

Received & Inspected

DOCKET FILE COPY ORIGINAL

AUG 21 2008



FCC Mail Room

28 North Country Road, Mt. Sinai, New York 11766 Tel: 877-781-6398 Fax: 631-476-0732 www.nextgentelephone.com

Federal Communications Commission  
Office of the Secretary  
445 12<sup>th</sup> Street, SW, Room TW-A325  
Washington, DC 20554

Docket Nos. 96-45 and 97-21  
Filer ID # 819863  
Form 499A Year Ended 12/31/2005

We are appealing one of the findings noted on the Independent Accountant's Report pertaining to the Form 499A for the year ended 12/31/2005. Enclosed as attachment 1 is the section of the audit finding we are appealing. Also enclosed as attachment 2 is a letter from USAC showing their Financial Management Response.

NextGen Telephone charges all of its customers a line charge which is used to recapture the cost of bringing a functioning telephone line to a customer's location. This charge is applicable to all customers, even those who have no interstate service.

USAC states "The subscriber line charge typically represents the interstate portion of fixed local exchange service." NextGen Telephone uses this atypically in that it is charged to all customers even if they have no interstate service. Therefore, this cost should be allocated based on usage rather than incorrectly assuming it is all interstate related.

Forcing NextGen to wrongly state of the Form-499A that this line charge is all interstate related, unfairly increases the contribution base by \$386,942.94, resulting in an additional USF contribution of \$37,025.20. The USAC finding is in error.

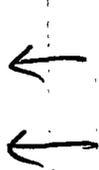
Sincerely

A handwritten signature in black ink, appearing to read "Tim K. Bachert", written over a horizontal line.

Timothy K. Bachert  
CFO  
631-761-8005

Attachment 1

**Detailed Information Relative to Material Noncompliance (Findings)**

<b>Finding No.</b>	<b>1</b>
<b>Condition</b>	Reznick Group noted the Contributor appropriately reported Subscriber Line Charge revenues of \$452,461 on Line 405(a), total revenue, of the FCC Form 499-A. However, the Contributor reported \$39,016 to Line 405(d), interstate revenue, and \$26,503 to Line 405(e), international revenue. In addition, PICC revenue of \$171,723 was incorrectly recorded on Line 404 instead of Line 405. 
<b>Criteria</b>	The Instructions to the FCC Form 499-A Telecommunications Reporting Worksheet state:  "Revenues from federal subscriber line charges...should be identified as interstate revenues."  "Line 405 -- Line 405 should include charges to end users specified in access tariffs, such as tariffed subscriber line charges and PICC charges levied by a local exchange carrier on customers that are not pre-subscribed to an interexchange carrier (i.e., a no-PIC customer)."
<b>Cause</b>	The Contributor allocated its Subscriber Line Charge revenues as intrastate, interstate, and international revenues. In addition, PICC charges of \$171,723 were recorded on Line 404 instead of Line 405.
<b>Effect</b>	The monetary effect of this finding is that Line 405 (d), interstate revenue, is under reported by \$585,168 and Line 405(e), international revenue, is over reported by \$26,503, resulting in an increase of \$558,665 the Universal Service Fund Contribution base.
<b>Recommendation</b>	We recommend the Contributor report its Subscriber Line Charges and PICC revenues as 100% interstate revenues on Line 405(d) of the FCC Form 499-A.
<b>Response</b>	This finding is incorrect. <b>NextGen Telephone, Inc., Filer ID # 819863</b> , did not under report interstate revenues as indicated in your report. Further review should indicate that this revenue was recorded on the wrong line. What <b>NextGen Telephone, Inc., Filer ID # 819863</b> , calls a Subscriber Line Charge is a connection charge to reimburse us for the cost of bringing a functioning telephone line to a customer's location. Without a 

functioning telephone line no calling traffic is possible. When preparing the 2005 Form-499A, we had questions regarding where to record this revenue that is used to reimburse the costs charged to **NextGen Telephone, Inc., Filer ID # 819863**, by the CLEC. No one at USAC was able to answer our questions and we were referred to the FCC in Washington, D.C. We consulted with FCC employee Mr. James Lande and were advised that this revenue is not a subscriber line charge but a connection charge. We should, nevertheless, record it on line 405 and allocate it based on a logical methodology.

Based on the fact that this is a connection charge, the recommendation to correct this should indicate that the entries made in blocks 405(a), 405(d) and 405(e) are incorrectly recorded in those blocks. The amounts shown should be added to the entries in block 404.l(a), 404.l(d), and 404.l(e) because this is a connection charge. If possible, we would like to file an amended 2005 Form 499A to correct this error.

According to the FCC employee mentioned previously a PICC charge is billed to customers who have long distance with carriers other than NextGen. We do not bill PICC charges to customers that have long distance with other carriers. Therefore this added finding is incorrect.

<b>Finding No.</b>	2
<b>Condition</b>	Reznick Group noted the Contributor reported State Universal Service support revenues on Line 418 of the FCC Form 499-A.
<b>Criteria</b>	The Instructions to the FCC Form 499-A Telecommunications Reporting Worksheet state:  "Line 308 -- Universal service support revenues should include all amounts that filers receive as universal service support from either states or the federal government."
<b>Cause</b>	The Contributor reported State Universal Service support revenues on Line 418.
<b>Effect</b>	The monetary effect of this finding is that Line 308 is under reported by \$59,083 and Line 418 is over reported by \$59,083; however this has no effect on Universal Service Fund Contribution base as Block 3 revenues and non-telecommunications revenues are not included in the Universal Service Fund Contribution base.



**Date:** March 10, 2008

**Subject:** IPIA (Improper Payment Improvement Act) Audit – CO-2006-080

**Filer ID:** 819863

USAC management has reviewed the IPIA Audit of the 2006 FCC Form 499-A for filer id 819863 NextGen Telephone, Inc. Our response to the audit is as follows

**Opinion**

**Finding No. 1**

**Financial Management Response:**

As it pertains to \$171,723 of PICC revenues that are actually installation revenues the FCC Form 499A instructions page 18 states:

*“The reporting entity must report gross revenues from all sources, including non-regulated and nontelecommunications services on Lines 303 through 314 and Lines 403 through 418 and these must add to total gross revenues as reported on Line 419. Gross revenues include account set-up, connection, service restoration, termination and other non-recurring charges. These charges should be reported on the same line that the filer reports any associated recurring revenue.”*

USAC agrees with NexGen that the \$171,723 identified as connection charges should remain on line 404 because they are associated with their local service.

USAC agrees with this finding that the \$452,461 of Subscriber Line Charge (SLC) revenues needs to be reported as 100% interstate on line 405(d). The federal subscriber line charge typically represents the interstate portion of fixed local exchange service.

Line	As Reported			Per Audit			Estimated Effect on Contribution Base
	Total Revenue	Interstate Revenue	International Revenue	Total Revenue	Interstate Revenue	International Revenue	
405	452,461.12	39,015.53	26,502.65	452,461.12	452,461.12	-	386,942.94
<b>Total Estimated Effect on Contribution Base</b>							<b>\$ 386,942.94</b>