

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  | ) | Direct Testimony      |
| As an Eligible Telecommunications      | ) | of Cheryl Murray      |
| Carrier                                | ) | For the Office of     |
|  | ) | Consumer Services     |

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November 23, 2010



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 present the policy position of the Office  
7 regarding the petition of Virgin Mobile USA, L.P. (Virgin Mobile) for  
8 designation as an Eligible Telecommunications Carrier (ETC) in the State  
9 of Utah.

10 **Q. PLEASE SUMMARIZE THE OFFICE'S POSITION IN THIS CASE.**

11 A. The Office's position regarding Virgin Mobile's ETC application is the  
12 same as for other prepaid wireless companies seeking ETC designation.  
13 Prior to granting ETC designation the Commission should determine the  
14 methods to be used to establish:

- 15 1) that a customer is eligible for lifeline service;
- 16 2) annual recertification of eligibility;
- 17 3) that a customer is receiving lifeline funds from only one  
18 telecommunication service;
- 19 4) the appropriate costs to make these determinations; and  
20 5) how those costs will be collected from prepaid wireless ETCs.

21 Additionally, prepaid wireless ETCs should be subject to various state  
22 taxes and fees that originate from or are dedicated to the provision of  
23 telecommunications services.

24 The Office recommends that the Commission should expressly condition  
25 the granting of ETC status to Virgin Mobile upon the following  
26 requirements being met to remedy the current deficiencies and ensure  
27 customer protections.

- 28 • Virgin Mobile must comply with Commission determined methods  
29 or processes to establish initial eligibility, to complete annual  
30 recertification and to determine that customer do not take service  
31 from multiple lifeline providers. This must include payment of fees  
32 associated with these processes.<sup>1</sup>
- 33 • To ensure that Virgin Mobile does not draw from the Federal USF  
34 beyond the usage period of its Assurance Wireless customers, it  
35 must implement a 60 day non-usage deactivation policy.
- 36 • Virgin Mobile must be subject to state taxes and fees related to  
37 telecommunication services necessary to the public safety and  
38 welfare.

### 39 **Background and Overview**

#### 40 **Q. WHAT IS VIRGIN MOBILE REQUESTING OF THIS COMMISSION?**

41 A, Virgin Mobile has petitioned the Commission for designation as an ETC in  
42 the state of Utah for the purpose of offering prepaid wireless services,  
43 branded as “Assurance Wireless Brought To You By Virgin Mobile”  
44 (Assurance Wireless) supported by the federal Universal Service Fund’s  
45 (USF) Lifeline program.

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<sup>1</sup> The Office presumes that these processes will be an outcome of Docket No. 10-2528-01.

46 **Q. WHY IS VIRGIN MOBILE REQUESTING ETC DESIGNATION?**

47 A. Ms. Divelbliss, testifying for Virgin mobile states, “Virgin Mobile requests  
48 ETC designation in Utah for the limited purpose of participating in the  
49 federal Universal Service Fund’s (“USF”) Lifeline program”.<sup>2</sup> Virgin  
50 Mobile states it will not seek to provide services supported by the USF’s  
51 high-cost program or the Utah universal service fund.

52 **Q. DOES VIRGIN MOBILE CURRENTLY PROVIDE WIRELESS SERVICE**  
53 **IN UTAH?**

54 A. Yes. Virgin Mobile has provided wireless service in Utah since July 2002.  
55 On November 24 Virgin Mobile became a wholly owned subsidiary of  
56 Sprint Nextel Corporation and now operates as a facilities-based carrier.

57 **Q. WHAT AREAS OF UTAH DOES VIRGIN MOBILE PROPOSE TO**  
58 **SERVE AS AN ETC?**

59 A. Virgin Mobile requests ETC designation for its entire service area in Utah,  
60 including areas where its coverage overlaps with rural carriers. Exhibit 3  
61 of the Company’s application lists these wire centers.

62 **Virgin Mobile’s ETC Service Offering**

63 **Q. PLEASE DESCRIBE VIRGIN MOBILE’S PROPOSED ETC SERVICE**  
64 **OFFERING.**

65 A. Virgin Mobile identifies its prepaid Lifeline Service as “Assurance Wireless  
66 Brought To You By Virgin Mobile”. Ms. Divelbliss testifies that eligible  
67 customers will receive 250 free voice minutes per month with additional

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<sup>2</sup> Elaine Divelbliss, Direct Testimony, Page 3, lines 16-17.

68 service priced at \$0.10/minute and \$0.10/text message.<sup>3</sup> Unused free  
69 minutes do not carry over to the next month. Minutes can be used at any  
70 time for local or national calling. Prepaid Lifeline customers will also have  
71 access to voice mail,<sup>4</sup> caller I.D. and call waiting services at no additional  
72 charge. Additionally, new customers may choose to receive an Assurance  
73 Wireless-branded handset free of charge. Existing customers may use  
74 their existing handset or choose the free handset option. Customers will  
75 have access to directory assistance at a cost of \$1.75 per use. Minutes  
76 are deducted for calls to directory assistance and customers must have  
77 additional funds in their account to access directory assistance services.<sup>5</sup>  
78 Customers' calls to 911 and to Virgin Mobile's customer care service are  
79 not deducted from minutes.

80 **Q. WHAT HAPPENS TO THE CUSTOMER'S PHONE SERVICE AFTER**  
81 **THE TWO HUNDRED AND FIFTY (250) MINUTES HAVE BEEN**  
82 **UTILIZED?**

83 A. The Company's direct testimony stated that when the 250 minutes have  
84 been utilized customers will either have to wait until the next month for a  
85 new allotment of 250 minutes of free air time or they can purchase  
86 additional minutes at \$0.10 per minute. Assurance wireless customers  
87 can purchase Virgin Mobile top up-cards in increments of \$10, \$25, \$40

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<sup>3</sup> In its original application Virgin Mobile offered 200 free minutes per month but increased the offering to 250 in the direct testimony of Elaine Divelbliss. Text messages were originally priced at \$0.15 per text.

<sup>4</sup> Virgin Mobile's responses to data request OCS 2.1 indicates "minutes used for calls placed to access voice mail services are deducted from a customer's account".

<sup>5</sup> Company responses to OCS data requests 2.5 and 2.6.

88 and \$60 denominations from a variety of retailers. They also have the  
89 option of registering a debit/credit card or PayPal account to add minutes  
90 to their account in amounts between \$10 and \$120. It is important to note  
91 that enrolled customers are still able to make unlimited calls to 911 even  
92 when no minutes remain.

93 **Q. DOES THE OFFICE HAVE ANY CONCERNS WITH VIRGIN MOBILE'S**  
94 **LIFELINE OFFER?**

95 A. Although Virgin Mobile's Lifeline offer is not perfect, as more providers  
96 enter the lifeline marketplace customers will be able to choose the  
97 provider that best fits their needs and preferences which mitigates any  
98 concerns about the overall offering. The Office believes that the  
99 availability of Lifeline prepaid wireless service will be beneficial to low-  
100 income people. Access to 911 even with no remaining minutes and free  
101 calls to Virgin Mobile's customer care services are in the public interest.

102 **Q. YOU INDICATED THAT VIRGIN MOBILE'S DIRECT TESTIMONY**  
103 **PROVIDED UPDATED INFORMATION TO THE COMPANY'S**  
104 **OFFERING. HAVE THERE BEEN FURTHER UPDATES?**

105 A. Yes. "Updates to the Lifeline Offering" were provided in conjunction with  
106 the Company's responses to the Office's second set of data requests  
107 received on November 15, 2010.

108 **Q. PLEASE DESCRIBE THE UPDATES TO THE LIFELINE OFFERING.**

109 A. The Company reiterates the increase in minutes to 250 free voice minutes  
110 per month and text messages offered at \$0.10 per text. Also as of

111 October, 20, 2010 customers have two new methods to purchase  
112 additional monthly minutes in bulk.

113 First, Lifeline customers can add \$5 to their account to purchase an  
114 additional 250 monthly minutes.<sup>6</sup> Second, Lifeline customers can add  
115 \$20 to their account to purchase an additional 750 voice minutes.  
116 Customers choosing this second option will also receive 1,000 monthly  
117 text messages. (See OCS Exhibit 1 for complete updated offering.)

118 **Q. PLEASE RESPOND TO THE “UPDATED” OFFERING.**

119 A. The ability for Lifeline customers to purchase additional minutes in \$5  
120 increments is an improvement to the original offering. For a person  
121 seeking work, living quarters, public assistance, health care, etc, it can be  
122 difficult to accommodate those needs with only 250 minutes per month.  
123 The Office views the ability to purchase 250 additional minutes for \$5 as a  
124 public benefit for those in certain circumstances. However, we are  
125 concerned that it may not have been presented in such a way as to be  
126 considered part of the record and an official offer.

127 **Virgin Mobile’s Application and Verification Process**

128 **Q. HOW DO ELIGIBLE CUSTOMERS SIGN UP FOR VIRGIN MOBILE’S**  
129 **LIFELINE SERVICE?**

130 A. Under the current process, applicants utilize a toll-free telephone number  
131 to request or complete an enrollment form. Required information includes

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<sup>6</sup> The Office understands that the \$5 purchase must be made with a credit/debit card or through a PayPal account, which will be a concern for those without a credit card. We are uncertain if this service can be acquired through cash purchases.



132 the applicants name, residential address and relevant eligibility criteria.  
133 The Company mails the completed application form to each applicant for  
134 signature. When the signed application and supporting documentation  
135 have been returned and approved, a handset is sent to the customer the  
136 next business day.

137 **Q. DOES VIRGIN MOBILE PLAN ANY MODIFICATIONS TO THE**  
138 **APPLICATION PROCESS?**

139 A. Ms. Divelbliss discusses plans to implement two additional enrollment  
140 procedures. First, customers will be able to access the enrollment form  
141 through a secure website and complete the form on-line. Through an  
142 electronic signature a customer will be able to verify, under penalty of  
143 perjury that all statements and information are accurate. Second, using  
144 an IVR system applicants will complete an application by providing the  
145 required information through a toll-free number. The customer would then  
146 be required to declare under penalty of perjury that the statement and  
147 information are accurate. This declaration would be recorded. Applicants  
148 would be informed that they can speak to a live operator if they have  
149 questions.

150 **Q. PLEASE COMMENT ON VIRGIN MOBILE'S APPLICATION PROCESS.**

151 A. The current process requires two mailings of the application, one from  
152 Virgin Mobile to the customer, and then the customer back to Virgin  
153 Mobile. If in reviewing the signed application some problem or missing  
154 information is identified an additional mailing could potentially be required.

155 The Office encourages Virgin Mobile to act quickly to implement the two  
156 additional processes described by Ms. Divelbliss as they should decrease  
157 the time between application and the customer actually being able to  
158 access Lifeline service.

159 **Q. HOW DOES VIRGIN MOBILE DETERMINE IF AN APPLICANT IS**  
160 **ALREADY RECEIVING LIFELINE SERVICE?**

161 A. Virgin Mobile tracks each applicant's primary residential address and  
162 performs a cross check against its internal databases to determine if the  
163 applicant is already receiving Lifeline service from Virgin Mobile. Virgin  
164 Mobile does not have the ability to determine if an applicant is receiving  
165 lifeline service from another ETC.

166 OCS data request 2.8 asked: Please refer to page  
167 17, lines 19 and 20. Ms. Divelbliss makes the statement that  
168 "the Lifeline program ensures that USF support only funds  
169 the carrier that actually "wins" the customer's service".  
170 Please explain how the Lifeline program determines that a  
171 customer is taking service from only one provider.

172  
173 **RESPONSE:** During the enrollment process,  
174 applicants for Lifeline service must certify and attest under  
175 penalty of perjury that they will only receive Lifeline service  
176 from Virgin Mobile. Failure to make the required certification  
177 will result in denial of the application.

178  
179 In addition, while Virgin Mobile does not have access to the  
180 customer lists of other Lifeline providers, certain states have  
181 requested that Virgin Mobile and other ETCs provide a list of  
182 customers periodically in order to permit the state  
183 commission to compare the lists. Other states employ  
184 "automatic enrollment" procedure pursuant to which ETCs  
185 establish a direct interface with one or more state agencies  
186 to allow low-income individuals to automatically enroll in the  
187 Lifeline program following enrollment in a qualifying public  
188 assistance program. Automatic enrollment not only is an  
189 efficient means of increasing participation in the Lifeline

190 program, but it also serves an effective method to ensure  
191 that customers only receive Lifeline services from one  
192 carrier.

193  
194  
195

It is clear from this response that this concern is not specific to the  
Office but that other states have and continue to grapple with this  
issue.

196  
197

198 **Q. IS THE OFFICE CONCERNED ABOUT VIRGIN MOBILE'S INABILITY**  
199 **TO DETERMINE IF A CUSTOMER IS RECEIVING LIFELINE SUPPORT**  
200 **FROM MORE THAN ONE PROVIDER?**

201 A. The Office is concerned about the State of Utah's established  
202 processes' inability to ensure that a customer receives lifeline  
203 support from only one provider at a time. This issue extends to all  
204 ETC prepaid wireless, wireless and wireline providers of lifeline  
205 service. As long as ETC providers use their own third parties and  
206 there is no uniform method to determine lifeline eligibility there can  
207 be no assurance that a customer receives lifeline support for only  
208 one phone and that multiple lifeline providers do not receive  
209 support for the same customer. The Office believes that this issue  
210 can and should be resolved in Docket No. 10-2528-01 prior to any  
211 prepaid wireless provider being granted ETC status.

212 **Q. DOES VIRGIN MOBILE USE A THIRD PARTY ADMINISTRATOR TO**  
213 **VERIFY LIFELINE SERVICE ELIGIBILITY?**

214 A. Yes. Virgin Mobile has a contract with Solix to administer the lifeline  
215 program. The Office requested a copy of the contract with Solix in order

216 to gain some insight into what services are provided and how Solix  
217 conducts those services in its role as third party administrator, however in  
218 response to OCS data request 2.3 Virgin Mobile stated that the terms of  
219 the contract are confidential and they are unable to provide a copy for our  
220 review.

221 **Q. HOW ARE VIRGIN MOBILE LIFELINE CUSTOMERS RECERTIFIED**  
222 **ANNUALLY?**

223 A. The initial information we received was unclear on annual recertification.  
224 Virgin Mobile's Customer Enrollment Form includes the following  
225 statement:

226 I understand that I **may** be required to verify my continued  
227 eligibility for lifeline at any time. Failure to verify eligibility will  
228 result in termination of the Virgin Mobile Lifeline Program. In  
229 the future, if my total household income exceeds 135% of  
230 the Federal poverty guidelines, or I am no longer eligible to  
231 receive benefits from at least one of the qualifying public  
232 assistance programs listed above, I will notify Virgin Mobile  
233 USA within five (5) days. [Emphasis added]

234 Although this statement indicates that customers are required to provide  
235 notification if their circumstances change it is inadequate to address the  
236 issue of annual recertification. To obtain further clarity we submitted the  
237 following data request:  
238

239 Data Request OCS 2.10: "How are customers informed that  
240 eligibility must be re-certified annually?"

241 **RESPONSE:** In accordance with the compliance plan  
242 Virgin Mobile filed with the FCC, the Company annually  
243 verifies the continued eligibility of each of its customers.  
244 Virgin Mobile is working with its Lifeline administrator, Solix,  
245 to design and implement the recertification process.  
246 Pursuant to these procedures, Virgin Mobile will notify each  
247 Lifeline consumer by various means including text message,

248 mail and telephone at least 60 days prior to the service  
249 anniversary date that the customer must confirm his or her  
250 continued eligibility. Customers will also need to verify that  
251 they are the head of household and only receive Lifeline  
252 service from Virgin Mobile. Customers will be able to  
253 complete the verification process through several means,  
254 including online, fax or mail. Receipt of a customer's annual  
255 verification will be a prerequisite for the customer's  
256 continued eligibility for lifeline-supported services. Any  
257 customers who do not verify their eligibility within 30 days of  
258 receipt of the verification notice will be removed from the  
259 Lifeline program, although the customer's account will  
260 remain active during a transitional period should the  
261 customer desire to add funds and use the service at the  
262 standard a la carte rates (\$.10 per voice minute or text  
263 message).

264  
265 In addition, Virgin Mobile complies with the FCC annual  
266 verification sampling requirement, which may require certain  
267 customers selected for the sample to verify eligibility more  
268 than once annually.

269  
270 According to this response all customers will have to recertify  
271 annually although the process is still being determined.

272  
273 **Q. DOES THE OFFICE HAVE A RECOMMENDATION TO RECTIFY THIS**  
274 **ISSUE?**

275 A. Yes. The Office recommends that the Commission not grant ETC  
276 status until Virgin Mobile has provided the procedure it will use for  
277 annual verification, or preferably until a decision on this issue is  
278 reached in Docket No. 10-2528-01. The Commission should  
279 clearly state that Virgin Mobile will be subject to an order issued in  
280 that docket. The Office also recommends that Virgin Mobile be  
281 required to provide with the first notification of acceptance or with  
282 the mobile handset an information sheet to Utah customers similar

283 to that agreed to by TracFone. The information sheet should  
284 address not only annual recertification but other important issues as  
285 well.

286 **Utah State Taxes and Fees**

287 **Q. DOES THE OFFICE BELIEVE THAT VIRGIN MOBILE IS SUBJECT TO**  
288 **STATE IMPOSED TAXES AND FEES?**

289 A. Yes. The Office believes that Virgin Mobile and all ETCs should be  
290 subject to various state taxes and fees that originate from the provision of  
291 telecommunications services or that are dedicated to the provision of  
292 basic telecommunications services necessary to the public safety and  
293 welfare. In fact, Virgin Mobile asserts in testimony that its “Lifeline service  
294 plan includes all applicable taxes and fees.” Divilbliss, page 6, line 11.

295 **Q. DOES THE COMMISSION IMPOSE THESE FEES?**

296 A. Some fees, such as the State USF fee, are imposed and managed by the  
297 Commission. In other cases, such as 911 and other public safety fees,  
298 state law imposes the tax or fee on telecommunications corporations and  
299 services, and assigns administration and enforcement to a state agency  
300 other than the Commission. The Office’s policy recommendation is that  
301 the Commission should consider whether an applicant for Commission  
302 authority to operate as an ETC is overall in compliance with Utah law.

303 **Q. DID NOT THE COMMISSION DECIDE THIS ISSUE IN THE TRACFONE**  
304 **DOCKET?**

305 A. With respect to both State USF and 911, the Commission opined both that  
306 TracFone's business model did not allow for collection of such fees and  
307 that the Commission has no jurisdiction to consider a "public interest  
308 concern" upon an ETC applicant.<sup>7</sup> The Office believes that the matter will  
309 continue to receive administrative and judicial consideration and is hopeful  
310 that the ultimate outcome is that all telecommunications, including prepaid  
311 wireless, will appropriately pay their share of taxes and public interest  
312 funds. As an example of the ongoing assessment of these issues, the  
313 Washington Supreme Court recently addressed TracFone's claim that its  
314 business model excused its obligation to contribute to the 911 system<sup>8</sup>.

315 **Q. IS VIRGIN MOBILE APPLYING FOR STATE UNIVERSAL SERVICE**  
316 **FUNDS?**

317 A. Virgin Mobile indicates that it does not plan to access the Utah USF.<sup>9</sup>  
318 However, there is no guarantee that its plans will not change in the future.  
319 The Commission's order in this docket should clarify that any future  
320 request for access to the state USF requires a filing and a hearing on the  
321 matter.

322 **Q. HAS VIRGIN MOBILE CONTRIBUTED TO THE UTAH USF?**

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<sup>7</sup> Commission Order in Docket No. 09-2511-01, pages 6, 8, 9 and 10.

<sup>8</sup> The case is TracFone Wireless, Inc., Appellant, v. Washington Department of Revenue, Respondent, Washington Supreme Court No. 82741-9 decided October 28, 2010. A link to the opinion is:

<http://www.courts.wa.gov/opinions/index.cfm?fa=opinions.showOpinion&filename=827419MAJ>; and to the dissent is

<http://www.courts.wa.gov/opinions/index.cfm?fa=opinions.showOpinion&filename=827419Di1>

<sup>9</sup> Divelbliss direct testimony, page 4, line 9.

323 A. Yes, until May 2009 Virgin Mobile contributed to the Utah USF based on  
324 revenues from prepaid wireless services. At that point a credit was issued  
325 to Virgin Mobile due to prior overpayments and no further contributions  
326 have been made by Virgin Mobile although it continues to monitor the  
327 amount it owes the Utah USF.<sup>10</sup>

328 **Q. DOES VIRGIN MOBILE BELIEVE ITS REVENUES WOULD BE**  
329 **SUBJECT TO THE UNIVERSAL PUBLIC TELECOMMUNICATIONS**  
330 **SERVICE SUPPORT FUND AS REQUIRED BY RULE R746-360-4?**

331 A. Based on the response to DPU 1.3c, which follows, it would appear they  
332 do not think so.

333 DPU 1.3 c Does Virgin Mobile believe any revenues  
334 would be subject to rule R746-360-4? What would be the  
335 basis for excluding or including the various revenues from  
336 the Universal Public Telecommunications Service Support  
337 Fund for the State of Utah?  
338

339 RESPONSE: Because Virgin Mobile provides prepaid  
340 wireless services and does not bill telecommunications  
341 services to end user customers, the Company does not  
342 believe that its services are subject to the current  
343 requirements of rule R746-36-4[sic]. Pursuant to the rule,  
344 end user surcharges shall be “billed and collected” from end  
345 user customers. As a prepaid provider, Virgin Mobile does  
346 not provide monthly billing statements to its customers and,  
347 therefore, is unable to bill and collect the surcharge as  
348 required by the statute.  
349

350 However, the response to OCS 3.1 provides a different answer.

351 OCS 3.1b asked: Based on the responses to DPU 1.3a, b  
352 and c it is unclear if Virgin Mobile intends to contribute to the

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<sup>10</sup> Virgin Mobile response to DPU data request 1.3b.



353 Utah USF once the credit it received for overpayment has  
354 been exhausted. Please clarify the following: Does Virgin  
355 Mobile intend to recommence payments to the Utah USF  
356 when the credit is exhausted?

357  
358 RESPONSE: Virgin Mobile does intend to recommence  
359 payments to the Utah USF after the credit is exhausted.  
360

361  
362 **Q. DOES THE OFFICE BELIEVE THAT VIRGIN MOBILE SHOULD BE**  
363 **REQUIRED TO CONTRIBUTE TO THE STATE USF?**

364 A. Yes, we do. As we stated in the TracFone docket the Office believes it is  
365 poor public policy for an entity to be allowed to draw on any public funds  
366 without making appropriate contributions to public funds. We also note  
367 that Virgin Mobile states it does contribute to the Utah enhanced 911 fund.

368 **Concerns of the Office of Consumer Services**

369 **Q. DOES THE OFFICE HAVE CONCERNS WITH THE GRANTING OF THE**  
370 **PETITION?**

371 A. Yes. The Office has several concerns related to Virgin Mobile being  
372 granted ETC designation.

373 1) There are no processes for annual recertification of lifeline customers  
374 or to ensure that customers taking lifeline service from Virgin Mobile are  
375 not also lifeline customers of another telecommunications provider.

376 2) There is no process to prevent Virgin Mobile from continuing to draw  
377 on the Federal USF if a customer changes providers or abandons the use  
378 of this service without notifying Virgin Mobile.

379 3) Customers taking Lifeline service from Virgin Mobile must be provided  
380 clear and concise information regarding the requirements for initial and

381 continued service, as well as what they will receive and what they may  
382 give up.

383 **Q. PLEASE EXPLAIN THE OFFICE'S CONCERNS ABOUT THE LACK OF**  
384 **PROCESSES FOR ANNUAL RECERTIFICATION AND THE**  
385 **POTENTIAL FOR CUSTOMERS TO TAKE LIFELINE SERVICE FROM**  
386 **MULTIPLE PROVIDERS.**

387 A. Although Virgin Mobile has a process in development, no process is  
388 currently in place for proper annual recertification of customers. Further,  
389 the Commission has not established a process to be used by all prepaid  
390 wireless providers to annually recertify that their customers continue to be  
391 eligible to receive lifeline service. Without a valid recertification process  
392 ineligible customers may continue to receive subsidized service and  
393 lifeline providers can continue to draw on the federal USF creating an  
394 unwarranted burden on that fund.

395 Also, neither the Company nor the Commission currently has a  
396 process to cross check if a customer is receiving lifeline service from  
397 another provider. This could lead to customers having multiple providers  
398 of lifeline service and an increase in the Federal USF. A process must be  
399 in place to ensure that low-income customers are not taking service from  
400 multiple lifeline providers. Ideally this would be done through independent  
401 verification and will potentially be resolved in Docket No. 10-2528-01.  
402 Virgin Mobile has indicated its intent to recertify each customer each year

403 of service however the details of recertification are still being worked out.

404 Until a precise process is in place ETC status should be withheld.

405 **Q. WILL THE OUTCOME OF DOCKET NO. 10-2528-01, IN THE MATTER**  
406 **OF THE CONSIDERATION OF THE COSTS TO THE DEPARTMENT OF**  
407 **COMMUNITY AND CULTURE (DCC) FOR DETERMINING ELIGIBILITY**  
408 **FOR LIFELINE APPLICANTS BE APPLICABLE TO VIRGIN MOBILE?**

409 A. The Commission's Notice of Scheduling Conference dated September 16,  
410 2010 indicated that the findings in that docket may affect the operations of  
411 all ETCs. It is the Office's expectation that if Virgin Mobile is granted ETC  
412 designation as a prepaid wireless provider it would be subject to the  
413 Commission's order in that docket.

414 **Q. WOULD THAT ALLEVIATE SOME OF THE OFFICE'S CONCERNS?**

415 A. Potentially. However, we do not yet know the scope of issues that the  
416 Commission will address in that docket so we cannot know if it will  
417 address any or all of our concerns. The Order in Docket No. 10-2528-01  
418 could alleviate many of our concerns if it results in:

419 1) A determination of the cost to verify customer eligibility and annual

420 recertification;

421 2) Establishment of a method to prevent customers from taking lifeline  
422 service simultaneously from multiple providers;

423 3) Establishment of a process to ensure that all prepaid wireless ETCs

424 contribute the appropriate funding to pay for the required verifications; and

425 4) Determines that prepaid wireless ETCs are subject to state and local  
426 taxes and fees.

427 **Q. PLEASE EXPLAIN THE OFFICE'S CONCERNS ABOUT CUSTOMERS**  
428 **WHO ABANDON THEIR SERVICE.**

429 A. The Office is concerned that customers can sign up for service, but  
430 essentially discontinue using the service without actually canceling it. This  
431 could lead to Virgin Mobile receiving USF support for LifeLine customers  
432 who are no longer using the service.

433 **Q. DOES THE OFFICE HAVE A PROPOSED REMEDY?**

434 A. Yes. To ensure that Virgin Mobile does not draw from the Federal USF  
435 beyond the usage period of its Assurance Wireless customers, it must  
436 implement a 60 day non-usage deactivation policy. This would require  
437 that if a customer does not utilize phone service for 60 consecutive days  
438 Virgin Mobile would remove the customer from its service and discontinue  
439 its request for lifeline funds.

440 **Q. PLEASE EXPLAIN THE OFFICE'S CONCERNS ABOUT THE**  
441 **INFORMATION TO BE PROVIDED TO POTENTIAL VIRGIN MOBILE**  
442 **CUSTOMERS?**

443 A. The Office has reviewed samples of Virgin Mobile's Assurance Wireless  
444 advertising. We are concerned that Assurance Wireless customers  
445 receive adequate information specific to Virgin Mobile's service.  
446 Customers must receive detailed information explaining exactly what they  
447 will receive and what they will forego when they sign up for Virgin Mobile's

448 lifeline service. Information such as the following should be provided in a  
449 fact sheet.

- 450 • any subsidization for landline service will be foregone;
- 451 • a free E911 compliant wireless hand set will be provided;
- 452 • free options associated with the handset as well as options  
453 that must be paid for must be identified;
- 454 • 250 minutes of free air time will be provided monthly;
- 455 • all incoming and outgoing calls will count against free  
456 minutes (excluding 911 calls);
- 457 • calls to customer care service are free and how to contact  
458 customer care through the handset;
- 459 • how additional minutes can be purchased and the available  
460 increment choices;
- 461 • precisely how texts and data are billed;
- 462 • directory assistance calls are charged at \$1.75 per call and  
463 minutes are deducted;
- 464 • requirement to recertify annually; and
- 465 • requirement to contact Virgin Mobile if ETC status changes.

466 **Recommendations**

467 **Q. WHAT IS THE OFFICE'S RECOMMENDATION?**

468 A. The Office recommends approval of the Petition because it meets the  
469 threshold established by Utah Statute and Rules. However, the  
470 Commission should expressly condition the granting of ETC status to

471 Virgin Mobile upon the following requirements being met to remedy the  
472 current deficiencies and ensure customer protections.

473 1) The Commission should clearly state that Virgin Mobile is required to  
474 pay state imposed taxes and fees;

475 2) Virgin Mobile should not begin lifeline service until the Commission has  
476 established a process to determine lifeline eligibility, recertification and  
477 avoidance of duplication of lifeline service as well as the cost to providers  
478 for those processes;

479 3) Virgin Mobile should implement a 60 day deactivation process to  
480 eliminate the potential for Federal USF funds being received for customers  
481 who are no longer active customers with Virgin Mobile;

482 4) Virgin Mobile should be required to notify the Commission of any  
483 changes to its lifeline offering; and

484 5) Virgin Mobile should be required to provide a “fact sheet” specific to  
485 Virgin Mobile’s lifeline service offering.

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

487 A. Yes.