California LifeLine Program Examination

Virgin Mobile USA, LP (U-4327-C)

For July 1, 2016 to June 30, 2017

Utility Audit, Finance and Compliance Branch

December 27, 2019

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Acknowledgement

The following California Public Utilities Commission staff contributed to the completion of this report:

Angie Williams, Tracy Fok, Frederick Ly, and Stanley Lee

Executive Summary

The Utility Audit, Finance and Compliance Branch (UAFCB) of the California Public Utilities Commission (CPUC) conducted an examination on Virgin Mobile USA, LP's (VMU or the carrier) compliance with applicable rules and regulations[1] with respect to the California LifeLine (LifeLine) Program for July 1, 2016 through June 30, 2017. As a result of our examination procedures, we noted one finding related to VMU's non-compliance with the applicable rules and regulations as described in the ***Finding and Recommendations*** section of this report.

The following is a summary of this finding:

- The carrier overclaimed a specific subsidy amount (SSA) of $364,812 and incurred interest penalty associated with said overclaim of $14,520 or a combined total of $379,332:

    1. The carrier failed to timely notify the LifeLine program's third-party administrator (TPA), Conduent, to remove six customers (out of a sample of 120) from the Lifeline program. Consequently, the number of eligible days for these customers should be disallowed accordingly and considered as errors in the sample. We then extrapolated the error rate in the sample to the whole population to derive a total over-claimed $50,652 in program subsidy with the associated interest penalty of $2,016.
    2. The carrier failed to provide the evidence of usage activity to substantiate the duration of the LifeLine program eligibility for one of the sampled customers. Consequently, the number of eligible days for this sampled customer should be disallowed and considered as an error in the sample. We then extrapolated the error rate in the sample to the whole population to derive a total over-claimed subsidy of $314,160 with the associated interest penalty of $12,504.

VMU is required to return a total of $379,332[2] ($364,812 in the overpaid SSA and $14,520 in the associated interest penalty) to the LifeLine Fund. In addition, the carrier should strengthen its internal controls over its TPA notification process to ensure timely removal of terminated LifeLine subscribers and over its LifeLine accounting and record retention process to ensure timely and proper substantiation of subscribers' usage activities for determination of LifeLine eligibility.

[1] Please refer to Appendix A – Rules and Regulations for the specific CPUC directives with respect to California LifeLine Program.

[2] Per VMU's response dated December 17, 2019 (see Appendix B), it agrees to pay back $379,380, a difference of $48. The minor difference is due to the removal of an insignificant finding. VMU is required to pay $379,332 back to the LifeLine Fund as indicated in the Executive Summary.

Background

California LifeLine (LifeLine) Program

In 1984, the California Public Utilities Commission (CPUC or Commission) created the Universal Lifeline Telephone Service (ULTS) program[3] (now known as California LifeLine Program) pursuant to the Moore Universal Service Telephone Act[4] to provide discounted telecommunications services to eligible low-income California households. The goal of the California LifeLine Program (LifeLine) is to make high quality, residential telephone services affordable to all qualified California households through discounts on eligible telecommunications services. The program is funded by a surcharge on all-end-user customer billings for intrastate telecommunications services, except for those enrolled in the LifeLine program. The surcharge is billed and collected by telecommunication carriers which, in turn, remit the surcharge monies to the Commission.

The CPUC is responsible for the oversight and supervision of the LifeLine program and maintaining an independent TPA to provide clearinghouse services for the LifeLine program.[5] During the examination period, Conduent was hired by the CPUC as the TPA. Conduent received and processed new program subscribers' applications and required supporting documentation to determine their eligibility. Conduent also performed recertification of existing LifeLine subscribers and determined their continued eligibility. Finally, Conduent collected, maintained, generated, and provided important information such as, among other things, the LifeLine subscriber weighted average counts, new connection counts, disconnection and de-enrollment counts for eligible telecommunication carriers (ETC) to prepare and submit their monthly LifeLine reimbursement claims to the CPUC for the costs and revenue loss of providing discounted wireless services to LifeLine subscribers.

In 2010, the CPUC initiated revisions to the LifeLine program due to significant technological and regulatory changes in the telecommunications industry. In Decision (D.) 10-11-033, the CPUC addressed the most prominent problems confronting the LifeLine program and approved numerous changes including, but are not limited to, the following:

1. "de-linked" of California LifeLine from the AT&T basic rate structure.

2. Adopted an SSA methodology for reimbursing LifeLine providers and set the SSA at $11.50 effective July 1, 2011.

3. Capped the then current California LifeLine flat service rate of $6.84 and measured service rate of $3.66 until January 1, 2013.

4. Allowed non-traditional carriers, such as wireless carriers and Voice-Over-Internet-Provider (VoIP) companies, to participate in the LifeLine program.

In January 2014, the CPUC adopted further revisions to the LifeLine program to reaffirm its goal of providing "high-quality basic telephone service at affordable rates to the greatest number of California

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[3] D.84-11-028

[4] PU Code § 871 *et. seq.*

[5] Procedures for the administration of the California LifeLine Program are outlined in General Order (GO) 153.

residents…by making residential service affordable to low-income citizens…"[6] In D.14-01-036, the CPUC adopted rules that authorized the addition of wireless services to the LifeLine program as to enable eligible low-income Californians access to wireless voice, text, and data services. The decision requires all program service providers to have a valid Certificate of Public Convenience and Necessity, Wireless Identification Registration, and/or Franchise operating authority from the Commission. The decision also requires all wireless service plans offered by carriers to the LifeLine program subscribers to be approved by the CPUC. Moreover, this decision approves:

1. The SSA of $5.75 per month and per subscriber to the LifeLine providers that offer qualifying wireless service plans with 501-999 voice minutes.

2. The SSA of $12.65 per month and per subscriber to the LifeLine providers that offer qualifying wireless service plans with 1,000 or more voice minutes.

3. The reimbursement amount for service connection/activation and service conversion charges, which are capped at $39.00 per participant per instance.

The SSA for wireless service plans with 1,000 or more voice minutes increased to $13.20 per month in 2016 and $13.75 per month in 2017 respectively. When combining the subsidies from the LifeLine Fund and the federal universal service fund for carriers that provide LifeLine discounted services to eligible subscribers, the affordability of voice, text, and data plans to eligible low-income Californians has improved significantly.

Virgin Mobile USA, L.P.(VMU)

VMU, a Delaware-based company, is an ETC that provide both federal and California services to qualifying customers. The carrier offers wireless LifeLine services under the brand name of "Assurance Wireless." During the examination period, the carrier offered its LifeLine customers with unlimited voices and text and 500 MB of data per month. Since VMU receives LifeLine subsidies from both federal and California governments to fully cover the costs and revenue loss of the LifeLine discounted services, the carrier did not bill its customers for such services and offered them for free of charges.

VMU is wholly owned by Sprint. However, it is considered as an independent carrier under the CPUC's jurisdiction and thus has a separate Utility identification number from Sprint. VMU received a total of $93,620,010 in California subsidy from the LifeLine Fund in the examination period of July 1, 2016 through June 30, 2017. The carrier had a total 410,471 LifeLine subscribers as of June 30, 2017.

[6] See PU Code § 871.7(a)

Examination Engagement Process

CPUC Examination Statutory Mandate

Pursuant to the California Public Utilities Code (PU Code), Section 274, the Commission shall conduct a financial and compliance audit (or examination) of program-related costs and activities at least once every three years. Furthermore, pursuant to PU Code, Sections 314.5 and 314.6, Decision (D.)14-01-036, Ordering Paragraph (OP) 30, and the General Order (GO) 153, Section 13, the Commission shall inspect and examine the books and records of the wireless service providers to ensure regulatory compliance.

Examination Objectives and Scope

The overall objective of this examination is to determine whether VMU complied with the applicable rules, regulations, and requirements with respect to the LifeLine Program's related costs, subsidies, and activities for the period of July 1, 2016 through June 30, 2017. Specifically, UAFCB examined the LifeLine reimbursement claims that VMU submitted to the CPUC for the examination period to verify whether the costs and subsidies included in these claims were in compliance with all applicable CPUC rules and regulations, including but are not limited to, GO 153, D.10-11-033, and D.14-01-036.

We focused our examination on the following specific objectives:

1. Determining whether the LifeLine reimbursement claims that VMU submitted to the CPUC were accurate.

2. Evaluating VMU'S internal controls pertaining to the following aspects of its LifeLine program operation:

    a. Subscriber enrollment and de-enrollment process.

    b. Subscriber data collection, compilation, monitoring, and retention processes.

    c. Subscriber data exchange process between VMU and the TPA (or Conduent).

    d. Process of determining and accounting for subscriber service usage data that impacted LifeLine reimbursement received by VMU.

    e. Process of preparing the LifeLine reimbursement claims.

3. Determining whether the carrier included in its LifeLine reimbursement claims only those subscribers who were approved by the TPA for meeting the eligibility criteria for obtaining and retaining the program benefits as specified in GO 153, Section 5.

4. Determining whether the carrier incorrectly claimed against the LifeLine Fund for revenue loss and costs from providing the LifeLine program discounts to any subscribers who had more than one program telephone service line but were not eligible to receive more than one LifeLine service lines in accordance with GO 153, Section 5.1.7.

5. Determining whether the carrier incorrectly claimed reimbursement from the LifeLine Fund for connection charges of the LifeLine subscribers who failed to qualify for the LifeLine discounts in accordance with D.14-01-036, Conclusion of Law 41.

6. Determining whether the carrier correctly claimed reimbursement for the discount of the pre-paid wireless telephone services based on the date of LifeLine program approval or the LifeLine service activation date, whichever is later, in accordance with D.14.01-036, Conclusion of Law 41.

7. Determining whether the carrier correctly claimed reimbursement in accordance with D.14-01-036, OPs 7 and 8 for providing the LifeLine discounts on recurring charges.

8. Determining whether the carrier correctly claimed reimbursement in accordance with D.14-01-036, OP 10 for providing the LifeLine discounts on connection and activation charges.

9. Determining whether the carrier correctly claimed reimbursement for administrative expenses in accordance with D.14-01-036, p. 38, footnote 22 and D.10-11-033, OP 18.

10. Determining whether the carrier only offered LifeLine plans approved by the CPUC in accordance with D.14-01-036, p. 45, 2nd Paragraph and OPs 18 and 24(b)(iii).

11. Determine whether, before providing the California LifeLine Discount, the wireless carriers charged the same nonrecurring and recurring service rates for both California LifeLine customers and other retail customers (GO 153 section 8.4).

12. Determining whether the carrier promptly removed the LifeLine subscribers with inactivity (no service used) for a continuous 90-non-usage days (for period prior to December 2, 2016) or 45-non-usage days (for period on and after December 2, 2016) in accordance with 47 CFR Section 54.405(e)(3).

13. Assessing a correct amount of interest penalty on any applicable program overpayments that the carrier received from the LifeLine Fund in accordance with GO 153, Sections 9.9.1 and 13.4.

Both the CPUC and the carrier depend on the TPA (or Conduent) to verify and determine the LifeLine eligibility and the continuity of such eligibility for subscribers to enroll and remain in the LifeLine program. Because these responsibilities rest on the TPA (or Conduent), verifying and determining the subscribers' LifeLine eligibility or the continuity of such eligibility were not part of the scope of this examination.

Records Examined

We requested, obtained, and examined the following records of VMU for our examination of the LifeLine program related costs, subsidies, and activities and the LifeLine reimbursement claims that VMU submitted to the CPUC for the examination period.

1. The carrier's weighted average reports (WAR), new connection reports, and disconnection reports.
2. The carrier's monthly LifeLine reimbursement claims submitted to the CPUC.
3. The carrier's written policies and procedures related to the LifeLine program.
4. The carrier's contracts entered with third-party vendor related to the LifeLine program activities.
5. The carrier's third-party vendor's written policies and procedures related to the LifeLine program activities.
6. The carrier's responses to the UAFCB's internal control questionnaires (ICQ).
7. Samples of records (e.g. daily feeds and return feeds) exchanged between VMU and the TPA (or Conduent).
8. List of subscribers removed from the LifeLine program.
9. Supporting call detail records (CDRs) and/or usage and activity records for the sampled records/transactions.
10. Supporting documentation (e.g. approved CPUC advice letters) indicating the CPUC's approved LifeLine plans that VMU could offer to subscribers.
11. Supporting documentation substantiated administrative expenses included in the LifeLine reimbursement claims.
12. List of retail and LifeLine wireless service plans offered to California customers.
13. Three-month nonfinancial commercial paper rates from Federal Reserve website for interest to be assessed on claim overpayments from the LifeLine Fund.

Procedures Performed

To achieve the aforementioned examination objectives, we performed the following procedures for our examination of VMU'S compliance with respect to its LifeLine program-related costs, subsidies, and activities and its LifeLine reimbursement claims submitted to the CPUC for the period of January 1, 2017 through December 31, 2017:

Planning/Risk Assessment:

1. Gathered and reviewed the carrier's responses to the Internal Control Questionnaire, including reviewing the carrier's relevant policies and procedures with respect to its LifeLine program operation and information system, to determine if there were any internal control weaknesses and other high-risk areas.

2. Reviewed VMU'S monthly LifeLine reimbursement claims to determine if any material anomaly to be addressed:

   a. Reconciled new connections and weighted average counts between the carrier's monthly LifeLine reimbursement claim forms and the new connection reports and WAR generated by the TPA.
   b. Verified the rates of SSA and connection charges reported in VMU'S monthly LifeLine reimbursement claim forms to applicable CPUC's directives for accuracy.
   c. Verified the LifeLine service plans offered by the carrier to applicable CPUC advice letters to determine whether the service plans were approved by the CPUC.

Sampling and Testing:

3. Stratified the whole LifeLine subscriber population with respect to the new connection and weighted average counts reported in the carrier's monthly LifeLine reimbursement claims submitted for the examination period into four groups with each group shared similar characteristics and risk factors. These four groups were: New and Active Subscribers, New and Terminated Subscribers, Existing and Active Subscribers, Existing and Terminated Subscribers. Using a non-statistical sampling (random) methodology, we selected 60 sampled transactions from each of the four stratified groups, a total of 240 sampled transactions. We designed our sample in such a way that we believe would enable us to detect systemic errors and provide a high level of assurance for our conclusions about the population.

4. Verified the sampled transactions to relevant supporting documentation obtained from VMU, such as CDR and usage and activity records to determine the correct program benefit start and end dates for compliance with the applicable regulatory requirements and accounting of proper LifeLine reimbursement.

   a. The correct program benefit start dates were determined based on the LifeLine benefit approval dates or the service activation dates (e.g. 1st usage dates), whichever were later.

b. The correct program end dates were determined based on program removal dates or LifeLine service disconnection dates, whichever were earlier.
c. The correct program end dates were also determined based on subscribers' inactivity of LifeLine service usage in accordance with 47 CFR, Section 54.407(c)(3).

5. Based on the aforementioned sample testing, systematic errors were detected. Extrapolated the errors to arrive at the weighted average count adjustment and the service connection charge adjustment.

6. Verified VMU'S administrative expenses included in its LifeLine reimbursement claim forms to relevant supporting documentation for reasonableness.

7. Determine the amount of claim overpayment to VMU based on the finding derived from the above testing procedures.

8. Assessed interest on the claim overpayment by applying the applicable interest rates of the three-month nonfinancial commercial paper (compounded daily) starting from the date of the overpayment to the audit completion date.[7]

The above procedures performed resulted in the finding and recommendations identified in the Finding and Recommendations section of this report. Finally, we conducted an exit conference on July 3, 2019, upon completion of our fieldwork to communicate the results.

[7] For practical purpose, the period used in calculating the accrued interest amount started from the date of the overpayment to June 30, 2019.

Finding and Recommendations

Finding 1: VMU over claimed $364,812 in LifeLine program subsidy amount and incurred $14,520 in interest penalty

Condition:

1. The carrier failed to timely notify the TPA, Conduent, to remove subscribers from the Lifeline program. Timely notification means that the carrier should report to Conduent for the removal of a terminated subscriber from the Lifeline program on the day of the termination or the following business day. The program-end-dates from the Conduent's weighted average report used for filing the LifeLine claims sometimes occurred two to five days after the actual LifeLine program removal date in the carrier's system. Of our two samples "New and Terminated Subscribers" and "Existing and Terminated Subscribers," which included 120 subscribers that were removed from the Lifeline program, we found the carrier failed to timely notify Conduent to remove six subscribers from the Lifeline program. Based on the noted exception of these specifics, we determined that the exceptions appear to be systemic, and therefore we extrapolated the results over the entire respective populations and arrived at a total of over-claimed $50,652 in program subsidy with associated interest penalty of $2,016, or a combined total of $52,668.

2. Of the sample related to "Existing and Terminated Subscribers," which contained 60 subscribers, the carrier failed to support the recorded usage activity for one of the sampled subscribers. Due to not being able to justify the number of eligible days in the program for this sampled subscriber with the subscriber's usage supporting documentation, we disallowed the number of eligible days and the related subsidy claimed for this subscriber. In addition, we considered such a disallowance as an error in the sample. We then extrapolated the error rate in the sample to the population to arrive at a total over claimed subsidy of $314,160 with the associated interest penalty of $12,504, or a combined total of $326,664.

Criteria:

1. GO 153, Section 9.8.8 - If a subscriber has his or her service disconnected or if a California LifeLine Service Provider is informed by the subscriber that the subscriber is no longer participating in California LifeLine and the California LifeLine Service Provider fails to remove the subscriber from California LifeLine and/or notify the California Lifeline Administrator, the Commission may reduce California LifeLine claim payments to the California LifeLine Service Provider attributed to that subscriber.

2. GO 153, Section 6.3.1 and 6.3.2 - All California LifeLine Service Providers must provide the California LifeLine Administrator with their California LifeLine subscriber/applicant activities by the end of the next business day after the service order completion.

3. GO 153, Section 9.11 - California LifeLine Service Providers have the burden of supporting and justifying any costs and lost revenues that they seek to recover from the California LifeLine

Fund. Failure to provide information requested by the Commission or CD is reasonable grounds to deny costs and lost revenues claimed by the California LifeLine Service Provider.

4. GO 153, Section 13.4 - California LifeLine Service Providers that promptly reimburse the California LifeLine Fund for an overpayment of California LifeLine claims found by a Commission audit shall pay interest on the amount of overpayment based on the Three-Month Commercial Paper Rate.

Cause:

1. The carrier has deficiencies in its internal control on the timely notification to the TPA regarding the removal of terminated LifeLine subscribers from the LifeLine program. The implementation of the carrier's policies and procedures in this area were not effective. Also, all the policies and procedures related to the LifeLine program were not documented.
2. The carrier has deficiencies in its internal control on accounting and maintaining relevant supporting documentation to substantiate its subscriber usage activities. The carrier does not have policies and procedures in place with respect to this area.

Effect:

The carrier has over claimed a total of $364,812 in program subsidy and incurred $14,520 in total interest penalty. In addition, if VMU does not improve its internal controls on its notification regarding subscriber usage activities to the TPA and its internal controls on accounting and maintaining relevant supporting information to substantiate subscriber usage activities, the problems of over-claiming the program subsidy are likely to continue.

Recommendations:

1. The carrier should pay back $379,332 to the LifeLine Fund. If VMU wants to offset the amount against its future California LifeLine claims, it must obtain permission first from the Communications Division of the CPUC.

2. The carrier should document all its policies and procedures with respect to the LifeLine program. In addition, the carrier should increase its oversight over the notification to the TPA regarding the removal of terminated LifeLine subscribers from the LifeLine program and ensure the timeliness of such notification.

3. The carrier should establish and implement policies and procedures regarding its internal controls on accounting and maintaining relevant supporting documentation to substantiate its subscriber usage activities.

See Appendix B of this report for VMU's Response.

Conclusion

In conducting our examination, UAFCB obtained a reasonable understanding of VMU's internal controls related to the California LifeLine program, where considered relevant and significant within the context of our examination objectives. UAFCB does not provide any assurance on VMU's internal control.

VMU's management is responsible for the development of its policies and procedures to ensure that its California LifeLine program related costs, subsidies, and activities adhere to the applicable CPUC directives. UAFCB examined the carrier's California LifeLine program related activities and reimbursement claims submitted to the CPUC to determine whether the program related costs, activities, and subsidies claimed and received by the carrier are in compliance with the applicable CPUC directives and supported by appropriate documentation.

UAFCB conducted this examination in accordance with PU Code, Sections 274, 314.5 and 314.6, D.14-01-036, OP 30, and the GO 153, Section 13. We planned and performed the examination to obtain sufficient and appropriate evidence to afford a reasonable basis for our conclusion based on our examination objectives. UAFCB believes that the evidence obtained provides a reasonable basis for our conclusion.

As a result of our procedures and sample section, UAFCB determined that except for Finding 1 noted in the Finding and Recommendations section, VMU is compliant with the CPUC's directives with respect to California LifeLine program related costs, subsidies, and activities for the examination period, July 1, 2016 through June 30, 2017.

The report is intended solely for the information and use of the CPUC and VMU and is not intended to be and should not be used by anyone other than these specified parties. However, this report is a matter of public record and its distribution is not limited.

Angie Williams, Director
Utility Audit, Finance, and Compliance Branch and
Enterprise Risk and Compliance Office

Cc: See next two pages

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Appendix A – Rules and Regulations

Rule/Regulations	Reference	Description
PU Code	Section 274	The commission may on its own order, whenever it determines it to be necessary, conduct compliance audits on the compliance with commission orders regarding each program subject to this chapter.
	Section 581	Guidance providing the Commission the authority to require a utility to file complete and correct reports in prescribed form and detail.
	Section 582	Guidance providing the Commission the authority to require a utility to timely provide applicable records.
	Section 584	Guidance providing the Commission the authority to require a utility to furnish reports to the commission.
	Section 871	This article shall be known and may be cited as the Moore Universal Telephone Service Act.
GO 153	Section 5	Guidance regarding eligibility criteria for obtaining and retaining California LifeLine.
	Section 6	Guidance regarding the California LifeLine Administrator.
	Section 8	Guidance regarding California LifeLine rates and charges.
	Section 9	Guidance regarding reports and claims for reimbursement of California LifeLine-related costs.
	Section 13	Guidance regarding audits and records.
Decisions	D.84-11-028	Investigation on the Commission's own motion into the method of implementation of the Moore Universal Telephone Service Act.
	D.10-11-033	Decision adopting forward looking modifications to California LifeLine in compliance with the Moore Universal Telephone Service Act.
	D.14-01-036	Decision adopting revisions to modernize and expand the California LifeLine program.
Advice Letters	AL No. 13 and 15	LifeLine Service Plans Offered by VMU and approved by CPUC.
47 CFR	§54.405(e)(3)	Guideline for de-enrolling Lifeline subscribers for non-usage.
	§54.407(c)	List of subscriber's activities constituting a LifeLine usage service.

Sprint

December 17, 2019

By Electronic Mail

California Public Utilities Commission
UAFCB
505 Van Ness Avenue
San Francisco, CA 94102-3298

Re: Virgin Mobile USA, L.P. ("VMU") Response to UAFCB Final Audit Report

Dear Ms. Fok:

This letter is sent in response to the California Public Utilities Commission's Utility Audit, Finance and Compliance Branch's ("UAFCB") distribution of the Virgin Mobile USA, L.P. (U-4327-C) final audit report for July 1, 2016 to June 30, 2017 audit period ("Audit Report").

VMU is in agreement with Finding 1of the Audit Report at page 9, and as reiterated in the "Recommendations" section on page 10, requiring VMU to reimburse $379,380 to the California LifeLine fund ("Audit Reimbursement Total"). As set forth in VMU's letter to UAFCB dated July 30, 2019 ("VMU Settlement Letter"), VMU has requested that the Audit Reimbursement Total be deducted from VMU's California LifeLine subsidy reimbursement for the month following the closure of the audit. On 12/12/19, UAFCB notified VMU that it does not have jurisdiction to agree to an offset, despite the conditions for settlement as set forth in the VMU Settlement Letter. Due to this misunderstanding, VMU requests that UAFCB work together with VMU to request that the Communications Division allow the Audit Reimbursement Total be offset from VMU's next calendar month's subsidy reimbursement.

VMU also takes note of UAFCB's Recommendations #2 and #3, as set forth on Page 10 of the Audit Report. In response to the UAFCB's recommendations and as part of VMU's overall compliance efforts, it is implementing a process to document various policies and procedures. VMU is also working with Solix to address UAFCB's concerns regarding oversight over notifications to the CPUC's Third Party Administrator regarding removal of LifeLine subscribers and to further ensure timeliness of such removals. Additionally, acting on UAFCB's recommendations, VMU is looking at ways to more easily access the voluminous data that it maintains regarding subscriber usage activities.

VMU appreciates UAFCB's work on this audit. Thank you for your time and consideration.

With best wishes.

Jay Franklin
Director of Revenue and Cost Accounting