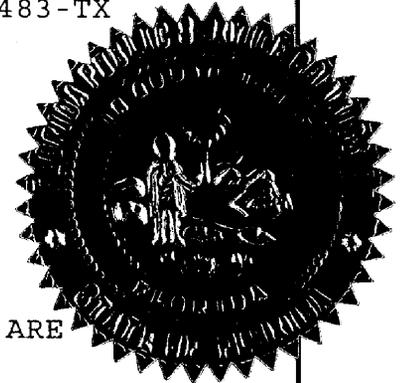


BEFORE THE
FLORIDA PUBLIC SERVICE COMMISSION

DOCKET NO. 050483-TX

In the Matter of:

PETITION FOR DESIGNATION AS
ELIGIBLE TELECOMMUNICATIONS CARRIER
(ETC) BY BUDGET PHONE, INC.



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PROCEEDINGS: AGENDA CONFERENCE
ITEM NO. 4

BEFORE: CHAIRMAN RUDOLPH "RUDY" BRADLEY
COMMISSIONER J. TERRY DEASON
COMMISSIONER LISA POLAK EDGAR
COMMISSIONER ISILIO ARRIAGA

DATE: December 6, 2005

PLACE: Betty Easley Conference Center
Room 148
4075 Esplanade Way
Tallahassee, Florida

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FLORIDA PUBLIC SERVICE COMMISSION

FPSC-COMMISSION CLERK

1 PARTICIPATING:

2 JEREMY SUSAC, ESQUIRE, JAMES MADURO, CHERYL
3 BULECZA-BANKS and BOB CASEY, representing the Florida Public
4 Service Commission Staff.

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P R O C E E D I N G S

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2 MR. MADURO: Good morning, Commissioners. James
3 Maduro, Jr., on behalf of Commission staff.

4 Item 4 addresses Budget Phone's petition for
5 designation as an eligible telecommunications carrier. Budget
6 Phone is a certificated competitive local exchange carrier in
7 Florida. Staff recommends that Budget be granted ETC status in
8 the requested Verizon/BellSouth area, but not in the requested
9 Sprint area.

10 Staff also recommends that at the time of annual ETC
11 recertification for high cost Budget Phone be required to
12 demonstrate how to use universal service funds within Florida.

13 Additionally, Budget should be required to adhere to
14 the new high-cost certification and reporting requirements
15 adopted by this Commission in Docket Number 010977-TL.

16 Staff is now available for any questions.

17 COMMISSIONER ARRIAGA: Mr. Chairman.

18 CHAIRMAN BRADLEY: Yes.

19 COMMISSIONER ARRIAGA: Questions of staff. Thank
20 you.

21 Budget -- can you tell me a little bit about Budget's
22 participation as an ETC in other jurisdictions?

23 MR. MADURO: They've been approved in three other
24 states. They have applied to 25 states for ETC status. Right
25 now they have been approved in three states.

1 COMMISSIONER ARRIAGA: And in those states in which
2 they have been approved, are they already working as an ETC?
3 Are they using universal funds?

4 MR. MADURO: I'm not privy to that information right
5 now, Commissioner.

6 COMMISSIONER ARRIAGA: So we cannot qualify or
7 determine the quality of service they are providing in other
8 states?

9 MR. MADURO: Not at this time, Commissioner.

10 COMMISSIONER ARRIAGA: And are you satisfied that
11 Budget complies 100 percent with the nine services identified
12 in CFR Rule 54.201?

13 MR. MADURO: Yes. They have, they have said that
14 they will comply with it. But right now I can't say until they
15 start the service, but they have agreed based on the responses
16 that they will comply to the nine point requirements.

17 COMMISSIONER ARRIAGA: Let me tell you where I'm
18 coming from. I've been working with staff during the last two
19 weeks regarding Lifeline. I have certain particular worries
20 about the issue of Lifeline. And certain information that I
21 have in the report that we're going to be looking at
22 December 20th in Internal Affairs already tells us that
23 Lifeline is not going as well as it should and is not producing
24 the results that it should produce, which is a concern of us,
25 and which is a concern of the public, a concern of the

1 Legislature. It is a statewide concern.

2 So here we have a company that is approved in two
3 specific territories but is not approved in a third territory
4 because it lacks an agreement; is that correct?

5 MR. MADURO: That's correct, Commissioner.

6 COMMISSIONER ARRIAGA: In other words, with BellSouth
7 and the other company, Verizon, they have a written agreement.

8 MR. MADURO: Yes.

9 COMMISSIONER ARRIAGA: And the only issue that is
10 stopping us from approving this -- taking into consideration
11 that if we approve it and we also provide the third territory,
12 it increases the possibility of more Lifeline use. Would that
13 be fair to say that?

14 MR. CASEY: If I may answer that. Bob Casey on
15 behalf of staff. We are not recommending they be approved in
16 the Sprint territory because they do not have an agreement
17 which they can provide service through UNEs. One of the
18 requirements for the approval of the CTC is to have your own
19 facilities or serve customers through UNEs. And since there is
20 no agreement with Sprint for UNEs, they wouldn't be eligible in
21 that territory.

22 COMMISSIONER ARRIAGA: Could we make it a contingent
23 approval whereby if we have approved the other two territories
24 and we have found out they comply with the conditions and that
25 they are capable of doing it because other states have also

1 proved it, can we say this is subject to, we approve it subject
2 to you signing an agreement with Sprint? What I'm trying to
3 say is if we have concern about Lifeline, why delay the
4 possibility of another carrier serving Lifeline just because of
5 a technicality?

6 MS. BANKS: From a technical basis, technical staff
7 would have no problem making that contingent. I don't know if
8 there's a legal issue associated with that. But contingent
9 upon a signed agreement and delivery to the Commission, I
10 wouldn't have a problem with that, but I don't know legally.

11 MR. SUSAC: Commissioner Arriaga, this is Jeremy
12 Susac on behalf of staff. Statute 364.025(5) specifically
13 says, "Upon a petition the Commission shall vote in 120 days
14 granting in whole or in part on the petition." So you could
15 grant, you could put a contingency, you could put limits, you
16 put caveats, you could grant in whole or you could grant in
17 part.

18 COMMISSIONER ARRIAGA: Would the Commissioners feel
19 comfortable with such reasoning?

20 CHAIRMAN BRADLEY: What?

21 COMMISSIONER ARRIAGA: Would the Commissioners, the
22 Commission, I mean, what do you think about -- I'm not making
23 any motion yet. I just want to hear your thoughts.

24 CHAIRMAN BRADLEY: Well, let's have some discussion.

25 COMMISSIONER EDGAR: I would like you to flesh it out

1 for me a little bit more, if you would.

2 COMMISSIONER ARRIAGA: What I'm thinking,
3 Commissioner, is we have a company here that seems to have met
4 all the quality standards and the legal needs to, to
5 participate as an ETC carrier. We are having a little bit of
6 problems, as you probably have noticed when you read the
7 Internal Affairs document, regarding Lifeline. And here we
8 have an opportunity of an additional carrier coming in and
9 serving Lifeline customers in rural areas and other important
10 areas that need to be served. And we also have a technicality,
11 which is they haven't negotiated an agreement with Sprint. So
12 instead of delaying or them having to come back later, approve
13 it today subject to their negotiation and agreement so they can
14 use Sprint's capacity to go ahead and serve Lifeline. Was that
15 clear what I'm trying to --

16 CHAIRMAN BRADLEY: Right. I'm following your train
17 of discussion. And I, too, have given this a lot of concern,
18 and I share your concern about the number of customers who
19 signed up for Lifeline. And I don't -- I'm not really sure --
20 maybe, staff, you can help me with this philosophically. I'm
21 not -- have we determined what the issue is or what the issues
22 are as it relates to customers participating in Lifeline, in
23 the Lifeline program? And I guess the other question would be
24 if you put Lifeline before us and if you put Link-Up before us,
25 are the issues equal or is there much -- is there a discrepancy

1 as it relates to -- well, is there a concern as to the number
2 of customers who are signing up for Link-Up as compared to
3 Lifeline? Are you following what I'm asking?

4 MS. BANKS: This is Cheryl Banks on behalf of
5 Commission staff. The Public Utilities Research Center is in
6 the process of doing an analysis, and that will come out in
7 January. And hopefully we'll get some of the answers as to why
8 people will not or will sign up for Lifeline and get some of
9 those questions answered. The Lifeline and Link-Up program
10 really run hand in hand. If you do not have phone service
11 currently, the Link-Up provides you the opportunity to defer
12 some of the setup fees, and then subsequently you will have
13 your provision every month as a discount. So they kind of go
14 hand in hand. If I get -- if the customer signs up for
15 service, he will get Link-Up, but he also will get Lifeline.
16 If he's already an existing customer and he's already hooked
17 up, then subsequently he will get those monthly credits.

18 CHAIRMAN BRADLEY: That person can sign up then for,
19 for Lifeline.

20 MS. BANKS: I'm sorry. I couldn't hear you.

21 CHAIRMAN BRADLEY: If a person is already connected,
22 then that means they could potentially apply for Lifeline.

23 MS. BANKS: Yes, sir, they can.

24 CHAIRMAN BRADLEY: Address the issue of the direction
25 that the FCC is, appears to be going in as it relates to UNES

1 and -- where are we right now with respect to the whole issue
2 of UNES as it relates to the FCC?

3 MR. CASEY: Presently Budget Phone is using UNES to
4 serve approximately 34 percent of their customers, and they
5 will continue to be able to use UNES through March 11th of next
6 year. They've already signed commercial agreements with Sprint
7 and BellSouth. There is a question of whether or not the
8 commercial agreements will take the place of UNES as far as
9 eligibility to be an ETC. We posed that question to the FCC
10 two weeks ago and FCC staff is working on it. They said they'd
11 have an answer for us within about a week. I received an email
12 on the 2nd. So they said they would have an answer for us
13 within a week or so as to whether or not commercial agreements
14 would qualify carriers to become ETCs. But as of right now we
15 followed the letter of the law and they do qualify by using
16 UNES to serve customers.

17 CHAIRMAN BRADLEY: Commissioner Edgar.

18 COMMISSIONER EDGAR: Thank you. I have a different
19 question, I think.

20 On Page 7 of the recommendation, at the top of Page
21 7, first full paragraph, it says that staff had reservations
22 regarding Budget's petition since Budget is a prepaid telephone
23 company. And if you could elaborate on those reservations a
24 little bit.

25 MR. MADURO: The FCC and Congress pretty much have

1 said that they would like to see more facility-based type
2 operations. And Budget Phone is more of a prepaid operation,
3 so that was our reservations in looking at what the FCC and
4 Congress is trying to do, they were trying to get more
5 competition based on facility-based operations versus prepaid
6 versus taking the services from an established ILEC and just
7 basically using that instead of coming up with creative ways
8 and new products that you may get for a facilities-based type
9 operation.

10 CHAIRMAN BRADLEY: Follow-up?

11 COMMISSIONER DEASON: I have a question, Mr.
12 Chairman.

13 CHAIRMAN BRADLEY: You're recognized.

14 COMMISSIONER DEASON: Attachment A shows the listing
15 of the rate centers for both BellSouth and for Verizon. Is
16 this an exhaustive list of all the rate centers that BellSouth
17 and Verizon serve or is this just selected, selected wire
18 centers?

19 MR. CASEY: This is not all of their wire centers.
20 These are actually wire centers, not rate centers.

21 COMMISSIONER DEASON: Okay.

22 MR. CASEY: Or switches.

23 COMMISSIONER DEASON: So now this is where Budget
24 would have ETC status for these particular ones?

25 MR. CASEY: That's correct, sir.

1 COMMISSIONER DEASON: And for the ones that they
2 would not, it's just not part of their budget, I mean, not part
3 of their, of their business plan to serve in other areas?

4 MR. CASEY: That's correct.

5 COMMISSIONER DEASON: What -- now is this
6 informational just for us, to show us what they're serving at
7 this point or are they limited to just these particular rate
8 centers? The question is if their business plan changes and
9 they wish to serve additional rate centers, for example, in
10 BellSouth territory, do they have to come in again and get ETC
11 status or they're just automatically already an ETC carrier?

12 MR. CASEY: It's my understanding they would have to
13 refile and ask for those rate centers or, excuse me, wire
14 centers.

15 COMMISSIONER DEASON: Wire centers.

16 MR. CASEY: Right.

17 COMMISSIONER DEASON: This is just, this is just the
18 way it's done by FCC rule or is this something that we're
19 doing?

20 MR. CASEY: Yes, sir. They want it broken down by
21 wire center.

22 COMMISSIONER DEASON: So, for example, if they do
23 wish to serve a different wire center they're not currently
24 serving, they would have to amend their ETC status to get that
25 additional --

1 MR. CASEY: That's correct. That's correct.

2 MS. BANKS: And some of that may stem from also that
3 they have to advertise in every area that they're going to hold
4 themselves out to, to serve. So if they're very specific,
5 that's where they're going to be targeting and advertising.
6 Because anywhere you're at you have to advertise the Lifeline
7 program.

8 COMMISSIONER DEASON: I was just reviewing some of
9 these particular wire centers, and some, some are very small
10 areas, some are rural areas. I'm just curious as to if they're
11 going to serve some of the more small rural areas, why they're
12 not just wanting to get ETC status for all of BellSouth's
13 territory. Are there, are there geographic areas that they're
14 just excluding altogether or is that just we're not privy to
15 their business plan in that regard?

16 MR. CASEY: We're not privy to their business plan.
17 We didn't ask why they're not going into certain areas. We
18 just reviewed their petition and this is what they requested.

19 COMMISSIONER DEASON: But there doesn't appear to be
20 any type of -- as far as we know, it's based upon their
21 business plan. It's not because they're discriminating against
22 particular areas in the state. Is that true?

23 MR. CASEY: That's correct, Commissioner.

24 COMMISSIONER ARRIAGA: Is it -- you and I have spoken
25 in certain briefings regarding -- please let me have your last

1 name.

2 MS. BANKS: Banks.

3 COMMISSIONER ARRIAGA: Ms. Banks. About the issue of
4 Lifeline and PURC, P-U-R-C's report. And, of course, we have
5 to wait until January to see the final report. But we have
6 also seen that some preliminary figures that have been produced
7 for the first six months already show that there is a decline
8 in the use of Lifeline; is that correct?

9 MS. BANKS: Yes, that is. And as we explained, a lot
10 of that has to do with their verification process that they
11 implemented, and a lot of people that once were on are no
12 longer obtaining service under that.

13 COMMISSIONER ARRIAGA: And if, if we have a concern
14 regarding Lifeline, and there is a concern because there is a
15 public concern regarding Lifeline, and if Lifeline served the
16 purpose of the impoverished consumer or the one that doesn't
17 have direct or easy access to a telephone service, wouldn't it
18 be reasonable to facilitate that service at the earliest
19 convenience?

20 MS. BANKS: That would seem to make sense to me.

21 COMMISSIONER ARRIAGA: Thank you.

22 CHAIRMAN BRADLEY: Commissioner?

23 COMMISSIONER ARRIAGA: I'm ready to make a motion,
24 Mr. Chairman. I would move to approve staff's recommendation
25 with a little addendum or change indicating that Budget's

1 approval of the Sprint territory would be subject to the
2 signature of an agreement in order to fulfill the legalities.

3 CHAIRMAN BRADLEY: Staff?

4 MR. CASEY: May I just -- I usually don't do this
5 when there's been a move staff, interrupt Commissioners. But
6 if we're going to include that, I would, staff would prefer if
7 you say "nonrural areas of Sprint" because there is a different
8 criteria for rural areas. They have to meet a public interest
9 test.

10 So if the Commission decided that they would like to
11 make it contingent on Sprint, just say "for Sprint nonrural
12 areas," if that would be okay.

13 COMMISSIONER ARRIAGA: Absolutely. I appreciate the
14 information.

15 MR. CASEY: Okay.

16 COMMISSIONER DEASON: I can second the motion.

17 CHAIRMAN BRADLEY: There's a motion and a second.

18 Let me ask a question before we vote. This is contingent upon
19 Budget obtaining commercial agreements with these companies; is
20 that true?

21 MR. CASEY: Right now through March 11th they qualify
22 as an ETC. So we're following the letter of the law until such
23 time as the FCC acts and decides whether commercial agreements
24 will replace UNEs as far as qualifications. They're also going
25 to take up whether ETCs that were -- carriers granted ETC

1 status through UNEs will be grandfathered in. Those are the
2 two things that they said they would look at.

3 So right now we're following the letter of the law.
4 We're recommending approval since they are provisioning
5 34 percent of their customers through UNEs.

6 CHAIRMAN BRADLEY: Okay. Well, there's a motion and
7 a second. All those in favor, say aye.

8 (Unanimous affirmative vote.)

9 CHAIRMAN BRADLEY: Motion carries.

10 (Discussion on Agenda Item 4 concluded.)

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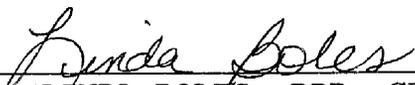
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