



Ajit Pai  
Commissioner

FEDERAL COMMUNICATIONS COMMISSION

WASHINGTON, DC 20554

September 7, 2016

Mr. Chris Henderson  
Chief Executive Officer  
Universal Services Administrative Company  
2000 L Street NW, Suite 200  
Washington, DC 20036

Dear Mr. Henderson,

Thank you for your August 15 letter regarding phantom subscribers as well as your continued and diligent work to root out the waste, fraud, and abuse that has riddled the Universal Service Fund's Lifeline program since wireless resellers began participating in this program in earnest in 2009.

Although much of my investigation thus far has focused on the exploits of Total Call Mobile and other wireless resellers that appear to have employed similar practices, a recent enforcement action has raised another concern: the validation of subscribers for enhanced subsidies.

As you know, the Lifeline program authorizes an enhanced subsidy (up to \$25 per month) for eligible residents of Tribal lands, which comes on top of the standard \$9.25 per month subsidy. The enhanced subsidy offers a tremendous incentive for unscrupulous carriers to try to exploit our rules, and we know that some have. Icon Telecom, for example, claimed tens of thousands of phantom customers in Oklahoma to profit from the enhanced subsidies on Tribal lands before its scheme was ultimately uncovered and Icon's owner pleaded guilty to money laundering.

More recently, the FCC settled an investigation into Blue Jay Wireless's practices in Hawaii. According to the FCC's official release, Blue Jay had claimed subscribers as eligible for the enhanced subsidy in November 2013 and added thousands of such subscribers to its rolls. Even though Blue Jay collected every subscriber's address, it did not verify whether those addresses were on Tribal lands; in fact, it sought enhanced subsidies even when a subscriber's address made him/her clearly ineligible. By 2014, the Hawaii Public Utilities Commission staff had discovered that Blue Jay was claiming more subscribers than the total number of households in the Hawaiian Home Lands! Thanks to the work of the Hawaii Public Utilities Commission and FCC staff, we were able to recover \$2 million in wrongful disbursements to Blue Jay.

The recent consent decree with Blue Jay suggests that there may be substantial gaps in our federal safeguards for Lifeline. To that end, I request that you provide my office with the following information:

1. Our rules state that the enhanced subsidy can only be received by an "eligible resident of Tribal lands," meaning a qualifying low-income consumer "living on Tribal lands." 47 C.F.R. § 54.400(e). Does USAC have a map of qualifying Tribal lands that it uses to verify eligibility for the enhanced subsidy? Does USAC share that map with wireless resellers so they can verify whether they are serving Tribal lands? Does USAC share that map with state commissions responsible for overseeing wireless resellers in the Lifeline program or the FCC? Please include a copy of any maps USAC uses for verifying eligibility for the enhanced subsidy.

2. One safeguard required by our rules is that a subscriber must certify under penalty of perjury to residency on Tribal lands. 47 C.F.R. § 54.410(d)(3). Do wireless resellers retain these certifications? Do they submit them to USAC, and if so, when? What other federal safeguards, if any, are there to ensure that every subscriber receiving an enhanced subsidy does in fact live on Tribal lands before USAC disburses the enhanced subsidy?
3. Must a wireless reseller record a subscriber's eligibility for an enhanced subsidy in the National Lifeline Accountability Database (NLAD)? If so, does the NLAD compare the subscriber's inputted address against a map of Tribal lands to ensure that only subscribers actually living on Tribal lands receive the enhanced subsidy? If not, why not?
4. What is the relationship, if any, between a subscriber's eligibility for enhanced support and the NLAD's Tribal Flag, which you highlighted in your May 25 letter?
5. Please describe any investigations, audits, or reviews that USAC has conducted from October 2014 to the present that examined whether a wireless carrier sought enhanced subsidies only for eligible subscribers living on Tribal lands.
  - a. Please explain the steps USAC has taken in such investigations, audits, or reviews to verify eligibility for the enhanced subsidy. Does USAC check whether a subscriber has appropriately certified that he or she lives on Tribal lands? Does USAC verify that the subscriber's address is actually located on Tribal lands?
  - b. Please explain whether any such investigations, audits, or reviews led to referrals to the relevant state commission, to the FCC's Inspector General, to the FCC's Enforcement Bureau, or to any other person at the FCC.
6. As mentioned above, the Hawaiian Public Utilities Commission detected that Blue Jay was enrolling more subscribers than households in the Hawaiian Home Lands. What automatic checks does USAC have in place to detect similar conduct?
7. In June 2015, the FCC changed what parts of Oklahoma qualified as Tribal lands for purposes of the enhanced subsidy. Effective June 8, 2016, subscribers in Oklahoma must live within the boundaries reflected in the Oklahoma Historical Map or the Cherokee Outlet to qualify for the enhanced subsidy on a going-forward basis. The FCC has made maps (digital shapefiles) available for wireless resellers and others to use to enact this change.
  - a. What process does USAC have in place to ensure that wireless resellers do not continue to claim enhanced subsidies for subscribers in Oklahoma who no longer qualify under this change?
  - b. Can USAC determine whether each Oklahoma subscriber in the NLAD now resides on Tribal lands (and therefore qualifies for the enhanced subsidy)? If not, what other information would USAC need to make such a determination?
  - c. Please provide the following information for the ten largest wireless resellers in Oklahoma for each month from February 2016 to the present:
    - i. The number of subscribers claimed by the reseller,
    - ii. Of those, the number receiving an enhanced subsidy,
    - iii. The maximum number of subscribers enrolled in the NLAD during a given month for the reseller,
    - iv. Of those, the number whose address showed that they lived on Tribal lands (for June, please use both definitions of Tribal lands).

I appreciate USAC's continued work to protect American taxpayers and safeguard the Universal Service Fund. Given the millions in taxpayer funds that have already gone to waste, I respectfully ask that you respond with the requested information by September 21, 2016. If you have any questions, please feel free to contact Nicholas Degani in my office at (202) 418-2000.

Sincerely,

A handwritten signature in black ink, appearing to read "Ajit Pai". The signature is written in a cursive style with a large initial "A".

Ajit Pai  
Commissioner  
Federal Communications Commission