

**BEFORE
THE PUBLIC UTILITIES COMMISSION OF OHIO**

In the Matter of the Annual Reports for the)	
Fiscal Assessment of Telecommunications)	Case No. 20-03-TP-RPT
Relay Service for Calendar Year 2019.)	

In the Matter of the Adoption of Rules for)	
the Telecommunications Relay Service)	Case No. 08-815-TP-ORD
Assessment Pursuant to R.C. 4905.84.)	

**JOINT APPLICATION FOR REHEARING
OF
NEXTEL WEST CORPORATION
NEXTEL WIP LEASE CORP.
AND
VIRGIN MOBILE USA LP**

I. Introduction

Nextel West Corporation (“Nextel West”), Nextel WIP Lease Corp. (“Nextel WIP”), and Virgin Mobile USA LP (“Virgin”) (collectively, “T-Mobile”) respectfully request rehearing of the August 26, 2020 Finding and Order of the Public Utilities Commission of Ohio (“Commission”) and request that the Commission reverse its decision to impose a \$1,000 forfeiture against each of them for not submitting telecommunications relay service (“TRS”) reports for calendar year 2019, as set forth in paragraph 11 of the Finding and Order. Good cause exists for granting this application for hearing and for reversing the civil forfeiture order. Nextel West and Nextel WIP did not receive notification of the need to submit the 2019 TRS reports. They did not receive the typical email notices and were not listed in the Commission’s web-based system as requiring 2019 TRS reports. This was unlike other service providers in the T-Mobile family who were sent email notices and were listed in the system as needing to submit 2019 TRS reports. T-Mobile, therefore, reasonably believed that such reports were not needed for Nextel West and Nextel WIP.

Virgin's situation was different because T-Mobile was not informed of the need to submit a 2019 TRS report for Virgin. Instead, consistent with past practice, which had been accepted by the Commission, T-Mobile prepared the report for Sprint Corporation which included all Virgin Mobile information. Since it was following accepted past practices, T-Mobile believed it had timely submitted its TRS report covering all Virgin Mobile activities through its Sprint Corporation filing.

When notified by the Commission Staff, T-Mobile personnel acted promptly to review, discuss with the Staff, correct the situation. T-Mobile submitted the three outstanding TRS reports on September 4, 2020, all which demonstrates its good faith intention to comply. No harm has come from the brief delay in receiving the three TRS reports. Under the circumstances, the Commission should conclude that good cause exists to grant rehearing for all three companies as requested. And, the Commission should assess no forfeitures on Nextel West, Nextel WIP and Virgin. Additional details and information are set forth below and in the attached affidavit of Evelyn Vernon, who is responsible for regulatory reporting for T-Mobile.

II. Background

Nextel West, Nextel WIP and Virgin are certified to provide telecommunications services in Ohio. Nextel West is certified to provide competitive telecommunications services in Ohio under certificate number 90-5566. The certificate was originally held under the name of PowerFone, Inc. *In the Matter of the Application of PowerFone, Inc. for a Certificate of Public Convenience and Necessity*, Case No. 96-841-TP-ACE. It then transferred the certificate to OneComm Corporation N.A. which later changed its name to Nextel West Corporation. *In the Matter of the PowerFone, Inc. to Transfer its Certificate to OneComm Corporation N.A.*, Case

No. 97-158-CT-ATR and *In the Matter of the Application of OneComm Corporation to Change its Name*, Case No. 97-1583-CT-ZCN.

Nextel WIP is certified to provide commercial mobile radio services in Ohio under certificate number 90-5460. *In the Matter of the Registration of Nextel WIP Lease Corp. d/b/a Nextel Partners*, Case No. 06-833-TP-RCC.

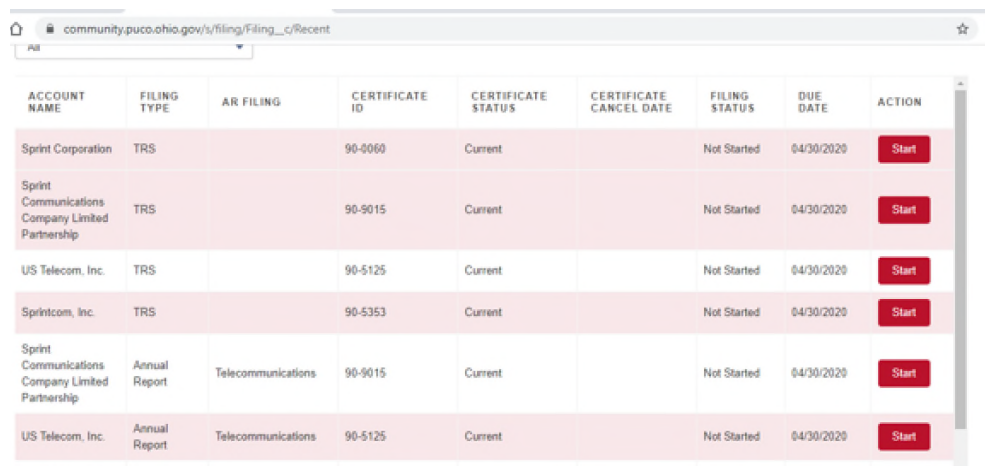
Virgin is certified to provide commercial mobile radio services in Ohio under certificate number 90-5582. *In the Matter of the Registration of Virgin Mobile USA, L.P.*, Case No. 10-126-TP-RCC.¹

By Entry issued in these dockets, the Commission directed all service providers in Ohio that are required under federal law to provide customers with access to the TRS to submit an annual report to the Commission for calendar year 2019 and to do so through the Commission's web-based system called the PUCO Community. *In the Matter of the Annual Reports for the Fiscal Assessment of Telecommunications Relay Service for Calendar Year 2019*, Case No. 20-03-TP-RPT, Entry at ¶¶ 4 and 5 (January 29, 2020). The Commission uses the TRS reports to calculate the annual TRS assessment per Ohio Revised Code § 4905.84 and Ohio Adm.Code 4901:1-6-36. The Commission extended the deadline for submitting the 2019 TRS report to July 6, 2020, due to the state of emergency and the stay-at-home orders issued in response to COVID-19, and due to a technical issue affecting the Commission's web-based filing system. *Relay Service, supra*, Entry (April 22, 2020) and Entry (June 30, 2020).

In April 2020, T-Mobile personnel prepared TRS reports for the T-Mobile entities showing in the PUCO Community as needing to file TRS reports. As confirmed in the attached affidavit of Evelyn Vernon, Ms. Vernon was responsible for the 2019 TRS reports and she

¹ This year, Virgin changed its name to Assurance Wireless USA, L.P. *In the Matter of the Application of Virgin Mobile USA, L.P. to Notify the Commission of a Name Change to Assurance Wireless USA, L.P. and to Update its Wireless Carrier Registration*, Case No. 20-576-TP-RCC.

affirms the PUCO Community did not list Nextel West or Nextel WIP as needing 2019 TRS reports. Ms. Vernon also affirms that the PUCO Community showed that other companies in the T-Mobile family Sprint Corporation were needing 2019 TRS reports. The below snippet (taken from the PUCO Community prior to the original due date for the reports) lists the needed 2019 TRS reports involving Sprint-related subsidiaries in the T-Mobile family. Nextel West, Nextel WIP and Virgin are not listed. Instead, it listed Sprint Corporation, Sprint Communications Company Limited Partnership, US Telecom, Inc. and Sprintcom, Inc.



The screenshot shows a web browser window with the URL 'community.puco.ohio.gov/s/filing/Filing_c/Recent'. Below the browser window is a table with the following columns: ACCOUNT NAME, FILING TYPE, AR FILING, CERTIFICATE ID, CERTIFICATE STATUS, CERTIFICATE CANCEL DATE, FILING STATUS, DUE DATE, and ACTION. The table lists six accounts, all with a due date of 04/30/2020 and a 'Start' button in the ACTION column.

ACCOUNT NAME	FILING TYPE	AR FILING	CERTIFICATE ID	CERTIFICATE STATUS	CERTIFICATE CANCEL DATE	FILING STATUS	DUE DATE	ACTION
Sprint Corporation	TRS		90-0060	Current		Not Started	04/30/2020	Start
Sprint Communications Company Limited Partnership	TRS		90-9015	Current		Not Started	04/30/2020	Start
US Telecom, Inc.	TRS		90-5125	Current		Not Started	04/30/2020	Start
Sprintcom, Inc.	TRS		90-5353	Current		Not Started	04/30/2020	Start
Sprint Communications Company Limited Partnership	Annual Report	Telecommunications	90-9015	Current		Not Started	04/30/2020	Start
US Telecom, Inc.	Annual Report	Telecommunications	90-5125	Current		Not Started	04/30/2020	Start

Ms. Vernon timely submitted 2019 TRS reports for those four companies listed in the PUCO Community in April 2020, well in advance of the Commission's deadline. Ms. Vernon received confirmations that the submitted reports were complete. T-Mobile had a reasonable understanding that all necessary TRS reports were submitted and nothing in the PUCO Community indicated otherwise for Nextel West and Nextel WIP at that time.

As to Virgin's TRS report, Ms. Vernon prepared and timely submitted the data in a manner consistent with its past practice, which had been accepted by the Commission. Specifically, the Virgin data was submitted with the Sprint Corporation's TRS report and submitted in April 2020, well in advance of the Commission's deadline. Ms. Vernon received

confirmation that that report was complete. As a result, T-Mobile understood that all necessary TRS reports were submitted timely before the deadline.

Several months later, T-Mobile later learned that the Nextel West, Nextel WIP and Virgin reports were outstanding. T-Mobile personnel mobilized promptly – communicating with the Commission Staff, preparing reports, and successfully filing the required 2019 TRS reports through the PUCO Community on September 4, 2020. T-Mobile also submitted a revised TRS report for Sprint Corporation. This was just a few days after the Staff’s notification and one day after the Staff provided needed clarification.

III. Argument

T-Mobile has regularly submitted its TRS reports to the Commission in accordance with the Commission’s schedules. T-Mobile thought it timely filed all necessary 2019 TRS reports with the Commission. It did not intentionally fail to submit any 2019 TRS reports. Under the circumstances, there is good cause for the Commission to reverse on rehearing its ruling assessing forfeitures against Nextel, Nextel WIP and Virgin.

A. T-Mobile reasonably believed that 2019 TRS reports for Nextel West and Nextel WIP were not needed and reasonably believe the 2019 TRS report for Virgin had been successfully submitted.

T-Mobile reasonably believed all necessary 2019 TRS reports were submitted in advance of the deadline because its personnel submitted the TRS reports for the entities listed in the PUCO Community as needing to file 2019 TRS reports and for which it received reminders in advance of the deadline. It received notices that the submitted reports were complete. T-Mobile had not, however, realized that reports for Nextel West and Nextel WIP were necessary, nor that a separate response for Virgin was necessary. T-Mobile believed that all necessary steps for its 2019 TRS reports had been completed and submitted, without realizing three reports remained outstanding.

B. T-Mobile's prompt corrective actions demonstrate a good faith intention to comply with the Commission's TRS requirements.

T-Mobile worked promptly and cooperatively with the Staff when it learned that three 2019 TRS reports were outstanding. Staff sent a notice to T-Mobile months later about the three TRS reports. T-Mobile responded the same day to the Staff to discuss the notification. Staff answered the correspondence on September 3, 2020, and the three reports were submitted on September 4, 2020. Ms. Vernon cooperated with the Staff in a prompt and professional manner. The three TRS reports were quickly submitted for Nextel West, Nextel WIP and Virgin through the PUCO Community, along with a revised report for Sprint Corporation. In addition, the three TRS reports were submitted well in advance of the next deadline (September 25, 2020) imposed on the assessed late-filers. *Relay Service, supra*, Entry at ¶ 12 (August 26, 2020). T-Mobile's corrective actions demonstrate its desire to fix the error promptly and demonstrate its intention to comply in good faith with the Commission's TRS requirements.

C. The brief delay in receiving three TRS reports caused no harm.

There was no harm caused by the slight delay in receiving the three 2019 TRS reports. The timing for submission of the TRS reports is a matter within the Commission's discretion and, the Commission had already delayed the TRS reporting and assessment schedule due to COVID-19 and technical issues with the PUCO Community. The Commission has received the data needed and can carry out its responsibilities set forth in Ohio Revised Code § 4905.84 and Ohio Adm.Code 4901:1-6-36. Under these circumstances, the additional delay in receiving the T-Mobile TRS reports would be zero or at most minimal.

D. Recent Commission precedent supports a reversal of the forfeiture orders.

The Commission has reversed forfeiture rulings when there had been a good faith intent to comply with reporting but it did not happen timely. Last year, the Commission reversed itself

and concluded no forfeiture should be assessed against several companies for failing to submit their Annual Reports timely. *In the Matter of the Annual Reports for Calendar Year 2018 for the Fiscal Assessment of All Regulated Entities*, Case No. 19-01-AU-RPT, Entry on Rehearing (October 9, 2019). (The Annual Reports are submitted annually through the PUCO Community and used by the Commission for purposes of assessing Ohio certificate holders. The process for submission of Annual Report is very similar to the TRS reports.)

In *Annual Reports*, the Commission assessed a forfeiture against Titan Energy New England, Inc. (“Titan”) when it failed to submit its Annual Report. The Commission, however, reversed that ruling when it learned that Titan had did not received notice of the requirement. *Id.* at ¶¶ 9 and 14. Second, the Commission reversed a forfeiture ruling against Unity Electric Discount LLC (“Unity”), who had failed to press the “submit” button in the PUCO Community, but submitted its missing annual report after a forfeiture order was issued. *Id.* at ¶¶ 5, 14. A third example is the Commission’s decision on rehearing to not impose a forfeiture against New Wave Energy Corporation (“New Wave”) for its failure to submit its 2018 electric annual report. New Wave’s personnel believed that both its electric and natural gas annual reports had been submitted timely, but after the deadline discovered that one report had not been submitted before the deadline. *Id.* at ¶¶ 7. New Wave promptly submitted the missing annual report and the Commission waived the forfeiture. *Id.* at ¶¶ 11, 14. These situations are similar to T-Mobile’s situation involving the 2019 TRS reports. The Commission should follow its precedent and as it did for Titan, Unity, and New Wave, should reverse the forfeiture ruling against Nextel West, Nextel WIP and Virgin.

IV. Conclusion

As noted above, T-Mobile believed in good faith that the all necessary TRS reports had been submitted on time and did not intentionally fail to submit the TRS reports. When the outstanding status of the Nextel West and Nextel WIP report and the need for a separate Virgin report was discovered, T-Mobile worked quickly with the Staff and the PUCO Community. T-Mobile quickly submitted the three 2019 reports (as well as a corrected report for Sprint Corporation) and there was no harm caused by the brief delay. A reversal of the forfeiture ruling is also warranted based on recent Commission precedent. The Commission has waived forfeitures in similar circumstances. For all of these reasons, good cause exists to reverse the forfeiture rulings against Nextel West, Nextel WIP and Virgin.

Respectfully Submitted,

/s/ Gretchen L. Petrucci

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CERTIFICATE OF SERVICE

The Public Utilities Commission of Ohio's e-filing system will electronically serve notice of the filing of this document on the parties referenced on the service list of the docket card who have electronically subscribed to the case. In addition, the undersigned certifies that a courtesy copy of the foregoing document is also being served (via electronic mail) on the 25th day of September 2020 upon all persons/entities listed below:

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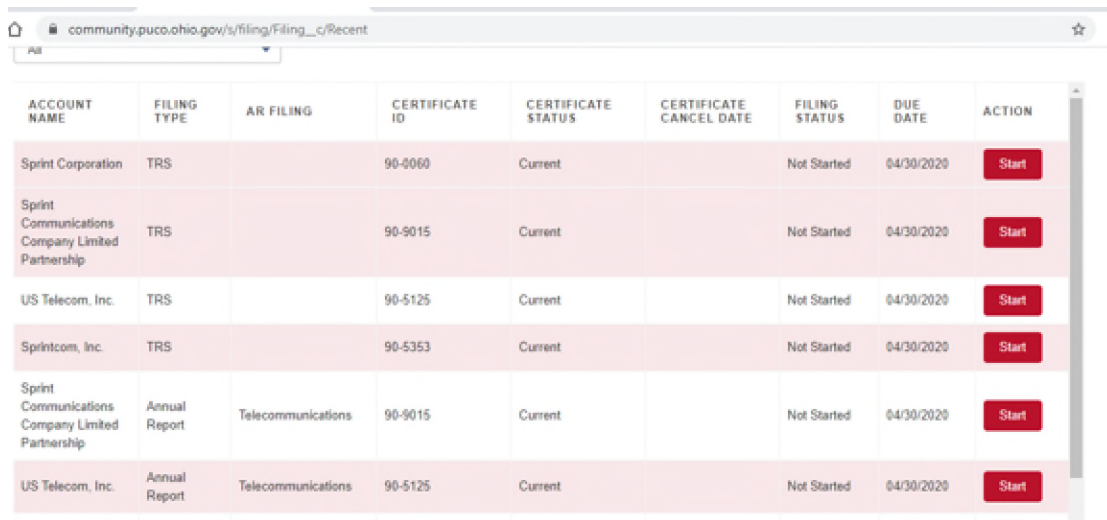
/s/ Gretchen L. Petrucci
Gretchen L. Petrucci

AFFIDAVIT OF EVELYN VERNON

STATE OF Kansas)
COUNTY OF Johnson) SS:

Evelyn Vernon, having been first duly sworn, declares and states as follows:

1. I am an employee in the Regulatory Reporting Department at T-Mobile.
2. My job duties include the preparation and submission of the telecommunications relay service (“TRS”) reports to the Public Utilities Commission of Ohio.
3. On April 15, 2020, I prepared and submitted TRS reports for 2019 for the following T-Mobile entities identified in the PUCO Community system as operating in Ohio:
 - Sprint Corporation
 - Sprint Communications Company Limited Partnership
 - Sprintcom Inc.
 - US Telecom Inc.
4. There was nothing in the PUCO Community system indicating that 2019 TRS reports needed to be filed for Nextel West Corporation (“Nextel West”) or Nextel WIP Lease Corp. (“Nextel WIP”). I took the below screenshot from the information in the PUCO Community prior to the initial deadline for the 2019 TRS reports:



ACCOUNT NAME	FILING TYPE	AR FILING	CERTIFICATE ID	CERTIFICATE STATUS	CERTIFICATE CANCEL DATE	FILING STATUS	DUE DATE	ACTION
Sprint Corporation	TRS		90-0060	Current		Not Started	04/30/2020	Start
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The PUCO Community did not list Nextel West or Nextel WIP as needing a TRS report.

5. To the best of my knowledge, our regulatory reporting team did not receive reminders that TRS reports for Nextel West or Nextel WIP needed to be filed. We received reminders for other T-Mobile companies whose 2019 TRS reports I filed in September 4, 2020.

6. I prepared a 2019 TRS report containing information for Virgin Mobile USA LP (“Virgin”), under Sprint Corporation as had been done in previous years and submitted it on April 15, 2020.

7. I received confirmations that the 2019 TRS reports that I had submitted were completed.

8. However, after Sprint received notice on September 1st that Virgin Mobile had not filed its report, I submitted a separate filing for Virgin Mobile and revised the filing for Sprint Corporation. This is the first time that PUCO had required that Virgin Mobile submit its own TRS report filing separate from Sprint Corporation.

9. I am aware of the annual TRS report filing requirements for service providers in Ohio and I had intended to timely comply with this regulatory obligation for all of the T-Mobile companies to which the requirement applied.

10. On September 3, 2020, I received notice from the Public Utilities Commission of Ohio stating that the 2019 TRS reports for Nextel West, Nextel WIP and Virgin had not been submitted. I promptly checked the PUCO Community system to prepare the reports for submission. I prepared and submitted the three TRS reports on September 4, 2020.

11. I have reviewed the attached Application for Rehearing in Case Nos. 20-03-TP-RPT and 08-815-TP-ORD. To the best of my knowledge, the information and statements contained in the Application for Rehearing are true and correct.

/s/ Evelyn M. Vernon

Evelyn Vernon
T-Mobile

Sworn to before me and signed in my presence this 25th day of September 2020.

/s/ Susan M Lopez

Notary Public 1143817

My Commission Expires: 02/16/22

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Case No(s). 20-0003-TP-RPT, 08-0815-TP-ORD

Summary: App for Rehearing Joint Application for Rehearing electronically filed by Mrs. Gretchen L. Petrucci on behalf of Nextel West Corporation and Nextel WIP Lease Corp. and Virgin Mobile USA LP