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July 25, 2013

**VIA WUTC WEB PORTAL AND OVERNIGHT FEDEX**

Mr. Steven V. King  
Acting Executive Director and Secretary  
Washington Utilities and Transportation Commission  
1300 S. Evergreen Park Drive, S.W.  
Olympia, WA 98504-7250

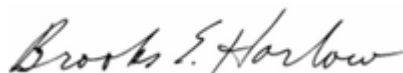
**Re: UT-111570  
Annual Renewal of Budget PrePay, Inc.**

Dear Mr. King:

Enclosed for filing in the above-referenced docket are the original and twelve (12) copies of Budget PrePay, Inc.'s Application to Renew Designation as an Eligible Telecommunications Carrier. Electronic copies were filed with the WUTC Records Department as of this date.

If you have any questions, please feel free to contact the undersigned.

Respectfully submitted,



Brooks E. Harlow  
Todd B. Lantor

*Counsel for Budget PrePay, Inc.*

Cc: Ms. Jing Liu (via email, with attachments)

Enclosures

**BEFORE THE WASHINGTON STATE  
UTILITIES AND TRANSPORTATION COMMISSION**

In the Matter of the Petition of	)	DOCKET UT-111570
	)	
BUDGET PREPAY, INC.,	)	BUDGET PREPAY, INC.'S
	)	APPLICATION TO RENEW
For an Exemption from WAC 480-123-	)	DESIGNATION AS AN ELIGIBLE
030(1)(d), (f) and (g); and Designation as	)	TELECOMMUNICATIONS
an Eligible Telecommunications Carrier	)	CARRIER
	)	
	)	

Budget PrePay, Inc. (“Budget PrePay”) respectfully requests that the Commission renew its designation as an Eligible Telecommunications Carrier (“ETC”) in accordance with Condition One of the Commission’s Order Granting the Exemption from Provisions of WAC 480-123-030(1)(d), (f) and (g), and Designation as an Eligible Telecommunications Carrier issued in this docket on August 6, 2012.

**BACKGROUND**

- 1 On August 29, 2011, Budget PrePay, Inc. (“Budget PrePay” or “Company”) filed a petition with the Washington Utilities and Transportation Commission (“Commission”) requesting designation as an Eligible Telecommunications Carrier (ETC) pursuant to Section 214(e)(2) of the Communications Act of 1934, as amended (the “Act”), and WAC 480-123-030. Budget PrePay sought ETC designation in Washington for the purpose of receiving the federal Lifeline and Link Up support.
- 2 Budget PrePay filed four amendments to its original petition. On September 19, 2012, the Company filed a supplement, including a commitment statement to deal with customers directly, a Certificate of Authority and a Certificate of Existence/Authorization issued by the Washington Secretary of State, and a revised handset replacement policy.

On March 8, 2012, the Company filed an amendment to inform the Commission that it submitted a Compliance Plan to the Federal Communications Commission (“FCC”) to seek forbearance from the “own facilities” requirement under 47 U.S.C. § 214(e)(1)(A) and clarify that it no longer sought Link Up support from the federal Low Income Program. It also stated its compliance with the revised federal rules on the Lifeline program implemented in the FCC’s Lifeline and Link Up Reform Order.<sup>1</sup> On May 30, 2012, Budget PrePay informed the Commission that the FCC had approved its Compliance Plan, effectively granting the Company forbearance from the “own facilities” requirement under 214(e)(1)(A) of the Act. On June 25, 2012, Budget PrePay amended its petition to update its Lifeline rate plans and ETC status in other states and clarified its handset replacement policy and free 611 customer care service.

3 The Commission considered Budget PrePay’s petition, as amended, at its open meeting on July 27, 2012 and voted to approve the petition subject to certain conditions. On August 6, 2012, the Commission issued Order 01 granting the petition and setting forth conditions in Appendix B to the order.

4 The conditions in Appendix B to Order 01 were based on Commission Staff’s recommendation that Budget PrePay be subject to similar conditions imposed on TracFone Wireless, Inc, Virgin Mobile USA, L.P., and on Cricket Communications, Inc., each of which also provides prepaid wireless service to Lifeline customers in Washington. Condition 1 in Appendix B states:

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<sup>1</sup> *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 and Link Up Reform Order*”).

Budget PrePay, Inc.'s (Budget or Company) designation as an Eligible Telecommunications Carrier (ETC) shall be for an interim period of one year from the effective date of the Commission's Order approving such designation, subject to Commission review. Before the end of one year after the effective date of the Order, Budget may seek to renew its designation pursuant to WAC 480-123-030 through -040. Budget's designation for the interim period shall continue until the Commission's decision to [*sic*] the designation.

5 Pursuant to Condition 1, Budget PrePay files this Application seeking renewal of its ETC designation. As demonstrated below, Budget PrePay's continued provision of Lifeline service in the state is in the public interest. Moreover, Budget PrePay has materially complied with all conditions of Appendix B. Therefore, Budget PrePay requests the Commission approve its Application and issue an order renewing Budget PrePay's ETC designation.

### APPLICATION

#### **I. Budget PrePay Continues to Meet the Applicable Requirements of WAC 480-123-030.**

6 WAC 480-123-030 sets forth the information that must be contained in a petition for designation as an ETC. Budget PrePay provided all of the information in compliance with this rule in its initial Petition, as supplemented and amended, filed in this docket. Budget PrePay incorporates those filings herein by reference. The Commission found in Order 01 that this petition met the requirements of WAC 480-123-030, except for

provisions for which a waiver was granted, and Budget PrePay continues to meet all the applicable requirements as represented in its amended petition.

**II. Renewing Budget PrePay’s Designation as an ETC Will Continue to Advance the Purposes of the Federal Lifeline Program and Serve the Public Interest in Washington, as Required by WAC 480-123-040.**

- 7 As required by WAC 480-123-040, the Commission found in Order 01 that granting Budget PrePay ETC status is “consistent with the public interest, the purposes underlying regulation, and applicable statutes.” There is no change in circumstances in the past year to warrant a different conclusion. Additionally, Budget PrePay’s provision of Lifeline services in Washington to date further establishes that it is advancing the goals of the Lifeline program and is serving the public interest in the state.
- 8 Shortly after Commission approval of its compliance plan, Budget PrePay began to offer supported services in Washington state. In November 2012, Budget opened its first “brick and mortar” store in Washington, located at 7101 Martin Luther King, Jr. Way, in Seattle. The store is located directly adjacent to both a Sound Transit streetcar stop and a Metro bus stop. The store offers free parking. The location is readily accessible by low income customers both by car and two modes of public transit. The store is staffed by approximately six full-time corporate employees of Budget PrePay and is open six days a week.
- 9 Since its designation by the Commission, the company has advertised the availability of its services on its website ([www.budgetmobile.com](http://www.budgetmobile.com)), at community centers, and at its store.

10 Since opening the store, the Company has been able to offer a personalized level of  
service to customers and prospective customers that cannot be obtained from many other  
Lifeline-only ETCs. For example, many Lifeline customers do not have credit cards or  
bank accounts, but are able to purchase recharges, and other goods and services in cash at  
Budget PrePay's store. Customers are also able to obtain assistance and training with  
their phones or service, and minor repairs, such as battery replacement.

**III. Budget PrePay Has Materially Complied With All Conditions of  
Appendix B to Order 01.**

11 Appendix B to Order 01 lists the Commission's conditions on the Designation of Budget  
PrePay as an ETC. Budget PrePay complies with each of those conditions, as detailed  
below.

12 **Condition #1:** States that Budget PrePay's designation as an ETC shall be for an  
interim period of one year and that Budget PrePay may seek to renew its designation  
pursuant to WAC 480-123-030 through -040. This Application is being filed prior to one  
year from August 6, 2012, the effective date of Order 01, in accordance with Condition 1.

13 **Condition #2:** Required Budget PrePay to make a Compliance Filing within 30  
days of the Commission's designation of Budget PrePay as an ETC and not offer Lifeline  
services until the Commission approved its Compliance Filing. Budget PrePay submitted  
its Compliance Filing on August 24, 2012. In a letter dated September 20, 2012, from  
David W. Danner, Executive Director and Secretary, the Commission approved Budget  
PrePay's Compliance Filing and noted that Budget PrePay had met Condition #2 of  
Commission Order 01.

14           **Condition #3:** Required Budget PrePay to file with the Commission any future changes to its rates, terms or conditions at least one day prior to the effective date of the change. In compliance with this requirement, Budget PrePay informed the Commission of its only rate change on June 3, 2013 – at least one day prior to the effective date of the change.

15           **Condition #4:** Requires Budget PrePay to provide information on its rates, terms and conditions in a package sent or given to Lifeline customers after enrollment in Budget PrePay’s Lifeline program, as well as at Budget PrePay’s official Lifeline websites. Budget PrePay complies with this condition by providing information regarding rates, terms and conditions on documents provided to Lifeline customers in the store or by mail and by posting that information on its website at <http://www.budgetmobile.com>.

16           **Condition #5:** Requires Budget PrePay to provide Lifeline customers with the choice of all other rate plans available to regular customers. Budget PrePay complies with the condition by offering its Lifeline customers in Washington with a choice of service plan options all of which include the features, functionalities and service associated with Budget PrePay’s non-Lifeline plans.

17           **Condition #6:** Requires Budget PrePay to offer a plan with a minimum of 250 free minutes each month. Budget PrePay offers this plan in Washington.

18           **Condition #7:** Requires Budget PrePay to deactivate a Budget PrePay account if the customer has no usage for 60 consecutive days. In addition, Condition 7 provides that no fewer than eight business days before deactivation, Budget PrePay shall send the customer a written notice by mail about the potential deactivation and ways to avoid

unwanted deactivation and that the customer shall have a 30-day grace period from the deactivation date to reactivate the Budget PrePay account to restore the minutes accrued during the 60-day non-usage period and the 30-day grace period. Budget PrePay has non-usage procedures in place that comply with this condition.

19           **Condition #8:** Requires Budget PrePay to file quarterly reports 30 days after the end of each quarter that provide the number of Lifeline customers by service plan that it enrolls each month and the number of deactivated Lifeline customers each month by service plan and the reasons for deactivation. In compliance with this condition, Budget PrePay has filed quarterly reports on October 31, 2012, January 17, 2013 (updated on January 25, 2013 and April 4, 2013), April 29, 2013 (replacement page filed on May 2 and May 9, 2013), and June 26, 2013.

20           **Condition #9:** Requires Budget PrePay to respond within 30 days to Commission Staff's information requests on Budget PrePay's Lifeline operations, including but not limited to Lifeline customers' usage patterns and Lifeline customer records. Budget PrePay has timely responded to any requests for information from Commission Staff.

21           **Condition #10:** Required Budget PrePay to cooperate with the Commission and the Department of Social and Health Services ("DSHS") to work out a procedure to verify Budget PrePay's Lifeline customers' eligibility. Budget PrePay has cooperated with staff of the Commission and DSHS. The Company is able to access electronically the DSHS eligibility database pursuant to a contract with the DSHS. In the Sept. 20, 2012 Commission Letter from Executive Director Danner, the Commission found Budget PrePay met Condition #10.



22           **Condition #11:** Requires Budget PrePay to not deduct airtime minutes for calls to customer service made from the customer's handset by dialing 611 and to explicitly state the policy of free 611 calls in its Lifeline service agreements. All Budget PrePay Washington Lifeline customers may contact customer service by dialing 611 from their handsets without having any minutes deducted. The policy is set forth in the terms and conditions.

23           **Condition #12:** Requires Budget PrePay to file with the Commission and DSHS its complete Lifeline customer records of the prior calendar year by March 31. Due to confusion about this requirement, but immediately upon receipt of clarification from the Commission staff, the Company sent its customer records to DSHS on April 3, 2013 and filed its subscriber listings with the Commission on April 4, 2013. Accordingly, Budget PrePay has substantially and materially complied with this condition.

24           **Condition #13:** Requires Budget PrePay to provide the Commission a copy of its annual Lifeline Verification survey results that it files with the Universal Service Administrative Company ("USAC") by August 31 of each year. The first submission of FCC Form 555 was due to USAC by January 31, 2013.<sup>2</sup> That submission was to include the results of each ETCs' certification of their subscriber bases as of June 1, 2012. Budget PrePay had no Lifeline subscribers in Washington as of June 1, 2012. Nevertheless, the Company filed its FCC Form 555 with the Commission on January 31, 2013.

25           **Condition #14:** Requires Budget PrePay to file with the Commission, by March 31<sup>st</sup> of each year, a report on the number of complaints, categorized by the different

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<sup>2</sup> The date was changed from August 31<sup>st</sup> to January 31<sup>st</sup> each year.

nature of complaints, that it received from Washington Lifeline customers during the prior calendar year. Due to confusion about this requirement, but immediately upon receipt of clarification from the Commission staff, Budget PrePay filed this report on April 4, 2013, showing no complaints during the reporting period, in substantial compliance with this condition.

26           **Condition #15:** Requires Budget PrePay to cooperate with the Washington State Enhanced 911 Program (E911) and all Public Safety Answering Points on E911 issues and, upon request, designate a representative to serve as a member or alternate member of the Washington State E911 Advisory Committee or its Communications Sub-committee. Budget PrePay has not had any E911 issues that it has needed to address since its initial designation as an ETC, nor has it received any request to designate a representative to serve on the Washington E911 Advisory Committee or its Communications Sub-committee. Accordingly, Budget PrePay is in compliance with this condition based on its ongoing commitment to cooperate and participate if requested.

27           **Condition #16:** Requires Budget PrePay to participate in the Washington State E911 Program's "*What's Your Location*" public information campaign if the E911 Program requests the participation of wireless carriers. To date, the E911 Program has not requested Budget PrePay to participate in the campaign. Accordingly, Budget PrePay is in compliance with this condition based on its ongoing commitment to participate, if requested.

28           **Condition #17:** Requires Budget PrePay to collaborate with the Washington State E911 Program to test the compatibility of its handsets with the new Emergency Service Information Network in Washington, including supplying handsets representative

of Budget PrePay's proprietary software and technical assistance should call delivery discrepancies be discovered. To date, the E911 Program has not requested Budget PrePay to test the new network. Accordingly, Budget PrePay is in compliance with this condition based on its ongoing commitment to test and collaborate upon request.

29           **Condition #18:** Requires Budget PrePay to comply with rules on cessation of business as specified in WAC 480-120-083. Budget PrePay is actively doing business in Washington at this time, but will comply with WAC 480-120-083 if it should cease doing business. Accordingly, Budget PrePay is in compliance with this condition.

30           **Condition #19:** Requires Budget PrePay to collect and maintain the necessary records and documentation to insure its compliance with the applicable FCC and Commission requirements, including existing requirements and any future modifications. Budget PrePay has complied with this condition by collecting and maintaining all records required by applicable Commission and FCC requirements and is willing provide them to the Commission Staff, if requested.

31           **Condition #20:** Requires Budget PrePay to cooperate with Commission Staff on phone number conservation issues and to comply with 47 C.F.R. § 52. Budget PrePay is in compliance with this condition based on its compliance with 47 C.F.R. § 52 since its designation as an ETC and the Company's ongoing commitment to cooperate with Staff, upon request.

32           **Condition #21:** Requires Budget PrePay to comply with all applicable federal and Washington State statutes and regulations, including Enhanced 911 tax contributions. Budget PrePay has complied with all applicable federal and state statutes and regulations and has paid all E911 taxes as due.

33 Based on the foregoing, Budget PrePay has materially complied with all conditions set forth in Appendix B to Order 01.

**CONCLUSION**

34 Budget PrePay met and continues to meet this Commission's requirements for designation as a Lifeline-only ETC and has complied with all conditions in the Appendix B, Order 01. Furthermore, renewal of Budget PrePay's designation as a Lifeline-only ETC is in the public interest and furthers the goals of the Lifeline program in Washington. Budget PrePay requests that the Commission issue an order renewing Budget PrePay's designation as a Lifeline-only ETC.

RESPECTFULLY SUBMITTED this 25th day of July, 2013.

Lukas, Nace, Gutierrez & Sachs, LLP

By: *Brooks E. Harlow*

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