

State of Florida



## Public Service Commission

CAPITAL CIRCLE OFFICE CENTER • 2540 SHUMARD OAK BOULEVARD  
TALLAHASSEE, FLORIDA 32399-0850

**-M-E-M-O-R-A-N-D-U-M-**

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**DATE:** August 31, 2016

**TO:** Office of Commission Clerk (Stauffer)

**FROM:** Office of Telecommunications (Beard) *CB*  
Office of the General Counsel (Murphy) *cm*

**RE:** Docket No. 160129-TX – Request for cancellation of CLEC Certificate No. 7031, effective May 24, 2016, and request for relinquishment of eligible telecommunications carrier (ETC) designation in Florida, by Budget PrePay, Inc. d/b/a Budget Phone.

**AGENDA:** 09/13/16 – Regular Agenda – Proposed Agency Action – Interested Persons May Participate

**COMMISSIONERS ASSIGNED:** All Commissioners

**PREHEARING OFFICER:** Administrative

**CRITICAL DATES:** None

**SPECIAL INSTRUCTIONS:** None

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### Case Background

By Order PSC-99-1116-PAA-TX, issued June 2, 1999, the Florida Public Service Commission (PSC or Commission) granted Competitive Local Exchange Company (CLEC) certificate No. 7031 to Budget PrePay, Inc. d/b/a Budget Phone (Budget).<sup>1</sup> By Order PSC-06-0067-CO-TX, issued January 25, 2006, the PSC designated Budget an Eligible Telecommunications Carrier (ETC) in the State of Florida.<sup>2</sup> On May 24, 2016, Budget filed a notice of cancellation of its CLEC certificate in the State of Florida and relinquishment of its designation as an ETC in the

<sup>1</sup> Docket No. 990476-TX, In Re: Application for certificate to provide alternative local exchange telecommunications service by Budget Phone, Inc.

<sup>2</sup> Docket No. 050483-TX, In Re: Petition for designation as eligible telecommunications carrier (ETC) by Budget Phone, Inc.

Docket No. 160129-TX

Date: August 31, 2016

State of Florida. Budget has complied with Section 364.335(3), Florida Statutes, by providing notice in writing of its request for voluntary cancellation of its CLEC certificate and by submitting all Regulatory Assessment Fees that the company must pay. Pursuant to Section 2.07.C.5.g., Administrative Procedures Manual, the request to relinquish its CLEC certificate was acknowledged on August 26, 2016.

The Commission is vested with jurisdiction in this matter pursuant to Sections 364.10, Florida Statutes, and 47 C.F.R. §54.205.

### Discussion of Issues

**Issue 1:** Should the Commission grant Budget's request for relinquishment of its ETC designation?

**Recommendation:** Yes, the Commission should grant Budget's request for relinquishment of its ETC designation. (Beard)

**Staff Analysis:** The Commission previously granted Budget CLEC certification and ETC designation in Florida. On May 24, 2016, Budget filed its request to relinquish its designation as an ETC in the State of Florida and for cancellation of its CLEC certificate.

Federal rules allow an ETC to relinquish its ETC designation. 47 C.F.R. §54.205 provides that:

A state commission shall permit an eligible telecommunications carrier to relinquish its designation as such a carrier in any area served by more than one eligible telecommunications carrier. An eligible telecommunications carrier that seeks to relinquish its eligible telecommunications carrier designation for an area served by more than one eligible telecommunications carrier shall give advance notice to the state commission of such relinquishment.

Federal rules also require state commissions to ensure that existing customers are served. 47 C.F.R. §54.205(b) provides that:

Prior to permitting a telecommunications carrier designated as an eligible telecommunications carrier to cease providing universal service in an area served by more than one eligible telecommunications carrier, the state commission shall require the remaining eligible telecommunications carrier or carriers to ensure that all customers served by the relinquishing carrier will continue to be served, and shall require sufficient notice to permit the purchase or construction of adequate facilities by any remaining eligible telecommunications carrier. The state commission shall establish a time, not to exceed one year after the state commission approves such relinquishment under this section, within which such purchase or construction shall be completed.

The requirement in 47 C.F.R. §54.205(b) to protect existing customers is moot in this instance since Budget has indicated it has no existing Lifeline customers. Therefore, staff recommends that the Commission grant Budget's request for relinquishment of its ETC designation in Florida.

**Issue 2:** Should this docket be closed?

**Recommendation:** Yes. If no person whose substantial interests are affected by the proposed agency action files a protest within 21 days of the issuance of the order, this docket should be closed upon the issuance of a consummating order. (Murphy)

**Staff Analysis:** At the conclusion of the protest period, if no protest is filed this docket should be closed upon the issuance of a consummating order.