

**PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA**

**Communications Division  
Carrier Oversight & Programs Branch**

**RESOLUTION T- 17432  
January 16, 2014**

**R E S O L U T I O N**

Resolution T-17432. This Resolution conditionally grants the request of Budget PrePay, Inc., to be designated as an Eligible Telecommunications Carrier to provide only federal wireless Lifeline services in California in the service areas of the Uniform Regulatory Framework Carriers in California excluding the Small Local Exchange Carriers service areas.

**Summary**

By this Resolution, the California Public Utilities Commission (CPUC or Commission) conditionally grants the request of Budget PrePay, Inc. (Budget PrePay) (U-4412-C), a wireless carrier, to be designated as an Eligible Telecommunications Carrier (ETC) to provide only federal wireless Lifeline services to qualifying customers in California in the service areas of the Uniform Regulatory Framework (URF) carriers<sup>1</sup> excluding the Small Local Exchange Carriers (Small LECs)<sup>2</sup> service areas. Budget PrePay only seeks federal Lifeline support and does not seek federal high-cost fund support or California Lifeline fund support. This advice letter is consistent with the Federal Communications Commission's (FCC) Lifeline requirements, Commission's ETC requirements of Resolution T-17002, applicable LifeLine requirements of General Order (GO) 153, and applicable requirements for CPUC wireless registered carriers. We find that the request is reasonable and consistent with the public interest and should be granted to the extent allowed by this Resolution.

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<sup>1</sup> The URF carriers are AT&T California, Verizon California, Surewest Telephone, Frontier Communications of California, and Frontier of the South West.

<sup>2</sup> The Small LECs group is composed of Calaveras Telephone Co. (U-1004-C), Cal-Ore Telephone Co. (U-1006-C), Ducor Telephone Co. (U-1007-C), Foresthill Telephone Co. (U-1009-C), Happy Valley Telephone Co. (U-1010-C), Hornitos Telephone Co. (U-1011-C), Kerman Telephone Co. (U-1012-C), Pinnacles Telephone Co. (U-1013-C), Ponderosa Telephone Co. (U-1014-C), Sierra Telephone Co. (U-1016-C), Siskiyou Telephone Co. (U-1017-C), Volcano Telephone Co. (U-1019-C), Winterhaven Telephone Co. (U-1021-C), and Frontier Communications West Coast (U-1020-C). These telephone companies generally operate in rural areas and have regulated rates.

This resolution does not address at this time the ETC-designation requests of the following carriers: Q-Link Wireless, LLC (U-4419-C), TAG Mobile LLC (U-4411-C), and Boomerang Wireless, LLC (U-4436-C). We will address these companies' ETC-designation requests in future resolutions.

## **Background**

Pursuant to federal law, 47 U.S.C. §214(e)(2), a state commission may designate a common carrier as an ETC if it:

- offers the services supported by the federal Universal Service Fund (USF) either by using its own facilities, resale, or both, and
- advertises the services and the related charges using advertising media of general distribution.

Once designated an ETC, the FCC then authorizes the ETC to receive federal USF support for providing those services supported by the USF (e.g. local telephone service) in high-cost areas and to low-income customers.

The FCC established the ETC program to satisfy the statutory requirement of the Telecommunications Act of 1996.<sup>34</sup> The federal USF support creates an incentive for the telephone carriers to provide quality residential telephone services at an affordable rate to low-income consumers and/or those living in designated high-cost areas, e.g. rural areas.

Title 47 U.S.C. Part 54 contains the FCC's Universal Service rules and was issued to implement § 254 of the Telecommunications Act regarding universal service. Section 54.401 defines Lifeline as a non-transferrable retail service offering for which qualifying low-income consumers pay a reduced charge for voice telephony service after applying the federal lifeline support amount.<sup>5</sup>

### **FCC Orders**

The FCC made significant changes to the federal Universal Service Program. The following provides a brief summary of some of the relevant aspects of the FCC orders that address ETC matters:

**FCC 11-161 (November 18, 2011), the federal USF and Intercarrier Compensation (ICC) Transformation Order**, modified the definition of the services that are supported by the Federal USF by eliminating the FCC's former list of nine supported services and adopting a definition that is technology neutral, now focusing on service functionality

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<sup>3</sup> 47 U.S.C. Section 153(551) states that "a telecommunications carrier shall be treated as a common carrier under this chapter only to the extent that it is engaged in providing telecommunications services, except that the Commission shall determine whether the provision of fixed and mobile satellite service shall be treated as a common carriage."

<sup>4</sup> 47 U.S.C. Section 214(e).

<sup>5</sup> 47 U.S.C. section 54.403.

instead of the technologies used and allowing services to be provided over any platform.<sup>6</sup>

In addition, the Order reformed the framework for ETC oversight by the FCC, state commissions, Tribal governments, and the Universal Service Administrative Company (USAC).<sup>7</sup> The Order established uniform national standards of accountability related to reporting requirements and annual §254(e) certifications<sup>8</sup>; imposed consequences of non-compliance with rules; described the USAC oversight process, access to cost & revenue data; and, updated the federal USF/ICC systems including revisions to the information required of common carriers when seeking ETC designation and annual reporting requirements. ETCs must meet public interest obligations and apply new certifications related to the public interest.

**FCC 11-189 (December 23, 2011), the Sua Sponte Order on Reconsideration**, clarified the attributes of “voice telephony service” by amending the definition of services supported by the federal USF in order to establish a more technologically neutral approach to functionality over any platform, not just based on technology. With the amendment of § 54.101, voice telephony services must, by definition provide a) voice grade access to the public switched network or its functional equivalent, b) minutes of use for local service provided at no additional charge to end users, c) access to emergency services provided by local government or other public safety organizations (e.g. 911 or E-911), and d) toll limitation for qualifying low-income consumers.<sup>9</sup> Additionally, the Order affirmed that Lifeline-only ETCs do not meet the “own facilities” requirement if their facilities no longer support the “voice telephony service” under the amended section. To be in compliance with rules, Lifeline-only carriers seeking ETC designation must use their own facilities, in whole or in part, to provide the supported services or obtain forbearance from the FCC.<sup>10</sup>

**FCC 12-11 (February 6, 2012), the Lifeline Reform Order**, revised the definition of Lifeline service to include technological-neutral terms of service and adopted a rule to permit ETCs to allow qualifying consumers to apply Lifeline discounts to all residential service plans that provide voice telephony service including bundled service packages of voice and broadband or packages with optional calling features. ETCs can apply the Lifeline discount to any retail service offering, not just to offerings specifically designed for low-income consumers.<sup>11</sup>

The Order updated the definition of Lifeline to be consistent with the new definition of the supported services (e.g. “voice telephony service”) and removed the “local” qualifier because many providers no longer distinguish between local and long distance usage

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<sup>6</sup> ¶ 77.

<sup>7</sup> FCC 11-161 §VIII.

<sup>8</sup> §254(e) ETCs certify that the use of federal support funds is annually only for the provision, maintenance, and upgrading facilities and services.

<sup>9</sup> FCC 11-189 ¶3.

<sup>10</sup> FCC 11-189 ¶4.

<sup>11</sup> FCC 12-11 ¶315-316.

since service offerings bundle minutes of use. Prior to the adoption of FCC 12-11, an ETC had to demonstrate that it offered a local usage plan comparable to one offered by the incumbent LEC in the service area(s) for which the ETC applicant sought designation. The FCC never adopted a specific local usage threshold leaving it up to a fact specific case-by-case analysis that took into consideration different local calling areas than those of the incumbent LEC, a specified number of free local minutes, or the offering of an unlimited calling plan that bundles local and long distance minutes.<sup>12</sup> In FCC 12-11, however, the FCC noted that many providers do not distinguish between local and long distance usage and concluded that carriers may satisfy the obligation to provide local usage via service offerings which bundle local and long distance minutes<sup>13</sup> and concluded that this finding was applicable also to Lifeline service. The FCC, therefore, determined it appropriate to remove the qualifier “local” from Lifeline comparable local usage requirements and determined that prescribing a minimum amount of local minutes was not necessary at this time.

The Order updated its ETC rules<sup>14</sup> for all ETCs by: a) modifying the definition of ETC to include ETC’s designated by the FCC as well as by the states; b) requiring all carriers requesting ETC designation to demonstrate financial and technical capability to provide Lifeline services; and, c) streamlining annual reporting requirements, including service outages, into a new section Part 54.422. By adopting these program revisions, the FCC expects to strengthen protections against waste, fraud, and abuse while improving program administration, accountability, and consumer protections.

Title 47 of the U.S.C. § 214(e)(1)(A) requires an ETC to provide the supported services through the use of its own facilities or a combination of its own facilities and resale. The Order concluded that forbearance from the facilities requirement would be in the public interest because it will increase connection among providers of telecommunications services. As a condition of granting forbearance from the “own-facilities” rule, resellers must have an FCC-approved Compliance Plan. Section 214(e)(1)(A) limits ETC designation to common carriers providing service with their own facilities. The FCC granted forbearance to this requirement to those common carriers that do not meet the “own facilities” requirement, subject to the conditions that<sup>15</sup>: a) the carrier must comply with certain 911 requirements including, but not limited to, the procedures the ETC follows in enrolling a subscriber in Lifeline and submitting for reimbursement for that subscriber from the fund, materials related to initial and ongoing certifications and sample marketing materials, as well as further safeguards against waste, fraud, and abuse the FCC may deem necessary and b) the carrier must file, and the FCC must approve, a compliance plan that provides specific information regarding the carrier’s service offerings and outlines the measures the carrier will take to implement the obligations set forth in FCC 12-11. This includes a detailed description of how the carrier offers service, the geographic areas in which it offers service, and a description of the

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<sup>12</sup> FCC 05-46PP 32-33.

<sup>13</sup> FCC 12-11 ¶49.

<sup>14</sup> FCC 12-11 ¶384-391.

<sup>15</sup> FCC 12-11 ¶379.

carrier's various Lifeline service plan offerings including subscriber rates, number of minutes included, and the types of plans available.

The FCC has declined to prescribe minimum monthly minute standards, finding that it was not necessary because the communications market place should make this determination, citing examples of competitive forces driving up the number of minutes offered to Lifeline customers.<sup>16</sup> While the FCC has not prescribed minimum minutes of use for Lifeline plans, CD staff reviews an ETC applicant's proposed plans to determine if they are based on retail offerings of the ETC applicant that are available to its non-Lifeline customers or if the plans are offered only to Lifeline customers. For those Lifeline plans that are not based on retail plans available to all prospective customers, CD staff evaluates the Lifeline customer-only plans in its public interest analysis of each ETC request.

**FCC 12-52 (May 14, 2012), the Third Order on Reconsideration**, extended annual reporting requirements to all recipients of federal high-cost/Connect America Fund (CAF) support, including state-designated ETCs, and clarified that the FCC will not preempt states from imposing state-specific reporting requirements as long as those additional reporting requirements do not create burdens that thwart achievement of the universal service reforms adopted by the FCC.

### **California Public Utilities Commission Requirements**

The Commission may approve federal ETC designation requests when a carrier also complies with the following California state requirements:

**Resolution T-17002 (May 25, 2006)**, adopted *The Comprehensive Procedures and Guidelines for ETC Designation and Requirements for ETCs* that are consistent with FCC Order 97-157 regarding designation of a telephone carrier as a qualified ETC. All carriers seeking ETC designation in California are required to comply with the applicable federal ETC requirements and CPUC requirements for certificated or registered carriers operating in California which include, but are not limited to: a description of the proposed service offerings and attached service area maps; description of the advertising plan(s); commitment to provide service; submission of the 2-year service quality improvement plan; ability to remain functional; commitment to consumer protection; demonstration that a carrier's usage plan is comparable to that of the incumbent LEC in the proposed service area; and, public interest determination.

**General Order 153 (GO 153)** implements the *Moore Universal Telephone Service Act* and contains California LifeLine service requirements. CD staff applies the provisions of GO 153 in the evaluation of wireless ETC designation requests using the list of 22 service elements to which each carrier addresses their compliance.<sup>17</sup> Federal wireless Lifeline ETCs must comply with current provisions of GO 153 until the Commission revises GO

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<sup>16</sup> FCC 12-11 ¶50.

<sup>17</sup> See Attachment B for list of GO 153 basic service elements.

153 and determines the extent to which revised GO 153 and revised California LifeLine service elements should apply to federal wireless Lifeline ETCs in the California LifeLine Rulemaking (R.) 11-03-013

**User Fees and Surcharges** are obligations which CPUC-approved carriers must fulfill. The Public Utilities Commission (PUC) User Fee is levied on all telecommunications carriers providing services directly to customers or subscribers and amount of fees is a percentage calculation based on all intrastate customer billings for telecommunications services. In addition, all telecommunications carriers that provide basic telephone service are required to collect and remit Public Purpose Program (PPP) surcharges from end-users that fund the Commission's universal service program. When reviewing ETC-designation requests, CD staff reviews carrier compliance with these state regulatory requirements for telephone corporations operating in California including, but not limited to, reporting and paying PUC User Fees, PPP surcharges, and submitting required reports.

### **Notice/Protests**

The advice letter filing was served via email to all parties on the ETC service list and appeared in the Commission's Daily Calendar on September 19, 2012. No protests to this advice letter filing were received.

### **Discussion**

This resolution recommends approval of Budget PrePay for federal ETC designation. As a result of comments filed and additional staff review and investigation, CD recommends that the Commission defer action on Q-Link Wireless, LLC, TAG Mobile, LLC, and Boomerang Wireless, LLC for further consideration in subsequent resolutions. Additional time is needed for a thorough review and proper disposition of these carriers' advice letter requests.

Budget PrePay, (U-4412-C), filed Advice Letter 2 on September 14, 2012. Budget PrePay seeks federal Lifeline support only and does not seek federal high-cost fund support or California LifeLine fund support. A summary detailing the ETC review and processing of this advice letter is attached as Appendix A-1 and includes the proposed Lifeline rate plan offerings and a comparison of the proposed Lifeline plans to incumbent local exchange carriers' California LifeLine measured rate plans. Appendix A-1 discusses the method by which Budget PrePay will provide universal service fund supported services, either using its own facilities or a combination of its own facilities and the resale of another carrier's service.

Budget PrePay included in its advice letter a summary of how its Lifeline offerings compare to plans offered by both wireless and wireline incumbent local exchange carriers (ILEC) and other competitive wireless carriers. Comparisons were based on the analysis method used by staff in Virgin Mobile's ETC Resolution T-17284 (May 5, 2011).

### **Compliance with Federal ETC Requirements**

The FCC defines Lifeline as a non-transferrable retail service offering for which low-income consumers pay a reduced charge as a result of applying the federal Lifeline support amount<sup>18</sup>, currently at \$9.25 per month per Lifeline customer.<sup>19</sup> A carrier interested in receiving federal ETC designation must apply to the CPUC via advice letter. Upon analysis, the CPUC may approve federal ETC designation. The following FCC ETC requirements must be satisfied by a carrier to receive federal ETC designation.

Carriers comply with applicable FCC ETC requirements, specifically:

- Demonstrate that the services intended to offered comply with the voice telephony definition
- Advertise using media of general distribution
- Resellers submit FCC-approved *compliance plan*
- Commit to provide service throughout the designated service area
- Demonstrate financial and technical capability
- Commit to submit required compliance reports annually and as requested
- Meet public interest requirements for the proposed service areas
- Commit to satisfy all applicable consumer protection and service quality standards
- Agree to apply the Lifeline support discount to residential retail plans

As discussed more fully in Appendix A-1, CD staff finds that Budget PrePay has complied with these FCC ETC requirements.

### **Other Federal Requirements:**

FCC 12-11 ¶389 changed what had previously been some of the ETC designation requirements to annual compliance reporting in order to centralize and streamline certification and reporting requirements. The following information<sup>20</sup> must be included in annual report compliance filings that are submitted to the FCC and USAC, relevant state commissions, relevant authority in a U.S. territory, and/or Tribal governments: a) company name, holding company name(s), affiliates' name(s), branding (dba), and universal service identifiers for each entity by Study Area Code and b) terms and conditions of any voice telephony plans offered to Lifeline customers including details on number of minutes provided as part of the plan, additional charges for toll calls, and rates for each plan.

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<sup>18</sup> Title 47 U.S.C. Part 54.401.

<sup>19</sup> FCC 12-11 ¶58.

<sup>20</sup> Title 47 U.S.C. Part 54.422.

Title 47 U.S.C. §54.401(d) requires that when a state commission designates an ETC, the state commission shall file or require the ETC to file information with USAC that demonstrates that the ETC's Lifeline plan meets the criteria of universal service support for low-income consumers. Such details include a description of the terms and conditions of voice telephony service plans offered to Lifeline subscribers including details on the plan(s) number of minutes provided, additional charges (if any) for toll calls, and the rates for each such plans demonstrating that its wireless federal Lifeline service meets the FCC requirements and stating the number of qualifying low-income customers and the amount of state assistance (if applicable).<sup>21</sup> To comply with § 54.401(d), CD recommends that the Commission direct Budget PrePay to file the applicable information directly with USAC. USAC will review the service plans to ensure they meet the Lifeline requirements. Once USAC accepts the service plans, Budget PrePay shall provide to the Communications Division Director a copy of the information submitted to USAC and a copy of Budget PrePay's certification of approval from the USAC within 30 days of receipt from USAC.

### **Compliance with State Rules**

#### **GO 153 Basic Service Elements Compliance:**

GO 153 requires compliance with 22 basic service elements of California LifeLine and Budget PrePay's compliance is discussed in the Appendix A-1. (See Attachment B of this resolution for a complete list of California LifeLine basic service requirements.) In summary, CD staff finds that compliance has been satisfied. Budget PrePay requested a waiver to basic service elements of California LifeLine related to: (4) the ability to receive free incoming calls, (11) free provision of one directory listing per year, (12) availability of free white pages telephone directory, and (15) free access to 800 and 800-like toll-free numbers. Consistent with the Commission's findings in the Nexus Wireless and Virgin Mobile ETC designation Resolutions,<sup>22</sup> CD staff recommends Budget PrePay be authorized to waive the requested service elements of California LifeLine with respect to federal Lifeline services until such time that this Commission revises GO 153 and determines the extent to which revised GO 153 rules and revised California LifeLine service elements should apply to federal wireless LifeLine ETCs in the California LifeLine rulemaking proceeding.<sup>23</sup>

#### **LifeLine Third Party Administrator:**

GO 153 § 4.2 related to California LifeLine enrollment procedures provides a reasonable means for wireless carriers to determine if a prospective low-income customer is eligible for wireless federal Lifeline service. In California, the California LifeLine Administrator (CLA) performs enrollment application and renewal functions.<sup>24</sup> The CLA's process captures inconsistent or duplicative LifeLine/Lifeline enrollments to mitigate "double

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<sup>21</sup> USAC requires a copy of a new ETC's designation order issued by its state utility regulator <http://www.usac.org/li/telecom-carriers/step03/default.aspx>.

<sup>22</sup> Resolution T-17258 (May 5, 2011), Nexus Wireless ETC designation in California, pp. 11-13 and Resolution T-17284 (May 5, 2011), Virgin Mobile ETC designation in California, pp. 12-14.

<sup>23</sup> R.11-03-013.

<sup>24</sup> GO 153, §4.2.1. The current California LifeLine Administrator is Xerox.



dipping” into the support funds through periodic duplicate checks. When such inconsistencies arise, the CLA deenrolls the customer and informs the carrier of record. In the case of the federal Lifeline program, the FCC and USAC retain the obligation to identify “double dipping” and/or other inconsistent or duplicative draws for reimbursement from the federal support fund.

In addition, GO 153 requires that an annual renewal form be sent to each California federal Lifeline customer to determine continued eligibility.<sup>25</sup> Budget PrePay agrees to comply with GO 153 requirements, including the CLA enrollment application and renewal processes. Budget PrePay stated it will not provide discounted wireless service until the low-income customer is determined eligible and enrolled by the CLA. Once established, Budget PrePay will adjust monthly charges to reflect credits for service used and thereby will apply the federal Lifeline support cost to the customer’s chosen service/rate plan.

CD staff recommends that the GO 153 California LifeLine enrollment application, verification, and renewal requirements continue to be used in evaluating wireless carrier ETC designation requests to serve California consumers. CD staff recommends requiring Budget PrePay to label clearly its wireless offerings as “*federal Lifeline service*” to minimize customer confusion between the California LifeLine and federal Lifeline programs, to include adequate information about the potential coverage and service quality issues, and to provide copies of all marketing materials including, but not limited to, customer service representative scripts, internet marketing, and posters and brochures to CPUC California LifeLine staff for review and approval prior to publication and distribution.

**User Fees and Surcharges:**

Budget PrePay commits to comply with CPUC User Fee and Surcharge requirements. Budget PrePay is reminded that a failure to comply with user fee and surcharge remittances may lead to CPUC enforcement action including, but not limited to, revocation of the company’s ETC designation and/or wireless identification registration (WIR) authority.

**Providing Wireless Federal Lifeline Service to Customers in Small LEC Service Areas:**

Budget PrePay does not seek ETC designation in the service areas of the Small LECs. Consistent with the policy adopted in Resolution T-17284, Budget PrePay requests that the Commission order the Small LECs to provide a list of the ZIP+4 codes<sup>26</sup> associated with the Small LECs service areas. Budget PrePay will use the data to ensure that no federal Lifeline services are offered to customers residing in the Small LECs’ services areas.

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<sup>25</sup> GO 153, §§4.4 and 4.5.

<sup>26</sup> ZIP+4 code is the standard ZIP code with a four digit add-on code. This add-on code identifies a smaller geographic region within the main code, such as a city block, office building, etc. In Resolution T-17284, Virgin Mobile was required to screen prospective Lifeline customers to ensure they do not reside in the Small LECs’ territories. The screening can be accomplished by using the list of ZIP+4 codes for the Small LEC service areas.

CD staff recommends that the Commission require the Small LECs to provide to Budget PrePay, as they do for all current ETCs, an updated ZIP+4 code data list of the Small LECs' service areas<sup>27</sup> within 30 days of the effective date of this Resolution, as appropriate for the carrier and the service area. The Small LECs should also be required to provide to Budget PrePay any update to the ZIP+4 code data, as needed. Budget PrePay should file a copy of any updated ZIP+4 code data list with the Communications Division Director and the CLA. The ZIP+4 code data shall be provided in an MS Excel file (.xls) format via email to the CD Director. The Small LECs also shall provide the CLA the ZIP+4 code data in a format specified by the CLA.

CD staff considers it appropriate for the Commission to rely on the Small LECs to monitor for instances where they believe a wireless carrier is providing wireless federal Lifeline services to any Small LEC customers. Should such instances arise, the Small LECs can raise for Commission review any related concerns about Budget PrePay's behavior or practices in the Small LECs' service areas. If the matter cannot be resolved informally, the Small LECs can file a formal complaint with the Commission.

**Public Interest Determination:**

Before designating a carrier as an ETC, CD staff must determine that doing so would be in the public interest for California consumers.<sup>28</sup> Budget PrePay explained how its service offerings would give added value to low-income customers in the targeted service areas. Since the federal Lifeline program adopted a technology-neutral definition of acceptable service, Budget PrePay gives consumers more choice of service plans and prices in addition to mobility, a key element to staying connected. While wireless connectivity has limitations, the choice of mobile communications is a benefit if it fits a low-income customer's budget, needs, and lifestyle.

When analyzing pricing, it is appropriate to rely on competitive forces to determine what plans are reasonable. Therefore, CD recommends that federal Lifeline plans based on currently available retail plans be considered reasonable and should be offered to federal Lifeline customers, less the federal support amount(s). Budget PrePay offers both retail and Lifeline plans in its business model where it operates nationally.

As part of the public interest analysis, CD staff evaluated Budget PrePay's proposed Lifeline plans through the prism of the expected monthly cost to a low-income consumer based on average minutes of use<sup>29</sup> in comparison to: a) comparable incumbent local exchange carrier (ILEC) Lifeline plans, b) other wireless ETC Lifeline plans, and c)

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<sup>27</sup> On July 5, 2011, the Small LECs filed with the CPUC the ZIP+4 code data pursuant to Resolution T-17284. On July 6, 2011, Frontier Communications West Coast, Inc. filed the ZIP+4 code data for its service areas pursuant to T-17284.

<sup>28</sup> FCC 05-46, paragraph 40, CPUC Resolution T-17002, *Appendix A, Section II-G: Public Interest Determination.*

<sup>29</sup> The FCC annually issues a mobile competition report. The FCC 13-34 16<sup>th</sup> *Mobile Competition Report* issued March 19, 2013, reflects analysis of 2011 data submitted by carriers. CD staff analysis uses the average minutes of use (MOU) for wireless voice indicated as 615 minutes (Table 38).

Budget PrePay's own retail service plans offered to the general public. Detailed analysis is found in the Appendix A-1.

Budget Pre-Pay's proposed wireless Lifeline service plans are:

- *Budget Mobile 250 Plan* for \$0 per month (no cost)
- *Budget Mobile 500 Plan* for \$5 per month
- *Budget Mobile 1000 Plan* for \$20 per month
- *Budget PrePay Unlimited Talk and Text Plan* for \$32 a month

Regarding customer protection issues, CD staff conducted due diligence reviews to supplement the public interest analysis to determine if any of the carriers have engaged in behavior that may call into question their fitness to be granted ETC designation to serve California consumers. Such research included Lexis/Nexis legal resource searches, Google internet searches, reviewing industry and trade publications, querying other governmental agencies (e.g. California Secretary of State for business registration), and reviewing CPUC surcharge and user fee payment schedules to ensure timely submission of monies to date. CD staff investigated leads of complaints and the history of operations found no fitness issues which would conclude that it is not in the public interest to recommend ETC designation to Budget PrePay.

#### **Safety Concerns:**

Although wireless phone service offers great mobility for consumers, there are safety concerns related to wireless mobile phone service and E-911 and/or 911 connection limitations. Where there is a lack of coverage, poor signal strength, or atmospheric or terrain conditions that affect connections, emergency calls may not be completed. In rural areas, for example, with spotty connectivity or interference (e.g. due to geographic or structural obstacles), wireless mobile resellers of wholesale facilities service cannot guarantee full, accessible emergency connections for their own direct customers. An incomplete emergency call can have devastating results. Given that E-911 and/or 911 safety is a common concern for all of California's wireless customers, CD staff recommends that Budget PrePay be required to fully and clearly inform prospective Lifeline customers that coverage limitations may affect wireless mobile phone service access to E-911 and/or 911 in the event of an emergency. Such disclosures include, but are not limited to, clear statements on marketing materials and conspicuous placement on the public website in the form of information content on webpages, footnotes, and/or listings on a frequently asked questions (FAQ) webpage.

#### **Changes to Lifeline Plans:**

Regarding changes to Lifeline plan offerings, the prior policy has been that a wireless ETC in California must file a Tier II Advice Letter to request approval of any changes to these wireless federal Lifeline rate plans.<sup>30</sup> CD recommends that the Commission apply this rule only to Budget PrePay's Lifeline plans that are not based on retail plans currently available to all prospective customers at the time of filing. Such requests shall

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<sup>30</sup> Resolution T-17339 Ordering Paragraph 3.

demonstrate that the change complies with Resolution T-17002, i.e. *Appendix A-Sections II-E: Local Usage* and *II-G. Public Interest Determination*, all applicable GO 153 rules, and pricing rules pursuant to D.10-11-033 or as modified and/or updated by subsequent Decisions and/or Resolutions effective at the time of the request.

For changes to Budget PrePay's Lifeline plans that are based on retail service offerings available to all prospective customers, not just Lifeline customers, changes from one retail plan to another retail plan should be handled via an Information-Only filing, consistent and in compliance with General Order 96-B General Rules 3.9, 6.1, and 6.2, and Telecommunications Industry Rule 2. Since Budget PrePay offers both retail and Lifeline plans, any future changes to Budget PrePay's California federal Lifeline plans that are based on retail plans shall be noticed via an Information-Only filing.

**Final Conclusions and Staff Recommendations:**

In Appendix A-1 of this Resolution, CD staff details Budget PrePay's request for ETC designation and the content of its advice letter filed including comparison pricing and a coverage map displaying the proposed services areas (Attachment A).

CD staff recommends approval of the wireless federal Lifeline ETC designation Budget PrePay requested for the purpose of offering wireless federal Lifeline services in California in the service areas of the URF carriers excluding the Small LEC service areas. Designation as a federal ETC to commence federal Lifeline operations in California requires full compliance with the following:

- Budget PrePay will comply with FCC § 54.401(d) by filing the required information with USAC to certify that its Lifeline plans meet federal requirements under the USAC administration. Budget PrePay is obligated to report within 30 days of receipt from USAC that compliance has been achieved via a letter to the Director of the Communications Division including a copy of the information submitted to USAC and a copy of Budget PrePay's certification of approval from the USAC;
- Budget PrePay will provide marketing materials to the CPUC California LifeLine staff for review prior to distribution and advertising; and,
- Budget PrePay will post safety-concern content about wireless telephone service coverage limitations on distributed materials and on its company website.

**COMMENTS**

Public Utilities (P.U.) Code Section 311(g)(1) requires that the Commission serve the draft resolution on all parties and make it available for public review and comment for a period of 30 days or more prior to a vote of the Commission on the resolution. On

November 19, 2013, the Commission distributed the draft resolution for comments to the service list attached.

### Comments Received

Budget PrePay, Inc. submitted comments on December 4, 2013. The comments directly focused on the draft resolution's recommendation to reject the carrier's \$0 cost *Budget Mobile 250 Plan*. Specifically, Budget PrePay stated:

- its proposed 250 mobile plan is offered to both retail and Lifeline customers and should be deemed reasonable;
- approval of the 250 mobile plan is consistent with Commission precedent and will promote competitive equality among Lifeline ETCs; and,
- customers should have the option to select a free 250 minute plan offered from Budget.

Also, Chart 1 is corrected for this resolution to show that the *Nexus 250 Minute Plan* costs exactly the same as (not less than) the proposed *Budget Mobile 250 Plan*. In light of this information, CD staff recommends approval of the *Budget Mobile 250 Plan* since it is consistent with the previously approved plans of Nexus and Virgin Mobile.<sup>31</sup>

On December 4, 2013, the Director of Housing Opportunity, Partnerships & Engagement (HOPE) for the City and County of San Francisco filed comments on behalf of low-income clients needing lifeline cellular access noting that Members of Congress are presently critical of the federal Lifeline program and emphasized that current providers and new entrants should be "thoughtful and careful to ensure that the program has integrity and can withstand scrutiny." HOPE requested this Commission to pay attention that new, approved service providers can ensure proper eligibility of Lifeline subscribers and adhere to excellent business practice and customer care.

An important element of CD's ETC review is an in-depth review of a carrier's past record of operations in California and in other states as well as any prior FCC enforcement actions and/or audits which disclose violations of the rules and requirements of the national Lifeline program and other common carrier obligations. This due diligence, therefore, is exercised to prevent waste, fraud, and abuse of the universal service program and Lifeline customers and to ensure that the approval of a new ETC is in the public interest. CD staff uses various services to investigate the background of an ETC applicant, its parent company, affiliates and subsidiaries, and its owners, principals, executives, and operating officers for criminal and/or civil litigation with adverse judgments. CD staff also scrutinizes available records regarding a carrier's performance in response to customer complaints which may be filed through recognized business organizations such as the Better Business Bureau, *Consumer Reports*, California Department of Consumer Affairs, and as well as online web resources such as, but not limited to, [ripoffreport.com](http://ripoffreport.com).

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<sup>31</sup> Resolution T-17258 (May 5, 2011), granting Nexus Wireless ETC designation and Resolution T-17284 (May 5, 2011), granting Virgin Mobile ETC designation.

Based on comments received and CD's due diligence examination of the four ETC applicants originally covered in this resolution, CD recommends that Q-Link Wireless, LLC, TAG Mobile, LLC, and Boomerang Wireless, LLC be withdrawn from this resolution without prejudice and taken up in future resolutions. Further, CD recommends Commission approval of Budget PrePay's request to be designated as an ETC to provide only federal wireless Lifeline services to qualifying customers in California in the service areas of the URF carriers, excluding the Small LECs service areas.

## **FINDINGS AND CONCLUSIONS**

1. On September 14, 2012, Budget PrePay, Inc. filed its Advice Letter 2 requesting eligible telecommunications carrier designation in order to provide wireless federal Lifeline services to qualified customers in the service areas of the uniform regulatory framework carriers excluding the small local exchange carriers (Small LECs) service areas.
2. Budget PrePay, Inc. only seeks federal Lifeline support and does not seek federal high-cost fund support or California LifeLine fund support.
3. A summary detailing the ETC review and processing of Budget PrePay, Inc.'s advice letter is attached as Appendix A-1 which includes the proposed Lifeline rate plan offerings, a comparison of the proposed Lifeline plans to incumbent local exchange carriers' California Lifeline measured rate plans, and proposed service maps.
4. Appendix A-1 discusses the method by Budget Pre-Pay, Inc., will provide universal service fund supported services, either using its own facilities or through a combination of its own facilities and the resale of another carrier's service.
5. Budget PrePay, Inc., has met the FCC's ETC requirements.
6. Budget Prepay, Inc. will file the required service plan information pursuant to Title 47 U.S.C. § 54.401(d) with the Universal Service Administrative Company. USAC will review the service plans to ensure they meet the Lifeline requirements. Once accepted, a copy of the information submitted to USAC and a copy of Budget PrePay, Inc.'s certification of approval from the USAC shall be provided to the Communications Division Director within 30 days of receipt from USAC.
7. Budget PrePay, Inc. has requested a waiver to four basic service elements of California LifeLine: (4) the ability to receive free incoming calls, (11) free provision of one directory listing per year, (12) availability of free white pages

telephone directory, and (15) free access to 800 and 800-like toll-free numbers. It is reasonable to grant these requests until the Commission revises General Order 153 rules and determines the extent to which revised General Order 153 rules and revised California LifeLine service elements should apply to federal wireless Lifeline offerings in Rulemaking 11-03-013.

8. Budget PrePay, Inc. commits to complying with General Order 153's application, verification, and renewal processes to establish customer eligibility with the California LifeLine Administrator and will not offer federal Lifeline plans to customers until the California LifeLine Administrator approves their Lifeline eligibility.
9. Communications Division recommends requiring Budget PrePay, Inc. to label clearly its wireless offerings as *federal Lifeline service* to minimize customer confusion between the California LifeLine and federal Lifeline programs, to include adequate information about the potential coverage and service quality issues, and to provide copies of all marketing materials including, but not limited to, customer service representative scripts, internet marketing, and posters and brochures, to CPUC California LifeLine staff for review and approval prior to publication and distribution. We find this recommendation reasonable and adopt it.
10. Budget PrePay, Inc. commits to complying with CPUC User Fee and Public Purpose Program surcharge requirements. Failure to comply with fee and surcharge remittance requirements may lead to enforcement action including, but not limited to revocation of Budget PrePay, Inc.'s ETC designation and/or wireless identification registration authority.
11. Budget PrePay, Inc. will utilize the ZIP+4 code data of the Small LECs' service areas to ensure that current customers of the small LECs are not accepted as its federal Lifeline customers. We find this recommendation reasonable and adopt it.
12. Communications Division recommends requiring the Small LECs to provide Budget PrePay, Inc. an updated ZIP+4 code data in their corresponding service areas within 30 days of the effective date of this Resolution. Communications Division recommends that the Small LECs also be required to provide, on an as-needed basis, any update to the ZIP+4 code data to Budget PrePay, Inc., as with all other wireless designated ETCs in California. Budget PrePay shall file a copy of any updated ZIP+4 code data with the Communications Division Director and the California LifeLine Administrator (CLA). The ZIP+4 code data shall be provided in an MS Excel file (xls) format via email to the CD director. The Small LECs shall provide the CLA the ZIP+4 code data in a format specified by the CLA.

13. Communications Division recommends requiring the Small LECs to monitor for instances where they believe Budget PrePay, Inc., or any other wireless carrier, is providing wireless federal Lifeline services to any current Small LECs customers. The Small LECs can raise any related concerns about Budget PrePay, Inc., or any other wireless carrier's behavior or practices in the Small LECs' service areas, for Commission review. If the matter cannot be resolved informally, the Small LECs can file a formal complaint with the Commission.
14. Budget PrePay, Inc.'s federal Lifeline plans, based on currently available retail service offerings, are reasonable and in the public interest. They are: *Budget Mobile 250 Plan* for \$0 per month, *Budget Mobile 500 Plan* for \$5 per month, *Budget Mobile 1000 Plan* for \$20 per month, and *Budget PrePay Unlimited Talk and Text Plan* for \$32 per month, as shown in Appendix A-1.
15. Communications Division conducted due diligence reviews to determine Budget PrePay, Inc.'s fitness as it relates to customer protection and found no fitness issues.
16. Based on the due diligence review and questions raised, Communications Division recommends that the request for ETC designation of Q-Link Wireless LLC (U-4419-C), TAG Mobile, LLC (U-4411-C), and Boomerang Wireless, LLC (U-4436-C) be withdrawn from this resolution without prejudice and taken up in future resolutions.
17. Related to concerns for public safety, Budget PrePay, Inc. will clearly inform Lifeline customers that coverage limitations may affect wireless mobile service including E-911/911 emergency calls. Disclosures include, but are not limited to, clear statements on all marketing materials and the company website.
18. Communications Division recommends that the Commission's ETC rule that requires a Tier II Advice Letter to request approval for any future changes to federal Lifeline plans that are approved in this Resolution be applied only to those Lifeline plans that are not based on retail plans that are available to all prospective customers. Such request shall demonstrate that the change complies with Resolution T-17002, i.e. *Appendix A-Sections II-E: Local Usage* and *II-G. Public Interest Determination*, all applicable GO 153 rules, and pricing rules pursuant to D.10-11-033 or as modified and/or updated by subsequent Decisions and/or Resolutions effective at the time of the request. We find Communications Division's recommendation reasonable and adopt it.
19. Communications Division recommends that any future changes to federal Lifeline plans that are approved in this Resolution that are based on retail service offerings that are available to all prospective customers, not just Lifeline customers, should be handled via an Information-Only filing, consistent, and in compliance with General Order 96-B General Rules 3.9, 6.1, and 6.2, and



Telecommunications Industry Rule 2. We find Communications Division's recommendation reasonable and adopt it.

20. Appendix A-1 details Budget PrePay's Inc.'s request and the content of its Advice Letter filing.
21. On November 19, 2013, the Commission distributed a draft of this resolution for comments to the ETC Service List.
22. Budget PrePay, Inc. filed comments on December 4, 2013, requesting reconsideration of staff's rejection of its *Budget Mobile 250 Plan* stating that the service plan is reasonable, is consistent with prior Commission-approved plans, and gives customers a no-cost wireless option to choose.
23. City and County of San Francisco Housing Opportunity, Partnerships & Engagement office filed comments on December 4, 2013, on behalf of low-income clients requesting Commission staff to perform thorough review of ETC requests to ensure carriers adhere to excellent business practice and customer care standards.

**THEREFORE, IT IS ORDERED** that:

1. It is in the public interest to conditionally approve Budget PrePay, Inc. (U-4412-C) with eligible telecommunications carrier (ETC) designation to provide wireless federal Lifeline services throughout California, excluding the small local exchange carrier (Small LECs) service areas.
2. Approval shall be contingent upon the following: 1) Budget PrePay, Inc. shall submit to the Communications Division Director a copy of the information submitted to USAC and a copy of Budget PrePay, Inc.'s certification of approval from the USAC within 30 days of receipt from USAC of its compliance with § 54.401(d) related to its Lifeline plans; 2) the review by the CPUC California LifeLine staff of Budget PrePay, Inc.'s marketing materials prior to distribution and publication; and, 3) Budget PrePay, Inc. shall note clearly wireless mobility safety content on all distributed Lifeline materials and on the company website.
3. Budget PrePay, Inc. shall offer the four wireless federal Lifeline service plans as listed in Appendix A-1.
4. Changes to Budget PrePay, Inc.'s federal Lifeline plans that are approved in this Resolution that are based on retail service offerings that are available to all prospective customers, not just Lifeline customers, may be handled via an Information-Only filing consistent and in compliance with General Order 96-B General Rules 3.9, 6.1, and 6.2, and Telecommunications Industry Rule 2.

5. Budget PrePay, Inc. shall use a Tier II Advice Letter to request approval for any future changes to federal Lifeline plans that are approved in this Resolution that are not based on retail plans that are available to all prospective customers, not just Lifeline Customers. Such request shall demonstrate that the change complies with Resolution T-17002, i.e. Appendix A-Sections II-E: Local Usage and II-G. Public Interest Determination, all applicable GO 153 rules, and pricing rules pursuant to D.10-11-033 or as modified and/or updated by subsequent Decisions and/or Resolutions effective at the time of the request.
6. Current General Order 153 shall continue to be used to evaluate ETC designation requests by wireless carriers including federal Lifeline applications and renewals until the Commission revises General Order 153 rules and determines the extent to which revised General Order 153 rules and revised California LifeLine service elements should apply to federal wireless Lifeline offering in Rulemaking 11-03-013. Budget PrePay, Inc. shall be required to comply with current GO 153 rules, with the exception of the service element waivers granted in this Resolution, until further directed by the Commission.
7. Budget PrePay, Inc. shall comply with General Order 153's enrollment application, verification, and renewal processes under the review of the California LifeLine Administrator which establishes customer eligibility.
8. Budget PrePay, Inc. shall be authorized waivers from its requested basic service elements of California LifeLine related to: (4) the ability to receive free incoming calls, (11) free provision of one directory listing per year, (12) availability of free white pages telephone directory, and (15) free access to 800 and 800-like toll-free numbers. An authorized waiver will have no bearing on California LifeLine offerings.
9. Budget PrePay, Inc. shall clearly label its offerings as *wireless federal Lifeline* to minimize customer confusion between the California LifeLine and federal Lifeline programs, shall include adequate information about the potential coverage and service quality issues, and shall provide copies of all marketing materials including, but not limited to, customer service representative scripts, internet marketing, and posters and brochures for Communications Division's California LifeLine staff review and approval prior to distribution of marketing publications.
10. Budget PrePay, Inc. shall implement the ZIP+4 codes to screen customers and ensure that current customers of the Small LECs are not accepted as wireless federal Lifeline customers to these nine carriers.
11. The Small LECs shall be required to provide Budget PrePay, Inc. the same as with all other active wireless ETCs, an updated list of the ZIP+4 code data in their service areas within 30 days of the effective date of this Resolution. The Small

LECs also shall be required to provide on an as-needed basis any update to the ZIP+4 code data Budget PrePay, Inc., the same as with all other active wireless designated ETCs in California. A copy of any updated ZIP+4 code data shall be filed with the Communications Division Director and the California LifeLine Administrator (CLA). The ZIP+4 code data shall be provided in an MS Excel file (.xls) format via email to the Communications Division Director. The Small LECs shall provide the CLA the ZIP+4 code data in a format specified by the CLA.

12. The Small LECs shall monitor for instances where they believe Budget PrePay, Inc., as with all other active wireless carriers, is providing wireless federal Lifeline services to any Small LEC customers and can raise related concerns about Budget PrePay, Inc.'s, or any other wireless carrier's, behavior or practices in the small LEC service areas for Commission review. If the matter cannot be resolved informally, the Small LECs can file a formal complaint with the Commission.
13. Budget PrePay, Inc. shall comply with Commission rules and regulations including the reporting and payment of Public Utilities Commission User Fees and Public Purpose Program surcharges. Failure to do so may result in the revocation of its ETC designation and wireless identification registration authority to operate in California.
14. Q-Link Wireless, LLC (U-4419-C), TAG Mobile, LLC (U-4411-C), and Boomerang Wireless, LLC (U-4436-C) are withdrawn from this resolution without prejudice and shall be taken up in future resolutions.

This Resolution is effective today.

I certify that the foregoing resolution was duly introduced, passed, and adopted at a conference of the Public Utilities Commission of the State of California held on January 16, 2014, the following Commissioners voting favorably thereon:

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PAUL CLANON  
Executive Director

Resolution T- 17432  
CD/ABA

**APPENDIX A-1**  
**Resolution T-17432**

**APPENDIX A-1**  
**Resolution T-17432**

**BUDGET PREPAY, INC. dba BUDGET MOBILE**

Budget PrePay, Inc. (Budget Prepay Wireless<sup>32</sup>), dba Budget Mobile, a wireless service provider, is a Louisiana-based company with principal offices at 1325 Barksdale Boulevard, Suite 200, Bossier City, Louisiana 71111.

On September 1, 2011, the Commission issued Budget PrePay Wireless its Wireless Registration Number U-4412-C allowing it to operate as a wireless reseller of Commercial Mobile Radiotelephone Services (CMRS) to the public in California.

As discussed in more detail below, CD finds that Budget PrePay Wireless has complied with FCC Eligible Telecommunications Carrier (ETC) designation requirements, CPUC ETC Resolution T-17002 ETC designation requirements, and CPUC regulatory requirements for telephone corporations operating in California including, but not limited to, reporting and payment of PUC User Fees and Public Purpose Programs (PPP) surcharges and submitting required reports.

CD therefore believes that it is in the public interest to designate Budget PrePay Wireless as an ETC to provide only federal Lifeline service and recommends that the Commission grant Budget PrePay Wireless the requested ETC designation and for the specific Lifeline plans discussed herein.

**Subject of the Advice Letter**

On September 14, 2012, Budget PrePay Wireless filed Tier III Advice Letter (AL) 2 requesting ETC designation to receive federal support to provide only Lifeline service to qualifying California households in portions of AT&T, Verizon, SureWest, and Frontier territories. The company's Lifeline service offering proposes to give eligible customers four Lifeline rate plan choices using Sprint facilities on a wholesale, network-service basis.

Budget PrePay Wireless filed Supplement AL 2A on January 23, 2013, to revise its original proposal of the Lifeline plans: a 250 monthly minute plan for \$2.50 per month, a 500 monthly minute plan for \$5 per month, a 1,000 minute plan for \$20 per month, and, an unlimited talk and text plan for \$32 per month. The supplement only revised the *Budget Mobile 250 Plan* from \$2.50 to no cost (\$0) per month.

**Compliance with Federal and State ETC requirements:**

<sup>32</sup> To avoid confusion with Budget Pre-Pay, Inc.'s landline operations (U-6654-C), we refer to the entity seeking ETC designation as Budget PrePay Wireless.

Following is a discussion of each of the applicable requirements and Budget PrePay Wireless' compliance with each requirement.

Compliance with FCC ETC Requirements:

**Be a common carrier that offers providing telephone exchange service and exchange access (§214(e)(1) and (6)).** Budget PrePay Wireless submits that it is a common carrier and is able to provide telephone exchange and exchange access through its wholesale arrangements with its underlying facilities based provider, Sprint.

**Offer supported services 214(e)(1) and advertise availability of services through media of general distribution:**

Budget PrePay Wireless has demonstrated that its Lifeline services meet the definition of voice telephony and commits to advertise the availability and rates for its services using media of general distribution.

**Service commitment throughout designated service rea:**

Budget PrePay Wireless commits to provide service in the areas that it is designated an ETC and through its wholesale contractual arrangement with Sprint. Budget PrePay Wireless' coverage area will encompass the coverage area of its underlying carrier. CD believes that Budget PrePay Wireless' qualifying availability of service in its designated areas based on coverage of its underlying facilities-based carrier(s) is reasonable and that Budget PrePay Wireless has met the service commitment obligation.

**Resellers must have a FCC approved *Compliance Plan*:**

Budget PrePay Wireless submitted its compliance plan approved by the FCC on May 25, 2012.

**Financial and technical capability:**

Budget Prepay Wireless states that it has been in business since 1996 and currently derives the majority of its revenue from selling low-cost prepaid telephone services on a nationwide basis to hundreds of thousands of customers and employs hundreds of people across the country. Budget PrePay Wireless owns and operates its own switching facilities in Dallas, Texas and Shreveport, Louisiana and has invested millions of dollars in software development including its own customized, user friendly point-of-sale software. Budget PrePay Wireless has not been the subject to any enforcement action at the FCC or in any state and none of its ETC designations have been rescinded, revoked, or terminated by the FCC or by any state. CD believes Budget PrePay Wireless satisfies this requirement.

**Comparable usage:**

CD reviewed its proposed plans as part of its public interest analysis compared to other wireless providers and the ILECs in the area, which is discussed below. Budget PrePay Wireless included in its advice letter a summary of how the company's Lifeline offering

compares to plans offered by both wireless and wireline ILECs and other competitive wireless carriers.

**Other requirements:**

Budget PrePay Wireless commits to satisfy all applicable consumer protection and service quality standards, specifically committing to comply with the Cellular Telecommunications and Internet Association's (CTIA) Consumer Code for Wireless Service. Budget PrePay Wireless addressed its ability to remain functional to provide and maintain essential telecommunications services in times of emergency. It stated that its wholesale provider maintains a backup power consistent with industry standards and is capable of managing traffic spikes and rerouting traffic. Budget PrePay Wireless maintains backup power for the switching facilities it owns.

**Communications Division due diligence review:**

An integral part of CD's processing of ETC designation requests is a due diligence review of the company requesting ETC designation. The due diligence review includes, but is not limited to confirming that the company is current with payment of California Public Utilities Commission Reimbursement Fees (referred to as PUC User Fees)<sup>33</sup> and surcharges<sup>34</sup> as required to maintain its operating authority. As well, CD conducts independent research about a company to provide the Commission with background information that may be pertinent in deciding whether or not to grant the ETC designation request. Typical research methods are contacting other government agencies, web searches, Nexis/Lexis, and the Better Business Bureau.

At the time of review, Budget PrePay Wireless continues to pay its annual PUC User Fees and timely surcharges. As a condition of its Commission authority and its ETC designation, Budget PrePay Wireless must remain current with its payments. The Commission may revoke Budget PrePay Wireless's authority if the company does not remit timely fees and surcharges. The Commission shall also notify the USAC and the FCC of the effective date of such a revocation. Based on staff's review, Budget PrePay Wireless did not have any areas of concern regarding its ability to be granted ETC designation in California.

Compliance with Res T-17002

Budget PrePay Wireless has satisfied the applicable requirements set forth in Resolution T-17002 including, but not limited to: providing Lifeline-only services within the proposed service area; providing the designated services; and complying with advertising rules as required by the FCC such as using printed advertisements, billboards, public transit signage, and brochures, all of which will state clearly support from the Federal Lifeline program only. Budget PrePay Wireless states it has the ability to remain functional in emergency situations by working with its underlying carrier,

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<sup>33</sup> Public Utilities Code Chapter 2.5, Articles 1 and 3 (§§ 401, 405, and 431).

<sup>34</sup> Public Utilities Code Chapter 1. §§ 275-279).



Sprint. Budget PrePay Wireless commits to satisfy all applicable state and federal requirements related to consumer protection and service quality standards.

Public Interest Determination

Budget PrePay Wireless states that it meets the FCC criteria for determination of public interest determination including that the benefits of increased competitive choice, convenience, security with mobility, prepaid plans that offer plans that best meets customer needs. Budget PrePay Wireless’ service offering is a high-value wireless service that includes unlimited local and domestic long distance calling, unlimited text messaging, and other service elements.

Budget PrePay Wireless’s proposed plans in the service area will offer consumers low-cost Lifeline-only service with a choice of plans. As stated earlier, AL 2A revised only the *Budget Mobile 250 Plan* from \$2.50 to no cost (\$0) per month included with the other proposed plans noted as *Budget Mobile 500 Plan* for \$5 per month; *Budget Mobile 1000 Plan* for \$20 per month; and, *Budget PrePay Unlimited Talk/Text Plan* for \$32 per month.

As proposed, Budget PrePay Wireless’ offerings have equal or better value for low-income customers when compared to other prepaid wireless Lifeline packages. CD identifies the *Budget Mobile 500 Plan* as the best value when average minutes of use test calculates the excess minutes per charge per month.

Chart 1 -- Comparison of Proposed Wireless Lifeline Plans to Other Prepaid Wireless Lifeline Plans in Service Area (Assuming Average Wireless MOU)

	Budget Mobile 250	Budget Mobile 500	Budget Mobile 1000	Budget PrePay Unlimited Talk/Text	Nexus 250	Nexus 500	Nexus 1000	Virgin 1000	Cricket Unlimited
Avg. MOU*	615	615	615	615	615	615	615	615	615
Basic Plan Minutes (allowance)	250	500	1000	Unlimited	250	500	1000	1000	Unlimited
Texts included	-	-	-	-	-	-	-	-	-
Avg. Excess MOUs	365	115	-	-	365	115	-	-	-
Cost per Min in excess of allowance	\$0.033	\$0.033	\$0.033	\$0.033	\$0.033	\$0.033	\$0.033	0	0
Cost of excess minutes	\$12.05	\$3.80	\$0.00	\$0.00	\$12.05	\$3.80	\$0	\$0	\$0
Min. Lifeline Plan Cost (per D.10-11-033) or Cost per Plan	\$0.00	\$5.00	\$20.00	\$32.00	\$0.00	\$5.00	\$20.00	\$20.00	\$21.50
Total G.O.153 Cost to Customers	\$12.05	\$8.80	\$20.00	\$32.00	\$12.05	\$8.80	\$20.00	\$20.00	\$21.50
Caller ID	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00
Long Distance	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00
Voicemail	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00
Federal Excise Tax***	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00
Total Additional costs of vertical features	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00
Total Cost to Lifeline Customers with 615 MOU and additional costs of vertical features	\$12.05	\$8.80	\$20.00	\$32.00	\$12.05	\$8.80	\$20.00	\$20.00	\$21.50

Plan choices based on Supplement AL 2A filed January 13, 2013

\* Average Minutes of Use based on FCC 13-34 *16th Mobile Wireless Competition Report* issued March 19, 2013, Table 38. Avg MOU 615, Year 2011.

Comparable Local Usage and Equal Access

The FCC requires neither a local usage plan comparable to an incumbent’s offering nor equal access to long distance carriers when no other ETC in the area provides such. Budget PrePay Wireless, however, provides a summary of its Lifeline plans comparable to other retail Lifeline plans offered by local exchange carriers to demonstrate its competitive service for the price. See Chart 2.

Chart 2 -- Comparison of Proposed Lifeline Plans to California ILEC Lifeline Measured Rate Plans (Assuming Average Wireless MOU)

	Budget Mobile 250	Budget Mobile 500	Budget Mobile 1000	Budget PrePay Unlimited Talk/Text	AT&T Lifeline MR (minimum)	AT&T Lifeline MR (maximum)	Verizon Lifeline MR (minimum)	Verizon Lifeline MR (maximum)
Avg. MOU	615	615	615	615	615	615	615	615
Basic Plan Minutes (allowance)	250	500	1000	Unlimited	146	146	146	146
Avg. Excess MOUs	365	115	-	-	469	469	469	469
Cost per Min in excess of allowance	\$0.033	\$0.033	\$0.033	N/C	\$0.033	\$0.033	\$0.033	\$0.033
Cost of excess minutes	\$12.05	\$3.80	\$0.00	\$0.00	\$15.48	\$15.48	\$15.48	\$15.48
Min. Lifeline Plan Cost (per D.10-11-033) or Cost per Plan	\$0.00	\$5.00	\$20.00	\$32.00	\$2.50	\$3.66	\$2.50	\$3.66
Total G.O.153 Cost to Customers	\$12.05	\$8.80	\$20.00	\$32.00	\$17.98	\$19.14	\$17.98	\$19.14
Caller ID	\$0.00	\$0.00	\$0.00	\$0.00	\$9.99	\$9.99	\$7.95	\$7.95
Long Distance	\$0.00	\$0.00	\$0.00	\$0.00	\$6.99*	\$6.99*	\$15.99	\$15.99
Voicemail	\$0.00	\$0.00	\$0.00	\$0.00	N/A	N/A	\$7.45	\$7.45
Federal Excise Tax***	\$0.00	\$0.00	\$0.00	\$0.00	\$0.08	\$0.11	\$0.08	\$0.11
Total Additional costs of vertical features	\$0.00	\$0.00	\$0.00	\$0.00	\$17.06	\$17.09	\$31.47	\$31.50
Total Cost to Lifeline Customers with 769 MOU and additional costs of vertical features	\$12.05	\$8.80	\$20.00	\$32.00	\$35.04	\$36.23	\$49.45	\$50.64

Plan choices based on Supplement AL 2A filed January 13, 2013

\* Average Minutes of Use based on FCC 13-34 16th Mobile Wireless Competition Report issued March 19, 2013, Table 38. Avg MOU 615, Year 2011.

Compliance with GO 153

Budget PrePay Wireless states it will comply with State LifeLine rules regarding consumer enrollment, prequalification, certification, and eligibility verification and working with the California Third Party Administrator. Budget PrePay Wireless seeks waivers from the following four basic service elements and staff recommends granting them:

- Ability to receive free unlimited incoming calls
- Free provision of one directory listing per year.
- Free white pages telephone directory
- Free access to 800 or 800-like toll free services

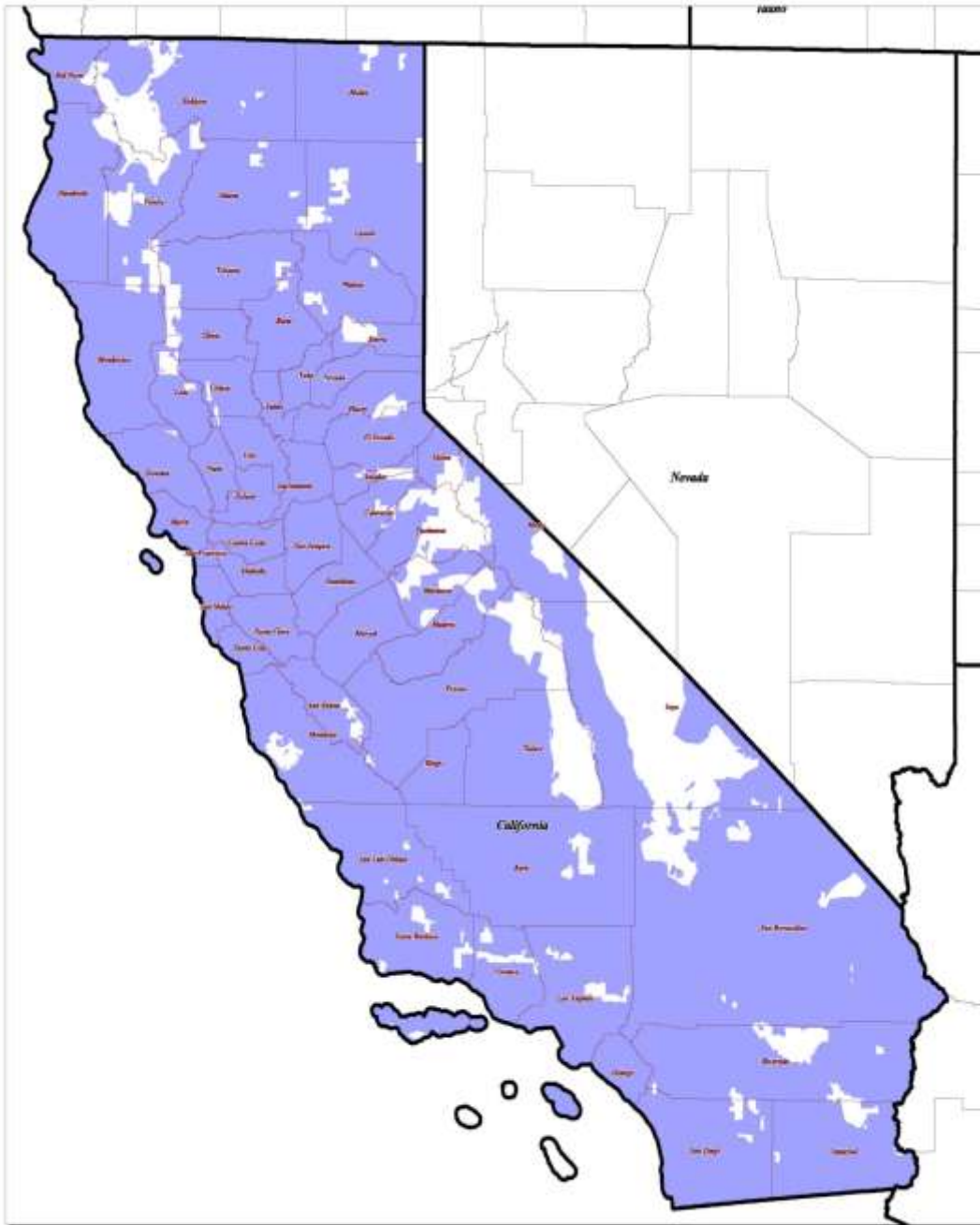
Staff Recommendation for Budget PrePay Wireless ETC Designation

CD staff notes the *Budget Mobile 500 Plan*, at a minimum, costs less and is a better value than the *Budget Mobile 250 Plan* when the current average minutes of use analysis is applied. A Lifeline customer subscribing to the *Budget Mobile 250 Plan* would pay \$12.05 in one month of overage compared to \$8.80 in a month by a *Budget Mobile 500* customer. The *Budget Mobile 1000 Plan* and *Budget PrePay Unlimited Talk/Text Plans* are comparable in price to other competitive wireless Lifeline offerings.

CD staff recommends approval of Budget PrePay Wireless' request for eligible telecommunications carrier designation to provide federal wireless Lifeline services in California in the proposed service area. In addition, CD recommends approving the four service plans submitted: *Budget Mobile 250 Plan* at \$0 per month, *Budget Mobile 500 Plan* at \$5 per month, *Budget Mobile 1000 Plan* at \$20 per month, and *Budget PrePay Unlimited Talk/Text Plan* at \$32 per month.

**Attachment A**  
**Resolution T-17432**  
**Budget PrePay, Inc.**  
**Proposed Service Area for Federal Wireless ETC Service**

*Budget PrePay Wireless' Estimated Coverage in California Based Upon the Coverage Maps of its Underlying Facilities-Based Providers*



**Attachment B**  
**Resolution T-17432**  
**Budget PrePay, Inc.**  
**General Order 153 - Service Elements of California LifeLine**

California LifeLine is composed of the service elements set forth below. All California LifeLine subscribers are entitled to receive every one of the service elements of California LifeLine, and every California LifeLine Service Provider is required to offer all of the service elements of California LifeLine to each of its subscribers. The service elements of California LifeLine are as follows:

- 1 Access to (a) single party local exchange service or (b) service that is equivalent, in all substantial respects, to single party local exchange service.
- 2 Access to all interexchange carriers offering service in the California LifeLine subscriber's local exchange.
- 3 Ability to place calls.
- 4 Ability to receive free unlimited incoming calls.
- 5 Free touch-tone dialing.
- 6 Free unlimited access to 911/E-911.
- 7 Access to local directory assistance (DA). Each California LifeLine Service Provider shall offer to its subscribers the same number of free DA calls that the California LifeLine Service Provider provides to its non-California LifeLine residential customers.
- 8 Access to foreign Numbering Plan Areas.
- 9 California LifeLine rates and charges.
- 10 Customer choice of local Flat-Rate Service or Measured-Rate Service. The 14 small ILECs identified in D. 96-10-066 do not have to offer subscribers the choice of local Flat or Measured-Rate Service, unless the small ILEC offers this option to its non-California LifeLine residential customers.
- 11 Free provision of one directory listing per year as provided for in D. 96-02-072.
- 12 Free white pages telephone directory.
- 13 Access to operator service.
- 14 Voice grade connection to the public switched telephone network.
- 15 Free access to 800 or 800-like toll-free services.
- 16 Access to telephone relay services as provided for in Public Utilities Code §2881 et seq.
- 17 Toll-free access to customer service for information about California LifeLine, service activation, service termination, service repair, and bill inquiries.
- 18 Toll-free access to customer service representatives fluent in the same language (English and non-English) in which California LifeLine was originally sold.
- 19 Free access to Toll-Blocking Service.
- 20 Free access to Toll-Control Service but only if (i) the California LifeLine Service Provider is capable of offering Toll-Control Service and (ii) the California LifeLine subscriber has no unpaid bill for toll service.
- 21 Access to two residential telephone lines if a low-income household with a disabled person requires both lines to access California LifeLine.
- 22 Free access to the California Relay Service via the 711 abbreviated dialing code.

GO 153 (Effective December 1, 2011 - D.10-11-033, Resolution T-17321)

**(END OF APPENDIX A)**