

DEPARTMENT OF PUBLIC SERVICE REGULATION
BEFORE THE PUBLIC SERVICE COMMISSION
OF THE STATE OF MONTANA

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IN THE MATTER OF BUDGET PREPAY,)	REGULATORY DIVISION
INC. D/B/A BUDGET MOBILE)	
Application for Designation as a Non-Rural)	DOCKET NO. D2012.10.110
Wireless Eligible Telecommunications)	
Carrier)	

NOTICE OF COMMISSION ACTION
NOTICE OF ADDITIONAL ISSUES

1. On October 22, 2012, Budget Prepay, Inc. d/b/a Budget Mobile (Budget) filed before the Public Service Commission (Commission) an application (Application) for designation as a non-rural wireless eligible telecommunications carrier (ETC). On November 26, 2012, the Commission issued a Notice of Application and Intervention Deadline. On December 21, 2012, the Commission granted intervention to Montana Independent Telephone Systems (MITS) and Montana Telecommunications Association (MTA). On January 23, 2013, Budget submitted a motion to dismiss MITS and MTA as intervening parties. On April 11, 2013, the Commission dismissed MITS as an intervener from the proceeding. On April 25, 2013, the Commission issued Procedural Order No. 7275, establishing June 27, 2013 as the deadline to identify additional issues. On May 31, 2013, MTA submitted a Notice of Withdrawal from the proceeding.

2. In its recent Order in Docket No. D2010.10.99, the Commission expressed concern about a number of topics related to the designation of ETCs for Lifeline support, including whether a company will be providing service through its own facilities, whether it has the necessary in-state infrastructure to oversee its customer-service and Lifeline verification obligations, and whether a product offering that is at no charge to the customer is consistent with the public interest. See ¶¶ 59-64, Order No. 7160c.

3. In Budget's Application and in its responses to Commission data requests, information has been offered regarding these topics. Budget states it has no plan to open storefronts or employ Montana personnel at this time, although Budget promises "live due diligence" to ensure enrolling customers are eligible for Lifeline benefits in the designated wire centers. *Responses to data requests DR PSC-001 and PSC-017a.* Service will be provided almost entirely, if not entirely, through roaming agreements with other carriers, and Budget on a national basis owns only limited physical infrastructure for the routing, transmission, and completion of calls. *Application, Responses to data requests DR PSC-002 and PSC-004.* Budget's basic offerings appear to be free of charge to consumers. *Application.*

4. At its regularly scheduled business meeting on June 25, 2013, the Commission determined that a full consideration of the public interest requirements for the designation of an ETC require a fuller discussion on several issues. The additional issues identified by the Commission are:

- 1) Whether or not an ETC that does not own network facilities in the state meets the public interest requirements for designation as an ETC;
- 2) Whether or not an ETC that lacks a "brick and mortar" presence within Montana would allow it to effectively advertise its services to potential customers, verify customer eligibility for designated wire centers, provide customers with an avenue to easily resolve any issues or complaints that may arise, and limit fraud and abuse of the program;
- 3) Whether Budget has sufficient safeguards to confirm that their product offerings are being distributed only to customers who reside in the approved wire centers. For instance, on tribal lands, where the proposed wire centers cover only a small percentage of the population, whether Budget can ensure that it is not enrolling customers who in fact reside outside of those wire centers;
- 4) Whether or not Budget's product offering – a handset and monthly calling plan free of charge to consumers – is consistent with the public interest in the proposed wire centers, or whether the public interest would be promoted by a remittance from customers; and,
- 5) What are Budget's business plans if the Lifeline program should go away, or if the subsidy amounts are dramatically reduced and what might the effect(s) be on Budget's Montana customers?

5. The Procedural Order in this docket is hereby suspended, and a scheduling conference to establish a modified Procedural Order will be held to establish new deadlines for

the filing of testimony, discovery, and discovery responses on the additional issues identified above, and a hearing date.

6. In order to facilitate a thorough vetting of these issues, and given the lack of interveners in this proceeding, the Commission has partitioned its staff into an Advisory Staff group and an Advocacy Staff group. Advisory Staff will advise the Commission in the usual manner and those staff members have not changed since the filing of the Application. Advocacy Staff will be treated, like Budget, as a party in this proceeding to which the rights and obligations of a party apply. The Advocacy Staff that have been appointed have not previously worked on the Application and have not communicated with Commissioners about this Application. Advocacy Staff will be subject to the same ex-parte restrictions as parties in this proceeding are subject to. The Commission authorized an amount up to \$20,000 to secure the services of an outside expert witness to act on behalf of Advocacy Staff to prepare and file testimony, prepare and respond to discovery, and testify at hearing on the above issues.

Done and dated this 25th day of June, by a vote 5 to 0.

BY THE MONTANA PUBLIC SERVICE COMMISSION

W. A. (BILL) GALLAGHER, Chairman
BOB LAKE, Vice Chairman
KIRK BUSHMAN, Commissioner
TRAVIS KAVULLA, Commissioner
ROGER KOOPMAN, Commissioner