

**STATE OF MISSOURI
PUBLIC SERVICE COMMISSION**

At a session of the Public Service
Commission held at its office in
Jefferson City on the 20th day
of February, 2013.

In the Matter of the Application of Virgin Mobile USA, L.P.)
Branded Assurance Wireless Brought To You By Virgin)
Mobile for Limited Designation as an Eligible) **File No. RA-2012-0264**
Telecommunications Carrier in the State of Missouri)

**ORDER GRANTING APPLICATION FOR DESIGNATION
AS AN ELIGIBLE TELECOMMUNICATIONS CARRIER**

Issue Date: February 20, 2013

Effective Date: March 4, 2013

On February 1, 2012, Virgin Mobile USA, L.P. d/b/a Assurance Wireless brought to you by Virgin Mobile (“ Virgin Mobile”) requested designation by the Missouri Public Service Commission (“Commission”) as an eligible telecommunications carrier for the purpose of providing prepaid wireless services in Missouri supported by the federal Universal Service Fund’s Lifeline program. Virgin Mobile is a wholly-owned subsidiary of Sprint Nextel Corporation.

The Commission issued notice and set a deadline for intervention. No person or entity sought intervention in this matter, and no party has requested a hearing. On January 29, 2013, the Commission’s Staff filed a *Staff Recommendation*, which recommends that the Commission grant Virgin Mobile’s application, subject to the following three conditions:

- A. The Company shall notify the Staff within 30 days of any event that falls within the following: Please provide the details of any matter brought in the last ten years by any state or federal regulatory or law

enforcement agency against the ETC, any person or entity that holds more than a 10% ownership interest in the ETC, any affiliated company (any company under common management ownership or control or that, by contract or other agreement performs any of the functions necessary to the ETC's Lifeline Service) that involves any aspect of the provision of Lifeline Service or any aspect of state or federal Universal Service funds, or any matter involving fraud, deceit, perjury, stealing or the omission or misstatement of material fact in connection with a commercial transaction. Such matters include formal or informal notices of investigation, indictment, the filing of a complaint, a civil lawsuit, revocation or suspension proceeding, action for penalties or damages, or criminal charges. Such details include, but are not limited to, copies of complaints or other such pleadings and the filed responses thereto, as well as any orders, decisions or other determinations of culpability, including those that exonerate the subject of any wrongdoing.

- B. The Company may only use the MoUSF Board-approved form when enrolling Lifeline subscribers in Missouri.
- C. The Company will use either its full name or the "d/b/a" (Assurance Wireless brought to you by Virgin Mobile), which is registered with the Missouri Secretary of State when enrolling Lifeline subscribers in Missouri.

On February 13, 2013, Virgin Mobile filed a response accepting the three conditions proposed by Staff.

The application is within the Commission's jurisdiction to decide.¹ Since no law requires a hearing, this is a non-contested case.² Non-contested cases do not require formal proceedings or hearings before the Commission, and as such, there is no evidentiary record.³ Consequently, the Commission bases its decision on the verified filings.

¹ 47 U.S.C. § 214(e)(2).

² Section 536.010(4) defines a "contested case" as "a proceeding before an agency in which legal rights, duties or privileges of specific parties are required by law to be determined after hearing."

³ *Sapp v. City of St. Louis*, 320 S.W.3d 159, 163 (Mo. App. 2010).

The federal Universal Service Fund was established in the Telecommunications Act of 1996 (“Act”). The stated purpose of the fund is to ensure that telephone customers in rural and high cost areas, as well as low-income customers, have access to quality telecommunications services at reasonable and affordable rates.⁴ To meet that goal, the Universal Service Fund redistributes money paid into the fund by telecommunications customers to telecommunications service providers who serve low-income customers or rural and high cost areas.

Before a telecommunications service provider is eligible to receive funding from the Universal Service Fund, it must be designated as an Eligible Telecommunications Company (“ETC”). Section 214(e)(6) of the Act provides, in pertinent part:

In the case of a common carrier providing telephone exchange service and exchange access that is not subject to the jurisdiction of a State commission, the Commission shall upon request designate such a common carrier that meets the requirements of paragraph (1) as an eligible telecommunications carrier for a service area designated by the Commission consistent with applicable Federal and State law.

Virgin Mobile is authorized to do business in Missouri. Virgin Mobile is a mobile wireless carrier whose operations are not regulated by the Commission. It is not delinquent or non-compliant with any Commission reporting or assessment requirements.

The Commission finds the assertions in the application, and its supplements, and the *Staff Recommendation* to be true. The Commission must grant Virgin Mobile eligible telecommunications carrier designation if it satisfies all federal and state requirements.⁵ Based upon its independent and impartial review of the verified

⁴ 47 U.S.C. 254(b).

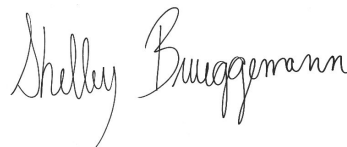
⁵ 47 U.S.C. § 214(e)(1),(2) and (6).

application and staff recommendation, the Commission finds that Virgin Mobile has met all federal and state requirements and that it is in the public interest to grant the ETC application. Therefore, the Commission will designate Virgin Mobile as an eligible telecommunications carrier solely for the purpose of receiving federal Lifeline support, subject to the three conditions in the *Staff Recommendation*.

THE COMMISSION ORDERS THAT:

1. Virgin Mobile USA, L.P. d/b/a Assurance Wireless brought to you by Virgin Mobile is designated as an eligible telecommunications carrier to receive low-income Lifeline federal universal service fund support as provided in its application, subject to the three conditions described in the body of this order.
2. This order shall become effective on March 4, 2013.
3. This case shall be closed on March 5, 2013.

BY THE COMMISSION



Shelley Brueggemann
Acting Secretary

(S E A L)

Gunn, Chm., Jarrett, R. Kenney,
Stoll, and W. Kenney, CC., concur.

Bushmann, Regulatory Law Judge