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USAC
Universal Service Administrative Company

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CONTAINS CONFIDENTIAL UNIVERSAL SERVICE
FUND CONTRIBUTOR REVENUE INFORMATION

To: Mr. WB Erwin, Vice President of Finance

From: Mr. Wayne Scott, Vice President of Internal Audit

Date: June 6, 2009

Re: Independent Auditor's Report of Clear World Communications (USAC Audit No. CR2007CP005)

Introduction

The Internal Audit Division (IAD) of the Universal Service Administrative Company (USAC) has audited the compliance of the process in which Clear World Communications (the Carrier), Filer Identification Number 818112, completed its 2006 and 2007 Form 499-As pursuant to Federal Communications Commission (FCC or Commission) rules governing USF contributors set forth in 47 C.F.R. Part 54 as well as the FCC Form 499-A (Form 499-A) Instructions (collectively, the Rules). Compliance with the Rules is the responsibility of the Carrier's management. IAD's responsibility is to express an opinion on the Carrier's compliance with the Rules based on our audit.

IAD conducted the audit in accordance with Government Auditing Standards issued by the Comptroller General of the United States (2003 revision). Our audit included examining, on a test basis, evidence supporting the data used to calculate the Carrier's contribution liability, as well as performing such other procedures as we considered necessary to form an opinion. We believe that our examination provides a reasonable basis for our opinion.

Background Information

The Carrier's 2006 Form 499-A was audited as a part of Round 1 of the FCC Office of Inspector General (OIG) USF audit program audits. USAC Financial Operations requested that IAD conduct an additional audit since the results of the compliance attestation audit conducted pursuant to the FCC OIG USF audit program were inconclusive. IAD expanded the audit to include the Carrier's 2007 Form 499-A.

The Carrier operates as a toll reseller. During the period under audit, its business lines included long distance telecommunications. The Carrier reported the following revenues on Form 499-A subject to USF contribution assessment for filing years 2006 and 2007:

	Clear World Communications 2006 Form 499-A	Clear World Communications 2007 Form 499-A
Interstate Revenue	$1,628,761	$1,791,130
International Revenue	$12,616,583	$13,251,722
Total	$16,578,857	$17,985,582

Purpose, Scope and Procedures

The primary objective of our audit was to determine the accuracy and completeness of the revenues reported on the Form 499-A for the years audited, and to identify any potential misstatements that may result in a change to the contribution liability amount. IAD reviewed the Carrier's FCC Form 499-A for 2006 and 2007 (covering the periods January 1, 2005–December 31, 2005 and January 1, 2006–December 31, 2006, respectively). IAD also performed procedures to ensure the Carrier was compliant with the Rules concerning appropriate support and documentation retention. The Carrier completed IAD questionnaires regarding the FCC Form 499-A and internal controls. These questionnaires were used to gain a better understanding of the Carrier's business and to identify any areas requiring additional attention.

IAD conducted audit procedures to ensure the Carrier correctly reported revenues from all sources on its Form 499-A by performing a reconciliation of the total revenues reported on the Form 499-A compared to the Carrier's trial balance. IAD also ensured the correct classification of the Carrier's revenue accounts and appropriate placement on the different Form 499-A line items by reconciling the Carrier's General Ledger (G/L) to the Form 499-A.

The Form 499-A requires the Carrier to classify revenues as either intrastate, interstate, and/or international revenues through the use of good faith estimates, safe harbor percentages, or actual revenue amounts. IAD obtained supporting documentation for the Carrier's method and determination of these percentages or amounts to ensure it was compliant with the Rules.

Conclusion

USAC IAD has concluded the Carrier was not compliant with the applicable Rules for the period reviewed and the Carrier's revenues were not stated in accordance with the Form 499-A Instructions.

For purposes of this report, an audit finding is a condition that shows evidence of non-compliance with the Rules that were in effect during the audit period. An "other matter" is a condition that, in our opinion, does not constitute a violation of the Rules, but an issue that warrants the Carrier or USAC management's attention. Additionally, IAD may report any internal control weaknesses that are material to the Carrier's compliance with the Rules.

Following is a summary of the audit findings and other matters.

Audit Findings

IAD submitted the draft audit findings to the Carrier on January 27, 2009. The Carrier's responses were received on February 12, 2009. The criteria for the first finding were updated to more accurately reflect the section of the Form 499-A Instructions that relates to the monthly recurring charges (MRC). This finding was reissued to the Carrier on May 8, 2009. IAD requested that the Carrier provide a response by May 20, 2009. As of the date of this report, IAD has not received an updated response from the Carrier to the first finding.

1. Monthly recurring charges were not allocated by traffic type.
2. USF fees were not in accordance with FCC stated percentages.

Other Matter

1. International USF was collected from customers when the Carrier had a Limited Interstate Revenue Exception status.

As a result, the following is an estimate of additional USF contributions currently due from the Carrier. This estimate may not reflect the actual amounts ultimately invoiced by USAC Financial Operations.

Form Year	Estimated Effect on Contribution Base	Contribution %	Circularity Factor	Estimated Additional USF Contribution Due
2006	$ 11,024,174	10.60%	9.73%	$ 1,054,861
2007	$ 10,533,357	10.18%	9.57%	$ 969,677
Estimated Additional USF Contribution Due From Carrier				$ 2,024,538

Clear World Communications
Filing Years 2006 and 2007
Detailed Audit Finding #1
Monthly Recurring Charges

Criteria
The Instructions to the 2006 and 2007 Form 499-A (Instructions) state:

> Columns (b), (c), (d) and (e) are provided to identify the part of gross revenues that arise from interstate and international service for each entry on Lines 303 through 314 and Lines 403 through 417....For example, if a prepaid calling card provider collects a fixed amount of revenue per minute of traffic, and 65 percent of minutes are interstate, then interstate revenues would include 65 percent of the per-minute revenues. Similarly, if a local exchange carrier bills local measured service charges for calls that originate in one state and terminate in another, these billings should be classified as interstate even though the charges are covered by a state tariff and the revenues are included in a local service account.[1]

Condition
The Carrier assessed MRC to its customers. These charges provide its customers with different per minute rates for intrastate, interstate and international calls.

On the 2006 FCC Form 499-A, the Carrier reported $17,788,935 on Line 414. Sixty-one percent of this revenue was associated with call traffic and 39 percent was associated with MRCs. For the 2007 Form 499-A, the Carrier reported $20,088,110 on Line 414. Forty-five percent of this revenue was from MRCs while the remaining 55 percent was from call traffic revenue. The call traffic revenue was allocated between intrastate, interstate and international jurisdictions on the forms; however the MRC revenue was allocated as 100% international.

[1] March 2006 Form 499-A Instructions, § III.C.3 at 20 and 2007 Form 499-A Instructions, III.C.3 at 21. *See also, In the Matter of Universal Service Contribution Methodology*, FCC Order 07-231 (2008) (*FCC Order 07-231*) (Although not dispositive for the time period audited, this order helps to articulate the Commission's intent in the March 2006 Form 499-A Instructions and the *2006 Contribution Methodology Order*, both of which were in effect during the time period under audit. FCC Order 07-231, ¶ 13 describes a weighted average methodology for allocating fixed revenue amounts: "In order to more accurately reflect the jurisdictional nature of toll service revenue, providers, including wireless and interconnected VoIP providers, must ensure that toll service revenues are accurately accounted for by appropriately weighting such traffic in the reporting methodology they choose." Paragraph 15 continues this discussion by explaining the requirements for a entity to comply with the *2006 Contribution Methodology Order*: "For example, if on average a service provider derives five times as much revenue from an international minute as it does from an intrastate minute, then it would weight each international minute equivalent to five intrastate minutes in calculating a single traffic-based percentage to apply to all revenues. To the extent that a provider chooses to use a weighted traffic study, we again reiterate that such a study must meet the requirements for ensuring accuracy adopted in the *2006 Contribution Methodology Order. See 2006 Contribution Methodology Order*, 21 FCC Rcd 7518, 7535, n.115."

IAD reviewed the Carrier's state tariffs. These documents describe the services and the rates that the Carrier offers to its customers in each state in which the Carrier conducts business. IAD did not note any tariffs that indicated the MRC was strictly international. IAD also reviewed the Call Detail Records (CDRs) and noted that the Carrier's customers made intrastate, interstate, and international calls. As a result, revenue from the MRCs should also be allocated to intrastate and interstate jurisdictions.

Cause
The Carrier classified this type of revenue as 100% international revenue.

Effect
IAD allocated the MRCs based on percentages of revenue associated with the call traffic. For the 2006 Form 499-A, IAD allocated 16.19% of the MRC charges to the interstate jurisdiction and 61.02% to the international jurisdiction. For the 2007 Form 499-A, the jurisdictional allocation was 18.20% to interstate and 51.91% to international.

The effect of this finding resulted in an understatement of the Carrier's 2006 contribution base as detailed below:

2006 Form 499-A Line	Total Amount Reported	Interstate Amount Reported	International Amount Reported	Total Amount Audited	Interstate Amount Audited	International Amount Audited
414	$ 17,788,935	$ 1,748,598	$ 13,578,212	$ 17,788,935	$ 2,879,844	$ 10,854,557

The effect of this finding resulted in an understatement of the Carrier's 2007 contribution base as detailed below:

2007 Form 499-A Line	Total Amount Reported	Interstate Amount Reported	International Amount Reported	Total Amount Audited	Interstate Amount Audited	International Amount Audited
414	$ 20,088,110	$ 2,000,542	$ 14,800,865	$ 20,088,565	$ 3,655,752	$ 10,427,290

Recommendation
The Carrier should refile its 2006 and 2007 Form 499-As to accurately report its revenue. In addition, any filings where similar misclassifications may have occurred should also be refiled and reported in the appropriate line items on the Form 499-A.

Carrier's Response
See Attachment A_2 for the Carrier's response. As noted on page three of this report, the Carrier did not provide IAD with an updated response to this finding.

IAD's Response to Carrier's Response

IAD revised the criteria to more accurately reflect the section of the Instructions that relates to the MRCs. Because the Carrier did not provide an updated response to the revised finding, the IAD response relates to the Carriers original response.

On page 4, line 11, the Carrier references *FCC Order 07-231*, which was the criterion that IAD originally used in DAF #1. IAD understands that the Carrier is not a provider of wireless service. However, this order states "In order to more accurately reflect the jurisdictional nature of toll service revenue, providers, including wireless and interconnected VoIP providers...."[2] This criterion is not limited to wireless providers, rather its plain language specifically identifies two types of providers covered. The Carrier further states, per their response on page 7, line 6, that it is a reseller of long distance services. Per the Instructions, a reseller is a telecommunication provider.[3] As a result, the Carrier is not only a reseller, but a provider of telecommunication services. In addition, *FCC Order 07-231* defines toll service revenue as "telecommunications services that enable customers to communicate outside their local exchange calling area."[4] Therefore, long distance services are classified as toll services. Based on our analysis, the order impacts the Carriers jurisdictional breakout of its MRC, even though the Carrier is not a wireless provider.

On page 5 of the Carrier's response, lines 13 -16, the Carrier stated that the MRCs are billed to customers who are on an international calling plan. However, per the documentation provided by the Carrier in its exhibits 5 through 27, the customer is allowed to make intrastate, interstate and international calls at a rate that is specific to the customer's calling plan. The per-minute rates for these types of calls vary for each calling plan, as well as the MRCs. The Carrier's website advertises that the MRC is international; however, advertising to the customer does not determine the jurisdiction. During the audit, we analyzed the calling plans and the call detail reports and concluded that since the plans provide rates for intrastate and interstate calls, as well as international calls, then the MRC is associated with all rates and should be prorated accordingly. The Carrier stated on page 5, lines 14 and 15, that "[i]t has nothing to do with interstate and intrastate calls." Reviewing the call detail reports provided by the Carrier, IAD noted that customers, who made only interstate or intrastate calls in September of 2005, were charged the MRC for that month.

On lines 24 - 27 of the same page, the Carrier stated that IAD "arbitrarily and capriciously" allocated the MRC's as 61% interstate and 39% domestic. This is not an accurate statement. The audit finding stated that 61% of the Carrier's revenue for the 2006 Form 499-A (calendar year 2005) was related to call traffic. The call traffic is comprised of intrastate, interstate and international calls. Furthermore, we calculated the allocation of the MRCs based on the jurisdiction of the call traffic. This methodology is

[2] FCC 07-231 at ¶ 13.
[3] March 2006 Form 499-A Instructions, III.C.2 at 17.
[4] FCC 07-231 at ¶ 5.

based on information provided by the Carrier. Since the MRC allows the customer to make domestic and international calls, the MRCs were allocated using these percentages. The same methodology was applied to the 2007 Form 499-A (calendar year 2006).

On page 7 of the Carrier's response, lines 18-20, the Carrier stated that IAD incorrectly contended that the state tariffs are controlling. This is also not an accurate statement. During the audit, the Carrier stated that their MRCs are international since they filed these charges as such in their tariffs. On August 12, 2008, IAD requested the tariffs referenced by the Carrier. We received documentation of the Carrier's *state* tariffs the week of August 25, 2008. Federal tariffs were never provided to us by the Carrier. Based on the documentation provided, we concluded that the Carrier filed their MRC charges as international on their *state* tariffs and did not note any tariffs where the MRCs were deemed international. The Carrier never mentioned federal tariffs to IAD until we received their responses to our audit findings. This reference is noted on page 7, lines 20 and 21 of the Carrier's response. If the Carrier provides additional documentation it will be evaluated during the post-audit process.

Continuing on page 7, lines 22 -27 and page 8, lines 1 – 3, the Carrier incorrectly states that USAC is assessing $1,054,861 on $1,748,598 of interstate revenues. The additional USF assessed as a result of the audit is due to the MRCs being allocated based on traffic percentages. Since the MRCs are allocated to the intrastate and interstate jurisdictions, as well as the international jurisdiction, the Carrier no longer qualifies for LIRE status. Therefore, the assessment of $1,054,861 is based on interstate and international revenues, not just the interstate revenues as the Carrier stated. This amount is also based on the revenue the Carrier received from its customer calls, MRCs and USF collected by the customer. It also considers the bad debt expense that the Carrier incurred for both its interstate and international revenues. However, since the Instructions to the Form do not allow for the deduction of the BSG expense, IAD calculated the additional assessment excluding this expense. For the 2006 Form 499-A (calendar year 2005), 10.4 percent of the Carrier's telecommunications revenue should be a contribution to the USF, not the 71 percent noted by the Carrier. This percentage considers all of the above elements, the amounts previously billed to the Carrier on the unaudited Form and the circularity factor.

USAC Management Response

Since 1934 the term "telephone toll service" has been defined as telephone service between stations in different exchange areas for which there is made a separate charge not included in contracts with subscribers for exchange service.[5]

USAC is in agreement with the Carrier that the MRCs billed to customers who subscribed to certain plans of the Carrier are toll service revenues and were correctly reported on line 414. The issue is how the Carrier identified the part of gross revenues that arise from interstate and international services in columns d and e of the Form 499-A.

[5] 47 U.S.C. § 153(48).

Since the beginning of the Universal Service Fund filers have been required to identify the part of gross revenues that arise from interstate and international services.[6] The 2006 and 2007 Form 499-A Instructions state that:

> [c]olumns (b), (c), (d), and (e) are provided to identify the part of gross revenues that arise from interstate and international services for each entry on Lines 303 through 314 and Lines 403 through 417.[7]

To verify compliance with the Form 499-A Instructions, USAC reviews how filers identify the portion of their gross billed revenues that are from interstate and international revenues to ensure that the revenues are accurately accounted for by an appropriate weighting methodology.

As part of this audit, USAC reviewed how the Carrier determined the portion of its gross billed revenues that arose from interstate and international service. IAD's work found that the Carrier bills their customers for toll service in two ways; (i.e., (1) a per minute charge and (2) an MRC).

(1) The per minute charge is a charge based upon the actual usage of the customer. Each call the customer makes is rated, based upon a subscribed long distance plan, to the specific destination of the call. The rate times the duration of the call determines the amount of the charge for the call. These charges, since they can be directly associated with interstate or international revenue, were reported accurately on the Carrier's 2006 and 2007 Form 499-A filings. The intrastate, interstate, and international breakdowns of the Carrier's per minute revenues for the reporting periods are as follows:
   a. 2006 FCC Form 499-A:
      i. 22.79% Intrastate Calls.
      ii. 16.19% Interstate Calls.
      iii. 61.02% International Calls.
   b. 2007 FCC Form 499-A:
      i. 29.89% Intrastate Calls.
      ii. 18.20% Interstate Calls.
      iii. 51.91% International Calls.

(2) The MRC is independent of the customer's usage. The Carrier bills the customer the same charge per month whether the customer makes 100% interstate or 100% international calls in a given month. The Carrier, when reporting its revenue on both the 2006 and 2007 Form 499-As, reported 100% of their MRC revenue as international. This included the Carrier's $1 account charges (not listed in their

[6] 1998 FCC Form 457 Instructions, page 17: "For each entry in Lines (22b) through 23(a) and Lines (24) through (47) estimate the percentage amounts reported in column (a) that are for interstate or international service, and enter this percentage in column (b)." This basic concept has been a part of the Form 499-A Instruction every year since 1998.

[7] 2007 FCC Form 499A Instructions, page 21.

rate plans) billed by the Carrier to all customers regardless of the customer's selected calling plan.

IAD requested from the Carrier its justification for reporting 100% of MRC revenues as international. The Carrier submitted to USAC rate plans and tariffs, which, as described above in IAD's response, did not support reporting MRC revenues as 100% international on the Form 499-As. Due to the misclassification of the Carrier's MRC revenues, IAD recommends that the Carrier reallocate these revenues by an appropriate weighting methodology as outlined in the criteria of this finding.

USAC management, upon review of this finding, agrees with IAD that the Carrier did not provide proper justification for the 100% international allocation of MRC revenues. USAC management acknowledges that the Carrier has international traffic, but based upon the Carrier's actual usage it is well above the 12% threshold outlined in 47 C.F.R. § 54.706 (c),[8] and it is only due to the 100% classification of MRC revenues (which included account charges) that the Carrier was able to qualify for the international exemption outlined in § 54.706 (c).

The Carrier asserts that "the audit suggests taking 65% in USF on every net interstate revenue dollar."[9] This statement is factually incorrect as the Carrier did not qualify for the international revenue exemption outlined in § 54.706 (c), thus, the Carrier should have included its international revenues in the calculations. It is worth noting that the Carrier, in both calendar years 2005 and 2006, billed and collected USF on both interstate and international revenues.

USAC, contrary to the Carrier's charge, is not making policy, because 47 C.F.R. § 54.711(a) authorizes USAC to verify any information contained in the [Form 499] and this finding only identifies that the Carrier did not have proper documentation for the classification of MRC revenues as 100% international.

USAC management also agrees with IAD's recommendation that the Carrier submit a revised Form 499-A in accordance with the Form 499-A Instructions.[10] The Form 499-A Instructions have always provided examples to filers on how to identify interstate and

[8] 47 C.F.R. § 54.706(c): "Any entity required to contribute to the federal universal service support mechanisms whose projected collected interstate end-user telecommunications revenues comprise less than 12 percent of its combined projected collected interstate and international end-user telecommunications revenues shall contribute based only on such entity's projected collected interstate end-user telecommunications revenues."

[9] Carrier Response, page 8, line 10.

[10] 2007 FCC Form 499-A Instructions, page 11: "A filer must submit a revised Worksheet if it discovers an error in the revenue data that it reports."

international revenues[11] and this guidance for reporting toll service revenue has been further explained in *FCC 07-231*.[12]

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[11] 2007 FCC Form 499-A Instructions, page 21: "... [if] provider collects a fixed amount of revenue per minute of traffic, and 65 percent of minutes are interstate, then interstate revenues would include 65 percent of the per-minute revenues."

[12] *FCC Order 07-231*, footnote 47: "If on average a service provider derives five times as much revenue from an international minute as it does from an intrastate minute, then it would weight each international minute equivalent to five intrastate minutes in calculating a single traffic-based percentage to apply to all revenues. To the extent that a provider chooses to use a weighted traffic study, we again reiterate that such a study must meet the requirements for ensuring accuracy adopted in the *2006 Contribution Methodology Order*. *See 2006 Contribution Methodology Order*, 21 FCC Rcd at 7535, n.115."

Clear World Communications
Filing Years 2006 and 2007
Detailed Audit Finding #2
Universal Service Fund Recovery Charges

Criteria
47 C.F.R. § 54.712 (a) states:

> If a contributor chooses to recover its federal universal service contribution costs through a line item on a customer's bill the amount of the federal universal service line-item charge may not exceed the interstate telecommunications portion of that customer's bill times the relevant contribution factor.

The Instructions to the 2006 and 2007 Form 499-A (Instructions) state:

> Filers should report intrastate revenue on line 403 only to the extent that actual payments to state universal service programs were recovered by pass-through charges itemized on customer bills.[13]

Condition
To ensure that the Carrier complied with FCC rules when passing-through federal USF charges to end-users, IAD randomly selected 30 customer bills from the audited years. IAD noted federal USF was overcharged on 11 of the 30 customer bills.

- For the FCC Form 2006 499-A:
  During 3rd Quarter 2005, the Carrier charged a rate of 11.1 percent, however, the maximum contribution percentage allowable was 10.2 percent. IAD identified four invoices charging this rate.

- For the 2007 Form 499-A:
  During 3rd Quarter 2006, the Carrier charged a rate of 10.9 percent, however, the maximum contribution percentage allowable was 10.5 percent. IAD identified four invoices charging this rate.

  During 4th Quarter 2006, the Carrier charged a rate of 10.9 percent, however, the maximum contribution percentage allowable was 9.1 percent. IAD identified three invoices charging this rate.

In addition to overcharging USF, the Carrier was unable to identify the actual value of the state USF charges recovered for either the 2006 or 2007 Form 499-As, as required by the Instructions. USF charges for federal and state were combined together on the CDRs and reported on Line 403 for both years. The intrastate, interstate, and international

[13] March 2006 Form 499-A Instructions, § III.C.4 at 24 and 2007 Form 499-A Instructions, III.C.4 at 28.

jurisdiction on Line 403 was estimated based on the percentage of Line 414 for the 2006 Form 499-A and Line 414.1 for the 2007 Form 499-A.

Cause
The cause of USF overcharging is due to the FCC rate not being updated in the carrier's billing system. The Carrier uses a third party billing company known as the Billing Solutions Group (BSG).

State USF is not separately identified because the Carrier does not have the necessary systems in place to determine the difference between state and federal USF obligations. The customer call detail records only indicate a general USF charge and do not identify the components.

Effect
The specific monetary effect of USF overcharging on the Carrier's 2006 and 2007 Form 499-A contribution base cannot be determined. All invoices reviewed for 3rd Quarter 2005 were overcharging USF. All invoices reviewed for 3rd and 4th Quarters 2006 were overcharging USF with the exception of one. Thus, the total effect extends to a large majority of invoices during each of these periods.

The effect of estimating federal and state USF jurisdictional breakout results in an inability to identify the recovery charges collected from customers for remittal to the federal USF.

Recommendation
IAD recommends that the Carrier establish efficient internal controls to ensure it is charging the correct amounts of USF and can identify the state and federal portion of USF recovery.

The Carrier should ensure that BSG understands compliance with federal regulations of USF recovery charges. The Carrier should also conduct independent verification of customer bills at the start of each quarter to ensure BSG is charging no more than the allowable rate for that particular quarter. The Carrier should also request BSG separate out the Federal and state portion of thc USF charge.

The Carrier must identify the amount of overcharges it imposed on its customers for 3rd Quarter 2005 and 3rd and 4th Quarters 2006. The money should be refunded to the customers, or if the Carrier is unable to do so, remit the money to USAC as a USF contribution.

In addition, USAC management requires that sueh refund or payment to USAC occur within 60 days of issuance of the demand letter from USAC following finalization of this audit. USAC management also requires that the Carrier have an officer certify in writing to USAC the total amount refunded to customers, the total amount remitted to USAC and the total amount of overcharges by the carrier.

When revising Form 499-As, the Carrier should revise Line 403 to reflect amounts refunded to the Carrier's customers, or paid to USAC due to the Carrier's inability to refund all or a portion of the mentioned overcharges.

Carrier's Response
See Attachment A_2 for the Carrier's response.

IAD's Response to Carrier's Response
The Carrier stated on page 11, lines 10 – 13 of its response, that the variance is due to state USF. Our sample of 30 invoices was from customers located in California, Texas, Oregon, Massachusetts, New Jersey and Florida. IAD inquired about the USF line charge on the Carrier's call detail records and after multiple emails to the Carrier, we were informed that this line charge was for state and federal USF. On August 18, 2008, we inquired which of these states had a state USF charge. The Carrier responded on August 21, 2008 that Oregon and Texas had a state USF charge. There were two invoices, out of our 11 exceptions, that were from either Texas or Oregon. IAD calculated the overcharges taking into consideration state USF charges and still concluded that USF was overcharged.

The Carrier also stated on line 14 of the same page of its response that the overcharge is due to the cutoff of the Carrier's billing month compared to the change in the FCC quarter. IAD reviewed our testing and concluded that this did not occur in our sample. On January 27, 2009, IAD provided the Carrier with the audit findings and an other matter. IAD also described the processes associated with the conclusion of the audit, specifically the exit conference. On January 29, 2009, IAD clarified that the exit conference was to "go over the findings and answer any questions that you may have." USAC held the exit conference with the Carrier on February 5, 2009. The Carrier stated that they did not want to discuss the findings, but focused the conversation on another topic. During this period, the Carrier never requested USAC identify which invoices were overcharged. IAD will provide such information to aid in the Carrier's research; however, disclosing that information in the audit report is not a standard reporting practice

Although not mentioned in the audit findings, the Carrier also violated FCC Order 02-329.[14] Paragraph 42 of the order states: "To the extent that carriers recover their contribution cost through a separate line item on customer bills, they must accurately describe the nature of the charge." Paragraph 51 states: "...[t]o the extent that a carrier recovers its contribution cost through a line item, that line item may not exceed the relevant assessment rate." Since the Carrier included state and federal USF in one line,

[14] *In the Matter of Federal-State Joint Board on Universal Service, 1998 Biennial Regulatory Review – Streamlined Contributor Reporting Requirements Associated with Administration of Telecommunications Relay Service, North American Numbering Plan, Local Number Portability, and Universal Service Support Mechanisms*, CC Dockets No. 96-45 and 98-171, 17 FCC Rcd 24953, FCC 02-329 (2002) (*FCC Order 03-329*).

they are not in compliance with the requirements of this order and going forward should separate these charges.

USAC Management Response

USAC management has reviewed this finding and agrees with IAD that the Carrier was not in compliance with Paragraph 45 of *FCC Order 02-329* in that the Carrier marked up universal service line-item amounts above the relevant contribution factor. USAC management will request from the Carrier a detailed analysis of their USF charges for 3rd Quarter 2005 and 3rd and 4th Quarters 2006, to identify any marked up USF line items above the FCC established contribution factor. The Carrier should refund to its customers any overcharges and provide a certification to USAC that it has done so, or should instead remit the amounts to USAC as a contribution to the USF. The issue of non-compliance with *FCC Order 02-329* will also be referred the FCC Enforcement Bureau for possible additional action.

We note the Carrier's citing of cases dealing with the authority of various states and the FCC in the area of USF contribution obligations. The law in this area is well settled. USAC does not believe the cases cited by the Carrier are germane to this audit.

Clear World Communications
Filing Years 2006 and 2007
Other Matter #1
International USF Collected

Criteria
Carriers are authorized by FCC regulation to recover federal universal service contribution costs from end users. *See* 47 C.F.R. § 54.712. If a carrier makes such recoveries, then it may not at its discretion retain the funds. It either must refund those amounts to its customers if it should not have collected the funds in the first instance or remit those amounts to USAC to satisfy its USF contribution obligations. *See* 47 U.S.C. § 254(d); 47 C.F.R. § 54.706(a); *Instructions to the Telecommunications Reporting Worksheet*, generally and at page 34. *See also* 47 C.F.R. § 54.713.

Condition
Per review of the FCC Form 499-A, IAD noted that the Carrier collected USF surcharges from customers for international calls. At the time of the filing, the Carrier appeared to qualify for Limited Interstate Revenue Exception (LIRE)[15] status, and, therefore, the carrier only contributed to the USF fund based on its stated interstate revenues. The total amounts reported were $1,239,293 for the 2006 Form 499-A and $1,418,164 for the 2007 Form 499-A.

Cause
The Carrier was unaware that the USF charges should be refunded to its customers.

Effect
There is no effect to the Carrier's contribution base. However, customers who pay international USF to the Carrier did so with the assumption that the fees would be remitted to USAC.

Recommendation
Considering that the Carrier's LIRE status was withdrawn as a result of DAF #1, IAD recommends that, in the future, when the Carrier has a LIRE status, the USF collected on international revenue be refunded to its customers or if it is unable to do so, remit the money to USAC as a contribution to the USF.

When refunding the revenue, the Carrier should be aware that USAC Management will require that the Carrier have an officer certify in writing to USAC the action has occurred.

Carrier's Response
See Attachment A_2 for the Carrier's response.

[15] See 47 C.F.R. § 54.706(c) (2004).

USAC Management Response

USAC management has reviewed and agrees with this Other Matter. The amount of a carrier's federal universal service line item cannot exceed the relevant interstate telecommunications portion of the bill times the relevant contribution factor so that the federal universal service line items on customer bills should accurately reflect the extent of a carrier's contribution obligations.[16] When a carrier qualifies for the exemption outlined in 47 C.F.R. § 54.706 (c) the relevant interstate telecommunications portion of the bill does not include the carriers international revenues because the carrier does not have a USF obligation on these revenues. Any universal service charges assessed against non-relevant revenues not part of the contributor's funding base must be refunded to the customer or remitted to USAC as a contribution to the USF.

[16] *FCC Order 02-239* at ¶ 45.

Clear World Communications
Filing Years 2006 and 2007
Summary

Following is a summary of the audit findings discussed above and the estimated effect on the Carrier's USF contribution.

2006 Form 499-A (FY 2005 Revenues)

Form 499-A Line	Total Amount Reported	Interstate Amount Reported	International Amount Reported	Total Amount Audited	Interstate Amount Audited	International Amount Audited	Estimated Effect On Contribution Base
403	$ 1,630,549	$ 159,804	$ 1,239,293	$ 1,630,549	$ 159,804	$ 1,239,293	$ 1,239,293
414	$ 17,788,935	$ 1,748,598	$ 13,578,212	$ 17,788,935	$ 2,879,844	$ 10,854,557	$ 11,985,803
422	$ 2,840,727	$ 279,641	$ 2,200,922	$ 2,840,727	$ 279,641	$ 2,200,922	$ (2,200,922)
423	$ 16,578,857	$ 1,628,761	$ 12,616,583	$ 16,578,757	$ 2,760,007	$ 9,892,928	$ -
						Total Estimated Effect on Contribution Base	$ 11,024,174

2007 Form 499-A (FY 2006 Revenues)

Form 499-A Line	Total Amount Reported	Interstate Amount Reported	International Amount Reported	Total Amount Audited	Interstate Amount Audited	International Amount Audited	Estimated Effect On Contribution Base
403	$ 1,924,761	$ 191,706	$ 1,418,164	$ 1,924,761	$ 191,706	$ 1,418,164	$ 1,418,164
414.1	$ 20,088,110	$ 2,000,542	$ 14,800,865	$ 20,088,110	$ 3,655,752	$ 10,427,290	$ 12,082,500
422	$ 4,027,289	$ 401,118	$ 2,967,307	$ 4,027,289	$ 401,118	$ 2,967,307	$ (2,967,307)
423	$ 17,985,582	$ 1,791,130	$ 13,251,722	$ 17,986,037	$ 3,446,037	$ 8,877,581	$ -
						Total Estimated Effect on Contribution Base	$ 10,533,357

The estimated effect on the Carrier's contribution base is assessed on interstate and international revenues. The original filed Form 499-As qualified for LIRE.[17] However, it appears that the Carrier does not qualify for LIRE status based on audited revenue amounts. LIRE status is ultimately determined when the USAC billing system processes revenue reported on FCC Form 499-A.

This concludes the results of our audit. Certain information may have been omitted from this report concerning communications with USAC management or other officials and/or details about internal operating processes or investigations. This report is intended solely for the use of USAC and the FCC and should not be used by those who have not agreed to the procedures and taken responsibility for the sufficiency of those procedures for their purposes.

This report is confidential and its distribution is limited pursuant to the requirements of 47 C.F.R. § 54.711(b).

[17] See 47 C.F.R. § 54.706(c) (2004).

PROOF OF SERVICE

I am employed in the County of Orange, State of California. I am over the age of 18 and not a party to the within action; my business address is: 3 Hutton Centre Drive, Ninth Floor, Santa Ana, California 92707.

On **October 14, 2009**, I served the foregoing document described as:

REQUEST FOR REVIEW OF THE DECISION OF THE UNIVERSAL SERVICE ADMINISTRATIVE COMPANY BY CLEAR WORLD COMMUNICATIONS CORPORATION

on the interested parties in this action by placing [ ] the original [X] a true copy thereof enclosed in a sealed envelope addressed as follows:

*** PLEASE SEE ATTACHED SERVICE LIST ***

[X] **BY MAIL:** I deposited such envelope in the mail at Santa Ana, California. The envelope was mailed with postage thereon fully prepaid. I am "readily familiar" with the firm's practice of collection and processing correspondence for mailing. It is deposited with the United States Postal Service on that same day in the ordinary course of business. I am aware that on motion of party served, service is presumed invalid if postal cancellation date or postage meter date is more than one (1) day after date of deposit for mailing in affidavit.

[X] **BY ELECTRONIC MAIL:** I transmitted the foregoing documents by electronic mail to the party(s) identified on the attached service list by using the electronic mail as indicated. Said electronic mail were verified as complete and without error.

I declare under penalty of perjury under the laws of the United States of America and the State of California that the foregoing is true and correct.

Executed on **October 14, 2009**, at Santa Ana, California.

Dawn Conrad

Dawn Conrad

<u>SERVICE LIST</u>
Filer ID 818112

Universal Service Administrative Company Internal Audit Division 2000 L Street, NW, Suite 200 Washington, DC 20036	**(Served by mail)**
Nakesha Woodward Federal Communications Commission Kesha.Woodward@fcc.gov	**(Served by e-mail)**