



September 19, 2018

Daniel P. Wolf
Executive Secretary
Minnesota Public Utilities Commission
121 7th Place East, Suite 350
St. Paul, Minnesota 55101-2147

RE: **Responsive Comments of the Minnesota Department of Commerce**
Docket No. P999/PR-18-08

Dear Mr. Wolf:

Attached are the responsive comments to the reply comments of T-Mobile and Virgin Mobile in the following matter:

Annual Certifications Related to Eligible Telecommunications Carriers' (ETCs) Use of Federal Universal Service Support.

The Department's recommendation is modified for wireless companies and Lifeline only wireline companies receiving federal universal service support. The Department continues to recommend that all companies be required to file the Affidavit with the Commission, but agree with the respondents that the financial attachment is not needed for wireless ETCs, or for Lifeline only wireline ETCs, at this time.

The Department also recommends that the Commission certify Hills Telephone, SD, SAC 391405, which was inadvertently left off the spreadsheet provided with the Department's initial comments.

The Department is available to answer any questions the Commission may have.

Sincerely,

/s/ JOY GULLIKSON
Telecommunications Analyst

/s/ DIANE DIETZ
Telecommunications Analyst

JG/DD/jl
Attachment



Before the Minnesota Public Utilities Commission

Responsive Comments of the Minnesota Department of Commerce to the Reply comments of T-Mobile and Virgin Mobile

Docket No. P999/PR-18-08

On September 17, 2018, Virgin Mobile and T-Mobile filed responsive comments to the Department of Commerce's (Department) comments In the Matter of Annual Certifications Related to Eligible Telecommunications Carriers' (ETCs) Use of Federal Universal Service Support. The Reply Comments of both companies were filed by

Andrew Carlson
Briggs and Morgan, P.A.
2200 IDS Center
80 South Eighth Street
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Virgin Mobile objects to the Department's recommendation that the Commission require an affidavit and financial information as it applies to wireless Lifeline-only ETCs. Virgin Mobile is a wireless carrier that receives no high cost support, but is reimbursed with universal service funds for Lifeline services.¹ Virgin Mobile argues in part that "the Department's recommendations . . . have nothing to do with such [Lifeline] reimbursement—rather, they relate solely to the use of funds to invest in or maintain telecommunications infrastructure."

T-Mobile also objects to the Department's recommendation that companies filing 481 reports with the FCC and USAC also file affidavits and a financial summary. T-Mobile, however, receives Frozen High Cost Support, which is currently capped at \$112,761 per month². This funding will be decreased to zero in the months following the award of CAF II funding. T-Mobile received reimbursements of only \$2601 in 2017, and \$6,271 to date in 2018, for Lifeline services³.

Both companies strongly object to the requirement to file Financial Summaries. They are less strong in their objection to the Affidavit, although they object to the proposed inclusion of statements that the company is complying with service quality standards and consumer protection rules, since the FCC no longer requires such a statement in its 481 forms

¹ In 2017, Virgin Mobile was reimbursed \$1,972,547. <https://www.usac.org/li/tools/disbursements/default.aspx>

² <https://www.usac.org/hc/tools/disbursements/default.aspx>

³ <https://www.usac.org/li/tools/disbursements/default.aspx>

APPLICABLE RULES

Companies receiving Lifeline only federal universal service support are required to file 481 forms under the auspices of 47 C.F.R. § 54.422 (b) which states in part:

In order to receive support under this subpart, a common carrier that is designated as an eligible telecommunications carrier under section 214(e)(6) of the Act and does not receive support under subpart D [High Cost Support] of this part must annually provide:

. . .

There is no requirement for the state commissions to certify the accuracy of the 481 filings.

47 C.F.R. § 54.313 is the corresponding rule for High-Cost companies and requires an annual 481 filing. However, a further rule, 47 C.F.R. § 54.314 requires:

States that desire eligible telecommunications carriers to receive support pursuant to the **high cost** program must file an annual certification with the Administrator and the Commission stating that all federal high-cost support provided to such carriers within that State was used in the preceding calendar year and will be used in the coming calendar year only for the provision, maintenance, and upgrading of facilities and services for which the support is intended.(emphasis added).

ANALYSIS

Both high cost and Lifeline only companies are required to file Form 481, but only high cost companies must be certified by State Commissions. With respect to the reply commenters, Virgin Mobile does not require ETC recertification from the Commission, but T-Mobile does. Although the high cost funding for T-Mobile will go to zero at some point, 47 C.F.R. § 54.313 and 54.314 applies to T-Mobile at the current time.

USAC's Funding Disbursement Search for High Cost Funding (<https://www.usac.org/hc/tools/disbursements/default.aspx>) lists both wireless carriers who receive only lifeline funding and carriers that receive high cost funding. The certification page, however, which requires a log in, only lists companies requiring certification under § 54.314, for high cost funding. Therefore, Virgin Mobile is not on the list for high cost certification by the Commission, but T-Mobile is.

It seems reasonable that financial information is not needed by the Commission to certify carriers receiving Lifeline only support. T-Mobile is the only wireless provider receiving high cost support and is willing to file the affidavit, but unwilling to file the financial summary because "the Department's proposal would likely run afoul of the longstanding prohibition on

state commission regulation of wireless carriers' rates. (reference removed)" (Reply Comments , p.8) T-Mobile's point is valid, and the Department recommends that for wireless only carriers, the Commission require the Affidavit, but not the Financial Summary.

REVISED DEPARTMENT RECOMMENDATION:

The Department recommends that the Commission certify the petitioning ETCs listed on the USAC web site and require that, in the future, an officer of each company receiving federal universal service funding shall file an affidavit with the Commission concurrently with the FCC 481 filing. The affidavit shall confirm:

- a. The position of the affiant
- b. The affiant understands and is familiar with the requirements of the FCC concerning universal service funding
- c. The funds are and will be used appropriately
- d. The company is compliant with applicable rules on service quality and consumer protection
- e. There is sufficient back up power to ensure functionality without an external power source and the company is able to reroute traffic around damaged facilities and is capable of managing traffic spikes resulting from emergencies

Attached to the affidavit shall be a financial summary that shows:

- f. The sources of Federal Universal Service Receipts Subject To Certification
- g. An explanation of statewide distribution vs. study area code disbursement
- h. Plant Specific Operations Expenses
- i. Customer Operations Expenses
- j. Corporate Operations Expenses
- k. Total Year Supported Expenses Before Return on Investment
- l. Additions
- m. 481 Financial Statement Summarized Information
- n. Corporate Expense to Operating Revenue Information

Wireless carriers and Lifeline-only wireline carriers receiving federal universal service funding shall file the affidavit, but are not required to file the financial summary. This should not preclude the Commission from ordering a wireless high cost recipient from providing the financial summary, if program changes warrant it in the future.

The Department also recommends that the Commission certify Hills Telephone, SD, SAC 391405, which was inadvertently left off the spreadsheet provided with the Department's initial comments.

CERTIFICATE OF SERVICE

I, Sharon Ferguson, hereby certify that I have this day, served copies of the following document on the attached list of persons by electronic filing, certified mail, e-mail, or by depositing a true and correct copy thereof properly enveloped with postage paid in the United States Mail at St. Paul, Minnesota.

**Minnesota Department of Commerce
Response Comments**

Docket No. P999/PR-18-08

Dated this 20th day of **September 2018**

/s/Sharon Ferguson

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Karl	Blake	kblake@polartel.com	Polar Communications Mutual Aid Corp.	PO Box 270 110 Fourth Street East Park River, ND 58270	Electronic Service	No	OFF_SL_18-8_PR-18-8
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