

BEFORE THE PUBLIC SERVICE COMMISSION OF UTAH

In the Matter of: The Petition)	Docket No.
of i-wireless, LLC for)	10-2526-01
Designation as an Eligible)	
Telecommunications Carrier in)	
the State of Utah for the)	
Limited Purpose of Offering)	
Lifeline Service to Qualified)	
Households)	

TRANSCRIPT OF HEARING PROCEEDINGS

TAKEN AT: Public Service Commission
160 East 300 South
Salt Lake City, Utah

DATE: April 26, 2011

TIME: 9:06 a.m.

REPORTED BY: Kelly L. Wilburn, CSR, RPR

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Administrative Law Judge:

RUBEN ARREDONDO

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1 APRIL 26, 2011

9:06 A.M.

2 P R O C E E D I N G S

3 THE COURT: This is In the Matter of: The
4 Petition of i-wireless For a Designation As an ETC in
5 the State of Utah For the Limited Purpose of Offering
6 Lifeline Service to Qualified Households. This is
7 Docket No. 10-2526-01.

8 And I'm Ruben Arredondo, the ALJ assigned by
9 the Commission to hear this matter. And let's take
10 appearances. We've already heard from Mr. Steinhart
11 and his witness, Mr. McDonough. And let's turn to the
12 DPU, please.

13 MS. SCHMID: Patricia E. Schmid, with the
14 AG's office, for the Division. And with me is our
15 witness, Casey J. Coleman.

16 THE COURT: Thank you. The Office?

17 MR. PROCTOR: Paul Proctor on behalf of the
18 Office. Cheryl Murray will be the witness managing
19 the proceeding today for the Office.

20 THE COURT: Thank you. And URTA?

21 MR. MECHAM: Good morning. Steve Mecham from
22 the law firm of Callister, Nebeker & McCullough,
23 representing the Utah Rural Telecom Association. And
24 I have Mr. Douglas Meredith with me, who will be
25 testifying on behalf of URTA.

1 THE COURT: Okay, thank you. Then I
2 understand we have two stipulations -- actually, hold
3 on. I guess we're waiting for Salt Lake -- are they
4 coming?

5 MS. MURRAY: Your Honor, Sonya Martinez has
6 asked that she be excused, but she did leave her
7 testimony for the recorder.

8 THE COURT: Okay. All right, thank you. All
9 right then. I understand we have a stipulation that
10 some of the parties are going to -- at least the
11 Division and the Office are going to enter into with
12 i-wireless. And I understand that URTA doesn't plan
13 to enter into a stipulation.

14 And just on the record, all the parties did
15 consent to i-wireless appearing by telephone. And so
16 I just wanted to make that noted.

17 Let's begin --

18 MR. PROCTOR: Your Honor, if I might also?

19 THE COURT: Uh-huh.

20 MR. PROCTOR: Ms. Martinez did have a
21 conflict that just couldn't be reconciled. She had
22 earlier stated to everyone, through an email, that the
23 Salt Lake CAP didn't -- would not be signing the
24 stipulation, but would not oppose it.

25 THE COURT: Okay.

1 MR. PROCTOR: And so the testimony that they
2 have filed, they would want that on the record. And I
3 would ask that i-wireless's counsel confirm that so
4 that there's no question. For the record.

5 THE COURT: Is that your understanding,
6 Mr. Steinhart?

7 MR. STEINHART: Yes, your Honor, that is my
8 understanding. Thank you.

9 THE COURT: All right, great. Anything else
10 preliminarily that we need to take care of?

11 No? Okay. Then let's begin with the
12 Division. And have you filed a copy of that
13 stipulation?

14 MS. SCHMID: Actually, no. As --

15 MR. PROCTOR: We have one.

16 THE COURT: You have?

17 MR. PROCTOR: Yeah. We can --

18 THE COURT: Okay.

19 MS. SCHMID: As it was i-wireless's?

20 MR. MECHAM: Do you have an extra copy?

21 THE COURT: Did you get a copy? Are you
22 getting one?

23 MR. MECHAM: I don't have a copy.

24 THE COURT: Go ahead and give him one. Thank
25 you, Ms. Murray.

1 MS. MURRAY: I brought three, just in case.

2 MS. SCHMID: So does that mean I can borrow
3 one too, please?

4 MS. MURRAY: Well, we can all share.

5 MS. SCHMID: Okay.

6 THE COURT: Okay. Then let's begin with the
7 Division.

8 MS. SCHMID: Okay. I'd like to have our
9 witness sworn, please.

10 THE COURT: Mr. Coleman -- actually, let's
11 just have all the witnesses raise their right hand.

12 And Mr. McDonough, I assume you're raising
13 your right hand?

14 MR. McDONOUGH: Yes.

15 (The witnesses were sworn.)

16 THE COURT: Thank you. All right, let's go
17 ahead.

18 CASEY J. COLEMAN,

19 called as a witness, having been duly sworn,
20 was examined and testified as follows:

21 DIRECT EXAMINATION

22 BY MS. SCHMID:

23 Q. Mr. Coleman, could you please state your full
24 name and business address for the record?

25 A. Casey J. Coleman. The business address is

1 160 East 300 South, Salt Lake City, Utah 84114.

2 Q. By whom are you employed, and in what
3 capacity?

4 A. I'm employed with the Division of Public
5 Utilities as a utility technical consultant.

6 Q. Have you participated on behalf of the
7 Division in Docket No. 10-2526-01?

8 A. Yes.

9 Q. Did you prepare, or cause to be prepared
10 under your direction, what has been pre-marked as DPU
11 Exhibit 1.0, Direct Testimony of Casey J. Coleman?

12 A. Yes.

13 Q. Do you have any changes or corrections to
14 that testimony?

15 A. No.

16 Q. If I were to ask you the questions today that
17 are in the written testimony would your answers be the
18 same?

19 A. Yes.

20 MS. SCHMID: The Division moves the
21 admittance of DPU Exhibit No. 1, Direct Testimony of
22 Casey J. Coleman.

23 THE COURT: All right. No objections?

24 MR. MECHAM: No.

25 THE COURT: I'll admit DPU Exhibit 1.

1 (Exhibit No. DPU-1 was admitted.)

2 Q. (By Ms. Schmid) Mr. Coleman, is it your
3 understanding that the Division has entered into a
4 stipulation?

5 A. Yes.

6 Q. Do you have comments regarding the
7 stipulation that you would like to make in support
8 thereof?

9 A. Just that we believe that the stipulation,
10 you know, meets the requirements as we had indicated
11 in our testimony as far as i-wireless paying into the
12 funds that we believe would be necessary for someone
13 to be designated as an eligible telecommunications
14 carrier.

15 And that they have also indicated that they
16 would follow whatever process comes out of the
17 Commission's docket in 10-2528-01. And we believe
18 that should be a stipulation as well. And so we
19 believe that it meets our objectives and what were
20 some of our concerns in our testimony. And that's why
21 we are supporting it.

22 Q. Thank you.

23 MS. SCHMID: Mr. Coleman is now available for
24 cross examination and questions from Judge Arredondo.

25 THE COURT: All right. Mr. Proctor, any

1 questions for Mr. Coleman?

2 MR. PROCTOR: No, thank you.

3 THE COURT: And Mr. Mecham, any questions for
4 Mr. Coleman?

5 MR. MECHAM: Yes, your Honor, thank you, I do
6 have a couple.

7 CROSS EXAMINATION

8 BY MR. MECHAM:

9 Q. Mr. Coleman, in your testimony -- where in
10 your testimony does it address whether or not
11 i-wireless's application is in the public interest?

12 A. I don't know that I specifically say that
13 it's in the public's interest. We went through just
14 looking at the federal requirements that were there as
15 far as what was necessary to be classified as an ETC
16 and felt that it had met that requirement.

17 And then also, where they are going to be
18 offering a service that will help low-income or
19 Lifeline customers, we felt that that would meet a
20 public interest standard.

21 Q. So it meets the requirements of the federal
22 law, Section 214(e)(1)?

23 A. Yes. As far as those specific services that
24 they need to be offering and providing, we believe
25 that it meets that requirement.

1 Q. Do you have a copy of Section 214 in front of
2 you?

3 A. No, I don't.

4 MR. MECHAM: May I give him one, your Honor?

5 THE COURT: Sure.

6 THE WITNESS: I have one now.

7 Q. (By Mr. Mecham) Now, in Section 214(e)(2)
8 there is at the end of that, and as well at the
9 beginning, two references to public interest. Do you
10 see those?

11 A. Yes.

12 Q. The second makes it clear that before
13 designating an additional ETC in an area served by a
14 rural telephone company there must be a finding that
15 it's in the public interest?

16 A. Uh-huh.

17 Q. And then do you see at the top of Section 2
18 where it says that:

19 "Upon request, and consistent with
20 the public interest, convenience, and
21 necessity the state commission may, in
22 the case of an area served by a rural
23 telephone company, and shall in the case
24 of all other areas designate more than
25 one common carrier as an ETC"?

1 A. Yes.

2 Q. So those are the two references I was talking
3 about?

4 A. Yes.

5 Q. The criteria you use for public interest,
6 does that extend to the rural telephone areas? The
7 areas served by rural telephone companies? Is there
8 some distinction between the rural telephone companies
9 and the urban telephone companies in that statute?

10 MS. SCHMID: Objection insofar as it calls
11 for a legal conclusion.

12 MR. MECHAM: I'm not asking for his legal
13 conclusion.

14 THE COURT: Overruled.

15 MR. MECHAM: I mean, he testified -- I'm
16 sorry, I didn't hear you.

17 THE COURT: Overruled.

18 MR. MECHAM: Thank you.

19 THE WITNESS: I mean, it does appear that
20 there are, you know, a certain level of public
21 interest for rural companies or the rural areas. And
22 then it also does appear that there is a difference
23 for other areas.

24 So that would -- that's what it appears as I
25 read it right now. Of course, as my counsel said, I'm

1 not an attorney. So that's, that's my opinion.

2 Q. And I only want your opinion --

3 A. Okay.

4 Q. -- as an expert from the Division. Probably
5 the veteran from the Division now.

6 A. Right. As hard as it is to believe, yes.

7 Q. So does your testimony address the rural
8 areas?

9 A. My testimony doesn't specifically address the
10 rural areas. Other than we did indicate, in other
11 proceedings, where we didn't know if this fell within
12 the criteria or the guidelines as far as, you know,
13 needing to --

14 And I'm not gonna have the exact terminology
15 or the exact statutes where there is a requirement
16 that companies that want to be in the rural areas need
17 to come in and, you know, there's the rural exemption,
18 the federal law with that.

19 And we have talked about, in other hearings
20 similar to this one, where we weren't certain if this
21 did meet that public interest standard for -- or not
22 public interest standard but at least that idea for
23 the rural areas. And -- so I didn't specifically
24 discuss that in my testimony.

25 Q. Okay, thank you. Then if you would, please,

1 take a look at subparagraph 5 on the same page that
2 you're looking at --

3 A. Okay.

4 Q. -- of Section 214?

5 A. Uh-huh.

6 Q. And that defines a service area, does it not?

7 A. Yes.

8 Q. Could you just read that? It's only a few
9 page -- or a few lines, excuse me.

10 A. Sure. "The term 'service area' means
11 a geographic area established by a state
12 commission or the commission under
13 paragraph 6 for the purpose of
14 determining universal service
15 obligations and support mechanisms.

16 "In the case of an area served by a
17 rural telephone company 'service area'
18 means such company's study area, unless
19 and until the commission and the states,
20 after taking into account
21 recommendations of a federal-state joint
22 board instituted under Section 410(c) of
23 this title, established a different
24 definition of service area for such
25 company."

1 Q. Thank you. So is your understanding of those
2 words that the service area for an ETC should match
3 the study area of the rural telephone company?

4 A. I'm reading, sorry. Would you ask that
5 question again? I just want to make sure that I.

6 Q. I'm just trying to see if your understanding
7 is, is that the service area of the ETC is to match or
8 match up with the study area of the rural telephone
9 company?

10 A. It appears that it can be, but it doesn't
11 necessarily have to be. Because I think, looking at
12 the other -- second section of that it says until the
13 commission and the states, you know, if they determine
14 something else to be a service area.

15 So it looks like it appears to be, but it
16 doesn't necessarily have to be.

17 Q. Are you aware if the commission in this case
18 it means the Federal Communications Commission and the
19 states together have made any different
20 recommendation?

21 A. I'm not aware of any.

22 Q. Okay.

23 MR. MECHAM: Thank you, your Honor. That's
24 all I have of Mr. Coleman.

25 THE COURT: All right, thank you.

1 MR. MECHAM: Thank you, Mr. Coleman.

2 THE COURT: Mr. Steinhart, any questions for
3 Mr. Coleman?

4 MR. STEINHART: Yes, your Honor. One or two
5 questions.

6 CROSS EXAMINATION

7 BY MR. STEINHART:

8 Q. Do you know if, in the other similar
9 proceedings that you previously referenced, did the
10 Commission rule in those cases whether or not the
11 service offerings were in the public interest?

12 A. My understanding is in the other proceedings
13 the Commission did grant an ETC both to TracFone and
14 also to Virgin Mobile.

15 Not having read the orders, I won't know
16 specifically what the Commission said in there. But
17 my understanding was is that because they granted an
18 ETC, that would kind of by process or by default mean
19 that they believed that it was in the public interest.

20 THE COURT: Is there an order out in Virgin
21 Mobile?

22 MR. MECHAM: No.

23 THE WITNESS: Okay.

24 THE COURT: There isn't?

25 THE WITNESS: Sorry. Then --

1 THE COURT: Just TracFone.

2 THE WITNESS: Just TracFone, okay. I
3 apologize. They kind of all get blended together
4 after a while.

5 Q. (By Mr. Steinhart) Okay, thank you. And I
6 don't know if you would know, but do you know whether
7 or not any of the rural phone companies represented by
8 the URTA provide wireless service? Or do they just
9 provide landline service?

10 A. It seems like a straightforward question, but
11 I think it varies with each of our different rurals
12 because my understanding is some of them may have a
13 subsidiary that offers wireless service. You know,
14 some of them may have an affiliate that offer wireless
15 service.

16 So I, I can't say that none of them offer --
17 well, let me say it this way. I don't know that any
18 of our specific ILEC companies are offering wireless
19 service. But there may be an affiliate, or a parent,
20 or another company that could be offering wireless
21 service.

22 Q. Okay.

23 A. And that's my understanding. Obviously that
24 could be a little different than that, but.

25 Q. Thank you.

1 MR. STEINHART: I have no further questions
2 at this time.

3 THE COURT: All right. Any redirect,
4 Ms. Schmid?

5 MS. SCHMID: No redirect.

6 THE COURT: Okay. All right. Thank you,
7 Mr. Coleman.

8 Let's go to the Office then. Mr. Proctor?

9 MR. PROCTOR: Thank you.

10 CHERYL MURRAY,

11 called as a witness, having been duly sworn,
12 was examined and testified as follows:

13 DIRECT EXAMINATION

14 BY MR. PROCTOR:

15 Q. Ms. Murray, if I were to ask you the
16 questions that you answered in your prefiled direct
17 testimony would your answers remain the same today?

18 A. Yes, they would.

19 Q. Could you summarize --

20 MR. PROCTOR: Or the Office would offer into
21 evidence the direct testimony of Cheryl Murray dated
22 March 3, 2011, and marked as OCS-1D Murray.

23 THE COURT: No objections? We'll admit
24 OCS-1D Murray.

25 (Exhibit No. OCS-1D Murray was admitted.)

1 Q. (By Mr. Proctor) Ms. Murray, could you
2 summarize that testimony and the position of the
3 Office with respect to the stipulation?

4 A. Yes, I will. First I will just state my
5 name, address, et cetera. Cheryl Murray. I'm a
6 utility analyst with the Office of Consumer Services.
7 And my business address is 160 East 300 South, Salt
8 Lake City, Utah.

9 The Office of Consumer Services is
10 responsible for assessing the impact of utility rate
11 changes and regulatory actions upon residential and
12 small commercial customers. In this capacity we must
13 consider both the benefits provided to low-income
14 customers through prepaid wireless ETCs and the cost
15 of the funds that are collected from
16 telecommunications customers to fund ETCs.

17 It is with those principles in mind that we
18 analyzed i-wireless's request for limited designation
19 as an eligible telecommunications carrier. In direct
20 testimony the Office recommended approval of
21 i-wireless's petition, with the following
22 requirements:

23 One, verification that appropriate taxes and
24 fees are being paid. Two, use of an interim
25 certification and verification process. Three,

1 agreement to adopt any changes to the process
2 developed within Docket No. 10-2528-01. And four,
3 development and use of a Utah-specific information
4 sheet.

5 In the stipulation presented today i-wireless
6 agrees to conform to each of our recommended
7 requirements; therefore, we support the stipulation
8 and believe it should be accepted by the Commission.
9 And that concludes my summary.

10 THE COURT: Thank you, Ms. Murray.

11 MR. PROCTOR: Ms. Murray is available for
12 cross.

13 THE COURT: Ms. Schmid?

14 MS. SCHMID: No questions.

15 THE COURT: Mr. Mecham?

16 MR. MECHAM: Thank you, your Honor, I do have
17 a couple.

18 Could you -- thank you, Mr. Coleman.

19 CROSS EXAMINATION

20 BY MR. MECHAM:

21 Q. Ms. Murray?

22 A. Yes.

23 Q. Good morning.

24 A. Good morning.

25 Q. Where in your testimony do you address

1 whether or not the i-wireless application meets the
2 public interest criteria?

3 A. Where -- I do not. I do not specifically
4 address public interest.

5 Q. Okay. I, it appears that Mr. Proctor doesn't
6 want you to take a look at Section 214, but --

7 MR. PROCTOR: Mr. Mecham, I would object to
8 that as argumentative, unnecessary.

9 THE COURT: Sustained.

10 MR. MECHAM: I agree. It's unnecessary.

11 THE COURT: Sustained.

12 Q. (By Mr. Mecham) Would you take that copy of
13 Section 214 that Mr. Coleman has?

14 A. Yes.

15 Q. Thank you. You heard our exchange between me
16 and Mr. Coleman?

17 A. I did.

18 Q. This morning? Thank you. Well, let me go
19 back. Your testimony -- you take no position in your
20 testimony that the application meets public interest?

21 A. We don't -- I don't specifically state that
22 it does.

23 Q. Okay.

24 THE COURT: Let me take a brief recess real
25 quick. We'll be right back.

1 (A recess was taken from 9:25 to 9:26 a.m.)

2 THE COURT: Okay. I'm in a little bit of a
3 quandary, because now we have Mr. Coleman and
4 Ms. Murray both specifically saying that they haven't
5 specifically addressed public interest. And that's
6 one of the things that we have to address as a
7 Commission.

8 Now, before we go on I'm gonna give you a few
9 minutes to talk with your witnesses. And if you feel
10 that the evidence before the Commission now is
11 sufficient that you can either give us some
12 information now or in post-hearing briefs you can
13 address it, that's fine.

14 Or you can let me know if we need to
15 supplement these hearings with testimony where we can
16 find it's in the public interest. It's probably in
17 there, but I'm not gonna do the work for you, the
18 Commission is not gonna do the work for you. We need
19 to have that.

20 So I'm gonna give you ten minutes. And we're
21 gonna start over with Mr. Coleman. If you feel that
22 there's evidence in the proceedings right now that you
23 can address public interest, you give that to us. And
24 the same thing for Ms. Murray. And if not, then we're
25 gonna have to supplement your testimony.

1 So I'm gonna give you ten minutes right now,
2 till 9:35. And then if --

3 Mr. Steinhart, do you want to go off the
4 phone and just call back in, or do you want to just
5 stay on the phone?

6 MR. STEINHART: Probably call back in.

7 THE COURT: Okay. Well, if you want to call
8 back in about ten minutes. Thank you.

9 MR. STEINHART: All right, thank you.

10 (A recess was taken from 9:28 to 9:38 a.m.)

11 MR. PROCTOR: In the break -- and thank you
12 for giving us that opportunity -- we realized that
13 i-wireless's application and testimony and the
14 stipulation, which comes from i-wireless, it's their
15 proposal and ultimately they drafted it, is not on the
16 record. They have not presented their case. Which
17 traditionally, of course, the Applicant goes first.

18 The stipulation itself does refer to the
19 terms of the stipulation, the general terms that have
20 been agreed to, for example in response to the Office
21 and the Division, as being with respect to the public
22 interest.

23 And so between the testimony, the application
24 by i-wireless, and the stipulation, that, we believe,
25 creates sufficient record that the evidence -- from

1 which the Commission could conclude that, indeed, the
2 granting an ETC status to i-wireless would be in the
3 public interest.

4 THE COURT: Great.

5 MR. PROCTOR: That's the question. So if --

6 THE COURT: Great. So what we'll do then is
7 we'll have your witnesses testify about that. And
8 just basically if you want you can have Ms. Murray
9 testify to the same thing.

10 MR. PROCTOR: Yeah. But we would like
11 i-wireless's application and evidence to be present on
12 the record before --

13 THE COURT: Well, yeah. It's already been
14 filed, it's on the record, so I just wanted a specific
15 explicit statement from your witnesses saying that.
16 That it's in the public interest.

17 MR. STEINHART: Can I quick, who was the last
18 person speaking?

19 MR. PROCTOR: Oh --

20 THE COURT: It was Mr. Proctor, the Office's
21 counsel.

22 MR. STEINHART: It was? Okay, that's what I
23 thought. It's just a little hard for me on the phone.
24 All right, thank you.

25 THE COURT: Okay. Mr. Mecham, were we with

1 you? Were you cross examining Ms. Murray?

2 MR. MECHAM: I believe I was.

3 THE COURT: Okay.

4 MR. PROCTOR: Well --

5 THE COURT: Then let's start again. I'd
6 like, Mr. Coleman, if you want to supplement the
7 previous testimony you gave.

8 MR. MECHAM: So --

9 THE COURT: Mr. Proctor?

10 MR. MECHAM: Excuse me, your Honor. Is he
11 supplementing his prefiled testimony?

12 THE COURT: Well, here's what I need to say.
13 If you believe, as Mr. Proctor's already stated -- and
14 I'm not saying there's any surprises here, I just want
15 it on the record.

16 I want your testim -- your witnesses to say,
17 Here's why we think it's in the public interest. If
18 you feel you can just point to i-wireless's petition
19 and point the Commission to where in the stipulation
20 that we should look. And then you say you agree with
21 the public interest testimony that they gave in their
22 petition, that's fine.

23 But what I'm hearing is that, Well, we didn't
24 specifically address it. So I want that to be
25 explicit on the record that -- where you think the

1 Commission should look to find that it's in the public
2 interest.

3 MR. MECHAM: May I add one point to that?

4 THE COURT: Uh-huh.

5 MR. MECHAM: There is -- certainly in the
6 petition there's an effort to show that it's in the
7 public interest. But (e)(2), that is,
8 Section 214(e)(2) contemplates that all applications
9 be found to be in the public interest.

10 And then at the end it says specifically
11 there must be a public interest finding in areas
12 served by rural telephone companies.

13 THE COURT: Right.

14 MR. MECHAM: URTA believes that that means
15 that there is a separate and greater standard for
16 rural areas. And as far as I can see, unless someone
17 can point it to me, there is no testimony, including
18 in the petition, that addresses that point.

19 THE COURT: And we'll have time. I'll give
20 you an opportunity to raise that issue in post-hearing
21 briefs. You can raise that, as was raised in Virgin
22 Mobile and TracFone.

23 But what today I just want to have is that
24 testimony. Either you point the Commission to where
25 in the petition, the application, that we can find

1 it's in the public interest. And I'm sure it's there.
2 I have no doubt that Mr. Steinhart is telling me the
3 truth. But I just need you to point me to it.

4 MR. PROCTOR: Your Honor, the Office would
5 make a formal request that i-wireless be permitted to
6 place -- to present its case at this time, prior to
7 any supplemental testimony -- live testimony by the
8 Office in particular. I can't speak for anyone else.

9 MS. SCHMID: The Division joins in.

10 THE COURT: Okay.

11 MR. PROCTOR: That's what we would request.
12 The ultimate conclusion, of course, is reserved to the
13 Commission. The Office has a very plainly-stated
14 obligation to assess rate impact. It has done so.
15 And our testimony does -- it again, it provides
16 evidence from which the Commission can conclude, but
17 we do not draw the ultimate conclusion.

18 We can, and to some extent we do in signing
19 the stipulation, we support that finding. But our
20 evidence is much more narrow, as it should be under
21 the statute. So -- and, and as far as asking these
22 witnesses about rural public interest for i-wireless,
23 the best evidence would be cross examination of
24 i-wireless's witnesses.

25 THE COURT: Okay. All right. Let's go ahead

1 then with i-wireless. Mr. Steinhart, if you could go
2 ahead and put your witness on.

3 (The reporter asked that the telephone volume
4 be turned up.)

5 THE COURT: Okay. Go ahead, Mr. Steinhart.

6 MR. STEINHART: Okay.

7 PATRICK McDONOUGH,

8 called as a witness, having been duly sworn,
9 was examined and testified as follows:

10 DIRECT EXAMINATION

11 BY MR. STEINHART:

12 Q. Mr. McDonough?

13 A. Yes.

14 Q. Could you please state your name and business
15 address for the record, please?

16 A. Sure. My name is Patrick Michael McDonough.
17 Business address is One Levee Way, Newport, Kentucky
18 41071.

19 Q. And Mr. McDonough, what is your position and
20 responsibilities with i-wireless?

21 A. I'm a vice president and general manager over
22 the, i-wireless's Lifeline Division.

23 Q. Okay. And Mr. McDonough, are you familiar
24 with the application that was filed in this docket, as
25 well as the testimony that we filed in this docket?

1 A. Yes, I am.

2 Q. And is the information contained therein true
3 and correct in all material respects, to the best of
4 your knowledge?

5 A. It is, but I would like to offer an amendment
6 to Question 11 in the testimony if I could.

7 Q. Sure.

8 A. I'd like to add the fact that we were
9 recently designated in the State of Illinois as an ETC
10 in the Lifeline program.

11 Q. All right. Thank you, Mr. McDonough.

12 A. Sure.

13 Q. And if any of the questions that are in the
14 testimony were asked today, other than Question 11,
15 would your answer be the same?

16 A. Yes, they would.

17 MR. STEINHART: Your Honor, I'd like to make
18 a motion to enter into the record the application that
19 i-wireless filed in this docket, as well as
20 Mr. McDonough's testimony.

21 THE COURT: All right. No objections?

22 MR. MECHAM: No.

23 THE COURT: We'll admit Mr. McDonough's
24 testimony and his testimony before the Commission
25 today.

1 (Mr. McDonough's testimony was admitted.)

2 MR. STEINHART: Thank you. I have no further
3 direct examination at this point.

4 THE COURT: All right. Let's begin with the
5 Division.

6 MS. SCHMID: And you're asking me if I have
7 cross examination questions?

8 THE COURT: Uh-huh.

9 MS. SCHMID: Certainly.

10 CROSS EXAMINATION

11 BY MS. SCHMID:

12 Q. Mr. McDonough, could you please point to
13 areas in the application and your testimony in which
14 you specifically address the public interest standard?

15 A. Sure. Question 28 in the testimony addresses
16 that kind of the first and foremost.

17 Q. Could you please summarize that?

18 A. Sure, absolutely. Well, first and foremost,
19 you know, our entry into the Lifeline program in Utah
20 would offer additional competition. And obviously
21 all -- competition's always good for consumers.

22 And we also feel that we would better reach
23 the economically-disadvantaged consumers in Utah that
24 are -- that qualify for the program, in that with our
25 48-store footprint in the state that covers 29 cities

1 we'll reach additional customers that wouldn't
2 otherwise be served by our competitors. Just by
3 nature of the different business models.

4 You know, I'd also like to add that our entry
5 into the Lifeline market in Utah would help drive
6 employment and investment in the state.

7 Q. And so you believe these things make the
8 i-wireless application in the public interest?

9 A. Yes, I do.

10 Q. Also, could you please address the sample
11 marketing materials that i-wireless has provided, and
12 discuss the scope and intent of those materials?

13 A. I'm sorry, you were breaking up there. I
14 didn't, I didn't hear the full question. I apologize.

15 Q. Is it true that i-wireless prepared sample
16 marketing materials in this docket?

17 A. Yes.

18 Q. Is it true that those sample marketing
19 materials were designed to communicate the
20 availability and programs offered by i-wireless?

21 A. Yes, that is the intent.

22 Q. Was it the intent of those marketing
23 materials that the offering and costs be set forth in
24 plain language so it would be easily understandable?

25 A. Absolutely.

1 Q. Is it your testimony, then, that providing a
2 service, easily understandable, promoting competition
3 is in the public interest?

4 A. Yes.

5 Q. Did i-wireless specifically look at the issue
6 of rural telecoms under the Act?

7 A. When we look at the areas that we serve we,
8 kind of first and foremost we look at where we have
9 high-quality coverage. Obviously it's in everybody's
10 best interest if the service works well. We're very
11 customer oriented in that regard.

12 So that's kind of how we look at the areas
13 that we hope to and intend to serve in the state. And
14 that obviously overlaps into rural as well as
15 non-rural areas.

16 MS. SCHMID: May I have just one moment?

17 THE COURT: Uh-huh.

18 (Pause.)

19 Q. (By Ms. Schmid) Cream skimming has been an
20 issue with regard to the public interest standard. Do
21 you have any -- what is i-wireless's interpretation of
22 the cream skimming -- cream skimming issue as it
23 applies to this application?

24 A. I apologize, I -- once upon a time I knew
25 what cream skimming was, but I don't recall what that

1 relates to.

2 Q. It's when a company would serve only the
3 high-density areas, while excluding the rurals.
4 Allowing the Company to skim profits.

5 A. Oh, I see.

6 Q. For least expense.

7 A. Well, our costs are the same, irrespective of
8 where the customer resides. Therefore, you know, our
9 only reason for serving particular customers and not
10 others is one of wanting to provide quality service to
11 the end customer.

12 Q. Do you believe that granting i-wireless's
13 application would have a positive effect on
14 competitive choice for Lifeline customers in Utah?

15 A. Yes, I do.

16 Q. Do you believe that there would be an adverse
17 effect upon the USF from granting i-wireless their
18 requested application?

19 A. No, I don't believe that would be the case.

20 Q. Could you please explain?

21 A. Well, I know the FCC is undergoing a, kind of
22 a revamp, if you will, of the Lifeline program. You
23 know, it's our hope that in doing so they weed out a
24 lot of, you know, the waste, fraud, and abuse that is
25 likely going on now. To make way for those companies

1 that are focused on really serving the economically
2 disadvantaged, which this program was intended to do.

3 So, you know, those events are kind of on the
4 same path from a timing standpoint. So in that case,
5 you know, I don't believe it would be burdensome to
6 the fund.

7 Q. Also, is it true that i-wireless will be
8 paying into the USF?

9 A. Yes. We always have and we always will pay
10 all those taxes and fees that apply to wireless
11 service.

12 THE COURT: And you'll pay into the State
13 USF; is that right?

14 THE WITNESS: That is correct.

15 THE COURT: Okay.

16 MS. SCHMID: Thank you. Those are all my
17 questions.

18 THE WITNESS: Okay, thank you.

19 THE COURT: Thank you. Mr. Proctor, any
20 questions?

21 MR. PROCTOR: Yes, thank you.

22 CROSS EXAMINATION

23 BY MR. PROCTOR:

24 Q. Mr. McDonough, this is Paul Proctor. I
25 represent the Office of Consumer Services. Can you

1 hear me?

2 A. Yeah, I sure can. Thanks, Paul.

3 Q. Mr. McDonough, I understand that i-wireless
4 received a Certificate of Public Convenience and
5 Necessity to operate throughout the State of Utah in
6 March of 2007; is that correct?

7 A. Yeah. I didn't recall that specific date,
8 but that does sound accurate. I believe that to be
9 true.

10 Q. And has i-wireless been operating in the
11 State of Utah continuously since being granted that
12 certificate?

13 A. Yes, we have.

14 Q. Was that certificate based in part, and
15 perhaps primarily, upon a finding by this Commission
16 that i-wireless's operations in the State of Utah are
17 in the public interest?

18 A. Yeah, I believe that to be the case.

19 MR. PROCTOR: Thank you, Mr. McDonough, I
20 have nothing further.

21 THE COURT: Thank you. Mr. Mecham?

22 MR. MECHAM: Thank you.

23 CROSS EXAMINATION

24 BY MR. MECHAM:

25 Q. Mr. McDonough, this is Steve Mecham. I

1 represent the Utah Rural Telecom Association.

2 Ms. Schmid asked you about your testimony and where
3 you testified with respect to the public interest
4 standard. And you pointed her to Question 28; is that
5 correct?

6 A. I believe that to be the case. Let me, let
7 me find that.

8 Yes, sir. It was Question 8.

9 Q. Question 28?

10 A. Yes, 28.

11 Q. And in the answer do you distinguish anywhere
12 between urban and rural Utah for public interest
13 standards?

14 A. No, sir.

15 Q. And are you aware that there is a public
16 interest requirement specifically for rural -- as a
17 public interest finding requirement for rural areas
18 under Section 214(e)(2)?

19 A. I wasn't aware that they are separate
20 measures. I, you know, I look at it as, you know,
21 it's in the public interest, irrespective of the
22 territory in question.

23 Q. Okay, thank you.

24 A. Sure.

25 Q. Is there anywhere else in your testimony you

1 address public interest, besides Question 28?

2 A. Well, Question 29 goes into a little bit more
3 on competitive choice.

4 Q. Okay.

5 A. Other than that, I'm not aware of any
6 specific entries on that. I'd be happy to skim
7 through here to see if there are.

8 Q. Thank you. Did I understand you correctly
9 that there are 29 cities that will be served or where
10 there are Kroger outlets, Smith outlets?

11 A. Cities and towns. And I'd be happy to
12 provide that list if it's helpful.

13 Q. Are you aware of how many of those cities
14 fall within the rural areas served by rural telephone
15 companies?

16 A. No, sir, I'm not. I know a lot of them are
17 smaller in size, but I don't know that to be the case
18 specifically.

19 Q. I actually tried to determine where the
20 Smith's stores are in the state. And would you
21 accept, subject to check, that there are only two in
22 the areas served by rural telephone companies? The
23 two are Vernal, in Uintah County, and Price, in Carbon
24 County?

25 A. I'm sorry, that was Price, in Carbon County?

1 Q. Yes, sir.

2 A. And I'm sorry, what was the first one?

3 Q. Vernal, in Uintah County.

4 A. Yeah, again, I don't know how these stores
5 overlap with the rural designated areas. But I'd be
6 happy to look at that.

7 Q. Well, and let me ask you a question. Do you
8 know, for instance in Garfield County, I wasn't able
9 to find any Smith's in Garfield County. Do you -- are
10 you aware if there's -- did I miss something in
11 Garfield?

12 A. Unfortunately my list does not have, have
13 county, but I can get that information.

14 Q. Well, let's presume that there are no Smith's
15 in Garfield County and I were a resident in Garfield
16 County. How would I be served by i-wireless? Under
17 this program?

18 A. Well, assuming there's no store coverage in
19 there but yet there's still carrier coverage, we could
20 still provide service to that individual.

21 Q. How would I get a handset and get the
22 service; where would I have to go?

23 A. It would be mailed to your physical
24 residence.

25 Q. So it's service beyond the Smith's outlets?

1 A. Yes.

2 Q. Now, in your Exhibit 5, it's Exhibit 5 to the
3 petition, I believe. It designates the wire centers
4 where i-wireless will serve, correct?

5 A. Yes, sir.

6 Q. Do you know if the wire centers identified
7 there cover the entire service area of the rural
8 telephone companies where there will be service by
9 i-wireless?

10 A. I'm not aware of whether that is or isn't the
11 case. Again, we base our area that we intend to serve
12 based on where we can provide quality service.

13 Q. Well, let me direct your attention on
14 Exhibit 5 to Castle Dale, which is served by Emery
15 Telephone, d/b/a Emery Telcom. Are you aware that
16 they have an exchange besides Castle Dale?

17 A. No, sir, I was not aware of that.

18 Q. Would you accept, subject to check, that they
19 do?

20 A. I'm sorry, say that again.

21 Q. Would you accept, subject to check, that they
22 have more than one exchange in Castle Dale, they have
23 other exchanges?

24 A. Sure, I'll accept that.

25 Q. Thank you. Are you aware of Section 214 of

1 the federal act, (e)(5)?

2 A. I am, I am somewhat familiar with that, yes.

3 Q. In essence it says that a service area is the
4 study area of the rural telephone company that is
5 serving the area?

6 A. Right.

7 Q. Well, and just using Emery as an example,
8 i-wireless is not proposing to serve an area that
9 conforms with the study area of Emery Telcom?

10 A. Sorry, is the study area Castle Dale or
11 Emery?

12 Q. The study area includes Castle Dale and other
13 exchanges of Emery Telcom.

14 So I guess the question is, are you aware
15 that it does not serve, that is, the petition does not
16 cover the entire study area of Emery Telcom?

17 A. Yeah, I can't confirm or refute that. I --
18 not, not having done a -- not having a legal
19 background or having done a review of the terminology
20 of study area versus service area.

21 Q. Okay, thank you. Are you aware that this
22 Public Service Commission, in a case involving a
23 company called Western Wireless, actually granted ETC
24 status in what is now Qwest's service territory and
25 not in the rural areas?

1 MR. PROCTOR: Objection, it's misleading to
2 reflect the Western Wireless case, given the fact that
3 it was issued at a time, by this Commission and the
4 Supreme Court, when the telecommunications industry
5 was dramatically different.

6 And the other circumstances and conditions
7 that led ultimately to this Commission's decision and
8 the Supreme Court opinion need to be stated by
9 Mr. Mecham if the answer is to be accurate.

10 MR. MECHAM: Actually, your Honor, as I
11 recall, I believe the case was issued in 2002. Which
12 while that might be a few years ago, these acts were
13 in place at that time. The Commission was dealing
14 with the very same statutes.

15 THE COURT: Overruled.

16 Q. (By Mr. Mecham) So I'm just asking if you
17 were aware that there was such a case, Mr. McDonough?

18 A. I'm not aware of that case, no.

19 Q. Okay, thank you.

20 MR. MECHAM: Thank you, Mr. McDonough, I have
21 nothing further.

22 Thank you, your Honor.

23 THE COURT: All right. Thank you,
24 Mr. Mecham.

25 Mr. Steinhart, any redirect?

1 MR. STEINHART: I'm sorry, I couldn't hear
2 you.

3 THE COURT: Any redirect?

4 MR. STEINHART: Yes. Couple redirect,
5 please.

6 REDIRECT EXAMINATION

7 BY MR. STEINHART:

8 Q. Mr. McDonough, is it true under the
9 application, Section 6, specifically pages 15 to 19,
10 that the Company further addresses the public interest
11 argument?

12 A. I wasn't until you referred to it.

13 Q. Okay. Could you look at that and confirm?

14 A. Okay, let me pull that up.

15 I'm sorry, what page is that on, Lance?

16 Q. It's Section IV?

17 A. IV.

18 Q. Four, Roman Numeral IV, pages 15 to 19,
19 public interest considerations. In our application.

20 A. Yeah, I'm -- I've got it. Let me get to that
21 section.

22 Yeah. No, you're right. Section IV does
23 address that.

24 Q. Thank you. And Mr. McDonough, would it be
25 the Company's position that, regardless of what public

1 interest argument -- or what public interest standard
2 we are held to, that the Company has met that
3 standard?

4 A. Yes, I believe it to have met the -- that
5 standard.

6 Q. And Mr. McDonough, is it your understanding
7 that "wire centers" is a landline term as opposed to
8 a -- that can be typically applied to a wireless
9 company; is it more of a landline term?

10 A. Yes, absolutely.

11 Q. And would it be difficult for a wireless
12 company to describe its services in terms of wire
13 centers, that are particularly established for
14 wireline companies versus wireless companies?

15 A. Yes, it would be difficult.

16 Q. And one other question. Is it true that
17 consumers in the State of Utah that don't live in a
18 particular city or town that has a Kroger or a Kroger
19 affiliate in it could still shop in that store? And
20 is it also true that i-wireless will be advertising
21 its services through Internet websites that will be
22 made available to low-income consumers?

23 A. Yes, both of those are true.

24 MR. STEINHART: Thank you. I have nothing
25 further at this time, your Honor.

1 THE COURT: All right.

2 MR. MECHAM: Your Honor, I have one quick
3 recross question.

4 THE COURT: Uh-huh, go ahead.

5 RECCROSS EXAMINATION

6 BY MR. MECHAM:

7 Q. Mr. McDonough, this is Steve Mecham again.
8 In those pages 15 to 19 of the petition you do
9 address -- or the petition does address the promotion
10 of public interest. Is there any distinction there
11 between urban and rural areas served?

12 A. No, no, sir. It addresses the entire state.

13 Q. Thank you.

14 A. It does not differentiate.

15 Q. Thank you.

16 A. Sure.

17 THE COURT: Any follow up, Mr. Steinhart?

18 MR. STEINHART: No. Thank you, your Honor.

19 THE COURT: All right, thank you.

20 Does the Division wish to present any further
21 testimony?

22 MS. SCHMID: Yes, please, if we may.

23 THE COURT: Okay, go ahead.

24 Actually, you know what? I'm sorry. Let me
25 ask a couple follow-up questions. Sorry.

1 MS. SCHMID: Of course.

2 THE COURT: Of clarification.

3 Mr. McDonough, in your testimony you stated
4 that your costs are the same, regardless of wherever
5 you provide the service to the customer. Or something
6 to that effect. Can you explain to us?

7 THE WITNESS: Well, yeah. Our costs are
8 pretty much exactly the same, customer to customer.
9 It's all about the cost of the particular handset.
10 The cost of the program materials and explanations of
11 the service. Activating the phone. And then mailing
12 the phone to the customer.

13 So from that standpoint we have those costs
14 for each and every customer.

15 THE COURT: Okay. And that would be the
16 same, for example, if you had a customer in Downtown
17 Salt Lake City versus a customer in a very rural part
18 of the state?

19 THE WITNESS: There may be a slight
20 difference in the actual shipping costs, but it's
21 fairly *de minimis*. So for the most part those costs
22 are pretty much the same.

23 THE COURT: Are the costs -- for example,
24 there are differences in shipping costs. Are the
25 costs passed on to the customer at all?

1 THE WITNESS: No, they are not.

2 THE COURT: Okay.

3 THE WITNESS: No. The phone to the customer
4 in all, all respects is free to the customer.

5 THE COURT: So would the costs, for example,
6 to a customer in Downtown Salt Lake City, I guess as
7 far as a cost the customer sees, would they be the
8 same for a customer let's say in Downtown Salt Lake
9 City versus a customer in a very rural part of the
10 state?

11 THE WITNESS: Yes, sir, they would. And in
12 both instances it would be free to the customer.

13 THE COURT: All right. And you also
14 mentioned advertisements. You'll be advertising
15 through the Internet; is that correct?

16 THE WITNESS: Yes, that would be one of many
17 methods that we advertise.

18 THE COURT: And what other methods are there?

19 THE WITNESS: We haven't finalized our
20 marketing plan. But we would have promotional
21 materials in the stores. Print ads in weekly
22 circulars that are, that are sent to customers. We
23 would also use print ads, public transit advertising,
24 perhaps billboard and radio.

25 THE COURT: So besides the ads published in

1 the stores, will the advertisements be in rural and
2 urban areas?

3 THE WITNESS: We haven't made that
4 determination at this point. Like I said, we have not
5 finalized our marketing plan. But, you know, we
6 intend to market where the service is available.

7 THE COURT: All right. Thank you,
8 Mr. McDonough.

9 Anybody want to ask any questions to my
10 follow up? Mr. Mecham?

11 MR. MECHAM: Thank you, your Honor.

12 FURTHER RECROSS EXAMINATION

13 BY MR. MECHAM:

14 Q. Mr. McDonough, Steve Mecham again. Are most
15 of your orders placed on the Internet? I mean, if I
16 were a customer in Rural Utah would my contact be with
17 i-wireless through the Internet?

18 A. Well, the customers can contact us however
19 their preference is. We don't have enough history
20 really to be able to answer how customers will
21 typically contact us. But there are, you know,
22 different forums where they can.

23 Q. So -- but with respect to this program of
24 course it's a Lifeline program for low-income
25 customers, correct?

1 A. Correct.

2 Q. So they may not have access to the Internet?

3 A. That is correct. But they can, they can call
4 in to an 800 number. They can get materials in store.

5 MR. MECHAM: And that also assumes they have
6 a phone. That's it, your Honor. Thank you.

7 THE COURT: All right. Ms. Schmid?

8 MR. PROCTOR: Objection then to the last
9 statement by counsel, which is argumentative.

10 THE COURT: Sustained.

11 Ms. Schmid?

12 MS. SCHMID: Thank you. Um --

13 THE WITNESS: Can I add something there real
14 quick?

15 THE COURT: Sure.

16 THE WITNESS: I mean, to that comment? I
17 mean, that's exactly why this service is in the public
18 interest, because there are people out there without
19 phones.

20 THE COURT: All right. Thank you,
21 Mr. Steinhart.

22 Ms. Schmid?

23 THE WITNESS: You're welcome.

24 MS. SCHMID: Thank you.

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CASEY J. COLEMAN,

called as a witness, having been duly sworn,
was examined and testified as follows:

FURTHER DIRECT EXAMINATION

BY MS. SCHMID:

Q. Mr. Coleman, as you've been sitting here today have you heard reference to other similar proceedings, such as TracFone and Virgin Mobile?

A. Yes.

Q. Were you the Division's expert witness in those dockets?

A. Yes.

Q. In, for example, the TracFone docket, did you look specifically at the applicable public interest standard?

A. Yes, I did.

Q. Could you please tell us the applicable public interest standard that you used there?

MR. MECHAM: Your Honor, I would object, simply because these are each separate applications. I understand that we've all been involved with TracFone and Virgin Mobile and there will be others yet to come. But we've each had the opportunity to file prefiled testimony.

Each application has to meet a public

1 interest standard. To simply say that it's in the
2 public interest, you know, anybody can say it. But
3 factually is this any different than TracFone? Could
4 be. And so I would object to saying, Oh, we took care
5 of it in TracFone and that slops over into this case.

6 MS. SCHMID: I'm not trying to say that the
7 TracFone takes care of it in this case. I'm going to
8 use the TracFone framework and then apply the facts in
9 this case.

10 THE COURT: Overruled.

11 Q. (By Ms. Schmid) So Mr. Coleman, could you
12 please tell us the public interest standard that you
13 used in the TracFone case?

14 A. Yes. In my testimony it discusses how the
15 Commission had gone through a variety of different
16 proceedings, both with Bresnan, Western Wireless as
17 far as the ETC holding, and a couple other cases, and
18 basically came up with a public interest standard
19 where the Commission would be looking at two different
20 elements to basically determine if something was in
21 the public interest. Those two elements would be the
22 competitive choice and the effect on the USF.

23 And that was what we argued, basically, would
24 be the test that the Commission has used in previous
25 proceedings. And we believe it's been used in other

1 cases to determine if it meets the public interest
2 standard.

3 Q. Applying the competitive choice prong to the
4 facts of this case, what is your conclusion?

5 A. We believe that the application of i-wireless
6 does meet the competitive choice because it is
7 providing another opportunity for those low-income
8 consumers to be able to get phone service if they
9 don't currently have phone service.

10 As well as it provides an opportunity for
11 them to continue to choose another provider. And it
12 does meet the statutory requirements that 54-8b-1-1, 3
13 and 8, as far as -- from the state legislature
14 encouraging competition and encouraging new
15 technologies.

16 Q. With regard to competition, do you have any
17 comments regarding how a customer would establish
18 service under i-wireless?

19 A. Well, as we heard from the witness before, I
20 believe that i-wireless is gonna be providing a free
21 phone. So that does also provide, you know, a
22 low-income way for individuals to be getting service.
23 And it is, you know, a different way than currently
24 Lifeline customers are required, or the process that's
25 in place now.

1 So it is providing another competitive
2 choice, in that they are getting a free phone and not
3 having that cost. That, for the low-income consumers,
4 could be definitely a benefit.

5 Q. The second prong you said addresses the USF.
6 Do you believe that i-wireless's commitment to pay
7 into the USF -- could you please, could you please
8 describe i-wireless's commitment to pay into the Utah
9 USF?

10 A. Yes. I believe Mr. Proctor said earlier that
11 as of 2007, i-wireless had received a CPCN. As a
12 Division we have looked at it, and i-wireless is
13 currently paying into the Universal Service Fund as
14 far as the state.

15 And has said on record that they continue to
16 expect to pay into that fund as well. And so we
17 believe that they will pay into that fund as well as,
18 as they've said on record, to the other appropriate
19 fees and taxes as well.

20 Q. What is your testimony concerning granting
21 i-wireless its certificate and the effect on the Utah
22 USF, particularly as regard to the public interest?

23 A. Just like in other cases, obviously as you
24 start adding additional customers there could be a
25 cost that's gonna happen to the USF fund. I mean, the

1 Division isn't naive to think that there isn't gonna
2 be any cost.

3 But we believe the additional benefits that
4 are going to come from having more competitive choice,
5 from being able to meet those statutory requirements,
6 outweighs the potential negative impact of some
7 additional costs of verification within the State USF
8 Fund.

9 Q. Do you recall reading the application in this
10 case?

11 A. Yes.

12 Q. Do you recall there, and as discussed herein
13 today, as how the application addresses the public
14 interest?

15 A. Um.

16 Q. In a general manner?

17 A. Yeah, generally, yes.

18 Q. Do you generally agree, then, that the
19 application is in the public interest?

20 A. Yes. I believe that the application is in
21 the public interest because it is providing additional
22 competitive choice and opportunities for low-income
23 providers. And hopefully that will allow more people
24 to use the Lifeline program and be able to provide
25 that service that's there for those type of -- for

1 those individuals and consumers.

2 Q. With regard to rural customers, how does the
3 i-wireless program -- how is the i-wireless program in
4 the public interest for them?

5 A. Well, I believe this is more of a, it's more
6 of an economic issue that urban versus rural issues
7 because you'll have low-income consumers that are in
8 both areas. So if it's urban versus rural, I think
9 all people that are in that economic class would be
10 able to benefit.

11 So obviously rural, if they are in the rural
12 areas, would be able to benefit, or urban people would
13 be able to benefit, because they are gonna get that
14 competitive choice and another opportunity for them to
15 have phone service that maybe isn't available to them
16 now.

17 MS. SCHMID: Thank you, Mr. Coleman.

18 THE COURT: Thank you. Any questions for
19 Mr. Coleman?

20 Mr. Mecham?

21 MR. MECHAM: Thank you, your Honor.

22 FURTHER CROSS EXAMINATION

23 BY MR. MECHAM:

24 Q. Mr. Coleman, the Bresnan case was a
25 certificate case, was it not?

1 A. Yes. It was a CPCN, Certificate of Public
2 Convenience and Necessity.

3 Q. So in your view -- in the Division's view,
4 whether it's a certificate or an ETC, the public
5 interest standard is the same?

6 MS. SCHMID: Objection insofar as it calls
7 for a legal conclusion.

8 MR. MECHAM: I said in his view.

9 THE COURT: Overruled.

10 THE WITNESS: You know, obviously the
11 Commission is able to use any standard that they want
12 to in a proceeding. And having been involved in those
13 cases, though, it does appear that the Commission has
14 generally followed the same type of guidelines and
15 principles.

16 Q. (By Mr. Mecham) Thank you. Is the cost of
17 verification the only cost imposed on the State USF,
18 that you're aware of?

19 A. You know, as I sit here now, that's the only
20 one I can think of. There may be other additional
21 costs, but I can't, I can't think of any at this
22 moment.

23 Q. Well, let's suppose hypothetically that I
24 were a Lifeline customer of an incumbent rural
25 telephone company today, and I decided that I was

1 going to take service from i-wireless. Would there
2 not be a cost to the USF for that customer leaving the
3 rural telephone company service?

4 A. Yes. From my understanding as far as how the
5 USF works today, our rural phone companies have the
6 ability, because they're rate-of-return regulated, to
7 have lost revenues or shortfalls in revenues made up
8 from our State Universal Service Fund.

9 And so in that scenario if a current Lifeline
10 customer transitioned to another competitive choice,
11 then it is possible that those lost revenues would
12 need to be made up from the State USF Fund.

13 Again that's, you know, if that person
14 chooses to exclusively have just a cellular phone. I
15 mean, there's an a lot of variables in there. But
16 there could be an additional cost.

17 Q. Were you able to analyze that effect?

18 A. No, just because of the fact that there is so
19 many different factors, and -- would they keep a
20 landline? Would they only go exclusively cell? How
21 much of a difference would it be? You know, we were
22 not able to come up with specific numbers to analyze
23 that.

24 Q. But this is all done in the context of a
25 low-income customer and the various choices that that

1 low-income customer has?

2 A. Well, for these type of dockets, yes.
3 Because only persons -- the only individuals that are
4 eligible for the Lifeline program would be those who
5 qualify, either through income or whatever programs
6 make it to where they are eligible.

7 MR. MECHAM: Thank you, I have nothing
8 further.

9 THE COURT: All right, thank you.
10 Mr. Proctor?

11 MR. PROCTOR: Thank you.

12 FURTHER CROSS EXAMINATION

13 BY MR. PROCTOR:

14 Q. Mr. Coleman, with respect to the TracFone, is
15 it your understanding that, based upon the
16 Commission's orders, TracFone has been given ETC
17 status throughout the State of Utah?

18 A. My understanding with the TracFone order is
19 that they were given the ability to serve wherever
20 their wireless network was able to cover within the
21 State of Utah.

22 Q. And so that could very well be within a
23 territory of a rural incumbent?

24 A. I know that it did cover, because it was
25 brought up in that. And there were some rural areas

1 that were specifically going to be serviced by
2 TracFone.

3 Q. And with respect to the Virgin Mobile
4 application did the Division support a similarly-
5 broad ETC authorization, i.e., throughout Utah,
6 including rural areas?

7 A. Yes. Again, according to the network that
8 they were using as far as a cellular company, yes.

9 Q. And Virgin Mobile uses the Sprint Network?

10 A. Yes, that's my understanding.

11 Q. And do you understand that i-wireless would
12 also be using the Sprint Network?

13 A. From their testimony that's what I recall,
14 yes.

15 Q. And so is it the Division's position, then,
16 that i-wireless should also have ETC status throughout
17 Utah wherever its facilities permit service?

18 A. Yes.

19 Q. Now, you were asked a question concerning the
20 cost to the State USF should a customer leave a rural
21 telephone company and acquire Lifeline service. Would
22 it be possible to calculate the cost per customer of a
23 low-income person who leaves the incumbent and
24 acquires Lifeline?

25 A. Can I ask clarification?

1 Q. Sure.

2 A. When you say "cost per customer" are you
3 talking like all the customers that would be paying
4 into the USF, or the cost to that specific customer?

5 Q. The cost -- how much the USF would have to
6 pay to the rural, or the increase in the rural
7 distribution because one customer who was low income
8 acquired Lifeline service.

9 A. Probably the best way that I can answer that
10 is we did somewhat of a similar analysis in the
11 Bresnan case. Which what we tried to do was to
12 determine the impact if we allowed a CLEC to be
13 serving within a rural territory, what the impact
14 would be to the State USF.

15 And I believe that's kind of getting at your
16 same question there. As far as all consumers within
17 the State of Utah, the impact to our State USF Fund
18 was going to be negligible.

19 Again, I don't -- I'm going off of my memory.
20 But it was somewhere between less than a quarter and I
21 think it was closer to a couple pennies. As far as
22 every consumer in the State of Utah and what the
23 impact would be.

24 I didn't do a specific analysis with
25 wireless, but my belief is it would be the same type

1 of concept. And the same type of impact would, you
2 know, as far as magnitude we'd be looking at about the
3 same thing.

4 Q. Well, wouldn't the magnitude in fact be
5 significantly less? Because you would only be looking
6 at the cost if a Lifeline, a low-income customer,
7 stopped receiving service -- paid-for service from a
8 rural telephone company and instead acquired access to
9 the Lifeline.

10 A. In theory, yes. The reason why I think it
11 would be similar, though, is we were dealing only with
12 one exchange, which was a Vernal exchange. And so the
13 numbers as far as what could transition from say the
14 Vernal to a CLEC was not going to be much different
15 then potentially what would probably be consumers
16 using the Lifeline program throughout the State of
17 Utah.

18 So that's, that's why, as far as the
19 magnitude, I would say it would be pretty close as far
20 as the numbers.

21 Q. Would that cost to the State USF be
22 sufficient, in the Division's mind, to justify not
23 providing Lifeline service, prepaid wireless Lifeline
24 service in a rural ILEC's territory?

25 A. The testimony that was given and I believe,

1 you know, I feel the position of the Division is that
2 we have the statutory mandate to try to further
3 competition.

4 And even though there will be a cost to the
5 USF, I believe -- and I think I testified before, and
6 that's my position and the Division's position -- is
7 that, even though there is going to be some cost to
8 the USF, the potential for competition and the
9 opportunity for customers to make choices as far as
10 how they want to have their telecommunications
11 services would outweigh and provide a greater benefit
12 than the costs going to be associated with providing
13 the service to the USF.

14 Q. Would not also a criteria be that by allowing
15 prepaid wireless Lifeline in Rural Utah you're going
16 to be giving low-income rural population access to a
17 subsidized service that they do not have now?

18 A. There is the potential that there are some
19 people in Rural Utah who may not be using the Lifeline
20 program. And this would give them an opportunity, for
21 whatever reason, to have that option. So yes, I
22 would, I would say that is a possibility.

23 Q. Well, isn't the fact that the use of or
24 taking advantage of Lifeline throughout the State of
25 Utah, both rural and urban, is quite low in comparison

1 to the number of eligible people?

2 A. Yes. I don't know the exact percentages, but
3 I know it was less than 50 percent.

4 MR. PROCTOR: Thank you, Mr. Coleman, I have
5 no further questions.

6 THE COURT: Thank you. Mr. Steinhart?

7 MR. STEINHART: Nothing, your Honor, from me.
8 Thank you.

9 THE COURT: All right, thank you.

10 Mr. Proctor, any further testimony from
11 Ms. Murray?

12 MR. PROCTOR: Yes. Thank you, your Honor.

13 CHERYL MURRAY,

14 called as a witness, having been duly sworn,
15 was examined and testified as follows:

16 FURTHER DIRECT EXAMINATION

17 BY MR. PROCTOR:

18 Q. Ms. Murray, you have been sworn, of course,
19 before. I have some additional questions that I wish
20 to ask you.

21 First of all, the stipulation that has
22 been -- a copy of which has been supplied to the
23 Bench, would you recommend any changes to that
24 stipulation? And if so, would you identify them?

25 A. I would recommend a change --

1 Q. Your microphone, and real close.

2 A. Oh, sorry. On page 1 of the stipulation I
3 would recommend that the Utah Rural Telecom
4 Association and Salt Lake City Community Action
5 Program, SLCAP, be removed.

6 Q. And that's because they have not signed the
7 stipulation --

8 A. That is --

9 Q. -- is that correct?

10 A. That is correct.

11 Q. Did the Office experience any difficulties in
12 exchanging paperwork, exchanging drafts and such of
13 the stipulation and settlement agreement with
14 i-wireless's counsel and i-wireless?

15 A. Did the Office?

16 Q. Yes.

17 A. I don't --

18 Q. Well, do you --

19 A. -- particularly.

20 Q. Do you have any, do you have any explanation
21 for why it is that the Rural Telecom and Salt Lake CAP
22 appear on the stipulation agreement now, even though
23 we know that they were not going to sign?

24 A. Well, my understanding is that some of the
25 parties originally did not receive the stipulation.

1 Some of these parties that are listed here. And so
2 there may have been -- I'm not sure if it was fully
3 decided who was going to sign -- I don't, I don't
4 know. I don't.

5 Q. Okay. On page 7, paragraph 3 of the general
6 provisions it states that:

7 "All witnesses of the parties will
8 support all aspects of the stipulation
9 and settlement agreement embodied in
10 this document in any hearing conducted
11 to determine whether the Commission
12 should approve this stipulation."

13 First of all, Ms. Murray, does the Office
14 believe that the Commission should approve this
15 stipulation?

16 A. Yes, we do.

17 Q. Does the Office agree with the statement also
18 on page 8, paragraph 6 of the general provisions that
19 the stipulation was negotiated in a manner that is in
20 the public interest?

21 A. Yes, we do.

22 Q. And that the results reflected in the
23 stipulation are just and reasonable and in the public
24 interest?

25 A. Yes, we do.

1 Q. For what reasons does the Office believe that
2 the evidence in this case, including the stipulation,
3 supports a Commission finding that granting ETC status
4 to i-wireless is in the public interest?

5 A. Well, when the Office analyzes a petition of
6 this sort, based on our statutory responsibilities we
7 have two somewhat competing concerns. And I address
8 those in my summary. One would be the value that is
9 going to be provided to the low-income customers, and
10 the cost to other customers.

11 And as we looked at it we found some things
12 in the application that we thought should be improved
13 upon. We made our recommendations. And I addressed
14 those also. The verification of taxes and fees. The
15 certification process interim. Adopt any changes
16 within Docket 10-2528-01. And the development of a
17 Utah-specific information sheet.

18 And we felt that -- these are similar things
19 that we've advocated in all of the ETC proceedings
20 that we have participated in recently. And we think
21 that -- just for example, the Utah-specific
22 information sheet.

23 We think that providing potential
24 participants basic information that informs them of
25 the program, tells them what they will be giving up,

1 and specifically what they will get by that provider
2 is done much in the public interest for those
3 participants.

4 Q. The consumer information that the Office
5 requested i-wireless provide, is that the same as the
6 consumer information that the Office requested
7 TracFone and Virgin Mobile provide?

8 A. Yes, it is.

9 Q. And does TracFone provide that information by
10 order of the Commission in its final decision?

11 A. The order -- the Commission did order them to
12 provide that information. And they had agreed to it
13 also on -- their witness agreed to do that at the
14 hearing.

15 Q. And did Virgin Mobile also agree to do that?
16 To provide that information?

17 A. Virgin Mobile, as I recall, was a little less
18 agreeable. But I do believe that in the hearing they
19 finally said that they would.

20 Q. And of course in this case i-wireless has
21 agreed to provide it?

22 A. Yes. And it is part of the stipulation.
23 Incorporated in the stipulation.

24 Q. So the Office's requests for conditions upon
25 the ETC status to all three applicants so far are

1 uniform throughout those three applicants, correct?

2 A. They are basically uniform. I would say that
3 our position was somewhat modified after TracFone as
4 we became more familiar with the particulars of ETCs.
5 But it -- the basic elements are all there, yes. We
6 are looking for uniformity.

7 Q. Did the Office require more stringent
8 conditions for low-income rural population than it did
9 for urban or non-rural low-income populations?

10 A. No, we did not.

11 MR. PROCTOR: Thank you, Ms. Murray, I have
12 nothing further.

13 THE COURT: Thank you. Ms. Schmid, any
14 questions?

15 MS. SCHMID: No questions.

16 THE COURT: Mr. Steinhart, any questions for
17 Ms. Murray?

18 MR. STEINHART: No. Thank you, your Honor.

19 THE COURT: Mr. Mecham?

20 MR. MECHAM: Thank you, your Honor.

21 FURTHER CROSS EXAMINATION

22 BY MR. MECHAM:

23 Q. Ms. Murray, in your analysis of whether or
24 not the i-wireless petition meets the public interest
25 standard did you review Section 214(e)(2) of the

1 Federal Act?

2 MR. PROCTOR: Objection.

3 THE COURT: Sustained.

4 MR. PROCTOR: Mr. Mecham -- thank you. Never
5 mind.

6 Q. (By Mr. Mecham) Okay. Did you review the
7 certificate that i-wireless was granted in 2007?

8 A. No, I did not.

9 Q. Assuming that that's correct -- that's been
10 represented on the record here today by your counsel,
11 I believe -- do you know if -- okay, you didn't review
12 it. Okay.

13 I won't ask you that question, then. Thank
14 you.

15 THE COURT: Anything else, Mr. Mecham?

16 MR. MECHAM: No, that's it.

17 THE COURT: All right. Then let's proceed to
18 URTA, please.

19 MR. MEREDITH: I-wireless's counsel might
20 have questions for --

21 THE COURT: No, he said no.

22 MR. MEREDITH: Oh, okay.

23 DOUGLAS MEREDITH,

24 called as a witness, having been duly sworn,

25 was examined and testified as follows:

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DIRECT EXAMINATION

BY MR. MECHAM:

Q. Good morning, Mr. Meredith. Could you state your name and address and whom you're representing in this proceeding?

A. Good morning. My name is Douglas Meredith. My address -- business address is 547 South Oakview Lane in Bountiful, Utah 84010. And I am filing testimony or have filed testimony on behalf of the Utah Rural Telecom Association, URТА.

Q. And does your testimony consist of ten pages of questions and answers?

A. Yes, it does.

Q. And if I were to ask you those questions today would your answers be the same?

A. Yes, they would.

Q. Do you have any corrections to your testimony?

A. No.

Q. Thank you.

MR. MECHAM: I would move the admission of Mr. Meredith's direct testimony, which we would mark as URТА-1.

THE COURT: Thank you. No objections?

MS. SCHMID: (Moves head from side to side.)

1 THE COURT: I'm gonna admit URTA-1.

2 (Exhibit No. URTA-1 was admitted.)

3 Q. (By Mr. Mecham) Do you have a summary of
4 your testimony, Mr. Meredith?

5 A. Yes, I have a summary. And if I would be
6 allowed to comment on a few of the items that have
7 come up in the live direct testimony of the other
8 parties. I'll just do that all at once.

9 Your Honor, this case appropriately is
10 centered on what the public interest is. And I, in my
11 testimony, starting on page 4, identify a variety, I
12 believe four -- three or four major issues with regard
13 to establishing a public interest finding in this
14 case.

15 The waters -- the tide has shifted somewhat
16 at the federal level with regards to universal service
17 and with regards to the application of ETCs or how
18 they're gonna be dealt with in the future. The FCC,
19 in a recent Notice of Proposed Rulemaking, has
20 indicated that the ETC will need to provide service
21 throughout an entire service area.

22 And as we identify that, and we read that in
23 the Act, that in rural areas that that means the study
24 area. And so in that particular case then the FCC
25 even goes so far to say that if a carrier cannot

1 provide service of its own throughout the entire
2 service area, that it should go to a third party. And
3 even mentions and calls out a satellite provider to be
4 a partner so that it can cover the entire area.

5 The i-wireless petition, as I mentioned and
6 review in my testimony, does not have that -- does not
7 have the coverage for rural areas. And so the first
8 essentially public interest defect would be that in
9 rural areas of the state that that coverage area
10 requirement is not satisfied.

11 The other guide -- another point of guidance
12 that the FCC has given recently is in a case that just
13 came out in February. In that particular case Partner
14 Telephones Cooperative was asking for relief from
15 Federal Universal Service monies.

16 And the relief that they were asking for was
17 *de minimis*, clearly *de minimis* in relation to the
18 \$8 billion that the Federal Universal Service Program
19 has.

20 And the FCC actually, in a very -- in its
21 first time it's ever done this has said, We're not
22 going to grant you a forbearance on this particular --
23 or we're not gonna grant you your petition, because
24 this incremental increase in universal service
25 payments is essentially creating a fund that is too

1 large. And we're not gonna do that. We're not going
2 to allow that to happen.

3 And as I summarize in my testimony and give
4 some guidance to this, the FCC also has published
5 information on how much Lifeline low-income support
6 has increased over the -- since 2007. And I, in my
7 testimony, identify that it has gone from like five,
8 six, seven hundred million dollars for the entire
9 country to now being distributing almost \$1.5 billion.

10 And that will likely increase as ETC
11 designations for low-income -- free low-income
12 services are granted across the country. That has a
13 particular problem, because the FCC has also indicated
14 in recent documents, well after TracFone, that it
15 wants to hold the entire Federal Universal Service
16 Program to a fixed budget. A certain budget amount.
17 And that budget amount would be the 2010 amount.

18 And the FCC, in its partner case that I
19 mentioned before, in February, identifies that. And
20 says that losses from other carriers, because we're
21 giving money now to a new carrier and universal
22 service regime, is not in the public interest.

23 And they make a very clear finding on that.
24 And I would encourage you to look at that particular
25 record in that particular case in making your

1 judgment.

2 The other items with regards to public
3 interest, I'll let -- in my direct testimony I'll let
4 stand as they are, and I'll just briefly address some
5 of the live direct that I've heard today.

6 First of all the standard that is being
7 proposed for your consideration for public interest,
8 it has two prongs: The first prong is competition.
9 And the second is an effect on the USF. And as
10 proposed, and as I heard them and have reviewed them
11 in the past, I believe that you should take great
12 pause before you accept that as the standard.

13 First of all with regards to competition.
14 The Division witness has indicated that the major
15 focus of -- or one of the major focuses of the
16 Commission -- or of the Division is to make sure
17 competition is essentially enshrined in the state.

18 In Mr. McDonough's testimony on Question 28
19 when he addresses the public interest he focuses very
20 specifically on competition. And he even says:

21 "The essential purpose of the
22 Telecommunications Act in 1996 was to
23 promote competition."

24 Now, this is the same Act that has the public
25 interest standard enshrined in it in Section 214 of

1 the Act. It is a circular argument to say that the
2 Act is supposed to promote competition, and yet it
3 requires, it requires a public interest finding, and
4 that public interest finding is to promote
5 competition.

6 It doesn't -- the public interest standard
7 and the public interest requirement in Section 214 is
8 there to temper the Act. The promotion of
9 competition. And so you cannot use competition *per se*
10 as the standard to promote -- for public interest. If
11 you do, then that really creates a situation where
12 that particular public interest requirement has no
13 meaning.

14 The second item with regards to, with regards
15 to the standard is the effect on the universal
16 service. And as I understood and heard testimony
17 today, the Division focused very specifically on State
18 Universal Service.

19 While that is certainly a component of
20 universal service, the Federal Universal Service
21 Program also has to come into play because the state
22 commission is granting a designation of a carrier for
23 Federal Universal Service disbursement.

24 And the effect on Federal Universal Service
25 can be very clearly seen in the Partner Communications

1 February case of 2011, where the FCC has declared --
2 or has concluded that it is not in the public interest
3 to take Federal Universal Service monies from one
4 carrier and give it to another with a limited amount
5 of budget.

6 The third item with regards to the public
7 interest standard that you had is that the Bresnan
8 case came up. And as I recall, and subject to
9 check -- and I'm sure counsels will take care of
10 this -- but in that particular case that was a state
11 requirement. And there was a -- there were certain
12 thresholds of 30,000 access lines and 5,000 access
13 line study areas or rural areas of the state.

14 Very different than what we have in the
15 Federal Act where we essentially have, in 214(e)(2), a
16 standard public interest standard that is -- for urban
17 areas. And then a very specific direction that rural
18 area standard's different.

19 If Congress wanted to have one standard for
20 the entire area, for urban and rural areas, they would
21 not have put that extra language in Section 214(e)(2.)
22 And so by conclusion you -- the Commission needs to
23 establish a separate and distinct public interest
24 standard for rural areas of the state. And that
25 concludes my summary.

1 THE COURT: Thank you, Mr. Meredith.
2 Mr. Steinhart, any questions for
3 Mr. Meredith?

4 MR. STEINHART: Yes, your Honor. I have one
5 or two if you can bear with me a second, your Honor.

6 CROSS EXAMINATION

7 BY MR. STEINHART:

8 Q. Do you know -- and I think we have an exhibit
9 to our application that address this. Do you know
10 what the Lifeline participation percentage is in the
11 State of Utah? Meaning how many eligible users there
12 are as compared to people who are actually provided
13 Lifeline service?

14 A. I do not, sir. The only information that I
15 have on hand is the information that was given by the
16 Division's witness indicating that the State had less
17 than 50 percent of eligible recipients are receiving
18 Lifeline support.

19 I do not know if that is Lifeline support --
20 or the qualification of Lifeline support is based upon
21 program qualification or income qualification. As you
22 know, there are two different standards now.

23 Q. Okay, thank you. And you mentioned in your
24 statement that there was -- bear with me one second
25 here.

1 That the thrust, I guess, of everybody's
2 public interest argument was that it's only because
3 with this competitive situation bringing more
4 competition, that that was the only reason we were
5 arguing for public interest.

6 Would you agree that if, in fact, it's true
7 that less than 50 percent of the people eligible for
8 Lifeline in the State of Utah receive Lifeline
9 benefits, that it would be in the public interest for
10 that other 50 percent, or whatever the number is, to
11 become aware of the service and also be provided with
12 that service?

13 A. It would certainly be in the public interest
14 to have them become aware of it. However, the
15 Federal-State Joint Board on Universal Service, as I
16 expressed in my direct -- in my prefiled testimony,
17 has severe reservations about free service being
18 offered under the program. And so that particular
19 judgment needs to be assessed.

20 With regard to that if that public interest
21 wins the day, you know, my particular testimony on
22 line 201 of my testimony, page 9, says the public
23 interest consideration has offsetting interests in
24 this proceeding.

25 And I am fully aware that the Commission has

1 to balance the interests of the, of the public
2 interest. And while there may be some advantages to
3 increase that 50 percent or less-than-50-percent
4 subscription in Lifeline, those -- that particular
5 benefit needs to be balanced with offsetting public
6 interest considerations.

7 MR. STEINHART: Your Honor, I have nothing
8 further at this time. Thank you.

9 THE COURT: Thank you, Mr. Steinhart.
10 Ms. Schmid?

11 MS. SCHMID: Thank you.

12 CROSS EXAMINATION

13 BY MS. SCHMID:

14 Q. Mr. Meredith, in your comments today you
15 referenced an increase in the number of people using
16 the Lifeline-type service; is that correct?

17 A. Yes. Nationally -- and this is on page 6 of
18 my direct testimony, starting on line 1 -- well, the
19 answer starts on line 113 of page 5. And there is
20 an -- there's been an increase from 2006 supporting
21 approximately \$700 million in Lifeline support
22 federally to over 1.4 billion in 2011.

23 So nearly a doubling of the -- of Lifeline
24 support in that period of time. And if I recall the,
25 if I recall the data, your Honor, the spike actually

1 started I believe in like 2009/2010, with the advent
2 of free Lifeline low-income mobile support that was
3 started through an FCC order.

4 Q. Thank you. Are you aware of economic
5 conditions that may have affected the need for and use
6 of Lifeline, such as rising unemployment, a rapidly-
7 increasing number of houses being foreclosed, people
8 unable to find work, and things like that, that have
9 occurred from say 2007 through the current time?

10 A. Yes. There certainly are other issues
11 related to the adoption of low-income Lifeline
12 programs. So the correlation is not 1 to 1, as I, as,
13 as -- I hope you don't get that inference that it's 1
14 to 1.

15 But there is a, there is a very high
16 correlation between the increase in USF and the
17 promotion of the free low-income service from mobile
18 service providers.

19 Q. But nonetheless, wouldn't you agree that
20 rising unemployment and a decline in the general
21 economic health of the United States also has occurred
22 during this period?

23 A. Yes, I think I just did that.

24 MS. SCHMID: Thank you.

25 THE WITNESS: Uh-huh.

1 THE COURT: Thank you. Mr. Proctor, any
2 questions?

3 MR. PROCTOR: Yes, thank you.

4 CROSS EXAMINATION

5 BY MR. PROCTOR:

6 Q. Mr. Meredith, do you have before you the
7 August 2010 petition that i-wireless filed with this
8 Commission?

9 A. Yes.

10 Q. Would you look at Exhibit 4 to their
11 application, please?

12 A. Yes, I have Exhibit 4. It's a map entitled:
13 "2008 Lifeline Participation Rates By State."

14 Q. And for Utah -- mine's black and white, so my
15 Utah appears to be either below 10 percent or between
16 10 and 20 percent for Lifeline participation rates
17 throughout the State of Utah as of 2008, correct?

18 A. I have, I have a color copy.

19 Q. Oh. And?

20 A. And Utah is colored in the color blue. And
21 blue, according to the legend, is 10 to 20 percent.

22 Q. Okay.

23 A. So yes, in 2008 that is the case. However,
24 this data is available fairly readily through the
25 FCC's database. The Wireline Competition Bureau has

1 this data, and they publish it annually. I don't know
2 exactly why 2008 was chosen, because 2009 and maybe
3 2010 would be available as well from that, from that
4 public source.

5 Q. Have you looked at the 2009 and 2010 data?

6 A. I have looked at the 2009 data. Not for Utah
7 though. I have interests in other states, and my
8 interest in Puerto Rico requires me to look at that
9 because they have a Lifeline program as well.

10 Q. Is it also presented on a map?

11 A. It's not presented on a map. It's not
12 presented on a map. Puerto Rico doesn't --

13 Q. So the important thing is --

14 A. Puerto Rico doesn't get on the map.

15 Q. Right.

16 A. But, um.

17 Q. The important thing is, Mr. Meredith, it's
18 available but you, too, didn't look at it, right?

19 A. For this --

20 Q. Utah.

21 A. For this proceeding? No, I did not.

22 Q. Well, for any proceeding. Did you look at
23 Utah for 2009 or 2010?

24 A. No. I do not know if 2010 is available. But
25 I did not look in -- for Utah in 2009.

1 Q. All right. Is URTA concerned that a rural
2 Lifeline wireline participant will transfer their
3 Lifeline eligibility to a wireless Lifeline provider?

4 A. This is the -- one of the hypotheticals that
5 Mr. Mecham posed to Mr. Coleman.

6 Q. I'm asking you, sir.

7 A. And --

8 Q. Is URTA concerned about that shift of
9 service: A Lifeline from a wireline from a rural
10 incumbent to a wireless Lifeline?

11 A. I do not know.

12 MR. PROCTOR: Thank you. I have no further
13 questions.

14 THE COURT: Thank you. All right. Any
15 redirect, Mr. Mecham?

16 MR. MECHAM: None.

17 THE COURT: All right. Anything else, then,
18 that we need to cover? Actually, you know, just one
19 administrative item. We don't have a copy of the
20 stipulation is my understanding, right, filed with us
21 yet?

22 So if we could -- I guess Mr. Steinhart, I'll
23 have you do this: If you can file a stipulation and
24 just reflect the removed information that we discussed
25 previously, that Ms. Murray discussed. Removing URTA

1 and Salt Lake Community Action Program from the first
2 paragraph of that stipulation?

3 MR. MECHAM: There's also, in paragraph 8, it
4 says all parties.

5 THE COURT: So if you could just submit that.
6 Or whoever is gonna submit the stipulation, just make
7 sure it's done.

8 MR. STEINHART: Will do, your Honor.

9 THE COURT: All right, thank you. Anything
10 else that we need to discuss today?

11 MR. PROCTOR: No.

12 THE COURT: No? All right. Thank you very
13 much.

14 MR. MECHAM: Will there be a briefing?

15 THE COURT: Oh, yeah. I'm sorry. Let's do
16 post-hearing briefs schedule. Today is the 25th? Oh,
17 I'm sorry, 26th. So.

18 MS. SCHMID: If I may, I think in this case
19 it would be of particular benefit to have the
20 transcript available during the brief-writing process.
21 So I would request --

22 THE COURT: Okay.

23 MS. SCHMID: -- that we have at least two
24 weeks after the transcript is available to prepare
25 this.

1 THE COURT: When do you think the transcript
2 will be available?

3 (A discussion was held off the record.)

4 THE COURT: So from May 11th, then, we'll
5 plan to have the transcript on May 11th. And then
6 May 25th, which is a Tuesday, initial post-hearing
7 briefs.

8 MR. MECHAM: So that's a Wednesday?

9 THE COURT: I'm sorry, Wednesday.
10 Post-hearing briefs Wednesday, May 25th. And then
11 June 8th -- and that's all parties. Initial
12 post-hearing briefs by all parties. And June 8th
13 responsive post-hearing briefs.

14 Everybody okay with those dates?

15 MS. SCHMID: Yes.

16 THE COURT: No objections?

17 MR. PROCTOR: I'm okay with, well, with the
18 dates. Will the Court permit a party to file only a
19 reply brief?

20 THE COURT: Sure. That's fine.

21 MR. PROCTOR: Thank you.

22 THE COURT: Okay. All right. Thank you very
23 much.

24 (The hearing was concluded at 11:01 a.m.)

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C E R T I F I C A T E

STATE OF UTAH)
) ss.
COUNTY OF SALT LAKE)

This is to certify that the foregoing proceedings were taken before me, KELLY L. WILBURN, a Certified Shorthand Reporter and Registered Professional Reporter in and for the State of Utah.

That the proceedings were reported by me in stenotype and thereafter caused by me to be transcribed into typewriting. And that a full, true, and correct transcription of said proceedings so taken and transcribed is set forth in the foregoing pages, numbered 1 through 85, inclusive.

I further certify that I am not of kin or otherwise associated with any of the parties to said cause of action, and that I am not interested in the event thereof.

SIGNED ON THIS 7th DAY OF May, 2011.

Kelly L. Wilburn, CSR, RPR
Utah CSR No. 109582-7801

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