

STATE OF NORTH DAKOTA  
PUBLIC SERVICE COMMISSION

**Budget PrePay, Inc.  
Designated Eligible Carrier  
Application**

**Case No. PU-12-707**

**AFFIDAVIT OF SERVICE BY CERTIFIED MAIL**

STATE OF NORTH DAKOTA  
COUNTY OF BURLEIGH

**Cara DeSaye** deposes and says that:

she is over the age of 18 years and not a party to this action and, on the **14<sup>th</sup>** day of **December, 2012**, she deposited in the United States Mail, at Bismarck, North Dakota, **one** envelope with certified postage, return receipt requested, fully prepaid, securely sealed and containing a photocopy of:

**Order**

The envelope was addressed as follows:

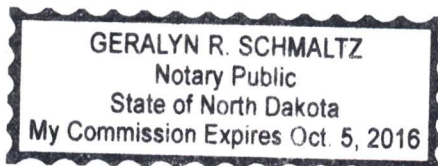
Wade C. Mann  
Crowley Fleck  
PO Box 2798  
Bismarck ND 58502-2798

**Cert. No. 7012 1640 0002 4652 4769**

The address shown is the respective addressee's last reasonably ascertainable post office address.

Subscribed and sworn to before me  
this **14<sup>th</sup>** day of **December, 2012**.

SEAL



*Cara DeSaye*  
\_\_\_\_\_  
*Geralyn R. Schmaltz*  
\_\_\_\_\_  
Notary Public

**STATE OF NORTH DAKOTA**  
**PUBLIC SERVICE COMMISSION**

**Budget PrePay, Inc.**  
**Designated Eligible Carrier**  
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**Case No. PU-12-707**

**ORDER ON ELIGIBLE TELECOMMUNICATIONS CARRIER DESIGNATION**

**December 12, 2012**

**Preliminary Statement**

On August 31, 2012 Budget PrePay, Inc. d/b/a Budget Mobile (Budget PrePay) filed an application for designation as an eligible telecommunications carrier (ETC) for the purpose of receiving federal universal service support for low-income consumers under 47 CFR Part 54 Subpart E. Such designation is also known as Lifeline-only ETC designation. Budget PrePay proposes to provide prepaid Lifeline universal services to qualifying low income customers as a commercial mobile radio service (CMRS) carrier in North Dakota wire centers currently served by Qwest Corporation and SRT Communications, Inc.

On September 12, 2012, the Commission issued a Notice of Opportunity for Hearing (Notice) providing until October 26, 2012 for comments and requests for hearing. No comments or requests for hearing were received. The Notice identified the issues to be considered in this matter are:

1. Is the applicant qualified under the Telecommunications Act of 1996, Section 214(e) for designation as an ETC eligible to receive federal universal service funding?
2. What ETC universal service support area should be designated?
3. Is designation of the applicant as an ETC in the public interest?

The Notice stated that the Commission can determine the matter without a formal hearing.

On November 28, 2012, the Commission held an Informal Hearing to discuss the issues with Budget PrePay.

On December 7, 2012, Budget PrePay filed a certification of David Donahue, CFO, Budget PrePay, in support of the application.

## **ETC Designation**

The Telecommunications Act of 1996 provides financial support for universal services to common carriers that have been designated as eligible telecommunications carriers (ETCs) and that (1) offer the universal services that are supported by Federal universal service support mechanisms under section 254(c), either using its own facilities or a combination of its own facilities and resale of another carrier's services and (2) advertise the universal services, advertise the availability of such services, and advertise the charges for such services, using media of general distribution.

In its Report and Order and Further Notice of Proposed Rulemaking released February 6, 2012 in Docket No. FCC 12-11 at paragraph 368, the Federal Communications Commission found that it would forbear from the "own-facilities" requirement contained in section 214(e)(1)(A) for carriers that seek to become, Lifeline-only ETCs, subject to the following conditions: (1) the carrier must comply with certain 911 requirements and (2) the carrier must file, and the FCC must approve, a compliance plan providing specific information regarding the carrier's service offerings and outlining the measures the carrier will take to implement Lifeline service obligations as well as further safeguards against waste, fraud and abuse the FCC may deem necessary.

Under 47 CFR 54.201, a carrier seeking Lifeline-only ETC designation must demonstrate that it is financially and technically capable of providing Lifeline service in compliance with 47 CFR Subpart E. Budget PrePay is seeking Lifeline-only ETC designation. Budget PrePay is not seeking high-cost support as part of its ETC Application.

Both federal law and state law give the Commission the authority to designate a common carrier as an ETC. In areas served by a rural telephone company, the Commission must find that ETC designation is in the public interest.

Budget PrePay, based in Bossier City, Louisiana, was organized and incorporated in the State of Louisiana on May 1, 1996. Budget PrePay is a common carrier. Budget PrePay provides both wireline and wireless telecommunications services. Budget PrePay began offering prepaid wireless telecommunications services in 2010. Budget PrePay sells low-cost prepaid telephone services on a nationwide basis to hundreds of thousands of customers and employs hundreds of people nationally. Budget PrePay owns and operates its own switching facilities in Texas and Louisiana. Budget PrePay has not been subject to any enforcement action at the FCC or in any state.

Budget PrePay has resale agreements in place with Sprint and Verizon Wireless and will be using the networks of these two carriers to provide its wireless services in North Dakota.

Budget PrePay will offer telecommunications services primarily to qualified low-income subscribers within the designated ETC service area. Budget PrePay is not seeking designation for less than the entire study area located in North Dakota for a rural telephone company.

Budget will offer two wireless prepaid offerings throughout its designated service area: the Active User Talk & Text Plan and the Free 250 Minute Talk Plan.

The Active User Talk & Text Plan provides 4,000 combined voice minutes and text messages. The plan includes local and domestic long distance calling, texting, caller ID, call waiting and voicemail. Customers can add additional minutes at \$5.00 intervals. Customers will receive a free handset or can purchase an upgraded handset from Budget. When applying the \$9.25 Federal Lifeline credit for eligible subscribers, the price of the Active User Talk & Text Plan is \$25.00 per month.

The Free 250 Minute Talk Plan 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 purchase additional minutes at \$5.00 intervals, data packages at \$15.00 and a text-message add-on for \$10.00. When applying the \$9.25 Federal Lifeline credit for eligible subscribers, there is no cost for subscribers to the Free 250 Minute Talk Plan.

Budget PrePay offers calling plans that provide customers local usage that is comparable to the incumbent local exchange company ("ILEC") when all of the additional features and functionalities and the inherent mobile nature of wireless service are taken into account.

Budget PrePay provides all of the services required of an ETC including voice grade access to the public switched network, minutes of use for local service at no additional charge to end users, access to emergency services, and toll limitation.

NDAC § 69-09-05-12(6)(a) requires a full description of available services in the ETC's official telephone directory. Since Budget PrePay is a CMRS provider, it does not have an official telephone directory in North Dakota. Budget PrePay has indicated in its Application that it is unclear whether this provision was intended to apply to a company that does not produce an official telephone directory. If it was intended to apply to all applicants that wish to be designated as an ETC, Budget PrePay has requested a permanent waiver from this requirement pursuant to NDAC §§ 69-09-05-12(2)(c) and (d) since it does not produce an official telephone directory.

Budget PrePay filed a Compliance Plan with the FCC on May 1, 2012. The FCC approved Budget PrePay's Compliance Plan on May 25, 2012, and thereby granted Budget PrePay forbearance from the statutory requirement that Budget PrePay provide service using its own facilities.

By the certification of David Donahue, Budget PrePay certifies that:

- it will advertise the availability of the supported services detailed in its Application, and the corresponding rates and charges, in a manner designed to inform the general public within North Dakota using media of general distribution. This advertising will occur through a combination of media channels, such as television and radio, newspaper, magazine and other print advertisements, outdoor advertising, direct marketing, and the Internet. Budget PrePay's advertising will primarily be targeted to low-income consumers.
- it will utilize the federal low-income universal service support it receives only for the provision of services for which the support is intended.
- it will comply with all applicable annual reporting requirements associated with being an ETC.

- it will comply with all aspects of its FCC approved Compliance Plan in providing Lifeline service in North Dakota.
- it will provide the supported services on a timely basis to requesting customers within Budget PrePay's proposed designated service area, where Budget PrePay's underlying carriers' network already passes the potential customer's premises. Budget PrePay will satisfy the intent of NDAC § 69-09-05-12(3)(a)(2) by complying with all service requirements applicable to Lifeline support funding, as detailed in the ETC Application and in the Company's Compliance Plan set forth at Exhibit C to the Application.
- it has taken, and will continue to take, steps to work with its underlying carriers to remain functional in emergency situations by: (1) maintaining a reasonable amount of backup power to ensure functionality without local alternating (AC) commercial power; (2) establishing to the extent feasible the ability to re-route traffic around damaged facilities and to manage traffic spikes resulting from emergency situations; and (3) establishing procedures for employees to follow in an emergency to prevent or minimize interruption or impairment of telecommunications services.
- it will satisfy the applicable consumer protection and quality standards. As set forth in Budget PrePay's Compliance Plan (Exhibit C to the Application), Budget PrePay will abide by CTIA's Consumer Code for Wireless Service ("CTIA Code").
- acknowledges that pursuant to NDAC §69-09-05-12(3)(f), the FCC may require it to provide customers equal access to long distance service in the event that no other ETC is providing equal access within Budget PrePay's designated ETC area.

As a showing of need and public benefit for ETC designation, Budget PrePay states that data compiled by the Universal Service Administrative Company from 2010, the most recent data available, estimates that less than half of North Dakota households eligible for Lifeline actually receive the Lifeline benefit.

Consumers qualifying for the Lifeline discounts offered by Budget PrePay will receive the benefits of nationwide calling areas and the convenience and security of mobile telephone service. Budget PrePay will bring increased customer choice and the benefits of competition.

### **Universal Service Support Areas**

The Commission must establish a geographic area (service area) for the purpose of determining universal service obligations and support mechanisms for the designated ETC. 47 U.S.C. § 214(e)(5).

The Act defines service area:

**SERVICE AREA DEFINED--** The term "service area" means a geographic area established by a State commission for the purpose of determining universal service obligations and support mechanisms. In the case of an area served by a rural telephone company, "service area" means such company's "study area" unless and until the Commission and the States, after taking into account

recommendations of a Federal-State Joint Board instituted under section 410(c), establish a different definition of service area for such company.

In this proceeding, Budget PrePay is requesting ETC designation in all exchanges served by Qwest Corporation (study area 385144) and in all exchanges served by SRT Communications, Inc. (study area 383303).

Budget PrePay has demonstrated that it is financially and technically capable of providing Lifeline service in compliance with 47 CFR Subpart E.

Based on the evidence in this proceeding, Budget PrePay is qualified under the Telecommunications Act of 1996, Section 214(e) for designation as an ETC eligible to receive federal universal service support for low-income consumers under 47 CFR Part 54 Subpart E.

It is in the public interest that Budget PrePay be designated as a Lifeline-only ETC in the requested service areas.

Having allowed all interested persons an opportunity to be heard and having heard, reviewed and considered all testimony and evidence presented, the Commission makes the following:

### Order

The Commission orders that

1. Budget PrePay, Inc. is designated an eligible telecommunications carrier for the purpose of receiving federal universal service support for low-income consumers under 47 CFR Part 54 Subpart E. The designated service area in this proceeding consists of the study areas of Qwest Corporation (study area 385144) SRT Communications, Inc. (study area 383303).
2. Budget PrePay, Inc. shall comply with the applicable annual reporting requirements set forth in NDAC §69-09-05-12.1.
3. Pursuant to NDAC §69-09-05-12(2)(c) and (d), Budget PrePay, Inc. is granted a waiver of the requirements of NDAC § 69-09-05-12(6)(a) regarding the publication of a full description of its services in an official telephone directory.

### PUBLIC SERVICE COMMISSION

  
Kevin Cramer  
Commissioner

  
Brian P. Kalk  
Chairman

  
Bonny M. Fetch  
Commissioner