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Addendum StartPage: 0

SOAH DOCKET NO 473-18-5090
DOCKET NO. 48502

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PUBLIC UTILITY COMMISSION
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APPLICATION OF VIRGIN MOBILE	§	
USA, L.P. TO AMEND ITS	§	
DESIGNATION AS AN ELIGIBLE	§	BEFORE THE STATE OFFICE
TELECOMMUNICATIONS CARRIER	§	
AND ITS DESIGNATION AS AN	§	OF
ELIGIBLE TELECOMMUNICATIONS	§	
PROVIDER FOR THE LIMITED	§	ADMINISTRATIVE HEARINGS
PURPOSE OF OFFERING LIFELINE	§	
SERVICE	§	

**VIRGIN MOBILE USA, L.P.'S FIRST REQUEST FOR ADMISSION
AND INFORMATION TO COMMISSION STAFF**

COMES NOW Virgin Mobile USA, L.P. ("Virgin Mobile") to submit the following First Request for Admission and Information to Commission Staff ("Staff") by and through its counsel of record pursuant to 16 Texas Administrative Code ("TAC") §§ 22.141 and 22.144, and in accordance with SOAH Order No. 4 Memorializing Prehearing Conference; Granting Motions to Intervene and Motion to Withdraw; Addressing Effective Date and Suspension Period; Adopting Procedural Schedule; and Discussing other Procedures issued on September 14, 2018:

Justine Isabelle Caedo Tan
Legal Division
Public Utility Commission of Texas
1701 N. Congress Avenue
P. O. Box 13326
Austin, Texas 78711-3326
Justine.Tan@puc.texas.gov

Pursuant to 16 TAC § 22.144(c)(1) Staff must fully respond to this Request within twenty calendar (20) days of receipt. If any RFI appears ambiguous, please contact counsel for Virgin Mobile as soon as possible to obtain clarification.

I. Instructions

1. These RFIs and RFAs are continuing in nature, and, should there be a change or modification necessary in any answers, a supplement to the original answer should be filed in accordance with 16 TAC § 22.144(i). Please identify at the end of each answer the person or persons most knowledgeable about such response, the person or persons responsible for the preparation of such response, and the sponsoring witness of the response, if any.

90

2. Staff must stipulate in writing that its RFI and RFA responses can be treated exactly as if the responses were filed under oath.

3. In producing documents pursuant to these RFIs, each Staff should number each document and indicate the specific question(s) or request(s) in response to which the document is being produced. To the extent that any document falls within the scope of multiple requests, multiple productions are not contemplated; one production referencing the multiple requests will be sufficient.

4. When a request asks for the production of a study, report, or supporting inputs for assumptions, such data should be provided in useable PC-based electronic format when available.

5. With respect to any document that you deem privileged, please provide a statement, setting forth as to each:

- (a) The type of document involved;
- (b) The date appearing on the document, or if no date appears, the date on which the document was prepared;
- (c) The name of the person(s) to whom the document was addressed;
- (d) The name of the person(s) who signed the document or, if not signed, the name of the person(s) who prepared it; and
- (e) The specific ground(s) upon which the claim of privilege rests.

6. For any information that you claim is unavailable, state why it is unavailable. If you cannot respond to the request precisely as it is stated, provide any information that is available that would respond to the request at a level of detail different from that specified herein.

7. A request for “all documents” or “any documents” contemplates a complete production of materials relating to the referenced subject matter but is not intended to seek a duplicative or cumulative production of documents. To the extent that the production of one set of documents is fully responsive to the information requested, Virgin Mobile does not seek (and Staff need not produce) duplicate sets of hard-copy documents that also address the same matters. This instruction does not excuse Staff of its obligation to produce documents in both written and electronic format where available, pursuant to Instruction # 4.

8. When the RFI requests a study, report, schedule, or analysis, the response should also provide the work papers, underlying facts, inferences, suppositions, estimates, and conclusions necessary to support each study, report, schedule, or analysis.

9. Please produce the requested documents for inspection and copying unaltered and/or unredacted as they are kept in the usual course of business, and organize and label them to correspond to the categories in this request. If any part of a document is responsive to any request, the whole document is to be produced. If there has been any alteration, modification or addition to a document, including any marginal notes, handwritten notes, underlining, date

stamps, received stamps, attachments, distribution lists, drafts or revisions, each such alteration, modification or addition is to be considered as a separate document and it must be produced.

10. These requests are directed to all documents and information in Staff's custody or control. A document is deemed to be in your custody or control if you have possession of the document or have the right to secure such document from another person having possession thereof. If you are unable to produce a document or information based on a claim that the document is not in your custody or control, state the whereabouts of such document or information when it was last in your possession, custody or control, and state why the document is no longer in your possession, custody or control.

11. In responding to each Request, please provide information available from all of Staff's files, as well as from past and present employees.

12. The singular form of a word shall be interpreted to include the plural, and the plural form of a word shall be interpreted to include the singular whenever appropriate.

13. The past tense of a word shall be interpreted to include the present tense and vice versa.

14. Service on Virgin Mobile should be made electronically or in person to:

Susan C. Gentz
ENOCH KEVER PLLC
5918 W. Courtyard Drive
Suite 500
Austin, Texas 78730
sgentz@enochkever.com

II. Definitions

For purposes of these discovery requests, the terms set forth below shall have the following meanings:

1. The term "you," or "your" refers to Commission Staff and any person acting or purporting to act on Staff's behalf including without limitation: agents, attorneys, advisors, investigators, employees, representatives, contractors, or consultants thereof.

2. The terms "and" and "or" as used herein shall be construed as both conjunctive and disjunctive.

3. The term "any" shall be construed to include "all," and "all" shall be construed to include "any."

4. The term "communication" includes, but is not limited to, all forms of communication, whether written, printed, oral, pictorial, or otherwise, including, but not limited to, testimony or sworn statements, discussions, conversations, speeches, meetings, remarks, questions, answers, panel

discussions, and symposia. The term includes, without limitation of its generality, both communications and statements which are face-to-face and those which are transmitted by documents or by media such as intercoms, telephones, television, radio or computer.

5. The terms “document” or “documents” are used herein in their broadest sense as set forth in TEX. R. CIV. P. 192.3(b) and specifically include electronic or magnetic data as described in Rule 96.4. These words mean and include any written, printed, typed, recorded or graphic matter of every kind or description, both original and copies, and all attachments and appendices. Without limiting the foregoing, the terms “Document” and “Documents” shall include all analyses, agreements, contracts, communications, correspondence, letters, opinion letters, telegrams, faxes, messages, e-mails, memoranda, records, reports, books, studies, summaries or other records of telephone conversations or interviews, summaries or other records of personal conversations or interviews, minutes, summaries or other records of meetings or conferences, statements obtained from witnesses, summaries or other records of negotiations, other summaries, diaries, diary entries, calendars, appointment books, time records, instructions, work assignments, forecasts, progress reports, statistical data, statistical statements, financial statements, work sheets, work papers, drafts, graphs, charts, tables, accounts, analytical records, consultants’ and expert reports, appraisals, bulletins, notes, notices, marginal notations, notebooks, telephone records, bills, statements, records of obligation and expenditure, invoices, lists, journals, printouts, compilations, tabulations, analyses, studies, surveys, expense reports, microfilm, microfiche, tape or disc recordings, sound recordings, video recordings, film, tape, photographs, programs and data compilations from which information can be obtained (including matter used in data processing), and other printed, written, handwritten, typewritten, recorded, stenographic, computer-generated, computer-stored, magnetically stored, optically-stored, or electronically stored matter, however produced, prepared, reproduced, disseminated, or made, on any medium of any description in your actual or constructive possession, custody or control, or of which you have knowledge, upon which intelligence or information is recorded from or from which intelligence or information can be retrieved; and every copy of such writing or record where the original is not in your possession, custody, or control. The words “Document” and “Documents” also include all copies of documents by whatever means made, except that where a document is produced, identical copies of it that do not contain any markings, additions, or deletions that are different from the original do not have to be separately produced.

6. “Identify,” when used in connection with an act, shall mean to state a description of the act, including the place, date, and time of its occurrence, and the identity of the person, persons, or entities that engaged in and/or witnessed the act.

7. “Identify,” when used with reference to a “document,” shall mean to state the type of document (e.g., book, magazine, article, circular, ledger, letter, memoranda, chart, computer run

information, microfilm, etc.), its present location and custodian, a description of its form, title, author/addresser (including all persons who participated in the writing of the document), addressee, indicated or blind copied, subject matter, volume and page number or other means of general identification, approximate size and number of pages, any attachments or appendices, and the date on which it was made or prepared. Identification of the document includes identifying all documents known or believed to exist, whether or not in the custody of its attorneys or other representatives. The final version and each draft of each document should be identified and produced separately. If a document is no longer in your possession or control, state what disposition was made of it. A document need not be identified if it is produced.


8. “Identify,” when used with reference to a natural person shall mean to state the person’s first and last names, title, employer and business address.

9. “Person” means any natural person, firm, corporation, association, partnership, or other organization or form of legal entity.

10. “PUC” and “Commission” refer to the Public Utility Commission of Texas.

11. “Relate, mention or pertain” means documents containing, showing, relating, mentioning, referring or pertaining in any way, directly, or indirectly to, or in legal, logical or factual way or connection with, a document request, and includes documents underlying, supporting, now or previously attached or appended to, or used in the preparation of any document called for by such request.

Respectfully submitted,

By: 

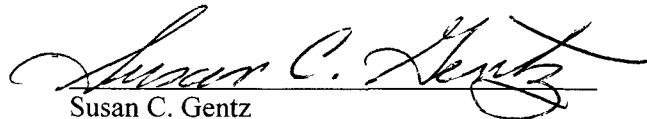
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ATTORNEYS FOR VIRGIN MOBILE USA, L.P.

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of Virgin Mobile's First Request for Admission and Information has been served on all counsel of record via email and/or facsimile on this the 18th day of December, 2018.


Susan C. Gentz

**VIRGIN MOBILE USA, L.P.'S FIRST REQUEST FOR ADMISSION
AND INFORMATION TO COMMISSION STAFF**

Virgin Mobile's Requests for Admission:

Virgin Mobile RFA 1-1:

Please admit or deny that, with respect to the Commission's ETC and ETP requirements, no material differences exist between the requirements in effect now as compared to each of the following events:

- a. when Virgin Mobile was designated an ETC in Docket No. 38056;
- b. when Virgin Mobile was designated an ETP in Docket No. 47580; and
- c. when Virgin Mobile was designated an ETP in Docket No. 48367.

Virgin Mobile RFA 1-2:

Please admit or deny that the Commission Staff determined that Virgin Mobile satisfied all applicable requirements to obtain Commission approval of Virgin Mobile's application for:

- a. ETC designation in Docket No. 38056;
- b. ETP designation in Docket No. 47580; and
- c. ETP designation in Docket No. 48367.

Virgin Mobile RFA 1-3:

Please admit or deny that the Commission determined that Virgin Mobile satisfied all applicable requirements to obtain Commission approval of Virgin Mobile's application for:

- a. ETC designation in Docket No. 38056;
- b. ETP designation in Docket No. 47580; and
- c. ETP designation in Docket No. 48367.

Virgin Mobile's Requests for Information

Virgin Mobile RFI 1-1:

If the response to any subpart of Virgin Mobile RFA 1-1 is "denied," please explain why and identify each material difference.

Virgin Mobile RFI 1-2:

With respect to Mr. Kelsaw's direct testimony regarding the public interest, please provide a detailed explanation of each of the Lifeline service offerings that are currently available in the rural ILEC territories that Mr. Kelsaw compared to the Virgin Mobile Lifeline service offering.

Virgin Mobile RFI 1-3:

As part of Mr. Kelsaw's analysis underlying his direct testimony that Virgin Mobile's designation as an ETP and ETC is not in the public interest, did Mr. Kelsaw consider the incremental components of Virgin Mobile's Lifeline offering that are not part of a landline Lifeline service? If so, please state Mr. Kelsaw's view of the value, e.g. usefulness or benefit, to a low income customer of the following components of the Virgin Mobile Lifeline service offer:

- a. a free phone;
- b. the ability to call nationwide without incremental charge;
- c. Internet access without incremental charge;
- d. unlimited texting without incremental charge;
- e. voicemail without incremental charge;
- f. Caller ID and call waiting without incremental charge; and
- g. all the above components taken together.

Virgin Mobile RFI 1-4:

Mr. Kelsaw testimony on pages 11-12 indicates that he compared the service area for which Virgin Mobile seeks ETP and ETC designation to the ILECs' service territories. Did Mr. Kelsaw review or analyze where other CMRS providers are providing Lifeline offerings in these same ILECs' service territories? Why or why not?

Virgin Mobile RFI 1-5:

Mr. Kelsaw states on page 15, at lines 13-15 of his direct testimony that the Commission should consider the possible impact on the Lifeline Program and TUSF of designating Virgin Mobile an ETP. Please provide a copy of all documents, analyses, calculations, telephone and meeting notes, memoranda, computations, or estimates prepared by Mr. Kelsaw or on which he relied regarding the potential impact(s) of Virgin Mobile's designation as an ETP in this docket on (a) the Lifeline Program and (b) the TUSF.

Virgin Mobile RFI 1-6:

Mr. Kelsaw states on page 15, at lines 11-17 of his direct testimony that designating Virgin Mobile an ETP in this docket will have a precedent-setting effect with respect to other ETCs. Please state all the reasons why Mr. Kelsaw considers future petitions by ETCs seeking ETP designation in the territories of some or all rural ILECs something that should be avoided by the Commission through its rejection of Virgin Mobile's Application in this docket.

Virgin Mobile RFI 1-7:

Please provide the following information regarding Mr. Kelsaw's testimony on page 14:

- a. Has Mr. Kelsaw or anyone else at the Commission counted or inventoried the number of CMRS providers that are ETCs providing supported services in the territories of the ILECs identified in Virgin Mobile's Application in this docket?

- b. If so, what was the result? As part of your response please provide a copy of all documents reflecting that count or inventory.
- c. Has Mr. Kelsaw or anyone else at the Commission compared the number of CMRS providers that are ETCs providing supported services in rural ILEC service territories to the number of CMRS providers that have been designated ETCs in:
 - (i) AT&T Texas territory; and
 - (ii) Frontier territory.
- d. If so, what was the result? As part of your response please provide a copy of all documents reflecting or related to that comparison.

Virgin Mobile RFI 1-8:

With respect to Mr. Kelsaw's testimony on page 15 of his direct, did Mr. Kelsaw consider the potential precedent-setting effect of designating Virgin Mobile an ETP in the territories of AT&T Texas and Frontier when Staff recommended approval of Virgin Mobile's petitions in Docket Nos. 47580 and 48367? If not, why not? If so, please state:

- a. the conclusions or results reached by Mr. Kelsaw; and
- b. why the topic of the potential precedent-setting effect was not included in Staff's recommendations in those dockets.

Virgin Mobile RFI 1-9:

Mr. Kelsaw states on page 14, lines 22-24 of his direct testimony that Virgin Mobile already is offering service in the area for which it seeks ETC designation. Does Mr. Kelsaw agree that Virgin Mobile would provide a discount on its service offering to eligible low income consumers living in that area if it is designated an ETC?