

**BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF SOUTH DAKOTA**

In the Matter of the Application of)	DOCKET NO. TC12-125
Budget PrePay, Inc., d/b/a Budget Mobile,)	
for Designation as an Eligible)	Budget PrePay, Inc.,
Telecommunications Carrier in South)	d/b/a Budget Mobile's Responses
Dakota Pursuant to 47 U.S.C. § 214(e))	to 2nd Data Request

Budget PrePay, Inc., d/b/a Budget Mobile, ("Budget PrePay" or "Company") submits this response to the Second Data Request from Staff, dated September 5, 2012, states as follows:

Data Request No. 2-1: How does the Company intend to ensure that Lifeline support is limited to a single subscription per household?

Response:

As set forth in Exhibit C (the Compliance Plan) to its Application, Budget PrePay is prepared to comply with all of the conditions set forth in the Federal Communications Commission's ("FCC's") *Lifeline Reform Order*¹ and the FCC's Rules (as amended by the *Lifeline Reform Order*), the provisions of its Compliance Plan, and all laws and regulations governing its provision of Lifeline-supported prepaid wireless service to customers in South Dakota and throughout the United States.

To limit Lifeline support to a single subscription per household, as well as satisfying other eligibility criteria, Budget PrePay will implement certification procedures that require consumers to demonstrate their eligibility for Lifeline assistance by contacting the Company in person or via mail, telephone, facsimile or the Internet. At the point of sale, consumers will be provided with printed information describing Budget PrePay's Lifeline program with instructions for enrollment, including eligibility requirements. Consumers will be signed up in person or directed, via company literature, to a toll-free telephone number and to the Company website, which will contain a link to information regarding the Company's Lifeline service plans, including a detailed description of the program and state-specific eligibility criteria.

The Lifeline application form will include a certification section where the applicant must attest and sign, under penalty of perjury, that the applicant's representations are true and correct. Applicants will also be required to initial a number of disclosure statements intended to ensure that the applicant understands applicable eligibility requirements—including a statement to the effect that to the best of his or her knowledge, the applicant is not receiving Lifeline-supported service from any other Lifeline provider. Penalties for perjury will be clearly stated on the certification form. The certification form will also contain language stating that violation of the one-per-household requirement will result in the consumer's de-enrollment from the program, and could result in criminal prosecution by the United States government.²

¹ *In the Matter of Lifeline and Link Up Reform and Modernization*, WC Docket No. 11-42, Report and Order and Further Notice of Proposed Rulemaking, FCC 12-11 (rel. Feb. 6, 2012) ("*Lifeline Reform Order*").

² *Id.* at ¶ 121.

The application form will clearly state that Lifeline participants must provide their new address to the Company within 30 days of moving.³ Budget PrePay will incorporate this information into its customer information database. Prior to initiating service for a customer, the Company will check the address of each Lifeline applicant against its database to determine whether it is associated with a customer that already receives Budget PrePay Lifeline service, and will then review the application to ascertain whether the applicant is attempting to receive Lifeline-supported service for more than one handset associated with its household.⁴ If the Company determines that an individual at the applicant's residential address is currently receiving Lifeline-supported service, the Company will initiate an additional step to ensure that the applicant and the current subscriber are part of different households.⁵ In order to make this determination, Budget PrePay will require applicants to complete and submit to the Company a written document that will allow the Company to make a definitive determination about whether, under applicable Lifeline rules, there are multiple households at a particular address. Budget PrePay will deny the Lifeline application of any individual residing at the same address as a current Lifeline subscriber who is part of the same household, and will advise the applicant of the basis for the denial.

Budget PrePay also will de-enroll within ten (10) business days any subscriber who the Company knows is receiving Lifeline-supported service from another ETC or knows is no longer eligible. In the event that the Company is notified by Universal Service Administrative Company (USAC) that a subscriber is receiving duplicative support, the Company will de-enroll that subscriber from participation in the Lifeline program within five (5) business days.⁶ If the subscriber provides Budget PrePay with a temporary address, the Company will verify with the subscriber every 90 days that this address remains valid. If the subscriber fails to respond to the Company within 30 days, the subscriber will be de-enrolled from the Lifeline program.⁷

As required by the *Lifeline Reform Order*, Budget PrePay will require every consumer enrolled in the Lifeline program to verify on an annual basis that he or she is the head of his or her household, receives Lifeline-supported service only from Budget PrePay and, to the best of his or her knowledge, no one else in the subscriber's household is receiving a Lifeline-supported service.⁸ Where ongoing eligibility cannot be determined through access to a qualifying database either by the Company or the state, and there is no state administrator verifying the continued eligibility of Lifeline subscribers, the Company will re-certify the continued eligibility of its subscribers by contacting them—either in person, in writing (by mail), by phone, by text message, by email or otherwise through the Internet—to confirm their continued eligibility.⁹ Such certifications may be obtained in person through a written document, an IVR system, a text message or online with an electronic signature. The Company will accept electronic signatures that meet the requirements of the Electronic Signatures in Global and National Commerce Act,

³ *Id.* at ¶¶ 85 and 117.

⁴ Budget PrePay will use the definition of "household" established by the *Lifeline Reform Order* at ¶¶ 29 and 74; *see also* revised section 47 CFR § 54.400(h).

⁵ *Lifeline Reform Order* at ¶ 78.

⁶ 47 C.F.R. § 54.405 (e)(2).

⁷ *Id.* at ¶¶ 88 – 89.

⁸ *Id.* at ¶ 120.

⁹ *Id.* After 2012, the Company may elect to have USAC administer the self-certification process on its behalf. *See id.* at ¶ 133.

15 USC 7001-7006, and any applicable state laws, in accordance with the *Lifeline Reform Order*.¹⁰

To supplement its verification and certification procedures, and to better ensure that customers understand the Lifeline service restrictions with respect to duplicates, Budget PrePay will implement measures and procedures to prevent duplicate Lifeline benefits being awarded to the same household. These measures entail additional emphasis in written disclosures as well as live due diligence, and will help ensure that only eligible consumers enroll in the program and that those consumers are fully informed of the rules and requirements of the program.

In its marketing materials, including application forms, on its website and in its direct contact with applicants, the Company will emphasize in plain, easily-comprehensible language that: (1) Lifeline is a federal benefit; (2) Lifeline service is available for only one line per household; (3) a household is defined, for purposes of the Lifeline program, as any individual or group of individuals who live together at the same address and share income and expenses; and (4) a household is not permitted to receive Lifeline benefits from multiple providers.¹¹ Budget PrePay will also include in its marketing materials substantially the following information in clear, easily-understood language: that the offering is a Lifeline-supported service; that only eligible consumers may enroll in the program; what documentation is necessary for enrollment; and that the program is limited to one benefit per household, consisting of either wireline or wireless service.¹² In order to reinforce the limitation of one Lifeline phone per household, the following statement will appear within the Company's marketing materials and website (www.budgetprepay.com) in a conspicuous place, in bold font and in an offsetting color, to ensure it is not overlooked:

Note: By law, the Lifeline program is only available for one phone per household

Budget PrePay will disclose the company names under which it does business and the details of its Lifeline service offerings.¹³

Dated this 7th day of September 2012.

BANTZ, GOSCH & CREMER, L.L.C.

LUKAS, NACE, GUTIERREZ & SACHS, LLP

James M. Cremer

305 Sixth Avenue SE
P.O. Box 970
Aberdeen, SD 57402-0970
605-225-2232; 605-225-2497 (fax)
jcremer@bantzlzaw.com

Todd B. Lantor
Marc A. Paul
8300 Greensboro Drive, Suite 1200
McLean, VA 22102-3663
703-584-8678; 703-584-8694 (fax)
tlantor@fcclaw.com; marc.paul@fcclaw.com

Counsel for Budget Prepay, Inc.

¹⁰ *Id.* at ¶ 132.

¹¹ *Id.* at ¶ 121.

¹² *Id.* at ¶ 275.

¹³ *Id.*