

**Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554**

In the Matter of)	
)	
Telecommunications Carriers Eligible to Receive Universal Service Support)	WC Docket No. 09-197
)	
Budget PrePay, Inc.)	
)	
Petition for Limited Designation as an Eligible Telecommunications Carrier in Alabama)	

**PETITION OF BUDGET PREPAY, INC. FOR LIMITED DESIGNATION AS AN
ELIGIBLE TELECOMMUNICATIONS CARRIER IN ALABAMA**

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April 18, 2011

SUMMARY

Budget PrePay, Inc. (“Budget PrePay”) respectfully submits this Petition for Limited Designation as an Eligible Telecommunications Carrier (“ETC”) pursuant to Section 214(e)(6) of the Communications Act of 1934, as amended (the “Act”), and Section 54.201 *et seq.* of the FCC’s rules. Budget PrePay seeks designation as an ETC throughout the State of Alabama solely for the limited purpose of offering Lifeline and Link Up services to end-user customers in the state. Budget PrePay does not seek funding from the Universal Service Fund’s (“USF”) high-cost program.

Sections 214(e) and 254 of the Act expressly authorize the FCC to designate Budget PrePay as an ETC. Section 214(e)(6) of the Act provides that the FCC may designate a common carrier as an ETC where, as here, that carrier’s services are not subject to the jurisdiction of a state commission. Budget PrePay has provided an affirmative statement from the Alabama Public Service Commission that it lacks jurisdiction over wireless providers for purposes of ETC designations.

Budget PrePay meets each of the statutory and regulatory prerequisites for designation as an ETC. In addition, consumers qualifying for the Lifeline and Link Up discounts offered by Budget PrePay will receive the benefits of mobility, as well as the high-quality and high-value services offered by Budget PrePay at a substantially discounted price. As a result, designating Budget PrePay as an ETC will serve the public interest generally, and the needs of low-income customers in Alabama in particular.

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**PETITION OF BUDGET PREPAY, INC. FOR LIMITED DESIGNATION AS AN
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Budget PrePay, Inc. (“Budget PrePay” or “Company”)¹ respectfully submits this Petition for Limited Designation as an Eligible Telecommunications Carrier (“ETC”) pursuant to Section 214(e)(6) of the Communications Act of 1934, as amended (the “Act”),² and Section 54.201 *et seq.* of the FCC’s rules.³ Budget PrePay seeks designation as a competitive ETC throughout the State of Alabama only for the limited purpose of offering wireless prepaid services and providing applicable Lifeline and Link Up discounts to qualified Alabama residents. As demonstrated herein, and as certified in Exhibit A, Budget PrePay meets each of the statutory and regulatory prerequisites for ETC designation. Accordingly, Budget PrePay respectfully requests that the FCC grant this Petition expeditiously so that qualified Alabama residents can benefit from the high-quality and high-value services that the Company plans to offer.

¹ Budget PrePay, based in Bossier City, Louisiana, and founded in 1996, also provides low-cost prepaid home telephone services, in addition to its prepaid wireless services, on a nationwide basis to over 60,000 customers through a system of more than 6,800 active agents.

² 47 U.S.C. § 214(e)(6).

³ 47 C.F.R. § 54.201 *et seq.*

BACKGROUND.

A. Budget PrePay.

Consistent with the requirements of Section 54.201(d)(1) of the Commission's rules, Budget PrePay will rely on a combination of resold services, which the Company will obtain through agreements with one or more national wireless providers which hold commercial mobile wireless service licenses throughout the State of Alabama, and Budget PrePay's own facilities to provide its prepaid wireless services in the State of Alabama. In addition, Budget PrePay will rely on its switches located in Dallas, Texas, and Shreveport, Louisiana, to provide access to directory assistance, access to some interexchange services (for routing certain domestic and all non-domestic calls) and for the provision of toll limitation services, and provide operator services, as that term is defined in Section 54.101(a)(6) of the Commission's Rules.

B. Designation of Eligible Telecommunications Carriers.

Sections 214(e) and 254 of the Act expressly authorize the FCC to designate Budget PrePay as an ETC.⁴ Section 214(e)(6) of the Act provides that the FCC may designate a common carrier as an ETC where, as here, that carrier's services are not subject to the jurisdiction of a state commission.⁵ That provision further states that the FCC may, in the case of any area in Alabama served by a rural telephone company, and shall, in the case of any other area in Alabama, designate more than one common carrier as an ETC, provided the requesting carrier: (i) offers services that are supported by federal universal service support mechanisms;

⁴ 47 U.S.C. §§ 214(e), 254.

⁵ 47 U.S.C. § 214(e)(6). The Alabama Public Service Commission ("PSC") has confirmed that wireless communications carriers, such as Budget PrePay, are not subject to state jurisdiction for purposes of ETC designation. *See* Exhibit B hereto. *See also Federal-State Joint Board on Universal Service*, Twelfth Report and Order and Further Notice of Proposed Rulemaking, 15 FCC Rcd 12208, at ¶ 96 (2000).

and (ii) advertises the availability of such services.⁶ The FCC's rules impose additional requirements on a common carrier seeking designation as an ETC. As demonstrated below, Budget PrePay satisfies each of these requirements.

C. Scope of Budget PrePay's ETC Designation Request.

Budget PrePay seeks ETC designation only for the limited purpose of receiving available support from the federal USF Low Income program (*i.e.*, Lifeline and Link Up support). Budget PrePay will not seek funding from the USF high-cost program. As more fully described below, the instant request to participate in the Lifeline program promotes the goals of universal service and offers many benefits to low-income customers in Alabama. Budget PrePay's Lifeline plans will provide affordable and convenient wireless services to qualifying customers, many of whom are otherwise unable to afford any telecommunications service.

D. Description of Budget PrePay's Lifeline Service Offering.

Budget PrePay's initial non-Lifeline wireless service retail plan is \$45.50 every 30 days and includes: unlimited local and long distance calling, unlimited texting, caller ID, call waiting and voicemail. Budget PrePay plans to offer the same plan to its Lifeline customers, who will receive the added benefit of the Lifeline discount. Though subject to change – and Budget PrePay may ultimately decide to expand the number of Lifeline service plan options available to eligible Lifeline customers – Budget PrePay's proposed initial Lifeline offering in Alabama is summarized in the table below:⁷

⁶ 47 U.S.C. § 214(e)(6).

⁷ Budget PrePay will offer Tier 1, 2 and 3 support within its ETC designation area and will provide the full \$5.25 Tier 3 support based on the Company's own Tier 3 contribution of \$3.50. Budget PrePay will also offer Tier 4 Lifeline support to qualifying customers of tribal lands.

Proposed Alabama Lifeline Offering	
Budget PrePay’s Unlimited Talk & Text Service	\$45.50
Alabama Lifeline Credit	(\$13.50)
Total Cost of Lifeline Offering in Alabama (absent any applicable taxes and fees)	\$32.00

II. THE REGULATORY AGENCY IN ALABAMA HAS PROVIDED AN AFFIRMATIVE STATEMENT THAT IT DOES NOT REGULATE CMRS CARRIERS FOR ETC DESIGNATION PURPOSES.

Section 254(e) of the Act provides that “only an eligible telecommunications carrier designated under Section 214(e) shall be eligible to receive specific universal service support.” The Act reserves the authority to designate entities as ETCs to state public utility commissions.⁸ Pursuant to Section 214(e)(6), however, the FCC may designate as an ETC “a common carrier providing telephone exchange service and exchange access that is not subject to the jurisdiction of a state commission”⁹ The FCC has established that a carrier must demonstrate that it “is not subject to the jurisdiction of a state commission” before the FCC will review any ETC designation application.¹⁰ The FCC also has stated that any carrier seeking ETC designation from it must provide an “affirmative statement” from the state commission that it lacks jurisdiction to perform the ETC designation.¹¹

⁸ 47 U.S.C. § 254(e).

⁹ 47 U.S.C. § 214(e)(6).

¹⁰ *Procedures for FCC Designation of Eligible Telecommunications Carriers Pursuant to Section 214(e)(6) of the Communications Act*, Public Notice, 12 FCC Rcd 29947, 29948 (1997).

¹¹ *See Federal-State Joint Board on Universal Service; Promoting Deployment and Subscribership in Unserved and Underserved Areas, Including Tribal and Insular Areas*, Twelfth Report and Order and Further Notice of Proposed Rulemaking, 15 FCC Rcd 12208, 12264 (2000).

The Alabama PSC has provided an affirmative statement that it lacks jurisdiction over wireless providers for purposes of ETC designations. The letter enclosed as Exhibit B meets the FCC’s requirements for an affirmative statement from a state commission that requests for ETC designation are not within its jurisdiction and should be sought from the FCC. Accordingly, Budget PrePay requests that the FCC designate it as “a common carrier providing telephone exchange service and exchange access that is not subject to the jurisdiction of a State commission...”¹²

III. BUDGET PREPAY SATISFIES THE STATUTORY AND REGULATORY PREREQUISITES FOR DESIGNATION AS AN ETC.

Budget PrePay satisfies each of the statutory and regulatory prerequisites set forth in the Act and the FCC’s rules:

A. Budget PrePay Is a Common Carrier.

Section 3(10) of the Act, 47 U.S.C. § 153(10), defines a common carrier as “any person engaged as a common carrier for hire, in interstate or foreign communications by wire or radio....” Budget PrePay meets the definition of a person, offers interstate communications by radio, and is a common carrier for hire.

B. Budget PrePay Will Provide the Supported Services Through a Combination of Facilities-Based Service and Resale.

Budget PrePay operates as a reseller for most of the supported services, purchasing them on a wholesale basis from one or more national wireless carriers. However, Budget PrePay will rely on its switches located in Dallas, Texas, and Shreveport, Louisiana, to provide access to directory assistance, access to some interexchange services (for routing certain domestic and all non-domestic calls) and for the provision of toll limitation services, and provide operator

¹² 47 U.S.C. § 214(e)(6).

services, as that term is defined in Section 54.101(a)(6) of the Commission’s Rules. Accordingly, Budget PrePay qualifies as a facilities-based carrier as defined by the federal statute and as defined by the Commission.¹³

C. Budget PrePay Offers the Services and Functionalities Supported by the Federal Low-Income Universal Service Program [47 C.F.R. § 54.201(d)]

Budget PrePay provides each of the services supported by federal universal service support mechanisms, as set forth in 47 C.F.R. § 54.101, and will offer these supported services throughout the areas in the State of Alabama in which it is designated as an ETC. As noted earlier, Budget PrePay will provide these supported services using a combination of its own facilities and resale arrangements with one or more national wireless carriers. A description of how the supported services are provided follows:

1. Voice Grade Access [47 C.F.R. § 54.101(a)(1)]. “Voice grade access” permits a telecommunications user to transmit voice communications, including signaling the network that the caller wishes to place a call, and to receive voice communications, including receiving a signal that there is an incoming call. Budget PrePay’s customers in Alabama will be able to make and receive calls on the public switched telephone network with a minimum bandwidth of 300 to 3000 Hertz.

2. Local Usage [47 C.F.R. § 54.101(a)(2)]. “Local usage’ means an amount of minutes of use of exchange service, prescribed by the FCC, provided free of charge to end

¹³ 47 U.S.C. § 214(e)(1); *see also Federal-State Joint Board on Universal Service, Report and Order*, 12 FCC Rcd 8776, 8870-71 (1997) (“We conclude, therefore, that, if a carrier uses its own facilities to provide at least one of the designated services, and the carrier otherwise meets the definition of ‘facilities’ adopted above, then the facilities requirement of section 214(e) is satisfied. For example, we conclude that a carrier could satisfy the facilities requirement by using its own facilities to provide access to operator services, while providing the remaining services designated for support through resale.”); *id.* at 8871 (“[S]ection 214(e) does not mandate the use of any particular level of a carrier's own facilities.”).

users.”¹⁴ The FCC has interpreted its rule as requiring carriers to offer customers rate plans offering varying amounts of local usage.¹⁵ Though Budget PrePay may ultimately decide to expand the number of Lifeline service plan options available to eligible Lifeline customers, Budget PrePay intends to initially offer qualifying customers an “unlimited talk & text” wireless plan that will provide unlimited local usage. This “unlimited talk & text” plan satisfies the FCC’s “local usage” requirement.

3. Dual Tone Multi-Frequency Signaling or Its Functional Equivalent [47 C.F.R. § 54.101(a)(3)]. Dual tone multi-frequency (“DTMF”) signaling is a method of signaling that facilitates the transmission of call set-up and call detail information. The FCC has recognized that, with respect to wireless carriers, it “is appropriate to support out-of-band signaling mechanisms as an alternative to DTMF signaling.”¹⁶ Budget PrePay satisfies this requirement by using out-of-band digital signaling and in-band multi-frequency signaling that is the functional equivalent to DTMF signaling.

4. Single-Party Service or its Functional Equivalent [47 C.F.R. § 54.101(a)(4)]. With respect to wireless carriers, “single-party service” affords a user a dedicated message path for the length of a user’s particular transmission. Budget PrePay meets this requirement with respect to each of its service offerings by providing a dedicated message path for the length of its subscribers’ calls.

5. Access to Emergency Services [47 C.F.R. § 54.101(a)(5)]. “Access to emergency service” includes access to services, such as 911 and enhanced 911 (“E-911”),

¹⁴ 47 C.F.R. § 54.101(a)(2).

¹⁵ See *Western Wireless Corp., Petition for Designation as an Eligible Telecommunications Carrier in the State of Wyoming*, CC Docket No. 96-45, Memorandum Opinion and Order, 16 FCC Rcd 48, 52 ¶ 10 (2000).

¹⁶ *Federal-State Joint Board on Universal Service*, Report and Order, 12 FCC Rcd 8776, at 71 (1997).

provided by local governments or other public safety organizations. All of the phones that Budget PrePay distributes in Alabama are capable of delivering automatic numbering information (“ANI”) and automatic location information (“ALI”), and otherwise satisfy applicable state and federal E-911 requirements.

6. Access to Operator Services [47 C.F.R. § 54.101(a)(6)]. “Access to operator services” means access to automated or live operator assistance provided to a customer to arrange for the billing or completion, or both, of a telephone call. Budget PrePay meets this “supported services” requirement through its own live operators employed by the Company that are available to assist customers.

7. Access to Interexchange Service [47 C.F.R. § 54.101(a)(7)]. With respect to wireless carriers, “access to interexchange service” means access to the functional equivalent of the use of the wireline telecommunications loop, as well as that portion of the switch that is paid for by the end user, necessary to access an interexchange carrier’s network. Budget PrePay meets this requirement by providing all of its subscribers with the ability to make and receive interexchange or toll calls with domestic toll calling on an unlimited basis. Budget PrePay will rely on its own switches located in Dallas, Texas, and Shreveport, Louisiana, to provide access to some interexchange services (for routing certain domestic and all non-domestic calls).

8. Directory Assistance [47 C.F.R. § 54.101(a)(8)]. “Access to directory assistance” means access to a service that includes, but is not limited to, making available to customers, upon request, information contained in directory listings. Budget PrePay meets this requirement by providing access to directory assistance to customers. Budget PrePay subscribers will be able to dial #4007 to reach directory assistance from their mobile phones. Budget PrePay’s own switches and facilities will be used to provide access to directory assistance.

9. ***Toll Limitation [47 C.F.R. § 54.101(a)(9)].*** “Toll limitation” includes the offering of either “toll control” or “toll blocking” to qualifying low-income customers, as a means of limiting or blocking the completion of outgoing toll calls. Budget PrePay will offer toll limitation service using its own facilities to qualifying low-income customers, as requested.

D. Budget PrePay Will Advertise the Availability of and Charges for Its Universal Service Qualifying Offerings [47 C.F.R. § 54.201(d)(2)]

Budget PrePay will advertise the availability of the supported services detailed above, and the corresponding rates and charges, in a manner designed to inform the general public within Alabama. 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.

E. Budget PrePay Will Satisfy Its Additional Obligations as an ETC and Offers to Make Certain Voluntary Commitments.

In addition to those requirements set forth in Section 54.201 of the FCC’s rules, Budget PrePay will satisfy other ETC requirements adopted by the FCC as applicable. In particular:

1. ***Satisfaction of Applicable Consumer Protection and Service Quality Standards [47 C.F.R. § 54.202(a)(3)].*** Budget PrePay will comply with all applicable state and federal consumer protection and service quality standards. Further, Budget PrePay will abide by CTIA’s Consumer Code for Wireless Service (“CTIA Code”). Budget PrePay is committed to compliance with the CTIA Code in those areas where it is seeking designation as an ETC. In particular, Budget PrePay will use its best efforts to resolve any complaints received by the FCC and designates the following contact person to work with FCC staff to resolve any complaints or other compliance matters:

R. Danny Hyde, III
Budget PrePay, Inc.
1325 Barksdale Blvd.
Bossier City, Louisiana 71111
dhyde@budgetprepay.com

2. **Local Usage Plan [47 C.F.R. § 54.202(a)(4)].** As noted earlier, Budget PrePay's non-Lifeline wireless service retail plan is \$45.50 every 30 days and includes: unlimited local and long distance calling, unlimited texting, caller ID, call waiting and voicemail. With the Lifeline discount, Budget PrePay will offer the same package to eligible Lifeline customers at a discounted rate – after the Lifeline credit is applied – of \$32.00. As a result, Budget PrePay's local usage plan is comparable to those offered by incumbent local exchange carriers in the service areas for which Budget PrePay seeks ETC designation.

3. **Equal Access [47 C.F.R. § 54.202(a)(5)].** Budget PrePay acknowledges that the FCC may require it to provide equal access to long distance carriers in the event that no other ETC is providing equal access within the service area involved.

4. **Lifeline Certification and Verification [47 C.F.R. § 54.410].** Budget PrePay will certify and verify consumer eligibility to participate in the Lifeline and Link Up programs in accordance with FCC rules.

5. **Additional Voluntary Commitments.** In addition, Budget PrePay offers to make the following voluntary commitments consistent with recent commitments made to the FCC by Virgin Mobile USA to combat the potential for waste, fraud and abuse with respect to its provision of Lifeline services in Alabama.¹⁷ Specifically, until the Commission implements regulations of general applicability regarding treatment of inactive prepaid Lifeline accounts and households receiving multiple Lifeline discounts that may contravene Lifeline rules as currently

¹⁷ See *Ex Parte* Letter from Antoinette C. Bush and John M. Beahn, Counsel to Virgin Mobile USA, to Marlene H. Dortch, Secretary, FCC, WC Docket No. 09-197 (dated Dec. 14, 2010).

in effect, Budget PrePay commits to implementing the following procedures in Alabama within 30 days of the effective date of an order approving the Company's pending ETC designation request:

- When Budget PrePay offers service through a prepaid platform, it will implement a 60-day inactivity policy in all states where it provides prepaid Lifeline services, unless directed otherwise by a state public utility commission ("PUC").¹⁸ Under this policy, if no usage appears on a Budget PrePay prepaid Lifeline customer's account during any continuous 60-day period, Budget PrePay will promptly notify the customer that the customer is no longer eligible for Budget PrePay Lifeline service subject to a 30-day grace period. During the 30-day grace period, the customer's account will remain active, but Budget PrePay will engage in outreach efforts to determine whether the customer desires to remain on Budget PrePay's Lifeline service. If the prepaid customer's account does not show any customer-specific activity during the grace period (such as making or receiving a voice call, receiving or sending a text message, downloading data or adding money to the account), Budget PrePay will deactivate Lifeline services for that customer. In addition, the Company will not seek to recover a federal Universal Service Fund subsidy for the free minutes provided to the customer during the grace period or thereafter report that customer on its USAC Form 497.
- Budget PrePay will follow any established FCC or state PUC procedures to comply with the "one-per-household rule" for Lifeline support. In addition, Budget PrePay will make available state-specific customer data, including name and address, to the Universal Service Administrative Company ("USAC") and to each state PUC where it operates for the purpose of permitting USAC or the PUC to determine whether an existing Budget PrePay Lifeline customer receives Lifeline service from another carrier. Budget PrePay will promptly investigate any notification that it receives from USAC or the state PUC that one of its customers already receives Lifeline service from another carrier. Should the Company's investigation conclude that the customer receives Lifeline services from another carrier in violation of the Commission's regulations, or if otherwise directed by USAC or the state PUC, Budget PrePay will immediately notify the customer and no longer report that customer to USAC on its FCC Form 497.
- Budget PrePay will: (1) provide its Lifeline customers with 911 and E911 access regardless of activation status (if it provides the customer with prepaid service) availability of prepaid minutes; and (2) provide E911-compliant handsets to all of

¹⁸ Budget PrePay expects that certain state PUCs or similar agencies may seek to incorporate state-specific variations to the policy. Other PUCs may oppose implementation of any inactivity policy in their justifications. Consequently, Budget PrePay may modify the parameters of the inactivity policy described herein after consultation with the Alabama PSC. Budget PrePay will notify the Commission should the Alabama PSC oppose implementation of an inactivity policy in any form.

its Lifeline customers; and (3) replace, at no charge to a customer, any non-compliant handset of an existing customer that obtains Lifeline-supported services with an E911-compliant handset.

- Budget PrePay will: (1) require each customer to self-certify at time of service activation and annually thereafter that he or she is the head of household and receives Lifeline-supported service only from Budget PrePay; (2) establish safeguards to prevent its customers from receiving multiple Lifeline subsidies at the same address; (3) deal directly with the customer to certify and verify the customer's Lifeline eligibility; and (4) certify that it is in full compliance with any applicable 911/E911 obligations, including obligations relating to the provision, and support, of 911 and E911 service for each state in which Budget PrePay is designated as an ETC.
- Budget PrePay will ensure that the penalty for perjury language is clearly stated on its Lifeline certification form, and it will track its Lifeline customer's primary residential address and prohibit more than one supported Budget PrePay service at each residential address. Additionally, Budget PrePay will maintain the customer's self-certification and provide the documentation to the Commission upon request.
- Budget PrePay will distribute its Lifeline service directly to its Lifeline customers. Customers may purchase handsets at retail stores, but Budget PrePay will deal directly with the customer to certify and verify the customer's Lifeline eligibility. When establishing initial and continued eligibility, Budget PrePay will have direct contact with the Lifeline customer.

IV. DESIGNATING BUDGET PREPAY AS A COMPETITIVE ETC WILL SERVE THE PUBLIC INTEREST.

One of the principal goals of the Act, as amended by the Telecommunications Act of 1996, is “to secure lower prices and higher quality services for American telecommunications consumers and encourage the rapid deployment of new telecommunications technologies” to all citizens, regardless of geographic location or income.¹⁹ Designating Budget PrePay as an ETC will serve the public interest generally, and the needs of low-income customers in Alabama in particular.

The public interest benefits associated with the Company's wireless service include larger local calling areas (as compared to traditional wireline carriers' calling areas), the

¹⁹ Telecommunications Act of 1996, Pub. L. No. 104-104, 110 Stat. 56.

convenience and personal security afforded by mobile telephone service, the opportunity for customers to receive a high-value wireless plan that provides unlimited local and domestic long distance, and emergency services (911 and, where available, E911 services) in accordance with FCC requirements. The inclusion of unlimited domestic toll calling as a part of Budget PrePay's wireless offering will allow consumers to avoid the risk of becoming burdened with large and unexpected charges for the toll calling and unexpected overage charges. Additionally, wireless service greatly benefits consumers who routinely drive long distances to attend work or school or to accomplish everyday tasks such as shopping or attending community and social events.

Budget PrePay will offer a unique pre-paid option that is designed to provide consumers who, due to credit or deposit requirements, may not be able to obtain the safety and convenience of telephone service from traditional providers, and Budget PrePay customers are never obligated to pay for a period of service that exceeds 30 days. Unlike many wireless providers, Budget's service offering is a high-value wireless service that includes unlimited local and domestic long distance calling, unlimited text messaging, caller ID, call waiting and voicemail, all without any of the credit check, deposit and contract requirements imposed by the more traditional wireline and wireless service providers.

In addition, through the Link Up program, Budget PrePay will be able to provide consumers with a reduction in the cost of the fees associated with the connection of service. Assistance under the Link Up program is in the form of a "reduction in the carrier's customary charge for commencing telecommunications service for a single telecommunications connection" and "shall be half of the customary charge or \$30.00, whichever is less."²⁰ Consistent with FCC requirements, Budget PrePay will use Link Up support to reduce the

²⁰ See 47 C.F.R. § 54.411(a)(1).

Company's "customary charge for commencing service" for eligible residents. In addition, qualifying subscribers will have the option of deferring the reduced activation charge over a twelve-month period with no interest charges, allowing subscribers to obtain service without being required to pay any upfront fees to activate service with Budget PrePay. Budget PrePay's "customary charge for commencing service" excludes the cost of the wireless handset.

Because Budget PrePay's service is provided with no credit check, deposit requirement, minimum service periods, or early termination fees, the service will be an attractive and affordable alternative to qualified low-income consumers without regard to age, residency or creditworthiness. The wireless service offered by Budget PrePay will provide consumers with a convenient and affordable alternative to traditional telecommunications service that can be used while at home and away from home.

Because of these benefits, Budget PrePay expects that many qualified consumers will select the wireless Lifeline and Link Up service in lieu of the more traditional wireline or wireless services. Budget PrePay will fulfill a critical role in the marketplace by ensuring that many Americans who cannot qualify for, or afford, the services provided by other wireless providers can still enjoy the benefits of wireless telecommunications.

Budget PrePay has specifically tailored its wireless service plan to provide the numerous benefits of mobile wireless telecommunications to underserved customers who have been left behind by other providers, and without the typical strings attached (such as credit checks, long-term commitments, and early termination fees) that otherwise prevent many economically disadvantaged customers from obtaining wireless services.

By this Petition, Budget PrePay seeks to make it easier for low-income Americans to access basic voice and data services. The primary purpose of universal service is to ensure that

consumers—especially low-income consumers— receive affordable and comparable telecommunications services. A 2008 study has found such services to be a vital economic resource for low-income consumers that lead to improved wage levels and personal safety.²¹ Given this context, designating Budget PrePay as an ETC would benefit consumers eligible for Lifeline services. The Company’s participation in the Lifeline program also undoubtedly would increase opportunities for it to serve Alabama customers with appealing and affordable service offerings.

Designation of Budget PrePay as an ETC would also promote competition. Budget PrePay will bring the same entrepreneurial spirit that has reinvigorated the wireless industry to the Lifeline market in Alabama, helping to redefine the wireless experience for many low-income consumers in the state. Other carriers, therefore, will have the incentive to improve their existing service offerings and tailor service plans to contain service terms and features appealing to lower-income customers. Budget PrePay has emphasized customer service as a pillar of its marketplace success since service launch. To that end, as noted earlier, Budget PrePay commits to comply with the CTIA Code if designated as an ETC in Alabama.

Designation of Budget PrePay as an ETC in Alabama would enable the Company to offer more appealing and affordable service offerings to low-income customers to ensure that they are able to afford wireless services on a consistent and uninterrupted basis. Without question, wireless services have become essential for lower-income citizens, providing them with value for their money, access to emergency services on wireless devices, and a reliable means of contact for prospective employers, social service agencies or dependents. Providing Budget PrePay with

²¹ See Nicholas P, Sullivan, “Cell Phone Provide Significant Economic Gains for Low-Income American Households: A Review of Literature and Data from Two New Surveys,” April 2008, accessed at http://www.newmillenniumresearch.org/archive/Sullivan_Report_032608.pdf.

the authority necessary to offer discounted Lifeline services to those most in danger of losing wireless service altogether undoubtedly promotes the public interest.

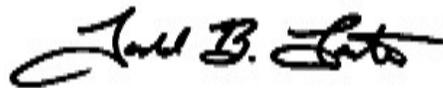
V. ANTI-DRUG ABUSE CERTIFICATION

No party to this Petition is subject to denial of federal benefits pursuant to Section 5301 of the Anti-Drug Abuse Act of 1998, 21 U.S.C. § 862.

VI. CONCLUSION

Based on the foregoing, Budget PrePay has demonstrated its eligibility for designation as an ETC. Accordingly, Budget PrePay respectfully requests that the FCC grant this Petition expeditiously.

Respectfully submitted,



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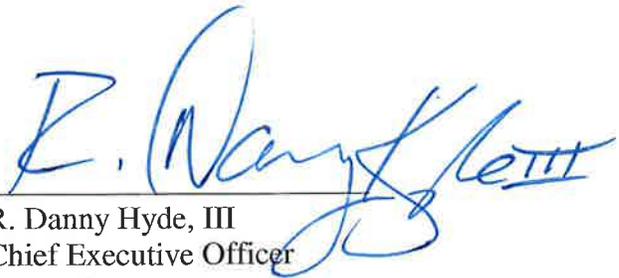
April 18, 2011

EXHIBIT A
CERTIFICATION

CERTIFICATION

I, R. Danny Hyde, III, do hereby declare under penalty of perjury as follows:

1. I am the Chief Executive Officer of Budget PrePay, Inc., a Louisiana Corporation, with its principal place of business at 1325 Barksdale Blvd., Bossier City, Louisiana 71111.
2. I have read Budget PrePay's Petition for Limited Designation as an Eligible Telecommunications Carrier in the State of Alabama and confirm the information contained therein to be true and correct to the best of my knowledge.
3. To the best of my knowledge, the Company referred to in the foregoing Petition, including all officers, directors, or persons holding five percent or more of the outstanding stock or shares (voting or non-voting) are not subject to denial of federal benefits, including FCC benefits, pursuant to Section 5301 of the Anti-Drug Abuse Act of 1988, 21 U.S.C. § 862.
4. I declare under penalty of perjury that the foregoing is true and correct to the best of my knowledge.



R. Danny Hyde, III
Chief Executive Officer
Budget PrePay, Inc.

Subscribed and sworn before me
This 7 day of April, 2011.



Notary Public

PATRICK D. NIX
NOTARY PUBLIC, #35044
CADDO PARISH LOUISIANA
My Commission is for Life

EXHIBIT B

**Letter Affirming Alabama PSC's Lack of Jurisdiction Over
Competitive ETC Designation Applications**



STATE OF ALABAMA
ALABAMA PUBLIC SERVICE COMMISSION
P.O. BOX 304260
MONTGOMERY, ALABAMA 36130-4260

JIM SULLIVAN, PRESIDENT
JAN COOK, ASSOCIATE COMMISSIONER
SUSAN D. PARKER, PH.D., ASSOCIATE COMMISSIONER

WALTER L. THOMAS, JR.
SECRETARY

ALLTEL COMMUNICATIONS, INC.,
Applicant

**APPLICATION: For designation as an
eligible telecommunications carrier in
the State of Alabama.**

DOCKET 30263

ORDER DENYING ALLTEL'S PETITION FOR RECONSIDERATION

BY THE COMMISSION:

I. INTRODUCTION AND BACKGROUND

Pursuant to order entered in this cause on January 9, 2007, the Commission determined as a threshold matter that it lacked the jurisdiction necessary to act on the October 12, 2006 Application of Alltel Communications, Inc. ("Alltel") for designation as an eligible telecommunications carrier ("ETC") for certain specified areas of Alabama. Alltel sought ETC designation for the rural telephone company study areas in Alabama located partially in the territory where Alltel is a licensed provider of cellular mobile radio service ("CMRS").¹ Alltel further sought to redefine the study areas of the affected rural telephone companies in Alabama in its October 12, 2006 Petition.

The January 9, 2007 Order concluding that the Commission lacked jurisdiction to act on Alltel's Application for ETC status was based on a number of considerations. In particular, the Commission noted that on March 12, 2002, an order was issued in Docket U-4400 wherein the Commission determined that it did not have jurisdiction over CMRS providers and, therefore, lacked jurisdiction to designate CMRS providers as ETCs pursuant to §214(e) of the Act. The Commission observed that its finding in that regard was based on an earlier conclusion reached

¹ Alltel's request was made pursuant to §214(e)(2) of the Communications Act of 1934, as amended (the "Act").

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by the Commission in an Order entered on March 2, 2000 in Docket 26414 wherein the Commission determined that the provisions of *Code* §§40-21-120(1)(a) and (2) dictate that the Commission has no authority to regulate CMRS providers and other providers of Commercial Mobile Service ("CMS").

The Commission further noted in its January 9, 2007 Order that Congress expressly enacted §214(e)(6) of the Act to provide carriers like Alltel who are not subject to a particular state's jurisdiction an identifiable means of being designated as an ETC in such states. The Commission also determined that, contrary to the arguments of Alltel, the Alabama Legislature's 2005 passage of the Communications Reform Act² and §37-2A-7 thereof did not authorize the Commission to assume jurisdiction over CMRS providers for the purposes of administering federal Universal Service requirements in Alabama. The Commission accordingly advised Alltel to submit its application for ETC designation to the FCC pursuant to §214(e)(6) of the Act.

On or about February 13, 2007, Alltel filed a Petition for Reconsideration in this cause urging the Commission to revisit the conclusions reached in its January 9, 2007 Order and to thereafter grant the application of Alltel for designation as an ETC in Alabama. As in its original petition, Alltel again asserted in its Petition for Reconsideration that *Code* §37-2A-7 requires the Commission to exercise jurisdiction over Alltel's application. Alltel further asserted that the Commission's reliance on its previous orders in Dockets 26414 and U-4400 was misplaced given the change in law brought about by the enactment of *Code* §37-2A-7.

Alltel additionally noted that staff from the Florida Public Service Commission had recently opined to the Florida Public Service Commissioners that a newly enacted provision in Florida law very similar to Alabama *Code* §37-2A-7 authorized the Florida Commission to

² See *Code of Alabama* 1975 §37-2A-1-11, as amended (the "CRA").

exercise jurisdiction over CMRS providers for Universal Service purposes.³ Just as in Alabama, Alltel noted that the Florida Commission did not have jurisdiction over CMRS providers for such purposes prior to the enactment of the cited Florida statute. On or about April 26, 2007, Alltel provided as supplemental authority an April 3, 2007 Order of the Florida Public Service Commission adopting the foregoing logic of the Florida staff and finding that the Florida Commission could indeed exercise jurisdiction over wireless carrier ETC matters based on the language of the cited Florida statute.⁴

II. FINDINGS AND CONCLUSIONS ON RECONSIDERATION

We have again reviewed the arguments of Alltel regarding the jurisdiction of the Commission over CMS providers for purposes of administering federal Universal Service requirements. We herein reaffirm our previous determination that no provision of Alabama law, including *Code* §37-2A-7, provides the Commission with jurisdiction over CMRS providers or any other provider of CMS with respect to Universal Service matters. Although §37-2A-7 does provide the Commission with broad jurisdiction over telecommunications carriers for purposes of administering federal Universal Service requirements, a closer review of the definitions and scope of the CRA reveals that providers of CMRS service such as Alltel and providers of other commercial mobile services do not meet the CRA's definition of a telecommunications carrier and are thus excluded from the coverage of the CRA.

In particular, §37-2A-5 of the CRA provides that only incumbent local exchange carriers, local exchange carriers and interexchange carriers may elect to be regulated under the CRA. The definitional provisions of the CRA found at §37-2A-2 thereof further specify that for purposes of the CRA, telecommunications carriers shall be treated as subject to the CRA only to the extent that they are engaged in the provision of "telecommunications service." The

³ See Florida Statutes at §364.001.

⁴ In *Re: Petition of Alltel Communications Inc. for Designation as an Eligible Telecommunications Provider*, Docket No. 060582-TP, Order No. PSC-07-0288-PAA-TP (Florida Public Service Comm'n, April 3, 2007).

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definition of "telecommunications service" is set forth in §37-2A-2(19) which expressly excludes providers of commercial mobile service under §332(c) of the Federal Communications Act of 1934 from said definition. Providers of commercial mobile service like Alltel are accordingly excluded by definition from the coverage of the CRA including §37-2A-7 thereof. As such, the Commission's prior determination regarding its lack of jurisdiction to designate CMS providers as ETCs was not affected by the CRA.⁵

We further note that the action recently taken by the Florida Public Service Commission with respect to Alltel's application for ETC status in that state is unpersuasive. Unlike the Florida statute cited by Alltel and relied upon by the Florida Commission to assume jurisdiction over Alltel's application for ETC designation in Florida, the Alabama statutes do not provide an express or implied exemption to the Alabama Legislature's prior statutory determination in Code §§40-21-120(1)(a) and (2) that wireless carriers like Alltel are exempt from the jurisdiction of the Commission.

Based on the foregoing, we again emphasize that Alltel has requested relief that this Commission cannot jurisdictionally provide. Alltel's Motion for Reconsideration is accordingly denied and Alltel is again advised to seek ETC designation before the FCC pursuant to §214(e)(6) of the Act.

IT IS, THEREFORE, ORDERED BY THE COMMISSION, That, for the foregoing reasons, the Petition of Alltel Communications, Inc. for Reconsideration is hereby denied.

IT IS FURTHER ORDERED BY THE COMMISSION, That jurisdiction in this cause is hereby retained for the issuance of any further order or orders as this Commission may find just and reasonable in the premises.

IT IS FURTHER ORDERED, That this Order shall be effective as of the date hereof.

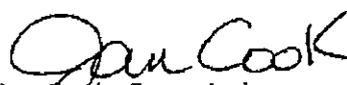
⁵ See §37-2A-11(b)(1) and (2).

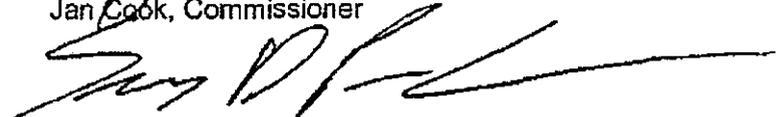
DOCKET 30263 - #5

DONE at Montgomery, Alabama, this 23rd day of May, 2007.

ALABAMA PUBLIC SERVICE COMMISSION


Jim Sullivan, President


Jan Cook, Commissioner


Susan D. Parker, Commissioner

ATTEST: A True Copy


Walter L. Thomas, Jr., Secretary