



OFFICE OF INSPECTOR GENERAL
Washington, D.C. 20554

September 30, 2013

Joseph Fernandez
President
Easy Telephone Services Company
4352 SE 95th Street
Ocala, FL 34420

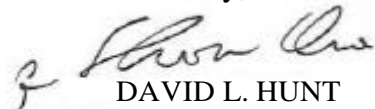
Dear Mr. Fernandez:

The Federal Communications Commission (FCC), Office of Inspector General (OIG) audited the FCC Forms 497, Lifeline and Link-Up Worksheet, submitted by Easy Telephone Services Company (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.

If you have any questions or concerns regarding this referral, contact Randal Skalski, Director, USF Program Audits at 202-418-0479 or randal.skalski@fcc.gov or Darrell Riegel, Deputy Assistant Inspector General for Audits at 202-418-0949 or darrell.riegel@fcc.gov.

Sincerely,


DAVID L. HUNT
Inspector General

Attachment - Final Audit Report
12-AUD-01-04

**FEDERAL COMMUNICATIONS
COMMISSION**




OFFICE OF INSPECTOR GENERAL

Final Audit Report
Compliance with FCC's USF Low Income Program Rules
Easy Telephone Services, Inc.

Report No. 12-AUD-01-04
September 30, 2013



Background

Easy Telephone Services, Inc. (Company) provides wireless telephone services,  to Lifeline customers. The Company's Service Provider Identification Number (SPIN) is 143034376. The Company is designated as an Eligible Telecommunications Carrier (ETC) in the states of Florida, Kentucky, and Oklahoma. Each state consists of one Study Area Code (SAC). The Company is one of eight telecommunications providers that receive most of their administrative and operational support services from the Telecom Service Bureau, Inc. (TSB). The Company's and TSB's offices are collocated in Ocala, FL.

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. The audit included a review of the internal controls of the reported information. We also verified the Company's compliance with certain aspects of the FCC's Low Income program rules such as whether the Company has adequate procedures in place for ensuring their Lifeline subscribers initial and continuing eligibility.

We selected for a detailed review, two of the FCC Forms 497 submitted by the Company, for wireline service in the Florida Study Area. We obtained the Company's subscriber listings for August and November 2010 and (1) reconciled the number of subscribers receiving Lifeline, Link Up, and Toll Limitation Service (TLS) to the FCC Forms 497, and (2) verified that the per item amounts claimed for reimbursement were correct.

We conducted this performance audit in accordance with generally accepted government auditing standards contained in Government Auditing Standards, December 2011 revision, issued by the Comptroller General of the United States. The OIG performed this review 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) and 5. The audit is not intended as a substitute for any agency regulatory compliance review or regulatory compliance audit. We also conducted limited tests of the Company's FCC Forms 499-A, Telecommunications Reporting Worksheet, for the calendar years 2010 and 2011 to determine whether the revenues reported for USF contributions were reasonable. This final audit report is intended solely for the information and use of the USAC, the FCC and the Company; however, to the extent that it can be made public, it will be posted on the OIG website.

We visited the Company's location in Ocala, FL during the period July 16-20, 2012, met with the Company's president, the Company's attorney, TSB's staff, and reviewed supporting data related to the Company's FCC Forms 497 and 499-A.



Table 1. Summary of Submitted FCC Forms 497 for the Florida Study Area

Data Month	Lifeline		Link Up		TLS		Total Amount Claimed
	Subscribers ¹	Amount	Subscribers	Amount	Subscribers	Amount	
Jul- 2010							
Aug - 2010							
Sep - 2010							
Oct - 2010							
Nov - 2010							
Dec - 2010							
Jan - 2011							
Feb - 2011							
Mar - 2011							
Apr - 2011							
May 2011							
Jun - 2011							
Total							

Conclusions

Our audit identified two findings in which the Company did not comply with the FCC's USF Low Income program rules. We found that the Company (1) is not eligible for Link Up reimbursements for adding new Lifeline subscribers, and (2) claimed Lifeline discounts before it obtained the required self-certification forms signed and dated by its subscribers. See pages 4 through 7.

The final audit report incorporates the Company's written response to the draft audit report dated December 19, 2012 and the Universal Service Administrative Company (USAC) response received September 17, 2013. The Company disagreed with the first audit finding and agreed with the second. USAC indicated that it had previously sought guidance from the FCC regarding the first finding and concurred with the second. Complete copies of the

¹ Lifeline subscriber count does not include the number of partial-month subscribers.



responses, and USAC's request for guidance letter, are included in Appendices I, II and III of the report.

We also identified three non-compliance issues regarding Low Income program rules and two non-compliance issues regarding USF Contributor rules that were resolved during our audit. See Other Matters on page 7.

Finding 1: Not Eligible for Link Up Reimbursements

Condition: The Company is not eligible for Link Up fund reimbursement for adding new Lifeline subscribers because it did not have a customary connection charge as required by the program rules. [REDACTED] of the Company's [REDACTED] subscribers added during the period, whether Lifeline or non-Lifeline, paid a connection fee to the Company to initiate phone service. Yet, for each of the two FCC Forms 497s that we reviewed, the Company claimed a \$30 Link Up reimbursement for each of its new Lifeline subscribers, which is the maximum allowed under the USF Low Income program.

The Company assessed its new Lifeline subscribers a \$60 connection fee, less (1) a \$30 Link Up discount provided by the USF, and (2) a \$30 carrier-provided discount. By providing a carrier discount in addition to the Link Up discount, the Company reduced the connection fee to \$0. Table 2 provides connection fee data for all of the Company's subscribers in effect during all or part of the audit period of July 1, 2010 through June 30, 2011.

Table 2. Connection Fee Data for Company's Subscribers

Subscriber Type	Number of Subscribers	Subscribers Who Paid Connection Fees	Connection Fees Paid by Subscribers	Link Up Reimbursements Obtained by Company
Lifeline	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]
Non-Lifeline ²	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]
Total	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]

As shown in table 2, the Company had [REDACTED] customers that paid a connection fee to justify the existence of a customary connection charge for USF Link Up reimbursement purposes. Other factors that may be relevant to determine whether the Company had a customary connection charge follow. The Company did not have a tariff for a connection charge with a State regulatory commission. As a reseller, the Company purchased lines from another carrier but did not pay the other carrier for initial connection charges when the Company added new subscribers.

The Company stated that it considers the administrative costs of adding new customers the

² [REDACTED] of the Company's [REDACTED] non-Lifeline subscribers paid a \$60 connection fee. The remaining non-Lifeline customers were originally enrolled in Lifeline and later transferred to non-Lifeline plans or their accounts were disconnected for non-payment.

[REDACTED]

equivalent to connection fees but did not provide documentation to support the cost to add a new Lifeline subscriber. Even if the Company provides the cost documentation, the charge does not satisfy the CFR definition of a "customary charge for commencing telecommunications service" because the subscriber is not assessed for the administrative cost of being added. In our opinion, the Link Up reimbursements obtained by the Company represents extra revenue to the Company that was not intended to be paid by the USF Low Income program.

Criteria: According to 47 CFR §§ 54.101(a)(9) and 54.101(b), Link Up is: (1) A reduction in the carrier's customary charge for commencing telecommunications service for a single telecommunications connection at a consumer's principal place of residence. 47 C.F.R. § 54.411(a)(1), states that "The reduction shall be half of the customary charge or \$30.00, whichever is less."

Furthermore, 47 C.F.R. § 54.411 (a)(3), states that "...charges assessed for commencing telecommunications services shall include any charges that the carrier customarily assesses to connect subscribers to the network..." (*auditor emphasis added*)

Cause: In our opinion, the Company was too liberal in its interpretation of the USF Low Income program rules regarding Link Up reimbursement because it does not comply with the customary charge requirement of the CFR. However, the Company argued that the claimed Link-Up is proper because FCC rules do not address how ETCs must collect and waive Link Up costs from subscribers.

Effect: The ineligible Link Up cost claimed by the Company for the Florida Study Area during the audit period is [REDACTED] See Tables 1 and 2.

Recommendation: The Company should revise its FCC Forms 497s to eliminate the Link Up amounts claimed and return the funds to USF.

Company's Response: The Company disagreed with the finding, claiming that it is based on erroneous fact finding and constitutes rule making and rule interpretation that is beyond the scope of any audit. Specifically, the Company disagrees with the OIG assertions that the Company does not (1) incur connection cost, and (2) bill customers connection charges. The Company stated that the FCC's former Link Up rules addressed Link Up charges as a customary charge not dependent on or determined by costs. It was standard industry practice for ETCs that receive Link Up reimbursement to waive the customary connection charge. See the Appendix I for the Company's complete response.

OIG Comments: To address the Company's claim of erroneous fact finding, we updated the report based on our analysis of additional information provided by the Company regarding its non-Lifeline subscribers. However, it does not change our finding or recommendation. We do not believe that our audit report constitutes rule making and rule interpretation that is beyond the scope of any audit. As described in the scope and methodology section of this report, the audit report discloses the results of the audit procedures performed and evidence obtained, and was conducted in accordance with certain audit standards. In this report, we do not address the



Company's arguments regarding standard industry practice, precedence, and rulemaking, which we consider to be outside the scope of our audit. The audit report finding and recommendation is intended to be used by the FCC's Wireline Competition Bureau (WCB) for taking appropriate action. We defer to WCB to assess the merits of the Company's arguments in light of the facts presented in our finding.

We affirm our conclusion that the Company does not have a customary connection charge as defined in 47 CFR § 54.411 based on the facts that [REDACTED] of the Company's non-Lifeline subscribers paid connection fees and the Company reduced to zero the connection fees for all of its Lifeline subscriber. Further, no support has been provided to substantiate the Company's claimed Link Up reimbursements. 47 CFR § 54.413(b), states that "In order to receive universal service support reimbursement for providing Link Up, eligible telecommunications carriers must keep accurate records of the revenue they forgo in reducing their customary charge for commencing telecommunications service..." Moreover, 47 CFR § 54.413(b) states that "The forgone revenues for which the eligible telecommunications carrier may receive reimbursement shall include only the difference between the carrier's customary connection or interest charges and the charges actually assessed to the participating low-income consumer."

USAC Comments: USAC management stated that it had previously sought guidance from the WCB regarding the same Link Up finding. USAC's November 14, 2012 letter, requesting guidance from the WCB is included as Appendix III.

OIG Comments: We note that WCB has not responded to USAC's request for guidance. We reaffirm our finding and recommendation.

Finding 2: Lifeline Discounts Claimed Before Certifications Signed

Condition: The Company claimed Lifeline discounts before it obtained the self-certification forms signed and dated by its subscribers. We reviewed a sample of 50 Lifeline subscribers claimed by the Company on its August and November 2010 Forms 497. We compared the signature dates on the subscribers' self-certification forms to the Company's account start date and found that many accounts were started one or two months before the forms were signed by the subscribers.

Criteria: 47 CFR § 54.407(a) states "Universal service support for providing Lifeline shall be provided directly to the eligible telecommunications carrier, based on the number of qualifying low-income consumers it serves, under administrative procedures determined by the Administrator." One of the administrative procedures is that the Company must obtain a signed self-certification form from each subscriber before obtaining universal service for support.

Cause: The Company did not have adequate quality controls in place prior to March 2011 to ensure compliance. Since then, the Company stated that it revised its processes³ to prevent the

³ The revised processes were implemented subsequent to our audit site visit but prior to the issuance of our draft audit report.

[REDACTED]

Company from claiming Lifeline benefits before it obtained subscribers' signed certifications. In order to test the revised process, we selected a sample of 25 subscribers claimed in February 2012 from the Company's Kentucky subscriber listing. We chose Kentucky instead of Florida for the test because the Company had few Florida subscribers after March 2011 and was no longer accepting new subscribers in Florida as of May 2011. In the sample, we found no subscriber accounts with Lifeline benefits before the certification signature dates.

Effect: Based on our sample review of 50 subscribers in August and November 2010, we found that the Company claimed Lifeline discounts for 12 subscribers before it had obtained certifications. As a result, the Company claimed ineligible Lifeline and Link-Up benefits of [REDACTED]. Since we found that 24 percent (12 out of 50) of the sampled subscribers were ineligible, the estimated potential ineligible amount for the audit period is [REDACTED] (total Lifeline benefit per table 1 of [REDACTED] x 24 percent).

Recommendation: We recommend that the Company review the certifications for all subscribers enrolled between July 2010 and March 2011 and revise the FCC Forms 497s accordingly based on any Lifeline discounts claimed before the certification dates, and return any inappropriate USF payments received.

Company Response: The Company has already implemented improved controls in March 2011 to ensure the proper, future, enrollment of customers into Lifeline and the reimbursement of Lifeline from USAC. The Company agrees with the OIG's recommendation to review the certifications for the period of July 2010 through March 2011 and to revise its FCC Forms 497s accordingly but did not agree with the OIG's computation of the ineligible amount. See the Appendix I for the Company's complete response.

OIG Comments: The actions taken by the Company should help to improve controls to ensure that the FCC Forms 497 submitted after March 2011 are proper and correct. The Company has not yet submitted the revised forms, but when they do, USAC should review them to ensure that the computations are correct.

USAC Comments: USAC concurred with the audit finding.

Other Matters

We identified three other matters regarding the Company's compliance with the Low Income program rules that were resolved during the course of our audit.

1. The Company did not have self-certification forms on file for each of its Lifeline subscribers as required by the rules of the program. In preparation for this audit, the Company reviewed all of its subscriber listings from July 2010 through May 2012 to identify and submitted revised FCC Forms 497 to USAC to reduce the Lifeline amount claimed for subscribers with missing certifications, as follows.



Table 3. Summary of Missing Certifications Data by Study Area

Study Area	Number of Missing Subscriber Certifications	Original Form 497 Amount Claimed	Revised Form 497 Amount Claimed	Revised Amount Claimed
Florida				
Kentucky				
Oklahoma				
Total				

- The Company claimed three duplicate subscribers on its November 2010 FCC Form 497 totaling [REDACTED] that it agreed to correct.
- The Company's self-certification form, in effect during the audit period, did not request or obtain the subscriber's last four digits of their social security number. The Company's revised form created after the FCC's Reform Order released in February 2012 now includes the required information.

We also identified two matters regarding the Company's compliance with the USF Contributor program rules that have been resolved.

- The Company could not provide support for the amounts reported on its 2011 and 2012 FCC Forms 499-A, Telecommunications Reporting Worksheets or explain why the reported amounts varied significantly between the two years. In November 2012, the Company submitted revised forms to USAC to correct some errors in its initial submissions and provided support to us for the amounts. The table below indicates the original and revised reported amounts for net interstate telecommunications revenue on line 423 of the 499-A.

Table 4. Summary of Original and Revised FCC Forms 499-A

Form 499-A Year	Original Form 499-A	Revised Form 499-A
2011		
2012		

- The initial 2011 and 2012 FCC Forms 499-A were certified by TSB's Senior Operations Manager, instead of an officer of the Company as required by USF contributor rules. The revised forms, submitted in November 2012, were certified by a Company officer.

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January 22, 2013

Via Electronic Mail
Gerald T. Grahe
Federal Communications Commission
445 12th Street, SW
Washington, D.C. 20554

Re: OIG Draft Audit Report for Easy Telephone Services Company

Dear Mr. Grahe:

On behalf of my client, Easy Telephone Services Company (Easy, the Company or the Beneficiary), please find the Company's responses to the draft audit report issued by your office on December 19, 2012. Please treat the information contained in this letter as confidential.

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

Best regards,



John J. Heitmann

cc: Randal Skalski
Brenda Clark

Background

Easy Telephone Services, Inc. (Company) provides wireless telephone services, predominately to Lifeline customers. The Company's Service Provider Identification Number (SPIN) Is 143034376. The Company is designated as an Eligible Telecommunications Carrier (ETC) in the states of Florida, Kentucky, and Oklahoma. Each state consists of one Study Area Code (SAC). The Company is one of eight telecommunications providers that receive most of their administrative and operational support services from the Telecom Service Bureau, Inc. (TSB). The Company's and TSB's offices are collocated in Ocala, FL.

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. The audit included a review of the internal controls of the reported information. We also verified the Company's compliance with certain aspects of the FCC's Low Income program rules such as whether the Company has adequate procedures in place for ensuring their Lifeline subscribers initial and continuing eligibility.

We selected two of the FCC Forms 497 submitted by the Company, for the Florida Study Area, for a detailed review. We obtained the Company's subscriber listings for August and November 2010 and (1) reconciled the number of subscribers receiving Lifeline, Link Up, and Toll Limitation Service (TLS) to the FCC Forms 497, and (2) verified that the per item amounts claimed for reimbursement were correct.

We conducted this performance audit in accordance with generally accepted government auditing standards contained in Government Auditing Standards, December 2011 revision, issued by the Comptroller General of the United States.

We also conducted limited tests of the Company's FCC Forms 499-A, Telecommunications Reporting Worksheet, for the calendar years 2010 and 2011 to determine whether the revenues reported for USF contributions were reasonable.

We visited the Company's location in Ocala, FL during the period July 16 -20, 2012, met with the Company's president, the Company's attorney, TSB's staff, and reviewed supporting data related to the Company's FCC Forms 497 and 499-A.

Easy's Response (Summary)

Easy respectfully disagrees with the draft audit report Findings of potential noncompliance for the reasons stated herein. The Company strives and intends to comply with all Low Income program rules and requirements. It retains qualified partners to assist with this goal and it continuously works to refine its processes and procedures to ensure the highest levels of compliance.

After review of the draft audit report, the Company offers the following responses: (1) the amount claimed by the Company for Link Up reimbursement for adding new Lifeline subscribers is consistent with the FCC's rules - Easy disagrees with OIG's Link Up related Finding and recommendation because it is based on erroneous fact finding and constitutes rulemaking and rule interpretation that is beyond the scope of any audit; and (2) the Company has improved its controls to ensure that it has a signed certification prior to enrolling a customer in Lifeline; however, the Company will review relevant certifications for subscribers enrolled between July 2010 and March 2011 and will make appropriate 497 revisions to correct Lifeline subsidies claimed for months prior to customer certification dates.

Finding 1: Link Up Amount Claimed is Questionable

Condition: The amount claimed by the Company for Link Up reimbursement for adding new Lifeline subscribers is questionable because the Company does not charge any customers a connection fee. For each of the two FCC Forms 497s that we reviewed, we found that the Company claimed a \$30 Link Up reimbursement for its new Lifeline subscribers, which is the maximum allowed under the USF Low Income program.

The Company stated that it assessed its new Lifeline subscribers a \$60 connection fee less (1) a \$30 Link Up discount provided by the USF, and (2) a \$30 carrier-provided discount. By providing a carrier discount in addition to the Link Up discount, the Company reduced the connection fee to \$0. The Link Up claim is questionable because the Company does not incur connection costs, does not bill any of its customers a connection fee, and therefore, does not have a customary connection charge. In our opinion, the claimed Link Up amounts represent extra revenue to the Company that was not intended to be paid by the USF Low Income program. The Company considers the administrative costs of adding new customers the equivalent to connection fees but provided no documentation to support the cost to add a new Lifeline subscriber. Even if the Company provides the cost documentation, the charge does not satisfy the CFR definition of a "customary charge for commencing telecommunications service" because the subscriber is not assessed for the administrative cost of being added.

A USAC audit of another Lifeline provider administered by TSB, questioned the entire claimed Link Up amounts for the same reasons. We concur with USAC's finding and recommendation that the full amount claimed be recovered. USAC's Board of Director's decided that the finding should be changed to an "other matter" pending guidance FCC's Wireline Competition Bureau (WCB)

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[REDACTED]

Criteria: According to 47 CFR §§ 54.101 (a)(9) and 54.101(b), Link Up is: (1) A reduction in the carrier's customary charge for commencing telecommunications service for a single telecommunications connection at a consumer's principal place of residence. 47 C.F.R. § 54.411 (a)(1), states that "The reduction shall be half of the customary charge or \$30.00, whichever is less." Furthermore, 47 C.F.R. § 54.411 (a) (3), states that "...charges assessed for commencing telecommunications services shall include any charges that the carrier customarily assesses to connect subscribers to the network..." (auditor emphasis added).

Cause: In our opinion, the Company was too liberal in its interpretation of the USF Low Income program rules regarding Link Up reimbursement. However, the Company argued that the claimed Link-Up is proper because FCC rules do not address how ETCs must collect and waive Link-Up costs from subscribers.

Effect: The questionable Link-Up costs claimed by the Company for the Florida Study Area during the audit period are [REDACTED]. See Table 1.

Recommendation: The Company should revise its FCC Forms 497s to eliminate the Link Up amounts claimed and return USF funds received for reimbursement.

Easy's Response

The amount claimed by the Company for Link Up reimbursements for adding new Lifeline subscribers is consistent with the FCC's former Link Up rules. Easy respectfully disagrees with OIG's recommendation because based on erroneous fact finding and constitutes rulemaking and rule interpretation that is beyond the scope of any audit. Specifically, OIG's statements that "the Company does not incur connection costs" and "does not bill any of its customers a connection fee" are erroneous. OIG's statement that "[t]he Company considers the administrative costs of adding new customers the equivalent to connection fees" also is factually incorrect. The Link Up rules did not require any showing of costs but instead were designed to recover waived connection charges. The rule addresses the assessment of a charge - a customary charge; its application is not dependent on or determined by costs (which nevertheless do exist and include a non-recurring charge from Easy's underlying service provider). Thus, even if Easy provided cost information, such information would have been irrelevant.

This Finding claims that the Beneficiary's \$60 connection charge is not a "customary charge" for purposes of receiving Link Up reimbursements under the FCC's rules, specifically Section 54.411. The Finding concludes that, although the Beneficiary assessed its subscribers a \$60 connection fee, that fee was not the Beneficiary's customary connection fee because the Beneficiary reduced the customary connection fee to \$0 by providing a carrier-issued credit of \$30 in addition to the Link Up credit of \$30. The Commission rule at issue addressed only the assessment of a customary charge, not its collection or waiver. Therefore, the rule neither prohibited the practice of waiving or reducing the remaining portion of the customary charge nor rendered those ETCs that engage in such practices ineligible for Link Up support. Even if it could be said that the rule was unclear because it did not address waiver or reduction of the remaining portion of the customary charge, OIG's role is not to interpret the rule, as that task belongs to the Commission. Further, it was standard industry practice for ETCs that received

[REDACTED]

Link Up reimbursements to waive the customary connection charge. This practice was well known the Commission and its state commission counterparts, and was not unique to Easy or other TSB clients. Any change in policy may only be undertaken by the Commission, not USAC or OIG, and should not have retroactive effect.

The Commission Rule Cited Did Not Address Waiver of the Remainder of a Customary Charge

The Commission rule at issue, former Section 54.411(a)(1), stated only that Link Up is defined as, “[a] reduction in the carrier’s customary charge for commencing telecommunications service for a single telecommunications connection at a consumer’s principal place of residence. The reduction shall be half of the customary charge or \$30.00, whichever is less.” The rule did not address whether the remainder of a carrier’s customary charge can be waived/reduced or must be collected in order for the ETC to collect Link Up reimbursements. Because the rule did not address or contain clear support for OIG’s Finding, OIG should await Commission guidance (already requested by USAC in numerous other contexts) prior to making a finding.

The Commission’s rule did not address how often customary connection fees can be waived, how often they must be collected, or when they must be collected. The rule was silent on these issues. OIG may not rely on such silence. The absence of a clear rule on point from the Commission indicates that the necessary predicate for an audit finding in this context is missing.

The absence of any rule to support OIG’s Finding is underscored by the Commission’s recent discussion regarding Link Up in its Lifeline Reform Order. In the Lifeline Reform Order, the Commission recognized that “a number of Lifeline-only ETCs collecting Link Up support have \$60 activation fees for which they take \$30 from the Fund and waive the remaining balance.” Further, the Commission found that “[t]he Link Up subsidy, coupled with the ability to waive the fee borne by the consumer, insulates those charges from the effects of competition when serving Link Up subscribers.” The Commission’s acknowledgement that ETCs have the “ability to waive” the remaining portion of the customary charge that the Commission’s then current rules did not render ETCs unable to waive the remaining portion of the customary charge while still receiving Link Up support. Instead, the Commission recognized the general practice by Lifeline-only ETCs to assess a \$60.00 activation fee and “waive the remaining balance.” In so doing, the Commission did not indicate that the practice violates the Commission’s rules or should result in the ETC being unable to seek Link Up reimbursement. Rather, the Commission found that the practice meant that the ETC “has no incentive to lower its activation fee” That is only true if the practice of waiving the remainder of the customary connection fee and seeking Link Up reimbursement was permissible. Finally, many states (including at least Georgia, West Virginia, Mississippi, Minnesota and New Jersey) required ETCs waive the remaining portion of the customary connection fee after applying the Link Up discount. The Commission never pronounced any of these requirements to be unlawful. Instead, the Commission decided in the Lifeline Reform Order to eliminate Link Up prospectively. In so doing, the Commission did not indicate in any way that the recognized practice of waiving the remainder of the customary connection fee and seeking Link Up reimbursement was not permissible under the Commission’s prior rules.

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Only the Commission Can Interpret its Link Up Rule or Otherwise Address a Situation Not Addressed in the Rules

According to the Commission's rules establishing the scope of USAC's authority, USAC "may not make policy, interpret unclear provisions of the statute or rules, or interpret the intent of Congress. Where the Act or the Commission's rules are unclear, or do not address a particular situation, [USAC] shall seek guidance from the Commission." This same construct should apply to OIG in its role as an auditor, as OIG has no independent grant of authority to make or interpret rules for the Commission. The rules cited in the Finding do not address this situation where the Beneficiary assessed its customary connection fee to its subscribers, but then waived the remainder of the fee and did not collect it. This was the customary practice of ETCs receiving Link Up reimbursements and any change in policy or interpretation of the Commission's rules must be made by the Commission.

If the Commission Were to Determine That Carriers Were Not Permitted to Waive the Remainder of the Customary Charge and Receive Link Up, the Decision Should Not Have Retroactive Effect

Commission precedent is clear that changes in policy, such as requiring ETCs to assess and collect the customary connection fee in order to seek Link Up reimbursement, should not have retroactive effect, but rather have prospective effect only. In its InterCall Order, the Commission considered a USAC finding that audio bridging services were toll teleconferencing services, and were, therefore, subject to direct USF contribution obligations. The Commission agreed that Intercall's audio bridging services are telecommunications, which are subject to direct USF contribution obligation. However, the Commission determined that its interpretation would have only prospective effect.

The Commission's decision was primarily influenced by the fact that "it was unclear to InterCall and to the industry that stand-alone audio bridging providers have a direct USF contribution obligation." Further, the record demonstrated, "an industry-wide understanding and practice of stand-alone audio bridging providers indirectly contributing to the USF..." In addition, the Commission noted that the Enforcement Bureau had engaged in investigations without issuing finding on the USF contribution obligation of similarly-situated conference calling providers. Due to the "lack of clarity" surrounding the issue, the Commission reversed USAC's decision to require Intercall to file forms and make direct contributions for past periods.

The Commission's former Link Up rule neither addresses nor supports OIG's Finding and recommendation. Thus, its premise is absent. Moreover, the industry-wide understanding and practice was to waive the remainder of the customary connection fee and seek Link Up reimbursement for eligible Lifeline customers. The Commission recognized this practice in the Lifeline Reform Order, and as discussed above, at least five states required ETCs to waive the remainder of the customary fee. Therefore, any decision to withhold Link Up reimbursements for ETCs that waived the remaining portion of their customary connection fee should not have retroactive effect. Since the Commission has eliminated Link Up for Lifeline-only ETCs such as the Beneficiary, the prospective effect is null.

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**Privileged Deliberative Process Material
May Contain Confidential and Proprietary Information of the Auditee**

[REDACTED]

Finding 2: Lifeline Discounts Claimed Before Certifications Signed

Condition: The Company claimed Lifeline discounts before it obtained the self-certification forms signed and dated by its subscribers. We reviewed a sample of 50 Lifeline subscribers claimed by the Company on its August and November 2010 Forms 497. We compared the subscribers' self-certification forms signature dates to the Company's account start date and found that many accounts were started one or two months before the forms were signed by the subscribers.

Criteria: 47 CFR § 54.407(a) Universal service support for providing Lifeline shall be provided directly to the eligible telecommunications carrier, based on the number of qualifying low-income consumers it serves. The Company must obtain a signed self-certification form from each subscriber before obtaining universal service for support.

Cause: The Company did not have adequate quality controls in place prior to March 2011 to ensure compliance. Since then, the Company stated that it revised its processes to prevent the Company from claiming Lifeline benefits before it obtained subscribers' signed certifications. In order to test the revised process, we selected a sample of 25 subscribers claimed in February 2012 from the Company's Kentucky subscriber listing. We chose Kentucky instead of Florida for the test because the Company had few Florida subscribers after March 2011 and was no longer accepting new subscribers in Florida as of May 2011. In the sample, we found no subscriber accounts with Lifeline benefits before the certification signature dates.

Effect: Based on our sample review of 50 subscribers in August and November 2010, we found that the Company claimed Lifeline discounts for 12 subscribers before it had obtained certifications. As a result, the Company claimed ineligible Lifeline and Link-Up benefits of [REDACTED]. Since we found that 24 percent of the sampled subscribers were ineligible, the estimated potential ineligible amount for the audit period is [REDACTED].

Recommendation: We recommend that the Company review the certifications for all subscribers enrolled between July 2010 and March 2011, revise the FCC Forms 497s accordingly based on any Lifeline discounts claimed before the certification dates, and return any inappropriate USF payments received.

Easy's Response

As indicated in OIG's finding, the Company implemented improved controls in March 2011 to ensure that a signed certification form was received prior to enrolling a customer in Lifeline and requesting reimbursement from USAC. In each of the 12 incidences identified by USAC, the customers were eligible for Lifeline and Link Up support. Accordingly, the Company disagrees with OIG's assertion that Link Up subsidies should be returned. The Company cannot follow and therefore cannot agree with OIG's methodology for calculating and estimating the potential monetary impact of this finding. However, the Company can accept OIG's recommendation to review relevant certifications for subscribers enrolled between July 2010 and March 2011 and to make any appropriate 497 revisions to correct Lifeline subsidies claimed for months prior to customer certification dates.

Other Matters

We identified three other matters regarding the Company's compliance with the Low Income program rules that were resolved during the course of our audit.

1. The Company did not have self-certification forms on file for each of its Lifeline subscribers as required by the rules of the program. In preparation for this audit, the Company reviewed all of its subscriber listings from July 2010 through May 2012 to identify and submitted revised FCC Forms 497 to USAC to reduce the Lifeline amount claimed for subscribers with missing certifications, as follows.

Study Area	Number of Missing Subscriber Certifications	Downward Revision to FCC Form 497
Florida		
Kentucky		
Oklahoma		

2. The Company claimed three duplicate subscribers on its November 2010 FCC Form 497 totaling [REDACTED] that it agreed to correct.
3. The Company's self-certification form, in effect during the audit period, did not request or obtain the subscriber's last four digits of their social security number. The Company's revised form created after the FCC's Reform Order released in February 2012 now includes the required information.

We also identified two matters regarding the Company's compliance with the USF Contributor program rules that have been resolved.

1. The Company could not provide support for the amounts reported on its 2011 and 2012 FCC Forms 499-A, Telecommunications Reporting Worksheets or explain why the reported amounts varied significantly between the two years. In November 2012, the Company submitted revised forms to USAC to correct some errors in its initial submissions and provided support to us for the amounts.
2. The initial 2011 and 2012 FCC Forms 499-A were certified by TSB's Senior Operations Manager, instead of an officer of the Company as required by USF contributor rules. The revised forms, submitted in November 2012, were certified by a Company officer.

The initial 2011 and 2012 FCC Forms 499-A were certified by TSB's Senior Operations Manager, instead of an officer of the Company as required by USF contributor rules. The revised forms, submitted in November 2012, were certified by a Company officer.

**USAC's Response to the Draft Final Audit Report
Received September 17, 2013**

Easy Telephone Services, Inc
Final Audit Report 12-AUD-01-04

Finding # 1-Not Eligible for Link Up Reimbursements

USAC Management Response

USAC Management Response

USAC management has previously sought FCC guidance regarding Link up issues, specifically whether carriers were eligible to receive Link up support for consumers that did not pay connection charges and whether USAC should seek recovery of Link up support for the audit periods. This issue is outlined in Richard Belden's November 14, 2012 Letter to Julie Veach Re: Guidance Request Regarding Link Up Program Issues.

Finding # 2-Lifeline Discounts Claimed Before Certifications Signed

USAC Management Response

USAC management concurs with this finding.

47 C.F.R. § 54.407 (b) states that "The eligible telecommunications carrier may receive universal service support reimbursement for each qualifying low-income consumer served." In addition, carriers are required to obtain signed certifications from subscribers prior to enrollment in the Lifeline Program. USAC will request that the Beneficiary provide copies of its policies and procedures to determine whether it provides Lifeline support only to eligible subscribers. In addition, USAC will review the revised FCC Form 497s for the period July 2010 through March 2011 that the Beneficiary has agreed to submit to determine whether the Beneficiary's revised forms have been reduced for both Lifeline and Link Up support for each subscriber the Beneficiary did not have a signed certification on record at the time of the FCC Form 497 filing.

Other Matter # 1-No Self-Certification Forms on File for Each Subscriber

USAC Management Response

47 C.F.R. § 54.407(b) states that "The eligible telecommunications carrier may receive universal service support reimbursement for each qualifying low-income consumer served." In addition, carriers are required to obtain signed certifications from subscribers prior to enrollment in the Lifeline Program.

The Beneficiary indicated that it submitted, of its own accord, revised FCC Form 497s to remove those subscribers for which it did not have a signed self-certification form on file. USAC has confirmed that the Beneficiary has submitted revised FCC Form 497s for the data period July 2010 through May 2012, as applicable, for SACs 269032 and 439047 and for the data period July 2010 through May 2011 for SAC 219008.



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Easy Telephone Services, Inc.
Final Audit Report 12-AUD-01-04

The Beneficiary should confirm to USAC within 30 days of receiving this report that the Beneficiary has a signed self-certification on file for every subscriber in SAC 219008 for the data period May 2011 through May 2012. For any subscriber that the beneficiary does not have a signed certification on file, the Beneficiary should submit a revised FCC Form 497s for that period.



Richard Belden
Chief Operating Officer

Via Email

November 14, 2012

Ms. Julie Veach
Chief, Wireline Competition Bureau
Federal Communications Commission
445 12th Street, SW
Washington, DC 20554

Re: Guidance Request Regarding Link Up Program Issue

Dear Ms. Veach:

Pursuant to Section IV, Paragraph L of the September 2008 Memorandum of Understanding between the Universal Service Administrative Company (USAC) and the Federal Communications Commission (FCC or Commission), through this letter USAC is seeking Commission guidance on a universal service matter.

On October 29, 2012, the High Cost & Low Income (HCLI) Committee of the USAC Board of Directors reviewed five Low Income audit reports that contained common findings concerning Link Up support. In these findings, USAC's Internal Audit Division (IAD) determined that the carriers' customary connection charge for Lifeline customers was \$0; thereby not entitling the carriers to receive the Link Up support previously disbursed pursuant to 47 C.F.R. §54.411 (a)(1).

Below is a summary of the facts regarding the audit findings:

- USAC IAD Subscriber Bill Review: Four of the five carriers did not send connection charge bills to their subscribers resulting in the subscribers never being billed a connection charge. The fifth carrier sent connection charge bills to its subscribers, but reduced the connection charge to \$0 on every subscriber bill reviewed by USAC IAD.
- Carriers' Assertions to USAC IAD: Four of the five carriers asserted to USAC IAD that they always reduce the connection charge to \$0 for subscribers. The fifth carrier reduced the connection to \$0 in practice by not sending its subscribers a bill for the connection charge and by not seeking collection on the connection charge.

[REDACTED]

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Ms. Julie Veach
Chief, Wireline Competition Bureau
Federal Communications Commission
November 14, 2012
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- USAC IAD Price List Review: Two of the five carriers provided lists that stated that the connection charge is always reduced to \$0. One of the five carriers provided a price list that stat the connection may be reduced to \$0, and asserted to USAC IAD that it does in fact always reduce the connection charge to \$0 for subscribers. The remaining two carriers provided Low Income Program publicity materials that advertised wither a free connection charge or no upfront fees, including connection charges, to all subscribers.

In each audit, USAC IAD determined that the carriers' customary connection charge was \$0. Therefore, USAC IAD concluded that the carriers should not have claimed reimbursement for Link Up support on FCC Form 497s submitted to USAC.¹ USAC IAD recommended that USAC management seek recovery of the Link Up support disbursed to the carriers for the audited periods. USAC management concurred with the findings and the recommended recovery.

The programmatic committees of the USAC Board of Directors review and approve draft IAD audits before they are deemed final. At its October 29, 2012 quarterly meeting, a majority of the USAC HCLI Committee directed staff to change the connection charge finding to an "other matter" and for USAC to seek FCC guidance concerning whether the carriers were eligible to receive Link up for customers that did not pay connection charges and whether USAC should seek recovery of the carriers' Link Up support disbursed for the audited periods. USAC is, therefore, seeking Commission guidance on this issue. Copies of the audit reports in question are attached to this letter. If the FCC determines that it is appropriate to seek recovery of the carriers' Link Up support for the audited periods, USAC also requests the FCC's guidance on whether it is appropriate for USAC management to seek full recovery of the Link Up support disbursed to the carriers for all periods in which the carriers sought reimbursement for Link Up support, not merely the periods that were audited.

This issue affects \$1.24 million in Link Up support disbursed to the five carriers for the audited periods. This issue also affects three Low Income audits that are in progress for carriers that received \$430,000 in Link Up support for the audited periods. Because of the high monetary impact, as well as the Status of the audits in progress. USAC requests your expeditious response to this request.

¹ See 47 C F R § 54 411 (a) (1) (1997)

Ms. Julie Veach
Chief, Wireline Competition Bureau
Federal Communications Commission
November 14, 2012
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If you have any questions, please feel free to contact me.

Sincerely,

A handwritten signature in blue ink, appearing to read "Richard Belden".

Richard Belden
Chief Operating Officer

cc: Carol Matthey
Trent Harkrader