

BEFORE THE IDAHO PUBLIC UTILITIES COMMISSION

IN THE MATTER OF THE APPLICATION)	
OF BUDGET PREPAY, INC. DBA BUDGET)	CASE NO. BPP-T-12-01
MOBILE FOR DESIGNATION AS AN)	
ELIGIBLE TELECOMMUNICATIONS)	
CARRIER PURSUANT 47 U.S.C. § 214(e)(2).)	ORDER NO. 32723
)	

On July 19, 2012, Budget PrePay dba Budget Mobile filed an Application requesting designation as an “eligible telecommunications carrier” (ETC) throughout the State of Idaho “for the limited purpose of receiving support from the federal Universal Service Fund (USF)” to provide prepaid service under its low-income section for Lifeline Assistance (“Lifeline”). Application at 2. Budget intends to provide wireless telecommunications services to eligible low-income customers participating in the Idaho “Lifeline” program. The Lifeline program is intended to provide telecommunications service to eligible low-income customers by using USF revenues to make such services more affordable. Idaho participates in the residential Lifeline program pursuant to *Idaho Code* § 56-901. *See* Order No. 21713.

On December 20, 2012, the Commission issued a Notice of Application and Notice of Modified Procedure requesting written comments on this Application. *See* Order No. 32700. Commission Staff was the only party to submit written comments. Based upon our review of the Application and the comments, we approve Budget’s Application to become an ETC for the limited purpose of receiving federal Lifeline support.

THE APPLICATION

Budget PrePay is a Louisiana corporation authorized to conduct business within Idaho. *Id.* at 8. Budget is a competitive local exchange carrier (CLEC) that provides basic local exchange services and long-distance services in 42 states. *Id.* at 2. Budget asserts that it meets all of the requirements of Section 214(e)(1) of the federal Telecommunications Act to be designated as an ETC. 47 U.S.C. § 214(3). More specifically, Budget asserts it is able to provide the support services required for ETC designation, including access to the public switch

telephone network, local calling services, access to emergency services, as well as access to operator services and directory assistance.¹

Budget intends to initially offer qualifying Lifeline customers a choice of two prepaid calling plans. The first plan is a “talk & text” wireless plan that provides 4,000 monthly minutes of combined local/toll voice services and texting for \$25 per month. Each text will count as one voice minute. The second monthly plan is offered at no cost to the customer but is limited to 250 minutes of local/toll usage. Customers may also purchase additional minutes of usage under the second plan. Application at 16-17. Budget also proposes to offer its eligible Lifeline customers toll blocking and toll control services. While these toll limitation services do not need to be offered for Lifeline services, these services allow Budget’s customers to protect against unexpectedly larger bills. Application at 6.

If approved for ETC designation Budget intends to offer services using its own facilities, or in combination with its own facilities and the resale of other carriers’ facilities.² *Id.* at 4-5. In addition, it intends to advertise the availability of its services and related charges using media of general distribution. *Id.* at 5. “Budget will use a variety of media resources, including point of sale material of various kinds, onsite merchandising, banners, customer direct mail, customer brochures, television, and print media.” *Id.* at 7.

Budget’s proposed ETC service area for Idaho is comprised of wire centers for both non-rural and rural incumbent local exchange carriers (ILECs). More specifically, Budget proposes to provide ETC services in the CenturyLink and Frontier service areas, as well as in the wire centers of several rural ILECs.³ Application, Exh. 2.

Budget’s Application outlines how it will guard against potential fraudulent use of Lifeline service by establishing “one-per-household” procedures for Lifeline designation. In addition, the Company will implement a non-usage policy to ensure that USF funds are received

¹ In December 2011, the FCC amended the list of required services for ETC designation by removing dual tone signaling; single-party service; and access to operator services, interexchange services, and directory assistance. *In the Matter of Lifeline and Link Up Reform and Modernization, Report and Order and Further Notice of Proposed Rulemaking*, 27 F.C.C. Rcd. 6656 at ¶ 365 (Feb. 6, 2012).

² Budget’s underlying wireless providers are Sprint and Verizon Wireless. Application at 13.

³ As outlined in greater detail in Exhibit 2, Budget proposes that its ETC service area include the wire centers of 13 rural ILECs including: Albion Telephone; Cambridge Telephone; Columbine Telco; Direct Communications Rockland; Farmers Mutual; Filer Mutual; Fremont Telecom; Inland Telephone; Mud Lake Telephone; Oregon-Utilities; Potlatch Telephone; Project Mutual; and Silver Star Telephone.

for only those customers who actively use their Lifeline services. Budget indicates that it will deactivate customers for non-usage and determine eligibility by access to electronic data bases. It further maintains that its certification forms for Lifeline service will include perjury language. Application at 23-24.

Budget asserts that its ETC designation will be in the public interest. In particular, Budget believes that providing “discounted wireless service in both rural and urban areas is consistent with the public interest.” *Id.* at 20. Budget’s two Lifeline plans will be provided to eligible telecommunications customers “without the requisite credit check, deposit, service activation fees, minimum service periods and contract requirements of the more traditional wireless service providers.” *Id.* at 21. Budget also commits to complying with any applicable Lifeline eligibility requirements developed by the FCC, this Commission, or the Idaho Legislature. *Id.* at 24-25. Consequently, Budget requests that the Commission designate it as a wireless ETC throughout Idaho for the purpose of receiving federal USF support for Lifeline services. Budget also requests that the Commission “either find inapplicable or waive [reporting] requirements related solely to high-cost funding, including initial and annual provision of a network improvement plan, provision of related progress reports, and [usage] certification . . . of high-cost funds.” *Id.* at 25-26.

STAFF COMMENTS

Staff observed that the FCC’s *Reform and Modernization Order* also conditionally granted forbearance from the Communications Act’s facility requirements for all carriers seeking Lifeline-only ETC designation. Staff notes that Budget’s compliance plan was reviewed and approved by the FCC on May 25, 2012. Comments at 4. Consequently, the FCC granted to Budget forbearance subject to the following conditions: (1) compliance with certain 911 and enhanced 911 (E911) public safety requirements; and (2) approval of a compliance plan by the FCC’s Wireline Competition Bureau. *Id.*

The FCC’s *Reform and Modernization Order* also amended the FCC’s regulations regarding ETC network improvement plans found at 47 C.F.R. § 54.202. *Id.* at 5-6. In particular, Staff notes that the FCC no longer requires a network improvement plan for Lifeline-only ETCs. Consequently, Staff believes Budget is exempt from Idaho’s two-year network improvement plan. *Id.* at 6.

A. Public Interest Considerations

Staff asserts there are two primary considerations that merit discussion when considering whether an application for ETC designation is in the public interest. First, Staff observes that Budget states that it will contribute to the Idaho Telephone Service Assistance Program (ITSAP) and to the Idaho Emergency Communications Act (IECA) fund. Application at 22. Staff notes that Budget has yet to remit any ITSAP or IECA fees because the Company does not currently have any customers in Idaho. Comments at 5.

Staff also believes that the Commission should weigh whether the potential benefit of ETC designation outweighs the potential harms. More specifically, Staff examined whether Budget's Application for ETC designation presents "cream skimming" issues. Staff concludes that Budget's ETC Application makes the cream skimming analysis moot. Consequently, Staff did not object to Budget's Lifeline-only ETC designation for those 132 exchanges listed in Exhibit 2 of its Application. *Id.* at 5.

B. Ability to Remain Functional in Emergencies

Budget states that it has the ability to remain functional in emergency situations in accordance with the Idaho ETC Order and Section 54.202(a)(2) of the FCC's Rules. 47 C.F.R. § 54.202(a)(2). Budget discloses that: (1) it designed its geographically located switching infrastructure in an effort to eliminate a single isolated power incident from affecting traffic on its network; (2) all facilities are equipped with both AC and DC battery backup as well as generators; (3) all critical equipment is supplied with two separate power sources; (4) its network is maintained with multiple primary and redundant paths; and (5) the voice network switching infrastructure is designed to advance to the next termination carrier in route should a failure occur. In addition, Budget maintains "24X7X365" support agreements on all key systems. Budget will also rely on the Company's underlying wireless carriers' access to Cell Site On-Wheels and Satellite On-Light-Trucks. Application at 11-13. Staff believes Budget satisfies this functional requirement.

C. Other ETC Designation Requirements

Staff observed that the Commission has promulgated additional requirements for ETC designation as detailed in Appendix 1 of Order No. 29841. These requirements are discussed in more detail below.

1. Common Carrier Status. Budget is a common carrier as defined in U.S.C. Title 47. Comments at 5.

2. Provide the Universal Services. Budget will provide each of the supported services identified in 47 C.F.R. § 54.101, as amended by the FCC on December 23, 2011 and February 6, 2012, throughout its designated service area. *Id.* at 6.

3. Advertising. Budget will advertise the availability and rates for its Lifeline services described in the Application through media of general distribution. *Id.* at 7.

4. The Commitment and Ability to Provide Supported Services. Consistent with the requirements of 47 C.F.R. § 54.201(d)(1), Budget states that it is able to offer all of the services and functionalities supported by the federal USF throughout its designated service area. Budget also notes that the FCC has provided a blanket forbearance authorizing the Company to provide Lifeline services without use of its “own facilities” so long as it meets E911 access requirements and, therefore, satisfies the requirements of U.S.C. § 214(e)(1)(A) and 47 C.F.R. § 54.201(d). *Id.* at 9.

5. A Commitment to Consumer Protection and Service. Budget states it has complied with the Cellular Telecommunications and Internet Association’s (CTIA) Consumer Code for Wireless Service. “Through the use of resold services and its own facilities, Budget will be able to provide the same quality and reliability as that currently provided by the [underlying carriers].” *Id.* at 14.

6. Description of the Local Usage Plan. Budget states that it will offer two prepaid wireless service plans as well as a Tribal Lifeline offering. These plans include a combination of local and domestic long distance calling and texting as described earlier under Budget’s Lifeline Service Offering. *Id.* at 16-17.

7. Tribal Notification. The Company will provide Tribal notifications. The applicable tribal areas include those of the Nez Perce Tribe, the Shoshone-Bannock Tribe, and the Coeur d’Alene Tribe. *Id.* at 18

Staff believes Budget meets the aforementioned ETC designation requirements where applicable for a Lifeline-only ETC designation.

In summary, Staff believes that the Application demonstrates the Company’s commitment to fulfill the obligations of an ETC in Idaho. The Company will provide all universal services supported by the federal USF throughout its service territory; it has addressed

all of the public interest questions that accompany an ETC application; the Company's compliance plan has been approved by the FCC; and Budget will provide multiple pricing plans which will increase customer choice for low-income service in Idaho. Budget also states it will contribute to the state ITSAP and IECA programs. Accordingly, Staff believes Budget's Application for designation as an ETC is in the public interest and should be approved for the 132 wire centers listed in Exhibit 2.

FINDINGS

The Commission has reviewed the Application of Budget PrePay for designation as a Lifeline-only ETC. Based upon our review of the Application and comments, we find that Budget's Application demonstrates a commitment to fulfill the obligations of a Lifeline-only ETC in Idaho. We further find that the Company will provide all universal services supported by the federal USF throughout its proposed 132 exchange service territory and has adequately addressed the public interest standards. Moreover, we find that Budget's two Lifeline calling plans will increase customer choice for eligible low-income customers. We further find that Budget will contribute to the ITSAP and IECA funds. Accordingly, we approve Budget PrePay's Application for Lifeline-only ETC designation so that it may receive support from the federal USF.

We further find that it is appropriate to waive ETC reporting requirements related to the network improvement plan, progress reports, and usage certification of the high-cost funds.

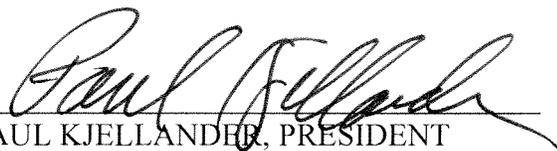
ORDER

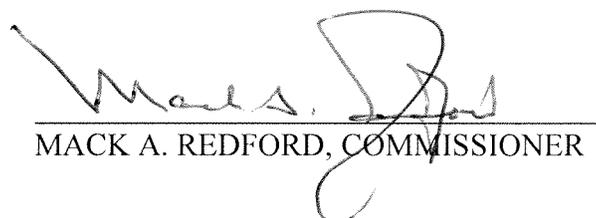
IT IS HEREBY ORDERED that Budget PrePay dba Budget Mobile's Application for designation as a Lifeline-only ETC is approved.

IT IS FURTHER ORDERED that Budget comply with all contribution requirements to the ITSAP and IECA funds once it begins providing Lifeline service to eligible low-income customers.

THIS IS A FINAL ORDER. Any person interested in this Order (or in issues finally decided by this Order) or in interlocutory Orders previously issued in this Case No. BPP-T-12-01 may petition for reconsideration within twenty-one (21) days of the service date of this Order with regard to any matter decided in this Order or in interlocutory Orders previously issued in this case. Within seven (7) days after any person has petitioned for reconsideration, any other person may cross-petition for reconsideration. See *Idaho Code* § 61-626.

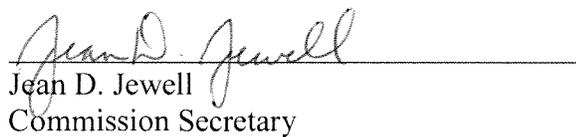
DONE by Order of the Idaho Public Utilities Commission at Boise, Idaho this 23rd
day of January 2013.


PAUL KJELLANDER, PRESIDENT


MACK A. REDFORD, COMMISSIONER


MARSHA H. SMITH, COMMISSIONER

ATTEST:


Jean D. Jewell
Commission Secretary

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