8300 Greensboro Dr.
Suite 1200
McLean, VA 22102

(703) 584-8678
WWW.FCCLAW.COM

LNGS | LUKAS, NACE, GUTIERREZ & SACHS, LLP

September 15, 2014

SENT VIA HAND DELIVERY

Catrice W. Williams, Secretary
Department of Telecommunications and Cable
1000 Washington Street, Suite 820
Boston, MA 02118-6500

Re: D.T.C. 13-4 Lifeline Investigation

Dear Ms. Williams:

Enclosed please find the Comments of Budget PrePay, Inc. d/b/a Budget Mobile in response to the *Order Implementing Requirements and Further Request for Comment, Investigation by the Department on its Own Motion into the Implementation in Massachusetts of the Federal Communications Commission's Order Reforming the Lifeline Program*, D.T.C. 13-4, issued August 1, 2014 by the Department of Telecommunications and Cable.

If you have any questions, please do not hesitate to contact us.

Respectfully submitted,

Todd B. Lantor
Marc A. Paul

LUKAS, NACE, GUTIERREZ & SACHS, LLP
8300 Greensboro Drive, Suite 1200
McLean, Virginia 22102
(703) 584-8678

Attorneys for Budget PrePay, Inc.

Enclosure

BEFORE THE
COMMONWEALTH OF MASSACHUSETTS
DEPARTMENT OF TELECOMMUNICATIONS AND CABLE

Investigation by the Department on	)	
Its Own Motion into the Implementation	)	
in Massachusetts of the Federal	)	D.T.C. 13 - 4
Communications Commission's Order	)	
Reforming The Lifeline Program	)	

COMMENTS OF BUDGET PREPAY, INC.

I. INTRODUCTION

Budget PrePay, Inc. d/b/a Budget Mobile ("Budget" or "Company") files these Comments in response to the August 1, 2014 Further Request for Comment issued by the Massachusetts Department of Telecommunications and Cable.[1] The Lifeline Further Request issued by the D.T.C. seeks further comment on additional issues "related to the efficiency of the Lifeline program in Massachusetts, the annual Lifeline subscriber recertification process, and Lifeline subscriber protections."[2]

Unique among providers of prepaid wireless and Lifeline services, Budget has built a network of corporate-owned "brick and mortar" stores to interact with its customers face-to-face and to sell the services it offers, including Lifeline-supported services. As a fixture in communities nationwide, Budget PrePay has had considerable success in explaining the Lifeline program to prospective customers from its corporate-owned brick and mortar stores, verifying customer eligibility and successfully enrolling qualified Lifeline applicants in the Lifeline program. The customers whose eligibility is successfully verified are able to take advantage of their Lifeline benefit without delay.

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[1] *See* Order Implementing Requirements and Further Request for Comment, Investigation by the Department on its Own Motion into the Implementation in Massachusetts of the Federal Communications Commission's Order Reforming the Lifeline Program, D.T.C. 13-4 (rel. Aug. 1, 2014) ("Lifeline Further Request").
[2] *Id.* at 1.

Like the D.T.C., Budget is concerned about allegations of waste, fraud and abuse in the Lifeline program. Budget is supportive of the D.T.C.'s general effort to eliminate waste, fraud and abuse in the Lifeline program, and to preserve the critical assistance needed by low-income consumers across Massachusetts. However, Budget also has concerns that any effort by the D.T.C. to eliminate problems in the Lifeline program not come at the expense of the program itself and the benefits it provides. As the name of the federal low-income program implies, the program is, indeed, a "Lifeline" for millions of low-income Americans; enabling them, among other things, to seek employment, communicate with healthcare providers, and seek help from first responders in emergency situations. Measures in Massachusetts intended to address any alleged abuses in the program should not create barriers to legitimate Lifeline enrollment that only wind up undermining the very policy goals that led to the creation of the Lifeline program in the first place.

Throughout this rulemaking process, the D.T.C. should ask itself whether the proposal put forward to address any alleged problems in the Lifeline program, on balance, has the detrimental and overriding effect of stunting the ability and incentive of providers to participate in the Lifeline program and serve low-income customers. If the proposal has such an effect, it should not be adopted and an alternative considered.

II. CERTAIN LIFELINE RULEMAKING PROPOSALS SHOULD BE REJECTED

Based on its experience in Massachusetts and in other locations throughout the country, as discussed in more detail below, Budget has concerns about some of the proposals being considered by the D.T.C. in this proceeding.

D.T.C. Proposal: Should the D.T.C. regulate the commission-based compensation model, including restricting the use of the commission-based compensation model altogether as it relates to Lifeline applicants?

Budget Response: Budget is concerned that this proposal is an unnecessary intrusion on the business and management decisions of carriers. In general, a company's compensation structure is a matter of a commercial decision for a provider and an area of competition among carriers. The D.T.C. should make every effort to steer clear of influencing or disrupting such commercial decisions unless the public interest absolutely requires it and, thus far, there is nothing in the record to support such measures.

Carriers participating in the Lifeline program have routinely been subject to rigorous USAC audits and In-Depth Validations which involve close scrutiny of an ETC's operations. The roll-out of the National Lifeline Accountability Database (NLAD) has also significantly reduced the ability of a Lifeline carrier to sign up a customer that is already receiving the Lifeline benefit.

As a result, if there ever was a willingness by any Lifeline provider to tolerate the enrollment of Lifeline customers by their employees and agents without regard to the customer's eligibility, it no longer exists. The costs and penalties to a company of doing so are much too high. Carriers have every incentive to make sure that their employees and agents are properly trained and are enrolling only eligible Lifeline subscribers. This is true regardless of whether the provider has a salary-based or commission-based compensation structure for its employees and agents.

To the extent the D.T.C. feels it is necessary to restrict commissions or financial incentives in some way, one possible compromise is to limit commissions and incentives to only those that are based on successful enrollment of an eligible customer in the Lifeline program. This is more targeted than a blanket prohibition on commissions and financial incentives and would not inhibit the legitimate growth of the Lifeline program in the state. At its core, the

D.T.C.'s concern about commissions appears to be about the improper sign-up of Lifeline customers. If commissions are only associated with the successful and legitimate enrollment of an eligible Lifeline subscriber, the D.T.C.'s concern should be addressed.

D.T.C. Proposal: Should the D.T.C. require that a certain amount of an ETC's subscribers – *e.g.,* 20% -- in Massachusetts be non-Lifeline subscribers?

Budget Response: As set forth in its response to the proposal above, Budget is concerned that this proposal is an unnecessary intrusion on the business and management decisions of carriers. In general, a company's decision to focus its marketing and customer enrollment on Lifeline or non-Lifeline subscribers is a matter of a commercial decision for a provider and an area of competition among carriers. The D.T.C. should make every effort to steer clear of influencing or disrupting such commercial decisions unless the public interest absolutely requires it.

This proposal seems to suggest a policy judgment by the D.T.C. that providers serving only Lifeline customers are somehow less financially stable and more prone to fraud and abuse. Accordingly, by requiring those providers to carry at least a small percentage of non-Lifeline subscribers, the D.T.C. suggests that it will help to root out fraud and abuse in the program and create more financial stability for the carrier and its customers.

Without evidence in the record to support this policy judgment, Budget finds it difficult to understand how requiring a carrier to have a certain amount of non-Lifeline subscribers will somehow create better financial stability for a carrier, improve the Lifeline program or reduce any fraud and abuse. The telecommunications market is sufficiently competitive so that any carrier (those serving only Lifeline customers or those serving both Lifeline and non-Lifeline) without a sound business plan will not survive.

The D.T.C. should be careful not to insert itself into the day-to-day management and business decisions of providers. Rather than mandating some random percentage of non-Lifeline subscribers for any ETC applicant or ETC grantee, the D.T.C. should judge a provider's economic stability based on its prior track record and current financial capabilities. The existing make-up of a provider's customer base is certainly one factor that may affect financial capability, but it should not dictate it entirely. Providers in this country have shown success and failure in the marketplace by either relying on just Lifeline or non-Lifeline subscribers, or by relying on both. No one model is the key to success and the D.T.C. should not be picking and favoring one business model over another.

This proposal is particularly onerous and intrusive since it requires carriers not only to offer non-Lifeline services and rate plans to the general public, but to actually sign up and maintain a certain percentage of non-Lifeline subscribers. What happens if the provider's non-Lifeline subscribers dip below the required percentage after they are designated as an ETC? Will the carrier need to shut down its operations and stop serving Lifeline subscribers? How will the D.T.C. monitor and enforce this 20% requirement? If the D.T.C. adopts this requirement, should it adopt a parallel requirement that all ETCs must participate in the Lifeline program and have at least 20% of their subscribers be Lifeline subscribers in order to further expand the reach of the program to low-income customers?

Further, it is not clear that mandating non-Lifeline subscribers will in fact create the results that the D.T.C. is looking for. Indeed, for many years, eligible customers for the Lifeline program were grossly underserved by providers who devoted their full attention to non-Lifeline subscribers. For too long, low-income customers were viewed as undesirable for carriers since such customers were prone to subscriber churn and unlikely to purchase higher cost service packages. Accordingly, Lifeline was an afterthought and most providers devoted little advertising or effort to sign up eligible Lifeline subscribers. Enrollment in the Lifeline program suffered and the program's ultimate goal of ensuring the availability of communications for low-income consumers was far from being realized.

It was only after the Lifeline program was opened up to wireless Lifeline-only providers that designed their offerings with low-income consumers in mind (e.g., pre-paid offerings) that low-income consumers finally became aware of the program and its benefits. Low-income consumers have benefitted from the ability of providers to focus on their needs. Mandating service to a certain percentage of non-Lifeline subscribers would detract from that focus and should be rejected by the D.T.C.

If the D.T.C. feels that some type of service to non-Lifeline subscribers should be required, it can simply make sure that all ETCs in the Commonwealth are making their plans available to non-Lifeline subscribers at non-Lifeline rates. In this way, Lifeline providers are making their services available to non-Lifeline subscribers if they would like to sign-up, but the D.T.C. is not pressuring ETCs to sign up one type of a subscriber over another.

D.T.C. Proposal: **Should the D.T.C. require that ETCs de-enroll subscribers upon request – *e.g.*, within 5 business days – without requiring a reason or any documentation, including a Personal Identification Number (PIN)?**

Budget Response: Budget is unclear as to the need to adopt this proposal. To Budget's knowledge, Lifeline subscribers are free to de-enroll at any time simply by notifying a provider. Subscribers cannot be forced to remain in the Lifeline program if they wish to be de-enrolled. Budget is not aware of a systemic problem where Lifeline providers are creating roadblocks for subscribers to de-enroll. Even if they were, those specific roadblocks should be tackled on a case-by-case basis by the D.T.C. since simply codifying the right to immediately de-enroll is unlikely to address the problem.

Budget is fully supportive of a subscriber's ability to control its account with the company. If a subscriber seeks to terminate its relationship with Budget, the subscriber should be able to do so without hassle. At the same time, Budget (and each subscriber) has an interest in making sure that subscriber accounts remain secure and are not manipulated or modified without permission of the account holder. Accordingly, allowing an account to be terminated without requiring any documentation or identification from the account holder is not desirable. Providers should be allowed to ask a terminating subscriber for some identifying information to confirm that it is the account holder that is in fact seeking termination of the account.

D.T.C. Proposal: **Should the D.T.C. require all ETCs to verify with a Mass. state agency – *e.g.,* the DTA or MassHealth) Lifeline applicants' initial program-based eligibility prior to commencing Lifeline service?**

Budget Response: Budget is supportive of all efforts to confirm eligibility of Lifeline subscribers. In many states where Budget currently operates, state Lifeline eligibility databases have been set up to confirm a subscriber's participation in an eligible benefits program. When properly developed and rolled-out, these state databases can be an effective tool to enroll subscribers efficiently and with confidence that they are eligible Lifeline benefits.

Budget does not have any objection to the development of a state eligibility database in Massachusetts, so long as it provides for an efficient and timely way for Lifeline providers to confirm the eligibility of Lifeline subscribers. If not designed for efficient and timely responses to Lifeline providers, such a database can turn into a drag on Lifeline enrollment, frustrate Lifeline subscribers and jeopardize the ultimate goals of the Lifeline program. Budget is willing to work with the D.T.C. and state agencies in the development of such a state Lifeline eligibility database, and share the company's positive and negative experiences with similar databases in other states.

Budget has no objection to compensating state agencies for the administrative costs associated with a state Lifeline eligibility database so long as the compensation is proportional and based upon a provider's actual use of the database. Similar compensation arrangements have been implemented in other states.

D.T.C. Proposal: **What are ETCs' current practices with regards to lost or stolen Lifeline handsets? Do ETCs terminate a subscriber's Lifeline account if a handset is lost or stolen? Is it unreasonable for ETCs to charge a Lifeline subscriber for a replacement handset if a handset is lost or stolen? What best practices should be implemented if a Lifeline subscriber loses a handset or has a handset stolen?**

Budget Response: All handsets issued by Budget are registered for use on the Budget network by using that handset's unique identification number. If the unique identification number is not registered on the network, the phone cannot be used on the network [except to make an emergency 911 call]. Under Budget's current policies, the unique identification number of a lost or stolen phone is removed from the network database and can no longer be used on Budget's phone network regardless of who has control of the phone. To the extent that the subscriber who lost the phone, or had it stolen, is still eligible to participate in the Lifeline program, the subscriber's Lifeline account is not terminated, but instead, Budget will suspend customer's service to allow for the customer to find or recover the lost or stolen phone. Should the customer chose to replace their phone, Budget will issue the individual a new phone. Budget's replacement phones cost as little as $19.95.

D.T.C. Proposal: **Should the D.T.C. impose limitations on ETCs' efforts to sell optional/top-up services and features to Lifeline subscribers?**

Budget Response: No. Without evidence that offering top-up services and additional features are problematic to the Lifeline program, ETCs should be free to provide these services to their customer base. Top-up services provide customers with flexibility to enhance their service offering. In some months, when customer use of their phone is particularly heavy, customers should have flexibility to add minutes to their account beyond the minutes that have already been subsidized by the Lifeline subsidy passed on by the ETC. Cutting these customers off from top-off minutes would unnecessarily limit the utility of the phone for the customer.

III. CONCLUSION

Whether it is the ability to make an emergency call, stay in touch with family or follow-up with an employer about a job opportunity, the Lifeline program is an invaluable program offering important benefits to low-income consumers every day. While Budget is concerned about many of the proposals currently being considered by the D.T.C., it applauds the D.T.C.'s efforts to date to improve and expand the distribution of Lifeline benefits in Massachusetts and Budget looks forward to working with the D.T.C. and other ETCs in Massachusetts to further improve the Lifeline program.

Respectfully submitted,

Todd B. Lantor
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8300 Greensboro Drive, Suite 1200
McLean, Virginia 22102
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CERTIFICATE OF SERVICE

I hereby certify that on this day I have served a copy of the enclosed Comments of Budget PrePay, Inc., via hand and/or electronic delivery, on or before 5:00 p.m. (ET) on September 15, 2014, upon each person designated on the official service list compiled by the Massachusetts Department of Telecommunication and Cable and in accordance with the requirements of 220 CMR 1.05(1).

Respectfully submitted,

Todd B. Lantor
Marc A. Paul

LUKAS, NACE, GUTIERREZ & SACHS, LLP
8300 Greensboro Drive, Suite 1200
McLean, Virginia 22102
(703) 584-8678

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