

BEFORE THE PUBLIC SERVICE COMMISSION OF UTAH

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|--|---|--------------------------------|
| In the Matter of the Virgin Mobile USA | ) | Docket No. 10-2521-01          |
| L.P. Petition for Limited Designation  | ) | Cheryl Murray                  |
| As an Eligible Telecommunications      | ) | For the Office of              |
| Carrier                                | ) | Consumer Services              |
|  | ) | Response to Supplemental       |
|  | ) | Testimony by Elaine Devilbliss |
|  | ) | for Virgin Mobile USA L.P.     |

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February 24, 2011



1 **Q. WHAT IS YOUR NAME, OCCUPATION AND BUSINESS ADDRESS?**

2 A. My name is Cheryl Murray. I am a utility analyst for the Office of  
3 Consumer Services (Office). My business address is 160 East 300 South  
4 Salt Lake City, Utah 84111.

5 **Q. WHAT IS THE PURPOSE OF YOUR TESTIMONY?**

6 A. The purpose of my testimony is to respond to the February 10, 2011  
7 Supplemental Testimony of Elaine Divilbliss on behalf of Virgin Mobile.

8 **Q. WHAT IS THE OFFICE'S RECOMMENDATION REGARDING VIRGIN  
9 MOBILE'S REQUEST FOR ETC DESIGNATION?**

10 A. The Office recommends that the Commission approve Virgin Mobile's  
11 request for ETC designation and allow them to begin providing Lifeline  
12 service to eligible customers with the following three conditions:

13 1) **Development and Use of a Utah-specific information sheet.**

14 Virgin Mobile has addressed most of the Office's concerns, but we  
15 continue to recommend that the Commission require the Company to  
16 provide new Lifeline customers with a Utah-specific information sheet  
17 regarding their service. This would ensure that Utah customers have a  
18 complete understanding of their service, as some provisions will vary  
19 based upon state rules and regulations.

20 2) **Payment of appropriate taxes and fees.** A complete description  
21 of these fees is included in my direct testimony. Virgin Mobile asserts that  
22 it pays some of these fees. To my knowledge, the Commission has not  
23 determined whether Virgin Mobile's total payment is comparable to what

24 would be collected by wireline providers. This comparability should be  
25 enforced in order to maintain an even playing field for different types of  
26 telecommunication providers.

27 3) **Use of an interim certification and verification process and**  
28 **agreement to adopt any changes to the process developed within**  
29 **Docket No. 10-2528-01.** The Office is largely satisfied with the  
30 verification of eligibility processes described by Virgin Mobile as being  
31 appropriate until the Commission completes its process examining this  
32 issue. However, we request one additional protection and recommend  
33 that applicants certifying through program-based eligibility be required to  
34 provide Virgin Mobile documentation regarding their participation in  
35 qualifying public assistance programs. We recognize the uncertainty  
36 created by requiring compliance with rules that are not yet fully developed.  
37 Therefore, we also recommend that the Commission proceed quickly with  
38 Docket No. 10-2528-01 and designate Utah regulations to govern Lifeline  
39 eligibility certification and verification.

40 **Q. PLEASE EXPLAIN THE RATIONALE FOR THE OFFICE'S**  
41 **RECOMMENDATIONS.**

42 A. Having analyzed the applications and documentation provided by  
43 TracFone, Virgin Mobile and i-wireless and reviewed information from  
44 outside sources it is clear that wireless Lifeline service can provide  
45 important benefits for low-income customers.

46 The Office continues to recommend that the Commission determine the  
47 methods to be used in Utah to establish:  
48 1) that a customer is eligible for Lifeline service;  
49 2) to verify eligibility;  
50 3) that a customer is receiving Lifeline funds from only one  
51 telecommunication service  
52 4) the costs to make these determinations if they are made by or with the  
53 assistance of the Commission or a Commission vendor, or other Utah  
54 state agency; and  
55 5) the circumstances under which the State universal service fund will or  
56 will not be a source for paying such costs.

57

58 It is has become apparent that Commission rules are not adequate to  
59 address the five concerns listed above. Therefore, the Office  
60 recommends that the Commission take appropriate steps to remedy the  
61 inadequacy of the current rules and we are hopeful that our concerns will  
62 be resolved through the course of Docket No. 10-2528-01. However, low  
63 income customers should not have to wait for Commission rulemaking  
64 before wireless Lifeline service is available. For this reason the Office has  
65 revised its position to support an interim methodology for verification of  
66 eligibility.

67 **Q. DOES VIRGIN MOBILE'S PROCESS FOR DETERMINING LIFELINE**  
68 **ELIGIBILITY CONFORM TO COMMISSION RULE?**

69 A. Commission Rule R746-341-3 as well as FCC rules allow Lifeline  
70 applicants to self-certify eligibility under income based and public  
71 assistance program based criteria. Utah rules require documented  
72 income based eligibility. In supplemental testimony Ms. Divelbliss  
73 describes Virgin Mobile's process to determine eligibility for Lifeline  
74 service from self-certification. Virgin Mobile's processes appear to  
75 conform to Federal requirements as well as current Commission rule.  
76 However, the Office recommends that the Commission augment this  
77 process by requiring that self certification includes documentation of  
78 program based eligibility.

79 **Q DOES THE REQUIREMENT OF DOCUMENTATION FOR SELF**  
80 **CERTIFICATION OF PROGRAM BASED ELIGIBILITY REPRESENT A**  
81 **SHIFT IN THE OFFICE'S POSITION?**

82 A. The Office has continued its research and analysis on this issue from the  
83 time that the first request for wireless provision of Lifeline services was  
84 filed with the Commission. Consequently, we have a much better  
85 understanding of the issue now than when we first filed testimony on the  
86 issue. The Office recognizes that the Commission rules allow self  
87 certification, but through the use of the Department of Community and  
88 Culture (DCC) under contract with the Commission, the eligibility of every  
89 program-based application is verified. However, 100% verification is  
90 currently impractical or impossible with the expanded participation due to  
91 wireless ETCs providing Lifeline service.

92

93 Therefore, the Office is requesting the additional protection of  
94 documentation for program-based eligibility when an applicant self  
95 certifies. In our view, the requirement for documentation for self  
96 certification represents an appropriate balance between efficiency and  
97 adequate verification of eligibility.

98

99 It has always been, and continues to be, the Office's intent to have all  
100 policies with respect to ETC requirements be applied consistently to all  
101 providers. Therefore, the Office recommends and will advocate to have  
102 this requirement applied to all potential wireless Lifeline providers.

103 **Q. HOW DOES VIRGIN MOBILE CONDUCT VERIFICATION OF LIFELINE**  
104 **ELIGIBILITY?**

105 A. Virgin Mobile indicates that in other states where it operates it obtains the  
106 required customer verifications pursuant to the requirements of the FCC or  
107 state-specific requirements of the annual review procedures.

108 **Q. IS THE OFFICE SATISFIED THAT VIRGIN MOBILE'S ANNUAL**  
109 **VERIFICATION PROCESS IS APPROPRIATE FOR UTAH?**

110 A. The Office is satisfied that Virgin Mobile understands the need for  
111 verification and is prepared to work with the Commission to implement an  
112 approved method. The difficulty is that current Commission rules require  
113 the responsible agency to verify continued eligibility of Lifeline customers  
114 under the program-based and income-based criteria. At the time the rule

115 was established it was not contemplated that wireless telephone service  
116 providers would be applying to provide Lifeline service or possibly that  
117 Lifeline eligibility would ever be determined outside of the Department of  
118 Community and Culture's home energy assistance program  
119 administration. The role of responsible agency<sup>1</sup> referenced in the Rule is  
120 currently served by the DCC under a contract with the Commission<sup>2</sup>. We  
121 have been told that the DCC does not view their obligations under the  
122 contract to include certifying and verifying applications for Lifeline  
123 customers of wireless providers and that they are currently not in a  
124 position to take on that responsibility.

125

126 This circumstance makes it impossible for Virgin Mobile to comply with the  
127 Rule as it currently exists therefore we believe that the alternative process  
128 it has offered is adequate as a temporary measure.

129 **Q. HAS VIRGIN MOBILE INDICATED IT WILL FOLLOW COMMISSION**  
130 **REQUIREMENTS?**

131 A. Yes. Virgin Mobile has indicated that it will abide by any procedures  
132 adopted by the Commission that are applicable to all ETCs. Further, if the  
133 Commission requires that it establish an interface with a Utah state  
134 agency Virgin Mobile will implement the necessary procedures.<sup>3</sup> Virgin

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<sup>1</sup> It is the Office's opinion that the Commission remains the responsible agency even though some of the processes have been delegated to a third party through contract.

<sup>2</sup> The Division of Public Utilities administers the contract on behalf of the Commission.

<sup>3</sup> Subject to compliance with privacy laws.



135 Mobile has also committed to work with Solix, in conjunction with the  
136 Commission, to establish the system for its Lifeline services in Utah. The  
137 Office believes that the experience of Virgin Mobile and Solix in other  
138 states can be beneficial in establishing the process to be used in Utah for  
139 determining Lifeline certification and verification.

140 **Q. IN DIRECT TESTIMONY THE OFFICE RECOMMENDED THAT VIRGIN**  
141 **MOBILE BE REQUIRED TO IMPLEMENT A 60 DAY NON-USAGE**  
142 **DEACTIVATION POLICY. HAS THE COMPANY AGREED?**

143 A. Yes they have. In her rebuttal testimony Ms. Divelbliss describes Virgin  
144 Mobile's proposed 60-day non-usage deactivation policy which the Office  
145 believes is satisfactory.

146 **Q. THE OFFICE PREVIOUSLY RECOMMENDED THAT VIRGIN MOBILE**  
147 **BE REQUIRED TO PROVIDE NEW LIFELINE CUSTOMERS WITH A**  
148 **UTAH-SPECIFIC INFORMATION SHEET REGARDING THEIR**  
149 **SERVICE. DOES THE OFFICE CONTINUE TO SUPPORT THAT**  
150 **RECOMMENDATION?**

151 A. Yes. The Office views adequate information as an essential element to  
152 customers being able to make appropriate choices regarding Lifeline  
153 service. As stated in its September 13, 2010 Report and Order in Docket  
154 No. 09-2511-01<sup>4</sup> the Commission holds a similar view.

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<sup>4</sup> In the Matter of the Petition of TracFone Wireless, Inc. for Designation as an Eligible Telecommunications Carrier in the State of Utah for the Limited Purpose of Offering Lifeline Service to Qualified Households.

155                    “One of the Commission’s main concerns with allowing the market  
156                    to dictate consumer choice would be that the consumer has adequate and  
157                    reliable information to make the well-informed choices.”

158  
159                    The Office continues to recommend that the Commission require all  
160                    wireless ETCs to provide a “Utah-specific consumer information sheet to  
161                    potential Lifeline customers which contains certain information about the  
162                    service”.

163    **Q.    DOES THE OFFICE HAVE ANY ADDITIONAL RECOMMENDATIONS**  
164    **REGARDING ETC PROVIDERS?**

165    A.    Yes. The Office recommends that the Commission under take the tasks  
166                    of Docket No. 10-2528-01 at its earliest convenience. We are concerned  
167                    that the uncertainty of costs associated with certification and verification of  
168                    Lifeline eligibility could deter prepaid wireless providers from entry into the  
169                    Utah market and deprive low-income customers of the benefits provided  
170                    by that service.

171    **Q.    DOES THIS CONCLUDE YOUR TESTIMONY?**

172    A.    Yes.