUTION T-17284. This Resolution grants the request of Virgin Mobile USA, LLC (U-4327-C) to be designated as an Eligible Telecommunications Carrier providing only Federal LifeLine services throughout California excluding the Small LEC service areas. The request is reasonable because Virgin complied with the requirements of Resolution T-17002, applicable requirements of G.O. 153 and all applicable requirements for a CPUC registered carrier.

SUMMARY

By this Resolution, the California Public Utilities Commission (CPUC or Commission) grants the request of Virgin Mobile USA LLC dba Virgin Mobile USA L.P. (U-4327-C) (Virgin) to be designated as an Eligible Telecommunications Carrier (ETC) for the limited purpose of offering Federal LifeLine services only to qualifying customers throughout California excluding the Small LEC service areas. Virgin's request is consistent with the Resolution T-17002, applicable requirements of G.O. 153 and applicable requirements for a CPUC certificated or registered carrier. We find that the request is reasonable and consistent with the public interest, and should be granted.

BACKGROUND

In Resolution T-17002, the Commission adopted *The Comprehensive Procedures and Guidelines for ETC Designation and Requirements for ETCs*. This Resolution is consistent with the Federal Communications Commission (FCC) Orders 97-157 and 05-46 regarding designation of a telephone carrier as a qualified ETC. In addition, all carriers seeking ETC designation are required to comply with the applicable requirements for a CPUC certificated or registered carrier.

ETCs are telephone carriers designated by state commissions or the FCC and authorized by the FCC to receive Federal Universal Service Fund (USF) support for providing local telephone service in high cost areas and to low income customers.

The FCC established the ETC program to satisfy this statutory requirement of the Telecommunications Act of 1996.¹ The Federal USF support creates an incentive for the telephone carriers to provide quality residential telephone services at an affordable rate to low income consumers and/or those living in designated high cost areas, e.g., rural areas.

In addition to reviewing ETC designation requests for compliance with the federal and CPUC ETC requirements, the Communications Division (CD) staff reviews the requests for compliance with CPUC LifeLine rules contained in General Order (G.O.) 153 and Decision (D.) 10-11-033, and other state regulatory requirements for telephone corporations operating in California, including but not limited to paying CPUC User Fees, Public Purpose Program (PPP) surcharges, and submitting required reports.

G.O. 153 implements the Moore Universal Telephone Service Act, and contains California LifeLine service requirements for wireline carriers offering basic residential telephone service in California, including twenty-two elements of LifeLine service that carriers must provide. CD staff has applied the provisions of G.O. 153 in its evaluation of Virgin's ETC designation request. These provisions will have no bearing on Lifeline offerings under state law. CD recommends that until the Commission adopts California LifeLine rules for wireless service providers in Phase II of R. 06-05-028 and R.09-06-019. Virgin's federal LifeLine offerings must comply with G.O. 153. Once the CPUC adopts basic service rules for the offering of wireless LifeLine in California, wireless ETCs, including Virgin, must comply with those rules.

On November 19, 2010, the Commission adopted D. 10-11-033, which made changes to the California LifeLine program. The decision allows customers living in Small LEC² service areas to choose alternative/non-traditional providers, such as wireless and VoIP, for California LifeLine service.³

¹ 47 U.S.C. Section 214(e)

² The Small LECs is composed of Calaveras Telephone Co., Cal-Ore Telephone Co., Ducor Telephone Co., Foresthill Telephone Co., Happy Valley Telephone Co., Hornitos Telephone Company, Kerman Telephone Co., Pinnacles Telephone Co., The Ponderosa Telephone Co., Sierra Telephone Co., The Siskiyou Telephone Co., Volcano Telephone Co., and Winterhaven Telephone Co. These telephone companies generally operate in rural areas, and have rates that are regulated.

³ See D. 10-11-033, mimeo, at 72

Virgin, a facilities-based wireless service provider, is a Delaware based limited liability company (LLC) with principal offices at 10 Independence Blvd., Warren New Jersey. On April 16, 2002, the Commission issued a registration number WIN U-4327-C and allowed it to operate as a reseller of Commercial Mobile Radiotelephone Services (CMRS) to the public in California. A copy of this authorization is included in this Resolution as Attachment 3.

SUBJECT OF ADVICE LETTER/FILING

On April 29, 2009, Virgin filed its Tier III Advice Letter (AL) 1, requesting limited ETC status for the purpose of offering Federal LifeLine services to qualifying California customers. Virgin is not seeking Federal Link Up support, Federal Universal Service High-Cost Support or California State Universal Service support. In this advice letter, Virgin proposed to offer Federal LifeLine customers a phone costing \$15.00. If the customer purchased the phone, the customer would pay no one-time activation fee and no recurring service charge for up to 120 anytime minutes per month. If the customer exceeds the 120 LifeLine minute cap, the additional minutes would cost \$0.20 each and \$0.10 per text message.⁴

On June 23, 2009, Virgin filed AL supplement 1A in response to the Small LEC's protest of AL 1. The supplement narrowed the designated area of Virgin's request to exclude the service territories of the Small LECs, provided service area maps in PDF format, and committed Virgin to abiding by the certification and verification requirements found in G.O. 153.

On March 18, 2010, Virgin filed AL supplement 1B to notify the Commission that it became a facilities-based provider of wireless service in California as a result of its acquisition by Sprint Nextel, and that it intends to launch a new service plan that offers Federal LifeLine customers 500 minutes per month for \$5.00 (with a free handset to the LifeLine customer under this plan). The AL supplement 1B also revised the original 120-minute plan in AL 1 with 200 minutes at no charge. Both plans would offer Caller ID, Call Waiting, and voicemail, and nationwide long distance at no extra charge, with all taxes included in the price for the \$5/500 plan and 200-minute plan. In AL supplement 1B, Virgin proposed to price additional call minutes for both plans at \$0.10 per minute and increase the cost of text messages from \$0.10 to \$0.15 each. Virgin stated that its remittance of PPP surcharges and the CPUC User Fee is current.

On August 23, 2010, Virgin filed AL supplement 1C to provide additional information demonstrating that it satisfies applicable ETC designation requirements regarding the offering of federal universal service fund supported services, the ability to remain

⁴ See Virgin AL 1, at 7

functional in emergency situations, meeting consumer protection and service quality standards, and to provide equal access to long distance carriers if all other ETCs relinquish their designation within Virgin's ETC designated territory.

On November 4, 2010 Virgin filed AL supplement 1D to increase its free 200 minute plan to 250 minutes, and to allow a customer to purchase 750 additional minutes for an additional \$20 per month, for a combined total of 1,000 minutes for voice and text messages (\$20/1,000). Virgin also reduced the price of individual text messages from \$0.15 proposed to \$0.10.⁵

The following summarizes proposed Virgin's Federal LifeLine service offerings:

- (1) 500 anytime minutes for \$5.00 per month (which includes all taxes)⁶
 - Free Nationwide long distance, Caller I.D., free voicemail, and free Call Waiting;
 - No activation charge;
 - Each additional minute would cost \$0.10 per minute;
 - Each text message would cost \$0.10⁷ per text;
 - A free handset to LifeLine eligible customers.

- (2) 1,000 anytime minutes for \$20.00 per month (250 minutes for free with the purchase of 750 minutes for \$20.00, taxes included)⁸
 - Free Nationwide long distance, Caller I.D., free voicemail, and free Call Waiting.
 - Additional 1,000 text messages
 - No activation charge
 - Each additional minute would cost \$0.10 per minute.
 - Each text costs \$0.10 per text.
 - A free handset to LifeLine eligible customers.

- (3) 250 anytime minutes for free.
 - Free Nationwide long distance, Caller I.D., free voicemail, and free Call Waiting.
 - No activation charge
 - Each additional minute would cost \$0.10 per minute.
 - Each text costs \$0.10 per text.
 - A free handset to LifeLine eligible customers.

On April 18, 2011, Virgin filed AL supplement 1E to fully comply with the service area map requirement in Resolution T-17002. Virgin provided electronic files (.shp format)

⁵ See Virgin AL 1D, at 2

⁶ See Virgin AL 1B, at 3

⁷ See Virgin AL 1D, at 2

⁸ See Virgin AL 1D, at 2

regarding the geographic availability of its federal Lifeline services. The files include a coverage map showing the areas where service is offered and a map, submitted on a confidential basis pursuant PUC 583 and G.O. 66-C, showing the location of the tower sites from which cellular radiotelephone service⁹ will be provided to Virgin Mobile's customers.

NOTICE/PROTEST

In compliance with G.O. 96-B, Virgin's AL 1 and supplements 1A, 1B, 1C and 1D were posted on the CPUC Daily Calendar on May 1, 2009, June 26, 2009, March 24, 2010, August 30, 2010, and November 8, 2010, respectively. AL supplement 1E was served via email on April 18, 2011 to the draft Resolution service list.

On May 14, 2009, the Small LECs requested a 10-day extension of time, until May 28, 2009, to file a protest to Virgin's AL. The request was granted on May 19, 2009.

On May 28, 2009, the Small LECs filed a Protest recommending that the CPUC reject Virgin's advice letter, or alternatively reject the advice letter subject to re-filing a revised version that would exclude the Small LECs' service areas from the areas in which Virgin proposes to offer federal LifeLine service. The Small LECs claim that even if Virgin resubmits the ETC advice letter to exclude offering Federal LifeLine service in the Small LEC service areas, the CPUC still should hold the request in abeyance at least until the CPUC more fully considers the implications of providing LifeLine funding to wireless providers in proceeding R.06-05-028 (Universal Service reform).

The Small LECs assert that Virgin has not complied with federal ETC requirements to offer service throughout a rural LEC's service area¹⁰ and to demonstrate that it is in the public interest to grant Virgin ETC designation in rural areas.¹¹ The Small LECs alleged that granting Virgin ETC designation in Small LEC territories places these carriers at a competitive disadvantage. Additionally, the Small LECs assert that Virgin does not expressly state that it will abide by G.O. 153, and has asked for a waiver from the requirement to provide service area maps. The Small LECs submit that these maps are necessary to understand the areas that Virgin intends to serve and whether these areas are in Small LEC areas and subject to the FCC's requirements for small rural LECs.

⁹ "Cellular Radio Telephone Service": is more commonly referred to as commercial mobile radio service (CMRS).

¹⁰ 47 U.S.C. § 214(e)(1)(A) requires that an ETC offer USF supported service throughout the Small LECs service areas, or alternatively have the service area redefined pursuant to 47 U.S.C. §214(e)(5) and Title 47 §54.207(c) CFR.

¹¹ 47 U.S.C. § 214(e)(2).

The Small LECs also argue that the CPUC should not grant Virgin ETC designation prior to the Commission's completion of the Universal Service reform proceeding, because it is unclear in what terms and conditions the CPUC will adopt for the offering of wireless LifeLine services in California. As a consequence, the Small LECs argue, customer confusion will result from having two LifeLine programs available in the state.

DISCUSSION

I. Did Virgin Comply With Federal ETC Eligibility Requirements?

CD concludes that Virgin has complied with Federal requirements for ETC's.¹² Virgin, a facilities-based provider since being acquired by Sprint Nextel on November 24, 2009, will offer services that are supported by the USF. Virgin also will advertise the availability of its Federal LifeLine services through general advertising media that it uses for its non-LifeLine service. The advertisements will include a combination of general media, social service/government agencies, and third-party retail outlets through brochure distribution.

CD also concludes that Virgin has complied with other FCC ETC eligibility requirements,¹³ because it has done the following (1) committed to provide the supported services, as previously discussed; (2) demonstrated the ability to remain functional in an emergency situation through internal programs and policies, and teams dedicated to analyzing, assessing and responding to emergency situations; (3) committed to satisfy consumer protection and service quality standards, and complies with the CTIA Consumer Code for Wireless Service; (4) offer a local usage plan comparable to that provided by the ILEC; and (5) acknowledge that it may be required to provide equal access to long distance carriers if all other ETCs in the service area relinquish their ETC status.

Comparable Local Usage Analysis

Neither the CPUC nor the FCC has adopted minimum local usage standards or quantity of minutes to measure comparability. However, the FCC encourages state commissions to consider whether an ETC offers a local usage plan comparable to those offered by the incumbents in examining whether the ETC applicant provides adequate local usage to receive designation as an ETC and does not prevent states from determining what the

¹² 47 U.S.C. §§ 214 (e)(1) and 254(c)

¹³ FCC 05-46 ¶¶ 20 - 68 addresses Federal ETC eligibility requirements.

minimum number of local usage minutes should be for an applicant to be awarded ETC status.¹⁴

Consequently, CD used G.O. 153 call allowance rules and D. 10-11-033 pricing rules for Measured Rate (MR) LifeLine service as a baseline in evaluating Virgin's request in context of the comparable local usage requirement. The Commission adopted the use of G.O. 153 for evaluating wireless carriers' requests for ETC designation in Resolution T-17266, Ordering Paragraph 3.

Under G.O. 153, MR wireline LifeLine customers are given a call allowance of 60 untimed outgoing calls. Calls in excess of the call allowance are priced at \$.08 per call.¹⁵ D.10-11-033 adopted a price range for MR LifeLine service with a floor of \$2.50 and a cap of \$3.66 per month.¹⁶ Virgin has three plans that it proposes to offer to LifeLine customers, as discussed above. These plans are similar to a wireline MR LifeLine service in that they provide a base level of usage for a set fee with additional charges for usage in excess of the base amount.

In evaluating wireless LifeLine plans that have similar characteristics to wireline MR service, CD deemed it appropriate to determine how many wireless MOU a wireless MR LifeLine customer should receive using wireless industry average length of call data, and at what cost, based on G.O. 153 MR criteria and LifeLine MR service rates adopted in D.10-11-033.

For its analysis, CD used wireless MOU, average bill, and average revenue per MOU data for the six-month period ending December 31, 2008 from Table 19 of the FCC's 14th Mobile Wireless Competition Report to Congress (14th Report) and data for the same period from the Cellular Telecommunications Industry Association's (CTIA) Semi-Annual Wireless Industry Survey.¹⁷ CD used the 2008 data because the FCC data ended at that period, even though the CTIA data went through the six-month period ending June 30, 2010. (See Attachment 5 of this Resolution for summaries of the FCC and CTIA data used by CD.)

In order to evaluate Virgin's offerings on a consistent and comparable basis with G.O. 153 MR LifeLine service requirements, CD converted the G.O. 153 MR per call allowance to the minute of use (MOU) unit of measure that Virgin's plans are based on by using CTIA average call length data.

CD estimated the average number of MOU per month that a typical wireless customer would reasonably be expected to use for purposes of estimating what each of Virgin's

¹⁴ FCC 05-46, ¶ 34

¹⁵ G.O. 153 §8.5.1

¹⁶ D.10-11-033, pg.56, *mimeo*

¹⁷ http://files.ctia.org/pdf/CTIA_Survey_Midyear_2010_Graphics.pdf

plans could cost a LifeLine customer with average call usage. CD estimated that a LifeLine customer with average monthly voice usage would use an average of 769 voice MOU per month for local calls. To arrive at this estimate, CD used data from the 14th Report, dividing the average local monthly bill (excluding data) by the average revenue for voice minute ($\$38.45/\$0.05 = 769$ MOU). (See Attachment 6 of this Resolution for pricing details.)

CD further estimated that a wireless LifeLine customer should get 146 wireless voice MOU's per month, and calculated this amount by multiplying the average call length from the CTIA study, by the G.O. 153 call allowance ($2.43 \text{ minutes} * 60 \text{ untimed calls} = 146 \text{ MOU}$). Using these estimates, CD determined that a typical wireless LifeLine customer will use 623 MOU in excess of the estimate of the G.O. 153 MR calculated MOU monthly call allowance ($769 \text{ average monthly voice MOU} - 146 \text{ calculated MOU call allowance} = 623 \text{ excess MOU}$). CD calculated the cost of each excess MOU to be \$.033 ($\$.08 \text{ per call in excess of allowance} / 2.43 \text{ average minutes per call}$).

CD estimates that a wireless LifeLine plan that is consistent with G.O. 153 MR service requirements and D.10-11-033 MR pricing policies would cost a LifeLine customer between \$23.07 [$\$2.50 \text{ allowance} + (\$.033 * 623 \text{ excess MOU})$] and \$24.23 [$\$3.66 \text{ allowance} + (\$.033 * 623 \text{ excess MOU})$] per month for 769 local voice only MOU.

To determine if Virgin's LifeLine plans are comparable to wireline MR LifeLine service, CD compared each of Virgin's proposed plans priced using 769 monthly average local voice MOUs to the cost of MR LifeLine plans based on G.O. 153 and D.10-11-033 requirements with 769 average monthly MOUs. CD concludes that only Virgin's 1,000 minutes for \$20.00 plan is comparable to G.O. 153/D.10-11-033 MR requirements when converted to MOU's, and using 769 wireless average monthly local voice MOU. The table below shows a comparison of each plan.

Estimated Cost of Virgin Mobile’s Plans Compared to G.O. 153 Measured Rate Calculated Costs for 769 MOU					
	Virgin 250 Minute Plan	Virgin - 500 Minute Plan	Virgin - 1,000 Minute Plan	AT&T Estimate per G.O. 153	Verizon Estimate G.O. 153
LifeLine Plan Cost to Customer	\$51.90	\$31.90	\$20.00	\$23.07 to \$24.23	\$23.07 to \$24.23
Caller ID, Call Waiting, Long Distance, Voicemail and Tax Cost	\$0	\$0	\$0	\$17.06 to \$17.09***	\$31.47 to \$31.50
Total Cost to LifeLine Customer for 769** MOU	\$ 51.90	\$ 31.90	\$ 20.00	\$ 40.12 to \$41.32*	\$ 54.53 to \$55.73*
<p>* Price range reflects \$2.50 LifeLine floor and \$3.66 cap established in D. 10-11-033. ** 769 MOU reflects calculated average local wireless usage based upon FCC and CTIA Data. *** CD could not find an AT&T package that contained all the elements Virgin Mobile has included in its packages. Neither AT&T or Verizon packages include Call Waiting.</p>					

Because Virgin’s plans include free nationwide long distance, caller I.D., voice mail, and Call Waiting in addition to local calling, CD believes that for comparison purposes it is appropriate to consider what a LifeLine customer would pay under G.O. 153 for MR LifeLine service with these additional features. CD used the cost of ILEC packages that include the additional features contained in Virgin’s plans to calculate the cost of G.O. 153/D.10-11-033 based MR service and compared the results to the calculated cost of Virgin’s plans using the 769 average local voice MOU.

CD finds that only one of Virgin Mobile’s three plans (\$20.00/1,000 minutes) is comparable to the cost of ILEC measured rate LifeLine plans. However, when the cost of the additional features is factored into the analysis, CD considers the costs of all three Virgin LifeLine plans to be comparable to the ILEC plans with the additional features. Virgin's most expensive plan for 769 MOUs, its 250 free anytime minutes LifeLine plan, is \$2.63 lower than the lowest Verizon’s LifeLine offering, when the advanced features are considered.

II. Is Granting ETC Status to Virgin in the Public Interest?

The Small LECs allege that Virgin has not demonstrated that granting it ETC status is in the public interest. However Virgin states, "...[t]here is no question that limited designation of Virgin Mobile as an ETC in California would promote the public interest

by providing low-income California consumers with more affordable and higher quality wireless services.”¹⁸

CD believes that Virgin Mobile meets the FCC’s three criterion for being in the public interest. Virgin Mobile will increase consumer choice by providing wireless LifeLine service to areas that do not currently have wireless options. The advantages of Virgin Mobile’s offering outweigh the disadvantages. The advantages to Virgin’s offering 1,000 anytime minutes for \$20.00 including (1) Caller ID, Call Waiting, and free voicemail; (2) receipt of a free handset; (3) expanded local calling area; (4) no credit check, deposit, or contract; (5) no customer bills or termination fees; and (6) telephone mobility.

The disadvantages of the wireless service include the potential that the handset is removed from the home and poor mobile reception resulting from weather conditions, terrain, or gaps in service coverage. CD believes that customers can exercise judgment in determining whether the Virgin wireless service meets their needs given customer-specific circumstances and location.

There is no possibility of cream-skimming in rural areas because Virgin Mobile is not requesting Federal High Cost funding.

In addition to the public interest criteria established by the FCC, CD considered what the total cost of each of Virgin Mobile’s plans is to LifeLine customers that have average MOU per month. CD does not consider it to be in the public interest to recommend a plan that costs the LifeLine customer more than an off-the-shelf retail priced wireless plan. Attachment 8 of this Resolution compares the three Virgin proposed LifeLine offerings to the off-the-shelf wireless offerings of Virgin’s PayLo, AT&T wireless, Verizon Wireless, Sprint, Metro PCS. CD believes that only Virgin’s \$20.00 for 1,000 minute plan meets CD’s total cost to customer test.

Both Virgin Mobile’s 250 free anytime minutes plan and its 500 minutes for \$5.00 plans are more expensive to the LifeLine customer with average usage than Virgin’s own PayLo 1500 minutes plan for \$30.00 (*See* Attachment 8 of this Resolution).

The LifeLine customer subscribing to Virgin’s 250 minutes free plan, would pay \$51.90 for 769 minutes, whereas a LifeLine customer would only pay \$30.00 for Virgin’s PayLo service, and save \$ 21.90. Virgin’s \$5.00 for 500 minute plan costs approximately \$2.00 (\$1.90) more than Virgin’s non-LifeLine PayLo plan. CD believes that it is not in the public interest to approve these plans.

¹⁸ See Virgin AL 1, at 20

Virgin's 1,000 minutes for \$20.00 plan offers the LifeLine customer significant cost savings over the off-the-shelf retail offerings available (*See* Attachment 8 of this Resolution). CD finds that this plan is in the public interest and recommends that the Commission approve it.

Based on consideration of the comments by the Small LECs, and CD's analysis, the Commission rejects the Small LEC's claim that Virgin did not demonstrate that its designation as an ETC would be in the public interest.

III. Did Virgin Comply With State Requirements?

Resolution T-17002 ETC Designation Compliance

CD believes that Virgin met all the ETC requirements found in Resolution T-17002. Attachment 4 to this Resolution provides an evaluation of Virgin's request for compliance with Commission rules. Two of the elements, local usage requirement and public interest determination, are also part of the Federal Eligibility requirements and were previously discussed in this Resolution.

G.O. 153 Basic Elements of Service Compliance

CD finds that Virgin's offering does not meet six of the twenty-two elements of basic service set forth in G.O. 153¹⁹ (*See* Attachment 2 of this Resolution for Virgin's compliance checklist with the California Service Elements of LifeLine):

- Ability to receive free incoming calls
- Customer choice of flat rate local service or measured rate local service
- Free provision of one directory listing per year
- Free white pages telephone directory
- Free access to local Directory Assistance calls
- Free access to 800 or 800-like toll service²⁰

While none of Virgin's plans provide LifeLine customers with free incoming calls as required under the California Service Elements of LifeLine, CD's method of approximating the number of MOUs that a wireless LifeLine customer should receive does consider that the MOUs reflect outgoing as well as incoming calls. As a result, CD

¹⁹ *See* G.O. 153, Service Elements of Life, at 32

²⁰ TURN at 3.

does not believe that the lack of free incoming calls should preclude Virgin from receiving ETC status in California, and recommends that the CPUC should also authorize the waiver from this G.O. 153 requirement for Virgin for the \$20.00/1,000 minute plan that CD believes is in the public interest to approve. Through issuance of this Resolution, the CPUC is authorizing the waiver.

Virgin does not give customers a choice of flat-rate local or measured rate local service. "Flat rate" local service allows a customer unlimited calling within the customer's 12-mile local calling area for a fixed price.²¹ "Measured rate" local service includes a call allowance and then a per-call charge for calls beyond the allowance but still within the local calling area.²² The Virgin offering provides only the measured rate option.

CD believes that Virgin's lack of a flat-rate local calling option should not be cause to deny it ETC status. No federal or California rule mandates that wireless carriers offer both a measured and flat-rate service. Additionally, the CPUC does not regulate CMRS providers' rates or market entry.²³ Therefore, wireless carriers may choose either a measured or flat-rate service business model. Consequently, until the CPUC develops wireless LifeLine rules that would apply to all wireless carriers offering LifeLine service, Virgin should be authorized the waiver from this particular G.O. 153 requirement.

Virgin's plans do not include one free directory listing per year or a free white pages directory. Presently, no publicly available listing of wireless telephone numbers exists and wireless carriers do not offer white pages telephone directories. Accordingly, CD believes that the CPUC should also authorize the waiver from these G.O. 153 requirements for Virgin.

Virgin charges \$1.75 for Directory Assistance (DA) calls. In addition to this charge, the LifeLine customer will incur usage charge deducted from their existing minutes. On the other hand, Virgin does not charge for 800 and 800-like toll-free calls, however, a LifeLine customer will incur usage charge like DA calls. The Commission does not regulate CMRS providers' rates or market entry. Therefore, CD cannot recommend that Virgin provide DA calls for free. However, CD believes that Virgin's LifeLine service offering is sufficient enough to include usage minutes incurred for DA calls and 800/800-like toll-free calls. Consequently, until the CPUC develops wireless LifeLine rules that would apply to all wireless carriers offering LifeLine service, Virgin should be authorized the waiver from these particular G.O. 153 requirements.

Finally, Virgin's 250 Free Anytime Minutes is offered free as a stand-alone monthly federal LifeLine plan and the same 250 Free Anytime minutes plan is included as part of

²¹ See G.O. 153, at, 3

²² See G.O. 153, at 5

²³ See 47 U.S.C. 332 (c)(3)(A) See also D. 95-10-032, *mimeo* at 17.

the 1000 minutes for \$20.00 plan. This does not comply with the Commission's LifeLine policy under D. 10-11-033 that LifeLine customers must be invested in the purchase of phone service to understand that there is a cost associated with it. The CPUC adopted a floor of \$2.50 and \$3.66 ceiling for California LifeLine Measured Rate plans. As a result, CD does not believe that Virgin's 250 free anytime minutes plan meets the minimum pricing policy and should not be approved. Additionally, the 1000 minutes for \$20.00 plan should be modified to exclude the 250 free anytime minutes. Therefore, CD recommends that the only LifeLine plan that Virgin can offer is a 1000 minutes with additional 1000 text messaging for \$20.00 plan as clarified in Virgin's reply comments to the draft Resolution.

While Virgin does not meet the four G.O. 153 requirements identified above, CD has concluded that overall the Virgin's 1,000 minutes for \$20.00 offering would provide a public benefit. For the reasons cited above, CD does not believe that Virgin's failure to meet four of the (22) G.O. 153 basic service elements should be grounds for denying it ETC status for the purpose of offering Federal LifeLine. Through this Resolution, the Commission authorizes Virgin the waiver from the G.O. 153 basic service elements until such time that the Commission has established additional basic service rules for wireless in the current California LifeLine and California High Cost Fund B rulemaking proceeding.²⁴ The authorized waiver will have no bearing on Lifeline offerings under state law.

CD also believes that G.O. 153 § 4.2 LifeLine enrollment procedures provide a reasonable means for wireless carriers, including Virgin, to determine if a prospective LifeLine customer is eligible for LifeLine service. Therefore, until the Commission establishes rules for wireless ETC applicants in California, CD recommends that G.O. 153 LifeLine certification and verification rules continue to be used in evaluating wireless carrier ETC designation requests.

Based upon CD's analysis, the Commission agrees that Virgin has met the California ETC designation requirements for offering Federal LifeLine service.

IV. Has Virgin Complied with Federal ETC Requirements Regarding Offering Service Throughout a Rural LECs Service Area, and Will the Small LECs be Placed at a Competitive Disadvantage?

The Small LECs assert that Virgin has not complied with federal ETC requirements regarding offering service throughout a rural LEC's service area. Virgin responded by submitting AL supplement 1A that revised its proposed service area to be limited to those portions of the state served by carriers subject to the Commission's Uniform Regulatory Framework²⁵, but did not respond to the allegation that the Small LECs

²⁴ R.09-06-019

²⁵ See Virgin AL 1A, at 3

would be at a competitive disadvantage if the CPUC designates Virgin as a limited ETC in California.

While Virgin has amended its ETC designation request to limit its service area to the areas served by the URF carriers and excluding the Small LEC areas, CD believes the exclusion of Small LEC territory is necessary at this time despite of the conclusion of D. 10-11-033 that placed no geographic restrictions on the service offerings of wireless LifeLine providers.²⁶ We are also taking into consideration the pending application of the Small LECs for a Rehearing on Resolution T-17266. CD recommends that Virgin should be allowed to offer federal LifeLine supported service to qualifying California customers as requested in its AL supplement 1A, limiting its service territories outside the Small LEC areas. Virgin shall file another ETC designation request if it plans to expand its service area designation not covered by this Resolution.

Virgin should be required to screen prospective LifeLine customers to ensure they do not reside in the Small LECs' territories. This screening can be accomplished by using the Zip Code + 4s for the Small LEC customers.²⁷ CD recommends that the Small LECs be required to provide Virgin, CD, and the California LifeLine third-party administrator with a list of the Zip Code + 4s for the customers in their respective service areas, and the list should be updated periodically, so that Virgin can make a preliminary evaluation of a prospective LifeLine customer's eligibility based on the customer's residence address. The third party administrator can then verify eligibility. Virgin should be allowed to begin offering LifeLine service as soon as practicable after receiving Zip + 4 Code information from the Small LECs. CD recommends that Virgin be required to reject any prospective LifeLine customer with a Zip Code + 4 located within a Small LEC's territory. CD also recommends that Virgin not provide the LifeLine discount to the customer, until Solix has verified the customer's eligibility, as required by G.O. 153.

In addition to use of the Zip + 4 safeguard against Virgin providing LifeLine service to customers in the Small LEC service areas, CD suggests that it is appropriate for the Commission to rely on the Small LECs to monitor for instances where they believe Virgin has offered LifeLine service to a Small LEC customer. Should such instances arise, the Small LECs can raise any related concerns about Virgin's behavior or practices in the Small LECs' territories for Commission review. If the matter cannot be resolved informally, the Small LECs can file a complaint with the Commission.

²⁶ See D. 10-11-33, mimeo at 72

²⁷ ZIP+4 is the standard Zip Code with a four digit add-on code. This add-on code identifies a smaller geographic region within the main code, such as a city block, office building, etc. For example, the CPUC's ZIP+4 code is 94102-XXXX. The link to Zip Code information is - [USPS Zip Codes](#)

CD recommends that the Small LECs be required to provide the list of the zip+4 codes in its service area within 60 days of the effective date of this Resolution.

V. Did Virgin Demonstrate Compliance with G.O. 153 Certification and Verification Requirements?

The Small LECs allege that Virgin has not committed to comply with G.O. 153 certification and verification requirements. Virgin responded in its AL supplement 1A that it will abide by the requirements of G.O. 153, including those that govern customer certification and verification, to the extent the Commission applies these requirements to wireless carriers.²⁸

G.O. 153 requires that a verification form be sent annually to California LifeLine customers to determine continued program eligibility.²⁹ In California, certification and verification are accomplished through a third-party administrator or certification agent,³⁰ currently Solix. CD recommends that Virgin be required to comply with G.O. 153 requirements, including the third-party certification and verification process, and that Virgin not be allowed to provide Federal LifeLine service to a California customer until the third-party verification process for that customer has been completed and is operational.

Based on CD's analysis, the Commission adopts CD's recommendation that Virgin shall be required to comply with requirements in G.O. 153 pertaining to the third-party verification agent.

VI. Would Virgin's ETC Designation in Advance of Concluding the Commission's Review of the Telecommunications Public Policy Programs (R. 06-05-028) Result in Customer Confusion?

The Small LECs argue that the CPUC should not grant Virgin ETC designation, prior to completion of the CPUC's Rulemaking (R. 06-05-028) regarding Universal Service reform. The Small LECs further assert that it is unclear what form wireless LifeLine offerings will take in California; accordingly, they argue, customer confusion will result from having two LifeLine programs in the state. Virgin did not respond to this assertion.

²⁸ See AL 1A, at 3

²⁹ G.O. 153, §§ 4.4, 4.5

³⁰ G.O. 153, § 4.2.1

Commission order D. 10-11-033, issued on November 19, 2011 in R. 06-05-028, allows LifeLine customers to choose alternative LifeLine providers, thus rendering this Small LEC request moot.

CD believes that Virgin shall provide sufficient disclosure to customers to minimize confusion. CD recommends that Virgin shall clearly label its LifeLine service as being offered under the Federal program to ensure no confusion between the two programs. CD also recommends that Virgin provide adequate information to its customers thru its Federal LifeLine advertising about the potential coverage and service quality issues a customer may encounter if s/he opts to select a federal wireless LifeLine plan versus a federal or State LifeLine wireline plan. CD also recommends that Virgin submit its LifeLine marketing materials to CD staff for review for message clarity prior to publication.

VII. Universal Service Administrative Company (USAC) Certification Requirements

Upon approval, Virgin shall file information with the USAC, pursuant to 47 Code of Federal Regulation (C.F.R.) Section 54.401 (d), demonstrating that its Lifeline service meets the FCC requirements, and stating the number of qualifying low-income customers and the amount of state assistance. Virgin shall provide the USAC an estimated amount of state assistance (if any) based on current ULTS rates, net of expected amount of federal support. A copy of Virgin's certification with the USAC shall be provided to the CD Director within 30 days of receipt from USAC by Virgin.

VIII. Summary of CD Recommendations

In this Resolution, the Commission grants Virgin's limited ETC designation request with the following conditions proposed by CD until such time that the Commission adopts specific LifeLine or basic service rules for wireless carriers:

- Virgin's Free 250 Anytime Minutes plan shall not be approved because it does not comply with D. 10-11-033's measured rate price requirement;
- Neither Virgin's Free 250 Anytime Minutes LifeLine plan nor its 500 minutes for \$5.00 LifeLine plan, shall be approved because these plans could cost a wireless LifeLine customer with average MOU per month more than Virgin's own PayLo retail plan;
- Virgin's 1,000 minutes and 1000 Text messaging for \$20.00 plan shall be approved for LifeLine purposes;
- Virgin is authorized the waiver from the G.O. 153 basic service elements of LifeLine, until such time that the Commission establishes additional basic service

rules for wireless in the current California LifeLine and California High Cost Fund B rulemaking proceedings.

- Virgin shall comply with G.O. 153, including verification and certification processes, and shall not be allowed to begin to offer LifeLine service to customers until the verification and certification process has been put into place with the 3rd party administrator and is operational. Virgin should be required to inform the Communications Division Director within five business-days of when these processes are put into place and are operational;
- Virgin shall clearly label its LifeLine offering as Federal LifeLine to minimize customer confusion between State and Federal LifeLine programs. Virgin will also provide adequate information to its customers about the potential coverage and service quality issues a customer may encounter if s/he opts to select a federal wireless LifeLine plan versus a federal or State LifeLine wireline plan. And Virgin, prior to publication, must provide to CD staff copies of marketing materials for review of message clarity.
- Virgin shall only provide Federal LifeLine services in California excluding the Small LEC service areas. Virgin will utilize the zip+4 code method to ensure that it is not providing Federal LifeLine services to customers located in the Small LEC service areas.
- The Small LECs shall be required to provide a list of the zip+4 codes in its service area within 60 days of the effective date of this Resolution.

The Commission agrees with CD staff's recommendation and grants Virgin's request to be designated as an ETC in California.

COMMENTS

Public Utilities Code Section 311(g)(1) requires that the Commission (1) serve a draft Resolution on all parties, and (2) make that draft Resolution available for public review and comment for a period of 30 days or more, prior to a vote of the Commission on the Resolution. On January 25, 2011, the Commission distributed a draft of this Resolution for comments to the Virgin Service List, utilities and other interested parties. On April 22, 2011, the Commission re-distributed a draft of this Resolution incorporating substantive changes. Virgin, the Small LECS and TURN stipulated to reduce the comment period to 10 days.

Opening Comments were filed on February 9, 2011 by the Small LECs and The Utility Reform Network (TURN); Reply Comments was filed on February 14, 2011 by Virgin.

The Small LECs and TURN believes that consideration of this draft Resolution should be deferred until the Commission has ruled on the Small LECs' Application for Rehearing³¹ of Resolution T-17266, which granted Cricket Communications, Inc. ETC designation throughout California. The Small LECs continue to assert that granting Virgin authority to operate in the rural service areas violates the "service area" requirement under 47 U.S.C. Section 214(e)(1)(A). CD Staff supports the Small LEC and TURN proposal that the draft Resolution should consider results of the Small LEC's Application for Rehearing of Resolution T-17266 prior to authorizing ETC designation in the territories of the Small LECs.

CD recommends that the Commission limit Virgin's request for ETC designation to the areas it has proposed in its AL supplement 1A. Also, CD recommends that Virgin filter all potential customer's zip+4 code against the table of zip+4 codes provided by the Small LECs to Virgin encompassing their territories, and Virgin should not provide LifeLine service to any customers whose zip+ 4 code is within the Small LEC's territory. This Resolution has been modified to address Virgin's service area limitation and implementation of the zip+4 code.

The Small LECs and TURN also assert that Virgin's proposed service plan is not comparable to the incumbent ETCs. The Small LECs suggest that all wireless ETC service plans include unlimited calling. In addition, TURN believes that the local usage comparability calculation methodology used by CD staff was inappropriate. TURN believes that the draft Resolution violates D. 11-10-033 by allowing deviations particularly with regard to the elements of basic service. These issues have been addressed by allowing temporary deviation until such time that the Commission has established additional rules for wireless such as, but not limited to, LifeLine and basic service definition. CD believes that granting Virgin the waivers from some basic elements is still in the public's interest.

TURN also raised the issue that the draft Resolution did not provide information on how a consumer can exercise judgment considering that Virgin acknowledges that there were coverage and service quality issues with its wireless service offering. CD supports TURN and recommends that Virgin provide adequate information to its customers thru their Federal LifeLine advertising about the potential coverage and service quality issues a customer may encounter if s/he opts to select a federal wireless LifeLine plan versus a federal or State LifeLine wireline plan.

³¹ The Small LECs filed an Application for Rehearing on January 5, 2011.

In Virgin's Reply Comments, it believes that there is no reason to delay its designation as an ETC in California. It also states that designation of wireless carrier as ETCs in California will promote the public interest by providing low-income consumers with lower prices, higher quality offerings and increased choices for telecommunications services. Virgin's Reply Comments supports the conclusion of the draft Resolution but requests that the Commission consider revising its regulatory framework to permit LifeLine offering that provide a number of minutes below the minimum threshold recommend by staff. In addition, Virgin clarified that the Federal LifeLine plan offering of \$20/1000 minutes includes an additional 1000 text messaging. The Text messaging (sending and receiving) feature do not count towards the allocated voice minutes.

FINDINGS

1. On April 29, 2009, Virgin Mobile USA LLC (U-4327-C) filed AL 1 requesting ETC designation to provide Federal LifeLine services only to qualifying customers in California.
2. Virgin is a facilities-based wireless carrier in California, registered on April 16, 2002 operating as Virgin Mobile USA L.P. Virgin is a Delaware Limited Liability Company with principal offices at 10 Independence Blvd., Warren New Jersey. Virgin is required to pay CPUC user fees and public purpose program surcharges as a condition of its wireless carrier designation in California.
3. On May 28, 2009 the Small LECs, filed Late Protest against Advice Letter 1.
4. On June 23, 2009, Virgin filed AL supplement 1A, responding to the Small LECs protest and limited its ETC designation request to the service areas of the URF ILECs, excluding the Small LEC service areas, and provided service area maps in PDF.
5. On March 18, 2010 Virgin filed Advice Letter 1B, modifying/expanding its LifeLine offering and declaring it was now a facilities-based wireless carrier.
6. On August 23, 2010 Virgin filed Advice Letter 1C, specifically committing to the requirements of Resolution T-17002.
7. On November 4, Virgin filed Advice Letter 1D, modifying/expanding its LifeLine offering.
8. On April 18, 2011, Virgin filed AL supplement 1E, submitting the required maps in .shp format and locations of its cell sites.

9. Virgin is not seeking Federal Link Up support, Federal Universal Service High-Cost Support or California State Universal Service support.
10. Virgin has met all the requirements for ETC status found in Resolution T-17002.
11. Virgin will provide USF supported services through a combination of its own facilities and the resale of another carrier's service.
12. Virgin has committed to provide the services supported by the USF.
13. Virgin has demonstrated the ability to remain functional in an emergency situation.
14. Virgin has committed to satisfy consumer protection and service quality standards.
15. Virgin acknowledges that it may be required to provide equal access to long distance carriers if all other ETCs in the service area relinquish their ETC status.
16. It is in the public interest to designate Virgin as an ETC to offer Federal LifeLine in the service areas of URF carriers.
17. Virgin did not meet the following G.O. 153 elements of basic telephone services: free incoming calls to customers, customer choice of flat or measured rate service, free access to DA calls, free access to 800 and 800-like numbers, one free directory listing per year, and a free white-pages telephone directory. Virgin is authorized the waiver from the G.O. 153 basic service elements of LifeLine until such time that the Commission has established additional basic service rules for wireless in the current California LifeLine and California High Cost Fund B rulemaking proceeding. The authorized waiver will have no bearing on Lifeline offerings under state law.
18. Virgin's 250 Free Anytime Minutes plan do not comply with D. 10-11-033's pricing policies for measured rate service and should not be approved.
19. Virgin's 1,000 minutes for \$20.00 plan is comparable to the local usage plans of the ILECs that operate in the areas Virgin requests ETC designation in.
20. Virgin's 1,000 minutes for \$20.00 plan is in the public interest, and should be approved.

21. Virgin's 250 Free Anytime minutes and its 500 minutes for \$5.00 LifeLine plans are more expensive than its off-the-shelf retail PayLo 1500 minutes plan, therefore is not in the public interest.
22. On January 25, 2011, the Commission distributed a draft of this Resolution for comments to the Virgin Service List, utilities and other interested parties. Opening Comments were filed on February 9, 2011 by the Small LECs and The Utility Reform Network (TURN); Reply Comments was filed on February 14, 2011 by Virgin.
23. On April 22, 2011, the Commission re-distributed a draft of this Resolution incorporating substantive changes. The Virgin, the Small LECS and TURN stipulated to reduce the comment period to 10 days.
24. Virgin shall provide Federal LifeLine services in California excluding the Small LEC service areas.
25. Virgin shall implement the zip+4 code to screen customers and ensure that current customers of the Small LECs are not accepted as Virgin LifeLine customers.
26. The Small LECs shall be required to provide the list of the zip+4 codes in its service area within 60 days of the effective date of this Resolution.
27. Virgin shall clearly label its LifeLine offering as Federal LifeLine to minimize customer confusion between State and Federal LifeLine programs, include adequate information about the potential coverage and service quality issues and to provide copies of marketing materials to CD staff for review of message clarity prior to publication.
28. Virgin's ETC designation is contingent upon Virgin complying with Commission rules, including continuing to pay public purpose surcharges and PUC user fees.
29. Virgin shall comply with G.O. 153's certification and verification with Solix to establish customer's LifeLine eligibility, and not be allowed to begin to offer LifeLine service to customers until the verification and certification process has been put into place with the 3rd party administrator and is operational. Virgin should be required to inform the Communications Division Director within five business-days of when these processes are put into place and are operational.
30. It is reasonable to use Commission rules and policies for California LifeLine service, including D. 10-11-033 and G.O. 153 for evaluating ETC designation

requests, including Federal LifeLine offerings by wireless carriers until the Commission adopts specific rules for wireless LifeLine offerings.

THEREFORE, IT IS ORDERED that:

1. Virgin's request for Eligible Telecommunications Carrier designation throughout California excluding the Small LEC territories for the limited purpose of providing Federal LifeLine service only is granted.
2. Virgin shall only offer the 1,000 minutes with additional 1000 text messaging for \$20.00 LifeLine plan to Federal LifeLine customers in California.
3. Virgin's 250 free anytime minutes and 500 minutes for \$5.00 Federal LifeLine plans are not in the public interest, nor do they comply with D. 10-11-033, and are not approved for California Federal LifeLine customers.
4. Virgin shall implement the zip+4 code to screen customers and ensure that current customers of the Small LECs are not accepted as Virgin LifeLine customers.
5. The Small LECs shall be required to provide a list of the zip+4 codes in its service area within 60 days of the effective date of this Resolution.
6. Virgin shall continue to comply with Commission rules, including the payment of public purpose program surcharges and PUC user fees. Failure to do so may result in revocation of ETC designation in California.
7. Until the Commission adopts specific rules for wireless LifeLine offerings, G.O. 153 shall continue to be used in evaluating ETC designation requests by wireless carriers, including Federal LifeLine certification and verification. Once the Commission adopts wireless specific LifeLine rules, Virgin shall be required to comply with those rules.
8. Virgin shall comply with G.O. 153's certification and verification with Solix to establish customer's LifeLine eligibility, and not be allowed to begin to offer LifeLine service to customers until the verification and certification process has been put into place with the 3rd party administrator and is operational. Virgin should be required to inform the Communications Division Director within five business-days of when these processes are put into place and are operational.

9. Virgin is authorized the waiver from the G.O. 153 basic service elements of LifeLine until such time that the Commission has established additional basic service rules for wireless in the current California LifeLine and California High Cost Fund B rulemaking proceeding. The authorized waiver will have no bearing on Lifeline offerings under state law.
10. Virgin shall clearly label its offering as Federal LifeLine to minimize customer confusion between state and federal LifeLine programs, include adequate information about the potential coverage and service quality issues, and provide copies of marketing materials, prior to publication, to CD staff for review..
11. Virgin shall provide the CD Director within 30 days of receipt from USAC a copy of Virgin's certification with the USAC.

This Resolution is effective today.

I certify that the foregoing resolution was duly introduced, passed, and adopted at a conference of the Public Utilities Commission of the State of California held on May 5, 2011, the following Commissioners voting favorably thereon:

PAUL CLANON
Executive Director

Resolution T-17002

Appendix A

Comprehensive Procedures and Guidelines For Eligible Telecommunications Carrier Designation

Each telecommunications carrier seeking eligible telecommunications carrier designation must file an advice letter with the Commission with the following information:

Section I - Compliance with FCC 97-157

- A) The service areas for which the carrier is requesting ETC designation including a List of Geographic Service Areas and a map in .shp format showing the proposed service area. For wireless petitioners, the map should identify the location of cell sites and shade the area where the carrier provides commercial mobile radio service or similar service.
- B) An itemized list of the designated services to be provided, i.e.
 - ✓ Single party service;
 - ✓ Voice grade access to the public switched network;
 - ✓ Local usage;
 - ✓ Dual tone multi-frequency signaling or its functional equivalent;
 - ✓ Access to emergency services;
 - ✓ Access to operator services;
 - ✓ Access to interexchange services;
 - ✓ Access to directory assistance; and
 - ✓ Toll limitation for qualifying low-income consumers.
- C) A list of any services which the carrier proposes not to provide and for which the carrier is seeking an extension of time.
- D) An indication of whether the carrier plans to apply for a waiver of the requirement that an ETC not disconnect LifeLine for non-payment of toll.
- E) A description of the carrier's advertising plan, indicating the advertising media to be used, and an explanation of how its plan meets the advertising requirement in section 214(e) of the Telecommunications Act.
- F) If necessary, implement tariff changes via the advice letter filing process. This provision would not apply to carriers that are not required to maintain tariffs.
- G) If applicable, request additional time to perform network upgrades to provide single-party service, access to E911 service, and/or toll limitation to low income customers.

Section II - Compliance with FCC 05-46

A) Commitment to Provide Service

An ETC applicant must demonstrate that it has the commitment and ability to provide supported services throughout the designated area by providing services to all requesting customers within its designated service area. Each applicant shall certify that it will:

1. provide service on a timely basis to requesting customers within the applicant's service area where the applicant's network already passes the potential customer's premises; and
2. provide service within a reasonable period of time, if the potential customer is within the applicant's licensed service area but outside its existing network coverage, if service can be provided at reasonable cost by:
 - a. modifying or replacing the requesting customer's equipment;
 - b. deploying a roof-mounted antenna or other equipment;
 - c. adjusting the nearest cell tower;
 - d. adjusting network or customer facilities;
 - e. reselling services from another carrier's facilities to provide service; or
 - f. employing, leasing or constructing an additional cell site, cell extender, repeater, or other similar equipment.

If the carrier determines that it cannot serve the customer using one or more of these methods, then the carrier must report the unfulfilled request within 30 days after making such determination.

B) Submission of Two-Year Service Quality Improvement Plan

In submitting a formal plan detailing how it will use universal service support to improve service within the service areas for which it seeks designation, an ETC must submit a two-year plan describing its proposed improvements or upgrades to the ETC's network on a wire center-by-wire center basis throughout its designated service area. The two-year plan must demonstrate in detail how high-cost support will be used for service improvements that would not otherwise be made without such support. This must include:

- 1) a description of any plan for investment to be made or expenses to be incurred which will improve or permit the offering of services that are the subject of reporting requirements in FCC Form 477 (the form and instructions may be accessed at: <http://www.fcc.gov/formpage.html#477>);

- 2) a description of investments made and expenses paid with support from the high-cost fund;
- 3) the projected start date and projected completion date for each improvement and the estimated amount of investment for each project;
- 4) the specific geographic areas where the improvements will be made;
- 5) the ETC's projected operating expense requirements for the current and following year;
- 6) a certification that the investments made and expenses paid will be incurred to maintain and provide telecommunication services to any customer requesting service in ETC's service area;
- 7) a description of any capital improvements planned including whether the funds for the improvements are from operating expenses, grants, or loaned funds from the Rural Utilities Service or some other government or private institution; and
- 8) a description of the benefits to consumers that resulted from the investments and expenses reported pursuant to this requirement.

Carriers should provide this information for each wire center in each service area for which they expect to receive universal service support. Service quality improvements in the two-year plan do not necessarily require additional construction of network facilities.

C) Ability to Remain Functional

In order to be designated as an ETC, the carrier must demonstrate that it has back-up power to ensure functionality without an external power source, is able to reroute traffic around damaged facilities, and is capable of managing traffic spikes resulting from emergency situations.

D) Consumer Protection

The carrier seeking ETC designation should demonstrate its commitment to meet consumer protection and service quality standards in its application. Thus, an ETC applicant should report information on consumer complaints per 1,000 handsets or lines on an annual basis. Likewise, a carrier should commit to serve the entire service area and provide two-year network improvement plans addressing each wire center for which it expects to receive support.

E) Local Usage

The carrier should be able to demonstrate that it offers a local usage plan comparable to the one offered by the incumbent LEC in the service areas for which the carrier seeks designation.

F) Equal Access

The carrier should be able to provide equal access if all other ETCs in the service area relinquish their designations pursuant to section 214 (e) (4) of the ACT.

G) Public Interest Determination

The carrier should be able to show that the carrier's designation as an ETC is consistent with the public interest, convenience and necessity. Therefore, the ETC applicant should demonstrate: that the designation will increase consumer choices, the advantages and disadvantages of its service offerings, and the absence of creamskimming.

Appendix B

**Comprehensive Reporting Requirements
For
Eligible Telecommunications Carriers
Eligible for Federal High-Cost Support**

Each telecommunications carrier eligible for federal universal service high-cost support must file an advice letter with the Commission with the following information:

Section I - Compliance with FCC 03-249

A. Carrier Information:

1. Name of the carrier;
2. The carrier's Study Area Code;
3. Carrier type as designated by the FCC such as rural ILEC, non-rural ILEC, competitive ETC serving lines in the rural and/or non-rural service areas;
4. The applicable Code of Federal Regulations (CFR) section(s) for which the federal universal service high-cost support is provided;
5. The current basic residential rate excluding Extended Area Service in the area they serve; and
6. A statement, under oath, that the federal universal service high-cost support provided to the carrier will be used only for the provision, maintenance, and upgrading of facilities and services for which the support is intended.

B. Basic Residential Service Rate:

All ETCs, whether, rural or non-rural, are required to include in their current basic residential service rates excluding Extended Area Service (EAS) in the areas they serve.

C. Filing Dates:

1. On or before September 15 if eligible for the federal universal service high-cost support for the first, second, third and fourth quarters of succeeding year.
2. On or before December 15 if eligible for the federal universal service high-cost support for the second, third and fourth quarters of the succeeding year.
3. On or before March 15 if eligible for the federal universal service high-cost support for the third and fourth quarters of that year.
4. On or before June 15 if eligible for the federal universal service support for the fourth quarter of that year.

Section II - Compliance with FCC 05-46

- A. A two-year service quality improvement plan, including, as appropriate, maps detailing progress towards meeting its prior two-year improvement plan, explanations of how much universal service support was received and how the support was used to improve service quality in each wire center for which designation was obtained, and an explanation of why network improvement targets, if any, have not been met. If a designated ETC has submitted a five-year plan in a GRC application that has been approved by the Commission and is still in effect, the carrier may refer to its GRC filing and submit a progress report on the plan covered by the GRC.
- B. Detailed information on outages in the ETC's network caused by emergencies, including the date and time of onset of the outage, a brief description of the outage, the particular services affected by the outage, the geographic areas affected by the outage, and steps taken to prevent a similar outage situation in the future. If an ETC has submitted a Major Service Interruptions report in accordance with CPUC Memorandum dated October 5, 1977, the ETC need not submit the same report. However, in their self-certification letter, the ETC should cite the date(s) of submission of the report; and
- C. Information on the number of unfulfilled requests for service from potential customers for the past year and the number of complaints per 1,000 handsets or lines. If an ETC has submitted the Held Primary Service Order and Customer Trouble Reports in accordance with Sections 3.1 and 3.3 of G. O. 133-B, the ETC need not submit the same reports. However, in their self-certification letter, the ETC should cite the date(s) of submission of the reports.

Virgin's Compliance with the Service Elements of LifeLine
Source: Virgin's Advice Letters 1 - 1E
December 10, 2010

	Service Element of LifeLine	In Compliance	Comments
1)	Access to single party local exchange service that is substantially equivalent to single party local exchange service.	Yes	
2)	Access to all interexchange carriers offering service in the LifeLine customer's local exchange.	Yes	
3)	Ability to place calls	Yes	
4)	Ability to receive free incoming calls	No	Virgin does not provide this.
5)	Free touch-tone dialing	Yes	
6)	Free unlimited access to 911/E-911	Yes	
7)	Access to local directory assistance (DA). Each utility shall offer its LifeLine customers the same number of free DA calls that it provides to its non-LifeLine customers.	No	Virgin charges \$1.75 per DA call. Usage minutes are deducted.
8)	Access to foreign Numbering Plan Areas.	Yes	
9)	LifeLine rates and charges.	Yes	
10)	Customer choice of flat-rate local service or measured-rate local service. The 17 smaller LECs identified in D. 96-10-066 do not have to offer LifeLine customers the choice unless they offer the choice to their non-LifeLine customers.	No	Virgin offers a measured- rate to all customers.
11)	Free provision of one directory listing per year as provided for in D. 96-02-072.	No	No Publicly available wireless listings of telephone numbers are available.

Virgin's Compliance with the Service Elements of LifeLine
Source: Virgin's Advice Letters 1 - 1D
December 10, 2010

	Service Element of LifeLine	In Compliance	Comments
12)	Free white pages telephone directory	No	Wireless carriers do not provide this resource.
13)	Access to operator service.	Yes	
14)	Voice grade connection to the public switched telephone network.	Yes	
15)	Free Access to 800 or 800-like toll-free services.	No	There is no additional charge for 800 access; however usage minutes are deducted.
16)	Access to telephone relay services as provided for in PU Code § 2881 et seq.	Yes	Hearing impaired service.
17)	Toll free access to customer service for information about LifeLine, service activation, service termination, service repair, and bill inquires.	Yes	
18)	Toll free access to customer service representatives fluent in the language (English and non-English) the LifeLine service was originally sold in.	Yes	
19)	Free access to toll blocking service.	N/A	Virgin service provides uniform pricing for local and long distance calls.
20)	Free access to toll control service, but only if (i) the utility is capable of offering toll-control service, and (ii) the LifeLine customer has no unpaid bill for toll service.	N/A	Virgin service provides uniform pricing for local and long distance calls.

Virgin's Compliance with the Service Elements of LifeLine
Source: Virgin's Advice Letters 1 - 1D
December 10, 2010

	Service Element of LifeLine	In Compliance	Comments
21)	Access to two residential telephone lines if a low income household with a disabled person requires both lines to access LifeLine	Yes	
22)	Free access to the California Relay Service via 711 abbreviated dialing code.	Yes	

STATE OF CALIFORNIA

GRAY DAVIS, Governor

PUBLIC UTILITIES COMMISSION

505 VAN NESS AVENUE
SAN FRANCISCO, CA 94102-5298



April 16, 2002

Virgin Mobile USA, LLC
Attn: Helen E. Disenhaus, Counsel
3000 K Street, N.W., Suite 300
Washington, D.C. 20007

Re: Wireless Identification Number (U-4327-C) Virgin Mobile USA, LLC d/b/a Virgin Mobile USA or Virgin Mobile.

Dear Ms. Disenhaus:

This is to notify you that the information provided to the Telecommunications Division in a letter received April 11, 2002, meets the information filing requirements for Wireless Registration Identification (WRI) in Decision 94-10-031 as modified by Decision 94-12-042. Your corporate identification number is U-4327-C. Virgin Mobile USA, LLC may begin to resell wireless service to the public in California.

In all respects except authorization for market entry and rates, the authority of the Commission to regulate terms and conditions of newly registered wireless carriers shall apply to the same extent as those holding certificates of CPCN prior to August 10, 1994. Specifically this includes, but is not limited to the following requirements:

1. The corporate identification number assigned to applicant is U-4327-C, which should be included in the caption of all original filings with this Commission and in the titles of other pleadings filed in existing cases.
2. Applicant shall notify the Director of the Telecommunications Division in writing of the date service is first rendered to the public as authorized herein, within five days after service begins.
3. Applicant shall be granted a waiver of P.U. Code sections 816-830 and 851-855, consistent with Decisions 85-07-081 and 85-11-044.
4. Applicant shall comply with General Order 159-A and D. 96-05-035, as they pertain to cell citing or to a Mobile Telephone Switching Office.
5. Applicant is subject to the current 1.45% surcharge applicable to all intrastate services except for those excluded by D.94-09-065, as modified by D.95-02-050, to fund the Universal Lifeline Telephone Service (Pub. Util. Code Section 879; Resolution T-16435, July 1, 2001).
6. Applicant is subject to the user fee provided in Pub. Util. Code Sections 431-435, which is 0.11% of gross intrastate revenue for the 2000-2001 fiscal year (Resolution M-4800).

7. Applicant is subject to the current 0.481% surcharge applicable to all intrastate services except for those excluded by D.94-09-065, as modified by D.95-02-050, to fund the California Relay Service and Communications Devices Fund (Pub. Util. Code Section 2881; D.98-12-073 and Resolution T-16504, March 27, 2001).
8. Applicant is subject to the current surcharge applicable to all intrastate services except for those excluded by D.94-09-065, as modified by D.95-02-050, to fund the California High Cost Fund-A (Pub. Util. Code Section 739.30; D.96-10-066, pp.3-4, App. B, Rule 1.C; set by Resolution T-16589 at 0.300% effective January 1, 2002).
9. Applicant is subject to the current 1.47% surcharge applicable to all intrastate services except for those excluded by D.94-09-065, as modified by D.95-02-050, to fund the California High Cost Fund-B (D.96-10-066, p. 191, App. B, Rule 6.F., Resolution T-16585, October 10, 2001).
10. Applicant is subject to the current 0.300% surcharge applicable to all intrastate services except for those excluded by D.94-09-065, as modified by D.95-02-050, to fund the California Teleconnect Fund (D.96-10-066, p. 88, App. B, Rule 8.G; set by Resolution T-16584, October 10, 2001).
11. All surcharges shall be shown as a single item on a customer's bill.
12. The corporate identity number and authority to render cellular service will expire if not exercised within 12 months after the date of this letter.
13. Within 60 days of the issuance of a Wireless registration Identification number, applicant shall comply with PU Code Section 708, Employee Identification Cards, and notify, in writing that compliance has been met, to the Chief of the Telecommunications Division.
14. If applicant fails to remit the fees discussed above, then the Telecommunications Division shall prepare a Commission resolution that revokes the applicant's Wireless Identification Number for Commission approval.
15. Applicant is subject to the jurisdiction of the Commission for the resolution of customer complaints. Prior to initiating service, applicant shall provide the Commission Consumer Service Division with the designated contact person(s) for purpose of resolving consumer complaints and the corresponding telephone number. This information shall be updated if the name or telephone number changes or at least annually.
16. Applicant shall notify the Telecommunications Division in writing of any changes to the information it submitted for wireless registration within 30 days. Such information does not have to be served on competitors, cities and counties.

Sincerely,



Jack Leutza, Director
Telecommunications Division

**California ETC Requirements
Resolution T-17002
Virgin Mobile USA, LLC (U-4327)**

Each carrier seeking ETC status must file an Advice Letter containing the following information

Section I - Compliance with FCC 97-157

Requirement	In Compliance	Comments
A) Provide the service areas for which the carrier is requesting ETC designation, including a list of Geographic Service Areas and a map in .shp format showing the proposed service area. For wireless petitioners, the map should identify the location of cell sites and shade the area where the carrier provides commercial mobile radio service or similar service	Yes	
B) Provide an itemized list of the designated services to be provided, i.e. single party service, voice grade access to the PSTN, etc.	Yes	
C) Provide a list of any services which the carrier proposes not to provide and for which the carrier is seeking an extension of time.	Yes	
D) Provide an indication of whether the carrier plans to apply to apply for a waiver of the requirement that an ETC not disconnect LifeLine for non-payment of toll.	Yes	
E) Provide a description of the carrier's advertising plan, including the advertising media to be used, and an explanation of how its plan meets the advertising requirement in section 214(e) of the Telecommunications Act.	Yes	
F) If necessary, implement tariff changes via the advice letter filing process. This provision would not apply to carriers that are not required to maintain tariffs.	N/A	Wireless carriers do not have tariffs.
G) If applicable, request additional time to perform network upgraded to provide single party service, access to E911 service and/or toll limitation to low-income customers.	Yes	

**California ETC Requirements
Resolution T-17002
Virgin Mobile USA, LLC (U-4327)**

Each carrier seeking ETC status must file an Advice Letter containing the following information

Section II - Compliance with FCC 05-46

Requirement	In Compliance	Comments
A) A commitment to provide Service: The ETC applicant must demonstrate that it has the commitment and ability to provide supported services throughout the designated area by providing services to all requesting customers within its designated service area.	Yes	
B) The ETC must submit a 2 year Service Quality Improvement Plan.	N/A	Virgin is not requesting High-Cost support.
C) Ability to Remain Functional: The ETC applicant must demonstrate the ability to remain functional in an emergency situation.	Yes	
D) Consumer Protection: The ETC applicant should demonstrate its commitment to consumer protection and service quality standards.	Yes	
E) Local Usage: The ETC applicant should show that it offers a local usage plan comparable to the plan offered by the incumbent local exchange carrier in the area it seeks to offer service in.	Yes for (1) out of the (3) plans	The \$20.00/1,000 minute plan meets this requirement.
	No for (2) out of the (3) plans	The \$0.00/250 minute plan and the \$5.00/500 minutes plan do not meet this requirement.
F) Equal Access: The ETC applicant should be able to provide equal access if all other ETCs in the territory relinquish their designation.	Yes.	
G) Public Interest Determination: The ETC applicant should be able to show its designation will increase consumer choices, the advantages and disadvantages of its service offerings, and the absence of creamskimming.	Yes	

Table 19 (extract)				
Annual Report and Analysis of Competitive Market Conditions With Respect to Mobile Wireless, Including Commercial Mobile Services				
FCC 14th Report May 20, 2010				
Year	Average Local Monthly Bill	Minutes of Use Per Month	Average Local Monthly Bill (excluding Data Revenues)	Average Revenue Per Voice Minute
1993	\$61.49	140	\$61.49	\$0.44
1994	\$56.21	119	\$56.21	\$0.47
1995	\$51.00	119	\$51.00	\$0.43
1996	\$47.70	125	\$47.70	\$0.38
1997	\$42.78	117	\$42.78	\$0.37
1998	\$39.43	136	\$39.43	\$0.29
1999	\$41.24	185	\$41.16	\$0.22
2000	\$45.27	255	\$45.09	\$0.18
2001	\$47.37	380	\$46.94	\$0.12
2002	\$48.40	427	\$47.82	\$0.11
2003	\$49.91	507	\$48.66	\$0.10
2004	\$50.64	584	\$48.21	\$0.08
2005	\$49.98	708	\$45.83	\$0.06
2006	\$50.56	714	\$43.73	\$0.06
2007	\$49.79	769	\$40.88	\$0.05
2008	\$50.07	708	\$38.45	\$0.05
Calculated Voice Minutes (\$38.45/\$0.05) = 769				

**CTIA Semi-Annual Wireless Industry Survey
 Results (extract) -June 1993 To June 2008**

6-Month Period Ending:	AVG. LOCAL MONTHLY BILL	Average Local Call Length in Minutes
Jun-93	\$67.31	2.38
Jun-94	\$58.65	2.36
Jun-95	\$52.45	2.27
Jun-96	\$48.84	2.24
Jun-97	\$43.86	2.25
Jun-98	\$39.88	2.34
Jun-99	\$40.24	2.4
Jun-00	\$45.15	2.48
Jun-01	\$45.56	2.62
Jun-02	\$47.42	2.6
Jun-03	\$49.46	2.63
Jun-04	\$49.49	3.06
Jun-05	\$49.52	3.04
Jun-06	\$49.30	2.94
Jun-07	\$49.94	3.13
Jun-08	\$48.54	2.43

Average Local Call Length of 2.43 minutes is utilized for calculations, given that it is contemporaneous with the FCC 14th Report's Minutes of Use Data.

Table I

Conversion of Measured Rate Call Allowance to Wireless MOUs			
FCC Average Local Voice MOU			769
G.O. 153 Call Allowance		60 untimed calls	
CTIA Average Call Duration		X 2.43 Minutes	
G.O. 153 Call Allowance in MOU			<146>
MOU in Excess of G.O. 153 Allowance			623

Table II

Pricing of Converted MOUs per G.O. 153 & D. 10-11-033			
D. 10-11-033 Measured Rate Price Call Allowance Range for first 146 MOU (60 calls allowance)		\$ 2.50	\$ 3.66
Price of 623 MOU in Excess of 146 MOU allowance	\$0.033 (\$.08 per call/2.43 average call duration)	\$20.57	\$20.57
Total G.O. 153/D. 10-11-033 Cost for 769 MOU		\$ 23.07	\$ 24.23

Comparable Local Usage Analysis

Comparison of Virgin Mobile Proposed LifeLine Plans to ILEC LifeLine Measured Rate Plans

(Assuming Average Wireless MOU)

	Virgin 250	Virgin - 500	Virgin - 1,000	ATT (Minimum)	ATT (Maximum)	Verizon	Verizon
Average Normal Usage (calculated)	769	769	769	769	769	769	769
GO 153 Allowance or Plan Allowance	250	500	1000	146	146	146	146
Use in Excess of G.O. 153 or Plan Allowance	519	269	0	623	623	623	623
Cost per Minute of Excess MOUs	0.1	0.1	0.1	0.033	0.033	0.033	0.033
Total Cost of Excess Minutes	\$51.90	\$26.90	\$0.00	\$20.57	\$20.57	\$20.57	\$20.57
Decision 10-11-033 LifeLine Measured Rate Cost	\$0.00	\$5.00	\$20.00	\$2.50	\$3.66	\$2.50	\$3.66
Total G.O. 153 Cost to Customer	\$51.90	\$31.90	\$20.00	\$23.07	\$24.23	\$23.07	\$24.23
Caller ID	Included	Included	Included	\$9.99	\$9.99	\$7.95	\$7.95
Long Distance	Included	Included	Included	6.99*	6.99*	\$15.99	\$15.99
Voicemail	Included	Included	Included	Not Available	Not Available	\$7.45	\$7.45
Federal Excise Tax	\$0.00	\$0.00	\$0.00	\$0.08	\$0.11	\$0.08	\$0.11
Total Additional Costs	\$0.00	\$0.00	\$0.00	\$17.06	\$17.09	\$31.47	\$31.50
Total Cost to LifeLine Customer	\$51.90	\$31.90	\$20.00	\$40.12	\$41.32	\$54.53	\$55.73
* AT&T One Rate Nationwide 5¢ Advantage Plan							

Draft Resolution T-17284 Service List (April 22, 2011)

UTILITY NAME	EMAIL
Skadden, Arps, Slate, Meagher & Flom Llp	john.beahn@skadden.com
Citizens Telecommunications Co. Of Ca.	Charlie.Born@FTR.com
Citizens Telecoms. Co. Of Golden State	Charlie.Born@FTR.com
Citizens Telecoms. Co. Of Tuolumne	Charlie.Born@FTR.com
The Siskiyou Telephone Company	jtlowers@sisqtel.net
Happy Valley Telephone Co.	gail.long@tdstelecom.com
Hornitos Telephone Company	gail.long@tdstelecom.com
Winterhaven Telephone Company	gail.long@tdstelecom.com
Verizon West Coast, Inc.	linda.fogg@verizon.com
Sierra Telephone Company, Inc.	lindab@stcg.net
Calaveras Telephone Company	ysmythe@caltel.com
Cal-Ore Telephone Company	waihun@cot.net
Ducor Telephone Company	egwolfe@ducortelco.com
Foresthill Telephone Company, Inc.	dclark@kermantelephone.com
Global Valley Network, Inc.	susan.leclair@pinetreenetworks.com
Kerman Telephone Company	dclark@kermantelephone.com
Pinnacles Telephone Company	lorrie.bernstein@mossadams.com
Volcano Telephone Company	earlb@volcanotel.com
The Ponderosa Telephone Company	dand@ponderosatel.com
WWC License, LLC/Alltel/Western Wireless	nathan.glazier@alltel.com
AT&T California	regtss@att.com
Verizon California, Inc.	margo.ormiston@verizon.com
Frontier Communications Of The Southwest	Charlie.Born@FTR.com
Connecto Communications	ccollier@telecompliance.net
TracFone Wireless, Inc	brechern@gtlaw.com
Cricket Communications	suzannetoller@dwt.com
I-Wireless	lsteinhart@telecomcounsel.com
Nexus Communications	pacasciato@gmail.com
Virgin Mobile	john.beahn@skadden.com
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Telco Service Quality	telcoservicequality@cpuc.ca.gov
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