OFFICE OF INSPECTOR GENERAL
Washington, D.C. 20554

September 25, 2014

Robert D. Hyde, III
Chief Executive Officer
Budget PrePay, Inc.
1325 Barksdale Blvd., Suite 200
Bossier City, LA 71111

Dear Mr. Hyde:

The Federal Communications Commission (FCC), Office of Inspector General (OIG) audited the FCC Forms 497, Lifeline and Link-Up Worksheet, submitted by Budget PrePay, Incorporated (Company) for the 12-month period ending June 2011. Attached is the final report of the audit conducted by our office. It incorporates your written response to the draft audit report and the response received from the Universal Service Administrative Company (USAC).

The OIG performed this audit consistent with its authority under the Inspector General Act of 1978, as amended, including, but not limited to sections 2(1) and 4(a)(1). It is not intended as a substitute for any agency regulatory compliance review or regulatory compliance audit.

This report is intended solely for the information and use of the Universal Service Administrative Company (USAC), the FCC and the Company; however, to the extent it can be made public, it will be posted to the OIG website.

If you have any questions or concerns regarding this audit report, please contact Brenda Clark, Acting Director, USF Program Audits at 202-418-2655 or brenda.clark@fcc.gov, or Robert McGriff, Deputy Assistant Inspector General for Audits (USF) at 202-418-0483 or robert.mcgriff@fcc.gov.

Sincerely,

for

David L. Hunt
Inspector General

Attachment - Final Audit Report
12-AUD-01-02

FEDERAL COMMUNICATIONS COMMISSION

OFFICE OF INSPECTOR GENERAL

Final Audit Report
Compliance with FCC's USF Low Income Program Rules
Budget PrePay, Inc.

Report No. 12-AUD-01-02
September 25, 2014

Background

The Universal Service Fund Lifeline program assists eligible low-income subscribers obtain discounted telephone services from Eligible Telephone Carriers (ETCs). The program encompasses three components (1) Lifeline, which provides basic phone services; (2) Link Up, which enables subscribers to activate phone services; and (3) Toll Limitation Services (TLS), which allows subscribers to limit long distance and international calls. ETCs or state agencies certify the eligibility of subscribers for the Lifeline program and submit the FCC Form 497 Lifeline and Link Up Worksheet to the Universal Service Administrative Corporation (USAC) for reimbursement for providing the Lifeline program services.

Budget PrePay, Inc. (Company) provides wireless and wireline telephone services, specifically catering to credit challenged consumers. The Company's Service Provider Identification Number (SPIN) is 143000887. The Company is a competitive local exchange carrier (CLEC) authorized to operate in 48 states. The Company serves as a Lifeline wireless carrier in 34 states, [redacted], and is a Lifeline wireline provider in 14 states. The Company's headquarters are located in Bossier City, LA with a staff of about [redacted] persons and annual gross revenues over [redacted].

Scope and Methodology

The purpose of our audit was to determine the accuracy of the information reported on selected FCC Forms 497, Lifeline and Link Up Worksheets, submitted by the Company during the 12-month period ended June 2011. We also conducted limited tests of the Company's 2011 and 2012 FCC Forms 499-A, Telecommunications Reporting Worksheet, to determine the accuracy of the revenues reported for USF contributions.

We selected for a detailed review, two of the FCC Forms 497 submitted by the Company for wireline service in the Tennessee Study Area. We obtained the Company's subscriber listings for November 2010 and January 2011 and:

1. reconciled the number of subscribers receiving Lifeline, Link Up, and Toll Limitation Service (TLS) to the FCC Form 497s, and
2. verified that the per item amounts claimed for reimbursement were correct.

The audit included a review of the Company's internal controls of its reported information. We also verified the Company's compliance with the FCC's Low Income program rules provided in 47 C.F.R. Sections 54.400 through 54.418 and other applicable rules and orders.

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[1] TLS services eliminated as of January 1, 2014 and Non-tribal Link-Up eliminated as of April 1, 2012 under the *Lifeline and Link Up and Modernization, FNPRM*, 27 FCC Red 6757, 6761-2 at paras. 234 and 245 (Released February 6, 2012).

We conducted this performance audit in accordance with generally accepted government auditing standards contained in Government Auditing Standards.[2] Those standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objectives. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objectives. The OIG performed this audit consistent with its authority under the Inspector General Act of 1978, as amended, including, but not limited to sections 2(1), 4(a)(l) and (5). The audit is not intended as a substitute for any agency regulatory compliance review or regulatory compliance audit.

We visited the Company's facility in Bossier City, LA during the period February 25 through March 1, 2013. We interviewed the Company's vice president, chief financial officer, compliance manager, and Company staff; and reviewed supporting data related to the Company's FCC Form 497 and FCC Form 499-A.

This final report is intended solely for the information and use of the Universal Service Administrative Company (USAC), the FCC and the Company. However, to the extent it can be made public, the report will be posted to the OIG website.

Results of Audit

Our audit identified two instances in which the Company did not comply with the FCC's USF Low Income program rules and one in which it did not comply with the FCC's USF contributor rules. We found that the Company (1) failed to properly identify administrative charges on its invoices; (2) inappropriately, automatically enrolled subscribers in toll limitation services (TLS); and (3) misreported bad debt expenses on its FCC Forms 499-A. See pages 4 through 9 for the audit findings and recommendations. See Appendix I for a breakdown of all the FCC Forms 497 submitted by the Company for the audit period.

We also identified a matter regarding disparate treatment under the rules between incumbent eligible telecommunication carriers (ETCs) and competitive ETCs. Specifically, we found that, unlike incumbent ETCs, the Company as a competitive ETC, was not prohibited from recovering USF contributions from its Lifeline subscribers. We note that the FCC is currently considering extending this rule to cover competitive ETCs. See page 10 for other matters observed during the audit.

This final audit report incorporates the Company's written response to the draft audit report dated February 19, 2014 and the Universal Service Administrative Company (USAC) response received August 4, 2014. The Company generally agreed to the third

[2] December 2011 revision, issued by the Comptroller General of the United States.

[redacted]

finding but disagreed with the first and second finding. The Company disagreed with the first finding in regards to possible tariff violations and the second finding in regards to violating FCC Lifeline TLS rules. USAC concurred with all three findings; however, calculated different amounts due to the USF in regards to the third finding. Complete copies of the responses are included in Appendices II and III.

Finding 1: Administrative Charges Misidentified on Customer Invoices

Condition: The Company did not properly identify its administrative charges on customer invoices, as required by FCC rules. The Company combined the administrative charges in a single line item on their invoices for FCC subscriber line charges. We reviewed a sample of 40 Lifeline subscriber invoices for the months of November 2010 and January 2011 and identified a $7.35 line item on all the invoices entitled "FCC SUB LINE CHARGE." However, the $7.35 charge consisted of $6.50 for the Subscriber Line Charge (SLC) and $0.85 for the Company's administrative fee.[3] Additionally, the Company may have been in violation of its state-approved tariff because the invoiced subscriber line charge was greater than the approved tariff rate.

USAC reported a similar finding in its 2010 audit report on the Company's Oklahoma City Study Area.[4] The Company concurred with USAC's finding, but did not revise its practices for the Tennessee study area, which was the subject of the OIG's audit, until April 2012.

Criteria: The FCC's *Truth-in-Billing Order*[5] states "[c]onsistent with the Commission's prior findings, we reiterate that it is a misleading practice for carriers to state or imply that a charge is required by the government when it is the carriers' business decision as to whether and how much of such costs they choose to recover directly from consumers through separate line item charge. Consumers may be less likely to engage in comparative shopping among service providers if they are led to believe erroneously that certain rates or charges are unavoidable federally mandated amounts from which individual carriers may not deviate."

Cause: The Company demonstrated a lack of knowledge of FCC rules and requirements relating to invoicing practices.

[3] The Subscriber Line Charge is a fee paid to local phone companies that enables subscribers to connect to the telephone network.
[4] USAC audit report number Ll2009BE004, dated November 29, 2010, SAC No. 439016 Oklahoma.
[5] *Truth-in-Billing and Billing Format, Second R&O, Declaratory Ruling and Second FNPRM*, 20 FCC Red 6448, 6461 at para. 27 (2005).

[redacted]

Effect: The Company's management fees, which were misidentified or not itemized separately on the customer invoices totaled [redacted] customer bills[6] times $0.85) for the Tennessee study area during the 12-month period ending June 2011. The total does not include any misidentified amounts related to the Company's other low income study areas or for periods outside our 12-month audit period. However, no adjustment needed to the Company's FCC Forms 497, as the individual amounts of the administrative and SLC charges were correct.

Recommendation: The Company should identify its administrative charges separately on all future customer invoices.

Company's Response: The Company did not agree with the OIG's statement that the invoiced subscriber line charge may be in violation of its state approved tariffed rate. The Company noted that in November 2010 and January 2011, both its Tennessee Regulatory Authority tariff and the Bell Telecommunications, Inc. d/b/a (doing business as) South Central Bell Telephone and Telegraph Company governing tariff, specified a monthly subscriber line charge of $6.50. Additionally, the Company reiterated that it revised its practices, and it now identifies the administrative charges separately on customer invoices. See Appendix II for the Company's complete response.

OIG's Comments: The Company disagreed with the OIG's statement that the invoiced SLC may be in violation of the Company's state approved tariff rate. The OIG's statement was due to the fact the presentation of the SLC rate on the Company's customer invoices was not consistent with the same rate in its tariff pages. The OIG does not dispute the individual amount of the SLC. Nonetheless, the Company's revised billing practice should help to properly identify the administrative charges on customer invoices and present subscriber line charges in a manner consistent with the Company's tariff pages.

USAC Comments: USAC management concurred with the finding.

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6 [redacted] are the total Lifeline subscribers claimed by the Company for the review period. See Table 1.

Finding 2: Automatic Enrollment in Toll Limitation Services

Condition: The Company automatically enrolled its new subscribers into the Toll Limitation Service (TLS) program.We reviewed the Company's subscriber listings for the months of November 2010 and January 2011 and found that it showed TLS enrollment for all its subscribers. The Company stated that it automatically enrolls all new subscribers in TLS, rather than giving them the option to elect the service. The Company's policy and the lack of any documentation showing that subscribers elected LS appear contrary to the FCC rules, and if so, the Company would not be eligible for TLS funding.

Also, the Company was cited for the same finding in an audit report by USAC for the Company's June 2009 invoices in the Oklahoma study area.[7] The Company disagreed with the USAC finding and responded that it "…informs the customers of the charges that will occur if they do not wish to obtain the TLS block…and can also choose to have this block removed at no cost." We disagree with the Company's practice because we do not believe that automatic enrollment in TLS, with the option to dis-enroll, is the same as electing to enroll, or complies with the intent of the FCC rules. USAC did not seek recovery for any TLS funds regarding the audit finding but stated that it reserved the right to take future action if required based on FCC guidance.

Criteria: Title 47 CFR 54.401(a) (3) states “The carriers shall offer toll limitation to all qualifying low-income consumers at the time such consumers subscribe to Lifeline services. If the consumer *elects* to receive toll limitation that service shall become part of that consumer's Lifeline service” *Auditor emphasis added.*

Cause: The Company considers its practices of automatic TLS enrollment, with the option to dis-enroll, to be in compliance with FCC rules under the Lifeline program.

Effect: The Company claimed and received reimbursement for TLS costs of [redacted] during the 12-month audit period ended June 2011. See Appendix I. The total does not include any TLS amounts related to the Company's other LI study areas or for periods outside the 12-month audit period.

Recommendation: We recommend that the FCC determine whether the Company should return to USAC all TLS funds it received from all its study areas in which it automatically enrolled subscribers into the TLS program.

Company’s Response: The Company disagreed that its prior practice of automatic TLS enrollment violated FCC rules[8] as its customers were not asked to provide a service deposit. The Company asserted that the FCC rules did not require Lifeline customers to

[7] USAC audit report number Ll2009BE004, dated November 29, 2010, SAC No. 439016 Oklahoma

[8] 47 CFR 54.401 (c) Lifeline defined.

affirmatively make a TLS election and the FCC rules were ambiguous with regard to whether an ETC must allow Lifeline customers the option of electing TLS. Moreover, the USAC audit report recommended that the Company allow low-income subscribers to elect TLS, but did not direct the Company to do so. See the Appendix II for the Company's complete response.

OIG's Comments: The OIG stands by its finding and recommendation. The OIG's finding does not question the Company's collection of service deposits for TLS services, but whether the Company reasonably offered Lifeline customers the election or non-election of TLS services.

USAC Comments: USAC management concurred with the finding.

Finding 3: Overstated Bad Debt Expenses on FCC Form 499-A

Condition: The Company significantly overstated bad debt expenses on its 2011 and 2012 FCC Forms 499-A, resulting in an underpayment of the Company's USF contributor obligations.[9] We found that the Company used an arbitrary flat rate to report bad debt expenses instead of using its incurred bad debt expenses, as reported on its financial statements.

USF contributors are required to file the annual FCC Form 499-A and report total revenues and USF-related revenues, as well as the uncollectible revenues or bad debt expenses associated with those revenues. On the 2011 form, the Company reported total bad debt and USF- related bad debt as [redacted] of total revenues and USF related revenues. Similarly, on the 2012 form, the Company reported total bad debt and USF related bad debt as [redacted] of total revenues and USF-related revenues. However, bad debt expenses reported on Company's financial statements were significantly lower than bad debt expenses reported on its 2011 and 2012 Forms 499-A. Table 1 approximates the additional contributions due based on the bad debt expenses reported on the Company's financial statements.

[9] 2011 Form 499-A, reporting the Company's calendar year 2010 revenues. 2012 Form 499-A, reporting the Company's calendar year 2011 revenues.

[redacted]

Table 1: Bad Debt Expenses Reported vs. Incurred

Row	Description	2011 Form 499-A	2012 Form 499-A
1	Line 419 - Total revenues	[redacted]	[redacted]
2	Line 420 - USF-related revenues	[redacted]	[redacted]
3	Line 421 - Total bad debt expenses	[redacted]	[redacted]
4	Line 422 - USF-related bad debt expenses	[redacted]	[redacted]
5	Percentage of bad debt expenses to revenues[10]	[redacted]	[redacted]
6	Incurred bad debt expense per financial statements	[redacted]	[redacted]
7	Overstated bad debt expenses[11]	[redacted]	[redacted]
8	Average USF contribution rates[12]	14.0%	15.0%
9	Approximate USF contributions due[13]	[redacted]	[redacted]

Criteria: The instructions to the 2011 and 2012 Form 499-A state that Line 421 should reflect bad debt expenses associated with gross billed revenues and should be the amount reported as bad debt expenses in the filer's income statement for the year.[14] Additionally, Line 422 must show a portion of the uncollectible revenue/bad debt expenses reported on Line 421 that is associated with just the universal service contribution base amounts reported on Line 420.

Cause: The Company did not follow FCC Form 499-A instructions for reporting bad debt expenses on Line 421.

Effect: Bad debt expenses were overstated on the Company's 2011 and 2012 Forms 499-A by approximately [redacted] respectively. The approximate Amount of USF contributions due from the Company are [redacted] and [redacted] for 2011 and 2012, respectively. See Table 1 above.

Recommendation: We recommend the Company revise bad debt expenses reported on its 201 1 and 2012 FCC Forms 499-A to reflect the amounts reported on its financial statements.

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[10] [redacted] and [redacted] calculated by dividing row 3 by row 1 and row 4 by row 2.

[11] Calculated by subtracting row 3 from row 6. The calculation is based on the assumption that all of the Company's bad debt expenses per financial statements are attributed to USF-related revenues.

[12] For illustrative purposes only, we used a simply average of the quarterly USF contribution factors. The actual rate will be determined by USAC's formula.

[13] Calculated by multiplying row 7 times row 8. Actual USF contributions due will be based on amount billed by USAC and may include fines and penalties.

[14] *See e.g.*, 2011 Instructions to the Telecommunications Reporting Worksheet Form 499-A, at p. 25.

Company's Response: The Company stated that it revised the bad debt expenses on its 2011 and 2012 FCC Forms 499-A to reflect the amounts reported on its financial statements. See Appendix II for the Company's complete response.

OIG's Comments: The OIG confirmed that USAC received the Company's revised 2011 and 2012 Forms 499-A. The 2012 Form 499-A is currently being processed by USAC. However, USAC could not accept the 2011 form, as some of the pages were from the Company's 2012 Form 499-A.

USAC Comments: USAC management concurred with the finding. The Company eventually submitted a proper revised 2012 FCC Form 499-A and USAC determined that the actual USF contributions due from the Company as [redacted] for 2011 contributions and [redacted] for 2012 contributions.

OIG's Comments: The approximate USF contributions due[15] were based on calculations using the Company's total adjusted bad debt expenses as we did not have a breakout of the interstate and international portions.[16] As we previously noted, USAC is tasked with calculating the actual USF contributions due and any applicable fines and penalties.

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[15] See Table 1, row 9.
[16] 47 CFR 54.706 (b) Except as provided in paragraph (c) of this section, every entity required to contribute to the federal universal service support mechanisms under paragraph (a) of this section shall contribute on the basis of its projected collected interstate and international end-user telecommunications revenues, net of projected contributions.

[redacted]

Other Matters Observed During Audit

Other Matter: Disparate Treatment Under The Rules Regarding ETCs Ability to Recover USF Contributions from Lifeline Subscribers

As a competitive ETC, the Company benefitted from disparate treatment under the FCC rules related to recovery of USF contributions from its Lifeline subscribers. Specifically, FCC rules prohibit incumbent ETCs from recovering from Lifeline subscribers any contribution amounts they paid to the USF based on revenues derived from Lifeline subscribers line charges. However, this prohibition does not extend to competitive ETCs. We reviewed a sample of 40 Lifeline subscriber invoices for the months of November 2010 and January 2011 and found that 38 out of the 40 invoices included USF recovery surcharges applied to the $6.50 SLC line items. The Company currently has about [redacted] Lifeline customers in the Tennessee study area, and thus, collects approximately [redacted] per month from its Lifeline customers to recover USF contributions.[17] In a Further Notice of Proposed Rulemaking, the FCC is considering extending the ban to recover USF contributions for the SLC portion of Lifeline customer's invoices to CLECs.[18]

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[17] [redacted] calculation based on [redacted] average invoiced SLC fees [redacted] *subscribers x $6.50 SLC fee)* multiplied by 15.6% *(simple average of 2013 contribution factors).*

[18] *Universal Service Contribution Methodology; A National Broadband Plan for Our Future, FNPRM,* 27 FCC Red 5357, 5492-5493 at paras. 402 and 405 (Released April 30, 20 12*).*

[redacted]

Table 2: Summary of Submitted FCC Form 497s for the Tennessee Study Area

Data Month	Lifeline		Link Up		TLS		Total Amount Claimed
	Sub-scribers[19]	Amount	Sub-scribers	Amount	Sub-scribers	Amount	
Jul- 2010	[redacted]						
Aug - 2010	[redacted]						
Sep - 2010	[redacted]						
Oct - 2010	[redacted]						
Nov - 2010	[redacted]						
Dec - 2010	[redacted]						
Jan - 2011	[redacted]						
Feb - 2011	[redacted]						
Mar - 2011	[redacted]						
Apr - 2011	[redacted]						
May 2011	[redacted]						
Jun - 2011	[redacted]						
Total	[redacted]						

[19] Lifeline subscriber count does not include the number of partials subscribers.

[redacted]

Budget PrePay INC.
telecommunications :: clear :: simple

April 8, 2014

Gerald T. Grahe
Assistant Inspector General for Audit
Office of Inspector General
Federal Communications Commission
445 12th Street, S.W.
Washington, DC 20554

Re: Report No. 12-AUD-01-02
Comments of Budget PrePay, Inc. on Office of Inspector General's Draft Audit Report

Dear Mr. Grahe:

Budget PrePay, Inc. ("Budget Prepay" or "Company") hereby provides its comments on the above-captioned Draft Audit Report.

While verifying Budget PrePay's compliance with the FCC's Low Income program rules, as contained in 47 C.F.R. Sections 54.4000 through 54.418 and other applicable rules and orders, the Office of Inspector General ("FCC-OIG") tentatively concludes in the Draft Audit Report that the Company:(1) failed to properly identify administrative charges on its invoices;(2) automatically enrolled subscribers in Toll Limitation Services; and (3) misreported bad debt expenses on its FCC Forms 499-A. Below, Budget responds to all three of these findings..

Finding 1: Administrative Charges Misidentified on Customer Invoices

The Auditor states that Budget PrePay "….may be in violation of its state-approved tariff because the invoiced subscriber line charge is more than the tariffed rate."[1] Budget PrePay believes the above assertion to be in error.

In November 2010 and January 2011, BellSouth Telecommunications, Inc. d/b/a South Central Bel Telephone and Telegraph Company's ("BellSouth") governing tariff, Tariff F.C.C. No.1, specified a monthly $6.50 Subscriber Line Charge throughout its service area in Tennessee.[2] Similarly, Budget PrePay's tariff on file with the Tennessee Regulatory Authority and in effect in November 2010 and January 2011 , specified a monthly $6.50 Subscriber Line

[1] Draft Audit Report at 4.
[2] *See* https://apps.fcc.gov/etfs/public/view a 121525.action?id=121525 (at 56TH REVISED PAGE 4-6)

1325 Barksdale Boulevard Bossier City, LA 71111 888-424-5588 budgetprepay.com

[redacted]

Charge throughout the Company's service area in Tennessee.[3] In Tennessee, Budget PrePay is only designated as an ETC in the BellSouth service area.[4]

As noted by the Auditor, approximately two years ago, Budget PrePay revised its administrative charge practices and identifies its administrative charges separately on customer invoices.

Finding 2: Automatic Enrollment in Toll Limitation Services ("TLS")

Budget PrePay's prior practice of automatically enrolling its Lifeline customers in TLS was not precluded by FCC rules in November 2010 and January 2011.

In November 2010 and January 2011, Section 54.401 (c) of the FCC's Rules reads as follows:

> Eligible telecommunications carriers may not collect a service deposit in order to initiate Lifeline service, if the qualifying low-income consumer *voluntarily* elects toll limitation service from the carrier, where available. If the toll limitation services are unavailable, the carrier may charge a service deposit.[5]

The above rule did not require ETCs to allow Lifeline customers to affirmatively make an election regarding the provision of TLS. Rather, the above rule is focused solely on the appropriateness of a service deposit and clearly contemplates two TLS scenarios- one in which TLS could be *voluntarily elected* by a Lifeline customer, and one in which TLS *would not be voluntarily elected* by a Lifeline customer, as was the manner in which Budget chose to provide TLS to its Lifeline customers during the months of November 2010 and January 2011. To be clear, Budget PrePay did not collect a service deposit from customers as a condition of initiating Lifeline service.

At best, Section 54.401(c) is ambiguous with regard to whether an ETC must allow a Lifeline subscriber the option of electing TLS. While it requires an ETC to provide TLS to low-income consumers who elect TLS, it does not state that such election must be *affirmative*. Moreover, to Budget's knowledge, the Commission has never ruled that an ETC is prohibited from enrolling Lifeline subscribers in TLS automatically. In fact, a reasonable interpretation of Section 54.40l(c) suggests that an involuntary, or automatic, TLS election was anticipated by the Commission -otherwise, the Commission would not have qualified the word "elects" with the word "voluntarily."

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[3] See Budget PrePay, Inc. d/b/a Budget Phone, Tennessee Telecommunications Tariff, 1st Revised Sheet 18.5
[4] *See Petition of Budget Phone, Inc. for Designation as an Eligible Telecommunication Carrier*, Order Designating
Eligible Telecommunications Carrier, Docket No. 05-00228 (dated Apr. 10, 2006) (designating Budget as an ETC in BellSouth's Tennessee service areas for the purpose of receiving federal universal support).
[5] *See* 47 C.F.R. § 54.401 (c) (2010) (*emphasis added*).

[redacted]

Adding to the ambiguity is the 2009 USAC audit report for the Company's June 2009 invoices in Oklahoma. In that report, USAC simply "recommended" that the Company allow low-income subscribers to elect TLS, but USAC did not direct that the Company do so.

Accordingly, the Company's automatic enrollment of Lifeline customers in TLS does not appear to violate any Commission rule because customers were not asked, and they did not provide, a service deposit.

Finding 3: Overstated Bad Debt Expenses on FCC Form 499-A

The Company has revised its bad debt expenses on its 2011 and 2012 FC Form 499-A filings to reflect the amounts on its financial statements.

If you have any questions or require additional information, please contact me directly.

Respectfully submitted,

David E. Donahue
Chief Financial Officer
Budget PrePay, Inc.

cc: Randal Skalski (via U.S. Mail)
Darrell Riegel (via U.S. Mail)

[redacted]

Via Electronic Mail

August 1, 2014

Mr. Darrell Riegel
Acting Assistant Inspector General for Audit
Office of Inspector General
Federal Communications Commission
445 12th Street, SW
Washington, D.C. 20554

Re: Comments of the Universal Service Administrative Company on the Office of Inspector General's Draft Audit Report (Report No. 12-AUD-01-02)

Dear Mr. Riegel:

The Universal Service Administrative Company (USAC) is providing its comments and USAC management responses for the above-referenced draft audit report regarding Budget PrePay, Inc. (Beneficiary). The Federal Communications Commission (FCC) Office of Inspector General (OIG) included three findings in the draft audit report. Specifically, the auditors determined that the Beneficiary: (1) misidentified administrative charges on customer invoices; (2) automatically enrolled Lifeline subscribers in toll limitation services (TLS); and (3) overstated bad debt expenses on its FCC Form 499-A filings. USAC's management responses to these three findings are provided below.

Finding 1: Administrative Charges Misidenitified on Customer Invoices

USAC Management Response:

The Commission's *Truth in Billing Order*[1] provides, "it is a misleading practice for carrier to state or imply that a charge is required by the government when it is the carriers' business decision as to whether and how much of such costs they choose to recover directly from consumers through separate line item charge" The auditors determined that the Beneficiary identified the subscriber line charge and administrative fee as "FCC SUB LINE CHARGE" on the sample of Lifeline subscribers' invoices for

[1] *In the matter of Truth-in-Billing and Billing Format, Nat'l Ass'n of State Utility Consumer Advocates Petition for Declaratory Ruling regarding Truth-in-Billing*, CC Docket No. 98-170, CG Docket No. 04-208, Second Report and Order, Declaratory Ruling and Second Further Notice of Proposed Rulemaking. FCC 05-55, 20 FCC Red 6448, 6461, ¶ 27 (2005).

[redacted]

November 2010 and January 2011 FCC Form 497 reviewed during the audit. The auditors found this language was misleading because it implied that these charges were required by the government.

In the Beneficiary's response, the Beneficiary states it has revised its billing practices and now identified administrative charges separately on customer invoices. USAC management will request that the Beneficiary provide documentation to demonstrate it has changed its billing practices.[2] USAC management concurs with this finding.

Finding 2: Automatic Enrolment in Toll Limitation Service

USAC Management Response:
Section 47 C.F.R. § 54.401 (a) (3) provides that "carriers shall offer toll limitation to all qualifying low-income consumers at the time such consumers subscriber to Lifeline service. If the consumer elects to receive toll limitation that service shall be part of that consumer's Lifeline service" Section 47 C.F.R. 54.401 (c) further states that "[e]ligible telecommunications carriers may not collect a service deposit in order to initiate Lifeline services, if the qualifying low-income consumer voluntarily elects toll limitation service from the carrier, where available." FCC rules provide that Lifeline subscribers must voluntarily request that toll limitation service (TLS) be provided. The auditors found that the beneficiary automatically provided all of its Lifeline subscribers with TLS and did not allow the subscribers to elect to receive the service. The auditors also found that the Beneficiary did not have any documentation to demonstration that the Lifeline subscribers voluntarily requested TLS and recommended that the FCC determine whether the full amount of TLS support be recovered for all study areas in which the Beneficiary automatically enrolled subscribers to receive TLS.

In the Beneficiary's response, the Beneficiary assets that "The FCC rules did not require Lifeline customers to affirmatively make a TLS election and the FCC rules were ambiguous with regard to whether an ETC must allow Lifeline customers the option of selecting TLS." The Beneficiary further states that "the [2010] USAC audit report recommended that the Company allow low-income subscriber to elect TLS, but did not direct the Company to do so." While the Beneficiary is correct in that the 2010 USAC audit report recommended that the Beneficiary allow low-income subscribers to elect TLS on a voluntary basis, the Beneficiary is incorrect in its assertion that this was an optional recommendation. The Beneficiary is required to comply with FCC rules.

[2] *In the Matter of Lifeline and Link Up Reform and Modernization, Lifeline and Link Up, Federal-State Joint Board on Universal Service, Advancing Broadband Availability through Digital Literacy Learning*, WC Docket Nos. 11-42 , 03-109, 12-23, CC Docket No. 96-45. Report and Order and Further notice of Proposed Rulemaking. FCC 12-11, 27 FCC Red 6656, 6785, ¶ 298 (2012) *(Lifeline Reform Order)* ("[W]hen USAC finds that an ETC has failed to comply with [FCC's] low income rules and requirements, it shall notify the ETC of that future and give the ETC 30 days to provide the necessary documentation and come into compliance. The ETC must provide USAC with proof of that compliance as well as a description of the specific measures the ETC will take to avoid repetition of the violation.")

[redacted]

including the requirement that low-income subscriber's voluntarily elect TLS. Therefore, the Beneficiary was required to adhere to the 2010 USAC audit report recommendation to allow it low-income subscribers to elect TLS on a voluntary basis. In the 2010 audit report, the auditors did not include a monetary effect for this finding; however, USAC management stated in its response that USAC would notify the FCC and reserved the right to take any necessary action for this finding.[3] USAC will discuss this issue with the FCC, and may reach out to the Beneficiary to determine whether the Beneficiary properly claimed TLS support on its FCC Form 497.[4] If the Beneficiary is unable to demonstrate its compliance with the FCC rules, USAC will seek recovery of funding as required by the FCC rules.[5] USAC management concurs with this finding.

<u>Finding 3: Overstated Bad Debt Expenses an FCC Form 499-A</u>

<u>USAC Management Response:</u>

The instructions to the FCC Form 499-A provide, "Line 421… Reported uncollectible amounts should be the amount reported as bad debt expense in the filer's income statement for the year. Note that it will cover uncollectibles associated with all revenue on the filer's books (Line 419), including uncollectible carrier's carrier revenues, end-user telecommunications revenues, and revenues reported on Line 418. The filer's uncollectible revenues/bad debt expense should be calculated in accordance with Generally Accepted Accounting Principles".[6] The auditors determined that the Beneficiary overstated its bad debt expenses on its 2011 FCC Form 499-A and its 2012 FCC Form 499-A. The auditors also determined that the Beneficiary had under-contributed to the Universal Service fund as a result of its over-reporting of bad debt expenses on its FCC Form 499-A for these two calendar years. The auditors recommended that the Beneficiary submit revised FCC Forms 499-A for 2011 and 2012 to USAC.

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[3] Independent Auditor's Report on Budget PrePay, Inc.'s Compliance with Low Income Support Mechanism Rules (USAC Audit No. L12009BE004) (Nov. 29, 2010), at 26.
[4] *See Lifeline Reform Order*, 27 FCC Red at 6785, ¶ 298 (directing USAC to verify whether the ETC has complied with the FCC's low income program rules and implemented measure to address the rule violations.)
[5] *In the Matter of Comprehensive Review of the Universal Service Fund Management, Administration and Oversight, Federal-State Joint Board on Universal Service. Schools and Libraries Universal Service Support Mechanism, Rural Health Care Support Mechanism, Lifeline and Link Up, Changes to the Board of Directors for the Nat'l Exchange Carrier Ass'n*, WC Docket Nos. 05-195, 02-60, 03-109, CC Docket Nos. 96-45, 02-6, Report and Order, FCC 05-150, 22 FCC Red 16372, 16386, ¶ 30 (2007) ("Consistent with our conclusion regarding the schools and libraries program, fund disbursed from the high-cost, low-income, and rural health care support mechanisms in violations of a Commission rule that implements the statute or substantive program goal should be recovered").
[6] 2011 Telecommunications Reporting Worksheet Instructions (FCC Form 499-A), OMB 3060-0855, at 25 (Mar. 2011); 2012 Telecommunications Reporting Worksheet Instructions (FCC Form 499-4), OMB 3060-0855, at 25 (Mar. 2012).

[redacted]

In the Beneficiary response, the Beneficiary states that the company has filed revised FCC Form 499-A filings with USAC for 2011 and 2012. In the OIG's response, the auditors note that USAC was processing the Beneficiary's revised 2012 FCC Form 499-A, but USAC had rejected the Beneficiary's revised 2011 FCC Form 499-A. USAC management has confirmed that the Beneficiary submitted an accepted revised 2012 FCC Form 499-A on April 14, 2014 and an accepted revised 2011 FCC Form 499-A on June 10, 2014. USAC determined that the Beneficiary owed an additional [redacted] for 2012 USF contributions and an additional [redacted] for 2011 USF contributions. The Beneficiary will be invoiced in three installments for these amounts and the first invoice was issued in July 2014. USAC management concurs with this Finding.

This concludes USAC management's responses to the above-referenced findings for Budget PrePay, Inc. Please let us know if you have any questions or need further information.

Sincerely,

//s//

Karen Majcher
Vice President of High Cost and Low Income Division