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BEFORE THE ARIZONA CORPORATION COMMISSION

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TOM FORESE
Chairman
DOUG LITTLE
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Arizona Corporation Commission

DOCKETED

MAY 12 2017

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T-04079A-17-0139

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AZ CORP COMMISSION
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2017 MAY 12 P 4: 24

IN THE MATTER OF THE
APPLICATION OF BUDGET PREPAY,
INC., FOR APPROVAL OF
RELINQUISHMENT OF ITS WIRELESS
ELIGIBLE TELECOMMUNICATIONS
CARRIER DESIGNATION AND FOR
APPROVAL OF WITHDRAWAL OF ITS
ARIZONA TARIFF C.C. NO. 1

DOCKET NO. _____
APPLICATION

Budget PrePay, Inc. ("Budget PrePay"), by its counsel, submits this Application to respectfully request approval to relinquish its Eligible Telecommunications Carrier ("ETC") designation in Arizona,¹ and for approval to withdraw its Arizona Tariff C.C. No. 1.² Budget PrePay requests that the relinquishment be effective July 5, 2017, or upon Commission approval, and that its Informational Lifeline Tariff may be withdrawn on or about the same date.

¹ *In the Matter of the Application of Budget PrePay, Inc. dba Budget Phone, Inc. for Designation as a Non-Rural Wireless Eligible Telecommunications Carrier*, Docket No. T-04079A-11-0362, Order, Decision No. 73577 (Nov. 21, 2012) ("Decision No. 73577").

² Budget PrePay Inc., Arizona C.C. No. 1, Informational Tariff Containing the General Regulations and Schedule of Charges Applying to Commercial Mobile Radio Service Pursuant to the Federal Lifeline Program Within the State of Arizona (issued Jan. 29, 2013, effective Feb. 28, 2013) ("Budget PrePay Informational Lifeline Tariff").

Lewis Roca
ROTHGERBER CHRISTIE
201 E Washington Street Suite 1200
Phoenix, Arizona 85004-4429

1 **I. BACKGROUND.**

2 Budget PrePay is a Louisiana corporation with its principal offices located at
3 1325 Barksdale Boulevard, Bossier City, Louisiana 71111. Budget PrePay provides
4 prepaid wireless telecommunications services.

5 On November 21, 2012, the Commission approved the application of Budget
6 PrePay for designation as a wireless ETC, pursuant to Section 214(e)(1) of the
7 Communications Act of 1934 (“Act”),³ for the purpose of receiving federal universal
8 service Lifeline support in Arizona, for the designated service area set forth in the
9 Budget PrePay’s application, and subject to the conditions set forth by the Commission
10 in Decision No. 73577, Finding of Fact No. 45.

11 Budget PrePay intends to relinquish its wireless ETC designation in all areas of
12 Arizona for which it is currently so designated, with such relinquishment to become
13 effective July 5, 2017, or upon Commission approval. Relinquishment of Budget
14 PrePay’s wireless ETC designation will not affect the amount of federal Lifeline support
15 available to other ETCs in Arizona or deprive eligible Lifeline subscribers’ access to
16 Lifeline service from other wireless ETCs.

17 **II. DISCUSSION.**

18 **A. Federal and State ETC Relinquishment Requirements.**

19 Budget PrePay is entitled to relinquish its wireless ETC designation pursuant to
20 Section 214(e)(4) of the Act, which states, in pertinent part:

21 A State commission . . . shall permit an eligible
22 telecommunications carrier to relinquish its designation as
23 such a carrier in any area served by more than one eligible
24 telecommunications carrier. An eligible telecommunications
25 carrier that seeks to relinquish its eligible
26 telecommunications carrier designation for an area served
by more than one eligible telecommunications carrier shall
give advance notice to the State commission . . . of such
relinquishment. Prior to permitting a telecommunications
carrier designated as an eligible telecommunications carrier

³ 47 U.S.C. § 214(e)(1).

1 to cease providing universal service in an area served by
2 more than one eligible telecommunications carrier, the State
3 commission . . . shall require the remaining eligible
4 telecommunications carrier or carriers to ensure that all
customers served by the relinquishing carrier will continue
to be served, and shall require sufficient notice to permit the
purchase or construction of adequate facilities by any
remaining eligible telecommunications carrier.⁴

5 A rule prescribed by the Federal Communications Commission (“FCC”)
6 reiterates these statutory requirements by providing, in pertinent part, that a “state
7 commission shall permit” an ETC to “relinquish its designation as such in any area
8 served by more than one [ETC].”⁵ The FCC rule also requires that the ETC “shall give
9 advance notice to the state commission of such relinquishment.”⁶ Finally, the FCC rules
10 require state commissions to ensure that the relinquishing ETC’s subscribers will be
11 served by the one or more remaining ETCs and ensure sufficient notice to permit the
12 purchase and construction of facilities, if necessary.⁷

13 The Commission, when it granted Budget PrePay’s ETC status, provided a
14 procedural mechanism by which relinquishment would occur:

15 In the event that Budget requests to relinquish its ETC status and no
16 longer provide Lifeline services, it must provide notice to both the
17 Commission and its customers. Such notice(s) shall be in accordance with
A.A.C. R14-2-1107.⁸

18 A.A.C. R14-2-1107 sets forth the following procedure:

- 19 A. Any telecommunications company providing competitive
20 local exchange or interexchange service on a resold or
21 facilities-based basis that intends to discontinue service or
22 to abandon all or a portion of its service area shall file an
application for authorization with the Commission setting
forth the following:

23
24 ⁴ 47 U.S.C. § 214(e)(4).

25 ⁵ 47 C.F.R. § 54.205(a).

26 ⁶ *Id.*

⁷ 47 C.F.R. § 54.205(b).

⁸ Decision No. 73577, Finding of Fact No. 45(g).

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1. Any reasons for the proposed discontinuance of service or abandonment of service area;
 2. Verification that all affected customers have been notified of the proposed discontinuance or abandonment, and that all affected customers will have access to an alternative local exchange service provider or interexchange service provider;
 3. Where applicable, a plan for the refund of deposits collected pursuant to subsection R14-2-503(B);
 4. A list of all alternative utilities providing the same or similar service within the affected geographic area.
- B. When the application is submitted to the Docket Control Center, it will not be filed until it is found to be in proper form. No later than 20 days after the application is filed, the telecommunications company shall publish legal notice of the application in all counties affected by the application. The legal notice shall describe with particularity the substance of the application. Interested parties shall have 30 days from the publication of legal notice to file objections to the application, to request a hearing, and to submit a motion to intervene in the proceeding.
- C. Once proper notice is effected and if no objection is filed, the Commission may grant the application without a hearing.

B. Reasons for Discontinuance of ETC Service.

Budget PrePay is requesting relinquishment of its Lifeline-only ETC designation in response to changes in the industry and modifications to the Lifeline program. The impact of Budget PrePay's discontinuance of service will be minimal because Budget PrePay serves less than 2750 wireless subscribers in Arizona, and those consumers will have multiple options for alternative wireless ETC service providers in the state, including, but not limited to, i-wireless, Q Link Wireless, Boomerang Wireless, and Sprint d/b/a Assurance Wireless.

1 **C. Customer Notice.**

2 **1. Text Messages Sent to Customers.**

3 On or before May 8, 2017, all Budget PrePay subscribers were notified by text
4 message of Budget PrePay's proposed discontinuance of service on July 5, 2017, as
5 follows:

6 **Budget Mobile plans to cease service in Arizona on or around 7-5-2017.**

7 **To continue service, you will need to contact another Lifeline provider**
8 **authorized by the Arizona Corporation Commission.**

9 **A list of Lifeline providers in Arizona is available at**
10 **<http://www.lifelinesupport.org/ls/companies/companies.aspx>**

11 **For more information, please call 888-777-4007 or visit**
12 **www.budgetmobile.com**

13 **2. Written Notification Letter.**

14 On May 12, 2017, Budget PrePay sent a letter, by U.S. Mail, to each of its
15 subscribers, notifying them that Budget PrePay plans to discontinue its provision of
16 wireless, Lifeline services on or about July 5, 2017, subject to regulatory approval. The
17 letter also informed these subscribers that, upon ETC relinquishment, a Lifeline
18 discount could be obtained from one of several other ETCs in the area. Exhibit A to this
19 Application is a sample copy of the notification letter Budget PrePay sent its Lifeline
20 subscribers. Exhibit B is an affidavit attesting that the notification letters were sent on
21 May 12, 2017.

22 Upon Commission approval of the Application, each subscriber will receive at
23 least one additional text message reminder from Budget PrePay regarding the
24
25
26

1 discontinuation of the Lifeline discount. The message will also direct the subscriber to
2 its customer service line and alternative Lifeline providers.

3 **3. Request for Waiver of A.A.C. R15-2-1107(B) (Publication of**
4 **Legal Notice).**

5 Budget PrePay seeks waiver of compliance with A.A.C. R14-2-1107(B), which
6 provides that an applicant seeking to discontinue service “shall publish legal notice of
7 the application in all counties affected by the application” within 20 days after the
8 application is filed.

9 Waiver of this requirement is reasonable on several grounds: (1) providing legal
10 notice in multiple counties would be prohibitively expensive, especially for a small
11 company such as Budget PrePay that is in the process of terminating its Lifeline
12 services in numerous jurisdictions; (2) all of Budget PrePay’s customers will already
13 have been notified of Budget PrePay’s planned discontinuance of service by letter and
14 via text message; and (3) Budget PrePay customers will have ample access to
15 alternative wireless Lifeline service providers in Arizona, including i-wireless, Sprint
16 d/b/a Assurance Wireless and others, as identified in Section II.B., *supra*, and stated in
17 the text message and letter notices to customers.

18 **D. No Deposits to Refund.**

19 Budget PrePay does not require its Lifeline subscribers to pay a deposit to obtain
20 or maintain service. The provisions of A.A.C. R14-2-1107(A)(3) therefore are not
21 applicable, and it is not necessary for Budget PrePay to have any plan for the return of
22 deposits.

23 **E. List of Alternative Carriers in Affected Geographic Area.**

24 Budget PrePay was certified to operate as an ETC in specified geographic service
25 areas where its underlying facilities-based carriers provide coverage, excluding
26 federally-recognized Tribal Lands located within the State of Arizona.

1 As indicated above, in Section II.B., there are several wireless Lifeline service
2 providers that offer competitive wireless Lifeline service in non-Tribal areas of Arizona.
3 Given that there is already at least one other ETC in all areas in which Budget PrePay is
4 currently designated as an ETC, the requirements for relinquishment set forth in Section
5 214(e)(4) of the Act and Section 54.205 of the FCC's Rules have been met.

6 Budget PrePay owns no facilities in Arizona as evidenced by the fact that it
7 sought approval from the FCC of its Lifeline Compliance Plan, which the FCC
8 approved. Because Budget PrePay does not own facilities in Arizona, there is no need
9 for other carriers to purchase or construct facilities to ensure that Budget PrePay
10 subscribers will continue to receive service. Therefore, the notice to other carriers
11 described in 47 U.S.C. § 214(e)(4) is unnecessary.

12 **F. Contact Information.**

13 Questions concerning the ongoing operations of Budget PrePay following
14 discontinuance should be directed to the persons listed below:

15 Thomas H. Campbell
16 Michael T. Hallam
17 Lewis Roca Rothgerber Christie LLP
201 East Washington Street, Suite 1200
18 Phoenix, AZ 85004
Phone: (602) 262-5723
19 Fax: (602) 734-3841
E-mail: tcampbell@lrrc.com
E-mail: mhallam@lrrc.com

20 **G. Relinquishment Schedule; Cessation of Customer Enrollments.**

21 Budget PrePay seeks relinquishment of its ETC designation, effective July 5,
22 2017, or upon Commission approval. Upon approval, Budget PrePay will provide
23 further notice to its customers of the exact date of discontinuance.

24 Accordingly, Budget PrePay respectfully requests that the Commission issue an
25 order approving Budget PrePay's application as soon as possible so that Budget PrePay
26 is able to provide sufficient notice to its subscribers and ensure an orderly transition.

1 In order to avoid subscriber confusion and assist with an efficient transition
2 process, Budget PrePay will inform any potential subscribers inquiring about Lifeline
3 service of the pendency of this Application. Budget PrePay does not plan to seek
4 reimbursement for the Lifeline discount after the effective date of its relinquishment of
5 ETC designation.


6 **H. Withdrawal of the Budget PrePay Informational Lifeline Tariff.**

7 Given that Budget PrePay should be permitted to relinquish its ETC designation
8 in Arizona for the reasons stated in this Application, and given that the wireless Lifeline
9 service is the only service that Budget PrePay provides in Arizona, the Commission
10 should also permit Budget PrePay to cancel and withdraw the Budget PrePay
11 Informational Lifeline Tariff contemporaneously with Commission grant of this
12 Application.

13 **III. CONCLUSION.**

14 Budget PrePay respectfully requests that the Commission grant this Application
15 in an expedited fashion, approving (1) the requested relinquishment of Budget PrePay's
16 ETC designation in Arizona; (2) cancellation of Budget PrePay's Informational Lifeline
17 Tariff on that same date; and (3) such other and further relief as the Commission deems
18 just and reasonable under the circumstances.

19 RESPECTFULLY SUBMITTED this 12th day of May, 2017.

20
21 By 
22 Thomas H. Campbell
23 Michael T. Hallam
24 201 E. Washington Street, Suite 1200
25 Phoenix, Arizona 85004-4429
26 Email: tcampbell@lrrc.com
Email: mhallam@lrrc.com
(602) 262-5723

Attorneys for Budget PrePay, Inc.

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ORIGINAL and thirteen (13) copies
of the foregoing filed this 12th day
of May 2017, with:

Docket Control
Arizona Corporation Commission
1200 W. Washington Street
Phoenix, AZ 85007

Copy of the foregoing hand-delivered
this 12th day of May, 2017, to:

Elijah Abinah
Acting Director, Utilities Division
Arizona Corporation Commission
1200 W. Washington Street
Phoenix, Arizona 85007

Maureen Scott
Robin Mitchell
Legal Division
Arizona Corporation Commission
1200 W. Washington Street
Phoenix, Arizona 85007



EXHIBIT A



May __, 2017

Name
Address
City, State, ZIP

****IMPORTANT NOTICE REGARDING YOUR LIFELINE SERVICE****

Dear Budget Mobile Customer:

Please be advised that Budget Mobile is seeking to relinquish its authority to provide Lifeline services in Arizona. If granted by the Arizona Corporation Commission, Budget Mobile will no longer provide Lifeline service in Arizona and you will be required to seek Lifeline service from another authorized carrier in Arizona. If you do not transfer your existing Lifeline wireless service from Budget to another Lifeline provider, you risk a loss of Lifeline service.

Budget anticipates the discontinuance of Lifeline service in Arizona on or before **July 5, 2017**.

In an effort to help with this transition of service, you should access the Universal Service Administrative Company's (USAC) webpage at <http://www.lifelinesupport.org/lis/companies/companies.aspx> to see a list of Lifeline providers in Arizona or call USAC at 1-888-641-8722 and press 1 for additional assistance. USAC can help you determine an alternative Lifeline provider in Arizona that is best for you.

Budget Mobile would like to take this opportunity to express our gratitude for the many years of being able to provide wireless phone services. If you have any questions or concerns regarding the change to your wireless account, you can call Budget Mobile at 1-888-777-4007 and speak to a Customer Service Representative. We will be happy to answer any questions you may have.

Sincerely,

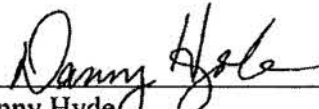


EXHIBIT B

AFFIDAVIT

STATE OF LOUISIANA)
)
PARISH OF BOSSIER, to-wit)


I, Danny Hyde, CEO, Budget PrePay, Inc. ("Budget" or the "Company"), being duly sworn, to the best of my knowledge, hereby states that Budget mailed to its customers in Arizona notification letters from the Company on May 12, 2017, informing them of Budget's intention to discontinue its wireless services in Arizona on or about July 5, 2017, as set forth in Budget's Application to relinquish its Eligible Telecommunications Carrier ("ETC") designation in Arizona, and for approval to withdraw its Arizona Tariff C.C. No. 1.



Danny Hyde
CEO
Budget PrePay, Inc.

Taken, sworn to and subscribed before me this 12th day of May, 2017.

My commission expires: _____
ROBIN M ENKEY
Notary Public #78084
Bossier Parish
State of Louisiana
Commission Is For Life



Notary Public