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d/b/a Budget Phone, Inc.**

BEFORE THE PUBLIC SERVICE COMMISSION OF UTAH

In the Matter of Budget Prepay, Inc. d/b/a
Budget Phone, Inc.'s Petition for Limited
Designation as a Non-Rural Wireless Eligible
Telecommunications Carrier

**Budget Prepay, Inc. d/b/a Budget Phone,
Inc.'s Petition For Limited Designation As A
Non-Rural Wireless Eligible
Telecommunications Carrier**

Docket No. _____

June 21, 2012

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Budget Prepay, Inc.'s) Docket No. _____
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Petition for Limited Designation as Non-)
Rural Wireless Eligible)
Telecommunications Carrier)
_____)

BUDGET PREPAY, INC. D/B/A BUDGET PHONE, INC.'S PETITION FOR LIMITED DESIGNATION AS A NON-RURAL WIRELESS ELIGIBLE TELECOMMUNICATIONS CARRIER

Budget Prepay, Inc. d/b/a Budget Phone, Inc. (“Budget” or the “Company”), by undersigned counsel, and pursuant to Section 214(e)(2) of the Communications Act of 1934, as amended, Section 214(e)(2) of title 47 of the United States Code (“U.S.C. Title 47”), and Sections 54.101 through 54.207 of title 47 of the Code of Federal Regulations (“C.F.R. Title 47”) of the Federal Communications Commission (“FCC”), hereby submits this Petition requesting that the Utah Public Service Commission (the “Commission”) designate Budget as a non-rural wireless Eligible Telecommunications Carrier (“ETC”) throughout the State of Utah solely in the areas served by the non-rural ILECs for the limited purpose of receiving support from the Federal Universal Service Fund (“USF”) to provide wireless service under its Low-Income section for Lifeline Assistance (“Lifeline”). As demonstrated in this Petition and as certified in Exhibit 1, Budget meets all statutory and regulatory requirements for designation as an ETC in the State of Utah. Budget respectfully requests that the Commission grant this Petition expeditiously so that Budget may begin providing wireless Lifeline service to qualified low-income households at the earliest practicable time.

I. INTRODUCTION

A. Background

Budget is a Louisiana corporation¹ and is authorized to conduct business as a foreign corporation in the State of Utah.² Budget is an experienced Competitive Local Exchange Carrier (“CLEC”) that provides basic local exchange services and long distances services in 42 states, as further described in Section II.C.4 of this Petition. Budget provides service over a combination of its own facilities, including leased transport lines and leased loops, and through resale. Budget is now seeking authority to provide commercial mobile radio service (“CMRS” or “wireless”) as part of its low income service offering in Utah.

B. Contact Information

Budget’s contact name and address are set forth below:

David Donahue
Budget Prepay, Inc.
1325 Barksdale Blvd.
Bossier City, Louisiana 71111
(318) 671-5706 (Phone)
(318) 671-5024 (Fax)
ddavid@budgetprepay.com

Budget’s counsel in this matter is set forth below, and all communications relating to this Petition should be addressed to:

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¹ Budget Phone, Inc. was incorporated in the State of Louisiana on May 1, 1996 (Charter/Organization ID 34525907D). The principle office of the Company is located at 1325 Barksdale Blvd., Bossier City, LA 71111.

² Budget Prepay, Inc. is registered as a foreign corporation in Utah as Entity No. 6312035-1043, and its registered agent address in the State of Utah is 2778 W. Shady Bend Lane, Lehi, UT 84043.

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II. LEGAL COMPLIANCE WITH THE COMMISSION'S AND FCC'S REQUIREMENTS FOR DESIGNATION AS AN ETC.

A. The Commission has the Authority to Perform ETC Designations

The Commission has the requisite authority to perform the limited ETC designation requested herein. Section 214(e)(2) of U.S.C. Title 47 provides state public utility commissions with the primary responsibility for the designation of ETCs. Under U.S.C. Title 47, a state public utility commission with jurisdictional authority over ETC designations must designate a common carrier as an ETC if the carrier satisfies the requirements of Section 214(e)(1). By (i) offering the services supported by the federal USF, (ii) advertising the availability of such services using media of general distribution, and (iii) obtaining a forbearance of the requirement that some of the services be offered over its own facilities, Budget meets all of the requirements of Section 214 of U.S.C. Title 47, warranting its designation as an ETC by the Commission.

B. ETC Legal Requirements

Section 254(e) of U.S.C. Title 47 provides that “only an eligible telecommunications carrier designated under section 214(e) of this title shall be eligible to receive specific Federal universal service support.” Section 214(e)(1) and (2) of U.S.C. Title 47, in turn, require state commissions to designate as an ETC any common carrier that (i) offers services that are supported by federal universal service support mechanisms, either using its own facilities or a

combination of its own facilities and resale of another carrier's facilities, and (ii) advertises the availability of such services and related charges using media of general distribution.

1. Eligibility and Identification of the Service Area

Budget is a "common carrier," as that term is defined in U.S.C. Title 47³, and, as such, is eligible for designation as an ETC so long as it meets the requirements of Section 214(e)(2).

Budget is currently requesting ETC status, and the FCC has recognized on numerous occasions that telecommunications providers offering wireless services are eligible for ETC designation.

Section 214(e)(2) of U.S.C. Title 47 provides that ETC designation shall be made for a "service area" designated by the state commission. Section 214(e)(5) of U.S.C. Title 47 provides that the "service area" shall be a "geographic area established by the State commission."

Attached hereto as Exhibit 2 is a list of the exchanges, consisting of the wire centers of the non-rural ILECs, for which Budget is seeking ETC authority for its wireless services.

2. Supported Services

Section 214(e)(1)(A) of U.S.C. Title 47 requires that an ETC offer voice telephony services that are supported by federal universal service support mechanisms ("Supported Services") either using its own facilities or a combination of its own facilities and resale of another carrier's services. Along with significant recent changes to the Supported Services, the FCC has provided a blanket forbearance from the "own facilities" requirement for all ETC applicants who meet certain conditions, including obtaining the FCC's approval of a compliance plan.⁴ Budget will provide each of the Supported Services identified in Section 54.101 of C.F.R.

³ 47 U.S.C. § 153(11) (defining "common carrier" as "any person engaged as a common carrier for hire, in interstate or foreign communication by wire or radio . . .").

⁴ *In The Matter of Lifeline and Link Up Reform and Modernization*, WC Docket No. 111-42 et al., Report and Order and Further Notice of Proposed Rulemaking, FCC 12-11, ¶ 368 (rel. Feb. 6, 2012) (the "Lifeline Reform Order").

Title 47, as amended December 23, 2011 and February 6, 2012⁵, throughout its designated service area, as indicated below:

1. Voice grade access to the public switched telephone network or its functional equivalent – Budget will provide its customers with the ability to make and receive calls on the public switched network.
2. Minutes of use for local service provided at no additional charge to the end user – Though Budget may ultimately decide to expand the number of Lifeline service plan options available to eligible Lifeline customers, Budget intends to initially offer qualifying customers an “active user talk & text” wireless plan that will provide 4,000 minutes of combined local/toll usage and texting, as well as another plan with 250 free minutes of local/toll usage.
3. Access to the emergency services provided by local government or other public safety organizations, such as 911 or enhanced 911, to the extent the local government in Budget’s service area has implemented 911 or enhanced 911 systems – All of the phones that Budget distributes are capable of delivering automatic numbering information and automatic location information and otherwise satisfy applicable state and federal E911 requirements.
4. Toll limitation for qualifying low-income consumers means toll blocking service and toll control service. Toll limitations service does not need to be offered for any Lifeline service that does not distinguish between toll and non-toll calls in the pricing of its service. Because the plans offered by Budget include an established number of minutes with no distinction between the pricing for local and toll calls, Budget’s customers will not be subjected to unexpected bills for telecommunication toll services, and Budget’s services satisfy the requirements.

3. Advertising Supported Services

Section 214(e)(1)(B) of U.S.C. Title 47 requires that an ETC advertise the availability of Supported Services and the related charges using media of general distribution. ETCs are also required to publicize the availability of Lifeline services in a manner reasonably designed to reach those likely to qualify for such services.⁶ Budget will advertise the availability of the

⁵ See *In the Matter of Connect America Fund*, WC Docket No. 10-90 et al., Order on Reconsideration, FCC 11-189 (rel. Dec. 23, 2011); Lifeline Reform Order, ¶ 367. The FCC Order of December 23, 2011 removed from eligibility numerous types of services that had previously been Supported Services, including dual-tone multi-frequency signaling, single-party service, access to operator services, access to interexchange service, and access to directory assistance. The Lifeline Reform Order removed toll limitation services from the list of Supported Services, but only for those services that do not distinguish between toll and non-toll calls in the pricing of the service.

⁶ 47 C.F.R. § 54.405(b), § 54.411(d).

Supported Services throughout its designated service areas using media of generally distribution in a manner that is designed to reach those likely to qualify for such services. 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. A sample of Budget's marketing materials is attached as Exhibit 3. In promoting its services in Utah, Budget will use a state-specific fact sheet. In addition, Budget agrees to comply with all form and content requirements, if any, promulgated by the FCC or the Commission in the future and required of all designated ETCs.

4. Forbearance from the Requirement that a Carrier Use its Own Facilities

Section 214(e)(1)(A) of U.S.C. Title 47 and Section 54.201(d) of C.F.R. Title 47 require ETCs to offer the Supported Services, at least in part, over their own facilities.⁷ However, the FCC has provided a blanket forbearance of the "own facilities" requirement for all ETC applicants who meet two conditions.⁸ First, carriers must provide Lifeline subscribers with 911 and E911 access, regardless of activation status and availability of minutes, and with E911 compliant handsets. Second, a carrier must obtain the FCC's approval of a compliance plan describing (a) the safeguards it will implement against waste, fraud, and abuse to comply with FCC requirements and (b) the carrier's Lifeline service plan offerings. Budget has met both of these requisites for forbearance and thus satisfies the "own facilities" requirement.

As required by the Lifeline Reform Order, Budget will (a) provide its Lifeline customers with 911 and E911 access regardless of activation status (if it provides the customer with prepaid service) or availability of prepaid minutes; (b) provide 911/E911-compliant handsets to all of its

⁷ The FCC has defined the term "facilities" to include "*any physical components* of the telecommunications network that are used in the transmission or routing of the services that are designated for support" (emphasis added). 47 C.F.R. § 54.201(e).

⁸ Lifeline Reform Order, ¶¶ 368, 373.

Lifeline customers; and (c) replace, at no charge to customers, any non-compliant handset of an existing customer who obtains Lifeline-supported services with a 911/E911-compliant handset. All Budget customers will have access to emergency calling services at the time that Lifeline service is initiated, and such access will be available for Budget handsets even if the associated account has no minutes remaining. Thus, Budget meets the first requisite for forbearance.

On May 1, 2012, Budget submitted a Compliance Plan for FCC approval in WC Docket No. 09-197 and WC Docket No. 11-42.⁹ The Compliance Plan details the verification, certification, and other anti-fraud measures Budget will take to comply with state and federal requirements and to ensure that Lifeline support is provided only to consumers who are truly eligible. On May 25, 2012, the FCC issued a public notice that it had approved Budget's Compliance Plan. A copy of Budget's approved Compliance Plan is set forth as Exhibit 4, and a copy of the FCC's approval is set forth as Exhibit 5. Since the FCC has approved its Compliance Plan, Budget meets the second requisite for forbearance.

Consistent with the requirements of 47 C.F.R. § 54.201(d)(1), Budget is able to offer all of the services and functionalities supported by the federal USF throughout its designated service area.¹⁰ The FCC has provided a blanket forbearance authorizing Budget to provide Lifeline services without use of its "own facilities" so long as it meets E911 access requirements and obtains approval of a compliance plan. Since it has obtained the FCC's approval of its Compliance Plan, Budget is entitled to the FCC's blanket forbearance from the "own facilities" requirement.

C. Additional Eligibility Criteria

⁹ Budget submitted an initial Compliance Plan to the FCC on March 1, 2012, and subsequently submitted several revised versions. The May 1, 2012 Compliance Plan was the final version, which the FCC approved on May 25, 2012.

¹⁰ See 47 C.F.R. § 54.101(a).

The FCC recently established additional criteria that all ETC applicants must satisfy in order to be designated as an ETC, which include: (1) a certification that the applicant will comply with service requirements applicable to the support it receives; (2) a demonstration that the applicant will remain functional in emergency situations; (3) a demonstration that the applicant will satisfy applicable consumer protection and service quality standards; (4) a demonstration of financial and technical ability to provide the Supported Services; and (5) provision of information regarding the voice telephony Lifeline services it will provide.¹¹

1. Compliance with Service Requirements

The FCC's rules at 47 C.F.R. § 54.202(a)(1)(i) (eff. April 2, 2012) require an ETC to “[c]ertify that it will comply with the service requirements applicable to the support that it receives.” In some cases, a five-year service improvement plan must also be submitted, although carriers, such as Budget, who seek only ETC designation to provide Lifeline services are exempt from this requirement.

a. Certification of Compliance with Service Requirements

If designated as a wireless ETC, Budget certifies that it will comply with all service requirements applicable to Lifeline support funding, as detailed herein and in its Compliance Plan at Exhibit 4. As a result, Budget meets the requirements of 47 C.F.R. § 54.202(a)(1)(i).

b. Five Year Service Improvement Plan

For some carriers, the FCC requires the filing of a five-year service improvement plan in 47 C.F.R. § 202(a)(1)(ii). However, that requirement does not apply to carriers seeking only ETC status to provide Lifeline service to low income consumers.

2. Ability to Remain Functional in Emergency Situations

¹¹ 47 C.F.R. § 54.202 (eff. Apr. 2, 2012).

FCC rules require that an ETC “[d]emonstrate its ability to remain functional in emergency situations.”¹² Because Budget’s services will be provided through resale, they will be as reliable and provide all of the back-ups and contingency plans of its underlying wireless service provider, which include backup battery power at cell sites to ensure functionality in emergency situations. Additionally, Budget will have the ability to provide for the rerouting of traffic around damaged facilities and management of traffic spikes resulting from emergency situations through both its wireless service provider and the use of its own facilities in Louisiana and Texas. Thus, Budget satisfies this requirement.

3. Consumer Protection and Commitment to Provide Quality Service

If designated as a wireless ETC, Budget will satisfy all consumer protection and service quality standards as provided in Section 54.202(a)(3) of C.F.R. Title 47, as well as all applicable state-specific consumer protection and service quality standards and will commit that all universal service fund support received by Budget will be directly reflected in the price that eligible customers pay. In addition, as required by Section 54.202(a)(3), Budget will comply with the Cellular Telecommunications and Internet Association’s Consumer Code for Wireless Service and will protect Customer Proprietary Network Information. 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 any other wireless provider. Although no carrier can guarantee that its customers will never experience service disruptions, Budget’s contractual arrangements and its own facilities are designed to minimize any failures, provide alternate call routing, and expedite recovery in the event a failure occurs. Budget affirms its commitment to continue to satisfy or exceed applicable consumer protection and service quality standards.

4. Financial and Technical Capability

¹² 47 C.F.R. § 54.202(a)(2).

As required by the Lifeline Reform Order and federal regulations,¹³ Budget is financially and technically capable of providing supported Lifeline services. Budget has significant experience with telecommunications and ETC supported services; it has been in business since 1996. Budget is a designated wireline ETC in the following states: Alabama, Arkansas, Florida, Kentucky, Louisiana, Maryland, Michigan, Mississippi, Missouri, Nebraska, North Carolina, Oklahoma, South Carolina, and Tennessee; and a designated wireless ETC in Arkansas, Kentucky, Louisiana, Maryland, Rhode Island, Wisconsin, and Nevada. Budget has applications for designation as a wireless ETC pending in Arizona, California, Colorado, Georgia, Indiana, Iowa, Kansas, Michigan, Minnesota, Mississippi, Missouri, New Jersey, Oklahoma, Pennsylvania, South Carolina, Washington, and West Virginia before the state commissions. Budget also has applications pending for wireless ETC designation before the Federal Communications Commission for Alabama, Connecticut, Delaware, the District of Columbia, Florida, New Hampshire, New York, North Carolina, Tennessee, and Virginia. Budget has not been subject to enforcement actions or ETC revocation proceedings in any state.

Budget derives the majority of its revenue from selling low-cost prepaid telephone services on a nationwide basis to over 60,000 customers and employs approximately 340 people. Budget will not need to rely exclusively on federal USF support and will not need Utah high cost funds to provide the proposed wireless services. Budget owns and operates its own switching facilities in Dallas, Texas and Shreveport, Louisiana, which Budget employees use to provide access to directory assistance and operator services. The switching facilities are also used to provide access to some interexchange services (for the routing of certain domestic and all non-domestic calls). Budget has also invested millions of dollars in software development, including its own customized, user friendly point-of-sale software. Furthermore, due to their extensive

¹³ 47 C.F.R. § 54.202(a)(4) (eff. Apr. 2, 2012).

previous experience, Budget’s officers who will operate its Utah operations have the necessary managerial and technical capabilities to provide the proposed services. Biographies of Budget’s President and Chief Financial Officer are provided at Exhibit 6.

5. Terms and Conditions of Budget’s Lifeline Service Plans

An ETC is required to provide information on the terms and conditions of the telecommunications plans it offers to Lifeline subscribers.¹⁴ Though Budget may offer additional plans in the future, its initial Lifeline service offering will include an “active user talk & text” wireless plan that will provide 4,000 combined texts and local and domestic minutes, as well as a free plan providing 250 minutes of local and domestic toll usage, as further detailed below and in Budget’s Compliance Plan at Exhibit 4.

Lifeline Service: Budget will offer two wireless prepaid federal USF offerings throughout its designated service area: the Active User Talk & Text Plan and the Free 250 Minute Talk Plan. A summary of each is provided below.

Active User Talk & Text Plan: This prepaid service provides 4,000 combined voice minutes and text messages.¹⁵ The plan includes local and domestic long distance calling, texting, caller ID, call waiting and voicemail. Customers can add international long distance at \$5.00 intervals and data/pic packages for \$15.00. Customers will receive a free handset or can purchase an upgraded handset from Budget. Service payments will be made at participating Budget agent retail outlets frequented by low income customers throughout the designated service area.

Non-Lifeline	\$34.25
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¹⁴ 47 C.F.R. § 54.202(a)(5)

¹⁵ Each text counts as one voice minute.

Federal Lifeline Credit (\$9.25)¹⁶

**Active User Talk & Text
Lifeline Price \$25.00**

Free 250 Minute Talk Plan: This prepaid service provides 250 minutes of local and domestic long distance calling, caller ID, call waiting and basic voicemail. Customers will receive a free handset, or they can purchase an upgraded handset from Budget. Customers can add additional airtime in denominations and at the rates indicated below.¹⁷ Customers can purchase international long distance at \$5.00 intervals, data/pic packages at \$15.00 and a text-message add-on for \$10.00. Service payments may be made at participating Budget agent retail outlets frequented by low income customers throughout the designated service area.

Non-Lifeline \$9.25
Federal Lifeline Credit (\$9.25)

**250 Minute Talk Plan
Lifeline Price FREE**

Additional Minutes \$ 5.00 – 50 minutes
\$10.00 – 100 minutes
\$15.00 – 150 minutes

To the extent that the requested service area encompasses any tribal areas, Budget will offer the Active User Talk and Text Plan for free to eligible tribal customers.¹⁸ The Active User Talk & Text Plan offered in tribal areas will share the same features as that offered in non-tribal areas, including 4,000 minutes of combined local and domestic long distance calling and texting, caller ID, call waiting and voicemail. Tribal customers can add international long distance at \$5.00 intervals and data/pic packages for \$15.00. Tribal customers will receive a free handset or

¹⁶ Budget will seek reimbursements for non-Tribal Lifeline customers at \$9.25 on an interim basis, pursuant to Lifeline Reform Order ¶ 58, pending the outcome of the FCC's request for comments on aspects of Lifeline support in Lifeline Reform Order ¶¶ 404-15.

¹⁷ Budget's customers may elect either a 4,000 minute local and domestic calling plan or a free plan with the ability to purchase additional minutes totaling in excess of 900 minutes, which satisfies Rule 2187(d)(XII)(A).

¹⁸ For tribal areas, Budget will seek Tier 4 reimbursement, which provides up to \$34.25 for monthly Lifeline support. See Lifeline Reform Order ¶ 270.

can purchase an upgraded handset from Budget and may make service payments at participating Budget agent retail outlets throughout the designated Service Area.

D. The ETC Designation Request is Consistent with Recent Commission Precedent

The Commission’s grant of Budget’s request for wireless ETC designation would be consistent with the Commission’s recent designation of other carriers as wireless ETCs, including, but not limited to, i-wireless, LLC and Virgin Mobile USA, L.P.¹⁹ Budget requests that the Commission expeditiously process this ETC Petition so that it can quickly commence providing qualifying low-income Utah customers with affordable USF-supported wireless services during these challenging economic times for all Utah residents. Recent Commission Orders designating such other carriers as wireless ETCs indicate that designation of Budget as a wireless ETC would further competition for wireless Lifeline services, would offer low income consumers an additional competitive choice of providers for accessing telecommunications services, and would represent a significant step towards ensuring achievement of the legislative goal that all Utah consumers share in the many benefits associated with affordable access to high quality wireless services.²⁰

III. DESIGNATION OF BUDGET AS A WIRELESS ETC WILL PROMOTE THE PUBLIC INTEREST

A. Benefits to Customers

Budget’s ETC designation must be in the public interest.²¹ Although “Congress did not establish specific criteria to be applied under the public interest test,” the FCC did establish that

¹⁹ See, e.g., In the Matter of the Petition of i-wireless, LLC for Designation as an Eligible Telecommunications Carrier in the State of Utah for the Limited Purpose of Offering Lifeline Service to Qualified Households, Docket No. 10-2526-01, Report and Order (June 29, 2011); In the Matter of Virgin Mobile USA, L.P. Petition for Limited Designation as an Eligible Telecommunications Carrier, Docket No. 10-2521-01, Order on Reconsideration (July 13, 2011).

²⁰ See Utah Code Ann. § 54-8b-1.1(2).

²¹ 47 U.S.C. §214(e)(2); 47 C.F.R. § 54.202(c).

“the public interest benefits of a particular ETC designation” should be analyzed in a manner consistent with U.S.C. Title 47’s purposes, including the “goals of preserving and advancing universal service, ensuring the availability of quality telecommunications at just, reasonable, and affordable rates, and promoting the deployment of advanced telecommunications and information services to all regions of the nation, including rural and high-cost areas.”²²

Additionally, the FCC established that “a variety of factors” are applicable “in the overall ETC determination, including the benefits of increased consumer choice, and the unique advantages and disadvantages of the competitor’s service offering.”²³

Budget believes that providing discounted wireless service is consistent with the public interest. The following information clearly demonstrates that Budget’s designation as a wireless ETC is consistent with the public interest, convenience, and necessity and will provide consumers with increased competitive choice through the offering of a unique service at rates that are just, reasonable and affordable. All of this will further federal and state legislative goals of ensuring that all Utahans have access to affordable basic telephone services.²⁴

The public interest benefits associated with Budget’s wireless service include larger local calling areas (as compared to traditional wireline carriers), and the convenience, security and mobility afforded by mobile telephone service. Further, Budget’s offerings provide increased competitive choice, allowing customers to select from various options ranging from a high value wireless plan that provides 4,000 minutes of local and domestic calling and texting to a free plan that includes 250 calling minutes. The ability of the customer to select between prepaid offerings that include 4,000 minutes or 250 minutes removes the risk of any customer becoming

²² Federal-State Joint Board on Universal Service, CC Docket No. 96-45, FCC Docket No. 05-46, Report and Order, 20 FCC Rcd 6371, at ¶ 40 (rel. Mar. 17, 2005) (“ETC Order”).

²³ *Id.* at ¶ 41.

²⁴ *See* 47 U.S.C. § 254(b); Utah Code Ann. § 54-8b-1.1(2).

burdened with large and unexpected toll charges and unexpected overage charges. Additionally, wireless service greatly benefits consumers whose lifestyles involve commuting or travel.

Budget's unique pre-paid options are designed to provide consumers who, due to credit or deposit requirements, may not be able to obtain the safety and convenience of telephone service from traditional providers, and a Budget customer is never obligated for more than 30 days. The most recent available data suggests that only 10-20% of eligible Utah customers currently participate in the Lifeline program,²⁵ which indicates that there is a significant need for the services Budget proposes to provide. Unlike many wireless providers, Budget offers, among other services, a high value wireless service that includes 4,000 combined texts and local and domestic voice minutes, caller ID, call waiting and voicemail, all without the requisite credit check, deposit, service activation fees and contract requirements of the more traditional wireless and wireless service providers. Because Budget's service is provided with no credit check, deposit requirement, minimum service periods, service activation fees or early termination fees, the service will be an attractive and affordable alternative to qualified low-income consumers without regard to age, residency, or creditworthiness. Providing Budget with the authority necessary to offer discounted Lifeline services to those most in danger of losing wireless services altogether promotes the public interest by ensuring that such customers have high-quality wireless options.

Wireless ETC designation in Utah would enable Budget to offer appealing and affordable service offerings to low-income Utah customers to ensure that they are able to afford wireless services on a consistent and uninterrupted basis. Prepaid wireless services have become essential for lower-income customers, providing them with value for their money, access to emergency

²⁵ See Universal Service Administrative Company, 2010 Lifeline Participation Rates by State (Feb. 15, 2011), available at http://www.usac.org/_res/documents/li/pdf/li-participation-rate-map-2010.pdf.

services on wireless devices, and a reliable means of contact for prospective employers, social service agencies or dependents. Furthermore, Budget intends to provide such benefits without seeking state high-cost support funding.

The wireless service offered by Budget will provide consumers with a convenient and affordable alternative to traditional telecommunications service that can be used while at home and away from home. Because of these benefits, Budget expects that many qualified Utah consumers will select its wireless Lifeline services in lieu of the more traditional wireline or wireless services.

B. Other Public Interest Benefits

The FCC's Lifeline Reform Order requires ETC applicants to take numerous steps to combat the potential for fraud. Budget will comply with all FCC requirements and will also make voluntary commitments to combat the potential for waste, fraud and abuse with respect to its provision of Lifeline services in Utah, as described below and in Budget's Compliance Plan at Exhibit 4:

- Budget will implement a 60-day inactivity policy for subscribers of pre-paid services and will notify customers of the inactivity policy at the time of service initiation. Under this policy, if no usage appears on a Budget prepaid Lifeline customer's account during any continuous 60-day period, Budget will deactivate Lifeline services for that customer. For the purposes of Budget's deactivation policy, usage will occur when a customer makes a voice call, receives a voice call from anyone other than a Budget representative, makes a monthly payment, purchases additional minutes, or affirmatively responds to a direct contact from Budget confirming that the customer wishes to continue Lifeline services.
- Budget will follow any established FCC or Commission procedures to comply with the "one-per-household rule" for Lifeline support. In addition, Budget will make available state-specific customer data, including name and address, to the Universal Service Administrative Company ("USAC") and to the Commission for the purpose of permitting USAC or the Commission to determine whether an existing Budget Lifeline customer receives Lifeline service from another carrier. Budget will promptly investigate any notification that it receives from USAC or the Commission that one of its customers already receives Lifeline service from another carrier. Should the Company's investigation conclude that the customer receives Lifeline services from another carrier in

violation of applicable regulations, or if otherwise directed by USAC or the Commission, Budget will immediately notify the customer and no longer report that customer on USAC Form 497. Budget will de-enroll within ten business days any subscriber whom Budget discovers is receiving Lifeline services from another ETC or is otherwise not eligible. If USAC informs Budget that a subscriber is receiving duplicative support, Budget will de-enroll that subscriber within five business days.

- Budget will (1) require each employee to access an electronic database (if applicable) or require each customer to provide proof of documentation to determine eligibility at initial enrollment and annually thereafter require each customer to self-certify his or her continued Lifeline eligibility and that he or she is the head of household and receives Lifeline-supported service only from Budget; (2) establish safeguards to prevent its customers from receiving multiple Lifeline subsidies at the same address; (3) deal directly with the customer to certify and verify the customer's Lifeline eligibility and/or check electronic eligibility databases, where available; and (4) certify that it is in full compliance with any applicable 911/E911 obligations, including obligations relating to the provision and support of 911 and E911 service, for each state in which Budget is designated as an ETC.
- Budget will ensure that the penalty for perjury language is clearly stated on its Lifeline certification form, and it will track its Lifeline customer's primary residential address in a database and prohibit more than one supported Budget service at each residential address. Budget's Lifeline certification form will include a disclosure section on which a Lifeline applicant must initial disclosure statements.²⁶ Additionally, Budget will maintain the customer's self-certification and provide the documentation to the Commission upon request. It will collect all required information, including the customer's date of birth and the last 4 digits of the customer's social security number or Tribal ID number, and will provide financial and enrollment data to the National Lifeline Accountability Database, once it is established.
- Budget will distribute its Lifeline service directly to its Lifeline customers. Customers may purchase handsets at retail stores, but Budget will deal directly with the customer to certify and verify the customer's initial and continued Lifeline eligibility, including through the web, mail, internet, telephone, and its agents. Budget will provide Lifeline-specific training to all personnel who interact with actual or prospective customers with respect to obtaining, changing, or terminating Lifeline services. Budget's marketing materials will provide clear information about the Lifeline program, including that the law limits the Lifeline program to one phone per household.

IV. BUDGET WILL COMPLY WITH LIFELINE CERTIFICATION AND VERIFICATION REQUIREMENTS

Sections 54.410 and 54.416 of C.F.R. Title 47 require ETCs to comply with the requirements of initial certification of eligibility and the verification for continued eligibility for

²⁶ A sample Lifeline customer certification form is attached as Exhibit 7.

participation in the Lifeline programs. Budget commits that it will certify and verify consumer eligibility in accordance with applicable FCC rules governing both certification and verification of Lifeline eligibility, including the requirement that Budget re-certify the eligibility of its current Lifeline subscribers and report the results to USAC by January 31, 2013. Budget has developed a detailed compliance policy that includes the Company's procedures for initial certification of eligibility and the verification of continued eligibility for participation in these vital low-income programs as detailed in Exhibit 4.

V. OTHER REQUIREMENTS

Budget will comply with all applicable state and federal laws and regulations in providing and administering its services in Utah. It will collect all applicable surcharges and pay all applicable taxes and fees required by the Commission or by the Utah State Tax Commission, including those related to state universal service funding, hearing and speech impairment, 911 and E911 fees, and poison control surcharges. Budget will continue to comply with any applicable certification and verification processes developed by the FCC and by the Commission, including those that the Commission may develop in Docket No. 10-2528-01.

VI. ANTI-DRUG ABUSE CERTIFICATION

No party to this Petition is subject to denial or federal benefits pursuant to Section 5301 of the Anti-Drug Abuse Act of 1988, 21 U.S.C. § 862.

VII. RELIEF REQUESTED

Because, as the foregoing demonstrates, Budget meets all the requirements for ETC designation, and such designation would be in the public interest, Budget respectfully requests that the Commission designate Budget as a non-rural wireless ETC for the purpose of receiving federal universal service support for Lifeline services.

RESPECTFULLY SUBMITTED this 21st day of June 2012.

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d/b/a Budget Phone, Inc.**

CERTIFICATE OF SERVICE

I hereby certify that on the 21st day of June 2012, an original and five (5) true and correct copies of **Budget Prepay, Inc. d/b/a Budget Phone, Inc.'s Petition For Limited Designation As A Non-Rural Wireless Eligible Telecommunications Carrier** were hand-delivered, and an electronic copy of the foregoing was delivered, to:

Mr. Gary Widerburg
Commission Administrator
PUBLIC SERVICE COMMISSION OF UTAH
Heber M. Wells Building, Fourth Floor
160 East 300 South
Salt Lake City, Utah 84111
psc@utah.gov

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