

BEFORE THE PUBLIC SERVICE COMMISSION OF UTAH

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In the Matter of the Petition of	)	Docket No. 10-2526-01
i-wireless, LLC for Designation as an	)	Direct Testimony
Eligible Telecommunications Carrier	)	of Cheryl Murray
in the State of Utah for the Limited	)	For the Office of
Purpose of Offering Lifeline Service	)	Consumer Services
to Qualified Households	)	

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March 3, 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 present the policy position of the Office  
7 regarding the petition of i-wireless, LLC for designation as an Eligible  
8 Telecommunications Carrier (ETC) in the State of Utah.

9 **Q. WHAT IS THE OFFICE'S RECOMMENDATION REGARDING I-  
10 WIRELESS' REQUEST FOR ETC DESIGNATION?**

11 A. The Office recommends that the Commission approve i-wireless' request  
12 for ETC designation and allow them to begin providing Lifeline service to  
13 eligible customers with the following three conditions:

14 1) **Use of an interim certification and verification process and**  
15 **agreement to adopt any changes to the process developed within**  
16 **Docket No. 10-2528-01.** The Office is largely satisfied with the  
17 verification of eligibility processes described by i-wireless as being  
18 appropriate until the Commission completes its process examining this  
19 issue. However, we believe additional protection is in order and  
20 recommend that applicants certifying through program-based eligibility be  
21 required to provide documentation regarding their participation in  
22 qualifying public assistance programs. We recognize the uncertainty  
23 created by requiring compliance with rules that are not yet fully developed.

24 Therefore, we also recommend that the Commission proceed quickly with  
25 Docket No. 10-2528-01 and designate Utah regulations to govern Lifeline  
26 eligibility certification and verification.

27 2) **Payment of appropriate taxes and fees.** The Office believes that  
28 i-wireless should be subject to various state taxes and fees that originate  
29 for or are dedicated to the provision of telecommunications services.

30 These taxes and fees include items such as: state USF, 911 and E911  
31 fees, and poison control. It is our understanding that i-wireless pays all or  
32 most of these and we request that payment is audited by the Division of  
33 Public Utilities (Division) to ensure an even playing field for all provider  
34 types.

35 3) **Development and use of a Utah-specific information sheet.**

36 The Office recommends that the Commission require the Company to  
37 provide new Lifeline customers with a Utah-specific information sheet  
38 regarding their service. This would ensure that Utah customers have a  
39 complete understanding of the service they are being offered, as some  
40 provisions will vary based upon state rules and regulations.

41 **Q. WHAT IS THE RATIONALE FOR THE OFFICE'S**  
42 **RECOMMENDATIONS?**

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

47 The Office continues to recommend that the Commission determine the  
48 methods to be used in Utah to establish:

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

58

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

67 **Background and Overview**

68 **Q. WHAT IS I-WIRELESS REQUESTING OF THIS COMMISSION?**

69 A. i-wireless has petitioned the Commission for designation as an ETC in the  
70 state of Utah for the purpose of offering prepaid wireless services  
71 supported by the Universal Service Fund's (USF) Lifeline program.

72 **Q. WHY IS I-WIRELESS REQUESTING ETC DESIGNATION?**

73 A. i-wireless requests ETC designation in Utah to provide Lifeline Service to  
74 qualifying Utah consumers. i-wireless states it will not request funds from  
75 the federal USF high cost program.

76 **Q. DOES I-WIRELESS CURRENTLY PROVIDE WIRELESS SERVICE IN**  
77 **UTAH?**

78 A. Yes. i-wireless was acknowledged as a CMRS provider on March 1,  
79 2007. i-wireless provides its services through an agreement with Sprint,  
80 wherever Sprint offers service in Utah.

81 **Q. WHAT AREAS OF UTAH DOES I-WIRELESS PROPOSE TO SERVE AS**  
82 **AN ETC?**

83 A. i-wireless requests ETC designation in areas where it has network  
84 coverage. Essentially this would be statewide in all exchanges where its  
85 underlying carrier has facilities and coverage. Exhibit 5 of the Company's  
86 application lists these wire centers.

87 **Q. IS I-WIRELESS APPLYING FOR STATE UNIVERSAL SERVICE**  
88 **FUNDS?**

89 A. i-wireless does not indicate in its application or direct testimony whether it  
90 intends to access the Utah USF. We do not know whether forbearance  
91 applicants such as i-wireless are eligible for State USF. However, i-

92 wireless, LLC's Non-Usage Policy, provided as Exhibit 3, of Mr.  
93 McDonough's direct testimony indicates "i-wireless will, at that point,  
94 cease seeking reimbursement from the federal and state Universal  
95 Service Funds (USF) for that customer."

96 **Q. DOES THE OFFICE HAVE CONCERNS IF I-WIRELESS REQUESTS**  
97 **ACCESS TO STATE USF?**

98 A. If i-wireless intends to utilize State USF we believe that the Commission  
99 should scrutinize the request carefully in a separate application.

100 **i-wireless' ETC Service Offering**

101 **Q. PLEASE DESCRIBE I-WIRELESS' PROPOSED ETC SERVICE**  
102 **OFFERING IN UTAH.**

103 A. i-wireless indicates it will offer all of the services and functionalities  
104 required by the FCC's rules.<sup>1</sup> In his direct testimony Patrick McDonough  
105 testifies that eligible Utah customers will receive "a minimum of 100  
106 anytime prepaid minutes per month at no charge, with additional service  
107 priced at \$0.10/minute and \$0.10/text message". This would be the  
108 default plan for Lifeline customers but subscribers will have the option to  
109 apply the Lifeline discount to any of the retail service plans offered by i-  
110 wireless. Prepaid Lifeline customers will also have access to other  
111 standard features at no additional charge, including voice mail, caller I.D.  
112 and call waiting services. Minutes can be used for domestic long-distance  
113 calls at no additional charge. Specified amounts of unused minutes carry

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<sup>1</sup> These requirements are identified on pages 4 through 7 of Mr. McDonough's direct testimony.

114 over from one month to the next and minutes are not decremented for text  
115 messages, balance inquires, calls to 911 or calls placed to i-wireless  
116 customer service. Customers are also provided a handset free of charge.<sup>2</sup>

117 **Q. HAS THE COMPANY PROVIDED AN UPDATED OFFERING?**

118 A. Yes. In supplemental testimony of Mr. McDonough he states that the  
119 Company now has a 150 minute plan (increased from 100 minutes).

120 **Q. WHAT HAPPENS TO THE CUSTOMER'S PHONE SERVICE AFTER**  
121 **THE 150 MINUTES ARE USED?**

122 A. In direct testimony the Company stated that when the 100 (updated to  
123 150) minutes (plus any carry over or additional minutes earned) have  
124 been utilized customers will either have to wait until the next month for a  
125 new allotment of minutes of free air time or they can purchase additional  
126 minutes at \$0.10 per minute. Customers can purchase additional minutes  
127 starting at \$10, or in increments of \$5 starting at \$20. Enrolled customers  
128 are still able to make unlimited calls to 911 even when no minutes remain.

129 **Q. DOES THE OFFICE HAVE ANY CONCERNS WITH I-WIRELESS'**  
130 **LIFELINE OFFER?**

131 A. The Office believes that the availability of Lifeline prepaid wireless service  
132 will be beneficial to low-income people and is pleased that as more  
133 providers have entered the Lifeline marketplace customers will have  
134 choices for the provider that best fits their needs and preferences. Such  
135 expanded choices mitigate any concerns the Office may have about the

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<sup>2</sup> This will generally be a higher-end refurbished handset.

136 overall offering. The Office also notes that access to 911 even with no  
137 remaining minutes and free calls to i-wireless' customer service are in the  
138 public interest.

139 **i-wireless' Application and Verification Process**

140 **Q. HOW DO ELIGIBLE CUSTOMERS SIGN UP FOR I-WIRELESS'**  
141 **LIFELINE SERVICE?**

142 A. Applicants will be directed to a toll-free telephone number and to i-  
143 wireless' website, which will contain a link to a description of the service  
144 plan as well as a detailed description of the program and state-specific  
145 criteria for eligibility. Applicants complete an enrollment form and attest  
146 and certify under penalty of perjury that they satisfy the eligibility criteria  
147 for program-based eligibility. This includes identifying the eligible program  
148 in which they participate. Persons applying under income-based eligibility  
149 must certify under penalty of perjury that their household income does not  
150 exceed the threshold and proof of income-based eligibility is required.  
151 Applicants must also certify that they receive Lifeline service only from i-  
152 wireless.

153 **Q. DOES I-WIRELESS' PROCESS FOR DETERMINING LIFELINE**  
154 **ELIGIBILITY CONFORM TO COMMISSION RULE?**

155 A. Commission Rule R746-341-3 as well as FCC rules allow Lifeline  
156 applicants to self-certify eligibility under public assistance program-based  
157 and income-based criteria. Utah rules require documented income-based  
158 eligibility. i-wireless processes appear to conform to federal requirements



159 as well as current Commission rule. However, the Office recommends  
160 that the Commission augment this process by requiring that self  
161 certification includes documentation of program-based eligibility.

162

163 The Office recognizes that the Commission rules allow self certification,  
164 but through the use of the Department of Community and Culture (DCC)  
165 under contract with the Commission, the eligibility of every program-based  
166 application is verified. However, 100% verification is currently not possible  
167 with the expanded participation expected after wireless ETCs begin  
168 Lifeline service.

169

170 Therefore, the Office is requesting the additional protection of  
171 documentation for program-based eligibility when an applicant self  
172 certifies. In our view, the requirement for documentation for self  
173 certification represents an appropriate balance between efficiency and  
174 adequate verification of eligibility.

175

176 To reiterate, it has been, and continues to be, the Office's intent to have all  
177 policies with respect to ETC requirements be applied consistently to all  
178 providers. Consequently, the Office recommends and will advocate to  
179 have this requirement applied to all potential wireless Lifeline providers.

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

182 A. Each applicant must provide their name, primary residential address and  
183 an alternative telephone number (if any). This information is incorporated  
184 into a database. The name and address of each Lifeline applicant is  
185 checked against the database to determine if it is associated with a  
186 customer already receiving i-wireless Lifeline service. The database  
187 check only provides the ability to prevent a customer from receiving  
188 duplicate Lifeline service from i-wireless, not from other Lifeline providers.  
189 In direct testimony Mr. McDonough states that "...i-wireless will utilize the  
190 Department of Community and Culture's knowledge and databases (or the  
191 provider of verification services established through Docket No. 10-2508-  
192 01) to ensure as accurately as possible that only one individual per  
193 household is receiving the Lifeline subsidy, and that applicants are not  
194 already receiving Lifeline support from any other carrier"<sup>3,4</sup>

195 **Q. IS THE OFFICE CONCERNED ABOUT I-WIRELESS' INABILITY TO**  
196 **DETERMINE IF A CUSTOMER IS RECEIVING LIFELINE SUPPORT**  
197 **FROM MORE THAN ONE PROVIDER?**

198 A. As stated in prior testimony regarding Lifeline service providers the  
199 Office is concerned about the State of Utah's established  
200 processes' inability to ensure that a customer receives Lifeline  
201 support from only one provider at a time. This issue extends to all

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<sup>3</sup> McDonough direct testimony page 11, lines 22 – 23 and page 12, lines 1 – 3.

<sup>4</sup> As we describe below DCC may not be a resource upon which any wireless ETC may rely.

202 ETC prepaid wireless, wireless and wireline providers of Lifeline  
203 service. As long as ETC providers use their own third parties and  
204 there is no uniform method to determine Lifeline eligibility there can  
205 be no assurance that a customer receives Lifeline support for only  
206 one phone and that multiple Lifeline providers do not receive  
207 support for the same customer. The Office believes that this issue  
208 can and should be resolved in Docket No. 10-2528-01. We  
209 appreciate that i-wireless recognizes the need for accuracy in the  
210 process and has indicated its intention to utilize a Commission  
211 established provider of verification services.<sup>5</sup>

212 **Q. HOW ARE I-WIRELESS LIFELINE CUSTOMERS RECERTIFIED**  
213 **ANNUALLY?**

214 A. On an annual basis customers must self-certify, under penalty of perjury  
215 that they remain head of household and receive Lifeline-supported service  
216 only from i-wireless. Additionally, a number of customers will be selected  
217 through a random survey to attest and certify under penalty of perjury that  
218 they continue to be eligible based on program-based or income-based  
219 requirements.

220 **Q. IS THE OFFICE SATISFIED THAT I-WIRELESS' HAS AN**  
221 **APPROPRIATE VERIFICATION PROCESS?**

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<sup>5</sup> Direct testimony of Patrick McDonough page 9, lines 6 through 11 reads: **Q16. Will i-wireless comply with the Lifeline certification and verification requirements?** A. Yes. I-wireless will comply with the FCCs certification and verification requirements, and with Commission determined methods or processes to establish initial eligibility, to complete annual recertification and to determine that customers do not take service from multiple lifeline providers.

222 A. The Office is satisfied that i-wireless understands the need for verification  
223 and has stated its intent to utilize the Commission designated provider of  
224 verification services. The difficulty is that current Commission rules  
225 require the responsible agency to verify continued eligibility of Lifeline  
226 customers under the program-based and income-based criteria. At the  
227 time the rule was established it was not contemplated that wireless  
228 telephone service providers would be applying to provide Lifeline service  
229 or possibly that Lifeline eligibility would ever be determined outside of the  
230 DCC's home energy assistance program administration. The role of  
231 responsible agency referenced in the rule is currently served by the DCC  
232 under a contract with the Commission<sup>6</sup>. We have been told that the DCC  
233 does not view their obligations under the contract to include certifying and  
234 verifying applications for Lifeline customers of wireless providers and that  
235 they are currently not in a position to take on that responsibility.

236 **Utah State Taxes and Fees**

237 **Q. DOES THE OFFICE BELIEVE THAT I-WIRELESS IS SUBJECT TO**  
238 **STATE IMPOSED TAXES AND FEES?**

239 A. Yes. The Office believes that i-wireless and all ETCs should be subject to  
240 various state taxes and fees that originate from the provision of  
241 telecommunications services or that are dedicated to the provision of  
242 basic telecommunications services necessary to the public safety and  
243 welfare.

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<sup>6</sup> The Division of Public Utilities administers the contract on behalf of the Commission.

244 **Q. DOES I-WIRELESS BELIEVE ANY OF ITS REVENUES WOULD BE**  
245 **SUBJECT TO RULE R746-360-4?**

246 A. In response to DPU Data Request 1.3 the Company responded that its  
247 intrastate revenues are subject to rule R746-306-4. The Company  
248 indicated that it does pay into the State USF, 911 Emergency Services  
249 Fund and Poison Control Fund.

250 **Q. ARE I-WIRELESS' PAYMENTS TO THESE FUNDS ADEQUATE?**

251 A. To our knowledge, the Commission has not determined whether i-  
252 wireless' total payment is comparable to what would be collected by  
253 wireline providers. This comparability should be enforced in order to  
254 maintain an even playing field. The Office recommends that the  
255 Commission require the DPU to audit the payments to ensure  
256 comparability with payments from other ETCs.

257 **Utah Specific Customer Information Sheet**

258 **Q. PLEASE EXPLAIN THE OFFICE'S CONCERNS ABOUT THE**  
259 **INFORMATION TO BE PROVIDED TO POTENTIAL I-WIRELESS**  
260 **CUSTOMERS.**

261 A. The Office is concerned that all Lifeline customers receive adequate  
262 information specific to the service they are signing up for. Customers  
263 must receive detailed information explaining exactly what they will receive  
264 and what they will forego when they sign up for i-wireless' Lifeline service.  
265 Information such as the following should be provided in a fact sheet.

266 

- any subsidization for landline service will be foregone;

- 267 • a free E911 compliant wireless hand set will be provided;
- 268 • free options associated with the handset as well as options
- 269 that must be paid for must be identified;
- 270 • amount of free air time that will be provided monthly;
- 271 • all incoming and outgoing calls will count against free
- 272 minutes (excluding 911 calls);
- 273 • calls to customer care service are free and how to contact
- 274 customer care through the handset;
- 275 • how additional minutes can be purchased and the available
- 276 increment choices;
- 277 • precisely how texts and data are billed;
- 278 • the charge for directory assistance calls and minutes
- 279 deducted;
- 280 • requirement to recertify annually; and
- 281 • requirement to contact i-wireless if ETC status changes.

## 282 **Recommendations**

### 283 **Q. WHAT IS THE OFFICE'S RECOMMENDATION?**

284 A. The Office recommends approval of the Petition because it meets the  
285 threshold established by Utah Statute and Rules. However, the  
286 Commission should expressly condition the granting of ETC status to i-  
287 wireless upon the following requirements:

- 288 1) **Verification that appropriate taxes and fees are being paid.**

289           2) **Use of an interim certification and verification process and**  
290           **agreement to adopt any changes to the process developed within**  
291           **Docket No. 10-2528-01.**

292           3) **Development and use of a Utah-specific information sheet**

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

294   **A.   Yes.**