

## MEMORANDUM

**TO:** Missouri Public Service Commission Official Case File  
Case No. RO-2020-0098

**FROM:** John Van Eschen,  
Telecommunications Department

**SUBJECT:** Staff Progress Report

**DATE:** April 9, 2020

The Missouri Public Service Commission (Commission) issued an Order Opening an Investigation on October 9, 2019 and directed the Missouri Commission Staff (Staff) to file a progress report by April 9, 2020. This memorandum presents Staff's progress report.

The Staff filed a motion to investigate Lifeline program compliance concerns involving Virgin Mobile USA, L.P. d/b/a Assurance Wireless Brought to You by Virgin Mobile (Company or AW) after seeing a September 24, 2019 press release issued by the Federal Communications Commission (FCC). The press release expresses concerns raised by Oregon Public Utility Commission Staff regarding the Company's compliance with the FCC's non-usage rule.

FCC rule 47 CFR 54.405(e)(3) is commonly referred to as the "non-usage" rule. This rule directs a Lifeline provider offering Lifeline service with no monthly fee to begin the de-enrollment process if a subscriber fails to use the service within a 30 day time period.<sup>1</sup> Acceptable types of qualifying usage preventing de-enrollment are referenced in FCC rule 47 CFR 54.407(c)(2).

Staff's investigation reveals Company officials became aware of a compliance problem in  
\*\* \_\_\_\_\_ \*\* Further investigation reveals \*\* \_\_\_\_\_

\_\_\_\_\_ \*\*.<sup>2</sup> In this  
respect AW was failing to begin the de-enrollment process if a subscriber's sole usage during a  
30 day time period was simply \*\* \_\_\_\_\_.<sup>3</sup> \_\_\_\_\_

\_\_\_\_\_ \*\*  
\_\_\_\_\_

<sup>1</sup> AW's Lifeline service is subject to this rule because AW offers Lifeline service with no monthly fee.

<sup>2</sup> This observation is based on the Company's response to Staff DRs 2 and 3 as well as \*\* \_\_\_\_\_  
\_\_\_\_\_ - \*\* to Missouri Commission Staff.

<sup>3</sup> \*\* \_\_\_\_\_  
\_\_\_\_\_ \*\*

AW reviewed Missouri Lifeline subscriber usage during the \*\* \_\_\_\_\_ \*\* time period and identified the affected Missouri subscribers for whom the company failed to begin the de-enrollment process for non-usage. Based on this review the Company calculates it erroneously received a total of \$\*\* \_\_\_\_\_ \*\* in Lifeline support for Missouri subscribers.<sup>4</sup> \*\* \_\_\_\_\_ \*\*<sup>5</sup> The Company indicates it is having current discussions with \*\* \_\_\_\_\_ \*\* to resolve this matter.

Missouri Lifeline providers are expected to comply with federal Lifeline requirements.<sup>6</sup> Consequently the Company is violating this Missouri rule when it is violating federal Lifeline requirements. Missouri Commission rules also require an eligible telecommunications carrier to provide notice of any finding by a state or federal authority that the company has violated universal service fund requirements.<sup>7</sup> In this instance it is difficult for Staff to conclude a violation occurred but the Company should be aware of this obligation if the FCC or another state commission subsequently produces such a finding.

### **STAFF RECOMMENDATION**

Staff recommends the Commission direct the Company to respond in a filing into this case responses to the following two items:

- Provide an immediate update of any federal action to date to resolve this matter and additional quarterly updates until this matter is fully resolved.<sup>8</sup>
- Provide the status and proof of reimbursing the federal USF the \$\*\* \_\_\_\_\_ \*\* erroneously collected for Missouri Lifeline subscribers. If the Company has not already reimbursed the federal USF then require the Company to notify the Commission when such reimbursement has been completed.

---

<sup>4</sup> This amount translates into approximately \*\* — \*\*% of the total federal Lifeline support received (\$\*\* \_\_\_\_\_ \*\*) by AW during this time period for its Lifeline subscribers in Missouri.

<sup>5</sup> AW response to Staff DR 4. This FCC rule describes how a provider offering Lifeline service with no monthly fee can only seek support for a subscriber if the subscriber has used the service in the last 30 days or has cured their non-usage as provided in 47 CFR 54.405(e)(3).

<sup>6</sup> Missouri Commission rule 20 CSR 4240-31.014(2).

<sup>7</sup> Missouri Commission rule 20 CSR 4240-31.015(1)(C).

<sup>8</sup> \*\*

\*\*