

ITEM NO. CA1

PUBLIC UTILITY COMMISSION OF OREGON
STAFF REPORT
PUBLIC MEETING DATE: March 10, 2015

REGULAR _____ CONSENT X EFFECTIVE DATE April 1, 2015

DATE: March 5, 2015

TO: Public Utility Commission

FROM: Jon Cray 

THROUGH: Michael Dougherty  and David Poston 

SUBJECT: VIRGIN MOBILE USA: (Docket No. UM 1522) Petition for Waiver of OAR 860-033-0035(3).

STAFF RECOMMENDATION:

Staff recommends that the Public Utility Commission of Oregon (Commission) grant Virgin Mobile USA, L.P.'s (Virgin Mobile's) petition for waiver of the second sentence of OAR 860-033-0035(3), provided that Virgin Mobile implements its proposed process to achieve the same objective.

DISCUSSION:

Background

On March 24, 2014, Virgin Mobile filed a petition requesting that the Commission waive the requirements of the second sentence of OAR 860-033-0035(3).

OAR 860-033-0035(3) states:

An Eligible Telecommunications Provider that offers OTAP or Lifeline supported service at no charge to the low-income customer must require the customer to call the Eligible Telecommunications Provider to activate the OTAP or Lifeline supported service. The Eligible Telecommunications Provider must require the low-income customer to provide the last four digits of his or her social security number or Tribal identification number before activating the OTAP or Lifeline service.

The Commission may waive any of the Chapter 860, Division 33 administrative rules upon a showing of good cause. See OAR 860-033-0001(2). A waiver may be initiated upon the filing of a written request or on the Commission's own motion.

Staff proposed the current language for the second sentence of OAR 860-033-0035(3) in September 2013, in Docket No. AR 574. The Commission adopted the proposed rule amendment in Order No. 13-475 entered December 19, 2013; it became effective December 20, 2013. In adopting the amendment, the Commission concurred with Staff's supporting argument that "requiring the customer to activate the Lifeline or OTAP supported service is an important tool to prevent waste, fraud, and abuse because it helps to ensure that the eligible customer is the person that receives the handset."

In its petition, Virgin Mobile described the handset activation process it has been utilizing for its Lifeline customers in all states where it is designated as an Eligible Telecommunications Carrier. Upon receipt of a handset, Virgin Mobile requires customers to call to activate Lifeline service. Instead of providing the last four-digits of his or her social security number (SSN), Virgin Mobile has, at all times, required customers to use a six-digit personal identification number (PIN) that the customers select during the application process to activate the Lifeline service. Virgin Mobile stated that use of a unique PIN number accomplishes the same objective as the use of a portion of a SSN in preventing fraudulent activation of Lifeline service. Finally, Virgin Mobile asserted that to comply with this rule, it must modify its activation process in Oregon, creating a different process from the other states in which it provides Lifeline services.

On April 15, 2014, the Commission granted Virgin Mobile's request for a waiver of the second sentence of OAR 860-033-0035(3) until September 30, 2014, so that Staff may have time to gather information from Virgin Mobile and other providers¹ to formulate a well-founded recommendation to the Commission on whether good cause exists for waiver of this portion of subsection (3). See Order No. 14-122.

On September 24, 2014, the Commission granted Staff's recommendation to extend Virgin Mobile's request for a waiver until March 31, 2015, to allow Staff additional time to confer with Virgin Mobile, further explore the costs and benefits of compliance with the rule, and consider any alternatives that would achieve the same objective. See Order No. 14-430.

Currently, Virgin Mobile requires Lifeline applicants to select a six-digit account PIN as part of the application process. If the customer-selected PIN does not meet the

¹ TracFone Wireless, Inc. has also filed a Petition for Waiver of the rule in Docket No. UM 1437.

parameters defined by Virgin Mobile, the company will generate a different, compliant PIN. Upon notice of approval from the Commission, Virgin Mobile ships the handset and separately mails an approval letter to the customer that includes the customer's account PIN. The customer must use the PIN to activate his or her Lifeline account.

After several months of collaboration and discussions with Staff and the Citizens' Utility Board of Oregon (CUB), Virgin Mobile proposed two changes to its existing activation process:

1. Virgin Mobile will stop including the Oregon customer's account PIN on the approval letter by April 1, 2015.
2. By April 1, 2015, Virgin Mobile will develop and implement an interactive voice response system (IVR) to allow customers to obtain their account PIN. Virgin Mobile expressed concern about the anticipated deluge of customer calls to its call centers and potentially to the Commission if a customer cannot remember the account PIN and the PIN is no longer included on the approval letter. Therefore, to minimize the impact on Oregon Lifeline customers, Virgin Mobile will, at its own expense, use a third-party vendor to establish a process whereby, should the customer not know the PIN assigned to his or her account, the customer may call an IVR and enter their mobile telephone number and the last four digits of their SSN to obtain their account PIN.

Staff's Analysis

Before the Commission adopted the amendment of OAR 860-033-0035(3) in Docket No. AR 574, Eligible Telecommunications Providers (ETPs) that offered Lifeline service at no charge, shipped wireless handsets to the customer without confirmation that the handset was actually delivered to the intended recipient. Without this confirmation, the ETP could seek and receive low-income support even if the handset was intercepted or received by someone other than the eligible Lifeline customer. Therefore, akin to credit card activations and to prevent waste, fraud, and abuse, Staff recommended that the ETP require the eligible customer to activate service and confirm his or her identity by providing the last four digits of his or her SSN or Tribal identification number to activate the Lifeline or OTAP supported service.

The objective of OAR 860-033-0035(3) is to confirm that the handset was actually received and activated by the intended Lifeline recipient. Although Virgin Mobile's proposed alternative does not comply with the letter of the rule, it can achieve the same objective. Virgin Mobile's proposal to stop including a customer's account PIN in the approval letter conforms Virgin Mobile's process to match the same process as set forth

in rule. The difference is in the numbers used for activation, i.e. a six digit PIN as opposed to the last four digits of an SSN. The absence of the PIN from the approval letter ensures that the information for activating Lifeline supported service is not discovered, received, or intercepted by someone other than the intended recipient. This becomes paramount when the customer:

- is a resident of a homeless shelter, transitional house, etc.;
- no longer resides at the address he or she listed on the application and does not report the address change to the ETP for the delivery of the handset; or
- does not report that the phone was never received (which may occur because the customer pays nothing for the handset or the service and therefore has little incentive to follow-up on delivery).

The concern that removal of the PIN from the approval letter will negatively impact customers is addressed by the Company's second proposed change to its process. If customers do not recall the PIN that they selected on the application, they may obtain it by calling and confirming their identity via Virgin Mobile's IVR, and then use the PIN to activate their Lifeline supported service.

Staff and CUB agree that Virgin Mobile's proposal mitigates the risk of handset interception and improper account activations by non-qualifying persons. Good cause exists to waive this rule subsection for Virgin Mobile because the customer will be responsible for retaining the PIN or otherwise, be required to call Virgin Mobile and confirm their identity by providing the last four digits of their SSN in order to obtain their account PIN for activating the Lifeline supported service. Virgin Mobile has reviewed and does not object to Staff's memo and recommendation.

PROPOSED COMMISSION MOTION:

Grant Virgin Mobile's request for waiver in the second sentence of OAR 860-033-0035(3) on the condition that Virgin Mobile implements the alternate process and protections described herein.