

**BEFORE THE PUBLIC SERVICE COMMISSION
OF THE STATE OF MISSOURI**

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

STAFF SUBMISSION

COMES NOW the Staff of the Missouri Public Service Commission ("Staff") and submits the Federal Communications Commission *Order Directing Temporary Hold of Payments* against Total Call Mobile, Inc., issued and effective June 22, 2016, in WC Docket No. 11-42, number DA-16-708.

WHEREFORE, the Staff submits the Order for inclusion in the documents in this EFIS file.

Respectfully submitted,



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CERTIFICATE OF SERVICE

I hereby certify that copies of the foregoing have been mailed, hand-delivered, transmitted by facsimile or electronically mailed to all counsel of record this 28th day of June, 2016.

A handwritten signature in black ink, appearing to be "All Day", is written below the text.

**Before the
Federal Communications Commission
Washington, D.C. 20554**

In the Matter of	)	
	)	
TOTAL CALL MOBILE, INC	)	WC Docket No. 11-42
	)	

ORDER DIRECTING TEMPORARY HOLD OF PAYMENTS

Adopted: June 22, 2016**Released: June 22, 2016**

By the Chief, Wireline Competition Bureau:

1. As set forth herein, the Wireline Competition Bureau (Bureau) directs the Universal Service Administrative Company (USAC) to issue a temporary hold of payments to Total Call Mobile, LLC (TCM)¹ relating to its requests for Lifeline reimbursements from the Universal Service Fund (Fund). This temporary hold is a limited one. It shall be effective beginning with TCM's request for reimbursement in all states filed for the data month of May 2016, and shall remain in effect pending the Bureau's receipt and evaluation of TCM's final, complete response to the Bureau's letter of June 1, 2016 and subject to the Bureau notifying USAC of any change in the terms of the temporary hold.²

I. INTRODUCTION AND BACKGROUND

2. On April 7, 2016, the Commission issued a Notice of Apparent Liability for Forfeiture and Order (NAL) against TCM. The NAL resulted from an extensive, multi-year investigation by the Commission's Enforcement Bureau (EB). This investigation revealed the following information about TCM's enrollment of duplicate and ineligible consumers in the Lifeline program:

- TCM was notified that USAC's November 2014 review of TCM's consumer lists identified 32,498 intra-company duplicate consumers over a period of approximately two years.³
- TCM has acknowledged seeking and obtaining reimbursement for a significant portion of these duplicate consumers.⁴
- A TCM internal spreadsheet produced during this investigation indicated that these intra-company duplicates were enrolled in the Lifeline program by more than 800 TCM sales agents.⁵

¹ Total Call Mobile, Inc., the subject of the NAL, has been reorganized as a limited liability company. Total Call Mobile, LLC's Response to Paragraph 102 of the Notice of Apparent Liability for Forfeiture at 1 n.1 (May 9, 2016) (TCM May Response).

² See Letter from Matthew S. DelNero, Chief, Wireline Competition Bureau, FCC, to Steve Augustino, Counsel to TCM, Jun. 1, 2016 (Bureau June 1 Letter). A copy of this letter is attached to this order as Appendix A.

³ See Letter from Ryan B. Palmer, Division Chief, Wireline Competition Bureau, FCC, to Masaaki Nakanishi, (Nov. 13, 2014); Letter from Steven A. Augustino, Counsel to TCM to Ryan B. Palmer, Division Chief, Wireline Competition Bureau, at 3 (Dec. 18, 2014) (December 2014 TCM Letter); *see also*, TCM-EB-000000868.

⁴ December 2014 TCM Letter at 4.

⁵ TCM-EB-000000868.

- Other TCM documents indicate that TCM received daily automated spreadsheet reports that reflected the enrollment of duplicate consumers by TCM sales agents, for which TCM received reimbursement from the Fund through at least October 2014.⁶
- According to USAC, 96 percent or more of TCM's Lifeline enrollments in the fourth quarter of 2014 were the result of an override by TCM of the third-party identification verification established by USAC's National Lifeline Accountability Database (NLAD).⁷
- Other TCM documents identify instances in which multiple Lifeline enrollments were supported by the repeated use of the same eligibility documentation.⁸

3. In paragraph 102 of the NAL, the Commission ordered TCM to submit within 30 days a report explaining why the Commission should not order USAC to suspend all Lifeline reimbursements to TCM.⁹ On April 8, 2016, USAC similarly advised TCM that it would be provided such an opportunity to "persuade the Commission that the hold should not be implemented," and specifically noted that TCM should provide the Commission with "information and documentation sufficient to demonstrate compliance with the Lifeline Program rules."¹⁰ TCM timely filed its response to paragraph 102 of the NAL on May 9, 2016.¹¹ On the same date, it filed its response to the USAC Letter, which relied on many of the same arguments.¹² Apart from disputing various Commission findings in the NAL,¹³ TCM made two arguments in support of its opposition to the proposed hold of its Lifeline payments.

⁶ See, e.g., TCM-EB-000940411-12, -2792-2801, -940421-22.

⁷ *Total Call Mobile*, File No.: EB-IHD-14-00017650, NAL/Acct. No. 201632080004, Notice of Apparent Liability, FCC 16-44 at para. 27 (*TCM NAL*).

⁸ TCM-EB000939080-81, -939083-84, -939089-90, -939325-27, -939071-73, -939091-95, -939096-98, -939173-90, -939322, -939400-01, -939635-37, -939955-56, -948950-51.

⁹ *TCM NAL*, FCC 16-44 at para. 102. The NAL also directed TCM to explain why the Commission should not revoke approval of TCM's ETC compliance plan and initiate proceedings against TCM to revoke its Commission authorizations. *Id.* This order does not address that issue.

¹⁰ USAC Letter at 1-2.

¹¹ TCM sought and was granted an extension until June 23, 2016, in which to file its response to the NAL. E-mail from David Sobotkin, Enforcement Bureau, FCC, to Steven A. Augustino, Counsel to TCM, (May 2, 2016). By contrast, TCM neither sought nor received an extension of time for its response to the proposed hold of future reimbursements. TCM thus remained obligated to present any response to the allegations in the NAL that it wished the Commission to consider in connection with the proposed hold on or before May 9, 2016. TCM elected to defer its "full" response to the NAL until June 23. Letter from Steven A. Augustino, Counsel to TCM, to Ms. Marlene H. Dortch, Secretary, FCC, at 1 n.1 (May 9, 2016). However, as TCM recognized by its filing on May 9 with respect to the proposed hold of future reimbursements, there is no question that TCM had the opportunity to respond sooner to any allegations in the NAL that it wished to address in connection with that proposed hold.

¹² Letter from Steven A. Augustino, Counsel to TCM, to Ms. Michelle Garber, Vice President, USAC (May 9, 2016) (*TCM May 9 Letter to USAC*). In its response to the USAC Letter, TCM argued that it is entitled under the Commission's April 7 NAL order to a response prior to any determination to withhold payments, and that USAC has no authority to reach a determination without consideration of that response. *Id.* at 2-3. We agree that the Commission's order requires consideration of the adequacy of TCM's May 9 responses prior to making any such determination to hold reimbursements.

¹³ TCM May Response at 2-3. See also Letter from Steven A. Augustino, Counsel to TCM, to The Honorable Tom Wheeler, Chairman of the FCC, May 13, 2016. The issue addressed in this order concerns the question whether the TCM has demonstrated that future Lifeline reimbursement to TCM would be consistent with the applicable Commission rules. Our analysis of that question need not and does not rely on the corroborating evidence provided by TCM's sales agents with respect to apparent violations of those rules described in the NAL, which will be addressed in connection with further action on the forfeitures and other remedies proposed in the NAL and in light

4. First, TCM argued that its policies and practices demonstrate its commitment to implement its Lifeline compliance plan, which the Commission approved in May 2012.¹⁴ TCM relied principally on what it refers to as a “Training Manual,” attached as Exhibit A to its response.¹⁵ It stated that the training presentation in this document is “an updated version” of materials previously provided to the Commission.¹⁶ TCM asserted that these procedures “are consistent with the Commission’s rules,” but that it “is open to making further changes to the training procedures.”¹⁷ TCM also described “a number of safeguards to protect against improper enrollments.”¹⁸

5. Second, TCM argued that the Commission lacked authority to direct USAC to withhold Lifeline reimbursements without first issuing an order finding wrongdoing by the company. It relied on Section 54.8 of the Commission’s rules governing suspension or debarment of a person from a Universal Service program.¹⁹ Absent “extraordinary circumstances,” Section 54.8 predicates such suspension or debarment on a conviction or civil liability for specified fraud or criminal offenses.²⁰ TCM argued that it is entitled to a Section 54.8 notice of suspension prior to the implementation of any funding hold. TCM also contended that a temporary hold of payments is inconsistent with Section 504(c) of the Act, which prevents the “fact” of the NAL from being used to the prejudice of TCM, because in TCM’s view the temporary hold is premised on “the fact of the NAL.”²¹

6. The Bureau found TCM’s May 9 response lacking. Specifically, the Bureau found that TCM “fail[ed] to include documentation that the company’s agents and employees are in fact receiving training designed to ensure against enrollment of duplicate or ineligible consumers, how the company’s agents and employees are in fact receiving training designed to ensure against enrollment of duplicate or ineligible consumers, how the company’s training program differs in this regard from the program in effect during the period addressed in the [NAL], and that there is a reasonable basis for the Commission to believe that the current training program is effective.”²² Accordingly, in a June 1, 2016 letter, the Bureau directed TCM to respond to nine additional questions pertaining to TCM’s enrollment and eligibility determination policies and practices. TCM was required to provide responses by June 13 that were supported by declarations from officers of TCM with personal knowledge thereof.²³ In its letter, the Bureau noted that the Commission would evaluate whether to direct a hold of future monthly Lifeline payment requests to TCM “in light of its review of [this] information.” The Bureau further advised that any failure to respond “may also result in an immediate hold of all further Lifeline payments pending further investigation by the Commission.”²⁴

of TCM’s response thereto. Nor do we need to resolve the question of whether or to what extent TCM has addressed any prior improper payments with respect to duplicate or otherwise ineligible consumers. *See id.*

¹⁴ TCM May Response at 4-6.

¹⁵ *Id.* at 6-15 & Exh. A.

¹⁶ *Id.* at 7 n.19.

¹⁷ *Id.* at 7.

¹⁸ *Id.* at 17-22.

¹⁹ *Id.* at 22-24.

²⁰ 47 CFR § 54.8.

²¹ TCM May Response at 24-26; 47 U.S.C. § 504(c).

²² *See* Appx. A (Bureau June 1 Letter).

²³ *Id.*

²⁴ *Id.*

7. TCM responded to the Bureau June 1 Letter on June 13, 2016.²⁵ TCM's response was not supported by any sworn statement by an officer of TCM, as required by the Bureau June 1 Letter. Further, TCM did not respond to half of the questions posed by the Bureau. Instead, TCM stated that it "expect[ed] to provide its response on or about June 27, 2016."²⁶ On June 17, 2016, TCM provided a short "supplemental response" concerning one of the questions in the Bureau June 1 Letter (again without any supporting, sworn statement), but acknowledged that it still has not fully responded to all of the Bureau's questions.²⁷

II. DISCUSSION

A. TCM Has Failed to Show That It Will Comply with Commission's Lifeline Rules

8. TCM has failed to assure us that additional payments to the company would comply with our Lifeline rules and policies. The Bureau, in its June 1 Letter, concluded that TCM's May 9 response had failed to provide adequate information and documentation with respect to that issue, and identified with specificity the inadequacies of that response. Nevertheless, in its June 13 response, TCM provided an incomplete or no response to five of the Bureau's nine questions.²⁸ For example, in response to Questions 6 and 9, TCM provided only a statement that it "continues to pull documents and information in response to th[ese] request[s] and expects to provide its response on or about June 27, 2016."²⁹ These questions concern TCM's policies and procedures to ensure compliance with the Lifeline rules, specifically: (1) the effective dates of those policies and procedures accompanied by an explanation of how they differed from the policies and procedures in effect during the period covered by the NAL (Question 6); and (2) identification of all TCM agents terminated for violations of Lifeline rules (Question 9). In response to Questions 4 and 5, which seek eligibility documents for TCM's Lifeline enrollments between March 1, 2016 and June 1, 2016, TCM explained that it is relying on its vendor to provide eligibility documents "to the extent they exist for a particular subscriber"; that its vendor "does not capture" certain certification forms and other documents requested by the Bureau; and that it "has not yet received an estimate as to when [its vendor] will be able to provide" any information that is responsive.³⁰ Moreover, some of the responses TCM did provide were incomplete. TCM, for example, submitted a partial response to Question 8; while that response explains TCM's current process for obtaining approval for applicants who fail NLAD identity verification, it fails to explain how that process differs from the NLAD override process in effect during the period covered by the NAL.³¹ We further note that the responses TCM did provide were signed by its outside counsel. They were not supported by a sworn statement by an officer of TCM, as specified in the Bureau June 1 Letter.

9. TCM's failure to respond to the Bureau's inquiries is particularly troubling, because the Commission staff has provided TCM more than one opportunity to demonstrate that future payments to TCM will comply with the Commission's Lifeline rules and policies. Indeed, more than one month after

²⁵ Letter from Steven A. Augustino, Counsel to TCM, to Mr. Charles Tyler, Wireline Competition Bureau, FCC, and Ms. Michelle Garber, Vice President, USAC (June 13, 2016) (TCM June Response).

²⁶ *Id.* at 2, 5-6.

²⁷ Letter from Steven A. Augustino, Counsel to TCM, to Mr. Charles Tyler, Wireline Competition Bureau, FCC, and Ms. Michelle Garber, Vice President, USAC, June 17, 2016.

²⁸ These requests are related to program eligibility documents (Request 4); TCM's policies and procedures described in its May 9 response, including the use of [REDACTED] (Requests 5 and 6); and a list of agents terminated for violation of Lifeline policies (Request 9). The Bureau takes no position on the adequacy of TCM's other responses, which are still under review by Bureau staff.

²⁹ TCM June Response at 3-6.

³⁰ *Id.* at 4-5.

³¹ Letter from Steven A. Augustino, Counsel to TCM, to Mr. Charles Tyler, Wireline Competition Bureau, FCC, and Ms. Michelle Garber, Vice President, USAC, June 17, 2016, at 2.

TCM's May 9 response, and a follow-up letter from the Bureau, the company still has not explained or documented its current compliance program, even though it continues to request monthly Lifeline payments. If, as TCM asserts, it has procedures and policies in place to prevent enrollment of ineligible consumers, TCM should be able to document any changes made to improve the effectiveness of those policies and procedures in response to the Commission's repeated requests. It is well established that "the omission by a party to produce relevant and important evidence of which he has knowledge, and which is peculiarly within his control, raises the presumption that if produced the evidence would be unfavorable to his cause."³² Given TCM's repeated failure to provide such information, and its failure to support the information it has submitted with a sworn statement from an officer of the company on personal knowledge, we cannot at this time determine whether TCM has implemented sufficient safeguards to prevent improper payments from the Fund.

10. Thus, for the reasons set forth above, we direct USAC to exercise its authority to suspend further payments to TCM.³³ This hold shall be effective beginning with TCM's request for reimbursement on Form 497 filed for the data month of May 2016. We emphasize that this hold is temporary. If we determine after reviewing TCM's complete responses³⁴ 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. In light of the "critical importance of ensuring [that the Lifeline] program effectively serves those most in need" and that the Fund is not depleted by improper payments,³⁵ we conclude that such a hold is warranted.³⁶

B. The Commission's Legal Authority to Temporarily Hold Payments

11. In addition, TCM raises a number of legal arguments in support of its position that a temporary hold of payments is inappropriate. These arguments are without merit.

12. TCM first argues that the Commission intends to suspend or debar TCM from *participation* in the Lifeline program, and consequently cites 47 CFR § 54.8.³⁷ TCM is wrong. The procedures set forth in Section 54.8 of our rules apply to suspensions and debarments of people and companies *from participation in programs* funded by the Universal Service Fund, and do not apply to the

³² *Tendler v. Jaffe*, 203 F.2d 14, 19 (D.C. Cir. 1953). *Accord*, *International Union v. NLRB*, 459 F.2d 1329, 1336 (D.C. Cir. 1972). *See also Interstate Circuit v. United States*, 309 U.S. 208, 226 (1939).

³³ *Lifeline and Link Up Reform and Modernization et al.*, 27 FCC Rcd 6656, 6785, para. 298 (2012) (*2012 Lifeline Reform Order*).

³⁴ Such supplemental responses shall be supported by declaration(s) under penalty of perjury from officer(s) of the company with personal knowledge of the relevant facts.

³⁵ *2012 Lifeline Reform Order*, 27 FCC Rcd at 6785, para. 295. As the Commission has emphasized, compliance with the requirements of the Lifeline rules is "critical to maintaining the integrity of the fund," so as to "further Congress's objectives in section 254(b) of the Act, including providing low income consumers with access to affordable telecommunications and information services." *Id.* at 6785, para. 299. *See also Rural Cellular Ass'n v. FCC*, 588 F.3d 1095, 1102 (D.C. Cir. 2009) (finding the Commission "reasonably interpreted Congress's directive that it 'preserve' universal service as also requiring that it 'sustain' universal service, which, in turn, requires ensuring the sustainability of the fund.>").

³⁶ TCM also has failed to demonstrate that a temporary hold would cause it irreparable injury. In its May 2012 Compliance Plan, TCM assured the Commission at that time that the company "[had] not and [would] not be relying exclusively on Lifeline reimbursement for [its] operating revenues." Compliance Plan, May 14, 2012, at 23. TCM stated that it "receives revenues from ... prepaid wireless services" that it provides "to non-Lifeline customers," and that it "has access to the financial resources of its parent company." *Id.* TCM "is the wholly-owned subsidiary of Total Call International," which according to the Compliance Plan "is majority owned by ... a subsidiary of Japan's second largest telecommunications carrier," KDDI Corporation. *Id.* TCM furnished KDDI Corporation's financial statements to the Commission as an exhibit in support of the Compliance Plan.

³⁷ *See, e.g.*, TCM Response at 22-24.

temporary hold of payments to program participants during investigations. Section 54.8 allows for suspensions and debarments from programs supported by the Fund following conviction of, or civil judgment for, specified fraud and false statement offenses.³⁸ Thus, this section is typically used to prevent those convicted of, or those subject to a civil judgment for, defrauding the Fund from participating in those programs.³⁹ In this instance, by contrast, we are not disqualifying TCM from participation in the Lifeline program, either temporarily or permanently. Rather, we are temporarily *holding payments* to TCM pending our evaluation of TCM's responses to the Bureau's June 1, 2016 letter. To the extent that the Commission receives adequate assurance that TCM's requested payments for future enrollments will not be improper, TCM will be entitled to past held payments, in accordance with past practice regarding TCM and other Lifeline participants.

13. In any event, both the Communications Act and other Commission rules and policies give us authority to impose this temporary hold. The Commission has "broad discretion" in discharging its universal service mandate under Section 254 of the Act⁴⁰ to "to impose cost controls to avoid excessive expenditures that will detract from universal service."⁴¹ Section 54.407 of the Commission's rules, also provides that Lifeline support shall be provided only "based on the number of actual qualifying low-income consumers [TCM] serves."⁴² To that end, Section 54.707 authorizes USAC to "suspend or delay . . . support amounts provided to a carrier if the carrier fails to provide adequate verification . . . upon reasonable request, or if directed by the Commission to do so."⁴³ Likewise, the *2012 Lifeline Reform Order* specifically authorizes USAC to "suspend further payments to the carrier pending USAC's receipt and evaluation of the carrier's response to [a] notification."⁴⁴

14. Also, our determination that we should place a temporary hold on TCM's payments is reasonable in light of the Improper Payments Elimination and Recovery Act of 2010 (IPERA).⁴⁵ IPERA encourages federal agencies to take action to reduce improper payments, which include "any payment to an ineligible recipient, any payment for an ineligible good or service, [and] any duplicate payment."⁴⁶ Further, it is well established that agencies can temporarily hold payments to entities that receive

³⁸ See 47 CFR § 54.8(c), (d).

³⁹ See, e.g., *Mr. Wes Yui Chew*, 30 FCC Rcd 11939 (EB 2015) (debaring Icon Telecom, Inc. from "participating in any activities associated with or related to the Lifeline program" following conviction of Icon for making a false statement in violation of 18 U.S.C. § 1002(a)(2)).

⁴⁰ 47 U.S.C. § 254.

⁴¹ *Alenco Commc'ns, Inc. v. FCC*, 201 F.3d 608, 620-21 (5th Cir. 2000); see also *In re: FCC 11-161*, 753 F.3d 1015, 1046 (10th Cir. 2014) (holding that the FCC has the authority under section 254 of the Act to determine and specify how USF funds may or must be used); *Rural Cellular Association*, 588 F.3d at 1106 (upholding the Commission's authority to impose an interim cap on high-cost support to competitive ETCs – which were causing exponential growth in the high-cost portion of the Fund – pending comprehensive universal service reform).

⁴² 47 CFR § 54.407.

⁴³ 47 CFR § 54.707.

⁴⁴ See *2012 Lifeline Reform Order* 27 FCC Rcd at 6785, para. 298. In this case, the arguments in the TCM Response based on Exhibit A and its other training and compliance procedures do not distinguish among its various study areas. Nor is the documentary evidence cited above confined to any particular study areas. Accordingly, this temporary hold extends to all such areas. See *id.*

⁴⁵ Pub L. No. 111-204, 124 Stat. 2224, as amended by the Improper Payments Elimination and Recovery Improvement Act of 2012, Pub. L. No. 112-248, 126 Stat. 2390. See also *2012 Lifeline Reform Order*, 27 FCC Rcd at 6785, para. 299 (citing IPERA and related OMB guidelines).

⁴⁶ IPERA § 2.

reimbursements for participating in government programs.⁴⁷ Indeed, TCM's contrary claim would require the Commission to keep making payments even when it reasonably believes them to be improper and impermissible under the Commission's rules. Such a reading of the Commission's rules would be a disservice to the Fund itself, which would be deprived of its finite resources in such circumstances.

15. TCM also maintains that a temporary hold of payments prior to a complete adjudication of the NAL is premature pursuant to Section 504(c) of the Communications Act.⁴⁸ This is incorrect. Section 504(c) prevents the "fact" of the NAL from being used to the prejudice of TCM.⁴⁹ In this instance, our temporary hold of payments rests upon TCM's failure to demonstrate that it has policies and procedures to prevent improper enrollments. As noted above, it is only a temporary hold, pending review of TCM's responses to our June 1, 2016 letter, and may result in restoration of these held payments after we analyze TCM's submissions. It is wholly independent of the question whether TCM is liable for a forfeiture for past violations of the Commission's Lifeline rules.

III. ORDERING CLAUSES

16. IT IS ORDERED that, pursuant to Sections 4(i), 5, 218, 254, and 403 of the Communications Act of 1934, as amended, 47 U.S.C. §§ 154(i), 155, 218, 254, and 403, and Sections 0.91, 0.291, and 54.707 of the Commission's rules, 47 CFR §§ 0.11, 0.291, and 54.707, and the *2012 Lifeline Reform Order*, 27 FCC Rcd at 6785, para. 298, the Universal Service Administrative Company SHALL HOLD any and all payments to Total Call Mobile, LLC, effective with the request for reimbursement for the data month of May 2016, subject to the outcome of the Commission's investigation pursuant to paragraph 102 of the Notice of Apparent Liability and Order released on April 7, 2016, in File No. EB-IHD-14-00017650, and in accordance with the terms of this order.⁵⁰

FEDERAL COMMUNICATIONS COMMISSION

Matthew S. DelNero
Chief
Wireline Competition Bureau

⁴⁷ See, e.g., *Personal Care Products, Inc. v. Hawkins*, 635 F.3d 155, 159 (5th Cir. 2011) (hold for Medicaid reimbursements to provider subject of fraud investigation); *Clarinda Home Health v. Shalala*, 100 F.3d 526, 528-29 (8th Cir. 1996) (Medicaid provider has no right to temporarily suspended payments while being investigated for underlying charges involving fraud); *Yorktown Medical Laboratory, Inc. v. Perales*, 948 F.2d 84, 89 (2d Cir. 1991) (involving payments for claims pending investigation to determine illegality); *Karnak Educational Trust v. Bowen*, 821 F.2d 1517, 1521 (11th Cir. 1987) (government has substantial interest in its ability to suspend reimbursement payments); *Peterson v. Weinberger*, 508 F.2d 45, 48-50 (5th Cir. 1975) (upholding decision to withhold reimbursements while investigation into possible fraud was underway).

⁴⁸ See TCM Response at 25-26.

⁴⁹ 47 U.S.C. § 504(c).

⁵⁰ Our determination that a temporary hold of payments is appropriate pending and subject to further investigation of the facts is wholly separate from the Commission's ultimate adjudication of the allegations contained in the NAL.

APPENDIX A



Federal Communications Commission
Washington, D.C. 20554

June 1, 2016

VIA ELECTRONIC MAIL AND U.S. MAIL

Steven A. Augustino
Kelley Drye & Warren LLP
Washington Harbour, Suite 400
3050 K Street, N.W.
Washington, D.C. 20007

Dear Mr. Augustino:

On May 9, 2016, Total Call Mobile, LLC (Total Call Mobile or TCM) filed its response to paragraph 102 of the Federal Communications Commission's (Commission's) April 7, 2016 Notice of Apparent Liability (Response), in which Total Call Mobile was ordered to submit a report explaining, among other things, why the Commission should not place a hold on the company's Lifeline payments. Although Total Call Mobile's Response asserts that the company now complies with the Lifeline program rules, it fails to include documentation that the company's agents and employees are in fact receiving training designed to ensure against enrollment of duplicate or ineligible consumers, how the company's training program differs in this regard from the program in effect during the period addressed in the Commission's Notice, and that there is a reasonable basis for the Commission to believe that the current training program is effective.

Accordingly, Total Call Mobile is required to provide a complete production of the specific documentation and responses set forth below by June 13, 2016, in order for the Commission to complete its review of whether Total Call Mobile's Lifeline payments should be held. Please send to the Commission at the attention of Charles Tyler, Telecommunications Access Policy Division, Wireline Competition Bureau, 445 12th Street, SW, Room 5-A452, Washington, DC 20554; email: Charles.Tyler@fcc.gov; and to Universal Service Administrative Company (USAC) at the attention of Michelle Garber, USAC Vice President, Lifeline Division, 2000 L Street, Suite 200, Washington, DC 20036; email: mgarber@usac.org. Such responses shall be supported by declaration(s) under penalty of perjury from officer(s) of the company with personal knowledge of the relevant facts.

1. Provide executed copies of the [REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
2. Confirm that the assertions made therein are true and correct.
3. Provide full and complete subscriber lists and spreadsheets supporting TCM's claims for reimbursements from the Universal Service Fund for data months March 2016 through

present, inclusive of all versions and revisions of these lists/spreadsheets and all available data fields.

4. Provide copies of all program eligibility documents supporting TCM Lifeline enrollments from March 1, 2016, through present.
5. Provide documentation of the procedures described at pages 17-21 of the TCM Response for each jurisdiction in which TCM operates as a Lifeline service provider, together with an explanation of the standards for [REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
6. Provide documentation of when Exhibit A, and the current procedures described at pages 17-21 of the TCM Response, became effective for each jurisdiction in which TCM operates as a Lifeline service provider. Describe how these (including the processes for confirming applicants' identity, eligibility, status as head of household, valid household address, non-receipt of Lifeline benefits, and use of the handset) differ from prior versions of TCM's training and compliance programs, including its recertification procedures.
7. State how many TCM employees are currently employed on its New Jersey customer service team, and on its California Lifeline team, that perform the functions described at pages 17-18 of the TCM Response. For each of the months of January through April 2016, state how many applications each of these teams reviewed.
8. Describe and provide documentation of TCM's current procedures for overriding National Lifeline Accountability Database (NLAD) or any state or other applicable verification procedures. State when those procedures were put in place, whether they differ from the procedures previously in place and if so, how they differ.
9. Since November 13, 2014, identify all Agents terminated by TCM for violations of Lifeline rules or related TCM policies, and provide the dates of such terminations.

The Commission will evaluate whether to direct a hold of future monthly payment requests in light of its review of the foregoing information. Any failure by Total Call Mobile to provide such information may also result in an immediate hold of all further Lifeline payments pending further investigation by the Commission.

Sincerely,

Matthew S. DelNero
Chief
Wireline Competition Bureau