

**Before the
FEDERAL COMMUNICATIONS COMMISSION
WASHINGTON, DC 20554**

In the Matter of)
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)
Request for Review by AT&T Inc. of) WC Docket No. 03-109
Decision of Universal Service)
Administrator)

**REQUEST FOR REVIEW BY AT&T INC. OF
DECISION OF THE UNIVERSAL SERVICE ADMINISTRATOR**

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February 1, 2010

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I. STATEMENT OF INTEREST AND ISSUES

Pursuant to sections 54.719(c), 54.721 and 54.722 of the Commission’s rules,¹ AT&T Inc., on behalf of its wholly owned subsidiary Cingular Wireless LLC (Cingular),² hereby seeks review of Universal Service Administrative Company (USAC) Management Responses to the Independent Auditor’s Report on Cingular Wireless’s Compliance with the Hurricane Katrina Order (USAC Audit No. LI2008LR005), which summarized an audit of Cingular’s compliance with the Commission’s *Hurricane Katrina Order*.³ In particular, AT&T seeks review of USAC’s erroneous conclusion that because Cingular was unable to produce copies of documents from the Federal Emergency Management Agency (FEMA), USAC should recover *all* Hurricane Katrina-related payments that Cingular received in response to providing special temporary

¹ 47 C.F.R. §§ 54.719(c), 54.721, 54.722.

² As a result of AT&T Inc.’s acquisition of BellSouth Corporation, 22 FCC Rcd 5662 (2007), Cingular became a wholly owned subsidiary of AT&T Inc. Cingular Wireless LLC’s name was changed on January 8, 2007 to AT&T Mobility LLC. Since the audit at issue concerned the compliance of legacy Cingular with the Commission’s rules, for simplicity’s sake, we will refer to that entity as “Cingular.” When discussing events that occurred post-audit period and post-AT&T/BellSouth merger, we will use “AT&T.”

³ See *Hurricane Katrina Order*, 20 FCC Rcd 16883 (2005); Appendix A (Letter to Jamie Michael Tan, AT&T Services, Inc., from Pamela Gallant, USAC, High Cost and Low Income Division (dated Dec. 1, 2009) (attaching the Final Audit Report). We note that even though the Final Audit Report is dated March 13, 2009, AT&T did not receive a copy of it (via electronic mail) until August 6, 2009.

Lifeline support to almost 20,000 customers. For the reasons provided below, AT&T requests that the Wireline Competition Bureau (“Bureau”) or Commission reverse this incorrect audit finding.

II. STATEMENT OF FACTS

In the aftermath of the devastating Hurricane Katrina, Cingular sought special designation as a temporary eligible telecommunications carrier (ETC) in order to provide Lifeline service to qualified individuals affected by that disaster.⁴ “[W]orking within the existing parameters of the low-income program,”⁵ the Commission established this temporary designation along with a special wireless Lifeline service in its *Hurricane Katrina Order*.⁶ For purposes of this special program (hereinafter referred to as Katrina Lifeline), the Commission determined that federal Lifeline support meant a free wireless handset and a package of at least 300 minutes of use, not to exceed \$130 per household available from the date of the release of its order to March 1, 2006.⁷ The Commission also found that “any person approved for FEMA disaster assistance or determined by FEMA to be eligible for individual assistance relating to the hurricane will be eligible for [Katrina Lifeline] on a per household basis.”⁸ For purposes of this order, the Commission defined “household” as “one adult and his/her dependents, living together

⁴ Petition of Cingular Wireless LLC for Designation as a Temporary ETC to Provide Relief to Victims of Hurricane Katrina, CC Docket No. 96-45, WC Docket No. 03-109 (filed Nov. 9, 2005) (Petition). The Wireline Competition Bureau stamp granted Cingular’s petition on November 16, 2005.

⁵ *Hurricane Katrina Order* at ¶ 18.

⁶ *Id.* at ¶¶ 8-24.

⁷ *Id.* at ¶ 11. The Commission subsequently extended the Lifeline benefit period by three months to June 1, 2006. See *Hurricane Katrina Extension Order*, 21 FCC Rcd 2803 (2006).

⁸ *Hurricane Katrina Order* at ¶ 17.

in the same residence.”⁹ The Commission required Katrina Lifeline applicants to “provide documentary evidence to the ETC serving them to demonstrate that FEMA determined they were eligible for individual disaster housing assistance. Proof of FEMA’s determination of eligibility for individual housing disaster assistance without repayment obligations is sufficient.”¹⁰

Additionally, the Commission required Katrina Lifeline applicants to “certify that they were residents of counties that are designated by FEMA as eligible for individual assistance, that they are the head of the household, and that they are only receiving one Lifeline special support package.”¹¹ The Commission indicated that a “signed letter with these certifications will suffice.”¹² The Commission instructed all participating ETCs to “maintain all necessary documentation to verify that the support was used for the intended purpose of assisting victims of Hurricane Katrina.”¹³ The Commission put all would-be participating ETCs on notice that it would “require all carriers receiving \$1 million or more of this support to undergo an audit or other investigatory review . . . to verify the accuracy of all data submitted and that the support was used for the intended purposes and to validate that the [ETC] has not obtained double-recovery from a single household.”¹⁴

Consistent with that order and in accordance with its Petition, Cingular made the following services available to eligible individuals: a free wireless handset and at least 300 minutes of use; up to 520 minutes for existing Cingular Go Phone – Pay as You Go prepaid

⁹ *Id.* at ¶ 12.

¹⁰ *Id.* at ¶ 17.

¹¹ *Id.* at ¶ 23.

¹² *Id.* at n.53.

¹³ *Id.* at ¶ 23.

¹⁴ *Id.*

customers; and up to 1300 minutes for existing Cingular postpaid customers.¹⁵ Eligible individuals were (1) heads of households, (2) residents of counties designated by FEMA as eligible for individual assistance; and (3) approved for FEMA disaster assistance or determined by FEMA to be eligible for disaster housing assistance without any obligation to repay FEMA for the support.¹⁶

It was clear to Cingular at the outset that if it chose to participate in this laudable temporary program, its compliance with the special rules that the Commission established in its *Hurricane Katrina Order* would be reviewed in an audit.¹⁷ Thus, Cingular developed a comprehensive set of methods and procedures (M&Ps) that it required its employees to follow to ensure that it was providing the *Hurricane Katrina Order* Lifeline benefit only to qualified individuals. Additionally, Cingular created a special Hurricane Katrina Lifeline database for employees to use to confirm that a customer (and household) requesting free service under the program had not already received a Katrina Lifeline package from Cingular.¹⁸ Cingular employees were required to enter customer information into this database to determine if a customer already had received Katrina Lifeline support and that information was validated against all other records in the database based on the customer's last name, current address, social security number, and wireless phone number.¹⁹ Only after the employee verified that the

¹⁵ Petition at 2; *Hurricane Katrina Order* at ¶ 22 (describing variations of acceptable offerings in addition to the free wireless handset plus at least 300 minutes of use package).

¹⁶ See Petition at 3; *Hurricane Katrina Order* at ¶¶ 17, 23. We will refer collectively to these offerings as our Katrina Lifeline package.

¹⁷ *Hurricane Katrina Order*, ¶ 23 (“we require all carriers receiving \$1 million or more to undergo an audit or other investigatory review”).

¹⁸ Petition at 3.

¹⁹ *Id.*

customer (and household) had not already obtained a Lifeline package from Cingular could that employee process the transaction.²⁰ Cingular also required its employees (and the third-party vendor that processed mail-in certifications) to forward all documentation provided by customers to verify program eligibility to a vendor for scanning so that such documentation would be available to the Commission or USAC via an optical viewer.²¹

As explained in its response to the auditors, Cingular expended significant resources (in a compressed period of time, due to the exigency of the situation) in order to develop its Katrina Lifeline program. In sum, the steps that Cingular took included the following:

created a cross function team dedicated to creating the processes, systems, and methods and procedures; built feature and tracking codes to apply credits/adjustments to customers, including the creation of billing system scripts to apply credits; updated the prepaid platform to apply credits/minutes; secured handsets and created process to support equipment fulfillment; communicated support to impacted customers in advertisements in local papers and on the AT&T website; created counter cards and displayed in the Company Owned Retail (“COR”) stores in the impacted and surrounding areas; created methods and procedures for all customer facing personnel supporting the program (sales, customer service, local dealers, and so forth); created and launched process to send a text/SMS message to customers to confirm credits had been applied; developed a team to handle notification of denial of benefits; established a team to handle customer inquires; created a database to capture customer information; developed scripting to capture fallout/errors along with a report for error resolution by back office team; established process for retention of records through outsource vendor which included scanning of required documents; created customer flows for application processing through the various channels and hand off procedures to the appropriate groups; held training sessions and dedicated staff meetings to review program expectations, requirements, and methods and procedures with customer facing associates; and, created reports and processes to support audits and controls for information needed in the event of an audit.²²

²⁰ *Id.* Cingular also reserved the right to subsequently deny a Lifeline package after the initial validation if Cingular subsequently found reason to believe that the request was a duplicate or the customer was otherwise ineligible. *Id.* at 4.

²¹ *Id.* at 4.

²² *See* Final Audit Report at 27-28.

In a letter dated April 22, 2008, USAC informed Cingular that it was going to audit Cingular's compliance with the Commission's *Hurricane Katrina Order*. This audit began several months later and resulted in a final audit report that contained several findings, including "Eligibility and Certification – Missing Documentation," where USAC recommends recovering all Katrina Lifeline payments from Cingular because Cingular was unable to produce 119 out of 120 FEMA letters.²³ As part of the audit, USAC "obtained and examined 120 subscriber bills and handset invoices to ensure that the Hurricane Katrina temporary Low Income support received by the Beneficiary was passed on to the subscriber."²⁴ In other words, USAC validated that Cingular passed along the full amount that it received from USAC to 100 percent of its Katrina Lifeline subscribers.

As noted above, Cingular retained a vendor to scan Katrina Lifeline-related customer documentation forwarded to it from Cingular's stores and a third-party vendor retained to process requests that were mailed in. For reasons that remain unclear, Cingular does not have copies (electronic or paper) of all of the documents that its employees forwarded to the scanning vendor.²⁵ In particular, Cingular does not have electronic or paper copies of the FEMA documentation (i.e., either a FEMA authorization letter indicating eligibility for individual disaster assistance without any repayment obligation or proof of payment from FEMA) for some

²³ Final Audit Report at 6-7. We note that most of the other findings relate to Cingular's inability to produce all of its Katrina Lifeline subscribers' certification forms or FEMA documents.

²⁴ *Id.* at 5.

²⁵ Based on one of the vendor's invoices, it is clear that the vendor charged Cingular to scan 69,049 documents, which, for 19,654 subscribers, corresponds to 3.5 pages per subscriber. *See* Attachment B. Cingular's Katrina Lifeline application form is two pages. *See* Petition, Exh. D. We note as an aside that the version of the application form that USAC attached to its Final Audit Report is four pages. Final Audit Report at 31-34. That is not the correct length of the form that Cingular's Katrina Lifeline subscribers completed, however, and we suspect that the two page increase was a result of some copying issue with USAC or between USAC and Cingular.

unknown, yet we believe high, percentage of its Katrina Lifeline subscribers. In its Final Audit Report, USAC notes that it requested copies of FEMA eligibility letters and customer certifications for 120 subscribers. According to USAC, Cingular was unable to provide FEMA letters for 119 of the 120 subscribers.²⁶ In addition, USAC stated that Cingular was unable to produce customer certifications for 47 of the 120 subscribers (or 39 percent of the 120).²⁷ AT&T personnel performed their own randomly selected, statistically valid sample of the 19,654 Katrina Lifeline subscriber listings to determine whether we had copies of signed customer certifications for those customers.²⁸ Based on AT&T's analysis, Cingular had 64 percent of the customer certifications from that sample. Upon request, we will make available the underlying documentation supporting our analysis to the Bureau or USAC.

III. KATRINA LIFELINE ETCs WERE NOT REQUIRED TO RETAIN COPIES OF FEMA DOCUMENTS AND, THEREFORE, USAC ERRED IN CONCLUDING THAT IT SHOULD RECOVER ALL KATRINA LIFELINE SUPPORT PAID TO CINGULAR BECAUSE CINGULAR DOES NOT HAVE THESE RECORDS.

AT&T respectfully requests that the Bureau reject USAC's erroneous conclusion that participating Katrina Lifeline ETCs were required to *retain* copies of their subscribers' FEMA eligibility letters. Instead, the Bureau should agree with AT&T that it was sufficient for the applicant to produce the FEMA documentation in person to ETC personnel and for the subscriber to certify, under penalty of perjury, on the application form that FEMA determined he/she was eligible for individual housing assistance related to Hurricane Katrina without any obligation to repay FEMA for such support. Similarly, for those subscribers who mailed in their applications along with copies of government-issued identification and the FEMA Eligibility

²⁶ Final Audit Report at 6.

²⁷ *Id.*

²⁸ AT&T used a larger sample size of 488 subscriber listings.

Determination Letter or proof of payment from FEMA, it is sufficient that the person in the call center who reviewed the applicant's information validated that the application form was completed accurately and copies of those two documents were included. In this regard, we note that Cingular's Certification of Eligibility Application required a Cingular store or call center employee to initial that "I validated that the applicant is eligible for the Hurricane Katrina Lifeline Package and I have received all required documentation."²⁹ Immediately beneath that statement, the Cingular employee had to write his/her initials next to: "Government Issued ID," "Certification of Eligibility Application," and "FEMA Eligibility Letter or proof of payment (FEMA check stub or deposit slip) from FEMA."³⁰

As AT&T noted in its response to the draft audit report, the Commission designed the Katrina Lifeline program to "work within the parameters of the existing program."³¹ Under the Commission's Lifeline rules, ETCs operating in federal default states "must retain certifications regarding a consumer's eligibility for Lifeline for as long as the consumer receives Lifeline service from that ETC. . . ."³² Applicants to the regular Lifeline program may demonstrate their eligibility in one of two ways: self-certification that the applicant participates in a qualifying program such as Medicaid or Food Stamps, or a certification that the applicant's income is at or below 135 percent of the Federal Poverty Guidelines along with some proof of income (e.g., W-

²⁹ Petition, Exh. D at 2.

³⁰ *Id.*

³¹ *Hurricane Katrina Order* at ¶¶ 12, 18.

³² *Lifeline and Link-Up*, WC Docket No. 03-109, 20 FCC Rcd 1918, ¶ 38 (2004) (*2004 Lifeline and Link-Up Order*). In 2007, the Commission extended this recordkeeping requirement for as long as the consumer receives Lifeline service from that ETC and three years thereafter. *Comprehensive Review of the Universal Service Fund Management, Administration, and Oversight*, WC Docket No. 05-195 (and related proceedings), 22 FCC Rcd 16372, ¶ 25 (2007).

2, pay-stub).³³ In its *2004 Lifeline and Link-Up Order*, the Commission stated that its rules “do not require ETCs to retain the consumer’s corroborating documentation. ETCs need only retain records of their self-certifications and those made by the applicant.”³⁴ Indeed, in a Federal Register notice published in 2005, the Commission stated,

*Pursuant to OMB guidance, we emphasize that while carriers are allowed to ask for information to verify eligibility, they are not allowed to keep records of the actual information contained in the documents that are presented to them. Rather, carriers may only keep a record that the appropriate documentation was presented and reviewed at the point of eligibility determination.”*³⁵

AT&T provided this information to USAC in response to the draft audit report’s finding that, because Cingular was unable to provide 119 out of 120 FEMA documents, USAC should recover all Katrina Lifeline support paid to Cingular. In its Final Audit Report, USAC, in turn, responded that AT&T’s claim (that it was not required to retain a copy of FEMA documentation) “is without merit. In fact, the *Katrina Order* specifically required that customers *provide* proof of FEMA eligibility, which is different from the requirement that customers qualifying for regular Lifeline merely *present* documentation of their household income.”³⁶ Commission precedent on this point is not as clear as USAC would have one believe. In its *2004 Lifeline and Link-Up Order*, the Commission uses the terms “provide” and “present” interchangeably when discussing a consumer’s qualification under the income-based standard. For example, the Commission states that for “federal default states, we adopt rules reflecting the Joint Board’s recommendation that consumers must *provide* documentation of income eligibility at

³³ *2004 Lifeline and Link-Up Order* at ¶¶ 27-31.

³⁴ *Id.* at ¶ 31. The Commission noted in this regard that “participation with need-based programs is easily verified.” *Id.* at ¶ 27.

³⁵ 70 Fed. Reg. 30110-11 (rel. May 25, 2005) (emphasis in original).

³⁶ Final Audit Report at 12, citing 47 C.F.R. § 54.416 (emphasis in original and further citations omitted).

enrollment.”³⁷ In the Joint Board’s Recommended Decision, it too uses the term “provide” in describing how a consumer would demonstrate that he/she is qualified for Lifeline support based on his/her income.³⁸ It was likely due to the ambiguity in the Commission’s orders and rules that the Commission felt compelled to clarify in 2005 that ETCs were *not* to retain “records of the actual information contained in the documents that are presented to them.”³⁹

Cingular, and other Katrina Lifeline participating ETCs, should be permitted to rely on the information contained in their subscribers’ applications to demonstrate that these subscribers were eligible for the Katrina Lifeline package. As noted above, Cingular’s application required subscribers to make a number of certifications (i.e., resident of impacted county/parish at the time of Hurricane Katrina, FEMA determined that he/she was eligible for individual housing assistance with no obligation to repay FEMA, he/she is head of the household, and this is the only Katrina Lifeline package that he/she requested from Cingular or any other wireless provider).⁴⁰ They were also required to produce for Cingular store employee verification a government-issued ID and a copy of FEMA documentation (either their “Eligibility Determination Letter” or proof of payment from FEMA).⁴¹ Subscribers were then required to

³⁷ *2004 Lifeline and Link-Up Order* at ¶ 30 (emphasis added). In that same paragraph, the Commission states that if a consumer chooses to “proffer” any documents other than a previous year’s income tax return, the consumer must “present” three consecutive months worth of income statements within that calendar year. *Id.*

³⁸ *Federal-State Joint Board on Universal Service*, CC Docket No. 96-45, Recommended Decision, 18 FCC Rcd 6589, ¶¶ 35 (“States could access the documentation via an online database, if available in that state, or could require consumers to *provide* one or more forms of documentation from the following list . . .”), 36 (“We recommend that the federal default criteria require consumers to *provide* one or more forms of documentation from the list above. . . .”) (2003) (emphasis added).

³⁹ 70 Fed. Reg. 30110-11.

⁴⁰ Petition, Exh. D at 2

⁴¹ *Id.* at 1. For those subscribers who mailed in their applications, Cingular required those individuals to include copies of these documents with the completed and signed application. *Id.*

sign their names beneath the following statement: “I hereby certify under penalty of perjury that the information contained on this application is true and correct.”⁴² In other words, Cingular followed the Commission’s existing low-income requirements and “*ke[pt] a record that the appropriate documentation was presented and reviewed at the point of eligibility determination.*”⁴³

USAC cannot explain why the information obtained by Cingular in its application form is inadequate to demonstrate that its subscribers were indeed eligible to participate in this special program. Instead, it simply states that, “[w]ithout proof of eligibility provided by the Beneficiary, USAC cannot validate the customers’ eligibility and, thus, has no way to ensure that the support was ‘used for the intended purpose of assisting victims of Hurricane Katrina.’”⁴⁴ USAC ignores altogether the “proof of eligibility” that is contained in the subscribers’ applications. While AT&T believes that nothing more is required, we note that, like program-based eligibility, whether a particular individual received FEMA disaster housing assistance is “easily verified.”⁴⁵ The Commission and, likely, its designee (USAC) have the ability to confirm this information with FEMA, which has a database of those individuals who received assistance related to Hurricane Katrina. AT&T learned of the existence of these records during USAC’s audit and informed the auditors that this information is available but the auditors declined AT&T’s suggestion that they contact FEMA to confirm that the 120 individuals selected by USAC as part of its audit in fact received Hurricane Katrina-related disaster housing

⁴² *Id.* at 2.

⁴³ 70 Fed.Reg. 30110-11 (emphasis in original).

⁴⁴ Final Audit Report at 12.

⁴⁵ 2004 *Lifeline and Link-Up Order* at ¶ 27.

assistance.⁴⁶ It would be particularly inappropriate to recover all Katrina Lifeline payments received by Cingular because Cingular did not have copies of FEMA documentation when it was not required to retain such copies *and* the Commission and its designee could “easily verify” with FEMA that the 120 subscribers selected by USAC did indeed receive disaster housing assistance.

By upholding what is essentially USAC’s strict liability decision and seeking full recovery from Cingular, the Bureau would not only chill future participation in Katrina Lifeline-like programs, its decision would be inconsistent with Commission precedent. The Commission has previously determined in the Schools and Libraries context that “[i]n situations where disbursement of funds is warranted under the statute and rules, but an erroneous amount has been disbursed, the amount of funds that should be recovered is the difference between what the beneficiary is legitimately allowed under our rules and the total amount of funds disbursed to the beneficiary or service provider.”⁴⁷ In a 2008 order, the Commission extended its recovery findings made in the *Schools and Libraries Fifth Report and Order* to all of its universal service programs, including the low-income program.⁴⁸ As a result, the *most* that USAC should recover from Cingular is \$920,181.60 (36 percent of 19,662 subscribers x \$130).⁴⁹

⁴⁶ For obvious privacy reasons, FEMA will not share any individual’s information with a private party such as AT&T.

⁴⁷ *Schools and Libraries Fifth Report and Order*, 19 FCC Rcd 15808, ¶ 20 (2004).

⁴⁸ *See USAC Program Management Order*, 22 FCC Rcd 16372, ¶ 30 (2008).

⁴⁹ The 36 percent is based on AT&T’s own analysis of a randomly selected, statistically valid sample of Cingular’s Katrina Lifeline subscriber listings in which it determined that it did not have signed application forms for 176 out of the 488 queried (or 36 percent). AT&T will make available all of its supporting documentation for Bureau or USAC review. Moreover, if requested, AT&T will make available its entire optical file to the Bureau or USAC for further analysis.

But even that amount is excessive given the rigorous M&Ps Cingular established at the inception of its participation in this program that were designed to ensure its compliance with the Commission's rules. For example, as explained in response to this particular draft audit finding,⁵⁰ Cingular developed a Hurricane Katrina Lifeline database for this program. Before a new customer record could be entered into this database, the system logic would verify that a matching record based on certain fields had not already been entered. Cingular store employees thus had to validate that the customer had not already received a Cingular Katrina Lifeline package (based on the customer's last name, current address, social security number, and Cingular wireless phone number) before they could process the transaction.⁵¹ These employees were also trained to review three documents (government-issued identification, specific FEMA documentation, and the application form itself) in order to validate that the applicant was eligible for the Katrina Lifeline package.⁵² This step would occur even before the employee checked the Hurricane Katrina Lifeline database. Based on the checks that Cingular established for this temporary program, the Bureau should have confidence that even the 36 percent of subscribers for whom we do not have signed application forms were eligible to participate. In fact, the Bureau or USAC could ask FEMA to confirm whether a sample of those subscribers for whom Cingular no longer has the application form did receive Hurricane Katrina disaster housing assistance to verify our contention.

⁵⁰ Final Audit Report at 7-9.

⁵¹ Petition at 3.

⁵² Petition, Exh. D.

IV. CONCLUSION

For the foregoing reasons, AT&T respectfully requests that the Bureau or the Commission reject USAC's decision to recover all support that Cingular received as a result of its participation in the Hurricane Katrina Lifeline program because Cingular did not retain copies of a document it was not required under the Commission's rules to keep.

Respectfully Submitted,

/s/ Cathy Carpino
Cathy Carpino
Gary Phillips
Paul K. Mancini

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February 1, 2010

Its Attorneys

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DECLARATION OF ERIKA K. THOMPSON-KEMP

I, Erika K. Thompson-Kemp, do hereby, under penalty of perjury, declare and state as follows:

1. My name is Erika K. Thompson-Kemp. I am a Vice President/General Manager with AT&T Mobility Services LLC, a wholly owned subsidiary of AT&T Inc. At the time that Cingular Wireless LLC (Cingular) applied for and received special designation as a temporary eligible telecommunications carrier for purposes of participating in the FCC's Hurricane Katrina Lifeline program, I was a Vice President – Sales Operations for Cingular Wireless LLC. In that capacity I developed Cingular's Hurricane Katrina Lifeline ETC proposal and oversaw its implementation and execution. Consequently, I was and am familiar with Cingular's participation in this temporary FCC program and the steps that Cingular took to comply with the FCC's requirements contained in its *Hurricane Katrina Order*.
2. In accordance with Commission rules, 47 C.F.R. § 54.721(b)(2), I have reviewed the factual assertions set forth in the appeal and hereby certify that they are true and correct to the best of my knowledge.


Name

Dated: 2/11/2010

ATTACHMENT A



Pamela Gallant
Director, Low Income Program

High Cost and Low Income Division

Via Certified Mail

December 1, 2009

Jamie Michael Tan
AT&T Services, Inc.
1120 20th St. NW Suite 1000
Washington, DC 20036

RE: Results of 2008 Hurricane Katrina Lifeline Audit of Cingular Wireless

Dear Mr. Tan:

As you know, the Internal Audit Division of the Universal Service Administrative Company (USAC) conducted an audit of Hurricane Katrina Lifeline support received between November 2005 and June 2006. The final report from that review was sent to the company and an additional copy is attached for your reference. The auditors found that Cingular Wireless was not compliant with the rules.

Because Cingular Wireless cannot provide proof of eligibility for its customers who received Hurricane Katrina Lifeline, the auditors recommended that USAC recover all Hurricane Katrina support, \$2,556,060. Without the documentation, USAC cannot ascertain whether support was provided to eligible households as defined by FCC's rules. The audit findings are set forth below and include the monetary effect related to each finding based on the audit sampling.

Proof of Eligibility. The auditors found that Cingular Wireless could not locate the FEMA authorization letters for 119 out of 120 sampled subscribers. Cingular Wireless does not dispute that it cannot provide proof of eligibility for its customers who received Hurricane Katrina Lifeline. The monetary effect of this finding is \$15,470.

Duplicate Address. The auditors found both duplicate telephone numbers and duplicate subscriber names on the list of Hurricane Katrina subscribers provided by Cingular Wireless. The monetary effect of this finding is \$56,550.

Designated Area. The auditors discovered that Cingular Wireless claimed Hurricane Katrina support for customers living in counties outside of the FCC-designated area. The monetary effect of this finding is \$4,940.

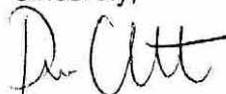
Subscriber Listing. The auditors found that Cingular Wireless's subscriber list had fewer subscribers than the company claimed on its *Hurricane Katrina Lifeline and Link Up Assistance* worksheet, resulting in a \$1,040 overpayment. Further, the auditors noted that the subscriber list had blank fields and business-like names, resulting in a \$3,380 overpayment. The monetary effect of these findings is \$4,420.

Time Period. The auditors noted that Cingular Wireless claimed Hurricane Katrina support for customers that initiated service after June 1, 2006, after the FCC's deadline. The monetary effect of this finding is \$1,430.

Consistent with the auditors' overall recommendation, USAC will issue an invoice to Cingular Wireless in the amount of \$2,556,060.

If you wish to appeal this decision to the FCC, the appeal must be filed within 60 days of the date of this letter. Additional information about the appeals process may be found on USAC's web site at www.universalservice.org/li/about/filing-appeals.

Sincerely,



Pamela Gallant

Director, Low Income Program

Enclosures



Universal Service Administrative Company

To: Ms. Karen Majcher, Vice President, High Cost and Low Income Division

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

Date: March 13, 2009

Re: Independent Auditor's Report on Cingular Wireless's Compliance with the Hurricane Katrina Order (USAC Audit No. LI2008LR005)

Introduction

The Universal Service Administrative Company (USAC) Internal Audit Division (IAD) audited Cingular Wireless (Beneficiary or AT&T) for compliance with the Federal Communications Commission's Hurricane Katrina Order¹ (the Rules). Compliance with the Rules is the responsibility of the Beneficiary's management. USAC IAD's responsibility is to express an opinion on the Beneficiary's compliance with the Rules based on our audit.

Purpose and Scope

The *Katrina Order* required all entities receiving \$1 million or more of support to undergo an audit or other investigatory review to verify the accuracy of all data submitted and that the support was used for intended purposes and to validate that the eligible telecommunications carrier has not obtained double-recovery from a single household.²

IAD conducted this performance audit in accordance with Generally Accepted Government Auditing Standards (GAGAS) issued by the Comptroller General of the United States (2007 Revision, as amended).³ 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. Our audit included examining, on a test basis, evidence supporting the data used to calculate support, as well as performing such other procedures, as we considered necessary to form an opinion. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objectives.

We obtained and examined the Beneficiary's documentation to support the amounts reported on its submittal that is the equivalent to the FCC Form 497 (Form 497) for the

¹ *In the Matter of Federal-State Joint Board on Universal Service*, 20 FCC Rcd 16883, FCC 05-178 (2005) (*Katrina Order*).

² *Katrina Order* at ¶ 23.

³ See *Government Accountability Office, Government Auditing Standards: July 2007 Revision*, GAO-07-731G, (July 2007) (*GAGAS*).

period November 2005 through June 2006. The following chart summarizes the support the Beneficiary received during the audit period.

	Number of Subscribers	Amount of Support
Lifeline	19,662	\$2,556,060
Link Up	0	0
Total		\$2,556,060

We performed procedures to determine whether the Beneficiary complied with the Rules. For the purposes of this report, a finding is a condition that shows evidence of noncompliance with the Rules.

Conclusion

USAC IAD concludes that the Beneficiary was not compliant with the Rules for the period reviewed. Our examination disclosed six findings, and based on these results, IAD recommends that the full amount of support paid to the Beneficiary in the amount of \$2,556,060 be recovered.

IAD is required to conduct its audits in accordance with GAGAS,⁴ which requires that an auditor must obtain sufficient, appropriate evidence to substantiate audit findings and recommendations.⁵ The *Katrina Order* states that beneficiaries must make available any documentation and records necessary to verify compliance with the rules (e.g., substantiate that the beneficiary used the funds to provide support to eligible subscribers⁶). As described in detail in Audit Finding #1 below, during the course of this audit, the Beneficiary was unable to provide the required eligibility documents for 119 of the 120 items in IAD's requested sample. Based on this sample, as well as on statements by the Beneficiary that documentation was similarly unavailable for the beneficiaries not included in the sample, IAD has reasonable confidence that the condition that exists with the sample (i.e., Beneficiary inability to provide documentation to support eligibility) exists for the full population of subscribers. As such, IAD is unable to determine the eligibility of Beneficiary's entire population of Hurricane Katrina Lifeline applicants.

The Beneficiary informed us that it hired a vendor to scan, store, and transmit documents related to subscriber eligibility. This vendor is no longer in business, leaving the Beneficiary without the ability to access the required documentation. IAD's recommendation that USAC management seek full recovery is based on the fact the Beneficiary could not provide documentation to verify the eligibility of its subscribers, which is undisputed.

Federal-State Joint Board on Universal Service, CC Docket No. 96-45, Order, 18 FCC Red 19911, FCC 03-232 (2003) (*USAC GovGAAP Order*).

⁵ See *GAGAS*, § 7.55 (July 2007).

⁶ *Katrina Order* at ¶ 23.

An auditor cannot rely solely on the Beneficiary's assertions (as opposed to sufficient, appropriate evidence) that its subscribers were in fact eligible. Maintaining and making available sufficient, appropriate evidence to substantiate its subscribers' eligibility is a core foundation of the Low Income program and a fundamental requirement of GAGAS auditing standards and audit best practices. Thus, we recommend that USAC management seek full recovery of Hurricane Katrina temporary Lifeline support paid to the Beneficiary.

Findings

- Eligibility and Certification – Missing Documentation.
- Subscriber Listing - Duplicate Records.
- Subscriber Addresses – Not in FEMA Designated Areas.
- Subscriber Listing – Inadequate Records.
- Support Period – Deadline Elapsed.
- Form 497 – Inaccurate Number of Subscriber Claimed.

Exceptions Taken and Recovery Action

Finding	Monetary Effect of Finding	USAC Management Recovery Action
#1 - Eligibility and Certification - Missing Documentation*	\$15,470	\$2,556,060
#2 - Subscriber Listing - Duplicate Records	\$56,550	\$56,550
#3 - Subscriber Address - Not in FEMA Designated Areas	\$4,940	\$4,940
#4 - Subscriber Listing - Inadequate Records	\$3,380	\$3,380
#5 - Support Period - Deadline Elapsed	\$1,430	\$1,430
#6- Form 497 - Inaccurate Number of Subscribers Claimed	\$1,040	\$1,040

* Although the total monetary effect of the Eligibility and Certification finding is \$15,470, IAD noted that the Beneficiary was unable to provide eligibility documentation to support 99% of our sample selection. Considering the impact on our sample, IAD has reasonable confidence that the condition that exists with the sample, also exists for the population. The Beneficiary did not fulfill its obligation to retain and make available eligibility documentation necessary to verify compliance with the Hurricane Katrina Order.⁷ Therefore, IAD recommends full recovery of Hurricane Katrina temporary Lifeline support paid to the Beneficiary. While there is a monetary effect and recovery action for the remaining findings, the total amount of support to be recovered will not exceed the \$2,556,060 total amount paid to the Beneficiary.

⁷ See *Katrina Order* at ¶ 23.

Audit Procedures Overview

A. General Procedures

We obtained and reviewed the Beneficiary's Eligible Telecommunications Carrier (ETC) designation order to ensure the Beneficiary was designated prior to receiving support.

B. Application Process

We obtained an understanding of the Beneficiary's application process relating to the Hurricane Katrina Order and the Low Income Support Mechanism. The Beneficiary's subscribers were required to complete a Certification Form and certify under penalty of perjury that they were residents of counties as designated by the Federal Emergency Management Agency (FEMA) as eligible for individual assistance, that they were head of their household, and that they were receiving only one Lifeline support per household.⁸ To ensure that customers met the eligibility criteria, they were required to produce government issued identification along with a copy of the FEMA letter or proof of payment from FEMA stating that the applicant is eligible for housing assistance related to Hurricane Katrina with no obligation to repay FEMA for funds received.⁹

C. Advertising

We obtained and examined the Beneficiary's evidence of advertising to ensure it publicized the availability of Lifeline and Link Up service in a manner reasonably designed to reach those likely to qualify for the service.

D. Form 497

We obtained and examined the Beneficiary's Form 497s for accuracy by comparing the amounts reported against the Beneficiary's data files.

E. Subscriber Listing

We obtained and examined the Beneficiary's subscriber listing and used computer assisted auditing techniques to analyze the data files and perform the following procedures:

- Compared the total number of subscribers to what was reported on the Form 497s.
- Verified whether the data file contains any duplicate subscriber names, telephone numbers or addresses.
- Verified whether the data file contains blank telephone numbers/addresses or business names/addresses.
- Verified whether subscriber lines were connected prior to October 14, 2005 or subsequent to June 1, 2006.
- Verified whether the impacted address is in the counties or parishes designated by FEMA for individual disaster relief.

⁸ See generally, *Katrina Order* at ¶ 17.

⁹ *Id.*

F. Subscriber Discounts

We obtained and examined 120 subscriber bills and handset invoices to ensure that the Hurricane Katrina temporary Low Income support received by the Beneficiary was passed on to the subscriber.

G. Subscriber Eligibility

We requested 120 Certification Forms. The Beneficiary could not provide 47 Certification Forms. As such, we obtained and examined 73 Certification Forms to verify the following:

- The name and address on the eligibility certification matched the subscriber listing and subscriber bill/handset invoice.
- The Beneficiary required applicants to certify that they were residents of counties designated by FEMA as eligible for individual assistance, that they were head of their household, and that they are receiving only one Lifeline support per household.

We requested 120 FEMA authorization letters. The Beneficiary could not provide 119 FEMA authorization letters. As such, we obtained and examined one FEMA authorization letter to verify the following:

- The name and address on the FEMA documentation matched the subscriber listing and subscriber bill/handset invoice.
- The Beneficiary obtained appropriate documentation from the subscriber that confirmed that FEMA determined the subscriber was eligible for individual disaster housing assistance and that the subscriber did not have any obligations under FEMA rules to repay the support received.

Our audit findings as well as responses to the findings are included below. We have evaluated the validity of the Beneficiary's responses to each of our findings and provided a response. Although the Beneficiary disagreed with all of our findings, our position on these matters remains unchanged.

Audit Finding #1
Eligibility and Certification – Missing Documentation

Criteria

Any person approved for FEMA disaster assistance determined by FEMA to be eligible for individual assistance relating to the hurricane will be eligible for temporary federal Lifeline and Link-Up support, on a per household basis.¹⁰

[W]e require consumers qualifying for this support to provide documentary evidence to the ETC serving them to demonstrate that FEMA determined that they were eligible for disaster housing assistance. Proof of FEMA's determination of eligibility for individual housing disaster assistance without repayment obligations is sufficient.¹¹

[W]e require applicants for the temporary Lifeline support pursuant to this Order to certify that they were residents of counties that are designated by FEMA as eligible for individual assistance, that they are head of their household, and that they are that they are receiving one Lifeline support package. Applicants seeking Link-Up support must certify that they were residents of counties that are designated by FEMA as eligible for individual assistance. We require ETC's receiving this temporary support to maintain all necessary documentation to verify that the support was used for the intended purposes of assisting victims of Hurricane Katrina¹²

All eligible telecommunications carriers, service providers, or beneficiaries requesting support under these temporary rules shall be subject to audit or investigation by the Commission's Office of Inspector General ("OIG"), or other authorized federal or state governmental agency and, upon request, must make available any documentation and records necessary to verify compliance with these rules.¹³

Condition

We requested certifications for 120 subscribers to verify that they were residents of counties that are designated by FEMA as eligible for individual assistance; that they are head of their household; and that they received only one Lifeline support package. The Beneficiary was unable to provide certifications for 47 subscribers, therefore, we were unable to determine whether these subscribers certified as required under the *Katrina Order*. In addition, we requested eligibility determination letters for these same 120 subscribers to ensure that the subscribers met the eligibility requirements to receive temporary federal Lifeline and Link-Up support. The Beneficiary provided documentation evidencing eligibility for one subscriber, but was unable to provide documentation for 119 subscribers.

¹⁰ *Katrina Order* at ¶ 17.

¹¹ *Id.*

¹² *Id.* at ¶ 23.

¹³ *Id.* at ¶ 5.

Cause

The Beneficiary is unable to locate the eligibility determination letters for 119 of 120 subscribers in IAD's sample. Per the Beneficiary, a third-party vendor was engaged to scan and store the required documentation for the Katrina Lifeline Program. The Beneficiary believes that the vendor scanned and transmitted some documents; however, it did not fulfill its obligation for all the Katrina Lifeline documents. As the vendor is no longer in business, the Beneficiary cannot retrieve the required documentation.

Effect

The Beneficiary was unable to provide eligibility documentation for the selected subscribers. Therefore, IAD cannot determine whether these subscribers were eligible to receive temporary federal Lifeline and Link-Up support. The monetary effect of this finding is a \$15,470 overpayment of support.

Missing eligibility documentation	119
Support amount	x \$130
Total overpayment	<u>\$ 15,470</u>

Recommendation

Given the inability of the Beneficiary to provide the required eligibility documents for our requested sample, we recommend that USAC management recover all Katrina Lifeline support.

Beneficiary Response

AT&T strongly disagrees with the recommendation in the DAF [Eligibility and Certification]" that USAC management recover all Katrina Lifeline support" from AT&T. This is an overly punitive recommendation and does not have any relation to the facts associated with this DAF. The DAF does *not* find that AT&T did not pass on all of the Hurricane Lifeline credits to its customers¹⁴ and the auditor has not proven that AT&T's Katrina Lifeline customers were *not* eligible to receive the benefit. Instead the DAF recommendation is based on AT&T's inability to produce the certification of eligibility forms for 47 customers and the FEMA authorization letter for 119 customers. AT&T will address each group of documents in turn below.

47 Missing Certification of Eligibility Forms: Even though AT&T only had a very short period of time to develop and implement the entire Katrina Lifeline program, AT&T expended considerable resources on document retention and had a policy and procedure in place. For example in its *Katrina Petition*, AT&T addressed document retention by stating that all Company Owned Retail ("COR") locations and third party agents would be mandated to submit all required documentation on a weekly basis to a vendor AT&T had retained to scan and store the required documents. These documents would then be available for

¹⁴ For the additional test audit group of 120 customers, AT&T provided clear documentation that each customer received the full Katrina Lifeline credit.

auditor inspection via an optical viewer (or printouts from such viewer).¹⁵ In fact, AT&T engaged a vendor that it had previously used for scanning and retention of documents. AT&T reasonably believed that this vendor would reliably scan, store and transmit the documents to AT&T as necessary for any Katrina Lifeline audit. AT&T is deeply disappointed that its vendor expressly hired for scanning and storing the required documents, did not fulfill its contractual obligations and has now gone out of business. AT&T is investigating its legal options against this company.

Despite AT&T's inability to locate the Customer Eligibility Form for 47 customers in the additional test procedure group, AT&T is confident that these customers were in fact eligible to receive the Katrina Lifeline credit. As described in more detail above, AT&T proactively devoted significant resources to ensure that only eligible customers received the Lifeline credit. For example, AT&T developed a special Hurricane Katrina Lifeline Database ("Katrina Database") for those customers that qualified for AT&T to extend the Katrina Lifeline credit. Before a new customer record could be entered into the Katrina Database, the system logic would verify that a matching record based on certain fields (e.g. account number) had not already been entered. AT&T communicated to its store managers and sales representatives the process for determining customer eligibility for the Katrina Lifeline credit and the documents that must be copied and retained. Attached as **Exhibit 1** is an example of a communication sent to store managers and sales representatives. Further, there were training meetings with sales representatives to ensure that the sales representatives knew the requirements of the program.

As evidenced in **Exhibit 1** the sales representative was instructed that the customer must provide "the following 3 forms of documentation before validation via [AT&T's Katrina] Lifeline database is processed". The 3 forms of documentation are: FEMA proof of eligibility¹⁶, government issued ID¹⁷, and the Certification of Eligibility Application. This criteria is consistent with the information set forth in the *Katrina Petition*, whereby AT&T stated that it would require the customer to complete the Certification of Eligibility Form and provide FEMA authorization or proof of funds received from FEMA¹⁸. AT&T's process would then be to verify the government issued ID and only afterward enter the customer information into the Katrina Database¹⁹. As such, AT&T's procedures required the customer to have already provided the required information to the AT&T sales representative before the sales representative would enter the customer into the Katrina Database. Therefore, pursuant to AT&T's methods and

¹⁵ *Katrina Petition*, page 4.

¹⁶ The FEMA proof of eligibility was either a letter from FEMA stating the person is eligible and approved for individual housing assistance related to Hurricane Katrina without the expectation of repayment or proof of funds received from FEMA beyond initial \$2,000 (check stub or deposit bank statement).

¹⁷ AT&T, generally, did not store this information due to privacy concerns with retaining this documentation.

¹⁸ *Katrina Petition*, page 3

¹⁹ *Id.*

procedures only after the customer had completed the Certification of Eligibility Form and provided government identification and FEMA proof of eligibility would the customer be entered into the Katrina Database.

FEMA Proof of Eligibility: First, AT&T was not required to retain the FEMA proof of eligibility. As cited by the auditors, the *Katrina Order* requires, “consumers qualifying for this support to provide documentary evidence to the ETC serving them to demonstrate that FEMA determined that they were eligible for disaster housing assistance. Proof of FEMA’s determination of eligibility for individual housing disaster assistance without repayment obligations is sufficient”²⁰. While the *Katrina Order* requires that providers of Katrina Lifeline maintain all necessary documentation to verify that support was used for the intended purpose of assisting victims of Hurricane Katrina²¹, the Order does not specifically state that the carrier must *retain* a copy of the FEMA letter or proof of funds received from FEMA (e.g., check stub). In fact, in evaluating the FCC’s April 2004 *Lifeline Report and Order and Further Notice of Proposed Rulemaking* (FCC 04-87), the Office of Management and Budget (“OMB”) determined that carriers should not retain certain customer documentation to prove that the customer is eligible for Lifeline²². Since the FCC intended that its Katrina program “work[] within the existing parameters of the low-income program” and since the FCC obtained this OMB guidance prior to Hurricane Katrina, it is reasonable to conclude that Katrina Lifeline ETCs were not required to retain FEMA proof of eligibility²³.

Second, AT&T in its *Katrina Petition* stated that it would require its customers to complete the Certification of Eligibility Form and provide “a FEMA authorization letter or proof of funds received from FEMA” and only explicitly discussed the obligation of requiring a copy of the FEMA letter or proof of payment for existing customers utilizing the mail-in process. AT&T did not explicitly state that it would retain the FEMA authorization letter²⁴.

Third, AT&T required applicants to provide his/her signature and date after the following on the Certification of Eligibility Form:

I have read the information on this application and understand that must meet the qualifications for individual housing assistance related to Hurricane Katrina and I have no obligation to repay FEMA ...I understand service will be provided

²⁰ *Katrina Order*, ¶ 17.

²¹ *Id.*, ¶ 23.

²² See 70 FR 30110-11 (rel. May 25, 2005) (“Pursuant to OMB guidance, we emphasize that while carriers are allowed to ask for information to verify the eligibility, they are not allowed to keep records of the actual information contained in the documents that are presented to them. Rather, carriers may only keep a record that the appropriate documentation was presented and reviewed at the point of eligibility determination.” (Emphasis in original.)).

²³ *Katrina Order*, ¶ 18.

²⁴ To the extent that AT&T copied the FEMA eligibility determination letter, for the same reasons as discussed above regarding its vendor, AT&T has been unable to locate this documentation.

*subject to the terms of service, rate plan brochure and the FCC Hurricane Katrina Lifeline temporary order. I hereby certify under penalty of perjury that the information contained on this application is true and correct.*²⁵

Finally, as noted above, AT&T adopted methods and procedures applicable to its employees concerning its participation in the Katrina Lifeline program. Pursuant to these procedures, sales representatives were required to verifying that the customer had a letter from FEMA stating the customer is eligible and approved for individual housing assistance related to Hurricane Katrina without the expectation of repayment or demonstrated proof of funds (e.g., check stub or deposit bank statement) received from FEMA beyond the initial \$2,000 before the employee enters the customer's name into the Katrina database.²⁶

In sum, the recommendation for DAF [Eligibility and Certification] is completely unfounded and out of proportion with AT&T's inability to produce a record to prove that these recipients of the Katrina Lifeline benefit presented the appropriate FEMA authorization letter to AT&T. AT&T has established proof of its process for acceptance of Katrina Lifeline applications. Further, USAC could check with FEMA as to whether these customers met the FEMA eligibility criteria. The *Katrina Order* only contemplated that funds could be recovered if it was shown that the funds "were used improperly"²⁷. Again, the DAF has made no finding that AT&T improperly *used* any of the Katrina Lifeline funds received as AT&T has established that the Katrina Lifeline beneficiary indeed received the credit. As such, and especially in light of the erroneous conclusion in the DAF that AT&T was required to retain FEMA eligibility letters, the recommendation that all support should be recovered from AT&T cannot be sustained.

USAC IAD Response

The *Katrina Order* states that the Beneficiary must make available any documentation and records necessary to verify compliance with the rules (e.g., substantiate that it used the funds for eligible subscribers²⁸). Our recommendation for USAC management to seek full recovery is based on the fact that the Beneficiary could not provide documentation to verify the eligibility of its subscribers. The Beneficiary does not dispute this fact. While the Beneficiary can demonstrate via subscriber bills that the support it received was passed on to these subscribers, the Beneficiary cannot demonstrate that these subscribers were eligible to receive such discounts.

In accordance with FCC orders, USAC is required to conduct its audits in accordance with GAGAS²⁹ and those standards require that we obtain sufficient, appropriate

²⁵ See **Exhibit 2**. After the FCC extended the eligibility period, the date for acceptance of the Certification of Eligibility Form was changed.

²⁶ As mentioned above, the sales representative also would review the customer's government-issued ID and the Certification of Eligibility Application prior to entering the customer in the Katrina Database for further validation.

²⁷ *Katrina Order*, ¶ 57.

²⁸ *Katrina Order* at ¶ 17.

²⁹ See *USAC GovGAAP Order*.

evidence to substantiate our conclusions.³⁰ We cannot we rely on the Beneficiary's assertions (as opposed to sufficient, appropriate evidence) that its subscribers were in fact eligible. Maintaining and making available sufficient, appropriate evidence to substantiate its subscribers' eligibility is a core foundation of the Low Income program and a fundamental requirement of our auditing standards; neither of which can be disregarded.

IAD believes the Beneficiary understood the importance of retaining such documentation by its implementation of processes to review documentation at the time of enrollment and by its hiring of a vendor to scan, store and transmit documents. Although IAD understands the Beneficiary has to contend with its vendor's failures, it remains the Beneficiary's responsibility to ensure compliance with the Rules, which it has not been able to do regarding the eligibility of its subscribers. As such, our recommendation to USAC management to seek full recovery of funds based this matter is appropriate.

USAC Management Response

USAC management concurs with the audit finding. The *Katrina Order* requires companies to maintain documentation to verify that the support provided assisted eligible consumers.³¹ Without customer certifications of eligibility, the auditors cannot ascertain that the support assisted only victims of Hurricane Katrina. The Beneficiary does not dispute that it was required to retain the certifications of its customers. Instead, the Beneficiary argues that, even though it cannot provide a substantial number of the certifications, the procedures the company had in place for obtaining certifications should be relied on as proof that the certifications were received. To the contrary, the *Katrina Order* states explicitly that the same "information collection efforts, document retention, and certification requirements" in effect for non-Katrina Lifeline apply to recipients of Katrina Lifeline support.³² Companies receiving non-Katrina Low Income support are required to retain customer self-certifications.³³

Moreover, USAC management concurs with the auditor's recommendation to recover all Katrina support provided to the Beneficiary because the company cannot provide copies of its customers' FEMA letters. The Commission limited eligibility for Katrina Lifeline support to persons approved for FEMA disaster housing assistance or determined by FEMA to be eligible for housing assistance relating to the hurricane.³⁴ The Commission could have expanded the eligibility criteria to include, for example, households that could demonstrate income below a certain level or participation in a specific social service program. The *Katrina Order* states explicitly: "...we require consumers qualifying for this support to provide documentary evidence to the ETC serving them to demonstrate

³⁰ See *GAGAS*, § 7.55.

³¹ *Katrina Order* at ¶ 23.

³² "All information collection efforts, document retention, and certification requirements that normally apply to applications for low-income . . . support will continue to apply for these temporary USF support initiatives." *Katrina Order* at ¶ 60.

³³ 47 C.F.R. § 54.410(b) ("Eligible telecommunications carriers must retain records of their self-certifications and those made by consumers.").

³⁴ *Katrina Order* at ¶ 17.

that FEMA determined they were eligible for individual disaster housing assistance.³⁵ Without proof of eligibility provided by the Beneficiary, USAC cannot validate the customers' eligibility and, thus, has no way to ensure that support was "used for the intended purpose of assisting victims of Hurricane Katrina."³⁶ For these reasons, the *Katrina Order* required customers to provide proof of eligibility to companies³⁷ and required companies to "maintain all necessary documentation to verify that the support was used for the intended purpose of assisting victims of Hurricane Katrina."³⁸ Therefore, USAC management agrees with the audit finding that without copies of the FEMA letters, subscriber eligibility cannot be verified.

The Beneficiary's argument that it was prohibited from retaining FEMA letters because the Commission's rules prohibit ETCs from retaining certain personal information from non-Katrina Lifeline subscribers is without merit. In fact, the *Katrina Order* specifically required that customers *provide* proof of FEMA eligibility,³⁹ which is different from the requirement that customers qualifying for regular Lifeline merely *present* documentation of their household income.⁴⁰

Finally, we note that the *Katrina Order* expressly provides that any Beneficiary receiving more than \$1 million in support will be audited.⁴¹ Thus, the Beneficiary was on notice that it would be audited and that, among other things, the auditors would require proof of subscriber eligibility.

³⁵ *Katrina Order* at ¶ 17.

³⁶ *Id.* at ¶ 23.

³⁷ *Id.* at ¶ 17.

³⁸ *Id.* at ¶ 23.

³⁹ *Katrina Order* at ¶ 17.

⁴⁰ See 47 C.F.R. § 54.416

⁴¹ *Katrina Order* at ¶ 23.

Beneficiary Overall Response to Audit Findings

The following statement was submitted by the Beneficiary as an overall response to all of the audit findings:

In response to Hurricane Katrina the Federal Communications Commission ("FCC") took "swift and decisive action"⁶⁰ by issuing the *Katrina Order*⁶¹ which among other things modified the USF program rules to more effectively target support to the disaster area and to people affected by Hurricane Katrina.⁶² For the low-income program, the FCC adopted "Lifeline rules to provide households eligible for individual housing assistance under FEMA rules with temporary wireless telecommunications service."⁶³

Following the aftermath of Hurricane Katrina, AT&T Mobility ("AT&T") made extensive efforts to assist its customers and others affected by this natural disaster.⁶⁴ Consistent with AT&T's efforts to assist those people affected by the Hurricane Katrina, AT&T carefully reviewed and considered the requirements in the *Katrina Order* and then applied for temporary Katrina Lifeline support for its eligible customers.⁶⁵ In accordance with the *Katrina Order*, AT&T submitted its *Katrina Petition* which included a detailed description of the plan it intended to offer along with its document retention practices. Of course, the entire Katrina Lifeline program that was developed and implemented by AT&T had to be put together within roughly a one month period of time.⁶⁶

AT&T devoted significant resources to designing its Katrina Lifeline program so that eligible potential and existing customers could take advantage of the Katrina Lifeline offer and credits. The efforts undertaken by AT&T to support the Katrina Lifeline program included, but were not limited to, the following: created a cross function team dedicated to creating the processes, systems, and methods and procedures; built feature and tracking codes to apply credits/adjustments to customers, including the creation of billing system scripts to apply credits; updated the prepaid platform to apply credits/minutes; secured handsets and created process to support equipment fulfillment; communicated support to impacted customers in advertisements in local papers and on the AT&T website; created counter cards and displayed in the Company Owned Retail ("COR") stores in

⁶⁰ Federal-State Joint Board on Universal Service, Schools and Libraries Universal Support Mechanism Rural Healthcare Support Mechanism, Lifeline and Link-Up, *Order*, CC Docket Nos. 96-45 and 02-06, WC Docket Nos. 02-60 and 03-109 (rel. Oct. 14, 2005)(*Katrina Lifeline Order*).

⁶¹ *Id.*, at ¶5.

⁶² *Id.*, at ¶4.

⁶³ *Id.*, at ¶4. Footnote omitted.

⁶⁴ See September 8, 2005 letter from Brian F. Fontes, Vice President, Federal Relations, Cingular Wireless LLC, to Monica Desai, Chief, Consumer & Government Affairs Bureau, and Catherin W. Seidel, Acting Chief, Wireless Telecommunications Bureau, in response to Public Notice DA 05-2421.

⁶⁵ On November 9, 2005, AT&T filed a petition with the Federal Communications Commission ("FCC") for designation as a temporary eligible telecommunications carrier to provide stipulated relief to victims of Hurricane Katrina ("*Katrina Petition*").

⁶⁶ AT&T's *Katrina Petition* was granted on November 16, 2005 (DA 05-2977).

the impacted and surrounding areas; created methods and procedures for all customer facing personnel supporting the program (sales, customer service, local dealers, and so forth); created and launched process to send a text/SMS message to customers to confirm credits had been applied; developed a team to handle notification of denial of benefits; established a team to handle customer inquires; created a database to capture customer information; developed scripting to capture fallout/errors along with a report for error resolution by back office team; established process for retention of records through outsource vendor which included scanning of required documents; created customer flows for application processing through the various channels and hand off procedures to the appropriate groups; held training sessions and dedicated staff meetings to review program expectations, requirements, and methods and procedures with customer facing associates; and, created reports and processes to support audits and controls for information needed in the event of an audit.

None of the Draft Audit Findings (“DAFs”) allege that AT&T did not properly pass on the Katrina Lifeline credits to consumers. Instead a number of the DAFs attempt to place responsibility on AT&T to verify the accuracy of customer certifications. This is contrary to the *Katrina Order* which placed responsibility on the consumers to certify under penalty of perjury that he/she met certain requirements. The DAFs are improperly attempt to shift the burden to AT&T. This is completely unreasonable, especially in light of the extremely short period of time that carriers had to set up the Katrina Lifeline program.”

Exhibits Provided by the Beneficiary

Exhibit 1

Channel Communications

x cingular
raising the bar

Ops News Brief

TRAINING

How YOU Can Help - Mail In Process for Existing Customers:

1. Non customer facing employees should help with the Eligibility Application in one of the 3 following ways:
 - o Refer customers to www.cingular.com/katrina_lifeline (cingular.com/katrina_lifeline) for the Eligibility Application
 - o Offer to email (preferred) or fax the Eligibility Application to the customer.
 - o Refer customers to COR location.
2. Eligibility Application is available @ www.cingular.com/katrina_lifeline or CSP-My Links.
3. All customer facing Gulf States channels (Including Local Dealer, National Retail & National Dealer) should download and print ample copies of the Cingular Application.
4. Other customer facing channels in surrounding areas should leverage management decision for keeping Eligibility Application on hand.
5. Existing customers selecting Option 2 or 3 may mail their Required Documentation or visit nearby COR location.
6. Non COR channel employees should assist existing inquiring customers by providing a brief overview of the eligibility and required documentation needed.
7. Eligibility Application and Required Documentation MUST be mailed to:

Cingular Wireless
Hurricane Katrina Lifeline Program
P.O. Box 31251
Clarksville, TN 37040

Customer Support:

1. Regularly scheduled reporting will automatically sweep and credit the customers via the Lifeline data base.
2. Existing customers should wait approximately 15 days for their credit to apply to their account.
3. Customers will be alerted via FREE text message to their handset that the credit has been applied.
4. Customers who do not receive notification after 15 business days should call Lifeline Support @ 866-323-3891.
5. Cingular managers ONLY may call Lifeline Support @ 866-323-3858.
6. Lifeline Customer Support hours of operation: Mon-Fri 8am-5pm; Sat 9am-6pm; Sun Closed (CST).
7. Customers in need of a replacement FEMA letter should be directed to 800-621-FEMA (3362) or local FEMA office.
8. Assist BellSouth Landline Customers by advising them to call 888-757-6500.
9. FCC approved counties and Parishes below:
 - **Alabama** -- Baldwin, Mobile, Pickens, Greene, Hale, Tuscaloosa, and Washington
 - **Louisiana** -- Acadia, Ascension, Assumption, Calcasieu, Cameron, East Baton Rouge, East Feliciana, Iberia, Iberville, Jefferson, Jefferson Davis, Lafayette, Lafourche, Lincoln, Livingston, Orleans, Pointe Coupee, Plaquemines, St. Bernard, St. Charles, St. Helena, St. James, St. John, St. Mary, St. Martin, St. Tammany, Tangipahoa, Terrebonne, Vermilion, Washington, West Baton Rouge, and West Feliciana
 - **Mississippi** -- Adams, Amite, Attala, Bolivar, Claiborne, Choctaw, Clarke, Copiah, Covington, Forrest, Franklin, George, Greene, Hancock, Harrison, Hinds, Jackson, Jasper, Jefferson, Jefferson Davis, Jones, Kemper, Lafayette, Lamar, Lauderdale, Lawrence, Leake, Lincoln, Lowndes, Madison, Marion, Neshoba, Newton, Noxubee, Oktibbeha, Pearl River, Perry, Pike, Quitman, Rankin, Scott, Simpson, Smith, Stone, Tippah, Walthall, Warren, Wayne, Wilkinson, Winston, and Yazoo

ACCOUNTABILITY/RESPONSIBILITY

- All employees (regardless of channel) are to be aware of this program and know how to help.
- Account Managers should encourage Dealers to participate by providing a copy of the Hurricane Katrina Lifeline Certification of Eligibility form to inquiring customers and referring them to Company-Owned Cingular stores for fulfillment.
- National Retailers are not participating in this program; but they should be told about the program so they can refer inquiring customers to Cingular company-owned retail stores for fulfillment.

Hurricane Katrina Lifeline Packages

8:30am EST 11-17-05

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Exhibit 2

Certification of Eligibility Application
Hurricane Katrina FCC Lifeline Program



Cingular Wireless is voluntarily participating in the FCC Hurricane Katrina Lifeline Program. Only customers who meet the eligibility requirements set by the FCC should complete this application.

- In-Store Fulfillment is required to obtain a new phone and \$75 credit towards Go Phone Pay as You Go (prepaid) service and may be used by existing customers for other packages.
- Mail-In Fulfillment may be used by existing customers for the \$130.00 credit.

Applications will be accepted until March 1, 2006.

STEP 1: Complete Head of Household Information

In-Store and Mail-In Fulfillment: ALL fields must be completed unless otherwise indicated.

Date _____

First Name _____ Last Name _____

Current Address:

Street Number _____ Street Name _____ Apt Number _____

City _____ State _____ Zip _____

Contact Phone Number _____ Fax Number (optional) _____

E-mail Address (optional) _____

Impacted Address:

Street Number _____ Street Name _____ Apt Number _____

City _____ State _____ Zip _____ County/Parish _____

Date of Birth (MM/DD/YYYY) _____ Social Security Number _____

Cingular Wireless Phone Number (area code required) _____

Account Number _____

STEP 2: Provide Required Documentation

In-Store Fulfillment: Please bring the required documentation with you when you visit the Cingular company-owned retail location.

Mail-In Fulfillment: Please copy all required documentation and submit with completed and signed application.

I am including/providing copies of the following documents:

- Government issued ID, preferably with photo _____ *applicant's initials required*
- Copy of the "Eligibility Determination Letter" or proof of payment (check stub or deposit slip) from FEMA stating that I (applicant) am eligible for individual housing assistance related to Hurricane Katrina with no obligation to repay FEMA for the support. _____ *applicant's initials required*

Disclaimer: Initial FEMA issued \$2000.00 is not acceptable proof of eligibility.

Continued on Page 2

STEP 3: Select One Wireless Package



In-Store Fulfillment: Required for Lifeline Wireless Package 1, optional for Lifeline Wireless Packages 2 and 3
Mail-In Fulfillment: May be used for Wireless Lifeline Packages 2 and 3

___ Package 1: New Nokia™ 6010 Phone Kit and \$75 credit for new GoPhone™ Pay as You Go™ service

___ Package 2: Existing customer: \$130.00 credit toward GoPhone™ Pay as You Go™ account

___ Package 3: Existing customer: \$130.00 credit toward single line or Family Talk™ account

Note: \$130.00 credit to account is NOT valid for Free2Go, Former AT&T Wireless Go Phone, KIC, Talk Charge, and Cingular GoPhone Pick Your Plan service. Customers on these rate plans are eligible for Package 1.

STEP 4: Complete Certification of Eligibility

In-Store and Mail-In Fulfillment: Section MUST be initialed and signed as directed.

I am applying for the Hurricane Katrina Wireless Lifeline Package and certify the following:

- I was a resident of a county or parish designated by the FCC as eligible for this Wireless Lifeline Package at the time of hurricane Katrina. _____ *applicant's initials required*
- FEMA has determined that I am eligible/approved for individual housing assistance related to Hurricane Katrina and am under no obligation under FEMA rules to repay FEMA for this support. _____ *applicant's initials required*
- I am the head of my household (defined as "one adult and his/her dependants, living together in the same residence"). _____ *applicant's initials required*
- This is the only Hurricane Katrina Wireless Lifeline Package I have requested/received from Cingular Wireless or any wireless carrier. _____ *applicant's initials required*

I have read the information on this application and understand that I must meet the qualifications for individual housing assistance related to Hurricane Katrina and I have no obligation to repay FEMA. I understand the Hurricane Katrina Wireless Lifeline Package is only available for a single wireless line for the head of household in one of the FCC approved counties/parishes. I understand that I can only receive one Hurricane Katrina Lifeline package. I understand that completion of this application does not constitute immediate enrollment in this program. I understand service will be provided subject to the terms of service, rate plan brochure and the FCC Hurricane Katrina Lifeline temporary order.

I hereby certify under penalty of perjury that the information contained on this application is true and correct. I further consent to the release of the information pursuant to the administering of this Hurricane Katrina Wireless Lifeline Program.

Applicant's Signature _____ Date _____

In-Store Fulfillment: Please visit a Cingular Company-Owned Retail Store
Mail-In Fulfillment: Mail the completed application and copies of required documentation to:
Cingular Wireless
Hurricane Katrina Wireless Lifeline Program
P.O. Box 31251
Clarksville, TN 37040

Please allow fifteen days to process the application. To check the status of your request after allowing time for processing, you may contact Cingular Wireless at 866-323-3891.

If you are not eligible for the Lifeline Program, Cingular will notify you via text message or mail within fifteen business days of receipt of the application.

BellSouth Customers: Cingular is now providing free calls from your cellular phone for inquiries about service restoration to your home. BellSouth Customers can call 1-888-757-0500 for more information.*

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For Cingular Wireless Use Only **Required Fields

I validate that the applicant is eligible for the Hurricane Katrina Lifeline Package and I received all required documentation.
_____ *Initials* _____ *CUID*

Government Issued ID _____ *Initials*

Certification of Eligibility Application _____ *Initials*

FEMA Eligibility Letter or proof of payment (FEMA check stub or deposit slip) from FEMA _____ *Initials*

Cingular Wireless Store Number/Call Center Location _____

ATTACHMENT B



2443390
Marietta

INVOICE 89676

P.O. Box 6469 - Marietta, GA 30065
770-973-4312 Fax: 1-800-367-8192

CUSTOMER NO. CING FEMA

BILL TO: CINGULAR WIRELESS
MARY JENKINS, SL9439/SALES
5565 GLENRIDGE CONNECTOR, GAATC
ATLANTA, GA 30342

SHIP TO: CINGULAR WIRELESS
MARY JENKINS, SL9439/SALES
5565 GLENRIDGE CONNECTOR, GAATC
ATLANTA, GA 30342

* submits to c Payables 11/15/2006 * paid 11/28/2006, 10860993

DATE	SHIP VIA	F.O.B. Origin	TERMS Net 30	
PURCHASE ORDER NUMBER	ORDER DATE	SALESPERSON	OUR ORDER NUMBER	
08/31/06		Origin		
	08/31/06	TERRY BOROVIITCKY		
QUANTITY	ITEM NUMBER	DESCRIPTION	UNIT PRICE	AMOUNT
17	MISC	CINGULAR/KATRINA/FEMA PROJECT MISC SENIOR PROGRAMER PER HOUR	125.0000	2125.00
83	MISC	MISC PROGRAMER PER HOUR	90.0000	7470.00
155.000	DOC PREP	DOC PREP TIME PER HOUR	22.00	3410.00
69049	SCAN SM DCC	SCAN SMALL DOCUMENT	0.0700	4833.43
			Invoice subtotal	17838.43
			Sales tax @ .4.000%	713.54
			Sales tax @ 1.000%	178.38
			Sales tax @ 2.000%	356.77
			Invoice total	19087.12
CUSTOMER ASSUMES LIABILITY FOR ALL STATE AND LOCAL TAXES				

THANK YOU!!

CERTIFICATE OF SERVICE

I, Toyin Harris, hereby certify that on this 1st day of February 2010, I caused a copy of the foregoing Request for Review by AT&T Inc. of Decision of the Universal Service Administrator in WC Docket No. 03-109 to be hand-delivered to:

Universal Service Administrative Company
Attn: David Capozzi, Acting General Counsel
2000 L Street, NW
Suite 200
Washington, DC 20036

/s/ Toyin Harris