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BEFORE THE PUBLIC SERVICE COMMISSION OF UTAH

In the Matter of Virgin Mobile USA, L.P. Petition for Limited Designation as an Eligible Telecommunications Carrier	Docket No. 10-2521-01 UTAH OFFICE OF CONSUMER SERVICES' MOTION FOR SANCTIONS
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The Utah Office of Consumer Services moves for an order sanctioning Virgin Mobile USA for failure to provide the Office with a complete and unedited copy of Virgin Mobile's contract with Solix, Inc. The Office requests as sanctions first, that the Commission stay all proceedings in this docket. Second, that the Commission order Virgin Mobile to provide a complete and unedited copy of the Solix contract on or before February 4, 2011. Third, that the Commission permit the parties other than Virgin Mobile, to conduct such discovery as they deem necessary concerning the Solix contract and the Lifeline administration services that Solix has or will provide in the event that Virgin Mobile is granted eligible telecommunications carrier (ETC) status. Fourth, upon notification by the parties

that they have concluded discovery, the Commission shall reschedule the filing of direct and rebuttal testimony and a hearing in this matter. Fifth, that the Commission reserve to the parties the right to file for additional sanctions in the event that they contend Virgin Mobile has not complied with the Commission's order.

On January 20, 2011, Virgin Mobile filed its response to the Office Motion to Compel stating that Virgin Mobile and the Office were "currently attempting to resolve the pending matter." Virgin Mobile's counsel and the undersigned have discussed the Office motion and Virgin Mobile's response. Virgin Mobile continues to refuse to provide the Office with the contract.

In addition to the grounds for the motion to compel, the Office contends that the terms and conditions of any contract or commercial relationship between Virgin Mobile and Solix are essential if not determining evidence of whether Virgin Mobile satisfies Utah law governing ETC status. Virgin Mobile's direct testimony filed October 8, 2010 states:

Q25: Has Virgin Mobile contracted with any company to assist it with its Lifeline services?

A: Yes. Virgin Mobile has hired Solix Inc. to be its Lifeline administrator.

The Office first requested the contract on October 11, 2010.

As Solix will be the Lifeline administrator, the issues delineated in Docket No. 10-2528-01 require that Virgin Mobile fully disclose the terms and conditions of the Solix contract. Those issues include:

The process for verification of continuing eligibility (i.e. annual certification) of Lifeline customers;

The determination of entities that may verify the continuing eligibility of Lifeline customers;

The method of calculation and recovery of costs for verifying continuing eligibility of Lifeline customers, particularly for ETCs not paying to the state USF fund;

The role of the “responsible agency”, *see Utah Admin. Code R.746-341-2.B.*, in verifying continuing eligibility of Lifeline customers;

The determination and implementation of a process to prevent customers from receiving duplicate service from multiple providers (double-dipping);

The process for avoiding unauthorized changes of a Lifeline carrier, and preventing slamming;

Whether the findings, conclusions, and orders made in this proceedings [sic] apply equally to all ETCs in the state, regardless of technology or business model used.¹

It is fundamentally unfair and a violation of the Commission’s procedural rules to permit Virgin Mobile to refuse to provide to the Office documents and information that it has placed at issue and has offered as evidence. The Solix contract is independently relevant. What was a full day hearing has now been

¹ Notice of Agency Action, December 2, 2010, Docket No. 10-2528-01.

shortened to one half day.² To require the Office and other parties to go forward on January 26, 2011 under these circumstances is a violation of the due process to which all parties are entitled.

Dated this 21st day of January 2011.

Paul H. Proctor
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Consumer Services

² Given the history of this and other ETC applications, one half day is inadequate. The Office is not aware of the reasons for this schedule change.

CERTIFICATE OF SERVICE

This is to certify that true and correct copies of the foregoing Utah Office of Consumer Services' Motion for Sanctions were served upon the following by electronic mail on January 21, 2011:

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