

- BEFORE THE PUBLIC SERVICE COMMISSION OF UTAH -

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Petition of Virgin Mobile USA. L.P.	)	DOCKET NO. 10-2521-01
for Designation as an Eligible	)	DPU Exhibit 1.0
Telecommunications Carrier in the	)	
State of Utah for the Limited	)	Direct Testimony of
Purpose of Offering Lifeline Service	)	Casey J. Coleman
to Qualified Households	)	

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DIVISION OF PUBLIC UTILITIES  
DEPARTMENT OF COMMERCE

November 23, 2010

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1                                   **I. IDENTIFICATION OF WITNESS**

2 **Q. PLEASE STATE YOUR NAME, EMPLOYER, AND BUSINESS**  
3 **ADDRESS.**

4 A. My name is Casey J. Coleman. I am employed by the Division of Public  
5 Utilities (“Division”) for the State of Utah. My business address is 160 East  
6 300 South Salt Lake City, UT 84114.

7 **Q. BRIEFLY OUTLINE YOUR EMPLOYMENT BACKGROUND.**

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

12 **Q. WHAT IS YOUR EDUCATIONAL BACKGROUND?**

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

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

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

18 2383-01, 02-2266-02, 02-049-82, 03-049-49, 03-049-50, 05-053-01, 05-2302-01,  
19 07-2476-01, 08-2469-01, and 10-049-16.

20 **II. SUMMARY**

21 **Q. PLEASE SUMMARIZE AND DESCRIBE THE PURPOSE OF YOUR**  
22 **TESTIMONY.**

23 A. Virgin Mobile USA. L.P. (“Virgin Mobile”) filed a Petition on April 12, 2010  
24 requesting that the Utah Public Service Commission (“Commission”)  
25 designate Virgin Mobile as an Eligible Telecommunications Carrier (“ETC”)  
26 within the state of Utah. Virgin Mobile’s petition sought to limit its ETC  
27 designation to households that qualify for the Lifeline Service.

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

35 Our analysis shows that Virgin Mobile has met the federal requirements that  
36 would allow it to qualify for the Lifeline subsidy. Even though Virgin Mobile

37 has met the guidelines suggested by the FCC for designation as an ETC, the  
38 Division believes that approval of Virgin Mobile's application should be  
39 conditioned upon requiring it follow similar verification methods used by  
40 other Lifeline providers within the State in order to ensure that individuals  
41 qualify for the Lifeline subsidy.

42 **III. FEDERAL FRAMEWORK FOR GRANTING AN ETC**

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

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

55 Section 214(e)(2) of the Communications Act allows a state commission to  
56 designate a common carrier as an ETC as long as it is consistent with the

57 public interest, convenience, and necessity for a non-rural area. Before  
58 designating an additional eligible telecommunications carrier for an area  
59 served by a rural telephone company, the State commission shall find that  
60 the designation is in the public interest.

61 **Q. DOES VIRGIN MOBILE MEET THE REQUIREMENT OF**  
62 **OFFERING SERVICES THAT ARE OUTLINED IN SECTION**  
63 **214(e)1(A)?**

64 A. Yes. In Virgin Mobile's application it indicates that it will offer all required  
65 services and functionalities, which include:

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

76 Virgin Mobile's request for ETC designation complies with section 214(e)(1)  
77 of the Act because Virgin Mobile is a facilities based mobile carrier that  
78 provides all of the services and functionalities supported by the universal  
79 service program. Those services will be available to any qualifying Utah  
80 customer in Virgin Mobile's designated service territory.

81 **Q. IS VIRGIN MOBILE MEETING THE REQUIREMENT OF**  
82 **OFFERING SERVICES THAT ARE OUTLINED IN SECTION**  
83 **214(e)1(B)?**

84 A. Yes. On pages 16-17, of Virgin Mobile witness Ms. Divelbliss' testimony,  
85 she outlines the methods Virgin Mobile uses to advertise its service to  
86 qualifying customers. Ms. Divelbliss indicates:

87 "Virgin Mobile will advertise its Lifeline services using a  
88 variety of media in conformance with the regulations of  
89 the Commission and the FCC. These means will include  
90 television, brochures, in-person events, direct mail,  
91 newspapers and the Internet. [In other jurisdiction],  
92 these marketing efforts have been highly successful in  
93 reaching eligible low-income customers and promoting the  
94 availability of Lifeline services."

95 The Division reviewed the sample marketing materials that have been used  
96 in other markets. These materials satisfied the Division that Virgin Mobile  
97 will "advertise the availability of their services and the charges" using  
98 media of general distribution as required by Section 214(e)1(B) of the Act.

99 **Q. WITH THE INFORMATION PROVIDED BY VIRGIN MOBILE, DOES**  
100 **THE DIVISION FEEL VIRGIN MOBILE HAS FULFILLED THE**  
101 **REQUIREMENTS OF SECTION 214(e)1?**

102 A. Yes. To be classified as an ETC according to Section 214(e)1 a company must

103 be a common carrier and able to provide the services required for USF. Prior  
104 to November 2009, Virgin Mobile would have been considered a reseller of  
105 services instead of a facility based provider. As a reseller they would have  
106 needed forbearance from the FCC of the facilities based requirement. Prior  
107 to the acquisition of Sprint, Virgin Mobile filed petitions with Commissions  
108 asking to be an ETC as a reseller of services. In some of those applications  
109 requirements were placed on Virgin Mobile aimed at enhancing Lifeline  
110 customer's access to public safety services and preventing misuse of the  
111 Company's Lifeline offering. Today, with Virgin Mobile being a wholly  
112 owned, fully integrated subsidiary of Sprint with beneficial use of the Sprint  
113 Nationwide PCS Network, Virgin becomes a common carrier just like the  
114 parent company Sprint instead of a reseller. Because Virgin Mobile has  
115 access to Sprint's network it meets the requirements of the Section, being a  
116 common carrier and offering services required by the USF.

117 **IV. VERIFICATION OF LIFELINE CUSTOMERS**

118 **Q. THE FCC APPEARS TO EXPRESS SOME CONCERN THAT THERE**  
119 **IS THE POTENTIAL FOR FRAUD AND MULTIPLE SUBSIDIES**  
120 **GOING TO ONE FAMILY. DOES THE DIVISION HAVE THE SAME**  
121 **CONCERN?**

122 **A.** Yes, absolutely. One of the primary concerns of the Division with the  
123 petition by Virgin Mobile to be classified as an ETC is the potential for



124 fraud. Because of the transient nature of Virgin Mobile's service and the  
125 fact that there is no economic cost to users of the service, qualified Lifeline  
126 customers may find ways to exploit the system and obtain multiple Lifeline  
127 supported phones at the same address. The Commission should require  
128 Virgin Mobile to utilize the Department of Community and Culture's (DCC)  
129 knowledge and data bases (or whichever provider of verification services is  
130 established through Docket No. 10-2508-01) to ensure as accurately as  
131 possible that only one individual per household is receiving the Lifeline  
132 subsidy. Our state has developed processes to help telecommunications  
133 companies verify the eligibility of potential Lifeline customers. To be fair to  
134 all telecommunications companies, the Commission should impose the same  
135 requirements on Virgin Mobile that exist for other carriers. With this  
136 added condition, the Division believes the potential for fraud and abuse will  
137 be significantly reduced.

138 The Division recognizes that with the additional verification requirement  
139 recommended, increased costs will be placed on DCC or any entity  
140 contracted to do the verification. Historically, the Commission has allowed  
141 those costs of verification to be paid by state USF funds. The Division  
142 believes that if a telecommunications company pays the applicable fees for  
143 its intrastate retail rates into the state USF fund, this should be sufficient  
144 to cover the costs of Lifeline verifications for that company. Alternately, if a

145 company is not subject to paying into the USF, then that company would  
146 need to pay the applicable costs to DCC or any entity contracted to do the  
147 verifications created by that applications submitted by that company.

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

153 **Q. WILL VIRGIN MOBILE PAY INTO THE STATE USF FUND?**

154 A. Yes. Virgin Mobile in response to OCS Third set of data requests stated the  
155 following:

156 “Virgin Mobile does intend to recommence payments to the Utah USF after  
157 the credit is exhausted.”

158 As a telecommunications carrier paying into the state USF fund, Virgin  
159 Mobile would be similar to all other telecommunications carriers where the  
160 cost of verification would be covered by funds from the USF. Currently all  
161 costs for verification come from charges paid into the state USF by  
162 telecommunication companies on their intrastate retail rates. The Division  
163 believes treating Virgin Mobile the same as other companies like Qwest, or

164 rural ILECs, that pay into the USF fund, is sufficient to cover the costs of  
165 verification. Conversely, if Virgin Mobile does not feel USF payments are  
166 applicable to its company, then paying the costs that will be developed in  
167 Docket No. 10-2528-01 would be appropriate.

168 **V. CONCLUSION**

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

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

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

177 A. Yes it does.