

Mitchell F. Brecher  
GREENBERG TRAURIG, LLP  
2101 L Street, NW, Suite 1000  
Washington, DC 20037  
Telephone: 202-331-3100  
Facsimile: 202-261-0152  
Email: brecher@gtlaw.com

Gary A. Dodge, #0897  
HATCH, JAMES & DODGE  
10 West Broadway, Suite 400  
Salt Lake City, UT 84101  
Telephone: 801-363-6363  
Facsimile: 801-363-6666  
Email: gdodge@hjdllaw.com

Attorneys for TracFone Wireless, Inc.

---

**BEFORE THE PUBLIC SERVICE COMMISSION OF UTAH**

---

In the Matter of the Virgin Mobile USA, L.P. Petition for Limited Designation as an Eligible Telecommunications Carrier.	<b>Docket No. 10-2521-01</b>  <b>DIRECT TESTIMONY OF INTERVENOR TRACFONE WIRELESS, INC.</b>
--	---

---

Intervenor TracFone Wireless, Inc. ("TracFone"), hereby files the Direct Testimony of Jose Fuentes in this matter.

DATED this 23<sup>rd</sup> day of November, 2010.

HATCH, JAMES & DODGE

/s/ \_\_\_\_\_

Gary A. Dodge  
Attorneys for TracFone Wireless, Inc.

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing was served by email this 23rd day of November, 2010, on the following:

John M. Beahn  
Skadden, Arps, Slate, Meagher & Flom LLP  
1440 New York Avenue, N.W.  
Washington D.C. 20005  
jbeahn@skadden.com

Peter Lurie  
Elaine Divelbliss  
Virgin Mobile USA, L.P.  
10 Independence Blvd.  
Warren, NJ 07059

Patricia Schmid  
Assistant Attorney General  
500 Heber M. Wells Building  
160 East 300 South  
Salt Lake City, UT 84111  
pschmid@utah.gov

Casey Coleman  
Utah Public Service Commission  
Utah Division of Public Utilities  
Herbert M. Wells Building  
160 East 300 South  
Salt Lake City, UT 84114  
ccoleman@utah.gov

Paul Proctor  
Assistant Attorney General  
160 East 300 South, 5th Floor  
Salt Lake City, UT 84111  
pproctor@utah.gov

Cheryl Murray  
Utah Office of Consumer Services  
160 East 300 South, Suite 200  
PO Box 146782  
Salt Lake City, UT 84114-6782  
cmurray@utah.gov  
Stephen F. Mecham  
Callister Nebeker & McCullough  
10 East South Temple Suite 900  
Salt Lake City, UT 84133  
sfmecham@cnmlaw.com

Betsy Wolf  
Salt Lake Community Action Program  
764 South 200 West  
Salt Lake City, UT 84101  
bwolf@slcap.org

Sheila Stickel  
Advocates for Universal Access, LLC  
P.O. Box 21914  
Seattle, WA 98111  
Sheila@advocatesua.com

/s/ \_\_\_\_\_

**BEFORE**  
**THE PUBLIC SERVICE COMMISSION OF UTAH**

**Direct Testimony of Jose Fuentes**

**on behalf of**

**TracFone Wireless, Inc.**

**Docket No. 10-2521-01**

**November 23, 2010**

1 **Q1: WHAT IS YOUR NAME AND OCCUPATION?**

2 A: My name is Jose Fuentes. I have been TracFone Wireless, Inc.'s Director of Government  
3 Relations for the past two years. I am responsible for facilitating TracFone's designation  
4 as an Eligible Telecommunications Carrier by state utility commissions and for  
5 implementing SafeLink Wireless® Lifeline service throughout the United States. I am  
6 also the corporate spokesperson for the SafeLink Wireless® brand.

7 **Q2: WHAT IS TRACFONE?**

8 A: TracFone Wireless, Inc. is the 5th largest wireless carrier and largest mobile virtual  
9 network operator in the United States in terms of total customer counts. TracFone  
10 provides Lifeline service in over 30 states. TracFone is an Intervenor in this matter.

11 **Q3: WHERE IS TRACFONE LOCATED AND DOES IT HAVE A PRESENCE IN**  
12 **UTAH?**

13 A: TracFone is incorporated under the laws of the State of Delaware and is headquartered at  
14 Miami, Florida. Its corporate offices are located at 9700 N.W. 112th Avenue, Miami, FL  
15 33178. TracFone is a reseller of commercial mobile radio service throughout the United  
16 States, including the State of Utah.

17 **Q4: DOES TRACFONE PROVIDE LIFELINE SERVICE IN UTAH?**

18 A: Not yet. On August 27, 2009, TracFone filed with this Commission a petition for  
19 designation as an Eligible Telecommunications Carrier (Docket No. 09-2511-01). The  
20 Commission conducted a hearing on June 7, 2010. On September 13, 2010, the  
21 Commission issued a Report and Order granting TracFone's petition subject to a final  
22 determination of a reasonable per transaction fee for use of the Utah Department of

23 Community and Culture’s eligibility verification database. The Utah PSC opened Docket  
24 No. 10-2528-01, which is a general docket not limited to TracFone, to resolve the  
25 transaction fee issue. On October 13, 2010, TracFone filed a Request for Limited  
26 Reconsideration or Rehearing in which it asked the Commission to reconsider that  
27 portion of the Commission’s Report and Order that conditioned granting of TracFone’s  
28 ETC Petition on a final determination of the reasonable per transaction fee to utilize the  
29 Department of Community and Culture’s eligibility verification database. The  
30 Commission granted TracFone’s request for reconsideration on November 2, 2010, but  
31 has not yet issued its order on reconsideration.

32 **Q5: WHAT IS THE PURPOSE OF YOUR TESTIMONY TODAY?**

33 A: Virgin Mobile testified in its Direct Testimony, filed on October 8, 2010, that its Lifeline  
34 offer in Utah will consist of providing eligible consumers with 250 voice minutes per  
35 month at no charge. TracFone, if designated as an ETC by the Commission, will also  
36 offer Lifeline-eligible consumers with 250 minutes of airtime each month, as well as  
37 offer two other Lifeline plans, at no charge. As part of TracFone’s Lifeline offering,  
38 TracFone adheres to a non-usage procedure, which ensures that it only receives  
39 reimbursement from the federal Universal Service Fund (“USF”) for active, enrolled  
40 customers who receive and are using their Lifeline benefits in accordance with the non-  
41 usage procedure. The purpose of my testimony today is to explain to the Commission  
42 the importance of a consistent non-usage procedure for all similarly-situated ETCs  
43 offering Lifeline service, and to urge the Commission to require Virgin Mobile to

44 comply with a non-usage procedure as a condition for its designation as an ETC in  
45 Utah.

46 **Q6: WHAT IS TRACFONE'S NON-USAGE PROCEDURE?**

47 A: TracFone's non-usage procedure, which is in effect in all states in which TracFone  
48 provides Lifeline service, was established to address a concern raised by several state  
49 commissions, including the Wisconsin Public Service Commission, that TracFone could  
50 be receiving funds from the federal USF for providing Lifeline service to enrolled  
51 Lifeline customers who were not using the Lifeline-supported service. TracFone's non-  
52 usage procedure prevents non-users from continuing to obtain Lifeline benefits and  
53 ensures that TracFone will not continue to receive support from the federal USF for  
54 enrolled Lifeline customers who no longer use the service.

55 TracFone's non-usage procedure addresses Lifeline customers who have no  
56 usage over an extended time period exceeding two months. Usage includes, but is not  
57 limited to, annual verification, placing or receiving a call, sending or receiving a text  
58 message, adding airtime or receiving the monthly allotment of benefits under the  
59 Lifeline program. Customers who have no usage, as described above, for a period  
60 exceeding two months are de-enrolled from the Lifeline program and stop receiving  
61 Lifeline benefits. Since TracFone seeks reimbursement from the Universal Service  
62 Administrative Company only for customers enrolled in the Lifeline program each  
63 month, TracFone stops receiving Lifeline benefits for customers who are de-enrolled in  
64 accordance with the non-usage procedure.

65           After de-enrollment, TracFone grants one month (without providing Lifeline  
66 program benefits) to de-enrolled customers to use their phone or request re-enrollment  
67 in the Lifeline program. Customers who continue to have no usage or who do not  
68 request re-enrollment within the month above will have their phones deactivated and  
69 they will be unable to place and receive calls. Customers who request re-enrollment  
70 and/or verify their continued eligibility will be re-enrolled and will continue to receive  
71 a monthly allotment of benefits under the Lifeline program. In addition, re-enrolled  
72 customers will receive any prior months' allotment of benefits under the Lifeline  
73 program that were provided while previously enrolled. Customers who continue to  
74 use their wireless service following de-enrollment from the program will not have  
75 their phones deactivated. However, TracFone will no longer receive support from  
76 the USF for those customers, unless the service is reactivated. Customers are always  
77 able to dial 911 from their phones, even after their service is deactivated. Customers  
78 attempting to place calls after their service has been deactivated in accordance with the  
79 non-usage procedure (excluding 911 calls) will have their calls routed to an automated  
80 system that facilitates service reactivation if that is the consumer's desire. During the  
81 time period outlined above, TracFone proactively seeks to retain customers by sending  
82 email notifications, direct mail letters and voice blast messages to notify the customers  
83 of their non-usage status and potential service deactivation.

84 **Q7: WHAT IS THE PURPOSE OF HAVING A NON-USAGE PROCEDURE?**

85 A: TracFone's non-usage procedure ensures that the reimbursement TracFone receives  
86 from the federal USF to provide Lifeline service is being used by low-income

87 customers. Moreover, the non-usage procedure minimizes payments from the federal  
88 USF for enrolled Lifeline customers who are no longer using TracFone's SafeLink  
89 Wireless<sup>®</sup> Lifeline service. This is an important procedure since it prevents USF  
90 resources being provided for enrolled Lifeline customers who are no longer utilizing their  
91 Lifeline benefits.

92 **Q8: HAS VIRGIN MOBILE PROPOSED TO EMPLOY A NON-USAGE**  
93 **PROCEDURE IF IT IS DESIGNATED AS AN ETC IN UTAH?**

94 A: No. Virgin Mobile has not proposed any non-usage procedure in Utah. However,  
95 TracFone understands that Virgin Mobile has agreed to comply with a non-usage  
96 procedure in Florida, Indiana, and Texas.

97 **Q9: SHOULD A NON-USAGE PROCEDURE BE REQUIRED FOR VIRGIN**  
98 **MOBILE?**

99 A: Yes. TracFone urges this Commission to require all current and future wireless ETCs in  
100 Utah that provide free airtime minutes to their Lifeline customers, including Virgin  
101 Mobile, and others, to implement the same non-usage procedure that TracFone uses.  
102 Consistent non-usage requirements are necessary in order to ensure that ETCs only  
103 receive reimbursement from the USF for those Lifeline customers who are actually using  
104 their Lifeline services. Principles of competitive neutrality and nondiscrimination, as  
105 well as a common interest in limiting use of Lifeline support from the USF only for  
106 active Lifeline customers, compel that all similarly-situated ETCs be subject to the same  
107 requirements.



108 **Q10: WHAT CONCERNS ARE PRESENT WHEN AN ETC DOES NOT HAVE A**  
109 **NON-USAGE PROCEDURE?**

110 A: Without a non-usage procedure, an ETC could continue to receive Lifeline support from  
111 the USF for a customer so long as that customer is not found to be ineligible for Lifeline,  
112 regardless of whether that customer is actively using the ETC's Lifeline service. Under  
113 this Commission's rules, an ETC is only required to verify the continued eligibility of a  
114 statistically-valid sample of its Lifeline customers on an annual basis. Therefore, a  
115 customer has a low probability of being asked to verify eligibility in any given year.  
116 Without a non-usage procedure, a customer could potentially go years without using the  
117 serving ETC's Lifeline service for a variety of reasons, while the ETC continues to  
118 collect Lifeline support from the USF, even if the service is not being used or the Lifeline  
119 customer has simply lost his Lifeline phone. For this reason, a uniform and  
120 nondiscriminatory non-usage procedure applicable to all similarly-situated ETCs is  
121 essential to protect the integrity of the federal USF.

122 **Q11: IN TRACFONE'S EXPERIENCE, WHAT ARE THE BENEFITS OF A NON-**  
123 **USAGE PROCEDURE?**

124 A: The non-usage procedure has worked well to ensure that only qualified Lifeline  
125 customers who actually use the service will continue to receive Lifeline benefits and that  
126 TracFone will only receive USF support for those customers who remain enrolled in the  
127 program and benefit from it. By eliminating non-users without eliminating eligible  
128 enrollees who continue to get support from Lifeline, TracFone's non-usage procedure has  
129 resulted in significant savings for the federal USF without creating additional barriers to

130 qualification or enrollment. TracFone believes that its non-usage procedure reflects a  
131 reasonable balance between preserving USF resources and affording Lifeline customers a  
132 reasonable period to demonstrate their intent to use their Lifeline service. Based on the  
133 success of TracFone's non-usage procedure, and the fact that this procedure has been  
134 found sufficient by several state commissions, TracFone encourages this Commission to  
135 require all ETCs that provide free minutes of airtime to comply with such a non-usage  
136 procedure.

137 **Q12: HOW SHOULD THE COMMISSION TREAT TRACFONE IF IT DETERMINES**  
138 **THAT A NON-USAGE PROCEDURE IS NOT NECESSARY?**

139 A: If the Commission determines that a non-usage procedure is not necessary for Virgin  
140 Mobile, then it should not require other ETCs, such as TracFone, that provide free  
141 minutes of airtime as their Lifeline offering, to employ a non-usage procedure.

142 **Q13: DOES THIS CONCLUDE YOUR TESTIMONY?**

143 A: Yes.