



September 27, 2012

Ex Parte

Ms. Marlene H. Dortch
Secretary
Federal Communications Commission
445 12th Street, SW
Washington, DC 20554

Re: *Lifeline and Link Up Reform and Modernization* WC Docket No. 11-42; *Lifeline and Link Up* WC Docket No. 03-109; *Federal-State Joint Board on Universal Service* CC Docket No. 96-45; *Advancing Broadband Availability Through Digital Literacy Training* WC Docket No. 12-32

Dear Ms. Dortch

i-wireless, LLC (“i-wireless”) hereby replies to Budget PrePay’s suggestion that the Commission fail to consider i-wireless’ fact specific petition seeking limited temporary relief from conducting a second customer certification in 2012, and instead grant some generalized waiver with respect to undefined general circumstances.¹ Apparently, Budget PrePay is either incapable or doesn’t want to set forth the specific facts that would justify a waiver on its behalf.

In its Petition, i-wireless detailed how its pre-June 2012 certification substantially complied with the rules adopted as a part of the *Lifeline/Link-up Reform Order*,² and in the case of the only substantive protection not covered proposed an alternative means of achieving the same ends as the rule. Budget PrePay makes no similar effort to match its prior certification practices with the requirements that became effective July 1, 2012. Without such a demonstration, Budget PrePay cannot demonstrate that it is similarly situated to i-wireless. And, in any event, if Budget PrePay can make such a demonstration, it should do so in the form of its own waiver request.

Furthermore, it is simply false to assert that i-wireless and Budget Prepay are similarly situated. All of i-wireless’ customers that it enrolled between January 1, 2012 and June 30, 2012 were enrolled pursuant to an FCC-approved compliance plan—which had been approved by the FCC in October 2011. Very few of Budget PrePay’s customers could have been enrolled

¹ See Reply Comments of Budget PrePay, Inc., WC Dockets No. 11-42, 03-109 and 12-23, and CC Docket No. 96-45 (filed Sept. 24, 2012)(“Budget PrePay Reply Comments”).

² See *Lifeline and Link Up Reform and Modernization, Lifeline and Link Up, Federal-State Joint Board on Universal Service, Advancing Broadband Availability Through Digital Literacy Training*, Report and Order and Further Notice of Proposed Rulemaking, FCC 12-11, 27 FCC Rcd. 6656 (rel. Feb. 6, 2012) (“*Lifeline/Link-up Reform Order*”).

pursuant to an FCC-approved compliance plan, because the Bureau did not approve Budget PrePay's plan until May 25, 2012. Notably, unlike Budget PrePay, i-wireless never sought to provide service as a "facilities-based" provider, based upon switches used for directory assistance, operator services and some long distance calls.³ i-wireless instead pursued forbearance from Section 214, which meant that i-wireless—unlike Budget PrePay—waited until after it had an approved Compliance Plan to market to the customers subject to the waiver.

In addition, although Budget PrePay claims that it "required prospective customers to complete a comprehensive Lifeline certification form that included substantially all of the certifications, information and warnings ultimately required by Section 54.410(d) of the Commission's rules,"⁴ Budget PrePay does not state that it examined proof of program eligibility for each of its Lifeline customers enrolled using that method during the period from January 1, 2012 to June 30, 2012; i-wireless, on the other hand, did so pursuant to the requirements of its Compliance Plan.

If Budget PrePay can make the same showing that i-wireless has, it ought to receive a waiver as well. But Budget PrePay has failed to do so. As such, it has made no demonstration that it is entitled to a waiver, and it has provided no basis on which to deny i-wireless' request.

Accordingly, the Bureau should expeditiously grant i-wireless' request for a limited waiver 47 C.F.R. § 54.410(f) before all benefits of the waiver will have been exhausted.

Please contact me if you have any questions.

Sincerely,



John T. Nakahata
Counsel to i-wireless, LLC

cc: Kim Scardino
Jonathan Lechter
Divya Shenoy
Lance Steinhart

³ See Petition of Budget PrePay, Inc. for Limited Designation as an Eligible Telecommunications Carrier in Florida, WC Docket No. 09-197, at 2 (filed August 1, 2011).

⁴ Budget PrePay Reply Comments at 2.