

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF COLORADO

PROCEEDING NO. 20V-0081T

IN THE MATTER OF THE PETITION OF VIRGIN MOBILE USA, L.P. FOR A VARIANCE FROM 4-CCR 723-1-1208 AND REQUEST TO WAIVE OR SHORTEN THE COMMISSION NOTICE AND INTERVENTION PERIOD OF 4 CCR 723-1-1206(d).

**DECISION GRANTING PETITION
FOR VARIANCE FROM 4 CCR 723-1-1208**

Mailed Date: April 7, 2020
Adopted Date: April 1, 2020

I. BY THE COMMISSION

A. Statement

1. On March 2, 2020, Virgin Mobile USA, L.P. (Virgin Mobile or the Company) filed a Petition for Variance from Rule 1208, 4 *Code of Colorado Regulations* (CCR) and Request to Waive or Shorten the Commission's Notice and Intervention Period of Rule 1206(d), 4 CCR 723-1 (Petition).

2. By this Decision, we grant Virgin Mobile's Petition and direct Virgin Mobile to file with the Commission, after the proposed name change from Virgin Mobile to Assurance Wireless USA, LP is complete, an adoption notice and a Certificate of Good Standing from the Colorado Secretary of State. Virgin Mobile is also directed to notify its customers of the name change via a text message with a link to a website containing details of the name change.

B. Background

3. On March 2, 2020, Virgin Mobile filed its Petition requesting a variance from 4 CCR 723-1-1208 (Rule 1208) of the Commission's Rules of Practice and Procedure. Virgin Mobile explains that through Decision No. R12-0246, issued March 6, 2012, in Proceeding

No. 11A-657T, the Commission designated it as an Eligible Telecommunications Carrier (ETC) for the limited purpose of qualifying for federal Universal Service Fund subsidies for serving customers enrolled in the federal Lifeline program, and that it provides Lifeline services under the brand name “Assurance Wireless Brought to you by Virgin Mobile.” The Company states that it is an indirect wholly owned subsidiary of Sprint Corporation (Sprint), and that Sprint’s license to use the “Virgin Mobile” brand name will expire in mid-2020. Therefore, the Company states that a corporate entity name change is necessary, and that Sprint must change its Colorado ETC designation name. Virgin Mobile represents that Sprint will require several weeks to update marketing and advertising materials to remove references to Virgin Mobile and accurately reflect the new name, “Assurance Wireless USA, L.P.”

4. Rule 1208 imposes certain filing and notice requirements when a utility’s name changes. Specifically, Rule 1208 requires that the utility file an adoption notice with the Commission and that the adoption notice adopt tariffs and price lists, if applicable. Additionally, Rule 1208 requires the utility to post the adoption notice in each of the utility’s business offices and make the adoption notice available for public inspection at each office.

5. Virgin Mobile seeks an expedited variance from Rule 1208, and requests that the Commission act on its Petition within 40 days of the filing of the Petition.

6. With its Petition, Virgin Mobile requests that the Commission waive or shorten the 30-day notice and intervention period set forth in 4 CCR 723-1-1206(d). That request was granted by Decision No. C20-0148-I, mailed on March 6, 2020. No parties filed to intervene in this matter.

7. In the Petition, Virgin Mobile states that Rule 1208 contemplates a name change for a utility but Virgin Mobile is not a utility. As such, the Company proposes a modified

process for notifying its customers of the name change. Virgin Mobile proposes that after the name change is complete, it will file with the Commission an adoption notice and a Certificate of Good Standing from the Colorado Secretary of State. The latter, Virgin Mobile asserts, will demonstrate the accurate name of the Company and prove that the Company is in good standing. Virgin Mobile attaches the form of the adoption notice as Attachment C of the Petition.

8. Virgin Mobile also requests a variance from the public notice requirement of Rule 1208. Virgin Mobile proposes a customer notification procedure through which its customers would receive a text message, sent at no charge to the customer, stating that the name of the Company has changed to Assurance Wireless and containing a link to a dedicated webpage providing notice of the name change, detailing relevant information, and stating that the terms of customer Lifeline service will not change. Virgin Mobile attaches the form of notice it intends to send to customers as Attachment D of the Petition. Virgin Mobile proposes that this procedure be substituted for the public notice requirement of Rule 1208, stating that the procedure is designed to effectively target the customers for whom the information is relevant in a timely and cost-efficient manner.

9. Virgin Mobile further requests a variance from Rule 1208's requirement that the Company adopt revised tariffs and price lists, stating that the Company does not have tariffs and price lists.

C. Findings and Conclusions

10. Virgin Mobile's proposal to file an adoption notice and a Certificate of Good Standing from the Colorado Secretary of State after effectuating its name change is appropriate. This filing, as shown in Attachment of C of the Petition, will demonstrate the accurate name of the Company and prove that the Company is in good standing. We find good cause to grant

Virgin Mobile's variance request and direct Virgin Mobile to file an adoption notice and Certificate of Good Standing from the Colorado Secretary of State after its name change is complete.

11. Virgin Mobile's proposed procedures for public notice of its name change will target the affected Lifeline customers and are appropriate and cost efficient. We therefore find good cause to grant the requested variance from public notice requirements set forth in Rule 1208 and direct Virgin Mobile to use the procedures outlined in the Petition and the proposed forms in Attachment D of the Petition.

12. Because Virgin Mobile has no tariffs or price lists on file with the Commission, the requirement to adopt revised tariffs and price lists is not applicable.

II. ORDER

A. The Commission Orders That:

1. The Petition for Variance from Rule 1208, 4 *Code of Colorado Regulations* (CCR) 723-1, (Petition) filed by Virgin Mobile USA, L.P. (Virgin Mobile) on March 2, 2020 is granted.

2. After the name change is effectuated, Virgin Mobile shall file with the Commission an adoption notice and a Certificate of Good Standing from the Colorado Secretary of State.

3. After the name change is effectuated, Virgin Mobile shall notify its customers of the name change through the process described in the Petition.

4. The requirement of 4 CCR 723-1-1208 that the utility file revised tariffs and price lists is not applicable in this instance because Virgin Mobile has no tariffs or price lists on file with the Commission.

5. The 20-day period provided for in § 40-6-114, C.R.S., within which to file applications for rehearing, reargument, or reconsideration begins on the first day following the effective date of this Decision.

6. This Decision is effective upon its Mailed Date.

**B. ADOPTED IN COMMISSIONERS' WEEKLY MEETING
April 1, 2020.**

(S E A L)



ATTEST: A TRUE COPY

Doug Dean,
Director

THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

JEFFREY P. ACKERMANN

JOHN GAVAN

MEGAN M. GILMAN

Commissioners