



**OFFICE OF INSPECTOR GENERAL**  
**Washington, D.C. 20554**

December 22, 2015

Adam Bowser  
Attorney  
Arent Fox LLP  
1717 K Street, NW  
Washington, DC 20036

Dear Mr. Bowser:

The Federal Communications Commission (FCC), Office of Inspector General (OIG) audited the FCC Forms 497, Lifeline and Link-Up Worksheets, submitted by Mextel Corporation, LLC (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, Director, USF Program Audits at 202-418-2655 or [brenda.clark@fcc.gov](mailto:brenda.clark@fcc.gov), or Robert McGriff, Acting Assistant Inspector General for Audits at 202-418-0483 or [robert.mcgriff@fcc.gov](mailto:robert.mcgriff@fcc.gov).

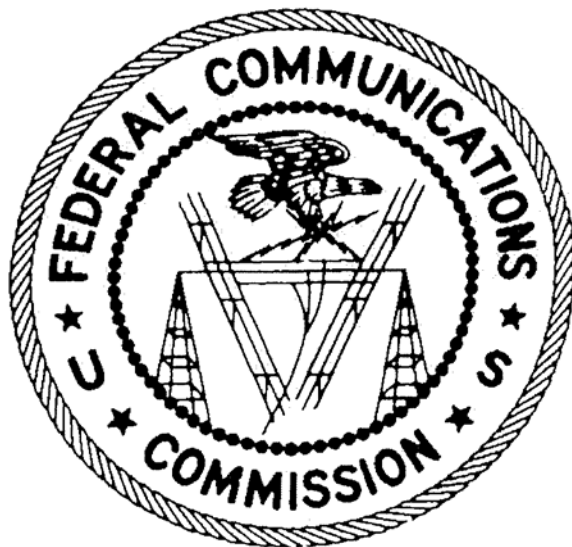
Sincerely,

A handwritten signature in blue ink, appearing to read "DLH", is written over a circular stamp that partially overlaps the signature.

David L. Hunt  
Inspector General

Attachment - Final Audit Report  
12-AUD-01-14

# FEDERAL COMMUNICATIONS COMMISSION



## OFFICE OF INSPECTOR GENERAL

Final Audit Report  
Compliance with FCC's USF Lifeline Program Rules  
Mextel Corporation, LLC dba LifeTel

Report No. 12-AUD-01-14

December 22, 2015

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

## Background

The Universal Service Fund Lifeline program helps eligible consumers 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.<sup>1</sup> ETCs or state agencies certify the eligibility of subscribers for the Lifeline program and submit the Federal Communications Commission (FCC) Form 497 Lifeline and Link Up Worksheet to the Universal Service Administrative Corporation (USAC) for reimbursement for providing the Lifeline program services.

Mextel Corporation, LLC (Company), also known as LifeTel, SPIN Number 143031167, provided wireline telephone services to Lifeline customers. The Company was designated as an ETC in the state of Oklahoma, under Study Area Code (SAC) 439022. On December 8, 2011, the Company transferred approximately two-thirds of its customers to [REDACTED] and approximately one-third of its customers to [REDACTED], without the FCC's approval. Both [REDACTED] are ETCs that provide, primarily, Lifeline services in the state of Oklahoma. On June 11, 2013, the Company filed applications with the FCC, formally requesting permission to transfer the customers in question to [REDACTED]. On May 12, 2014, the FCC granted the Company permission to transfer the customers.<sup>2</sup>

## Scope, Methodology, and Objective

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

1. reconciled the number of subscribers receiving Lifeline, Link Up, and Toll Limitation Services (TLS) to the FCC Forms 497, and

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<sup>1</sup> TLS eliminated as of January 1, 2014 and non-tribal Link Up services eliminated as of April 1, 2012 under the Lifeline and Link Up Reform and Modernization, FNPRM, 27 FCC Red 6757, 6761-2 at paras. 234 and 245 (Released February 6, 2012).

<sup>2</sup> Public Notice: DA 14-629 Released May 12, 2014. Applications Granted for the Acquisition of Certain Assets of MexTel Corporation, LLC d/b/a LifeTel WC Docket Nos. 13-154 and 13-155.

2. verified that the per item amounts claimed for reimbursement were correct.

The audit also included a review of the Company's internal controls for its reported information. We evaluated the Company's compliance with the FCC's Lifeline program rules, as contained in 47 C.F.R. Sections 54.400 thru 54.418 and other applicable rules and orders.

We conducted this performance audit in accordance with generally accepted government auditing standards contained in Government Auditing Standards.<sup>3</sup> 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)(1) and (5). The audit is not intended as a substitute for any agency regulatory compliance review or regulatory compliance audit.

We sent an audit announcement letter dated January 17, 2013 to the Company to announce the audit, schedule an entrance conference, and provide notification for a planned a site visit at the Company's location. Because the Company no longer had a facility, we conducted our audit field work from our office and coordinated with the Company's Attorney, Adam Bowser, of Arent Fox LLP, for questions, explanations, and obtain audit documentation. According to the Company, some of the audit documents that we requested were stored in a remote storage facility and the Company or its representative would have to search the facility to locate the documents needed to fulfil our document request. Also, the Company's Incumbent Local Exchange Carrier (ILEC)<sup>4</sup> software license with AT&T had expired, which denied them access to the AT&T electronic invoices that we needed in order to verify the accuracy of the amounts reported on the FCC Forms 497.

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, the report will be posted to the OIG website.

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<sup>3</sup> December 2011 revision, issued by the Comptroller General of the United States.

<sup>4</sup> USAC Glossary of terms: ILEC-The dominant local telephone company within a geographic area, as determined by the FCC.

## Results of Audit

Our audit identified two instances in which the Company did not comply with the FCC's USF Lifeline program rules. We found that the Company (1) was unable to provide the ILEC invoices that reconcile to the FCC Forms 497 Lifeline and Link Up Worksheet; and (2) did not include Toll Limitation Service (TLS)<sup>5</sup> charges and credits on customers' invoices. See pages 4 through 7 for a discussion of our audit findings. We did not provide recommendations for the findings, because the Company is no longer in business. See Appendix I for a breakdown of all the FCC Forms 497 submitted by the Company for the audit period.

This final audit report incorporates the Company's written response to the draft audit report dated November 14, 2014 and the Universal Service Administrative Company (USAC) response received September 15, 2015. The Company only addressed Finding 1 in their response and disagreed with the finding. USAC management concurred with both findings and stated it will seek recovery of funds for the Company's noncompliance with Lifeline program requirements, as discussed in Finding 1. Complete copies of the responses are included in Appendices II and III.

### Finding 1: Unable to Reconcile ILEC Invoices to the FCC Forms 497

**Condition:** We were unable to reconcile the Company's FCC Forms 497 to the ILEC documentation provided by the Company. AT&T and Windstream are the ILEC's from which the Company purchased their phone lines. The auditors attempted to reconcile the number of purchased ILEC phone lines to the Company's December 2010 and March 2011 Forms 497. Although requested, the Company did not provide any useful external source documents to the auditors for our use in reconciling the Company's ILEC phone lines to the FCC Forms 497. The Company provided some documentation from AT&T and Windstream, but we could not reconcile the number of phone lines to that documentation.

**Criteria:** Title 47 CFR 54.407 *Reimbursement for offering Lifeline*, paragraph (c) states "In order to receive universal service support reimbursement, the eligible telecommunications carrier must keep accurate records of the revenues it forgoes in providing Lifeline in conformity with § 54.401. Such records shall be kept in the form

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<sup>5</sup> Universal Service Administration Company (USAC) Glossary of terms: TLS-The support component that reimburses ETCs for the incremental costs associated with allowing eligible consumers to choose toll blocking or toll control services at no cost. The service deposit for providing local telephone service is waived if a consumer voluntarily elects toll blocking.

directed by the Administrator and provided to the Administrator at intervals as directed by the Administrator or as provided in this Subpart.”

**Cause:** The lack of staff, inaccessibility of records, and an expired ILEC (AT&T) software license were the main reasons the Company was not able to provide the useful audit documentation. The Company has gone out of business and stated they no longer have the software required to view AT&T’s paperless invoices in a readable format. Windstream’s invoices are maintained in hard copy paper files, but were filed in a storage facility and not accessible. The Company also stated that the Windstream’s invoices likely total thousands of pages and the Company would have to search the facility to obtain the documentation we requested.

**Effect:** The Company reported [REDACTED] Lifeline subscribers and claimed [REDACTED] for Lifeline, Link Up, and TLS support on its December 2010 FCC Form 497. The Company reported [REDACTED] Lifeline subscribers and claimed [REDACTED] for Lifeline, Link Up, and TLS support on its March 2011 FCC Form 497. The Company’s reported a total of [REDACTED] for Lifeline, Link Up and TLS support on its FCC Forms 497 for the audit period. See Appendix I for a summary of Company’s FCC Forms 497 submitted for the Oklahoma study area.

**Management’s Response:** The Company did not concur with Finding 1 and stated that the OIG’s audit finding that the Company’s did not provide adequate documentation to support its Forms 497 is “clearly erroneous” because they made all of the information that was provided by its ILECs available to the OIG, in the format it was provided to them by its ILECs. The Company insisted that it was prevented from providing access to hardcopies of the Windstream documentation because the OIG cancelled the audit site visit, and stated it offered to provide the OIG access to all of the electronic information provided by AT&T. The Company further insisted that it was not required to retain the audit documentation requested by OIG because it was older than the three year retention requirement set forth in the FCC rule, and it ceased its operations as an ETC on December 8, 2011. See Appendix II for the Company’s complete response.

**OIG Response:** The OIG stands by its audit findings and recommendations. Although we were able to complete a majority of our audit steps, the Company did not provide us access and reasonably auditable documentation to reconcile its Forms 497 to its ILEC invoices. The OIG canceled its audit site visit only after the Company stated that it could not provide the OIG any office space for the visit.

Additionally, the Company informed us that the original source documentation for the Windstream invoices were archived in a storage facility and thus not readily available for audit. The Company provided an example of data extracted from an AT&T invoice and stated that it would be “incredibly burdensome” to extract all of the required billing

information. Moreover, the Company stated that even if it provided the extracted files on a disc, it is unlikely OIG would be able to decipher all the needed information because the software license, which was required to be able to read the invoices, had expired. These challenges, however, do not relieve the Company of its responsibility to provide the OIG auditable ILEC documentation in support of its Form 497.

The OIG does not agree that the requested documentation is beyond the three year retention requirements set forth by 47 CFR 54.407. The OIG's audit announcement letter, sent to the Company on January 17, 2013, requested audit documentation for the months of December 2010 and March 2011. Those months were within the three year document retention requirement. Further, ceasing its operations does not absolve the Company from keeping records to support its Forms 497.

**USAC Comments:** USAC management concurred with the finding and stated it will seek recovery in the amount of \$1,653,032. See Appendix III for USAC's response.

**OIG Comments:** The FCC Bureaus determined that the Company is still an on-going concern. Therefore, we concur with USAC's decision to seek recovery of the funds in question.

## **Finding 2: TLS Charges not included on Customer's Invoices**

**Condition:** The Company did not correctly reflect the TLS charges and credits on its customer invoices, as required by FCC rules. We judgmentally selected 30 customer invoices and requested the supporting documentation from the Company for the March 2011 FCC Form 497. Out of the 30 customer invoices selected for examination, 13 (43%) of the invoices did not reflect TLS charges and credits. The TLS for the 30 sampled customers totaled \$94 and the TLS for the 13 customer invoices in question totaled \$41. The Company claimed [REDACTED] customers and a total of [REDACTED] for TLS on its March 2011 FCC Form 497. See Appendix I.

**Criteria:** Title 47 CFR 54.407 *Reimbursement for offering Lifeline*, paragraph (c) states "In order to receive universal service support reimbursement, the eligible telecommunications carrier must keep accurate records of the revenues it forgoes in providing Lifeline in conformity with § 54.401." *Lifeline defined*.

**Cause:** By way of their attorney, the Company admitted to mistakenly omitting the TLS charges and credits on the customers' invoices, but insisted that the customers were provisioned correctly and did have TLS.

**Effect:** There was no monetary effect because we determined that the missing TLS charges and credits were an administrative error.

**Company's Response:** The Company did not provide a response to this finding.

**USAC Comments:** USAC management concurred with the finding. See Appendix III for USAC's response.



Appendix I - Summary of FCC Forms 497 Submitted for Oklahoma Study Area

**Table: Summary of FCC Forms 497 Submitted for the Oklahoma Study Area**

Data Month	Lifeline		Link Up		TLS		Total Amount Claimed
	Sub-scribers <sup>6</sup>	Amount	Sub-scribers <sup>7</sup>	Amount	Sub-scribers	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	████	██████	██	██████	████	██████	██████
<b>Total</b>		██████		██████		██████	██████

<sup>6</sup> Lifeline subscriber count does not include the number of partial subscribers.

<sup>7</sup> Link Up subscriber count does not include the number of Non-Tribal subscribers.

## Arent Fox

Arent Fox LLP / Attorneys at Law  
Los Angeles, CA / New York, NY / San Francisco, CA / Washington, DC  
www.arentfox.com

December 12, 2014

### VIA E-MAIL

Darrell A. Riegel  
Acting Assistant Inspector General for Audit  
Federal Communications Commission  
445 12th Street, SW  
Washington, DC 20554

**Adam D. Bowser**  
Associate  
202 857 6126 DIRECT  
202 857 6395 FAX  
Adam.bowser@arentfox.com

RE: Response of Mextel to Draft Audit Report-12-AUD-14

Dear Mr. Riegel:

Mextel Corporation LLC ("MexTel"), through counsel, respectfully submits this response to the Federal Communications Commission's Office of Inspector General's ("OIG") draft audit report 12-AUD-01-14<sup>1</sup>

#### I Overview of Mextel Ceasing Operations

On May 11, 2011, Mextel filed a notification with the Oklahoma Corporation Commission ("OCC") seeking approval to transfer all of its telephone customers to [REDACTED] and for an order canceling Mextel's Certificate of Convenience and Necessity, Mextel's tariff and Mextel's designation as an Eligible Telecommunications Carrier ("ETC") This notification was approved on August 5, 2011 in Final Order No. 587987 In this order, the OCC ruled that "the Certificate of Convenience and Necessity, the tariffs, and [ETC] designation of Mextel... will expire upon the filing of the Notice of Completion " On

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<sup>1</sup> Mextel is only addressing OIG's Finding 1. OIG's Finding 2 related to TLS charges not included on Mextel's customers' invoices, and OIG found that there was "no monetary effect because we determined that the missing TLS charges and credits were an administrative error" Draft Report at 5.

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December 8, 2011, Mextel filed its Notice of Completion of Transaction with the OCC to inform the OCC that the transfer of Mextel's customers was complete. As a result, Mextel ceased being an ETC.

**II. Mextel Made Available External Documents In The Format Provided By The ILEC's**

Through Finding 1, OIG faults Mextel for purportedly not providing "meaningful external source documents ... to the auditors for use in reconciling the Company's ILEC phone lines to the FCC Forms 497." Report at 4. This finding is contradicted by the record, as Mextel repeatedly and consistently offered to provide OIG all of the information Mextel received from Windstream and AT & T in the format it was provided to Mextel by these ILECs. Because Mextel made available to OIG all of the information it was provided by the ILECs. Finding 1 is clearly erroneous.

It is standard industry practice for ILECs to provide electronic invoices to resellers like Mextel in BDT format. This electronic data provided by the ILECs can be, and was, used to extract relevant data, which Mextel and Mextel's counsel provided to OIG auditor Mr. Green upon his request. Further, Mextel, through counsel, informed OIG that the invoices it received from Windstream were also maintained in a storage facility, as Mextel no longer had a physical address after it ceased operations. As you may recall, an in-person audit was scheduled to occur between OIG staff, Mextel, and Mextel's counsel. OIG, however, canceled this scheduled on-site audit at the last minute, thus preventing Mextel from providing OIG with access to the

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hardcopy invoices it received from Windstream. Mextel should not be faulted for OIG's own decision not to conduct an inspection of its business records.

As for the AT&T invoices, counsel for Mextel informed OIG that AT&T performs paperless billing, and Mextel no longer has access to the software necessary to properly read AT&T's invoices. On February 21, 2014, counsel for Mextel provided Mr. Green with an example of an AT&T service establishment charge responsive to Mr. Green's request for information about the AT & T invoices, and further indicated that

The attached, however, is only a sample because the data is much more difficult to extract than anticipated. The AT & T discs have a built in software that can only be read on a 32 bit Windows XP Computer and the entire invoice cannot be printed from the discs. There is, however, a search function available that can pull up the detail for each particular telephone line, but that has to be done on a burdensome to extract all of the billing information that shows the total number of TLS lines purchased. We can provide you with copies of the AT & T discs, however, so that you can independently verify that the TLS summary we provided you is accurate, as you would be able to export the information from the discs to Excel in the same manner that it was provided to you.

Mextel thus offered to provide OIG with access to all of the information AT&T provided to Mextel.

It is therefore incorrect to assert that "no meaningful external source documents were made available to the auditors." Report at 4. Mextel made this information available. OIG simply declined to accept it. Finding 1 is therefore not supported by the facts of the audit.

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### III. Mextel Was Not Required To Retain ILEC Invoices After It Ceased Being An ETC

OIG relies on Commission Rule 54.407, which provides in relevant part that “the eligible telecommunication carrier must keep accurate records of the revenues it forgoes in providing Lifeline in conformity with § 54.401.” 47 CFR § 54.407(e). Further, in the Commission’s order establishing record keeping requirements for ETC’s, the Commission ruled that “we codify the requirement that all *ETC*’s must maintain records to document compliance with all Commission and state requirement governing the Lifeline/Link-Up programs and provide that documentation to the Commission or Administrator upon request...All *ETC*’s must retain such documentation for the three full preceding calendar years....”<sup>2</sup>

As noted above, Mextel ceased being an ETC on December 8, 2011. The OIG’s request for this information occurred via email from Mr. Green to Adam Bowser of Arent Fox on May 20, 2013, over a year and a half after Mextel ceased operations. The Commission’s record keeping requirements, however, are only applicable to ETC’s by the plain language of Rule 54.407 and the Commission’s order discussed above. There is no requirement that a former ETC, particularly one that has ceased all operations like Mextel, continue to maintain external source documents, such as ILEC invoices- which Mextel did in any event, as described above.

Finding 1 therefore constitutes an impermissible attempt to create a new regulation through the audit process and it should be stricken from any final report.

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<sup>2</sup> *In the Matter of Lifeline and Link Up*, 19 FCC Red. 8302, ¶ 39 (Apr. 29, 2004) (emphasis added).

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**CONCLUSION**

Finding 1 is belied by the facts of the audit itself, as Mextel agreed to provide all of the external source documents that it possessed and which would have provided the OIG auditors all of the information necessary to reconcile Mextel's ILEC phone lines to the FCC Forms 497.

Finding 1 is also not supported by any existing Commission regulation applicable to Mextel.

Finding 1 should therefore be stricken from any final report.

Sincerely,



Adam D. Bowser

AFDOCS/11551226 1

## Appendix III -Universal Administrative Company Comments



Via Electronic Mail

August 17, 2015

Mr. David L. Hunt  
Inspector General  
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-01-14)

Dear Mr. Hunt:

The Universal Service Administrative Company (USAC) is providing its comments and USAC management responses for the above-referenced draft audit report regarding Mextel Corporation, LLC dba LifeTel (Beneficiary). The Federal Communications Commission (FCC) Office of Inspector General (OIG) included two findings in the draft audit report. Specifically, the auditors determined that the Beneficiary: (1) was unable to reconcile ILEC invoices to the FCC Forms 497 and (2) TLS charges were not included on customer's invoices. USC's management responses to these two findings are provided below.

Finding 1: Unable to Reconcile ILEC Invoice to the FCC Forms 497 Administrative

USAC Management Response:

47CFR 54.407(e), requires carriers to "keep accurate records of the revenues it forgoes in providing Lifeline services" The Company did not provide any meaningful external source documents to the auditors for use in reconciling the Company's ILEC phone lines to the FCC Forms 497. Thus, the auditors were not able to reconcile the Company's FCC Forms 497 to the ILEC documentation.

USAC management concurs with this finding and will seek recovery in the amount of \$1,653,032.00.

2000 L Street, N.W. Suite 200 Washington, DC 20036 Voice 202.776.0260 Fax 202.776.0580 [www.usac.org](http://www.usac.org)



Finding #2: TLS Charges not included on Customer's Invoices

**USAC Management Response:**

47 CFR 54.407(e), requires carriers to "keep accurate records of the revenues it forgoes in providing Lifeline services. The auditors found that the Company did not correctly reflect the TLS charges and credits on its customer invoices, as required by FCC rules and admitted to mistakenly omitting the TLS charges and credits on the customers' invoices, but insisted that the customers were provisioned correctly and did have TLS. The auditors determined that the missing TLS charges and credits were an administrative error.

USAC management concurs with this finding. There is no monetary effect associated with this finding; therefore, USAC management will not seek recovery for this finding at this time.

This concludes USAC management's responses to the above-referenced findings for Mextel Corporation, LLC dba LifeTel. Please let us know if you have any questions or need further information.

Sincerely,

//s//

Michelle Garber  
Vice President of Low Income Division