\- BEFORE THE PUBLIC SERVICE COMMISSION OF UTAH -

In the Matter of the Petition of i-wireless, LLC for Designation as an Eligible Telecommunications Carrier in the State of Utah for the Limited Purpose of Offering Lifeline Service to Qualified Households	)))))))	DOCKET NO. 10-2526-01 DPU Exhibit 1.0 Direct Testimony of Casey J. Coleman

DIVISION OF PUBLIC UTILITIES
DEPARTMENT OF COMMERCE

March 3, 2011

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I. IDENTIFICATION OF WITNESS

Q. PLEASE STATE YOUR NAME, EMPLOYER, AND BUSINESS ADDRESS.

A. My name is Casey J. Coleman. I am employed by the Division of Public Utilities ("Division") for the State of Utah. My business address is 160 East 300 South Salt Lake City, UT 84114.

Q. BRIEFLY OUTLINE YOUR EMPLOYMENT BACKGROUND.

A. Before working for the Division, I was employed by a telecommunications consulting firm as a Financial Analyst. Then for approximately three years I worked for the Division as a Utility Analyst and now work as a Technical Consultant for the Division.

Q. WHAT IS YOUR EDUCATIONAL BACKGROUND?

A. I received a Bachelor of Science degree from Weber State University in 1996 and a Masters of Business Administration from Utah State University in 2001.

Q. HAVE YOU PREVIOUSLY TESTIFIED BEFORE THE UTAH PUBLIC SERVICE COMMISSION?

A. Yes. I testified before the Commission as an expert witness in Docket Nos. 01-

2383-01, 02-2266-02, 02-049-82, 03-049-49, 03-049-50, 05-053-01, 05-2302-01, 07-2476-01, 08-2469-01, 10-049-16, and 10-2521-01.

II. SUMMARY

Q. PLEASE SUMMARIZE AND DESCRIBE THE PURPOSE OF YOUR TESTIMONY.

A. A petition filed by i-wireless, LLC ("Company") on April 12, 2010 requests that the Utah Public Service Commission ("Commission") designate the Company as an Eligible Telecommunications Carrier ("ETC") within the state of Utah. The Company's petition sought to limit its ETC designation to households that qualify for the Lifeline Service.

My testimony will focus on the application filed by the Company and whether its petition to become an ETC meets the requirements outlined by the Federal Communications Commission ("FCC"). My analysis will look at the federal framework to determine whether granting an ETC designation to the Company is in the public interest. Finally, my testimony covers the condition the Commission should adopt if the Company is designated as an ETC in the state of Utah.

Our analysis shows that the Company has met the federal requirements that would allow it to qualify for the Lifeline subsidy. Even though the Company has met the guidelines suggested by the FCC for designation as an ETC, the Division believes that approval of the Company's application should be conditioned upon requiring it to follow similar verification methods used by other Lifeline providers within Utah in order to ensure that individuals qualify for the Lifeline subsidy.

III. FEDERAL FRAMEWORK FOR GRANTING AN ETC

Q. WHAT IS THE FRAMEWORK FOR A COMPANY TO GAIN AUTHORIZATION TO SERVE AS AN ETC?

A. The FCC has delegated jurisdiction to the state commissions, allowing them the authority to determine whether a company is eligible to be classified as an ETC. Section 214(e)(2) of the Communications Act provides that a state commission shall designate a common carrier as an ETC if the carrier meets the requirements of Section 214(e)(1). Section 214(e)(1) requires a carrier designated as an ETC to offer the services that are supported by Federal universal service support mechanisms using its own facilities or a combination of its own facilities and resale of another carrier's services and to advertise the availability of such services and the related charges using media of general distribution.

Section 214(e)(2) of the Communications Act allows a state commission to designate a common carrier as an ETC as long as it is consistent with the public interest, convenience, and necessity for a non-rural area. Before designating an additional eligible telecommunications carrier for an area served by a rural telephone company, the State commission shall find that the designation is in the public interest.

Q. DOES THE COMPANY MEET THE REQUIREMENT OF OFFERING SERVICES THAT ARE OUTLINED IN SECTION 214(e)1(A)?

A. Yes. In the Company's application it indicates that it will offer all required services and functionalities, which include:

- Voice grade access to the public switched network.
- Local usage.
- Dual tone multi-frequency ("DTMF") signaling or its functional equivalent.
- Single-party service or its functional equivalent.
- Access to 911 and E911 emergency service.
- Access to operator services.
- Access to interexchange service.
- Access to directory assistance.
- Toll limitation for qualified low-income customers.

The Company also recognizes that the FCC's rules require an applicant for ETC status to demonstrate that it satisfies network build-out and improvement requirements and to provide a certification that it acknowledges that the FCC may require the Company to provide equal access to long distance carriers in the event that no other ETC is providing equal access within the service area.

The FCC, in the *i-wireless Forbearance Order*, included as an Attachment to the Company witness Mr. McDonough's direct testimony filed December 4, 2010, determined that the Company was not required to make these showings because it is a pure reseller. The Company maintains that it is also not required to make these showings for this ETC petition. The Division agrees that because the Company is purely a reseller, the network build-out requirements and equal access acknowledgement is not necessary.

However, the Company is not following the requirements of Section 214(e)1(A) that the common carrier use some combination of its own facilities and resale of another carrier's services.

Q. BECAUSE THE COMPANY IS NOT USING ITS OWN FACILITIES BUT SERVING CUSTOMERS VIA RESALE, SHOULD THE COMMISSION REJECT THE REQUEST?

A. No. The Company petitioned the FCC to forbear the facility based requirement for a common carrier when considering an ETC designation. In the *i-wireless Forbearance Order*, the FCC decided to forbear from applying the facilities-based requirement for ETCs to the Company. Section 10(e) of the Communications Act (47 U.S.C. § 160(e)) provides: "[a] State commission may not continue to apply or enforce any provision of this chapter that the [Federal Communications] Commission has determined to forbear from applying under subsection (a) of this section." As such, the Utah Commission is required by Section 10(e) to act in accordance with the FCC's *i-wireless Forbearance Order*, and therefore, may not apply the facilities-based requirement to the Company.

Q. IS THE COMPANY MEETING THE REQUIREMENT OF OFFERING SERVICES THAT ARE OUTLINED IN SECTION 214(e)1(B)?

A. Yes. On pages 8-9, of the Company witness Mr. McDonough's direct testimony, he outlines the methods the Company uses to advertise its service to qualifying customers. Mr. McDonough indicates:

> [The Company] currently markets its retail services, and will likewise market its Lifeline product, through 48 Kroger stores across the state of Utah. This marketing will include signage and instructional materials on end caps in each store. To reach customers who qualify for the program, cash register receipt information will be printed for those customers who use a program-qualifying method of payment. [The Company] will also utilize direct mail, conventional advertising (e.g., radio) and non-conventional advertising (e.g., bus wraps/signage) to reach qualified customers. In addition, [the Company] plans to distribute brochures at various state and local social service agencies, and intends to partner with nonprofit assistance organizations (such as Habitat for Humanity), in order to inform customers of the availability of its Lifeline services.

The Division reviewed the sample marketing materials that have been proposed by the Company. Its analysis of the materials satisfied the Division that the Company will "advertise the availability of their services and the charges" using media of general distribution as required by Section 214(e)1(B) of the Act.

Q. WITH THE FORBEARANCE FROM THE FCC AND INFORMATION PROVIDED BY THE COMPANY, DOES THE DIVISION FEEL THE COMPANY HAS FULFILLED THE REQUIREMENTS OF SECTION 214(e)1?

A. Yes. With the FCC forbearance of facilities and information provided by the Company, the Division believes the Company has fulfilled both requirements of 214(e)1 by offering all required services and functionalities and having the forbearance from the FCC waiving the facility based condition.

IV. VERIFICATION OF LIFELINE CUSTOMERS

Q. THE FCC APPEARS TO EXPRESS SOME CONCERN THAT THERE IS THE POTENTIAL FOR FRAUD AND MULTIPLE SUBSIDIES GOING TO ONE HOUSEHOLD. DOES THE DIVISION HAVE THE SAME CONCERN?

A. Yes, absolutely. One of the primary concerns of the Division with the petition by the Company to be classified as an ETC is the potential for fraud. Because of the transient nature of the Company's service and the fact that there is no economic cost to users of the service, qualified Lifeline customers may find ways to exploit the system and obtain multiple Lifeline supported phones at the same address. The Commission should require the

Company to utilize the Department of Community and Culture's (DCC) knowledge and data bases (or whichever provider of verification services is established through Docket No. 10-2508-01) to ensure as accurately as possible that only one individual per household is receiving the Lifeline subsidy. Our state has developed processes to help telecommunications companies verify the eligibility of potential Lifeline customers. To be fair to all telecommunications companies, the Commission should impose the same requirements on the Company that exist for other carriers. With this added condition, the Division believes the potential for fraud and abuse will be significantly reduced.

The Division recognizes that with the additional verification requirement recommended, increased costs will be placed on DCC or any entity contracted to do the verification. Historically, the Commission has allowed those costs of verification to be paid by state USF funds. The Division believes that if a telecommunications company pays the applicable fees for its intrastate retail rates into the state USF fund, this should be sufficient to cover the costs of Lifeline verifications for that company. Alternately, if a company is not subject to paying into the USF, then that company would need to pay the applicable costs to DCC or any entity contracted to do the verifications created by that applications submitted by that company.

Currently the costs of verifying eligibility for a Lifeline customer are being developed in Docket No. 10-2528-01. Once those costs have been approved by the Commission, the Division believes those costs should be used by all companies needing Lifeline verifications, but who are not subject to USF payments.

Q. WILL THE COMPANY PAY INTO THE STATE USF FUND?

A. Yes. The Division has reports showing the Company paying into the State USF fund. In response to the Division's first set of data requests, the Company stated:

> [The Company] has been paying into the Utah USF for several years. We have historically based the calculation upon all Utah revenue x 0.25%...We anticipate being able to reliably identify Utah intrastate revenue soon, and will then pay based on intrastate revenue.

As a telecommunications carrier paying into the state USF fund, the Company would be similarly situated to all other telecommunications carriers where the cost of verification would be covered by funds from the USF. Currently all costs for verification come from charges paid into the state USF by telecommunication companies on their intrastate retail rates. The Division believes treating the Company the same as other companies like Qwest, or rural ILECs, that pay into the USF fund, is sufficient to cover the costs of verification. Conversely, if at some point the Company does not feel USF payment obligations are applicable to its company, then having the Company pay the costs that will be developed in Docket No. 10-2528-01 would be appropriate.

Q. WILL THE COMPANY SEEK TO COLLECT STATE LIFELINE SUPPORT?

A. In the testimony and subsequent data responses filed by the Company, the Division does not see any discussion by the Company about whether this application would satisfy the requirements to be designated as an ETC for the state of Utah and thus the Company would be eligible to draw Lifeline funds from the state USF fund. The Division believes that this application would not make the Company eligible to draw any state funds. Instead, the Company would be required to file an application that would be specific to Utah and the Utah USF fund.

V. CONCLUSION

Q. WHAT IS THE DIVISION'S RECOMMENDATION FOR THIS PETITION?

A. The Division recommends that the Commission grant the ETC designation of the Company for the limited purpose of providing Lifeline service to qualified customers with the condition that the Commission should require the Company to follow the same procedures as any other telecommunications corporation to verify potential customer's eligibility for the subsidy.

Q. DOES THIS CONCLUDE YOUR TESTIMONY?

A. Yes it does.