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October 1, 2013

SENT VIA E-MAIL AND OVERNIGHT 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

Dear Ms. Williams:

Enclosed please find the Reply Comments of Budget PrePay, Inc. d/b/a Budget Mobile in response to the *Notice of Proposed Requirements and Further Request for Comment* issued August 21, 2013 by the Department of Telecommunications and Cable in the above-captioned proceeding.

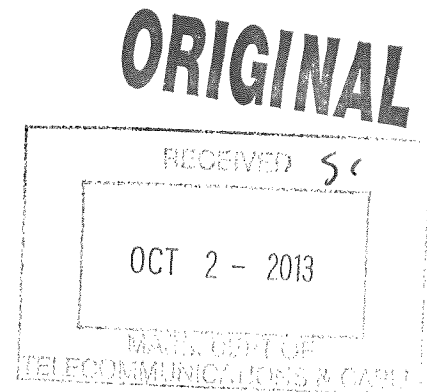
If you have any questions, please do not hesitate to contact us.

Respectfully submitted,

Robert S. Koppel

Robert S. Koppel
Todd B. Lantor

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)	D.T.C. 13 - 4
Federal Communications Commission's)	
Order Reforming The Lifeline Program)	

REPLY COMMENTS OF BUDGET PREPAY, INC.

Budget PrePay, Inc. d/b/a Budget Mobile ("Budget PrePay") submits its Reply Comments in response to the *Notice of Proposed Requirements and Further Request for Comment* ("Notice"), issued August 21, 2013 by the Department of Telecommunications and Cable (the "Department") in the above-captioned proceeding. The *Notice* follows up on the Department's *Request for Comment and Notice of Public Hearing* ("Request for Comment") issued April 1, 2013.¹

Budget PrePay applauds the Department's continued efforts to revise its procedures and requirements governing the provision of Lifeline service. The rules proposed by the Department succeed in achieving the Department's goal of creating a "single, uniform set of procedures and requirements applicable to all Massachusetts ETCs seeking Lifeline support."² In particular, Budget PrePay supports the Department's proposal that the requirements set forth in the *Notice* will supersede any requirements previously-agreed upon (and set forth in individual ETC

¹ Together with its *Request for Comment*, the Department also issued an *Exhibit to Request for Comments and Notice of Public Hearing* ("Exhibit") and an *Order Opening Investigation* ("Order").

² *Exhibit* at 1.

designation orders) that are inconsistent with these uniform requirement.³ Such uniformity will facilitate compliance with the rules and eliminate any potential market impact of differing rules.

Budget PrePay opposes the recommendation of the Office of Attorney General that all ETCs that sell refurbished phones must provide a 90 day warranty or return policy.⁴ The Department considered, and wisely rejected, such a requirement in its *Notice*.⁵ The length of carrier's warranty, like a carrier's rate plans (and included minutes), is a commercial decision, and an area of competition among carriers.

Budget PrePay also requests that the Department reconsider its proposal to require ETCs to file changes to their Lifeline terms and conditions at least five business days prior to implementation.⁶ Budget PrePay also requests that the Department reconsider its proposal to require ETCs to file changes to their Lifeline terms and conditions prior to implementation, and that instead, the Department require carriers to provide notice within 30 days after the changes are implemented.

I. The Department Should Not Impose a Minimum 90-Day Warranty Period or Return Policy for Refurbished Handsets Provided to Lifeline Subscribers.

Budget PrePay opposes any regulation that would require Lifeline providers to offer a minimum 90-day warranty or return policy for refurbished phones provided to Lifeline subscribers.⁷ After carefully reviewing this issue, the Department proposed not to impose a

³ *Notice* at 3 n. 3.

⁴ Initial Comments of the Office of the Attorney General of the Commonwealth of Massachusetts ("AG Comments"), September 18, 2013, at 4.

⁵ *Notice* at 23.

⁶ *Id.* at 8.

⁷ AG Comments at 4.

minimum warranty or return policy for handsets provided to Lifeline customers.⁸ The

Department correctly recognized that:

[m]ost Lifeline plans are offered with no contract and at no cost to the consumer, allowing for easier movement to another provider than in the traditional wireless market⁹

As the Department noted in the *Exhibit*, Budget PrePay provides a 30-day warranty on its handsets.¹⁰ Budget PrePay strives to provide its customers with the best possible wireless service at the lowest prices. In order to provide highly desirable calling plans with desirable handsets, Budget PrePay has made a business decision that a 30-day warranty is appropriate. The length of carrier's warranty, like a carrier's rate plans (and included minutes), is a commercial decision, and an area of competition among carriers. Further, Budget PrePay offers handsets at no charge to customers, and Budget PrePay does not require a contract. As a result, a dissatisfied customer can terminate service at any time, without penalty, and move to a competitor.

Budget PrePay notes that the CTIA Consumer Code for Wireless Service does not specify any warranty period, and specifies a 14-day no obligation return policy only for postpaid customers.¹¹ Budget PrePay has committed to abide by the CTIA Consumer Code, and expects that most, if not all, Lifeline providers have also made such a commitment. The Department

⁸ Notice at 23.

⁹ *Id.*

¹⁰ *Id.* at 8 n. 13.

¹¹ CTIA Consumer Code for Wireless Services, Article IV, Allow a Trial Period for New Services: "When a customer initiates postpaid service with a wireless carrier, the customer will be informed of and given a period of not less than 14 days to try out the service. The carrier will not impose an early termination fee if the customer cancels service within this period, provided that the customer complies with applicable return and/or exchange policies. Other charges, including usage charges, may still apply."

should not go beyond the requirements of the CTIA Consumer Code, particularly with regard to prepaid, no-contract Lifeline providers.

Budget PrePay also notes that handsets are not subsidized by the Lifeline program. The federal Lifeline rules only permit the subsidization of Lifeline service. As a result, the provision of handsets by Lifeline ETCs should not be regulated in the absence of a clear market failure.

II. The Department Should Not Require Lifeline Providers to File Changes to Terms and Conditions Prior to Implementation.

Budget PrePay requests that the Department reconsider its proposal to require ETCs to file changes to their Lifeline terms and conditions at least five business days prior to implementation.¹² Instead, ETCs should be able to file such changes after-the-fact. Budget PrePay supports the proposal of T-Mobile that carriers be required to provide notice within 30 days after the changes are implemented.¹³ Budget PrePay agrees with T-Mobile that an advance notification requirement “is both difficult to meet from a practical perspective and will ultimately result in competitive harm.”¹⁴ Budget PrePay also agrees with TracFone’s observation that:

Wireless service is not subject to rate regulation, so it is not clear what purposes is [sic] served by providing advance notice; the Department does not have the authority to disallow such changes. Wireless carriers are also not subject to tariff filing requirements.¹⁵

In all events, the Department can request that a carrier provide its current terms and conditions at any time. This should be more than sufficient to address any potential consumer inquiries.

¹² *Id.* at 8.

¹³ Comments of T-Mobile Northeast, LLC (“T-Mobile”), filed September 18, 2013, at 3.

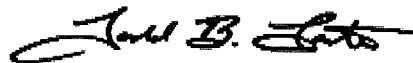
¹⁴ *Id.*

¹⁵ Comments of TracFone Wireless, Inc. (“TracFone”), filed September 18, 2013, at 2.

III. Conclusion.

Budget PrePay applauds the Department's continued efforts to revise its procedures and requirements governing the provision of Lifeline service. The rules proposed by the Department succeed in achieving the Department's goal of creating uniform procedures and requirements applicable to all Lifeline providers. Budget PrePay opposes the recommendation of the Office of Attorney General that all ETCs that sell refurbished phones must provide a 90 day warranty or return policy. The Department considered, and wisely rejected, such a requirement in its *Notice*. The length of carrier's warranty, like a carrier's rate plans (and included minutes), is a commercial decision, and an area of competition among carriers. Budget PrePay also requests that the Department reconsider its proposal to require ETCs to file changes to their Lifeline terms and conditions prior to implementation, and that instead, the Department require carriers to provide notice within 30 days after the changes are implemented.

Respectfully submitted,



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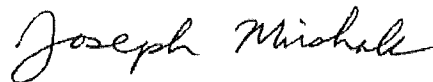
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CERTIFICATE OF SERVICE

I hereby certify that on this day I have served a copy, by hand or first class mail, of Reply Comments of Budget PrePay, Inc. upon each person designated on the official service list compiled by the Massachusetts Department of Telecommunication and Cable for the above-captioned proceeding in accordance with the requirements of 220 CMR 1.05(1).

BUDGET PREPAY, INC.



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