

MEMORANDUM

TO: Missouri Public Service Commission Official Case File
Case No. RC-2016-0278, Total Call Mobile, Inc.

FROM: John Van Eschen, Manager
Telecommunications Department

/s/Natelle Dietrich 9/12/2016 /s/Cully Dale 9/12/2016
Commission Staff Director / Date Staff Counsel's Office / Date

SUBJECT: Staff Recommendation to revoke Total Call Mobile, Inc.'s Eligible
Telecommunications Carrier Designation ("ETC") for Missouri

DATE: September 12, 2016

STAFF RECOMMENDATION

The Missouri Public Service Commission Staff filed a Motion for provisional revocation of the ETC designation for Total Call Mobile, Inc. ("TCM" or "the Company") on April 14, 2016. The next day, the Missouri Public Service Commission ("Commission") issued a Notice of Contested Case and Order Directing Filing. TCM officials requested a conference call with Staff which was ultimately held on April 27, 2016. TCM filed a formal response on May 16, 2016.¹ This report identifies several concerns regarding TCM's participation in the Lifeline program in Missouri. Staff recommends the Commission revoke TCM's ETC designation for Missouri.

The Company

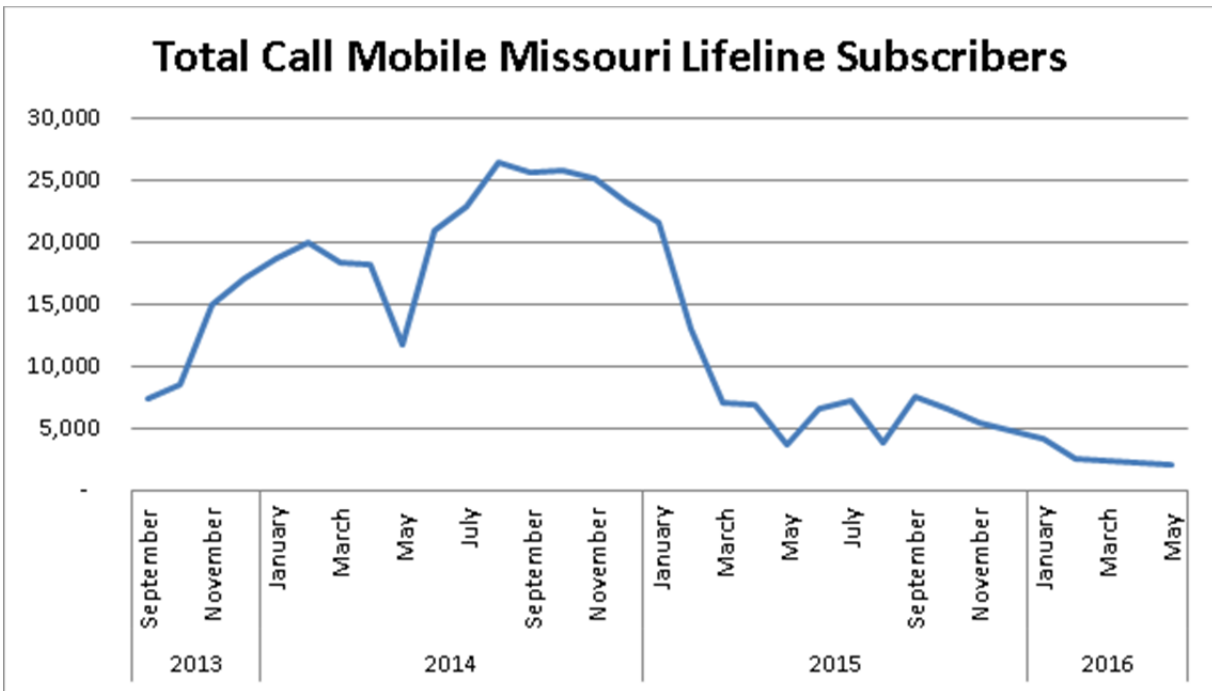
TCM is based in Gardena, California.² TCM has ties to Japan's largest telecommunications company, KDDI Corporation whereby KDDI of America is listed as the majority owner of TCM's parent company, Total Call International. TCM resells Sprint PCS service.

TCM currently has ETC status in 19 states. The Company obtained ETC status in Missouri on May 11, 2013. Based on Universal Service Administrative Company (USAC) disbursements, the Company started receiving support for Missouri subscribers in September 2013. The Company's Lifeline support amounts are somewhat erratic but ultimately peaked in August 2014 with 26,409 subscribers. The Company's Missouri Lifeline subscriber quantities began to decline in late 2014 as shown in the chart below.³ As of April 2016, the Company had 2,004 Missouri Lifeline subscribers.

¹ Total Call Mobile, Inc.'s Answer to Staff Motion and Response to Order to Show Cause; Case No. RC-2016-0278, In the Matter of the Revocation of Eligible Telecommunications Carrier Designation of Total Call Mobile, Inc. May 16, 2016. (*Total Call Mobile, Inc.'s May 16, 2016 Missouri Answer*)

² Total Call Mobile, Inc.'s website is <https://www.totalcallmobile.com/Lifeline>

³ This chart quantifies Lifeline subscribers based on USAC Lifeline disbursements to TCM for Missouri and dividing by \$9.25.



Regulatory Allegations

The Federal Communications Commission (FCC) issued a decision on April 7, 2016 fining the Company \$51,070,322.⁴ The FCC concluded the Company was enrolling duplicate and ineligible subscribers on a large scale. USAC discovered the Company had 32,498 duplicate subscribers spanning 13 states in November 2014. The FCC found systemic failures to comply with Lifeline rules, such as:

- Agents were enrolling duplicate subscribers by making slight changes to a subscriber's name and other information allowing them to over-ride the National Lifeline Accountability Database (NLAD) system.
- Agents were enrolling multiple consumers using a single SNAP card.
- Agents were enrolling phantom consumers using stolen documents.
- Agents were failing to ensure proper consumer certifications. (Agents were unaware of the content of the subscriber certifications and typically signed the certifications on behalf of the consumer.)
- Agents were not trained.
- Company did not take immediate action to ban agent cheaters.
- Company inflated Form 497s and subsequently revised many Form 497s.⁵

⁴ Notice of Apparent Liability for Forfeiture and Order; File No. EB-IHD-14-00017650; In the Matter of Total Call Mobile, Inc.; FCC 16-44; released April 7, 2016. (NAL)

⁵ Form 497 is a one-page form ETCs submit to USAC that quantifies the ETC's Lifeline subscribers for the month. This quantity is multiplied by \$9.25 to determine the ETC's Lifeline support for that month.

- Company failed to remove 2,587 duplicate subscribers previously identified by USAC.
- Company failed to provide evidence of a consumer's eligibility documents.

The FCC later directed USAC to temporarily hold all payments to TCM beginning with the data month of May 2016.⁶ The FCC took this action after TCM failed to adequately respond to the FCC Enforcement Bureau's inquiries show the Company will comply with Lifeline rules. The FCC states it will lift the payment hold if the FCC determines TCM has implemented controls reasonably calculated to prevent improper payments.⁷

The TCM investigation appears to have also spurred FCC Commissioner Ajit Pai to become a more vocal critic of the Lifeline program. For example, Commissioner Pai has written several letters to USAC expressing concerns of continued abuse of the Lifeline program, including the shortcomings of the NLAD.⁸

It is not entirely clear how the FCC first became concerned about TCM. Presumably a November 6, 2014 news story out of Denver, Colorado may have played a part. As shown in Attachment A, the news story was about fraud and waste in the Lifeline program. A TCM agent asked a CBS4 reporter if he wanted to sign up for a free phone and, if so, did he have a food stamp or Medicaid card. The reporter said he did not have a food stamp or Medicaid card. According to the news account, the agent allegedly ordered a colleague to "push it through" by using someone else's card whereby the reporter then received a free working phone.

Staff is aware of only two other states that have made inquiries of TCM's Lifeline operations within their state. The Nebraska Public Service Commission ("Nebraska Commission") is conducting a pending inquiry into the operations of TCM to show cause why the Nebraska Commission should not suspend TCM's ETC designation.⁹ Staff contacted Nebraska Commission Staff who indicated the Nebraska inquiry is on-going even though TCM does not yet have any Lifeline subscribers in the state. TCM officials indicate the California Public Service Commission initiated an informal inquiry; however, Staff has been unable to obtain any information.

⁶ Order Directing Temporary Hold of Payments; WC Docket No. 11-42; In the Matter of Total Call Mobile, Inc.; DA 16-708; released June 22, 2016.

⁷ ¶10 of the FCC's Order Directing Temporary Hold of Payments where the FCC states, "...If we determine after reviewing TCM's complete responses to our June 1 letter that TCM has implemented controls reasonably calculated to prevent improper payments, this temporary hold will be lifted as of the date those controls became effective...."

⁸ FCC Commissioner Ajit Pai wrote letters to USAC on April 18, June 8, and August 1, 2016.

⁹ Proceeding C-4847/NUSF-104.

TCM's Response to Allegations

TCM filed a formal response in Missouri's docket on May 16, 2016.¹⁰ TCM later filed a formal response with the FCC on July 5, 2016.¹¹ In general, TCM's responses find fault with the FCC's investigation, and indicate the FCC's Notice of Apparent Liability does not accurately reflect TCM's participation in the Lifeline program. TCM maintains the Company has always employed systems and processes that were designed to ensure that it complied with all FCC and state rules for participation in the Lifeline program.¹² TCM has also asked the FCC to reverse its decision to temporarily hold all Lifeline payments to the Company.¹³

TCM asserts the FCC relied upon incomplete and erroneous information. For example, TCM states the FCC's investigation relies on brief interviews of only five field agents. TCM points out even if the actions described by these five agents are true; such actions violate TCM's policies and procedures. TCM also takes the position the FCC has misunderstood USAC's duplicate list which includes failing to clearly define what constitutes a duplicate. In addition, TCM argues the FCC's fine is not justifiable due to a misunderstanding about USAC's duplicate list for April 2015 and that the alleged activities occurred in 2013 and 2014 which is outside the one-year time period permitted by the statute of limitations.

From TCM's perspective, the Company, "...has faithfully attempted to comply with Lifeline rules and has implemented policies and procedures designed to ensure that compliance...."¹⁴ TCM takes issue with many FCC observations and findings claiming TCM has not violated any Lifeline rules.¹⁵ TCM elaborates on how the Company is constantly trying to enhance Lifeline compliance. For instance, TCM describes the following actions taken by the Company:

- ** _____ **
- ** _____
- ** _____
- ** _____

¹⁰ Total Call Mobile, Inc.'s Answer to Staff Motion and Response to Order to Show Cause; Case No. RC-2016,0278 In the Matter of the Revocation of Eligible Telecommunications Carrier Designation of Total Call Mobile, Inc. May 16, 2016. (*Total Call Mobile, Inc.'s May 16, 2016 Missouri Answer*)

¹¹ Total Call Mobile, Inc.'s Response to the Notice of Apparent Liability for Forfeiture; File No. EB-IHD-14-00017650, In the Matter of Total Call Mobile, Inc. Notice of Apparent Liability for Forfeiture; July 5, 2016. (*Total Call Mobile, Inc.'s July 5, 2016 reply to FCC*)

¹² Total Call Mobile, Inc.'s May 16, 2016 Missouri Answer, page 4.

¹³ Petition for Reconsideration of Unlawful Funding Hold; WC Docket No. 11-42; In the Matter of Total Call Mobile, Inc. Order Directing Temporary Hold of Payments; filed July 25, 2016. (*Total Call Mobile, Inc.'s July 25, 2016 Petition*)

¹⁴ Total Call Mobile, Inc.'s July 5, 2016 reply to FCC; pages 1-2.

¹⁵ Total Call Mobile, Inc.'s July 5, 2016 reply to FCC goes through sections 54.405, 54.407, 54.409 and 54.10 of the FCC's rules and attempts to explain how the Company complies with the FCC's rules.

TCM claims Missouri's involvement in the FCC's investigation is very small. For example, the FCC's fine is not based on any of TCM's Missouri subscribers.¹⁶ Likewise, USAC's discovery of over 32,000 duplicate TCM Lifeline subscribers ** _____

¹⁷ ** In addition, according to TCM, the five TCM agents interviewed by the FCC were not involved with enrolling Missouri subscribers. TCM states the Company has been compliant with Lifeline program requirements for Missouri and substantially curtailed new sales activity in Missouri starting in late 2014.

Staff Investigation

Staff's investigation consisted of several components. Staff reviewed the FCC's order fining TCM. Staff discussed with TCM officials the FCC's allegations. Staff also reviewed the Company's formal replies in this docket and the FCC's docket. Staff submitted 27 data requests to TCM and scrutinized the information contained in the Company's data request responses. This review included analyzing information contained in TCM's Missouri subscriber list and Lifeline enrollment forms. Staff also consulted with officials with the Missouri Department of Social Service ("DSS") and USAC. Staff contacted several TCM Missouri subscribers. Overall, Staff's investigation results in several unresolved concerns which are identified and explained in the remainder of this report.

TCM is unable to provide Lifeline enrollment forms in a timely manner

Missouri's rule for ETC record keeping is contained in Rule 4 CSR 240-31.130(2)(L). This rule requires compliance with federal ETC recording keeping requirements whereby record availability should be available to the Commission or its staff as described in 4 CSR 240-10.010. Federal ETC record keeping requirements applicable to the Lifeline program are identified in 47 CFR 54.417. A basic record keeping requirement is for an ETC to maintain a copy of a Lifeline subscriber's enrollment form. ETCs are required to retain this documentation for as long as the subscriber receives Lifeline service from the ETC but no less than three calendar years.

TCM has a record keeping problem. For example, the Company could not readily provide enrollment forms of existing subscribers. On April 25, 2016, Staff Data Request No. 1 requested TCM, "Please provide a copy of the Lifeline application for each existing Missouri Lifeline subscriber." Companies have 21 calendar days to respond to a data request or in this instance May 15, 2016. Listed below is how the Company responded to this data request on four different dates:

- May 15, 2016 response: "Total Call Mobile is compiling the requested information and will supplement this response as soon as possible."

¹⁶ TCM is disputing the FCC's fine which is based on 2,587 subscribers who failed to be de-enrolled after being discovered to be duplicate subscribers.

¹⁷ USAC found 32,498 duplicate subscribers; however, only ** ____ ** of these subscribers are from Missouri. In addition, the ** ____ ** subscribers can be reduced to ** ____ ** duplicate pairs since some subscribers are listed more than twice.

- May 23, 2016 response: Total Call Mobile provided Lifeline enrollment forms for some, but not all, existing Lifeline subscribers and stated, "...Total Call Mobile is unable to provide the remaining applications at this time, but will supplement if additional forms are located...."
- June 9, 2016 response: The Company provided additional Lifeline enrollment forms and again stated, "...Total Call Mobile is unable to provide the remaining applications at this time, but will supplement if additional forms are located...."
- June 14, 2016 response: The Company provided Lifeline enrollment forms for the remaining subscribers.

In Staff's opinion, TCM should be considered non-compliant with record keeping requirements. ETCs should be expected to easily locate and provide such records in a timely manner.¹⁸

TCM has incorrect addresses for a significant number of subscribers

Staff's investigation reveals fraudulent or incorrect addresses for many TCM Missouri Lifeline subscribers. For example, Staff observed three addresses shared by a significant number of TCM Lifeline subscribers.¹⁹ A picture of each of these addresses and the number of Lifeline subscribers sharing each address are shown below:

Number of TCM Lifeline Subscribers Sharing Same Address		
		
53 Lifeline subscribers (Data Request No. 14)	207 Lifeline subscribers (Data Request No. 15)	18 Lifeline subscribers (Data Request No. 16)

Staff was able to independently verify the eligibility of most subscribers at these locations by confirming the listing of subscriber names in qualifying DSS data bases.²⁰ None of the addresses in these data bases matched the addresses provided by TCM. Staff also called 17 subscribers at these addresses whereby in four instances the called parties confirmed his/her name as listed by

¹⁸TCM appears unprepared to respond to this basic request. Staff notes the FCC also requested to see TCM's enrollment forms. In a federal filing TCM describes this FCC request as "...the most burdensome of the requests..." In addition, TCM says such documentation "...had to come from the Company's vendor..." See page 7 of Total Call Mobile, Inc.'s July 25, 2016 Petition.

¹⁹ This observation prompted Staff to issue Data Request Nos. 14, 15, and 16 whereby each data request pertains to one of these three addresses.

²⁰ Independent verification was attempted for 337 subscribers identified in Staff's data requests whereby 326 of these subscribers were listed in qualifying DSS data bases while 11 subscribers could not be verified by DSS.

TCM.²¹ These four subscribers were unaware of the address indicated by TCM but confirmed TCM's address for them is incorrect.

Duplicate subscriber contained in TCM's subscriber list

Staff reviewed a list of TCM's existing Lifeline subscribers in Missouri and discovered a duplicate listing for one subscriber. TCM's response is this duplicate listing is reflective of a ministerial or clerical error and is not an instance of a person receiving duplicate support. TCM also determined a different subscriber should have been listed. Consequently, TCM submitted a revised subscriber list. Staff acknowledges mistakes happen but this incident contributes to Staff's concern the Company has record keeping issues.

TCM's monitoring of agents remains questionable

Staff questions if TCM is doing enough to monitor and identify questionable agent behavior. For example, two sales agents may be solely responsible for enrolling subscribers identified in responses to Data Request Nos. 14, 15, and 16; yet, neither agent has ever been disciplined by TCM.²² Staff also notes the FCC states, "Based upon the evidence uncovered as a result of the Investigation, we conclude that there was an apparent widespread practice among TCM sales agents to manipulate and misidentify details of Lifeline consumer's information in order to avoid detection of duplicate and ineligible consumers by NLAD and USAC."²³ The Company has deactivated a total of ** __ ** Missouri agents; however, such action is primarily limited to **

²⁴ ** While such deactivations are appropriate, it appears no disciplinary action has ever been taken for Missouri agents enrolling duplicate or ineligible consumers or failing to follow enrollment procedures. The lack of disciplinary action on any agent for issues involved in subscriber enrollment is surprising given the evidence of duplicate TCM Lifeline subscribers in Missouri.²⁵

TCM subscribers may have minimal involvement in filling-out and understanding forms

All enrollment forms appear to be filled-out electronically.²⁶ Presumably sales agents employ a common practice of inserting information on behalf of the applicant; however, TCM applicants

²¹ It may be argued 8 out of the 17 calls suggest confirmation that the name of the Lifeline subscriber as listed by TCM is legitimate. For example, in two instances the subscriber's voice mail message used the subscriber's name. A third instance resulted in the called party indicating the subscriber is at work. A fourth instance resulted in the called party acknowledging his/her unusual first name but then hung-up.

²² Staff reviewed 79 enrollment forms of a portion of subscribers in responses to DRs 14, 15, and 16. Staff reviewed 21 forms for subscribers in DR 14 response and all were enrolled by Agent W. Staff reviewed 54 forms for subscribers in DR 15 response and found 53 were enrolled by Agent H. and 1 by Agent W. Staff reviewed 7 forms for subscribers in DR 16 response and all were enrolled by Agent W.

²³ NAL ¶32.

²⁴ TCM's response to Data Request No. 19.

²⁵ NAL ¶89. See also Total Call Mobile, Inc.'s May 16, 2016 Missouri Answer, page 5.

²⁶ Initially, TCM used paper Lifeline applications. **

** Page 4 of Total Call Mobile, Inc.'s July 5, 2016 reply to

seem to have minimal involvement or understanding of the forms.²⁷ Staff discussions with TCM subscribers reveal few, if any, TCM subscribers can recount details of the application process and some subscribers are unfamiliar with TCM. Nevertheless, it is difficult to understand why any qualified subscriber might be willing to sign a form with any incorrect information but that apparently is what happened to some, if not all, of the 337 subscribers identified in response to Data Request Nos. 14, 15, and 16. Staff doubts any of these subscribers adequately reviewed the forms and how they were completed.²⁸

Staff observations of applicant forms raise questions about whether subscribers fill-out and actually sign these forms. For instance, a subscriber's enrollment form and an Independent Economic Household (IEH) form always have identical applicant signatures and date stamps. The applicant's signatures on both forms will look exactly the same including where it is placed on the signature line. The dates accompanying these signatures will also reflect the same time of day minute. From Staff's perspective it appears the signature and date stamp for an applicant's enrollment form is simply copied and pasted into the IEH form. Staff notes the FCC's NAL questioned consumer signatures on forms.²⁹

Another Staff observation is the IEH form asks an applicant to initial two certifications on the form. Despite this instruction, electronic check marks rather than initials are always used for these two certifications as shown below:

CERTIFICATION

Please initial the certifications below and sign and date this worksheet. Submit this worksheet to along with your Lifeline application.

- A. ☒ I certify that I live at an address occupied by multiple households.
B. ☒ I understand that violation of the one-per-household requirement is against the Federal Communication Commission's rules and may result in me losing my Lifeline benefits, and potentially, prosecution by the United States government.

Check marks for this certification may be permissible but it suggests no one is carefully reading and following the instructions on the form.

TCM fails to ensure subscriber information is correct

In Staff's opinion, TCM does not take much, if any, responsibility for ensuring subscriber addresses are correct even when TCM has conflicting information. For example, TCM requires

²⁷ This issue was also raised in the FCC's NAL. See NAL ¶55 states, "TCM Sales Agent-D, in sum and substance, that, despite his/her many months working full-time as a TCM sales agent, s/he did not know the contents of the consumer certification, never once read the certification to a consumer prior to signing on behalf of the consumer, and had not even read the consumer certification him/herself...."

²⁸ All forms do contain the required cautionary language such as "I acknowledge that providing false or fraudulent information to receive Lifeline benefits is punishable by law." "By my signature immediately below, I hereby certify, under penalty of perjury, that the information contained in this certification form is true and correct to the best of my knowledge."

²⁹ NAL ¶54 whereby the FCC states, "In their interviews, TCM Sales Agents-A, B, C, D, and E all stated, in sum and substance, that it was the common, if not exclusive, practice of TCM sales agents to sign the consumer certification instead of the consumer...."

** _____ ** It appears TCM makes no attempt to compare addresses ** _____ because such a comparison could easily spot address discrepancies. Staff obtained the ** _____ for the first 15 subscribers in responses to Data Request Nos. 14, 15, and 16. The ** _____ for all these subscribers reflect addresses that differ from the address provided on the subscriber's enrollment form. Ensuring Lifeline subscribers have accurate address information is an important component of maintaining the integrity of the Lifeline program.³¹

TCM takes little responsibility for the need to further investigate or question any unusual situations involving multiple subscribers sharing an address. Numerous arrangements exist where a significant number of TCM's Lifeline subscribers share an address.³² Staff also pointed out numerous arrangements where subscribers with the same last name share an address.³³ TCM's response to such arrangements is "Total Call Mobile has implemented procedures to comply with the FCC's one-per-household rule and the Universal Service Administrative Company's (USAC) procedures for enrolling eligible subscribers living in the same residence."
** _____

_____ ** Beyond obtaining an IEH form, the Company does not attempt to do anything further, even when the Company has conflicting address information in its possession.

Although TCM maintains the Company complies with the FCC's one-per-household rule and USAC's procedures for enrolling subscribers, TCM is further investigating the addresses of the subscribers in responses to Data Request Nos. 14, 15, and 16. ** _____

_____ ** From Staff's perspective, TCM fails to explain why the Company had not previously attempted to verify addresses and is not currently attempting to review the address ** _____
_____ **

TCM continues to enroll Missouri subscribers despite claiming new sales activity ceased after 2014

TCM has repeatedly claimed to have ceased new sales activity in Missouri starting in late 2014.³⁴ Staff scrutinized 79 enrollment forms. These forms were for some of the 278 subscribers in responses to Data Request Nos. 14, 15 and 16, as previously discussed. Staff observed 78 of the

³⁰ This information was obtained in the Company's response to Staff Data Request No. 26.

³¹ See ¶85 of the FCC's Report and Order and Further Notice of Proposed Rulemaking; WC Docket No. 11-42 In the Matter of Lifeline and Link Up Reform and Modernization; FCC 12-11; released February 6, 2012.

³² Data Request Nos. 14, 15, and 16.

³³ Data Request No. 12.

³⁴ Total Call Mobile, Inc.'s (TCM) May 16, 2016 Missouri Answer, page 7. See also TCM's response to Data Request No. 5 where the Company states, "As a result of a shift in its business plans in late 2014, TCM ceased actively marketing its Lifeline services to new customers in Missouri and has concentrated on providing service to its existing subscribers."

79 enrollment forms were dated in 2015. In addition, Staff reviewed other enrollment forms. Among 453 enrollment forms reviewed, 66% were enrolled in 2015 or 2016.³⁵ Admittedly, TCM is not enrolling as many subscribers as a few years ago but the Company is still enrolling subscribers. Moreover, issues continue to exist for some of the subscribers they have recently enrolled.

Some TCM subscribers appear to be ineligible and/or potentially fraudulent

As previously discussed, Staff called 17 TCM Lifeline subscribers. In three instances, the called parties did not acknowledge the name listed by TCM. This result suggests the subscriber may not actually be the person identified by TCM. In addition, Staff was unable to verify the eligibility of 11 subscribers through DSS data bases. Due to privacy concerns, DSS does not provide Staff with specifics on individual accounts, but simply indicates whether individuals requested are qualified or not. According to DSS, these 11 subscribers have not been in qualifying DSS data bases for several years, if at all.

TCM has failed to adequately respond to some data requests

TCM has failed to adequately respond to the following data requests:

Data Request No. 5: This data request asks TCM to explain how TCM markets Lifeline service in Missouri and specifically asks how many sales agents and master agents are involved in Missouri. TCM's response provides the Company's marketing policies and procedures but the Company also states the Company has ceased actively marketing its Lifeline services to new customers in Missouri. TCM's response lacks clarity on the number of agents operating in Missouri given Staff's observation of new Missouri subscribers continue to be enrolled.

Data Request No. 19: This data request asks the Company to identify agents terminated or disciplined by the Company for failing to comply with Lifeline requirements. In addition the data request asks for TCM to identify the number of Missouri Lifeline subscribers enrolled by any terminated or disciplined agent. TCM identified agents terminated or disciplined by the Company. The Company also provided the number of subscribers enrolled by the agent that still remain subscribers; however, TCM's response fails to quantify the number of Missouri Lifeline subscribers enrolled by the disciplined or terminated agent.

Data Request No. 21: This data request asks how many Missouri Lifeline subscribers have been enrolled using an override of the NLAD and how many of these subscribers are still enrolled.³⁶ TCM's response is ** _____

³⁵ **

**

³⁶ This data request was prompted by the FCC's statement that "...USAC records show that 99.8 percent of TCM's Lifeline enrollments nationwide during the fourth quarter of 2014 were the result of an override of third-party identification verification. See NAL ¶27. See also FCC Commissioner Ajit Pai's April 18, 2016 letter to USAC where Commissioner Pai states, "...We learned how Total Call Mobile's sales agents repeatedly overrode the safeguards of the National Lifeline Accountability Database (NLAD)—abuse so far-reaching that at one point, 99.8% of Total Call Mobile's new subscribers were the result of overrides...."

opinion, TCM has not fully responded to the data request. **** In Staff's**

Summary

This report identifies several concerns regarding TCM's participation in the Lifeline program in Missouri. These concerns include:

- TCM is unable to provide Lifeline enrollment forms in a timely manner.
- TCM has incorrect addresses for a significant number of subscribers.
- Duplicate subscribers are contained in TCM's subscriber list.
- TCM's monitoring of agents remains questionable.
- TCM subscribers may have minimal involvement in filling-out and understanding forms.
- TCM fails to ensure subscriber information is correct.
- TCM continues to enroll Missouri subscribers despite claiming new sales activity ceased after 2014.
- Some TCM subscribers appear to be ineligible and/or potentially fraudulent.
- TCM has failed to adequately respond to some data requests.

Staff recommends the Missouri Commission revoke TCM's ETC designation for Missouri.

BEFORE THE PUBLIC SERVICE COMMISSION
OF THE STATE OF MISSOURI

In the Matter of the Revocation of the Eligible)
Telecommunications Carrier Designation of)
Total Call Mobile, Inc.)
Case No. RC-2016-0278

AFFIDAVIT OF JOHN VAN ESCHEN

STATE OF MISSOURI)
)
COUNTY OF COLE) ss.

COMES NOW John Van Eschen and on his oath declares that he is of sound mind and lawful age; that he contributed to the foregoing Staff Recommendation in Memorandum form; and that the same is true and correct according to his best knowledge and belief.

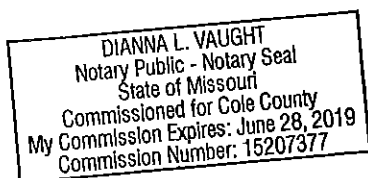
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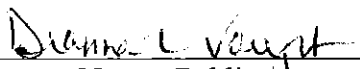


JOHN VAN ESCHEN

JURAT

Subscribed and sworn before me, a duly constituted and authorized Notary Public, in and for the County of Cole, State of Missouri, at my office in Jefferson City, on this 12th day of September, 2016.





Notary Public

Government's Free Phone Program Riddled With Abuse, Fraud

November 6, 2014 11:15 PM



Banners promote free phones under the Lifeline program. (credit: CBS)

DENVER (CBS4) – A federally regulated program providing free cellphone service and phones to the poor and needy in Denver appears to be riddled with waste, fraud and abuse, according to an undercover CBS4 Investigation.

The \$2 billion a year Lifeline program has handed out more than 13 million free cellphone plans across the country in the first six months of this year. In Colorado, the program handed out more than 117,000 free cellphone plans in the first half of this year, or about 20,000 cellphones every month.

The free phones and their wireless plans are paid for by a monthly tax on your cellphone, called the Universal Service Tax. Although the Lifeline wireless program has been around since 2005 and started under president George W. Bush, it has exploded under President Obama's administration and the phones are often referred to as "Obamaphones."

The program has strict guidelines. To qualify, you have to be on food stamps, Medicaid, housing assistance or some other government program to prove that you are low-income. The idea is that

people who could not otherwise afford mobile phones would have them to help look for jobs, call 911 in an emergency or stay in touch with **family** members.

But on multiple trips to Colfax Avenue and Broadway in Denver, where multiple distributors set up their tents to hand out free cellphones, a CBS4 producer and reporter found the phone agents willing to circumvent strict government rules designed to ensure that only the truly needy get the free phones. The vendors receive massive government subsidies to hand out the phones and the accompanying monthly plans.

“Want to sign up for a free phone?” an agent representing Total Call mobile asked a CBS4 producer. The representative then asked if the undercover producer had a food stamp card, a Medicaid card or any other evidence that he qualified for a phone.

“No,” replied the CBS4 employee. But one of the cellphone agents then ordered his colleague to “push it through,” by using someone else’s food stamp card to provide eligibility for the CBS4 employee.

“Did you just use that guy’s food stamp card for me?” questioned the CBS4 employee.

“Yeah,” responded the Total Call representative. “It’s verification that you are on some kind of assistance program. It’s to get you through.”

He promptly gave the CBS4 worker a free phone. The Total Call agent said he received \$3 for every phone he is able to give away.

Mark Wigfield, Deputy Director of media relations for the FCC, which oversees the Lifeline program, said using someone else’s food stamp card to get a phone is a clear violation of program guidelines.

“Lifeline providers may not activate **service** for a consumer unless that consumer is eligible for the program and provides proof of eligibility. Lifeline rules,” said Wigfield, “are enforceable rules and punishable by fines and other means.”

But over and over, wireless phone **company** representatives proved eager to bypass federal rules so they could hand out phones.

Approached by a CBS4 reporter and producer, a representative of another cellphone company said it would be fine to use another person’s **food** stamp card to establish eligibility. She said it would be acceptable to pass off someone else’s food stamp card “as long as she hasn’t already used it.” The woman then said anyone could get a phone for someone else “as long as you bring their ID and card.”



Phone company representatives talk to people seeking phones under the Lifeline program.
(credit: CBS)

At a Total Call phone tent, CBS4 Investigator Brian Maass asked a representative if he could use a friend's food stamp card to establish eligibility and obtain a free phone. "Sure can," replied the representative.

"My driver's license and his food stamp card is OK?" Maass asked.

"Yeah," replied a phone agent.

"But the phone is for me, though," Maass said. "That's fine," responded the Total Call distributor.

Hideki Kato, Chief Operating Officer for Total Call mobile, said, "If protocols and procedures have been violated, we take appropriate action against agents or distributors including their possible termination." Kato said after CBS4 contacted him, the company identified and corrected the issue, although he declined to provide specifics. Kato said Total Call Mobile utilizes distributors in Colorado who hire and train agents. He said the people passing out the free phones in Denver were not Total Call employees but had been hired by a Total Call distributor.

But the abuse appears to be occurring on the part of phone recipients of the free phones as well. Over and over, men and women who obtained the free phones told CBS4 they were already paying for iPhones or smartphones but couldn't resist getting a free phone, courtesy of taxpayers.

One man told CBS4 he wanted a free cellphone but did not have a food stamp card and did not qualify. He showed CBS4 his current smartphone that he said he was paying \$57 a month for. But he explained that he went across town, got a food stamp card anyway, then returned to Civic Center with a food stamp card that has no money on it, but was still able to use it to qualify for an "Obamaphone."

“Completely free. I didn’t pay a dollar, not a dime, not a nickel,” said the man. “That’s what everybody calls them in the ‘hood, Obamaphone,” laughed the man.

At one point, a CBS4 reporter returned to one of the phone tents with a food stamp card that had simply been printed off the internet. He showed the paper card to a Total Call representative. Instead of having a name on the paper card, it was imprinted with the words, “training card.” Rather than immediately reject the clearly bogus card, the agent said, “I’ll try it,” and tried to qualify the CBS4 employee using the obviously fake food stamp card. It did not work.

The problems CBS4 found in the giveaway program have been raised before. The FCC said that since 2012, it has fined its vendors more than \$95 million for the kind of shenanigans uncovered in the CBS4 Investigation.

“We take any evidence of violations seriously and will not hesitate to enforce our rules, where warranted,” said Wigfield. “The FCC’s comprehensive reforms of the Lifeline [program](#) since 2012 have made significant progress in reducing waste, fraud and abuse in the program.”

Jon Caldara, a critic of government entitlement [programs](#) and president of the Independence Institute, said what the CBS4 Investigation revealed was a “systematic rip-off.”

“They actually put out tents and work with you to scam taxpayers. That’s got some bravado to it,” Caldara said. “We’re seeing that people who get these are people who don’t need them. Those of us who [pay](#) for our cellphones, we’re paying more because they are getting those for free.”

Caldara went on to say that the cellphone handout is set up in such a way as to automatically engender fraud and abuse.

“You have several examples of how the system is rigged to give out free goodies to people who don’t need it. And we’re paying for this,” exclaimed Caldara.

CBS4 Investigator [Brian Maass](#) has been with the station more than 30 years uncovering waste, fraud and corruption. Follow him on Twitter [@Briancbs4](#).