

**BEFORE THE PUBLIC SERVICE COMMISSION
OF THE STATE OF MISSOURI**

In the Matter of the Application of)	
Budget PrePay, Inc. for Designation as an)	
Eligible Telecommunications Carrier for)	<u>Case No. TA-2010-0146</u>
Purpose of Receiving Low-Income and Disabled)	
Customer Support in AT&T Missouri)	
Service Areas.)	

STAFF RECOMMENDATION

COMES NOW the Staff of the Missouri Public Service Commission (Staff), by and through counsel, and for its Staff Recommendation, states as follows:

1. On November 12, 2009, Budget Prepay, Inc. (Budget or the Company) filed with the Missouri Public Service Commission (the Commission) an Application for Designation as an Eligible Telecommunications Carrier (Application), requesting designation as an Eligible Telecommunications Carrier (ETC) for the purpose of receiving low-income federal universal service support in the State of Missouri. In conjunction with its Application, Budget requests waivers of Commission Rules 4 CSR 240-3.570(2)(A)1-3, 4 CSR 240-3.570(2)(C), and 4 CSR 240-3.570(3)(C)3.

2. On November 18, 2009, the Commission issued its Order Directing Filing, ordering Staff to file a recommendation in this matter no later than December 18, 2009.

3. On December 7, 2009, Budget filed a Supplement to Application for Designation as an Eligible Telecommunications Carrier (Supplement), providing information in response to inquiries by both Staff and the Office of Public Counsel (OPC).

4. On December 16, 2009, Staff filed a Motion for Extension of Time, requesting an extension of the staff recommendation deadline until December 31, 2009.

5. On December 17, the Commission issued its Order Granting Motion for Extension of Time, ordering Staff to file a recommendation no later than December 31, 2009.

6. On December 31, 2009, Staff filed a Motion to Suspend Filing of Staff Recommendation (Motion to Suspend), requesting that the Commission allow Staff to file its recommendation within one week after the resolution of the tariff discrepancy described in Staff's Motion to Suspend, and further stating that Staff would file a status report with the Commission on January 29, 2009, in the event a recommendation is not filed prior to that time.

7. On January 4, 2010, the Commission issued its Order Granting Motion to Suspend Filing of Staff Recommendation, ordering Staff to file a recommendation, or in the alternative, a status report, no later than January 29, 2010.

8. On January 22, 2010, Budget filed its Second Supplement to Application for Designation as an Eligible Telecommunications Carrier (Second Supplement), in an attempt to correct the discrepancy described in Staff's Motion to Suspend.

9. On January 29, 2010, Budget filed with the Commission its Corrected Second Supplement to Application for Designation as an Eligible Telecommunications Carrier (Corrected Second Supplement), correcting the amount of a monthly rate contained in the Company's Second Supplement.

10. In order to receive federal universal service fund (federal USF) support a telecommunications company must comply with the requirements contained in 47 CFR Section 54, including the requirement that the company be designated as an Eligible Telecommunications Carrier (ETC). See 47 CFR § 54.201.

11. In Missouri, the authority to grant an ETC designation is vested in the Commission and is governed by Commission Rule 4 CSR 240-3.570. Report and Order, In the

Matter of Federal-State Joint Board on Universal Service, p. 72, CC Docket No. 96-45 (1997).
See also 47 U.S.C. § 254(e).

12. There are two types of federal USF support, generally referred to as “high-cost” and “low-income” federal USF support. See 47 CFR § 54. There are two general types of low-income federal USF support: Lifeline and LinkUp. Lifeline support is support related to a program designed to provide qualifying low-income customers with discounts on monthly rates. See 47 CFR § 54.401. LinkUp is support related to a program designed to provide qualifying low-income customers with discounts on initial connection fees. See 47 CFR § 54.413.

13. Budget’s Application is limited to a request for ETC designation to receive both Lifeline and LinkUp federal low-income USF support. To be clear, Budget is not at this time requesting federal high-cost USF support. Budget is not at this time requesting authority to receive Missouri state USF support.

14. In Appendix A, attached hereto and incorporated by reference herein, Staff states that upon review of the Company’s Application and Supplement, that Budget has committed to comply with the requirements of 47 CFR Section 54 and Commission Rule 4 CSR 240-3.570, with the exception of Commission Rules 4 CSR 240-3.570(2)(A)1-3, 4 CSR 240-3.570(2)(C), and 4 CSR 240-3.570(3)(C)3, compliance with which the Company has requested waivers. Staff has included in Appendix A references to those portions of Budget’s Application and Supplement that Staff believes demonstrates compliance with the federal and state rules.

15. In response to the waivers requested by the Company, Staff is of the opinion that neither the FCC nor the Missouri PSC rules clearly identify ETC application requirements for telecommunications companies seeking ETC designation for the purpose of receiving *only* federal low-income USF funding, as is this case with Budget. Nevertheless, Appendix A

identifies the ETC application requirements Staff deems applicable for companies seeking only federal low-income USF support. In response to these requests, Staff recommends the Commission either grant the waivers, or in the alternative, state that these requirements only apply to companies seeking federal high-cost USF support.

16. Budget is not delinquent in the submission of its annual reports, in the payment of its Commission assessment, or in the remission of Relay Missouri or Missouri USF revenues.

WHEREFORE, Staff recommends the Commission issue an order granting ETC designation to Budget, for the purpose of receiving federal low-income USF support, subject to the condition that Budget's Tier I reimbursement support be limited to the tariffed rate in effect for the primary residential end user common line charge of the incumbent local exchange carrier serving the area in which the qualifying Lifeline consumer receives service¹.

Respectfully submitted,

/s/ Eric Dearmont

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¹ FCC rule 54.403(a)(1) limits federal reimbursement Tier I support in this manner; however Budget intends to offer Lifeline subscribers a larger Tier I discount. AT&T's subscriber line charge is less than \$5.30, yet Budget indicates it will reimburse customers a subscriber line charge of \$7.35. This condition will ensure Budget does not attempt to draw a larger amount from the federal USF than allowed by the FCC rules.

Certificate of Service

I hereby certify that copies of the foregoing have been mailed, hand-delivered, transmitted by facsimile or electronically mailed to all counsel of record this 29th day of January, 2010.

/s/ Eric Dearmont

MEMORANDUM

To: Missouri Public Service Commission Official Case File
Case No. TA-2010-0146
Company Name: Budget PrePay Inc.

From: Dana Parish
Telecommunications Department

John Van Eschen (1-29-10) Eric Dearmont (1-29-10)
Utility Operations Division/Date General Counsel's Office/Date

Subject: Staff Recommendation Regarding Budget PrePay Inc. Application for
ETC Status

Date: January 29, 2010

On November 12, 2009, Budget PrePay, Inc. (Budget), a competitive local exchange carrier (CLEC) certificated in Case No. CA-2003-0024, filed an Application with the Missouri Public Service Commission (PSC) seeking designation as an Eligible Telecommunications Carrier (ETC) for the purpose of receiving federal low-income universal service fund (federal USF) support. In its Application, Budget requests waivers of Commission Rules 4 CSR 240-3.570(2)(A)1-3, 4 CSR 240-3.570(2)(C), and 4 CSR 240-3.570(3)(C)3. Pursuant to inquiries by both the Staff of the Missouri Public Service Commission (Staff) and the Office of Public Counsel (OPC), on December 7, 2009, Budget submitted a supplement to its Application. Budget has since submitted a second supplement and a corrected second supplement to its Application. The Commission has ordered Staff to file its recommendation, or in the alternative a status report, no later than January 29 2010.

There are two types of federal USF support, generally referred to as "high-cost" and "low-income" federal USF support. A company must receive ETC designation in order to receive either. In the State of Missouri, the PSC has the authority to grant or to deny such designation, subject to both state and federal law. There are two general types of low-income federal USF support: Lifeline, which is a discount on monthly rates and LinkUp, which is a discount on initial connection fees. These programs provide federal funds to companies by reimbursing installation and monthly service charges for local voice service subscribed to by consumers meeting certain criteria. Applied to this framework, Budget's pending ETC Application is limited to a request for ETC designation to receive both Lifeline and LinkUp federal low-income USF support. To be absolutely clear, Budget is not requesting federal high-cost USF support at this time, nor is Budget requesting authority to receive Missouri state USF support at this time.

ETC application requirements are identified in rules established by the FCC and the Missouri PSC. Unfortunately, neither the FCC nor the Missouri PSC rules clearly identify ETC application requirements for telecommunications companies seeking ETC designation for the purpose of receiving *only* federal low-income USF funding, as is the case with Budget. Nevertheless, Attachment A to this Memorandum, attached hereto and incorporated by reference, identifies the ETC application requirements Staff deems applicable for companies seeking only federal low-income USF support.

In Staff's opinion, Budget meets all requirements for ETC designation in order to receive federal low-income USF support. Staff has inserted citations within Attachment A, indicating where in the record Budget has demonstrated that it meets the applicable designation requirements.

In its Application, Budget requests that the Commission grant waivers of certain provisions that the Company believes are not applicable. In response to these requests, Staff recommends the Commission either grant the waivers, or alternatively, state that these requirements only apply to companies seeking federal high-cost USF support. To be specific, Budget's waiver requests pertain to Missouri PSC rules requiring an ETC designation request to include descriptions for the intended use of high-cost support, two-year plans, plans for handling unusual construction or installation charges, and plans for extending the Company's networks. In Staff's opinion, the rules targeted by Budget for waiver are requirements for applicants seeking high-cost support. In Staff's opinion, Paragraph No. 28 of Budget's Application adequately explains Budget's commitment to providing service to all customers.

Budget is currently compliant with all other obligations such as paying the PSC assessment, remitting revenue to the Relay Missouri fund and Missouri USF and the submission of an annual report.

Recommendation

Staff recommends the Commission grant ETC designation to Budget, for the purpose of receiving federal low-income USF support, subject to the condition that Budget's Tier I reimbursement support be limited to the tariffed rate in effect for the primary residential end user common line charge of the incumbent local exchange carrier serving the area in which the qualifying Lifeline consumer receives service.¹

In response to Budget's waiver requests, Staff recommends the Commission either grant the waivers, or in the alternative, state that these requirements only apply to telecommunications companies seeking federal high-cost USF support.

¹ FCC rule 54.403(a)(1) limits federal reimbursement Tier I support in this manner; however Budget intends to offer Lifeline subscribers a larger Tier I discount. AT&T's subscriber line charge is less than \$5.30, yet Budget indicates it will reimburse customers a subscriber line charge of \$7.35. This condition will ensure Budget does not attempt to draw a larger amount from the federal USF than allowed by FCC rules.

Budget PrePay

Compliance with ETC Application Requirements (Lifeline/LinkUp Assistance)

Requirement (Rule citation)		Description	Compliance Status
FCC	MoPSC		
54.201	-	Defines ETC as a carrier providing service using at least a portion of its own facilities. <i>(Note: a carrier solely providing service via UNEs is OK but a carrier solely providing service via resale is not.)</i>	Sufficient See ETC Application: Pages 3 & 12
54.101	3.570 (3)(C)1	Ensures certain service features are provided (touchtone, single-party, access to 911, IX service, relay (711), DA, operators, toll limitation)	Sufficient See ETC Application: Page 5
-	3.570 (3)(D)	<i>Wireless providers: Within 30 days of receiving ETC status will make an informational filing describing all service offerings.</i>	Not applicable.
54.202(a) (1)	-	Commit to provide service throughout proposed service area	Sufficient See ETC Application: Page 12, See also Supplement to Application Filed 12/7/09: Paragraph 4
54.202(a)(1)(B)	-	Commit to provide service in a timely manner.	Sufficient See ETC Application: Page 11
54.202(a)(2)	3.570 (2) (A)4	Commit to remain functional in emergencies.	Sufficient See ETC Application: Page 12
-	3.570 (2)(A)9	Statement it will provide equal access if all other ETCs in that service area relinquish their ETC designations.	Sufficient See ETC Application: Pages 9 & 13
54.202(a)(3)	3.570 (2)(B)	Commit to satisfy consumer protection & quality of service standards. <i>(Wireless ETCs commit to CTIA code of conduct + attach copy of current CTIA code)</i>	Sufficient See ETC Application: Page 11
54.202(a)(4)	3.570 (2)(A)10	Commit to offering a comparable usage plan as ILEC.	Sufficient See ETC Application: Page 10
54.202(c)	3.570 (2)(A)5	Demonstrates granting ETC status is in public interest.	Sufficient See ETC Application: Pages 8-9
-	3.570 (3)(A)	Clear bill design.	Sufficient See ETC Application: Page 6
-	3.570 (3)(B)	Customer service contact information online and on billing statements.	Sufficient See ETC Application: Page 6

-	3.570 (3)(E)	Commit to maintain record of customer complaints.	Sufficient See ETC Application: Page 6
54.401(c)	-	Not collect a deposit from a Lifeline subscriber if consumer voluntarily elects toll limitation service.	Sufficient See 12/29/09 email response to question
54.401(e)	-	Not charge a Lifeline subscriber a monthly number portability charge.	Sufficient See 12/29/09 email response to question
54.403	3.570 (2)(A)7	Discounts consistent with federal plan: Tier 1: \$6.50 (waive subscriber line charge)* Tier 2: \$1.75 (fed discount) Tier 3: \$1.75 (additional fed discount based on half of a state's or carrier's contribution) - \$3.50 state MoUSF - \$13.50 max. * Limited to ILEC's subscriber line charge amount.	Sufficient See ETC Application Page 11. See also 12/29/09 email response to question
54.405 (b)	3.570 (2)(A)6	Publicize Lifeline.	Sufficient See ETC Application: Pages 7-8
54.409 54.410	31.050	FCC rules state ETC must comply with state verification procedures in states that mandate state Lifeline support. MoPSC rules require a company to verify customer's eligibility; develop a process for documentation received; plus verify a customer's continued eligibility.	Sufficient See Supplement to Application: Paragraph 1
-	3.570 (2)(A)8	Statement will satisfy consumer privacy protection standards.	Sufficient See ETC Application: Page 11
-	3.570 (3)(F)	Notify PSC of any changes to contact info.	Sufficient See ETC Application: Page 7

Compliance with Other Funding/Filing Requirements		
Item	Yes	No
Missouri USF Assessment	X	
PSC Assessment	X	
Relay Missouri	X	
Annual Report	X	

