

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

In the Matter of
Network Services Solutions, LLC,
Scott Madison
File No.: EB-IHD-15-0001913
NAL/Acct. No.: 201732080001
FRN: 0014290357

NOTICE OF APPARENT LIABILITY FOR FORFEITURE AND ORDER

Adopted: November 4, 2016

Released: November 4, 2016

By the Commission: Commissioners Pai and O’Rielly Approving in Part, Dissenting in Part and
Commissioner Pai issuing a statement.

TABLE OF CONTENTS

Heading Paragraph #
I. INTRODUCTION..... 1
II. BACKGROUND..... 4
A. Legal Framework..... 4
B. Relevant Entities and Individuals 16
1. Network Services Solutions, LLC..... 16
2. AT&T 21
3. Regional Sales Companies 23
4. Health Care Providers 24
III. THE COMMISSION’S INVESTIGATION 25
A. NSS’s Conduct Related to the Rural Health Care Program’s Competitive Bidding Process 26
1. NSS Received Commitments from HCPs Prior to the Completion of the 28-Day
Competitive Bidding Process 27
2. NSS and HCPs Created and Used Post Facto Bid Matrices 35
3. NSS Furnished a Gift to Receive a Contract 46
4. NSS’s Use of Confidential and/or Proprietary Information from AT&T and Others to
Gain Competitive Advantage in the Bidding Process 50
B. NSS Inflated the Rural Rates Charged to HCPs 54
C. NSS’s Use of Apparently Forged and False Documents Related to the Rural Health Care
Program and Universal Service Fund 70
1. NSS’s Use of Apparently Forged Urban Rates That Were Submitted to USAC and
Supported USF Payments..... 72
2. NSS’s Urban Rate Letters on Their Own Letterhead Falsely State Certain Services
Cost \$138.00 Per Month..... 84
IV. DISCUSSION 88
A. NSS Apparently Engaged in Competitive Bidding Practiced That Were Not Fair and
Open in Order to Receive Contracts from HCPs in Violation of Rural Health Care
Program Rules..... 89

1. NSS Apparently Received Commitments from HCPs to Provide Telecommunications Services Prior to the Expiration of the 28-Day Period and, in Some Instances, Before the Form 465 Was Even Posted, in Violation of Section 54.603 of the Commission’s Rules..... 91

2. NSS Created *Post Facto* Bid Matrices to Apparently Deceive USAC and the Commission into Believing that Competitive Bidding Processes were Fair and Open, in Violation of Sections 54.603 and 54.615 of the Commission’s Rules 94

3. NSS Apparently Induced an HCP to Award It a Contract as a Result of an Improper Gift, in Violation of Sections 54.603 and 54.615 of the Commission’s Rules..... 97

4. NSS Apparently Received Confidential, Proprietary, and Inside Information from Service Providers and HCPs that Gave NSS an Unfair Advantage in the Competitive Bidding Process, in Violation of Sections 54.603 and 54.615 of the Commission’s Rules..... 99

B. NSS Apparently Violated the Commission’s Rules by Inflating Rural Rates Charged to HCPs to Improperly Increase Its Payments from the Fund, in Violation of Sections 54.607 and 54.609 of the Commission’s Rules 101

C. NSS Apparently Violated the Commission’s Rules Through Its Use of Apparently Forged and False Documents to Improperly Increase Payments Received from the Fund..... 105

1. NSS Apparently Violated the Commission’s Rules Through Its Use of Apparently Forged Urban Rate Documents, in Violation of Sections 54.605, 64.609, and 54.613 of the Commission’s Rules..... 108

2. NSS Apparently Violated the Commission’s Rules When It Falsely Represented that the Urban Rate for Certain Services Was \$138.00 Per Month, in Violation of Sections 54.605, 64.609, and 54.613 of the Commission’s Rules 109

D. NSS Apparently Committed Wire Fraud 110

E. Joint and Several Liability of NSS and Scott Madison..... 117

V. PROPOSED FORFEITURE 127

A. Proposed Forfeiture Amount for NSS’s Conduct in Apparent Violation of the Commission’s Competitive Bidding Rules..... 133

B. Proposed Forfeiture Amount for NSS’s Apparent Violations of the Commission’s Rules Governing Urban Rates..... 136

C. Proposed Forfeiture Amount for NSS’s Apparent Violation of the Wire Fraud Statute Pursuant to Section 503(b)(1)(D)..... 141

VI. CONCLUSION 142

VII. ORDERING CLAUSES..... 148

APPENDIX A – Overview of \$138.00 Urban Rates as Represented by NSS

APPENDIX B – Form 466s Charged

APPENDIX C – Form 466s Supported by Apparently False \$138.00 Rate Documents

APPENDIX D – Form 466s Supported by Apparently Forged Comcast Rate Documents

APPENDIX E – Apparently Forged Urban Rate Document Submitted to USAC by HCP South Sunflower on June 10, 2013

APPENDIX F – Apparently Forged Urban Rate Document Backdated by NSS and Submitted to USAC by HCP South Sunflower on January 24, 2014

APPENDIX G – Email from NSS Employee to Scott Madison Attaching Apparently Backdated and Forged Urban Rate Documents at His Request

I. INTRODUCTION

1. The federal Rural Health Care Program (RHC Program) ensures that eligible rural health care providers (HCPs) pay the same amount for telecommunications services as their urban counterparts. Through this program, the Commission facilitates the availability of cutting edge medical services to rural communities, including high-speed telecommunications and internet connectivity. Parties that defraud or

otherwise harm the RHC Program not only deprive the program of much-needed funds, but also potentially harm millions of rural Americans, who may end up paying more for medically necessary services or forgoing them altogether. This is such a case.

2. From at least 2012 through the present, Network Services Solutions, LLC (NSS), in connection with its participation in the RHC Program, received millions of dollars from the Universal Service Fund (USF or the Fund) to which it was not apparently entitled. NSS's apparently wrongful conduct includes:

Competitive Bidding

- Prematurely reaching agreements in principle with eligible rural HCPs prior to the end of the mandatory 28-day waiting period during which HCPs are required to consider bids submitted by multiple parties;
- Deceiving the Universal Service Administrative Company (USAC) and the Commission by proffering bid analysis documents that gave the false impression that NSS's selection as service provider for certain contracts was objectively made;
- Providing a \$10,000 gift to induce an HCP to award a contract to NSS;
- Gaining an unfair advantage in the competitive bidding process by utilizing proprietary information it improperly obtained through its relationship with an account manager of a facilities-based telecommunications provider;

Inflated Rural Rates

- Contributing little to no value for services that were provided to HCPs by underlying facilities-based carriers and then significantly inflating the actual costs of those services, the rural rates, which were ultimately paid by the Fund;

Forged and False Documents

- Submitting documents to USAC and HCPs with apparently forged and false urban rates in order to increase NSS's payments from the Fund; and

Wire Fraud

- Transmitting forged documents via interstate wire to HCPs and USAC in order to support USF claims, which resulted in NSS improperly receiving considerably greater payments from the Fund.

3. In this Notice of Apparent Liability for Forfeiture (NAL), we continue our commitment to combat waste, fraud, and abuse in the RHC Program by taking action and proposing monetary forfeitures against a company that has apparently ignored the Commission's Rules. Specifically, we find that NSS apparently willfully and repeatedly violated Sections 54.603, 54.605, 54.607, 54.609, 54.613 and 54.615 of the Commission's Rules,¹ by engaging in conduct which resulted in competitive bidding that was not fair and open, inflating the rates for services it charged to HCPs and the Fund, and relying on apparently forged and false documents to support its claims for payment from the Fund. Pursuant to Section 503(b)(1)(D) of the Communications Act of 1934, as amended (Act)², we further find that NSS apparently violated the wire fraud statute by transmitting or causing to be transmitted by means of wire, radio, or television communication in interstate commerce apparently forged documents to support its claims for payment from the Fund.³ As a result, and upon the findings and recommendations of the

¹ 47 CFR §§ 54.603, 54.605, 54.607, 54.609, 54.613, 54.615.

² 47 U.S.C. § 503(b)(1)(D).

³ 18 U.S.C. § 1343.

Enforcement Bureau's (Bureau) USF Strike Force (Strike Force) after an extensive and comprehensive investigation (the Investigation),⁴ we propose a forfeiture penalty of \$21,691,498.85. The forfeiture penalty we propose here reflects the seriousness, duration, egregiousness, and scope of NSS's multiple apparent violations.

II. BACKGROUND

A. Legal Framework

4. Before discussing NSS's apparent violations, we first must provide some background information on the RHC Program. As noted above, the RHC Program provides financial support to eligible rural HCPs so that all health care facilities—regardless of whether they are located in a rural or urban area—can implement the modern telecommunications systems that are vital to 21st century medical care.⁵ The Telecommunications Program is part of the Commission's RHC Program and is paid for through the USF.⁶ Through the Telecommunications Program, eligible rural HCPs can obtain rates for supported services that are no higher than the highest tariffed or publicly-available commercial rate for a similar service in the closest city in the state with a population of 50,000 or more people.⁷ Support payments from the Fund related to the Telecommunications Program are calculated as the difference between the rural rate (the rate for telecommunication services provided to HCPs in rural areas, which is generally more expensive) and the lower urban rate (the rate for commercial customers other than HCPs in nearby urban areas, which is generally less expensive).⁸

5. *Competitive Bidding.* Through the RHC Program, HCPs may apply for USF support for eligible services only by making a "bona fide" request for services from telecommunications companies, seeking competitive bids for services eligible for support, and following any other applicable state, local, or other procurement requirements.⁹ The competitive bidding requirement is a significant safeguard to

⁴ In addition to the analysis of NSS data and documents, USAC data and documents, and other investigative steps, several confidential witnesses, including former NSS employees and employees of regional sales companies, were interviewed in connection with this Investigation.

⁵ See *Federal-State Joint Board on Universal Service*, Report and Order, 12 FCC Rcd 8776, 8796, para. 35 (1997); see also 47 CFR § 54.602.

⁶ The RHC Program also includes the Healthcare Connect Fund, Internet Access Program and the Pilot Program. The Healthcare Connect Fund provides a 65 percent discount on eligible expenses related to broadband connectivity to both HCPs and consortia. The Internet Access Program provides a 25 percent discount off the cost of monthly Internet access for eligible rural HCPs. The Pilot Program provides funding for up to 85 percent of eligible costs of the construction or implementation of statewide and/or regional broadband networks. See generally *Rural Health Care Support Mechanism*, Report and Order, 27 FCC Rcd 16678 (2012); *Rural Health Care Support Mechanism*, Report and Order, Order on Reconsideration, and Further Notice of Proposed Rulemaking, 18 FCC Rcd 24546 (2003) (2003 Order and Further Notice). Funding for Internet access under the Internet Access Program continued through the end of funding year 2013, which ended on June 30, 2014. See *Rural Health Care Support Mechanism*, Report and Order, 27 FCC Rcd 16678, 16700, n.120 (2012). Beginning in January 2014, rural HCPs receiving support for Internet access received support for those same services through the Healthcare Connect Fund Program. See *Rural Health Care Support Mechanism*, Report and Order, 27 FCC Rcd 16678, 16819, para. 354 (2012).

⁷ 47 CFR § 54.607.

⁸ 47 CFR §§ 54.602, 54.609. See generally *Rural Health Care Support Mechanism*, Report and Order, Order on Reconsideration, and Further Notice of Proposed Rulemaking, 18 FCC Rcd. 24546 (2003) (2003 Order and Further Notice).

⁹ 47 CFR §§ 54.602, 54.603, 54.615.

protect the RHC Program and USF from waste, fraud, and abuse, and ensures that HCPs choose the most cost-effective bid so that the USF is used wisely and efficiently.¹⁰

6. To make the required bona fide request for bids in connection with the Telecommunications Program, HCPs prepare and transmit to USAC an FCC Form 465 (Form 465), which USAC then posts on its website for telecommunications carriers to review.¹¹ An HCP submits one Form 465 per Funding Year (FY) for all services for which it is seeking bids through the Telecommunications Program. Each funding year begins on July 1 and ends June 30; for example, FY2012 runs from July 1, 2012, through June 30, 2013, and FY2013 begins on July 1, 2013.

7. Through the Form 465, HCPs describe the planned service requirements and may provide other information about their service needs to potential service providers.¹² In response to the Form 465, interested service providers submit bids to the HCPs. HCPs must review all bids submitted in response to the Form 465 and wait at least 28 days before “making commitments” with the selected service provider.¹³ The earliest date on which HCPs can enter into agreements with the selected service provider, *i.e.*, the 29th day after the Form 465 is posted, is the Allowable Contract Selection Date (ACSD).

8. Under the Commission’s Rules, HCPs must choose the most cost-effective service provider, which is the “method that costs the least after consideration of the features, quality of transmission, reliability, and other factors that the health care provider deems relevant to choosing a method of providing the required health care services.”¹⁴ Once the HCP selects the most cost-effective service provider and enters into a service contract, the HCP conveys this selection to USAC by filing an FCC Form 466 (Form 466), which also serves as the HCP’s request for support payments from the USF.¹⁵ The applicant uses the Form 466 to verify the type of services ordered and to certify that the selected service provider is the most cost-effective option.¹⁶

9. *Requesting Support.* USAC uses the Form 466, along with the supporting documentation and information that applicants submit, to determine, among other things, the appropriate support payments from the Fund.¹⁷ Supporting documentation and information includes the rural and urban rates to determine the cost of service, the requested USF support amount, a copy of the signed contract (if applicable), and copies of bids (if more than one bid is received).¹⁸ The Form 466 and supporting

¹⁰ See *In the Matter of Rural Health Care Support Mechanism*, Order, 22 FCC Rcd. 20360, 20412, para. 101 (2007). See also *Federal-State Joint Board on Universal Service*, Report and Order, 12 FCC Rcd. 8776, 9076, paras. 480, 686 (1997) (requiring competitive bidding processes for eligible schools and libraries and eligible health care providers to be fair and open such that no bidders receive an unfair advantage).

¹¹ 47 CFR § 54.603; Health Care Providers Universal Service, Description of Services Requested and Certification Form, OMB 3060-0804 (Nov. 2011) (Form 465); Form 465 Instructions, Rural Health Care Universal Service Mechanism, OMB-3060-0804 (Nov. 2011).

¹² See Form 465, Block 5; USAC, Rural Health Care, Telecommunications Program, Step 2: Evaluation Criteria & Service Requests, <http://www.usac.org/rhc/telecommunications/health-care-providers/step02/default.aspx> (last visited Oct. 31, 2016).

¹³ 47 CFR § 54.603(b)(3).

¹⁴ 47 CFR § 54.603(b)(4).

¹⁵ See Health Care Providers Universal Service, Funding Request and Certification Form, OMB 3060-0804 (Nov. 2011) (Form 466); Form 466 Instructions, Rural Health Care Universal Service Mechanism, OMB-3060-0804 (Nov. 2011) (Form 466 Instructions).

¹⁶ See 47 CFR § 54.603(b)(4); see also Form 466.

¹⁷ See Form 466; USAC, Rural Health Care, Telecommunications Program, Health Care Providers, Step 4: Submit Funding Requests, <http://www.usac.org/rhc/telecommunications/health-care-providers/step04/default.aspx> (last visited Oct. 31, 2016).

¹⁸ See Form 466; USAC, Rural Health Care, Telecommunications Program, Health Care Providers, Documentation, (continued....)

documentation, including the urban rate documentation, is typically submitted electronically through USAC's "My Portal" web-based application.¹⁹ HCPs must submit one Form 466 for each service for which they are seeking support from the Fund.²⁰

10. *Determining the Urban and Rural Rates.* The rural rate submitted by the HCP, which reflects the HCP's actual cost of service, is substantiated by a monthly bill or invoice from the service provider with the type of service and the actual cost of the service for which funding is requested.²¹ HCPs and service providers can obtain and utilize urban rates from a number of sources. One source is USAC's website, which contains a list of acceptable urban rates.²² If an HCP uses an urban rate other than one posted on USAC's website, an HCP must provide documentation of the urban rate, which may come from the service provider.²³ The urban rate must be in use in an urban area in the HCP's state.²⁴ Urban rate documentation may include tariff pages, contracts, signed letters on a service provider's letterhead, rate pricing information from a service provider's website, or similar documentation showing how the urban rate was obtained,²⁵ and the date on the urban rate documentation should indicate that the rate is provided in the current funding year.²⁶

11. *Evergreen Status.* USAC then reviews each contract to determine whether it is eligible for "evergreen" status, which refers to a contract that covers more than one funding year. If USAC approves the contract for evergreen status, the HCP would be exempt from having to post subsequent Form 465s and engage in further competitive bidding for the remainder of the contract term.²⁷ However, regardless of whether the HCP receives evergreen status, it is required to apply for support annually by filing a Form 466.²⁸

12. *Funding.* USAC reviews the applicant's Form 466 with accompanying documentation and information, the service contract entered into between the HCP and service provider, and any

(Continued from previous page) _____

<http://www.usac.org/rhc/telecommunications/health-care-providers/documentation.aspx> (last visited Oct. 31, 2016).

¹⁹ See USAC, Rural Health Care, Telecommunications Program, My Portal, <http://usac.org/rhc/tools/applicant-login/default.aspx> (last visited Oct. 31, 2016). USAC's network servers for the Rural Health Care Program's My Portal are currently located in Virginia.

²⁰ See Form 466 Instructions.

²¹ See Form 466; USAC, Rural Health Care, Telecommunications Program, Documentation, <http://www.usac.org/rhc/telecommunications/health-care-providers/documentation.aspx> (last visited Oct. 31, 2016).

²² See USAC, Rural Health Care, Telecommunications Program, Search Tools, Urban Rates Search, www.usac.org/rhc/telecommunications/tools/UrbanRates/search.asp (last visited Oct. 31, 2016).

²³ See Form 466 Instructions, Block 6; USAC, Rural Health Care, Telecommunications Program, Health Care Providers, Documentation, <http://www.usac.org/rhc/telecommunications/health-care-providers/documentation.aspx> (last visited Oct. 31, 2016).

²⁴ See 47 CFR § 54.605; see also Form 466 Instructions, Block 6; USAC, Rural Health Care, Telecommunications Program, Health Care Providers, Supporting Documentation, <http://www.usac.org/rhc/telecommunications/health-care-providers/documentation.aspx> (last visited Oct. 31, 2016).

²⁵ See Form 466; USAC, Rural Health Care, Telecommunications Program, Health Care Providers, Documentation, <http://www.usac.org/rhc/telecommunications/health-care-providers/documentation.aspx> (last visited Oct. 31, 2016).

²⁶ See USAC, Rural Health Care, Telecommunications Program, Health Care Providers, Frequently Asked Questions, Q9: What is acceptable documentation, guidelines for calculating urban rates, <http://www.usac.org/rhc/telecommunications/faqs/default.aspx> (last visited Oct. 31, 2016).

²⁷ See USAC, Rural Health Care, Telecommunications Program, Health Care Providers, Evergreen Contracts, <http://www.usac.org/rhc/telecommunications/health-care-providers/evergreen-contracts.aspx> (last visited Oct. 31, 2016).

²⁸ *Id.*

competing bids. USAC then issues funding commitment letters (FCLs) informing the HCP whether the application has been approved or denied.²⁹ USAC may also request additional information before finalizing a decision.

13. When USAC approves the HCP's Form 466 and related materials, an HCP submits an FCC Form 467 (Form 467) to notify USAC that the service provider has begun providing the supported service.³⁰ An HCP must submit one Form 467 for each Form 466 that the HCP previously submitted to USAC.³¹ The Form 467 is also used to notify USAC when the applicant has discontinued the service or if the service was or will not be active during the Funding Year.³²

14. *Service Provider Invoicing.* If USAC approves the Form 467, the HCP and the service provider will then receive a copy of the HCP Support Schedule (HSS), which outlines the approved support amounts for each billing cycle.³³ The service provider should then begin crediting the HCP for the support amount (if it has not yet done so) and may begin to invoice USAC for the telecommunications services approved by USAC.³⁴

15. The service provider then submits its invoice to USAC through the My Portal application and electronically certifies that the information contained in the invoice is correct and that the HCP was credited with the amount shown under "Support Amount to be Paid by USAC."³⁵ USAC reviews the invoice, and if approved, disburses funds to the service provider in accordance with the HSS.³⁶

B. Relevant Entities and Individuals

1. Network Services Solutions, LLC

16. Network Services Solutions, LLC (NSS) is a limited liability company, organized under the laws of Nevada, and is a reseller of telecommunications services.³⁷ NSS provides telecommunications services to HCPs in connection with the RHC Program. NSS has received more than \$38,000,000 in payments from the USF from 2006 through the present in connection with the RHC Program, and is one of the largest recipients of USF funding in the RHC Program.³⁸

²⁹ If USAC denies support or if the HCP or service provider disagrees with the support amount as determined by USAC, either the HCP and/or the service provider may file an appeal of USAC's determination. *See* USAC, Rural Health Care, Telecommunications Program, Health Care Providers, Step 4: Submit Funding Requests, <http://www.usac.org/rhc/telecommunications/health-care-providers/step04/default.aspx> (last visited Oct. 31, 2016).

³⁰ *See* Health Care Providers Universal Service, Connection Certification, OMB 3060-0804 (Nov. 2011) (Form 467); Form 467 Instructions, Rural Health Care Universal Service Mechanism, OMB-3060-0804 (Nov. 2011).

³¹ *See id.*

³² *See id.*

³³ USAC, Rural Health Care, Telecommunications Program, Service Providers, Step 5: Support Schedule, <http://www.usac.org/rhc/telecommunications/service-providers/step05/default.aspx> (last visited Oct. 31, 2016).

³⁴ USAC, Rural Health Care, Telecommunications Program, Service Providers, Invoicing, <http://www.usac.org/rhc/telecommunications/service-providers/invoicing.aspx> (last visited Oct. 31, 2016).

³⁵ *See id.*

³⁶ USAC, Rural Health Care, Telecommunications Program, Service Providers, Step 6: Invoice USAC, <http://www.usac.org/rhc/telecommunications/service-providers/step06/default.aspx> (last visited Oct. 31, 2016).

³⁷ NSS Articles of Organization, Limited Liability Company (Dec. 30, 2004); *see also* Telecommunications Reporting Worksheet, FCC Form 499-A, OMB 3060-0055, Block 1 (Dec. 2014) NS 0003843.

³⁸ Information on file in EB-IHD-15-0001913.

17. NSS was founded in 1993 by Scott Madison (Madison), who principally manages NSS and holds ██████ shares of NSS stock.³⁹ ██████⁴⁰ began as NSS's Director of Operations on or about March 3, 2014, and assisted Madison in the day-to-day operations of NSS until ██████.⁴¹

18. On or about January 27, 2014, NSS hired ██████ as its USAC Compliance Specialist. ██████ was formerly employed as an Associate Manager by Solix, a USAC contractor, where s/he reviewed HCP filings and performed bid investigations for contracts that would result in long-term funding through USAC.⁴²

19. Beginning in or about May 2013, NSS hired ██████ as its Director of Business Development. ██████ worked at NSS until in or about January 2015 ██████.⁴³

20. NSS retained various companies and individuals as regional sales agents. These regional sales agents engaged HCPs in their respective local areas and, in many cases, introduced the HCPs to NSS and the RHC Program. NSS's regional sales agents provided the HCPs with information about the relevant processes and forms required to participate in the RHC Program and prepared bids in response to Form 465s posted by the HCPs on behalf of, and in coordination with, NSS. In those instances where NSS won contracts in response to Form 465s, these regional sales agents assisted NSS in managing telecommunications services with the HCPs on behalf of, and in coordination with, NSS.

2. AT&T

21. AT&T is a major facilities-based provider of telecommunications services throughout the United States. A substantial portion of the underlying telecommunications services at issue here were provided to HCPs by AT&T.

22. AT&T employs various account managers throughout the United States who are representatives of AT&T and interact directly with AT&T's commercial clients and service their telecommunications needs. AT&T account manager (AT&T AM-1) was a representative of AT&T with particular focus on AT&T's health care customers in the Southeast region of the United States.

3. Regional Sales Companies

23. NSS engaged multiple companies whose sales agents made regular contact with HCPs in their respective areas of the country. Within the Southeast region of the United States, NSS primarily used ██████ (Regional Sales Companies) to promote its telecommunications services with specific focus on NSS's RHC Program business. These Regional Sales Companies employed sales agents who dealt directly with HCPs, AT&T AM-1, and NSS employees, including Madison.

³⁹ Operating Agreement of Network Services Solutions, LLC (Mar. 8, 2014), at Exhibit A. NS 0003692-0003719.

⁴⁰ As noted above (see *supra* note 4), this NAL is based in part on interviews with confidential witnesses. To preserve that confidentiality and protect the privacy and reputations of other individuals and companies who are not the subject of this NAL, we have redacted their identities throughout this Notice of Apparent Liability.

⁴¹ See Resume of ██████ on file in EB-IHD-15-0001913.

⁴² See Email from ██████, Administrative Assistant, NSS, to Scott Madison, President, NSS, ██████, Major Account Executive, NSS, ██████, Major Account Representative, NSS, and ██████, Director of Business Development, NSS (Feb. 5, 2014, 2:13 p.m.).

⁴³ See Letter from ██████ to ██████, Director of Business Development, NSS (Jan. 14, 2015) at 4. NS 0015512.

4. Health Care Providers

24. A number of HCPs contracted for services from NSS through the RHC Program and are referenced throughout the NAL:
- a. Weems Community Mental Health Center (Weems), which has health care facilities in each of the nine counties that make up Region Ten of the Mississippi Community Mental Health System;⁴⁴
 - b. Bond County Health Department (Bond) is located in Greenville, Illinois;⁴⁵
 - c. South Sunflower County Hospital (South Sunflower) is located in Indianola, Mississippi;⁴⁶
 - d. Forrest General Hospital/Marion General Hospital (FGH/MGH) is part of the Forrest Health System, which is a partnership of healthcare organizations formed to increase access to health care in south Mississippi;⁴⁷
 - e. Hardy Wilson Memorial Hospital (Hardy Wilson) is located in Hazlehurst, Mississippi;
 - f. Tallahatchie General Hospital (Tallahatchie) is a hospital located in Charleston, Mississippi;⁴⁸
 - g. East Central Mississippi Health Care (East Central) operates health centers and clinics in Mississippi;⁴⁹
 - h. Texoma Community Center (Texoma), located in the Texas counties of Cooke, Fannin, and Grayson, provides an array of mental health services for adults, adolescents, and children;⁵⁰ and
 - i. South Central Regional Medical Center (SCRMC) is a hospital system located in Mississippi.⁵¹

III. THE COMMISSION'S INVESTIGATION

25. In connection with the Investigation, confidential witnesses were interviewed, including former NSS employees, as well as principals and employees of the Regional Sales Companies. Collectively, these witnesses discussed NSS, its conduct, and how its agents engaged in practices that resulted in competitive bidding that was not fair and open, and gave NSS an improper advantage in the RHC Program marketplace. These witnesses also discussed misconduct related to the urban and rural rates NSS submitted to HCPs and ultimately to USAC, which resulted in improper USF payments to NSS. These witnesses furnished the Commission with over one hundred thousand documents that

⁴⁴ Weems Community Mental Health Center, <http://www.weemsmh.com/default/index.cfm/about-us/> (last visited on Oct. 31, 2016).

⁴⁵ Bond County Health Department, <http://www.bchd.us/pcc.htm> (last visited on Oct. 31, 2016).

⁴⁶ South Sunflower County Hospital, <http://health.usnews.com/best-hospitals/area/ms/south-sunflower-county-hospital-6540355> (last visited on Oct. 31, 2016).

⁴⁷ Forrest General Hospital/Marion General Hospital, <http://www.forresthealth.org/our-locations/marion-general-hospital/> (last visited on Oct. 31, 2016).

⁴⁸ Tallahatchie General Hospital, <http://www.mytgh.com/about> (last visited on Oct. 31, 2016).

⁴⁹ East Central Mississippi Health Care, <https://www.ecmhci.com/history> (last visited on Oct. 31, 2016).

⁵⁰ Texoma Community Center, <http://www.texomacc.org/> (last visited on Oct. 31, 2016).

⁵¹ South Central Regional Medical Center, <http://www.scrmc.com> (last visited on Oct. 31, 2016).

corroborated their statements and independently demonstrated NSS's apparent misconduct in violation of the Commission's Rules governing the RHC Program.

A. NSS's Conduct Related to the Rural Health Care Program's Competitive Bidding Process

26. The Commission has consistently required that the competitive bidding process be fair and open, and that no bidders receive an improper advantage.⁵² In furtherance of these requirements, the Commission's competitive bidding rules for the Healthcare Connect Fund⁵³ Program prohibit service providers from, among other things, preparing, signing, or submitting an applicant's initial documents requesting services, being involved in setting bid evaluation criteria, or participating in the bid evaluation or vendor selection process.⁵⁴ In apparent violation of the Commission's Rules and Orders requiring that the competitive bidding process be fair and open, NSS obtained contracts supported by the RHC Program through a variety of apparently unlawful means, including receiving inside, proprietary information; agreeing in principle with HCPs to receive RHC Program contracts before the Form 465 was posted; furnishing a gift to an HCP to induce a contract award and extension of that contract; and creating documents for certain HCPs to submit to USAC and the Commission in order to give the impression that the HCPs undertook an objective, contemporaneous assessment of competing bidders when, in fact, the HCPs had not performed any such assessment prior to awarding the contract to NSS.

1. NSS Received Commitments from HCPs Prior to the Completion of the 28-Day Competitive Bidding Process

27. The Commission's Rules prohibit HCPs from making commitments with service providers until a minimum of 28 days after the posting of a Form 465.⁵⁵ The Investigation demonstrated that NSS and certain HCPs entered into service agreements *during* the 28-day waiting period, or otherwise committed to procuring services from NSS as part of the RHC Program. In some cases, these commitments were made before a Form 465 solicitation for bids was posted. In all of these instances, NSS requested payments from the Fund.

28. One such example involved HCP Bond. On June 25, 2013, Bond filed, and USAC posted, a Form 465 soliciting bids for "Internet Service ONLY."⁵⁶ Prior to the ACSD, NSS determined that Bond's Form 465 was too specific and would likely not support funding for NSS's proposed services

⁵² See *Rural Health Care Support Mechanism*, Report and Order, 27 FCC Rcd 16678, 16778, paras. 229-30 (2012) ("[C]ompetitive bidding furthers the competitive neutrality requirement . . . of the Act by ensuring that universal service support does not disadvantage one provider over another . . . [A]ll entities participating in the [RHC Program] must conduct a fair and open competitive bidding process prior to submitting a request for funding . . ."); cf. 47 CFR § 54.503(a) ("All entities . . . must conduct a fair and open competitive bidding process . . ."); *Federal-State Joint Board on Universal Service First Report and Order*, Report and Order, 12 FCC Rcd 8776, 9133-34, paras. 686, 688 (1997); *Schools and Libraries Universal Service Support Mechanism*, Third Report and Order and Second Further Notice of Proposed Rulemaking, 18 FCC Rcd 26912, 26939, para. 66 (2003) (*Schools and Libraries Third Report and Order*) (stating that a fair and open competitive bidding process is critical to preventing waste, fraud, and abuse of program resources).

⁵³ See *supra* note 6.

⁵⁴ See 47 CFR § 54.642; *Rural Health Care Support Mechanism*, Report and Order, 27 FCC Rcd at 16779, para. 231. The E-rate Program's competitive bidding rules also prohibit such conduct. See 47 C.F.R. § 54.503; *In the Matter of Schools and Libraries Universal Support Mechanism, A National Broadband Plan For Our Future*, Sixth Report and Order, 25 FCC Rcd 18762, 18798-800, paras. 85-86 (2010) (*Schools and Libraries Sixth Report and Order*).

⁵⁵ 47 CFR § 54.603(b)(3).

⁵⁶ FY2013, Form 465, HCP No. 13498, Form 465 Application No. 43136622, Boxes 29 and 30 (June 25, 2013). The ACSD was July 23, 2013, and NSS submitted a bid on July 10, 2013. See Email from [REDACTED], Director of Business Development, NSS, to Kris Hand, Administrative Assistant, Bond (July 10, 2013, 2:01 p.m.).

or future upgrades.⁵⁷ NSS advised Bond to refile its Form 465 and solicit bids for “Both Telecommunications & Internet Services” and use generic language on the Form 465 that would allow “for future upgrades.”⁵⁸

29. As advised by NSS, on August 1, 2013, Bond filed a new Form 465 soliciting bids with language identical to the sample language that NSS provided.⁵⁹ Despite the fact that, under the Rules, the posting of a new Form 465 on August 1, 2013, required a new 28-day period for the submission of competitive bids, NSS internally described the project as a “sold” deal because it had “a verbal commitment and the customer has our service agreement in hand.”⁶⁰ On August 1, 2013, the same day the new Form 465 was posted, Bond signed a Dedicated Internet Access Service Agreement with NSS.⁶¹ NSS then entered into a contract with AT&T on August 6, 2013, to provide the requested service to Bond.⁶² These contracts were all executed within five days of the new Form 465 being posted, and well before the expiration of the mandatory 28-day competitive bidding waiting period. The agreements reflected that the outcome of the competitive bidding process was apparently pre-determined.

30. To give the appearance of compliance with the Commission’s Rules, NSS submitted a new bid and Dedicated Internet Service Agreement to Bond, which changed only the applicable dates,⁶³ and further advised Bond “when you sign [the agreement] be sure to use ‘8-29-13’ or later as the date.”⁶⁴

⁵⁷ See Email from [REDACTED], Director of Business Development, NSS, to Kris Hand, Administrative Assistant, Bond (July 10, 2013, 2:01 p.m.) (“Also, you will need to re-file our 465 form to qualify for the maximum discount proposed. It is one small change on the form we can guide you through. Another small addition . . . will allow for potential future upgrades without needing to re-file later. We can supply you with the exact language needed.”); see also Email from [REDACTED], Director of Business Development, NSS, to Kris Hand, Administrative Assistant, Bond (July 11, 2013, 2:45 p.m.) (attaching a completed Form 465); Email from [REDACTED], Director of Business Development, NSS, to Kris Hand, Administrative Assistant, Bond (July 26, 2013, 3:19 p.m.) (providing guidance on how to refile the Form 465 with USAC).

⁵⁸ Email from [REDACTED], Director of Business Development, NSS, to Kris Hand, Administrative Assistant, Bond (July 11, 2013, 2:45 p.m.) (providing Bond with sample language: “A) In line 29 input the following: We need telecommunications and internet services to transmit digital data information, files, email and telemedicine. Considering 1 circuit with a speed of 1.54 Mbps dedicated T-1 and potential higher speeds for future upgrades. B) Check only the First box in Block 5-Line 30”).

⁵⁹ Compare Email from [REDACTED], Director of Business Development, NSS, to Kris Hand, Administrative Assistant, Bond (July 11, 2013, 2:45 p.m.), with FY 2013, Form 465, HCP No. 13498, Form 465 Application No. 43137556, Boxes 29 and 30 (Aug. 1, 2013).

⁶⁰ Email from [REDACTED], Director of Business Development, NSS, to [REDACTED], Major Account Executive, NSS, and [REDACTED], Account Executive, NSS (Aug. 2, 2013, 9:00 a.m.).

⁶¹ See FY 2013, Form 465, HCP No. 13498, Form 465 Application No. 43137556, Boxes 29 and 30 (Aug. 1, 2013); see also NSS Dedicated Internet Access Service Agreement (Aug. 1, 2013).

⁶² See AT&T Partner Exchange Pricing Schedule, Managed Internet Service (MIS) Basic (Aug. 6, 2013).

⁶³ Email from [REDACTED], Major Account Representative, NSS, to [REDACTED], Director of Business Development, NSS (Aug. 6, 2013 2:41 p.m.). See also NSS Dedicated Internet Access Service Agreement (Aug. 30, 2013). NSS charged Bond \$ [REDACTED], per month for telecommunications services related to the August 30, 2013 contract whereas AT&T, the underlying carrier, charged NSS \$ [REDACTED] per month to provide these same services to Bond through NSS (a markup by NSS of 598 percent). Compare NSS Dedicated Internet Access Service Agreement (Aug. 1, 2013) and NSS Dedicated Internet Access Service Agreement (Aug. 30, 2013), with AT&T Partner Exchange Pricing Schedule, Managed Internet Service (MIS) Basic (Aug. 6, 2013).

⁶⁴ Email from [REDACTED], Major Account Representative, NSS, to Kris Hand, Administrative Assistant, Bond County (Aug. 30, 2013, 6:07 a.m.). In order to apparently conceal the irregularities with this competitive bidding process, only the August 30, 2013 NSS Dedicated Internet Service Agreement was submitted to USAC in connection with Bond’s FY 2013, Form 466 seeking USF support. See FY2013, Form 466, HCP No. 13498, FRN 1348767, Form 465 Application No. 43137556, (June 26, 2014).

Consistent with NSS's instructions, Bond dated this Dedicated Internet Service Agreement "August 30, 2013."⁶⁵ On September 17, 2013, after the service was activated, Bond advised NSS that it wanted to increase its bandwidth.⁶⁶ Bond signed a second contract with NSS on September 19, 2013, for additional services in reliance on the August 1, 2013 Form 465 it filed at the behest of NSS.⁶⁷

31. With the assistance of NSS, Bond filed for USF support under the Telecommunications Program on June 26, 2014, for the services NSS provided.⁶⁸ USAC approved a total support amount of \$19,929.60 for FY2013 in connection with the NSS contract signed on August 30, 2013,⁶⁹ and \$62,312.40 for FY2013 in connection with the NSS contract signed on September 19, 2013.⁷⁰ USAC approved both contracts for evergreen status, and NSS continued to provide USF-supported services to Bond in FY2014 and in part of FY2015 arising from the August 1, 2013 Form 465.⁷¹

32. In a similar manner, NSS made commitments with HCP Tallahatchie prior to the expiration of the 28-day competitive bidding period. In March 2013, [REDACTED] advised NSS that "we've got this one" and that Tallahatchie was going to "put in 100Meg"⁷² and that "we will be selected regardless of any respective bid price. I have been assured."⁷³ To this, Madison replied: "Great News."⁷⁴

⁶⁵ Email from Kris Hand, Administrative Assistant, Bond, to [REDACTED], Major Account Representative, NSS (Aug. 30, 2013, 11:53 a.m.); *see also* Email from Scott Madison, President, NSS, to [REDACTED], Director of Business Development, NSS, and [REDACTED], Account Executive, NSS (Aug. 30, 2013, 4:59 p.m.).

⁶⁶ Email from [REDACTED], Provisioning Manager, NSS to [REDACTED], Director of Business Development, NSS (Sept. 17, 2013, 11:50 a.m.).

⁶⁷ NSS Dedicated Internet Access Service Agreement (Sept. 19, 2013). NSS charged Bond \$ [REDACTED] per month for telecommunications services related to the September 19, 2013, contract where as AT&T, the underlying carrier, charged NSS \$ [REDACTED] per month to provide these same services to Bond through NSS (a markup by NSS of 664 percent). *Compare* NSS Dedicated Internet Access Service Agreement (Sept. 19, 2013), *with* AT&T Partner Exchange Pricing Schedule, Managed Internet Service (MIS) Basic (Sept. 19, 2013).

⁶⁸ *See* FY2013, Form 466, HCP No. 13498, FRN 1348767, Form 465 Application No. 43137556 (June 26, 2014); FY2013, Form 466, HCP No. 13498, FRN 1348427, Form 465 Application No. 43137556, (June 26, 2014). *See also* Email from [REDACTED], Compliance Specialist, NSS, to Scott Madison, President, NSS, and [REDACTED], Billing Manager, NSS (June 24, 2014, 5:15 a.m.); Email from [REDACTED], Compliance Specialist, NSS, to Scott Madison, President, NSS, and [REDACTED], Director of Business Development, NSS (June 26, 2014, 12:04 p.m.).

⁶⁹ *See* FY2013, Funding Commitment Letter (FCL), HCP No. 13498, FRN 1348767, Form 465 Application No. 43137556, (Dec. 10, 2014); FY2013, Health Care Provider Support Schedule (HSS), HCP No. 13498, FRN 1348767, Form 465 Application No. 43137556, (Dec. 22, 2014).

⁷⁰ *See* FY 2013, FCL, HCP No. 13498, FRN 1348427, Form 465 Application No. 43137556, (Dec. 10, 2014); FY 2013, HSS, HCP No. 13498, FRN 1348427, Form 465 Application No. 43137556, (Dec. 22, 2014).

⁷¹ *See* FY2014, FCL HCP No. 13498, FRN 1456297, Form 465 Application No. 43137556 (Mar. 4, 2015); FY2014, HSS, HCP No. 13498, FRN 1456297, Form 465 Application No. 43137556 (Apr. 7, 2015); FY2015, FCL, HCP No. 13498, FRN 1567571, Form 465 Application No. 43137556 (Aug. 5, 2015); FY2015, HSS, HCP No. 13498, FRN 1567571, Form 465 Application No. 43137556 (Aug. 8, 2015).

⁷² Email from [REDACTED], Partner, Regional Sales Companies to Scott Madison, President, NSS, [REDACTED], Director of Business Development, NSS, [REDACTED], Sales, Regional Sales Companies, and [REDACTED], Partner, Regional Sales Companies (Mar. 8, 2013, 5:06 a.m.).

⁷³ Email from [REDACTED], Sales, Regional Sales Companies, to Scott Madison, President, NSS (Mar. 8, 2013, 4:16 p.m.).

⁷⁴ Email from Scott Madison, President, NSS, to [REDACTED], Sales, Regional Sales Companies (Mar. 8, 2013, 7:36 p.m.).

33. Tallahatchie's Form 465 for FY2013 was posted on May 28, 2013, and resulted in an ACSD of June 25, 2013.⁷⁵ Even before the competitive bidding process had begun, NSS, through Madison, had already placed the order for Tallahatchie's service with AT&T on May 8, 2013.⁷⁶ Tallahatchie claimed on its FY2013 Form 466 that it selected NSS as its service provider on July 19, 2013.⁷⁷

34. During the 28-day competitive bidding period, Tallahatchie received other bids in addition to the one submitted by NSS.⁷⁸ In reviewing the Form 466 and its supporting documentation, USAC asked Tallahatchie to justify its selection of NSS's \$8,100.00 bid when a losing bidder had offered substantially similar services at a cost of \$1,876.00.⁷⁹ In its response, Tallahatchie advised USAC that based on its evaluation of the contracts, NSS was "worth the high cost."⁸⁰ On July 24, 2014, USAC denied Tallahatchie's request for support finding that it had not selected the most cost effective method of providing the requested service.⁸¹ Tallahatchie and NSS did not appeal this denial of support, and NSS did not require Tallahatchie to pay the outstanding invoiced amounts.⁸² Although USAC denied funding support for Tallahatchie, NSS's conduct illustrates the schemes the company apparently devised to defeat the Commission's competitive bidding rules.

2. NSS and HCPs Created and Used *Post Facto* Bid Matrices

35. A bid matrix is one method HCPs may use to demonstrate to USAC how they evaluated the relevant factors to determine which bid is the most cost effective, as required by the Commission's Rules.⁸³ After certain contracts were awarded to NSS, USAC requested supporting documentation from

⁷⁵ FY2013, Form 465, HCP 10269, Form 465 Application No. 43134249 (May 28, 2013).

⁷⁶ See Email from Scott Madison, President, NSS, to [REDACTED], Sales, Regional Sales Companies, (May 8, 2013, 2:02 p.m.). See also AT&T Pricing Schedule, Managed Internet Service (MIS) Basic (May 8, 2013).

⁷⁷ FY2013, Form 466, HCP No. 10296, Form 465 Application No. 43134249, Block 45 (Dec. 20, 2013).

⁷⁸ FY2013, Form 466, HCP 10296, Form 465 Application No. 43134249, Block 45 (Dec. 20, 2013). See also Response to Rural Healthcare Division, USAC (RHCD), Information Request Notice to HCP No. 10269, FRN 1337087 (July 16, 2014, 10:03 a.m.); Tallahatchie General Hospital, Service Provider Scorecard, FRN 1337087.

⁷⁹ RHCD, Information Request Notice to HCP No. 10269, FRN 1337087, (July 3, 2014, 11:01 a.m.).

⁸⁰ Response to RHCD, Information Request Notice to HCP No. 10269, FRN 1337087 (July 16, 2014, 10:03 a.m.). See also Tallahatchie General Hospital, Service Provider Scorecard, FRN 1337087.

⁸¹ RHCD Portal Notice to HCP No. 10269, FRN 1337087 (July 24, 2014). A copy of this notice was also provided to NSS. See also [REDACTED] Proposal for Tallahatchie General Hospital. Information on file in EB-IHD-15-0001913. On April 15, 2014, USAC also approved Tallahatchie's Form 466-A in connection with the Internet Access Program requesting support for costs associated with internet access. See RHCD Service Provider Invoice Status Report, Invoice No. 2014 06-30 FY2013, FRN 13370931 (July 1, 2014).

⁸² See Email from Scott Madison, President, NSS, to [REDACTED], Sales, Regional Sales Companies (July 25, 2014, 2:02 p.m.) ("Bottom line is that NNS [*sic*] will honor the agreement and there [*sic*] net pay."). Tallahatchie was required to pay only \$[REDACTED] of the \$[REDACTED] invoiced by NSS per month. See NSS Invoice No. 0000483131201, Account No. 00483-2108 (Dec. 1, 2013). Compare NSS Dedicated Internet Access Service Agreement (July 20, 2013) (contract rate of \$[REDACTED] per month), with AT&T Pricing Schedule, Managed Internet Service (MIS) Basic (May 8, 2013) (contract rate of \$[REDACTED] per month) (resulting in a markup by NSS of 525 percent).

⁸³ The use of a scoring matrix is not required under the Rules but is a useful tool for documenting the criteria used in evaluating bids and selecting the most cost-effective method of providing the services requested on the Form 465. See USAC Rural Health Care, Telecommunications Program, Health Care Providers, Step 2: Evaluation Criteria & Service Requests, <http://www.usac.org/rhc/telecommunications/health-care-providers/step02> (last visited Oct. 31, 2016); see also 47 CFR § 54.603. The HCP certifies on the Form 466 that it "has considered all bids received and selected the most cost-effective method of providing the requested service or services." See FCC Form 466, Block 8: Certification.

the HCPs, including bid matrices. In a number of instances, the HCPs at issue apparently never prepared bid matrices prior to, or contemporaneous with, awarding contracts to NSS. Instead, in specific instances, NSS and these HCPs apparently misled USAC and the Commission by proffering bid matrices that were not considered by the HCPs as part of their decision making process but were created well after the contracts had been awarded to NSS.

36. NSS apparently misrepresented its compliance with the Commission's Rules through the use of bid matrices that were generated well after contracts were awarded to NSS. That is to say, these bid matrices were not prepared contemporaneously with the submission of bids, and were not considered by the HCPs as part of their decision-making process. In doing so, NSS coordinated with HCPs to present inaccurate information to USAC and the Commission that the competitive bidding processes were fair and open.

37. NSS provided bid matrices to HCPs *after* NSS was awarded contracts by HCPs, and only after USAC requested such documents from the HCPs. NSS provided material direction to the HCPs about how to construct the bid matrices, including which factors to include and how much weight to apply to those factors. NSS also sought to review the bid matrices before they were submitted to USAC. These *post facto* bid matrices apparently sought to justify the HCPs' selection of NSS as the winning bidder, and made it appear to USAC and the Commission as though NSS was selected through a process in which bid matrices were fairly evaluated prior to the awarding of a contract.

38. One such example of NSS's participation in the construction of a *post facto* bid matrix concerned HCP Texoma, where a bid matrix was apparently constructed more than eight months after NSS was awarded the contract. After NSS and other service providers submitted bids in response to Texoma's Form 465, Texoma awarded the contract to NSS on or about December 16, 2013.⁸⁴ On or about August 27, 2014, after Texoma filed for USF support, USAC requested Texoma provide its selection criteria and explain why it selected NSS.⁸⁵

39. On August 29, 2014, two days after USAC requested Texoma's bid matrix, ██████████ reported to Madison and ██████████ that s/he discussed the USAC inquiry and request for a bid matrix with Texoma's Director of Information Technology, and that Texoma "is going to research [its] records and complete the matrix. Once [it] has done so, [it] will send it to me for review."⁸⁶ ██████████ added that Texoma "is confident that between price and customer care NSS will prevail" in the outcome of the *post facto* bid matrix analysis for the contract NSS was already awarded.⁸⁷ In a different email discussion, others at NSS discussed relevant bid matrix elements that should be conveyed to Texoma and, on August 30, 2014, Madison directed that "verbal communication is the next steps [*sic*], nothing in email."⁸⁸

⁸⁴ See FY2013, Form 465, HCP No. 33245, Application No. 43137960, (Sept. 10, 2013); see also NSS Point to Point Dedicated Service Agreement (Dec. 16, 2013).

⁸⁵ RHCD Information Request Notice to HCP No. 33245, FRN 1348976 (Aug. 27, 2014); see also Email from RHC Admin, USAC to John Pack, Texoma (Sept. 8, 2014, 4:17 p.m.); Email from ██████████, Compliance Specialist, NSS, to Scott Madison, President, NSS, and ██████████, Director of Operations, NSS, RE: Texoma (Aug. 29, 2014, 2:42 p.m.).

⁸⁶ Email from ██████████, Compliance Specialist, NSS, to Scott Madison, President, NSS, and ██████████, Director of Operations, NSS, RE: Texoma (Aug. 29, 2014, 7:42 p.m.).

⁸⁷ *Id.*

⁸⁸ Email from Scott Madison, President, NSS, to ██████████, Director, Business Development, NSS, and ██████████, Major Account Executive, NSS, FW: Texoma (Aug. 30, 2014, 12:30 a.m.) (stating that "price has to be weighted the heaviest, total score adding to 100").

40. This practice was not limited to Texoma. NSS also sent *post facto* bid matrices to HCPs East Central and SCRMC in support of their requests for funding support.⁸⁹ SCRMC awarded contracts to NSS on September 30, 2013.⁹⁰ After being advised that SCRMC had not submitted a matrix with its Form 466 filings, Madison stated that “a quality matrix needs to be ready to send when this is pulled for funding. Let me collaborate with [REDACTED] and get a sample that you can share with [SCRMC’s IT Director].”⁹¹ A week later, on August 13, 2014, [REDACTED] forwarded a document titled “MOCK SCRMC matrix” to Madison for review.⁹²

41. On September 16, 2014, USAC requested that SCRMC explain its decision to select NSS over other bidders.⁹³ When Madison was advised of the inquiry, Madison told [REDACTED] that “if USAC asks [SCRMC’s IT Director] any questions, either come to me or [REDACTED] to provide guidance before responding. In my experience, if a hcp says the wrong thing, USAC can spin off down the wrong track.”⁹⁴ [REDACTED] assured Madison that such a message had been conveyed to SCRMC.⁹⁵

42. On September 17, 2014, SCRMC submitted its bid decision matrix to USAC.⁹⁶ A review of this matrix revealed that it was nearly identical to the matrix [REDACTED] sent to Madison on August 13, 2014.⁹⁷ When USAC further questioned SCRMC’s selection of NSS in November 2014,⁹⁸ Madison wrote to [REDACTED] that “if the HCP did not prepare a bid matrix prior to the posting and constructed one based on the fact that they had a lower cost bid presented as a solution to ensure that they were able to order the service that would meet their needs, for Caroline at USAC to be pushing back on funding is horseshit”⁹⁹ apparently admitting he was aware of NSS’s intimate involvement in the preparation of a *post facto* bid matrix for SCRMC.¹⁰⁰ USAC denied funding support for SCRMC on

⁸⁹ Email from [REDACTED], Compliance Specialist, NSS, to Scott Madison, President, NSS (Aug. 5, 2014, 2:06 p.m.) (advising that s/he “guided the HCP in the process of creating their own matrix”).

⁹⁰ FY2013, Form 466, HCP No. 33145, FRN 1343379 (May 6, 2014). *See also* Point to Point Ethernet Service Agreement (Oct. 14, 2013).

⁹¹ Email from Scott Madison, President, NSS, to [REDACTED], Founder, Regional Sales Companies (Aug. 6, 2014, 5:23 p.m.).

⁹² Email from [REDACTED], Founder, Regional Sales Companies, to Scott Madison, President, NSS (Aug. 13, 2014, 9:57 a.m.).

⁹³ RHCD Information Request Notice to HCP No. 33145, FRN 1343386 (Sept. 16, 2014, 10:05 a.m.).

⁹⁴ Email from Scott Madison, President, NSS to [REDACTED] Founder, Regional Sales Companies (Sept. 18, 2014, 9:31 a.m.).

⁹⁵ Email from [REDACTED], Founder, Regional Sales Companies, to Scott Madison, President, NSS (Sept. 18, 2014, 10:18 a.m.).

⁹⁶ *See* Response to RHCD Information Request Notice to HCP No. 33145, FRN 1343406 (Sept. 17, 2014, 9:52 a.m.) (attaching SCRMC’s bid decision matrix).

⁹⁷ Email from [REDACTED], Billing Manager, NSS, to Scott Madison, President, NSS (Nov. 12, 2014, 11:49 a.m.) (attaching SCRMC USAC scoring matrix.pdf).

⁹⁸ RHCD Information Request Notice to HCP No. 33145, FRN 1343379 (Nov. 4, 2014, 8:42 a.m.).

⁹⁹ Email from Scott Madison, President, NSS, to [REDACTED], Director of Operations, NSS (Nov. 14, 2014, 1:35 p.m.).

¹⁰⁰ *See* RHCD Portal Notice to HCP No. 33145, FRN 1343398 (Dec. 29, 2014); RHCD Portal Notice to HCP No. 33145, FRN 1343387 (Dec. 29, 2014); RHCD Portal Notice to HCP No. 33145, FRN 1343401 (Dec. 29, 2014); RHCD Portal Notice to HCP No. 33145, FRN 1343402 (Dec. 29, 2014); RHCD Portal to Notice HCP No. 33145, FRN 1343405 (Dec. 29, 2014); RHCD Portal Notice to HCP No. 33145, FRN 1343386 (Dec. 29, 2014); RHCD Portal Notice to HCP No. 33145, FRN 1343406 (Dec. 29, 2014); RHCD Portal Notice to HCP No. 33145, FRN 13433791 (Dec. 23, 2014). SCRMC withdrew its appeal of USAC’s denial of support on July 15, 2015. *See* Letter

(continued....)

December 29, 2014. Here again, although SCRMC's funding was denied, NSS's conduct demonstrates the company's apparent disregard of the Commission's competitive bidding rules.

43. It appears that NSS and East Central also worked together to submit *post facto* bid matrices. Internal NSS emails indicate that after USAC requested information concerning the selection of NSS, ██████████ "guided the HCP in the process of creating their own matrix" and provided East Central a sample bid matrix to use.¹⁰¹ The very same *post facto* bid matrix that ██████████ assisted East Central in preparing was then sent to USAC.¹⁰²

44. USAC denied the request for funding from East Central. ██████████ apparently believed that East Central's *post facto* bid matrix purporting to justify East Central's contract award to NSS would be determinative with USAC when s/he remarked that s/he was "always taught that regardless of the cost – if the matrix says the customer won, that is all that matters."¹⁰³ Madison and ██████████ were both aware of ██████████ involvement in the drafting and transmittal of this matrix. Madison admitted to ██████████ that "bottom line, NSS owns this denial" because NSS "guided the client in the submission of the funding support forms, ██████████ discussed the matrix with the client and then it gets denied."¹⁰⁴ Madison then emphasized that "what has to be very clear, is that ██████████ needs to emphasize that price has to have the heaviest weight in a customer's matrix. Not every one of our deals will require [to] be remitted either. But ██████████ said it herself, that [s/he] is scared."¹⁰⁵

45. Although East Central's contract with NSS was denied support in FY2013, East Central subsequently received USF funding arising from this same August 19, 2013 Master Services Agreement in FY2014 and FY2015 to include USF funding for an additional HCP location in the East Central system.¹⁰⁶

3. NSS Furnished a Gift to Receive a Contract

46. NSS also undermined Texoma's ability to conduct a fair and open competitive bidding process when NSS furnished a gift to entice Texoma to enter into a lengthy contract.

47. NSS provided a server valued at approximately \$10,000 to Texoma as an enticement to award NSS an extended contract. The gifting of this server was memorialized in an addendum to NSS's

(Continued from previous page) _____
from Dell Blakeney, Vice President, CIO, SCRMC to ██████████, Program Analyst, Rural Health Care Division, USAC (July 29, 2015).

¹⁰¹ Email from ██████████, Compliance Specialist, NSS, to Scott Madison, President, NSS, ██████████, Director of Operations, NSS, RE: East Central Denied (Aug. 5, 2014, 2:06 a.m.).

¹⁰² Email from ██████████, Compliance Specialist, NSS, to Scott Madison, President, NSS, ██████████, Director of Operations, NSS, FW: East Central Denied (Aug. 5, 2014, 5:37 p.m.).

¹⁰³ Email from ██████████, Compliance Specialist, NSS, to Scott Madison, President, NSS, ██████████, Director of Operations, NSS, FW: East Central Denied (Aug. 5, 2014, 6:14 p.m.).

¹⁰⁴ Email from Scott Madison, President, NSS, to ██████████, Director of Operations, NSS, FW: East Central Denied (Aug. 6, 2014, 9:48 p.m.).

¹⁰⁵ *Id.*

¹⁰⁶ FY2014, Form 466, HCP No. 10796, FRN 1455918 (Jan. 20, 2015); FY2014, Form 466, HCP No. 10795, FRN 1455924 (Jan. 15, 2015); FY2014, Form 466, HCP No. 10795, FRN 1455926 (Jan. 15, 2015); FY2014, Form 466, HCP No. 10795, FRN 1455927 (Jan. 15, 2015); FY2014, Form 466, HCP No. 10795, FRN 1455929 (Jan. 15, 2015); FY2014, Form 466, HCP No. 10797, FRN 1455920 (Jan. 20, 2015); FY2015, Form 466, HCP No. 10795, FRN 1577308; FY2015, Form 466, HCP No. 10795, FRN 1577312; FY2015, Form 466, HCP No. 10795, FRN 1577315; FY2015, Form 466, HCP No. 10795, FRN 1577316; Master Services Agreement, Contract ID: NSS-6605871 (Aug. 19, 2013). See also USAC, Rural Health Care Program, Telecommunications Program, Search Tools, Funding Tools, Commitments Search (FY 2012 and later), <https://rhc.usac.org/rhc/public/searchCommitment> (last visited on Oct. 31, 2016).

contract with Texoma, dated November 22, 2013, which provides, in pertinent part, that “[i]n consideration of [Texoma’s] extending the Service Agreement to 60 months, Network Services agrees to provide a DNS Server with a value of up to \$10,000.”¹⁰⁷ Texoma’s 60-month contract guaranteed NSS additional revenue.

48. NSS employees raised concerns to Madison that such a gift may be improper. On November 25, 2013, [REDACTED] emailed Madison the contract and stated that the contract “addendum notes that since the customer signed for 60 months we are going to ‘provide’ them with a service with a value of up to \$10,000. – Is this going to remain our equipment or are we giving it away? Could USAC view this as a bribe in order to get the customer to sign with Network Services?”¹⁰⁸ The next day, Madison responded that “IF WE ARE SELLING EQUIPMENT AT DEEP DISCOUNTS, THAT IS OK.”¹⁰⁹ When the executed service contracts between NSS and Texoma were filed with USAC, the November 22, 2013, addendum described above was not included.¹¹⁰

49. NSS took no corrective action relating to the server until almost two years later. On August 11, 2015, in a series of emails with Texoma executives, Madison apparently acknowledged that the server was improperly given¹¹¹ despite his apparent knowledge of this gift almost two years earlier. Two weeks later on August 25, 2015, Madison wrote to Texoma’s Chief Financial Officer that NSS was [REDACTED].¹¹² NSS received funding support based on this contract in FY2013, FY2014, and FY2015.¹¹³

4. NSS’s Use of Confidential and/or Proprietary Information from AT&T and Others to Gain Competitive Advantage in the Bidding Process

50. NSS improperly received confidential and proprietary information belonging to NSS’s potential competitors and others, which it relied upon prior to and during the competitive bidding process.

¹⁰⁷ See Email from [REDACTED], Major Account Representative, NSS, to Nathan Nunley, Texoma, John Pack, Texoma; Tony Maddox, Executive Director, Texoma; [REDACTED], Director of Business Development, NSS, Texoma (TX) Service Agreements 11-22-13 (Nov. 22, 2013, 4:58 p.m.); Addendum, Texoma Community Center (Nov. 22, 2013).

¹⁰⁸ Email from [REDACTED], Billing Manager, NSS, to Scott Madison, President, NSS, and [REDACTED], Controller/Office Manager, FW: Sales Order – Texoma – Network Services Signed Service Agreements (Nov. 25, 2013, 5:59 p.m.).

¹⁰⁹ Email from Scott Madison, President, NSS, to [REDACTED], Billing Manager, NSS, RE: Sales Order – Texoma – Network Services Signed Service Agreements (Nov. 26, 2013, 2:57 p.m.).

¹¹⁰ Information on file in EB-IHD-15-0001913.

¹¹¹ Email from Scott Madison, President, NSS to Donald Riddle, Chief Financial Officer, Texoma, RE: Texoma Equipment (Aug. 11, 2015, 4:51 p.m.) (“[REDACTED]”); Email from Donald Riddle, Chief Financial Officer, Texoma to Scott Madison, President, NSS (Aug. 11, 2015, 4:39 p.m.) (“[REDACTED]”); Email from Scott Madison, President, NSS, to Jeffrey Drake, IT Coordinator, Texoma, RE: Texoma Equipment (Aug. 11, 2015, 4:20 p.m.) (“[REDACTED]”).

¹¹² Letter from Scott Madison, President, NSS, to Donald Riddle, Chief Financial Officer, Texoma (Aug. 25, 2015). NS 0004101.

¹¹³ Information on file in EB-IHD-15-0001913. See also USAC, Rural Health Care Program, Telecommunications Program, Search Tools, Funding Tools, Commitments Search (FY2012 and later), <https://rhc.usac.org/rhc/public/searchCommitment> (last visited on Oct. 31, 2016).

This inside information gave NSS an unfair advantage over other potential bidders. An example of this involved HCP Weems' award of its contract to NSS. In FY2012, Weems filed for funding support for its eligible rural locations through the Telecommunications Program of the RHC Program with AT&T as its service provider.¹¹⁴

51. On June 7, 2013, prior to Weems posting a Form 465 to begin the competitive bidding process for FY2013, ██████ sent NSS a quote that had apparently been submitted to Weems by another telecommunications service provider during its FY2012 competitive bidding process.¹¹⁵ This quote included proposed speeds, loop costs, waiver of port costs, waiver of installation charges, monthly recurring charges per site, and urban rates.¹¹⁶ ██████ directly received this information from AT&T AM-1, who was Weems's then-current service provider.¹¹⁷

52. In June 2013, NSS and its sales agents worked on a proposal for Weems.¹¹⁸ Less than one month later, on July 15, 2013, Weems filed and USAC posted Form 465s for FY2013.¹¹⁹ On or about August 9, 2013, during the 28-day competitive bidding period, NSS's sales agent forwarded AT&T's then-current Pricing Schedule/Master Agreement with Weems to NSS.¹²⁰ AT&T's then-current invoices for Weems were also provided to NSS on or about August 12, 2013, the ACSD.¹²¹ Other confidential and proprietary information relating to AT&T's contracts and pricing information was provided to NSS through its sales agent around this same time and included information related to upgrading Weems'

¹¹⁴ See FY2012, Form 466, HCP No. 26968, FRN 1215123 (Nov. 28, 2012); FY2012, Form 466, HCP No. 26969, FRN 1216523 (Jan. 2, 2013); FY2012, Form 466, HCP No. 26970, FRN 1216556 (Jan. 2, 2013); FY2012, Form 466, HCP No. 26974, FRN 12165020 (Jan. 2, 2013); FY2012, Form 466, HCP No. 26972, FRN 1216578 (Jan. 2, 2013); FY2012, Form 466, HCP No. 26973, FRN 1216552 (Jan. 2, 2013); FY2012, Form 466, HCP No. 26971, FRN 1216542 (Jan. 2, 2013) (listing AT&T as its service provider and AT&T AM-1 as the service provider contact on all FY2012 Form 466s).

¹¹⁵ See Email from ██████, Partner, Regional Sales Companies, to ██████, Director of Business Development, NSS, FW: [Competitor-1] Information (June 7, 2013, 10:04 a.m.); see also Email from ██████, Director of Business Development, NSS to Scott Madison, President, NSS, FW [Competitor-1] Information (June 7, 2013, 4:04 p.m.).

¹¹⁶ See *id.*

¹¹⁷ See Email from AT&T AM-1, to ██████, Partner, Regional Sales Companies, FW: [Competitor-1] Information (June 7, 2013, 8:53 a.m.).

¹¹⁸ Email from ██████, Sales, Regional Sales Companies, to ██████, Director of Business Development, NSS (June 20, 2013, 10:17 a.m.).

¹¹⁹ See RHCD Portal Notice, to HCP No. 26967, Form 465 Application No. 43137238 (July 15, 2013); RHCD Portal Notice to HCP No. 26968, Form 465 Application No. 43137234 (July 15, 2013); RHCD Portal Notice to HCP No. 26969, Form 465 Application No. 43137236 (July 15, 2013); RHCD Portal Notice to HCP No. 26970, Form 465 Application No. 43137237 (July 15, 2013); RHCD Portal Notice to HCP No. 26971, Form 465 Application No. 43137240 (July 15, 2013); RHCD Portal Notice to HCP No. 26972, Form 465 Application No. 43137239 (July 15, 2013); RHCD Portal Notice to HCP No. 26973, Form 465 Application No. 43137233 (July 15, 2013); RHCD Portal Notice Form to HCP No. 26974, 465 Application No. 43137235 (July 15, 2013).

¹²⁰ See Email from ██████, Sales, Regional Sales Companies, to ██████, Director of Business Development, NSS, and Scott Madison, President, NSS (Aug. 9, 2013, 10:52 a.m.).

¹²¹ See Email from ██████, Sales, Regional Sales Companies, to ██████, Director of Business Development, NSS, ██████, Partner, Regional Sales Companies (Aug. 12, 2013, 10:58 a.m.); Email from ██████, Director of Business Development, NSS, to Scott Madison, President, NSS (Aug. 12, 2013, 2:22 p.m.); Email from ██████, Sales, Regional Sales Companies, to ██████, Director of Business Development, NSS (Aug. 12, 2013, 2:10 p.m.); Email from ██████, Director of Business Development, NSS, to Scott Madison, President, NSS (Aug. 12, 2013, 2:22 p.m.).

services.¹²² A review of NSS documents shows that NSS apparently reviewed and considered the information contained in these documents in finalizing its own proposal to Weems.¹²³ In NSS's own dealings, it made clear that its urban rates and other pricing strategies were considered confidential and proprietary.¹²⁴

53. As an apparent result of NSS's utilization of confidential and proprietary bidding information belonging to others, it secured an unfair advantage during the competitive bidding process and was consequently improperly awarded contracts by Weems.¹²⁵ As a result, Weems, through USF support, paid markedly higher prices for those sites that were eligible for funding through the Telecommunications Program.¹²⁶

B. NSS Inflated the Rural Rates Charged to HCPs

54. Beginning no later than 2013 and continuing through the present, NSS and sales agents from the Regional Sales Companies maintained a relationship with AT&T AM-1 described in an email as a "partnership."¹²⁷ The Investigation revealed a scheme that allowed NSS to improperly obtain Telecommunication Program contracts and rebill those contracts to USAC at substantial markups; in return, AT&T AM-1 generated increased sales revenue for AT&T.

¹²² See Email from ██████████, Partner, Regional Sales Companies, to ██████████, Director of Business Development, NSS (Sept. 3, 2013, 4:21 p.m.); Email from ██████████, Director of Business Development, NSS, to Scott Madison, President, NSS (Sept. 4, 2013, 6:14 p.m.); Email from ██████████, Regional Sales Companies, to ██████████, Director of Business Development, NSS (Sept. 16, 2013, 3:25 p.m.).

¹²³ See Email from ██████████, Director of Business Development, NSS, to ██████████, Sales, Regional Sales Companies, and Scott Madison, President, NSS (Aug. 12, 2013, 9:19 a.m.) ("Per the rates on the schedule I would like to compare this to the invoice to make sure I understand the pricing elements. Want to make sure the two match up. Good news this does resolve my one concern, per the MA this reverts to m-t-m pricing at the same rates on 11-14-13 UNLESS [AT&T] notifies us of a change with 30 days notice. Have we gotten our hands on the signed service agreements, (order forms) for them yet?"); Email from ██████████, Director of Business Development, NSS, to ██████████, Partner, Regional Sales Companies and ██████████, Partner, Regional Sales Companies (Sept. 9, 2013, 4:02 p.m.) ("I have not moved forward with Weems phase two as I need the correct prices for the corrected speeds. Use the attached to update me at I will get cracking on it."); Email from ██████████, Director of Business Development, NSS, to ██████████, Regional Sales Companies (Sept. 20, 2013, 11:54 a.m.); Email from ██████████, Billing Manager, NSS, to Scott Madison, President, NSS, and ██████████, Director of Business Operations, NSS (July 30, 2014, 12:46 p.m.).

¹²⁴ In one instance, with respect to NSS urban rates the company used in preparation for its bids, ██████████ emailed NSS staff, including Madison, that it was of "[c]ritical importance" that "NO ONE outside of Network Service can have access" to the urban rates including "affiliates, agents and partners" and that NSS's list of urban rates "is a PRIVATE COMPANY ASSET." Email from ██████████, Director of Business Development, NSS, to Scott Madison, President, NSS, et al., Please Read – and confirm your understanding. Important Urban rate project (Sept. 4, 2013, 6:35 p.m.) (emphasis in original).

¹²⁵ See FY2013, Form 466, HCP No. 26967, FRN 1347006 (Jun. 17, 2014); FY2013, Form 466, HCP No. 26968, FRN 1347028 (Jun. 17, 2014); FY2013, Form 466, HCP No. 26969, FRN 1347021 (Jun. 17, 2014); FY2013, Form 466, HCP No. 29670, FRN 1347016 (Jun. 17, 2014); FY2013, Form 466, HCP No. 26971, FRN 1347014 (Jun. 17, 2014); FY2013, Form 466, HCP No. 26972, FRN 1347033 (Jun. 17, 2014); FY2013, Form 466, HCP No. 26973, FRN 1347013 (Jun. 17, 2014); FY2013, Form 466, HCP No. 26974, FRN 1346931 (Jun. 17, 2014).

¹²⁶ *Id.* NSS Master Services Agreement, Contract ID: NSS-8090202, 8090202-A, 8090202-RE, 8090202-AA, 1087749, 1087749-A, 1087749-AA (Aug. 14, 2013).

¹²⁷ Email from AT&T AM-1 to ██████████, Partner, Regional Sales Companies, RE: My supervisor wants to discuss our partnership (Aug. 8, 2013, 9:03 a.m.).

55. The most egregious examples included situations where HCPs had existing service contracts with AT&T.¹²⁸ In these instances, AT&T AM-1 introduced the HCPs to NSS where AT&T AM-1 was the designated representative for AT&T.¹²⁹ NSS then pitched its “full funding” program where the HCP paid only a small portion of its total invoice and the remaining balance would be paid to NSS from the Fund. As part of this “partnership,” AT&T would not submit a bid for any new Form 465s that were posted by HCPs AT&T AM-1 introduced to NSS.¹³⁰ The HCPs then selected NSS as their service provider, thus replacing AT&T.

56. NSS then did one of two things, depending on the HCP:

- NSS purchased additional telecommunications services from AT&T (through AT&T AM-1 as the designated representative), which often included upgraded and more expensive services than AT&T originally provided to the HCPs;¹³¹ or
- NSS would make no changes to the existing services being provided to the HCP by AT&T but would request a change of the billing address so AT&T could send its invoices to NSS for the services it was providing to the HCP.

In each of these scenarios, NSS would then inflate AT&T’s costs and submit its own invoices to USAC for payment from the Fund, therefore representing to USAC that NSS and not AT&T was the HCP’s service provider. NSS never informed USAC that AT&T was in fact providing the underlying service at a significantly lower price, or that the HCP was still under contract with AT&T for these services. The difference between what AT&T charged the HCP for the service and what NSS billed USAC simply constituted NSS’s profit for its limited (if any) added value.

57. Occasionally, HCPs and others raised concerns about what was described by witnesses as “eye-popping” rates NSS charged to the Fund.¹³² In those cases, NSS directed the HCPs to focus only on the portion of the invoice that the HCP was directed to pay, which was typically less than 10 percent of the total amount NSS invoiced to USAC (the balance of which NSS charged to the Fund).¹³³

¹²⁸ For SCRCM compare NSS Point to Point Ethernet Service Agreement (Oct. 14, 2013) (indicating the monthly pre-discount rates of \$ [REDACTED] or \$ [REDACTED] for 100 Mbps Ethernet and \$ [REDACTED] for 1 Gbps Ethernet), with AT&T Addendum Agreement at 4 (Aug. 29, 2013) (indicating monthly pre-discount rates of \$ [REDACTED] for 100 Mbps Ethernet and \$ [REDACTED] for 1000 Mbps Ethernet) (a markup by NSS of 819 percent or 738 percent for 100 Mbps, and a markup by NSS of 1203 percent for 1000 Mbps/1 Gbps Ethernet, respectively). For Weems compare NSS Invoice 0000489140401 (Apr. 1, 2014) (indicating monthly pre-discount rates of \$ [REDACTED], \$ [REDACTED], or \$ [REDACTED] for MPLS 1.5 Mbps service), with AT&T Invoice 3486732205 (Dec. 5, 2013) (indicating monthly pre-discount rate of \$ [REDACTED] for MPLS 1.5 Mbps service) (a markup by NSS of 462 percent, 478 percent, and 386 percent, respectively). Information on file in EB-IHD-15-0001913.

¹²⁹ Email from AT&T AM-1 to Keith Pearson, Information Technology, LSMFT, Weems (Oct. 15, 2013, 9:33 a.m.) (“[A]ttached is the MIS Pricing Schedule for Weems Community Mental Health . . . your monthly rate will be much lower through [Regional Sales Companies’] partner...”).

¹³⁰ Information on file in EB-IHD-15-0001913.

¹³¹ Plan of Action for Weems Mental Health. Information on file in EB-IHD-15-0001913. See also Email from [REDACTED], Partner, Regional Sales Companies to AT&T AM-1, RE: FW: [AT&T] Switched Ethernet Network Contract (Aug. 26, 2013, 4:25 p.m.).

¹³² Information on file in EB-IHD-15-0001913.

¹³³ Information on file in EB-IHD-15-0001913; see also email from [REDACTED], Director of Business Development, NSS, to Jonathan Hatfield, I/T Manager, Klickitat Valley Health (May 29, 2014, 2:34 p.m.) (“I do believe we can address everyone’s concern about the top line number. Our service agreements put the entire burden of that high number on our plate. Network Services accepts the responsibility so that you [*sic*] only commitment is to the Net (low number). That is in BACL [*sic*] and WHITE in our contract.”).

58. An example of this scheme involves HCP SCRMC. Prior to NSS's involvement, SCRMC received telecommunications services directly from AT&T,¹³⁴ with AT&T AM-1 as SCRMC's principal contact and "embedded rep."¹³⁵ SCRMC had not previously participated in the RHC Program, and had only one site that would qualify as rural under the RHC Program Rules.¹³⁶

59. On June 7, 2013, AT&T AM-1 emailed [REDACTED] and inquired whether Regional Sales Companies could assist in obtaining USF funding through the RHC Program.¹³⁷ In this email, AT&T AM-1 attached a spreadsheet entitled "SCRMC Metro Ethernet inventory," which contained confidential and proprietary information concerning SCRMC's Ethernet inventory.¹³⁸ Three days later, AT&T AM-1 forwarded an email from [REDACTED] to the Chief Information Officer (CIO) of SCRMC that outlined "getting funding from the government USAC program," and AT&T AM-1 represented to SCRMC that s/he "work[s] with [REDACTED] and [Regional Sales Companies] on a lot of RHC funding issues. They have a lot of experience."¹³⁹

60. On or about June 25, 2013, AT&T AM-1 and [REDACTED], on behalf of NSS, met with SCRMC's IT Director and CIO.¹⁴⁰ When SCRMC later expressed reservations about posting a Form 465 request, [REDACTED] encouraged SCRMC to post with "USAC as soon as possible" because "there will be no harm in filing . . . because after you have a 28 day waiting period before anything can be done. Hopefully in those 28 days we can work out whatever is needed."¹⁴¹ AT&T AM-1 further assured them that "it is all legal and above board with [Regional Sales Companies/NSS]," which s/he described as "a reputable organization."¹⁴² AT&T AM-1 forwarded the assurances s/he made to SCRMC to [REDACTED] with the instruction to "Keep this to yourself."¹⁴³

61. Approximately three weeks later, SCRMC filed, and USAC posted, a Form 465 requesting bids to provide telecommunications services as part of the RHC Program, which listed an ACSD of September 27, 2013.¹⁴⁴ On August 29, 2013, the same day as the Form 465 posting, SCRMC signed a 36-month contract with AT&T for telecommunications services at a monthly cost of

¹³⁴ See Addendum Agreement, Case No. MS12-1701-00 (June 19, 2012) (referencing Contract Service Arrangement Agreement MS07-6533-00).

¹³⁵ Email from [REDACTED], Billing Manager, NSS, to [REDACTED], Director of Business Operations, NSS, [REDACTED], Director of Business Development, NSS, Scott Madison, NSS, [REDACTED], Vice President, Sales, Eastern Territory and [REDACTED], Account Manager, NSS, RE: South Central and other related accounts (Oct. 17, 2014, 12:46 p.m.).

¹³⁶ Email from Mike Burger, Director, Information Technology, SCRMC, to AT&T AM-1 (Aug. 6, 2013, 4:26 p.m.). See also Email from AT&T AM-1 to [REDACTED], Partner, Regional Sales Companies (Aug. 8, 2013, 9:16 a.m.).

¹³⁷ Email from AT&T AM-1, to [REDACTED], Partner, Regional Sales Companies (June 7, 2013, 5:00 p.m.).

¹³⁸ *Id.*

¹³⁹ Email from AT&T AM-1, to Dell Buchanan, Vice President, Chief Information Officer (CIO), SCRMC, FW: South Central Regional Medical Center (June 10, 2013, 9:30 a.m.).

¹⁴⁰ Email from Mike Burger, Director of Information Technology, SCRMC, to AT&T AM-1 (June 18, 2013, 3:08 p.m.); Email from AT&T AM-1, to [REDACTED], Partner, Regional Sales Companies (June 18, 2013, 3:22 p.m.). See also Letter of October 13, 2015, from Dell Blakeney, Vice President, Chief Information Officer (CIO), SCRMC, to [REDACTED], Vice President, USAC.

¹⁴¹ Email from [REDACTED], Partner, Regional Sales Companies, to Mike Burger, Director of Information Technology, SCRMC, WAN and USAC (Aug. 6, 2013, 10:35 a.m.).

¹⁴² Email from AT&T AM-1, to Mike Burger, Director of Information Technology (Aug. 6, 2013 4:54 p.m.).

¹⁴³ Email from AT&T AM-1, to [REDACTED], Partner, Regional Sales Companies (Aug. 6, 2013, 4:56 p.m.).

¹⁴⁴ FY2013, Form 465, HCP No. 33145, Form 465 Application No. 43137852 (Aug. 29, 2013).

\$ [REDACTED].¹⁴⁵ After the ACSD, SCRMC signed a contract with NSS for these same services but at a cost of over \$ [REDACTED] per month,¹⁴⁶ which represented an 842 percent markup.

62. While NSS billed SCRMC, SCRMC remained AT&T's customer of record and AT&T continued to provide SCRMC's underlying telecommunication services.¹⁴⁷ For an increase of more than 800 percent per month above the cost of obtaining the underlying service, NSS provided SCRMC with little if any services of value to justify the significantly higher costs.¹⁴⁸ Although USAC denied funding for this specific project,¹⁴⁹ this example serves as a detailed illustration of NSS's scheme to improperly acquire significant amounts of money from the Fund. SCRMC appealed the funding denial through USAC but withdrew these funding requests on July 29, 2015.¹⁵⁰

63. In another example, this time involving funding that was granted by USAC for FY2013, HCP Weems, which was a longstanding customer of AT&T, sought funding for its rural locations through the Telecommunications Program. In June 2013, less than six months after Weems signed a new contract with AT&T, AT&T AM-1 advised [REDACTED] to target Weems for an upgrade the following year.¹⁵¹ Less than one month later, Weems filed, and USAC posted, Form 465s for FY2013.¹⁵² Notwithstanding that it was under contract with AT&T, Weems selected NSS as its service provider for these same services.¹⁵³ As with SCRMC, Weems remained under contract with AT&T as its customer of record, and continued to receive services from AT&T. NSS received the invoices from AT&T for services provided by AT&T

¹⁴⁵ AT&T Addendum Agreement, Case Number MS13-2214-01 (Aug. 29, 2013).

¹⁴⁶ NSS Point to Point Ethernet Service Agreement (Oct. 14, 2013).

¹⁴⁷ AT&T Invoice for Billing Number 601 M15-8997 997, Billing Period Dec. 20, 2013.

¹⁴⁸ To the extent NSS provided SCRMC any services of value, NSS may have provided assistance in filing forms with USAC. On May 6, 2014, with the onsite assistance of NSS, SCRMC filed seven (7) Form 466s for FY2013. These seven (7) Form 466s each included a Master Services Agreement dated May 6, 2014, an NSS invoice dated May 1, 2014, and a letter issued by NSS documenting the urban rates.

¹⁴⁹ RHCD Portal Notice to HCP No. 33145, FRN 1343398 (Dec. 29, 2014); RHCD Portal Notice to HCP No. 33145, FRN 1343387 (Dec. 29, 2014); RHCD Portal Notice to HCP No. 33145, FRN 1343401 (Dec. 29, 2014); RHCD Portal Notice to HCP No. 33145, FRN 1343402 (Dec. 29, 2014); RHCD Portal Notice to HCP No. 33145, FRN 1343405 (Dec. 29, 2014); RHCD Portal Notice to HCP No. 33145, FRN 1343386 (Dec. 29, 2014); RHCD Portal Notice to HCP No. 33145, FRN 1343406 (Dec. 29, 2014); RHCD Portal Notice to HCP No. 33145, FRN 13433791 (Dec. 23, 2014).

¹⁵⁰ Letter from Dell Blakeney, Vice President, CIO, SCRMC to [REDACTED], Program Analyst, Rural Health Care Division, USAC (July 29, 2015).

¹⁵¹ See Email from AT&T AM-1, to [REDACTED], Partner, Regional Sales Companies (June 7, 2013, 10:45 a.m.) (advising [REDACTED] to target Weems for an upgrade to fiber next year); see also Email from [REDACTED], Partner, Regional Sales Companies, to Scott Madison, President, NSS (Aug. 12, 2013, 6:30 p.m.) (advising that s/he is working with AT&T AM-1 on this deal, which will take over the existing contract, and that NSS will procure a new contract when they upgrade with AT&T). Under its preexisting contract with AT&T, Weems received service at rates of \$ [REDACTED] per month, per site and \$ [REDACTED] per month, per site.

¹⁵² See RHCD Portal Notice to HCP No. 26967, 465 Application No. 43137238; RHCD Portal Notice to HCP No. 26968, 465 Application No. 43137234; RHCD Portal Notice to HCP No. 26969, 465 Application No. 43137236; RHCD Portal Notice to HCP No. 26970, 465 Application No. 43137237; RHCD Portal Notice to HCP No. 26971, 465 Application Number 43137240; RHCD Portal Notice to HCP No. 26972, 465 Application No. 43137239; RHCD Portal Notice to HCP No. 26973, 465 Application No. 43137233; RHCD Portal Notice to HCP No. 26974, 465 Application No. 43137235.

¹⁵³ See NSS Master Services Agreement, Contract ID: NSS-1087749 (Aug. 14, 2013).

to Weems. NSS, in turn, submitted its own inflated invoices to USAC for payment as the purported service provider of record for Weems.¹⁵⁴

64. When Weems' Information Technology representative received NSS's first invoice in the fall of 2013, he emailed an employee of Regional Sales Companies and wrote "I think I just lost my job" because he received NSS's "63000 dollar invoice."¹⁵⁵ The invoice referenced by the Weems' employee only displayed the amount NSS sought from the Fund, not the considerably smaller cost to be paid by Weems directly to NSS.¹⁵⁶

65. Weems filed Form 466s requesting funding support on June 17, 2014. In September 2014, Weems received one FCL approving support in the amount of \$19,973.26, and its contract with NSS received "Evergreen" status.¹⁵⁷ After Weems confirmed its receipt of services, NSS invoiced and received payment from USAC in the amount of \$19,973.26 on or about October 21, 2014, pursuant to its HSS.¹⁵⁸

66. By letter dated January 5, 2015, USAC advised Weems that it had "received allegations that Network Services Solutions has submitted inflated rate documentation for services that are actually being provided by an incumbent local exchange carrier" and requested that Weems explain, among other things, "why Weems is receiving two sets of invoices for the same services."¹⁵⁹ USAC further advised Weems that the "allegations raise serious questions concerning compliance with FCC rules governing the RHC Telecommunications Program."¹⁶⁰

67. On January 12, 2015, Weems advised NSS that it "got an alarming letter from USAC today about investigating [NSS] and our relationship and requesting a lot of info. could you give me a call. I am basically reaching out to everyone at NSS....thanks."¹⁶¹ Two weeks later and without explanation, NSS returned to USAC the \$19,973.26 in USF support it received for one FRN related to the services it claimed to have provided to Weems in FY2013.¹⁶² After discussions with NSS, Weems

¹⁵⁴ See FY2013, Form 466, HCP No. 26967, FRN 1347006 (June 17, 2014); FY2013, Form 466, HCP No. 26968, FRN 1347028 (June 17, 2014); FY2013, Form 466, HCP No. 26969, FRN 1347021 (June 17, 2014); FY2013, Form 466, HCP No. 29670, FRN 1347016 (June 17, 2014); FY2013, Form 466, HCP No. 26971, FRN 1347014 (June 17, 2014); FY2013, Form 466, HCP No. 26972, FRN 1347033 (June 17, 2014); FY2013, Form 466, HCP No. 26973, FRN 1347013 (June 17, 2014); FY2013, Form 466, HCP No. 26974, FRN 1346931 (June 17, 2014). In actuality, these services had previously been installed by AT&T and the October 5, 2013 install date on the Form 466s appears to be nothing more than the date that NSS started invoicing Weems for services already being provided by AT&T. Compare AT&T Invoice No. 9953010207, June 5, 2013, with AT&T Invoice No. 6723141204, October 5, 2013. See also NSS Invoice dated April 30, 2014, Invoice No. 0000489140401.

¹⁵⁵ Email from Keith Pearson, Information Technology, LSMFT, Weems to [REDACTED], Regional Sales Companies (Nov. 6, 2013, 1:57 p.m.).

¹⁵⁶ See Email from [REDACTED], Director of Business Development, NSS, to Scott Madison, President, NSS (Nov. 5, 2013, 1:13 p.m.).

¹⁵⁷ FY2013, FCL, HCP No. 26967, FRN 13470061, (Sept. 17, 2014).

¹⁵⁸ See RHCD eStatement for NSS (Oct. 21, 2014).

¹⁵⁹ Letter from [REDACTED], Vice President, Rural Healthcare Division, USAC to Keith Pearson, Information Technology LSMFT, Weems (Jan. 5, 2015).

¹⁶⁰ *Id.*

¹⁶¹ Email from Keith Pearson, Information Technology LSMFT, Weems, to [REDACTED], Vice President, Sales, Eastern Territory, NSS (Jan. 12, 2015, 3:28 p.m.).

¹⁶² See USAC Payment Identification Worksheet (Jan. 30, 2015); NSS check no. 8467 in the amount of \$19,973.23 (Jan. 30, 2015). See also RHCD eStatement, Network Services Solutions, Weems-Clarke County, HCP No. 26967, FRN 13470061 (Oct. 21, 2014). Information on file in EB-IHD-15-0001913.

submitted a request to USAC to withdraw the remaining FRNs for which USF support had not yet been paid on February 23, 2015.¹⁶³

68. NSS, however, continues to seek USF support at inflated rates for services Weems receives from AT&T through the present. For FY2014, Weems sought funding for six upgraded sites as well as two sites that were not upgraded.¹⁶⁴ Although NSS reduced the monthly rates on the two sites that were not upgraded,¹⁶⁵ these rates were still higher than the rates AT&T charged Weems for these same services.¹⁶⁶ The rates NSS charged to USAC for the upgraded sites, which were ordered from Weems' contract with AT&T and installed well before May 2015, are likewise inflated.¹⁶⁷ These FRNs remain under review by USAC.

69. The services Weems received from AT&T in FY2013 and FY2014 were apparently identical or nearly identical before and after Weems executed its contracts with NSS, except that the costs for these services as conveyed to USAC for reimbursement from the Fund increased more than four-fold.¹⁶⁸

C. NSS's Use of Apparently Forged and False Documents Related to the Rural Health Care Program and Universal Service Fund

70. NSS employees, with the knowledge of and at the behest of Madison, submitted or caused to be submitted apparently forged and false documents to USAC in order to obtain support from the Fund.¹⁶⁹ In numerous instances in which it was awarded contracts, NSS provided apparently forged and falsified documentation of urban rates to HCPs and to USAC.

¹⁶³ See Email from [REDACTED], Compliance Specialist, NSS, to [REDACTED], Director of Operations, NSS, [REDACTED], Billing Manager, NSS, [REDACTED], Vice President, Sales, Eastern Territory, NSS, Scott Madison, President, NSS (Feb. 17, 2015, 11:17 a.m.); Email from [REDACTED], Vice President, Sales, Eastern Territory, NSS, to [REDACTED], Compliance Specialist, NSS, [REDACTED], Director of Operations, NSS, and [REDACTED], Billing Manager, NSS (Feb. 17, 2015, 11:57 a.m.); Email from Keith Pearson, Information Technology LSMFT, Weems to RHC-Assist (Feb. 23, 2015, 5:27 p.m.) (withdrawing FRNs 13470061, 13470281, 13470211, 13470161, 13470141, 13470331, 13469311).

¹⁶⁴ FY2014, Form 466, HCP No. 26967, FRN 1462363 (May 26, 2015); FY2014, Form 466, HCP No. 26974, FRN 1462341 (May 26, 2015); FY2014, Form 466, HCP No. 26972, FRN 1462381 (May 26, 2015); FY2014, Form 466, HCP No. 26973, FRN 1462379 (May 26, 2015); FY2014, Form 466, HCP No. 26968, FRN 14462357 (May 26, 2015); FY2014, Form 466, HCP No. 26969, FRN 14462366 (May 26, 2015); FY2014, Form 466, HCP No. 26970, FRN 14462371 (May 26, 2015); FY2014, Form 466, HCP No. 26971, FRN 14462373 (May 26, 2015). Weems filed an additional funding request for HCP No. 26967 in FY2014. See FY2014, Form 466, HCP No. 26967, FRN 1446204 (June 15, 2015).

¹⁶⁵ NSS Invoice No. 0000615150501, Account No. 000615-2244 (May 1, 2015).

¹⁶⁶ AT&T Invoice No. 3486732205, Account No. 831-001580278 (Dec. 5, 2013).

¹⁶⁷ Compare AT&T Invoice No. N100060060-14222, Bill No. 601 N10-0060 060 (Aug. 10, 2014), with NSS Invoice No. 0000615150501, Account No. 000615-2244 (May 1, 2015).

¹⁶⁸ Information on file in EB-IHD-15-0001913; Compare AT&T Invoice No. 9953010207 (June 5, 2013), with AT&T Invoice No. 6723141204 (Oct. 5, 2013). See also NSS Invoice No. 0000489140401 (Apr. 30, 2014). Compare AT&T Invoice No. N100060060-14222, Bill No. 601 N10-0060 060 (Aug. 10, 2014), with NSS Invoice No. 0000615150501, Account No. 000615-2244 (May 1, 2015).

¹⁶⁹ As discussed in greater detail below, certain documents used by NSS and its employees appear to have been made to look as if they were issued by Comcast. In other instances, certain documents are false insofar as these documents purport to evidence that NSS provides certain services at certain rates, when in fact those rates were not provided by NSS to commercial customers; instead the rates cited represent *portions* of rates AT&T offered to its commercial customers, but which NSS held out as the total cost of the service.

71. NSS procured services mostly from facilities-based carriers, and relied upon purported sales quotes from the facilities-based carriers to substantiate its urban rates. In several instances, NSS employees and sales agents used forged sales quotes and falsified urban rate letters to evidence urban rates so as to increase its payments from USAC. NSS executives, including Madison, knew about the false urban rate letters and forged sales quotes, and even participated in their backdating. NSS advised HCPs that it would provide assistance with USAC filings, including procuring low urban rates.¹⁷⁰ This is what NSS described as its “secret sauce”¹⁷¹ because when coupled with high rural rates, low urban rates increased NSS’s receipt of USF reimbursement payments from USAC, and thus NSS’s profit.

1. NSS’s Use of Apparently Forged Urban Rates That Were Submitted to USAC and Supported USF Payments

72. The Investigation uncovered evidence that in a number of instances, NSS transmitted or caused to be transmitted, apparently forged urban rate documentation to USAC and HCPs in support of USF support payment requests.¹⁷² In some cases, logos and other trade insignia belonging to Comcast, a facilities-based service provider purportedly supplying the urban rates, appear to have been manually cut and pasted onto sales quotes to give the appearance that the documents were issued by Comcast, when in fact the evidence gathered indicates otherwise.¹⁷³

73. NSS’s apparent forgeries are implicated in USF support payments related to HCP South Sunflower County Hospital (South Sunflower). In FY2012, South Sunflower awarded NSS a 36-month contract in connection with its participation in the Telecommunications Program.¹⁷⁴ On June 10, 2013, a Form 466 was electronically submitted to USAC on behalf of South Sunflower, and included three sales quotes for 10 Mbps,¹⁷⁵ 50 Mbps, and 100 Mbps service purportedly issued by Comcast as documentation of the urban rate.¹⁷⁶ None of these three documents were generated by Comcast, something NSS knew or should have known.¹⁷⁷

¹⁷⁰ See Email from [REDACTED], Compliance Specialist, NSS, to [REDACTED], Director of Operations, NSS, and Scott Madison, President, NSS (Dec. 9, 2014, 2:07 p.m.); see also Email from Scott Madison, President, NSS, to [REDACTED] (Dec. 23, 2013, 3:03 p.m.) (offering to have [REDACTED] travel to an HCP to assist in filing its USAC forms); Email from Scott Madison, President, NSS, to [REDACTED], Director of Operations, NSS, (May 16, 2015 12:06 p.m.) (advising that the purpose of a trip to an HCP was to “offer lower urban rates”).

¹⁷¹ See Email from [REDACTED], Director of Operations, NSS, to [REDACTED], Billing Manager, NSS (Apr. 9, 2014, 1:11 p.m.); see also Email from [REDACTED], Billing Manager, NSS, to Scott Madison, President, NSS, and [REDACTED], Director of Operations, NSS (July 3, 2014, 1:14 p.m.).

¹⁷² See Appendix D.

¹⁷³ See, e.g., FY2012, Form 466, HCP No. 12791, FRN 1224839 and FY2013, Form 466, HCP No. 12791, FRN 1338163 (urban rate documents). FY2013, Form 466, HCP No. 16415, FRN 1347127 (urban rate document). FY2012, Form 466, HCP No. 15801, FRN 12267351 (urban rate document). See also Email from [REDACTED], Enterprise Account Executive, Comcast to [REDACTED], Account Representative, NSS (July 26, 2013, 5:14 p.m.) (“[M]y first thought on Jackson Mississippi was that it is not an area that Comcast currently offers Metro Ethernet. At least not as of yet. So I’m not sure who this Robyn Midler is or why she quoted that . . .”). See also Emails between Scott Madison, President, NSS; [REDACTED], Director of Business Development, NSS; [REDACTED], Account Executive, NSS; and [REDACTED], Account Representative, NSS (July 26-29, 2013).

¹⁷⁴ FY2012, Form 466, HCP No. 12791, FRN 1224839 (June 10, 2013). See also NSS Dedicated Internet Access Service Agreement (Mar. 4, 2013).

¹⁷⁵ Mbps (Megabits per second) is the standard measure of broadband speed. It refers to the speed with which information packets are downloaded from, or uploaded to, the Internet. See FCC Household Broadband Guide, <https://www.fcc.gov/research-reports/guides/household-broadband-guide> (last visited Oct. 31, 2016).

¹⁷⁶ FY2012, Form 466, HCP No. 12791, FRN 1224839 (June 10, 2013) (urban rate documents). These urban rate documents were purportedly issued by “Robyn Midler” of Comcast’s Mississippi Sales Division (10 Mbps), “Robyn Midler” of Comcast’s Sacramento Service Area (50 Mbps), and Robyn Midler of Comcast’s Mississippi Service

(continued....)

74. NSS apparently knowingly used sales quotes on fabricated Comcast letterhead to document urban rates as needed. In an August 7, 2013 email, Madison directed [REDACTED], an NSS employee, to provide “some dates that support 2012 funding” on sales quotes to serve as urban rate documents.¹⁷⁸ On August 9, 2013, [REDACTED] replied to Madison attaching three Comcast sales quotes with the date “05/09/13” inserted into the quotes. [REDACTED] email reply also stated “05/09/13” and “Before you ask, yes, it is a weekday (Thursday).”¹⁷⁹

75. On January 24, 2014, South Sunflower electronically submitted through USAC’s web-based My Portal application, an exact copy of the “05/09/13” Comcast sales quote for 50 Mbps that [REDACTED] provided to Madison on August 9, 2013 as evidence of an urban rate in FY2012.¹⁸⁰ After reviewing South Sunflower’s Form 466, USAC requested that South Sunflower obtain new urban rate documentation from the service provider (which appeared to be Comcast) because only one of the previously submitted urban rate letters included a date (March 7, 2013).¹⁸¹

76. These “05/09/13” sales quotes are essentially identical to the ones that were initially transmitted to USAC by South Sunflower as documentation of the urban rate on June 10, 2013.¹⁸² The only difference between the ‘Comcast’ sales quotes provided by [REDACTED] to Scott Madison on August 9, 2013, the 50 Mbps ‘Comcast’ sales quote submitted by South Sunflower on January 24, 2014, and the ‘Comcast’ urban rate documents submitted to USAC by South Sunflower on June 10, 2013, is that the ‘Comcast’ sales quotes [REDACTED] forwarded to Madison by email and the 50 Mbps sales quote submitted to USAC on January 24, 2014, were backdated to “05/09/13” and list the customer of record as ‘Network Services Solutions, LLC.’¹⁸³

(Continued from previous page) _____

Area (100 Mbps). Only the 100 Mbps letter is dated: “March 7, 2013,” which appears to have been manually entered. None of the three urban rate documents identifies a customer of record, but there are markings above the listed service address which appear to reflect the manual redaction of the named customer. All three letters bear the same Comcast trade insignia and employee email address. *See e.g.*, Appendix E.

¹⁷⁷ *See* FY2012, Form 466, HCP No. 12791, FRN 1224839 (June 10, 2013) (urban rate documents). *See e.g.*, Appendix E.

¹⁷⁸ Email from Scott Madison, President, NSS, to [REDACTED], Billing Manager, NSS (Aug. 7, 2013, 5:33 p.m.).

¹⁷⁹ *See* Appendix G; Email from [REDACTED], Billing Manager, NSS, to Scott Madison, President, NSS (Aug. 9, 2013, 5:16 p.m.). Madison apparently wanted his employee to specifically add dates to urban rate quotes that occurred during the course of the normal business week to make the forged and backdated quotes more plausible. Similar to South Sunflower, these three urban rate documents were purportedly issued by “Robyn Milder” of Comcast’s Mississippi Sales Division (10 Mbps), “Robyn Milder” of Comcast’s Sacramento Service Area (50 Mbps), and “Robyn Midler” of Comcast’s Mississippi Service Area (100 Mbps). *See also* Appendix F.

¹⁸⁰ FY2012, Form 466, HCP No. 12791, FRN 1224839; Response to RHCD Information Request Notice to HCP No. 12791, FRN 1224839 (Jan. 24, 2014). *See also* Appendix F.

¹⁸¹ RHCD Information Request Notice to HCP No. 12791, FRN 1224839 (Jan. 24, 2014). Urban rate documentation should indicate that the rate is available during the funding year. *See supra* Section II.

¹⁸² *Compare* FY2012, Form 466, HCP No. 12791, FRN 1224839 (urban rate documents), *with* Email from [REDACTED], Billing Manager, NSS, to Scott Madison, President, NSS (Aug. 9, 2013, 5:16 p.m.). In addition to the same inconsistent spelling of the last name of the Comcast employee who purportedly issued the documents in question (Milder and Midler), the documents’ similarities include, among other things, the email address listed for the Comcast employee, the addresses for the locations where the services were to be received, the respective services provided (10 Mbps access, 50 Mbps access, and 100 Mbps access), the service rates and installation costs, term lengths, and trade insignia. *See, e.g.*, Appendix E; Appendix F.

¹⁸³ The 100 Mbps letter contained the “05/09/13” date as well as the “March 7, 2013” date that was also on the 100 Mbps letter submitted to USAC by South Sunflower on June 10, 2013. *Compare* FY2012, Form 466, HCP No.

(continued....)

77. Additionally, documents that are materially similar to those attached to the August 9, 2013, 5:16 p.m. email were submitted to USAC as urban rate documents in support of NSS's claims for USF support on at least one other occasion for FY2012 (Forrest General Hospital/Marion General Hospital) and two other occasions for FY2013 (South Sunflower and Hardy Wilson).¹⁸⁴ Again, the principal differences in the urban rate documents appears to be the apparently manually entered backdates that correspond to the funding years identified in the Form 466s and that NSS is listed as the customer of record.¹⁸⁵

78. Not only did Madison direct the backdating of the 'Comcast' sales quotes, he also apparently had knowledge that these sales quotes were false before several were submitted to USAC in support of claims for USF support. During an email exchange in July 2013, NSS Account Executive [REDACTED] emailed a Comcast Account Executive and stated that s/he "received a quote a few months ago from Robyn Midler, but it seems as though she is no longer working there" and [REDACTED] was "hoping that you can provide an updated quote for the same services, maybe with some better pricing."¹⁸⁶ In response, the Comcast Account Executive relayed that s/he could not locate Robyn Midler in Comcast's "global directory"¹⁸⁷ but also that "Jackson Mississippi . . . is not an area that Comcast currently offers Metro Ethernet" and that "dispite [*sic*] this area being a Comcast area, it is not yet a Metro Ethernet ready Area for Comcast, (as in the service being referenced in the quote)."¹⁸⁸ Later the same day, [REDACTED] forwarded the entirety of this email thread to Madison,¹⁸⁹ to which Madison responded: "This is not a dead end."¹⁹⁰ Thereafter, NSS continued to submit these apparently forged 'Comcast' sales quotes to HCPs and USAC as evidence of the urban rate.¹⁹¹

79. In response to a Letter of Inquiry (LOI) issued by the Bureau's USF Strike Force, Comcast Corporation stated that it was unable to produce any records that it issued these urban rates, nor could Comcast provide any records showing it provided any of the services at the prices NSS listed on the urban rate documents it submitted to the HCPs and USAC.¹⁹² In fact, in its sworn declaration in response to the LOI, Comcast stated that despite its search of "all relevant billers, trouble ticket tracking systems, employee databases, and third-party sales partner databases," it had no record of any person known as Robyn Midler or Robyn Milder, which would have included "any possible relationship of this individual with Comcast as an employee, independent contractor, agent, or other representative."¹⁹³ Further,

(Continued from previous page) _____

12791, FRN 1224839 (urban rate documents), with Email from [REDACTED], Billing Manager, NSS, to Scott Madison, President, NSS (Aug. 9, 2013, 5:16 p.m.). Compare Appendix E, with Appendix F.

¹⁸⁴ FY2012, Form 466, HCP No. 15801, FRN 1226735 (urban rate document); FY2013, Form 466, HCP No. 16415, FRN 1347127 (urban rate document); FY2013, Form 466, HCP No. 12791, FRN 1338163 (urban rate document).

¹⁸⁵ *Id.*

¹⁸⁶ Email from [REDACTED], Account Executive, NSS to [REDACTED], Enterprise Account Executive, Comcast (July 25, 2013, 3:25 p.m.).

¹⁸⁷ Email from [REDACTED], Enterprise Account Executive, Comcast to [REDACTED], Account Executive, NSS (July 25, 2013, 4:00 p.m.).

¹⁸⁸ Email from [REDACTED], Enterprise Account Executive, Comcast to [REDACTED], Account Executive, NSS (July 26, 2013, 1:18 p.m.).

¹⁸⁹ Email from [REDACTED], Account Executive, NSS, to Scott Madison, President, NSS (July 26, 2013, 2:34 p.m.).

¹⁹⁰ Email from Scott Madison, President, NSS, to [REDACTED], Director of Business Development, NSS; [REDACTED], Account Executive, NSS; and [REDACTED], Account Representative, NSS (July 29, 2013, 5:14 p.m.).

¹⁹¹ FY2013, Form 466, HCP No. 16415, FRN 1347127 (urban rate document); FY2013, Form 466, HCP No. 12791, FRN 1338163 (urban rate document). FY2012, Form 466, HCP No. 12791, FRN 1224839 (urban rate documents).

¹⁹² See Response of Comcast Corporation to Letter of Inquiry (Apr. 13, 2016).

¹⁹³ *Id.*

Comcast stated that it did not possess any documents concerning the email address for the person to whom NSS attributes these purported urban rate quotes—“Robyn@comcast.com.”¹⁹⁴ In each of these four funding requests described above, urban rate documents were transmitted to USAC via interstate wire, either directly by NSS or indirectly through the HCPs after NSS furnished them.¹⁹⁵ USAC, relying on these urban rate documents, issued FCLs and HSSs that authorized payments to NSS from the Fund, and USAC then transmitted USF payments to NSS, via interstate wire.¹⁹⁶ As a result, NSS received a series of payments from the Fund that apparently relied on forged urban rate documents insofar as they were purportedly issued by Comcast and on the dates indicated on the sales quotes.¹⁹⁷

80. As part of the Investigation, the Commission issued a subpoena to NSS and demanded supporting documentation for a number of the above-referenced urban rates, including HCPs South Sunflower and Hardy Wilson.¹⁹⁸ Despite these specific demands for documents, NSS did not provide any documents supporting the urban rate forms that it submitted to USAC in connection to Hardy Wilson or South Sunflower. Additionally, none of the forms that relied on the urban rates discussed above have been corrected or withdrawn,¹⁹⁹ nor have any of the USF payments that USAC disbursed to NSS in reliance upon this information been returned.²⁰⁰

81. Separate from submitting the apparently forged urban rate documents, NSS apparently also backdated other documents to make it appear as if the urban rates were available during the applicable funding year. For example, on August 5, 2013, Madison explicitly requested that ██████████ “find a way to insert a date on the pdf document” and if so, to insert dates “for fund year 2012 as well as fund year 2013” because Madison was “[w]orking on an urban rate quote in this task.”²⁰¹ Approximately three hours later, ██████████ replied to Madison, “Here you go,” and attached two urban rate documents that were exactly the same except one displayed the date “May 21, 2013,” corresponding to FY2012 and the other “July 10, 2013,” corresponding to FY2013.²⁰²

¹⁹⁴ *Id.*

¹⁹⁵ See Appendix D. NSS’s transmission, and HCPs’ transmissions caused by NSS, of Form 466s and forged urban rate documents constitute interstate electronic and wire activity, as Form 466s and forged urban rate documents were transmitted electronically and by wire from NSS in Nevada and/or HCPs in Mississippi to USAC through USAC’s network servers located in Virginia. See also *supra* Section II.

¹⁹⁶ See, e.g., FY2012, Form 466, HCP 15801, FRN 12267351 (June 22, 2013) and FY2012, Form 467, HCP No. 15801, FRN 12267351 (Dec. 4, 2013); see also FY2012, FCL, HCP No. 15801, FRN 12267351 (Dec. 3, 2013) and FY2012, HSS, HCP No. 15801, FRN 12267351 (Dec. 4, 2013).

¹⁹⁷ Invoice spreadsheet for HCP No. 12791, FRN 1224839 and FRN 1338163; Invoice spreadsheet for HCP No. 16415, FRN 1347127; Invoice spreadsheet for HCP No. 15801, FRN 12267351. Information on file in EB-IHD-15-0001913.

¹⁹⁸ See FCC Subpoena to NSS, Attachment A, para. 2.o. (Nov. 12, 2015).

¹⁹⁹ See Appendix D; see also FY2012, Form 466, HCP No. 15801, FRN 12267351 (June 22, 2013); FY2012, Form 466, HCP No. 12791, FRN 1224839 (June 10, 2013) and FY2013, Form 466, HCP No. 12791, FRN 1338163 (Feb. 1, 2014) and FY2013, Form 466, HCP No. 16415, FRN 1347127 (June 20, 2014).

²⁰⁰ USAC denied Tallahatchie’s request for funding based on its Form 466 submitted on December 20, 2012. See RHCD Portal Notice to HCP No. 10269, FRN 1337087 (July 24, 2014). Information on file in EB-IHD-15-0001913.

²⁰¹ Email from Scott Madison, President, NSS, to ██████████, Billing Manager, NSS (Aug. 5, 2013, 12:40 p.m.).

²⁰² Email from ██████████, Billing Manager, NSS, to Scott Madison, President, NSS (Aug. 5, 2013, 3:54 p.m.).

82. In another example, NSS, on December 20, 2013, assisted Tallahatchie with filing its Form 466s for FY2013.²⁰³ Included in this submission was a Comcast Service Order Agreement documenting the purported urban rate.²⁰⁴ Prior to submitting the Form 466s to USAC for Tallahatchie, NSS attempted to locate a low urban rate. In an email thread on which Madison, [REDACTED], [REDACTED], and others participated, [REDACTED] was provided with a Comcast Service Order Agreement and was asked to have a date placed on it.²⁰⁵ [REDACTED] then asked, "What date do you need on it?"²⁰⁶ The email exchange continued when [REDACTED] first placed the date of June 12, 2013, which corresponded with FY2012, but was later asked to send another quote, this time bearing the date July 12, 2013, to bring the quote within FY2013, the funding year listed in the Form 466.²⁰⁷ This sales quote was submitted to USAC along with Tallahatchie's Form 466 as documentation of the urban rate for FY2013 later that same day.²⁰⁸ Although Tallahatchie's funding was denied, NSS's conduct demonstrates the company's apparent disregard of the Commission's Rules.

83. In its sworn declaration in response to the LOI, Comcast stated that it had no records reflecting that it was selling service at the speeds, unit prices, and in the locations listed on the urban rate document used by NSS for Tallahatchie.²⁰⁹

2. NSS's Urban Rate Letters on Their Own Letterhead Falsely State Certain Services Cost \$138.00 Per Month

84. Another way that NSS apparently manipulated documents to improperly receive USF payments was by submitting single-sentence urban rate letters to USAC on NSS letterhead stating that the urban rate was \$138.00 per month for telecommunications services with no further description or supporting documentation.

85. The Investigation has been unable to verify NSS's \$138.00 urban rate letters.²¹⁰ [REDACTED], NSS's Compliance Specialist, did not trust the validity of NSS's urban rate letters and further

²⁰³ Portal Notice from RHCD, USAC to Tallahatchie, HCP No. 10269, 465 Application No. 43134249, FRN 1337087 (confirming receipt of Form 466 on Dec. 20, 2013). See also Email from [REDACTED], Sales, Regional Sales Companies, to Scott Madison, President, NSS (Dec. 23, 2013, 11:53 a.m.); Email from Scott Madison, President, NSS, to [REDACTED], Sales, Regional Sales Companies (Dec. 23, 2013, 3:03 p.m.) (advising that filing the forms is "such an important aspect of ensuring that requests are funded and submitted properly, we do want one or two folks from Network Services to complete that process for all clients that do not have a paid consultant").

²⁰⁴ See FY2013, Form 466 HCP No. 10269, FRN 1337087 (Dec. 20, 2013). On or about June 19, 2014, Tallahatchie sought to update its Form 466 with a new urban rate of \$138.00 by providing a letter from NSS dated April 3, 2014, stating that the urban rate for 100M Point to Point in Jackson, Mississippi, was \$138.00. Information on file in EB-IHD-15-0001913.

²⁰⁵ Email from [REDACTED], Director of Business Development, NSS, to [REDACTED], Partner, Regional Sales Companies (Dec. 20, 2013, 10:24 a.m.).

²⁰⁶ Email from [REDACTED], Billing Manager, NSS, to [REDACTED], Partner, Regional Sales Companies, [REDACTED], and [REDACTED], Regional Sales Companies (Dec. 20, 2013, 11:20 a.m.). See also Email from [REDACTED], Partner, Regional Sales Companies, to [REDACTED], Director of Business Development, NSS (Dec. 20, 2013, 11:29 a.m.).

²⁰⁷ Email from [REDACTED], Partner, Regional Sales Companies to [REDACTED], Account Representative, NSS, [REDACTED], Director of Business Development, NSS, and Scott Madison, President, NSS (Dec. 20, 2013, 12:51 p.m.). See also Email from [REDACTED], Director of Business Development, NSS, to [REDACTED], Sales, Regional Sales Companies (Dec. 20, 2013, 1:18 p.m.).

²⁰⁸ FY2013, Form 466, HCP No. 10269, FRN 1337087 (Dec. 20, 2013).

²⁰⁹ See Response of Comcast to Letter of Inquiry (Apr. 13, 2016).

²¹⁰ [REDACTED] stated in an email to Scott Madison that [REDACTED]

(continued....)

stated that USAC regarded these letters as “ [REDACTED] .”²¹¹ As the charts in Appendix A and Appendix C demonstrate, on at least 83 occasions, NSS represented to HCPs, USAC, and the Commission that different services, at different contract terms, in 14 different cities in 10 different states across the United States all cost \$138.00 per month. From FY2013 to FY2015, 83 Form 466s were submitted to USAC in which NSS proffered an urban rate of \$138.00, none of which have been corrected or withdrawn by either NSS or the HCPs.²¹²

86. A review of certain NSS documents indicates that AT&T was the underlying service provider relied upon by NSS for its \$138.00 per month urban rates related to the states listed in all 83 Form 466s.²¹³ In response to a Commission subpoena requesting documents concerning whether AT&T provided the services in each of the urban areas at the rates contained on the urban rate letters for the 83 Form 466s, AT&T was unable to locate or produce any responsive documents reflecting that it provided any of these services for the price stated by NSS.²¹⁴ These services apparently are not available to AT&T’s commercial customers at the rates associated with the cities NSS represented to the HCPs and USAC, and the \$138.00 per month rate apparently does not reflect the actual sales price of these services to commercial customers in the relevant urban areas.²¹⁵

87. Other NSS employees also raised concerns about the validity and accuracy of the \$138.00 per month urban rate letters. In an email to [REDACTED], an NSS employee advised that the “\$138 urban

(Continued from previous page) _____

[REDACTED]
[REDACTED]
[REDACTED] Email from [REDACTED], Compliance Specialist, NSS, to Scott Madison, President, NSS (Nov. 19, 2015, 1:06 p.m.). NS 0028300.

²¹¹ See *id.*

²¹² See Appendix A; Appendix C. Information on file in EB-IHD-15-0001913. An additional nine (9) FRNs with similar letters were denied funding and four (4) additional FRNs with such letters were withdrawn.

²¹³ Email from [REDACTED], Director of Business Development, NSS, to Scott Madison, President, NSS (Apr. 15, 2014, 12:12 p.m.) (“For the 22 states that [AT&T] serves we can utilize the Rate of \$138 for 100 Mbps. . . .”); Email from [REDACTED], Director of Business Development, NSS to Scott Madison, President, NSS (Apr. 22, 2014, 3:46 p.m.). See also Email from [REDACTED], Account Representative, NSS to Scott Madison, President, NSS, [REDACTED], Director of Operations, NSS, [REDACTED], Director of Business Development, NSS, [REDACTED], Major Account Representative, NSS, [REDACTED], Major Account Executive, NSS, [REDACTED], Account Executive, NSS, [REDACTED], Billing Manager, [REDACTED] Urban Rates.xlsx (May 2, 2014, 6:47 p.m.); Email from [REDACTED], Account Representative, NSS, to Scott Madison, President, NSS, [REDACTED], Director of Operations, NSS, [REDACTED], Director of Business Development, NSS, [REDACTED], Major Account Representative, NSS, [REDACTED], Major Account Executive, NSS, [REDACTED], Account Executive, NSS, [REDACTED], Billing Manager, NSS, [REDACTED], Account Manager, NSS, [REDACTED], Major Account Executive, NSS, [REDACTED], Vice President, Sales, Eastern Territory NSS, [REDACTED] Urban Rates.xlsx (Dec. 3, 2014, 1:52 p.m.). The spreadsheet (.xlsx file) attachments to the [REDACTED] emails list the urban rates by state and provider a carrier key. For all urban rates of \$138.00, AT&T is the identified carrier.

²¹⁴ See AT&T’s Response to Subpoena at 4-7 (Mar. 23, 2016).

²¹⁵ See *id.* (stating that AT&T had no documents reflecting that the above services were sold to any commercial customers for \$138). See also Email from [REDACTED], Account Manager, AT&T, to [REDACTED], Regional Sales Companies (Jan. 2, 2014, 2:33 p.m.) (“Prices will change based on several factors . . . So if all the stars line up we should be able to get similar pricing but each proposal needs to get custom pricing approval to provide valid quotes.”); Email from [REDACTED], Director of Business Development, NSS to [REDACTED], Regional Sales Companies (Jan. 9, 2014, 2:50 p.m.) (“Without a formal valid quote for a specific customer, address, phone #, term and date we CANNOT USE the rate. We cannot get Special pricing to do hundreds of custom quotes many states and speeds without setting off fire alarms. . . .”).

rate you provided is not valid.”²¹⁶ Scott Madison even seems to have recognized that this rate had limited utility and advised [REDACTED] that “when you are singling out the \$138.00, this is only suitable when you are support[ing] a local loop for an internet circuit. If you are offsetting a pt to pt Ethernet circuit, using these rates would need the entire circuit price. . . .”²¹⁷ Madison further advised NSS’s Compliance Specialist that [REDACTED].²¹⁸ Nevertheless, NSS added this rate to its “urban rate” spreadsheet and used it to support a variety of services.²¹⁹ NSS repeatedly used this urban rate to increase the spread between the rural rate and the urban rate, thereby inflating the amount of money NSS would receive from the Fund.²²⁰ Additionally, NSS did not provide any documents in support of its urban rate letters in response to a Commission subpoena despite specific demands for such documents.²²¹

IV. DISCUSSION

88. Based upon the evidence developed in the Investigation, we conclude that NSS apparently willfully and repeatedly violated Sections 54.603, 54.605, 54.607, 54.609, 54.613, and 54.615 of the Commission’s Rules by engaging in conduct that resulted in competitive bidding that was not fair and open, inflating the rates for services it charged to HCPs and the Fund, and relying on false documents

²¹⁶ Email from [REDACTED], Account Representative, NSS, to [REDACTED], Director of Business Development, NSS (Mar. 21, 2014, 6:14 p.m.).

²¹⁷ Email from Scott Madison, President, NSS, to [REDACTED], Director of Business Development, NSS (Mar. 25, 2014, 4:51 p.m.).

²¹⁸ Email from Scott Madison, President, NSS, to [REDACTED], Compliance Specialist, NSS (Nov. 19, 2015, 7:32 p.m.). NS 0028300. NSS submitted at least four urban rate letters indicating that a 1000 Mbps MPLS circuit costs \$138.00. *See* FY2014, Form 466, HCP No. 37604, FRN 1463817 (June 8, 2015); FY2014, Form 466, HCP No. 37604, FRN 1463811 (June 8, 2015); FY2015, Form 466, HCP No. 37604, FRN 1570852 (Nov. 2, 2015); FY2015, Form 466, HCP No. 37604, FRN 1570853 (Nov. 2, 2015).

²¹⁹ *See* Email from [REDACTED], Account Representative, NSS to Scott Madison, President, NSS, [REDACTED], Director of Operations, NSS, [REDACTED], Director of Business Development, NSS, [REDACTED], Major Account Representative, NSS, [REDACTED], Major Account Executive, NSS, [REDACTED], Account Executive, NSS, [REDACTED], Billing Manager, [REDACTED] Urban Rates.xlsx (May 2, 2014, 6:47 p.m.); *see also* Email from [REDACTED], Director of Business Development, NSS, to Scott Madison, President, NSS (Apr. 15, 2014, 12:12 p.m.) (“ . . . for all states where we have not obtained a firm quote they should be flagged with an *.”).

²²⁰ *See* NSS Master Service Agreement Coastal Family Health Center – Vancleave, Contract ID: NSS-0354785, Appendix A, FY2015, Form 466, HCP No. 37604, FRN 1570849; FY2015, Form 466, HCP No. 37604, FRN 1570852; FY2015, Form 466, HCP No. 37604, FRN 1570853; FY2015, Form 466, HCP No. 37604, FRN 1570854; FY2015, Form 466, HCP No. 37604, FRN 1570855; FY2015, Form 466, HCP No. 37604, FRN 1570856; FY2015 Form 466, HCP No. 37604, FRN 1570858; FY2015, Form 466, HCP No. 37604, FRN 1570859; FY2015, Form 466, HCP No. 37604, FRN 1570860; FY2015, Form 466, HCP No. 37604, FRN 1570861; *see also* NSS Master Services Agreement Ouachita Regional Counseling and Mental Health Center, Inc. dba Community Counseling Services, Inc., Contract ID: NSS-2378818, FY2015, Form 466, FRN 1567956; FY2015, Form 466, FRN 1567957; FY2015, Form 466, FRN 1567958. *Compare* NSS Point to Point Dedicated Service Agreement McDuffie Regional Medical Center, FY2014, Form 466, HCP No. 27665, FRN 1450493, *with* McDuffie Regional Medical Center, FY2014, Form 466, HCP 27665, FRN 1450495.

²²¹ When NSS’s own Compliance Specialist asked for documentation supporting an urban rate for a 3M MPLS circuit, s/he was provided with a T1 quote. *See* Email from [REDACTED], Compliance Specialist, NSS, to [REDACTED], Account Executive, NSS (Nov. 17, 2015, 10:58 a.m.). NS 0028315. When s/he questioned, “[REDACTED],” Madison told her “[REDACTED].” Email from [REDACTED], Compliance Specialist, NSS, to Scott Madison, President, NSS (Nov. 17, 2015, 1:53 p.m.); NS 0028314. *See also* Email from Scott Madison, President, NSS, to [REDACTED], Compliance Specialist, NSS (Nov. 17, 2015, 7:50 p.m.). NS 0028313.

to support its claims for payment from the Fund.²²² As discussed above, we find these apparent violations began no later than 2012 and continue through the present as a result of NSS's failure to correct the Form 466s that were filed in connection with these activities.²²³ Pursuant to Section 503(b)(1)(D), we further find that, in apparent violation of the wire fraud statute, NSS apparently willfully and repeatedly violated Title 18, United States Code, Section 1343, by forging urban rate documents and transmitting or causing these documents to be transmitted by interstate wires.²²⁴ As discussed above, for multiple years and continuing through the present, NSS apparently violated the Commission's Rules and, as a direct result of these apparent violations, was awarded many contracts from HCPs and received millions of dollars in improper payments from the Fund.²²⁵

A. NSS Apparently Engaged in Competitive Bidding Practiced That Were Not Fair and Open in Order to Receive Contracts from HCPs in Violation of Rural Health Care Program Rules

89. As the Commission has repeatedly stated, competitive bidding rules are vital to ensuring that the USF is "used wisely and efficiently" and that HCPs "are aware of cost-effective alternatives" to limit waste, fraud and abuse of the Fund.²²⁶ Fundamental to this is the Commission's consistent requirement that the competitive bidding process for services supported by the RHC Program be fair and open, and that no bidders receive an unfair advantage.²²⁷ As service providers have long been aware, the Commission will take action against those that seek to secure an unfair advantage in competing for

²²² See 47 CFR §§ 54.603, 54.605, 54.607, 54.609, 54.613, 54.615.

²²³ See *Purple Communications, Inc.*, Forfeiture Order, 30 FCC Rcd 14892 (2015) (*Purple*); *BellSouth Telecommunications, LLC, d/b/a AT&T Southeast*, Notice of Apparent Liability for Forfeiture, FCC 16-98, para. 67 (July 7, 2016) (*BellSouth NAL*); *Total Call Mobile, Inc.*, Notice of Apparent Liability for Forfeiture and Order, 31 FCC Rcd. 4191, paras. 81, 89 (2016); *Purple Communications, Inc.*, Notice of Apparent Liability for Forfeiture, 29 FCC Rcd 5491, 5506, n.87 (2014) (*Purple NAL*); *VCI Company*, Notice of Apparent Liability for Forfeiture and Order, 22 FCC Rcd 15933, 15940, para. 20 (2007).

²²⁴ See 18 U.S.C. § 1343; 47 U.S.C. § 503(b)(1)(D).

²²⁵ We observe the duty of the HCPs to be cost-effective and comport themselves with the rules of the RHC Program. We acknowledge the participation of certain HCPs and at least one employee of a facilities-based telecommunications carrier in the conduct at issue. Nevertheless, we need not reach the issue of their conduct given the fault by NSS violating the Commission's Rules. Therefore, in our discretion, we do not propose forfeiture penalties against the facilities-based telecommunications carriers and HCPs identified herein. See, e.g., *Federal-State Joint Board on Universal Service; Changes to the Board of Directors for the National Exchange Carrier Association, Inc.; Schools and Libraries Universal Service Support Mechanism*, Order on Reconsideration and Fourth Report and Order, 19 FCC Rcd 15252, 15255-57, paras. 10-15 (2004) (*Schools and Libraries Fourth Report and Order*) (directing USAC to pursue recovery actions against the party or parties that violated the Commission's rules); *Request for Review of the Decision by the Universal Service Administrator by Bell South Telecommunications, Inc. and Union Parish School Board; Schools and Libraries Universal Service Support Mechanism*, CC Docket No. 02-6, Order, 27 FCC Rcd 11208 (Wireline Comp. Bur. 2012) (*Bell South Order*) (seeking recovery of funding from the party that violated the Commission's Rules).

²²⁶ See *Federal-State Joint Board on Universal Service First Report and Order*, Report and Order, 12 FCC Rcd. 8776, 9133-34, paras. 686, 688 (1997).

²²⁷ See *id.*; see also 47 CFR §§ 54.601, 54.603, 54.615; *Rural Health Care Support Mechanism*, Report and Order, 27 FCC Rcd. 16678, 16778, paras. 229-230 (2012); cf. *Schools and Libraries Universal Service Support Mechanism*, Third Report and Order and Second Further Notice of Proposed Rulemaking, 18 FCC Rcd. 26912, 26939, para. 66 (2003) (*Schools and Libraries Third Report and Order*) (stating that a fair and open competitive bidding process is critical to preventing waste, fraud, and abuse of program resources).

contracts supported by the USF or otherwise engage in conduct that threatens to damage the integrity of USF programs in violation of the Commission's Rules.²²⁸

90. The Investigation has uncovered that NSS obtained multiple contracts from HCPs for services supported by the Fund as a result of competitive bidding practices that were not fair and open in various ways and, in doing so, apparently violated several of the Commission's Rules.

1. NSS Apparently Received Commitments from HCPs to Provide Telecommunications Services Prior to the Expiration of the 28-Day Period and, in Some Instances, Before the Form 465 Was Even Posted, in Violation of Section 54.603 of the Commission's Rules

91. The Commission's Rules provide that telecommunications services to rural HCPs may be supported by the Fund only if those services are procured through a competitive bidding process.²²⁹ The Commission's Rules further require HCPs to only "mak[e] commitments" with service providers after 28 days following USAC's posting of Form 465s soliciting bids.²³⁰ NSS acted in concert with HCPs to reach agreements in principle, and to make commitments to award contracts to NSS prior to the expiration of the 28-day waiting period, and in some cases even prior to USAC's posting of a Form 465 soliciting bids.²³¹

92. For example, NSS apparently obtained commitments from HCP Tallahatchie before Tallahatchie filed its Form 465 for FY2013.²³² In this instance, Madison ordered the underlying service from AT&T for Tallahatchie before USAC posted the Form 465 for FY2013 and therefore prior to the expiration of the 28-day waiting period.²³³ NSS's representative also emailed Madison more than three months prior to the posting of the Form 465 stating that s/he "ha[s] been assured" that Tallahatchie would award NSS its contract.²³⁴ NSS apparently advised Tallahatchie to ignore a bid from an NSS competitor, which was approximately 20 percent of the cost NSS charged the Fund for substantially similar services.²³⁵

²²⁸ See *id.* The Commission's fair and open competitive bidding requirements date back to the inception of the USF and have always applied to service providers. In July 1997, the Commission granted a limited waiver to the competitive bidding rules for contracts signed before the competitive system became fully operational, noting that the exemption applied to "schools, libraries, and service providers." *Federal-State Joint Board on Universal Service*, Order on Reconsideration, 12 FCC Rcd. 10095, 10098, paras. 9-10 (1997). In December 1997, the Commission extended the rules regarding support for existing contracts to the rural health care program to "reduce potential confusion on the part of program participants and providers." *Federal-State Joint Board on Universal Service*, Fourth Order on Reconsideration 13 FCC Rcd. 2372, 2445, para. 219 (1997). Service providers have been on notice that funding commitments resulting from contracts awarded in violation of the competitive bidding rules will be rescinded and the disbursed funds recovered. In 2007, the Commission noted that "the danger of waste, fraud, and abuse by service providers is as great as the danger of such conduct by rural health care providers" and advised that "funds disbursed from the rural health care support mechanism in violation of a Commission rule that implements the statute or a substantive program goal will be recovered and that sanctions, including enforcement actions would be appropriate in cases of waste, fraud, and abuse...". *In the Matter of Comprehensive Review of the Universal Service Fund Management, Administration, and Oversight*, Report and Order, 22 FCC Rcd. 16372, 16385-86, paras. 26, 30 (2007) (*Comprehensive Report and Order*).

²²⁹ 47 CFR § 54.601(c)(1).

²³⁰ 47 CFR § 54.603(b)(3).

²³¹ See *supra* Section III.A.

²³² See *id.*

²³³ See *id.*

²³⁴ See *id.*

²³⁵ See *id.*

93. Likewise, HCP Bond made commitments to NSS prior to the time Bond filed and USAC posted its revised Form 465 in August 2013, and agreed in principle to award its contract to NSS without considering other potential competing bids.²³⁶ Indeed, it appears Bond's putatively competitive bidding process for its revised Form 465 was illusory, with NSS having already "won" Bond's contract pursuant to the June 2013 Form 465.

2. NSS Created *Post Facto* Bid Matrices to Apparently Deceive USAC and the Commission into Believing that Competitive Bidding Processes were Fair and Open, in Violation of Sections 54.603 and 54.615 of the Commission's Rules

94. Sections 54.603 and 54.615 of the Commission's Rules require HCPs to select "the most cost-effective method" in response to their Form 465s, which is "the method that costs the least after consideration of the features, quality of transmission, reliability, and other factors that the health care provider deems relevant to choosing a method of providing the required health care services."²³⁷ To assess the various bids HCPs receive, HCPs are encouraged to create bid matrices that weigh price, service, and other factors as articulated by the Commission's Rules to evaluate which bidder is the most cost-effective and therefore which bidder should be awarded the contract.²³⁸ Therefore, if bid matrices are used, they should be prepared and studied by HCPs prior to the time they award contracts in response to multiple bids, and not after the contract was awarded, which inherently defeats the purpose of a bid matrix in its entirety. A bid matrix created after the contract award and in concert with the selectee renders the evaluation process meaningless. By creating bid matrices only after NSS was awarded contracts and USAC required documentation justifying NSS's selection, NSS coordinated with HCPs to deceive USAC and the Commission into believing that NSS won contracts as a result of fair and open competitive bidding, when this was not the case.²³⁹

95. In order to assess whether NSS won contracts as a result of competitive bidding that complied with the Commission's Rules, USAC requested that HCPs Texoma, SCRMC, and East Central explain the criteria they used to select NSS. These HCPs, with NSS's substantial assistance, responded to USAC's requests by producing what were represented as bid matrices used by HCPs to objectively weigh the various factors to determine which bidder was most cost-effective.²⁴⁰ The bid matrices sent to USAC in response to these requests were not part of the HCPs' evaluation processes but were prepared and sent to USAC only *after* such documents were requested by USAC—well after the contracts were already awarded to NSS.²⁴¹ These documents were apparently constructed to give USAC and the Commission the false impression that they were generated contemporaneously with the bid review process, and that NSS was awarded contracts only after an objective analysis by HCPs as memorialized by the bid matrices.

96. NSS received contracts from HCPs and funds from the USF as a result of a competitive bidding process that was not fair and open in apparent violation of the Commission's Rules due to NSS's substantial role in the preparation of *post facto* bid matrices for HCPs Texoma and East Central.²⁴²

²³⁶ *See id.*

²³⁷ 47 CFR §§ 54.603(b)(4), 54.615(c)(7).

²³⁸ *See id.*

²³⁹ *See supra* Section III.A.

²⁴⁰ *See id.*

²⁴¹ *See id.*

²⁴² *See id.*

3. NSS Apparently Induced an HCP to Award It a Contract as a Result of an Improper Gift, in Violation of Sections 54.603 and 54.615 of the Commission's Rules

97. Providing gifts or other items of value to facilitate receiving contracts in connection with USF programs violates the Commission's Rules and Orders.²⁴³ In the RHC Program, the Commission's Rules mandate that the winning bidder provide the most cost-effective option of meeting the telecommunications needs of HCPs.²⁴⁴ Here, NSS apparently enticed Texoma to award NSS a contract supported by the Fund with the promise of a free server with a value of approximately \$10,000.²⁴⁵ This gift was memorialized as part of NSS's contracts with Texoma, and further corroborated by Madison's emails in which he admitted knowledge of the gift and endorsed this course of action.²⁴⁶

98. In these emails, NSS employees directly asked Madison if such a gift could be considered "a bribe."²⁴⁷ Madison was seemingly unconcerned with the "DEEP DISCOUNTS."²⁴⁸ It was not until two years later that NSS took corrective action to remedy its apparently improper gift to Texoma.²⁴⁹ Additionally, in an apparent attempt to conceal this wrongdoing from USAC, the portion of the contract that memorialized this improper gift was not produced to USAC as part of the documentation to support payments from the Fund and evergreen status.²⁵⁰ It therefore appears that NSS provided at least one gift to an HCP to induce a contract award and then concealed this gift from USAC and the Commission.

4. NSS Apparently Received Confidential, Proprietary, and Inside Information from Service Providers and HCPs that Gave NSS an Unfair Advantage in the Competitive Bidding Process, in Violation of Sections 54.603 and 54.615 of the Commission's Rules

99. As part of the Commission's Rules and Orders requiring fair and open competitive bidding, all service providers competing for contract awards must have access to the same or identical information to prevent one provider from having an unfair advantage over another, and no service provider can obtain contracts as a result of a bidding process in which some participants have unequal access to information.²⁵¹ NSS's apparent receipt of confidential, proprietary, and inside information to the exclusion of other bidders and prospective bidders violates these Rules and Orders.

100. Despite directives to its own employees and representatives that NSS urban rate information was of "[c]ritical importance" and that "NO ONE outside of Network Service can have

²⁴³ See, e.g., 47 CFR § 54.503(d).

²⁴⁴ See 47 CFR §§ 54.603, 54.615.

²⁴⁵ See *supra* Section III.A.

²⁴⁶ See *id.*

²⁴⁷ See *id.*

²⁴⁸ See *id.*

²⁴⁹ See *id.*; see also Letter from Scott Madison, President, NSS to Don Riddle, Chief Financial Officer, Texoma (Aug. 25, 2015) [REDACTED]

[REDACTED]). NS 0004101.

²⁵⁰ See *supra* Section III.A.

²⁵¹ See 47 CFR §§ 54.603, 54.615; *In the Matter of Rural Health Care Support Mechanism*, Report and Order, 27 FCC Rcd 16678, para. 229. (2012); *Federal-State Joint Board on Universal Service*, Report and Order, 12 FCC Rcd 8776, 9134, para. 688 (1997).

access²⁵² to such information, NSS received competitors' urban rate information as it constructed its own bids.²⁵³ As a result of receiving its competitors' urban rate information, NSS was able to discern the competitors' profit calculations and other insights into the competitors' confidential business operations. In addition to the urban rate information, NSS also received the proposed costs and services from a competitor's bid.²⁵⁴ As a direct result of NSS's receipt and use of a competitor's confidential information, NSS was able to obtain an unfair advantage in the competitive bidding process and, therefore, place itself in a superior position to win the contract with Weems. In addition to obtaining an unfair advantage in bidding on Weems's contracts, the pipeline of information from AT&T AM-1 to NSS provided another means by which NSS exploited private information to gain an advantage over its competitors in obtaining contracts in the RHC Program.

B. NSS Apparently Violated the Commission's Rules by Inflating Rural Rates Charged to HCPs to Improperly Increase Its Payments from the Fund, in Violation of Sections 54.607 and 54.609 of the Commission's Rules

101. As noted above, NSS is a reseller of telecommunications services and is not a facilities-based service provider. NSS provides telecommunications services to HCPs in connection with the RHC Program. The Commission's Rules dictate how service providers calculate rural rates in connection with submissions for payments from the Fund where that is the case:

If the telecommunications carrier serving the health care provider is not providing any identical or similar services in the rural area, then the rural rate shall be the average of the tariffed and other publicly available rates, not including any rates reduced by universal service programs, charged for the same or similar services in that rural area over the same distance as the eligible service by other carriers. If there are no tariffed or publicly available rates for such services in that rural area, or if the carrier reasonably determines that this method for calculating the rural rate is unfair, then the carrier shall submit for the state commission's approval, for intrastate rates, or the Commission's approval, for interstate rates, a cost-based rate for the provision of the service in the most economically efficient, reasonably available manner.²⁵⁵

102. In response to the Commission's subpoena, NSS did not produce any averaging of tariff rates or publicly available rates, or submissions to state commissions or the Commission for approval, as the Commission's Rules require.²⁵⁶ The Bureau's review of hundreds of thousands of documents related to the Investigation also failed to identify any evidence that NSS calculated its rural rates in accordance with these requirements.²⁵⁷ The Investigation shows, instead, that NSS's principal method of calculating its rural rates was to maximize the amount of money NSS charged HCPs and obtained from the Fund.

103. Internal NSS emails are replete with references to maximizing the amount of money NSS could obtain from the Fund as the paramount goal, regardless of whether the rates charged comply with the Commission's Rules or even constitute reasonable profits above the cost of providing service.²⁵⁸ NSS

²⁵² See Email from [REDACTED], Director of Business Development, NSS, to Scott Madison, President, NSS, *et al.*, Please Read – and confirm your understanding. Important Urban rate project (Sept. 4, 2013, 3:35 p.m.).

²⁵³ See *supra* Section III.A.

²⁵⁴ See *id.*

²⁵⁵ 47 CFR § 54.607(b).

²⁵⁶ See *supra* Section III.B.

²⁵⁷ See *id.*

²⁵⁸ See, e.g., Email from [REDACTED], Director of Business Development, NSS to [REDACTED], Sales, Regional Sales Companies, [REDACTED], Partner, Regional Sales Companies (Nov. 18, 2013, 10:20 a.m.) (“This is what we talked about in terms of how aggressive we want to be.”); Email from [REDACTED], Sales, Regional Sales

(continued....)

employees and representatives, including Madison, regularly discussed how high of a markup NSS could charge HCPs and the Fund, as high as 1100 percent above what NSS paid to procure the underlying service, divorced from the requirements of the Commission's Rules to calculate the rural rate.²⁵⁹ Witnesses described "eye-popping" rates NSS was charging HCPs and the Fund, and directed HCPs to only focus on the portion the HCPs were responsible for paying, highlighting the limited concern NSS has for the Fund.²⁶⁰ This is particularly the case where NSS, as frequently occurred, merely "re-billed" services it purchased from facilities-based service providers without providing (or providing minimal) additional value-added services.²⁶¹

104. Here too, we see the interconnection of NSS's scheme. NSS and its representatives used the company's unique relationship with AT&T AM-1 to cultivate relationships with HCPs that allowed NSS to charge markedly inflated rural rates and earn the trust of HCP employees to do so.²⁶² By misrepresenting to the HCPs the actual cost of the services through its use of "please pay" amounts versus the significantly higher amounts invoiced to the Fund through USAC,²⁶³ NSS was able to improperly inflate the rural rates charged to HCPs and supported by the Fund. NSS's rural rate inflation is further evidenced by the disparate amounts charged by NSS where an HCP has funded and unfunded sites. NSS rebilled HCPs approximately 75 percent less for services it procured from facilities-based carriers when those services not supported by the Fund.²⁶⁴

C. NSS Apparently Violated the Commission's Rules Through Its Use of Apparently Forged and False Documents to Improperly Increase Payments Received from the Fund

105. As outlined above, the Investigation uncovered evidence that NSS submitted and caused HCPs to submit apparently forged and false documents to increase the amount of money NSS obtained from the Fund.

106. The Commission's Rules mandate how service providers are to calculate urban rates. If the rural site is located within the standard urban distance,²⁶⁵ "the urban rate for that service shall be a rate no higher than the highest tariffed or publicly available rate charged to a commercial customer for a functionally similar service in any city with a population of 50,000 or more in that state, calculated as if it were provided between two points within the city."²⁶⁶ If the rural site is located beyond the standard urban distance, "the urban rate for that service shall be a rate no higher than the highest tariffed or

(Continued from previous page) _____

Companies to [REDACTED], Director of Business Development, NSS, [REDACTED], Partner, Regional Sales Companies (Nov. 18, 2013, 11:22 a.m.) ("I understand this, but how did you come up with this number? Is this just a fictional number you made up or what is the guidelines to it?").

²⁵⁹ See Emails between Scott Madison, President, NSS, [REDACTED], Director of Business Operations, NSS, and [REDACTED], Director of Business Development, NSS (July 18, 2014) (discussing NSS's proposed 1147 percent profit margin over the cost of obtaining the underlying services).

²⁶⁰ See *supra* Section III.B.

²⁶¹ See *id.*

²⁶² See *id.*

²⁶³ See *id.*

²⁶⁴ See *id.*

²⁶⁵ "The 'standard urban distance' for a state is the average of the longest diameters of all cities with a population of 50,000 or more within the state." 47 CFR § 54.605(c).

²⁶⁶ 47 CFR § 54.605(a).

publicly-available rate charged to a commercial customer for a functionally similar service provided over the standard urban distance in any city with a population of 50,000 or more in that state.”²⁶⁷

107. As with its rural rates, NSS’s determinations of urban rates apparently are not calculated in the manner required by the Commission’s Rules. There is no evidence before the Commission that NSS ascertained the highest tariffed or publicly available rates charged to commercial customers for functionally similar services for every urban rate it proffered to HCPs, USAC, and the Commission.²⁶⁸ Instead, NSS has apparently engaged in a widespread scheme to use apparently false and misleading urban rates to underpin its claims for funds from the USF.

1. NSS Apparently Violated the Commission’s Rules Through Its Use of Apparently Forged Urban Rate Documents, in Violation of Sections 54.605, 64.609, and 54.613 of the Commission’s Rules

108. NSS and its representatives appear to have manually applied Comcast’s trade insignia to documents NSS, its employees, and representatives created to give the false impression that they were actually issued by Comcast.²⁶⁹ The record before the Commission demonstrates that Comcast did not issue these sales quotes, as established by the fact that Comcast provided a sworn declaration that the individuals that purportedly issued the Comcast sales quotes were neither employed by nor affiliated with Comcast at any point, nor did their putative employee email address even exist.²⁷⁰ When NSS was served with a Commission subpoena seeking documents that supported its purported urban rates, NSS did not produce any responsive documents²⁷¹—and indeed could not do so because apparently such documents do not exist. In addition, the record demonstrates that NSS’s employees backdated and post-dated certain documents at Madison’s direction.²⁷²

2. NSS Apparently Violated the Commission’s Rules When It Falsely Represented that the Urban Rate for Certain Services Was \$138.00 Per Month, in Violation of Sections 54.605, 64.609, and 54.613 of the Commission’s Rules

109. In addition to its use of apparently forged sales quotes as urban rate documents, NSS submitted letters containing misrepresentations on its own letterhead in order to support the urban rates listed on Form 466s filed by the HCPs it serviced.²⁷³ In these letters, NSS asserted that the urban rate for different services in different cities, as outlined in Appendix A, were all \$138.00 per month and proffered such letters in at least 83 instances.²⁷⁴ The Commission sought to corroborate the rates with the underlying service provider identified in NSS internal documents. In response to a Commission subpoena, the service provider was not able to produce any responsive documents showing that these different services in different cities were ever offered to commercial customers at \$138.00 per month.²⁷⁵ The Commission also issued a subpoena to NSS for the documents that supported its assertions that these services in urban areas cost \$138.00 per month. However, as with the apparently forged sales quotes, the

²⁶⁷ 47 CFR § 54.605(b).

²⁶⁸ See *supra* Section III.B.

²⁶⁹ See *supra* Section III.C.

²⁷⁰ See *id.*

²⁷¹ See *id.*

²⁷² See *id.*

²⁷³ See *id.*

²⁷⁴ See *id.*

²⁷⁵ See *id.*

supporting documents apparently do not exist. NSS did not produce responsive documents to support its urban rate letters, and NSS's own Compliance Specialist stated that USAC regarded them as "██████████"²⁷⁶

D. NSS Apparently Committed Wire Fraud

110. Pursuant to Section 503(b)(1)(D) of the Act, we find that NSS apparently knowingly, willfully, and with reckless indifference to the truth violated the federal wire fraud statute (18 U.S.C. § 1343). Congress has authorized the Commission to assess a forfeiture penalty for such violations. Specifically, Section 503(b)(1)(D) states that the Commission may propose a forfeiture against a person that the Commission has determined violated "any provision of section . . . 1343 . . . of title 18."²⁷⁷ The Commission's Rules further provide that a "forfeiture penalty may be assessed against any person found to have . . . [v]iolated any provision of section . . . 1343 . . . of Title 18, United States Code."²⁷⁸

111. Section 1343 provides that a violation of the wire fraud statute occurs when a person:

having devised or intending to devise any scheme or artifice to defraud, or for obtaining money or property by means of false or fraudulent pretenses, representations, or promises, transmits or causes to be transmitted by means of wire, radio, or television communication in interstate or foreign commerce, any writings, signs, signals, pictures, or sounds for the purpose of executing such scheme or artifice.²⁷⁹

112. A finding that wire fraud has occurred "requires proof of (1) a scheme to defraud; and (2) the use of an interstate wire communication to further the scheme."²⁸⁰ "The essence of a scheme is a plan to deceive persons as to the substantial identity of the things they are to receive in exchange. A pattern of deceptive conduct may show the existence of a plan, scheme or artifice."²⁸¹ Where one scheme involves several wire communications or mailings, "the law is settled that each mailing [or wire communication] constitutes a violation of the statute."²⁸² The use of mail or interstate wires to effectuate the fraudulent scheme "need not be an essential element of the scheme;" instead, it is "sufficient for the mailing [or the use of the interstate wire] to be incident to an essential part of the scheme or a step in the plot."²⁸³ One need not have used the wires themselves in the scheme to defraud; instead, culpability may arise from having caused the wires to be used.²⁸⁴

²⁷⁶ *See id.*

²⁷⁷ 47 U.S.C. § 503(b)(1)(D).

²⁷⁸ 47 CFR § 1.80(a)(5). *See also KHTK (FM)*, Notice of Apparent Liability, DA 92-1064, 7 FCC Rcd 5108, 5109 (Mass Media Bur. 1992) (finding licensee apparently liable for a forfeiture under Section 503(b) of the Act based on a violation of wire fraud under 18 U.S.C. § 1343).

²⁷⁹ 18 U.S.C. § 1343.

²⁸⁰ *United States v. Maxwell*, 920 F.2d 1028, 1035 (D.C. Cir. 1990); *see also United States v. Pollack*, 534 F.2d 964, 971 (D.C. Cir. 1976).

²⁸¹ *United States v. Brien*, 617 F.2d 299, 307 (1st Cir. 1980) (citations omitted).

²⁸² *United States v. Philip Morris USA, Inc.*, 566 F.3d 1095, 1116 (D.C. Cir. 2009) (citations omitted); *see also United States v. Sum of \$70,990,605*, 4 F. Supp. 3d 189, 201 n.9 (D.D.C. 2014) ("Because the mail and wire fraud statutes are similar, cases construing mail fraud apply to the wire fraud statute as well.") (internal quotations omitted).

²⁸³ *Schmuck v. United States*, 489 U.S. 705, 710 (1989) (citations, quotations, and punctuation omitted).

²⁸⁴ *See Pereira v. United States*, 347 U.S. 1, 8 (1954) ("To constitute a violation of these provisions, it is not necessary to show that petitioners actually mailed or transported anything themselves; it is sufficient if they caused it to be done."); *United States v. Lemire*, 720 F.2d 1327, 1334 n.6 (D.C. Cir. 1983) ("[C]ases construing mail fraud apply to the wire fraud statute as well.").

113. An intent to defraud includes an act undertaken “willfully and with specific intent to deceive or cheat, ordinarily for the purpose of either causing some financial loss to another or bringing about some financial gain to one’s self.”²⁸⁵ “The requisite intent under the federal mail and wire fraud statutes may be inferred from the totality of the circumstances and need not be proven by direct evidence.”²⁸⁶ Fraudulent intent may be “shown if a representation is made with reckless indifference to its truth or falsity,”²⁸⁷ as well as a victim’s reliance on the misrepresentations made by the perpetrator.²⁸⁸

114. We find that NSS apparently knowingly, willfully, and with reckless indifference to the truth violated Title 18, United States Code, Section 1343 by transmitting forged documents containing false information through interstate wire, and causing HCPs to transmit forged documents containing false information to USAC through interstate wire, in furtherance of a scheme to defraud, resulting in USAC disbursing via interstate wire USF support to which NSS was not entitled.²⁸⁹ The purpose of these apparently forged urban rate documents was to increase the amount of support NSS received from the Fund as a result of the RHC Telecommunications Program’s funding formula, in which payments are calculated by determining the difference between the higher cost of providing services in a rural area and the lower cost of providing the same services in an urban area.

115. As detailed above and in Appendix D, on no less than five occasions, NSS supplied HCPs with forged documents purportedly issued by Comcast and which contained false material information related to urban rates that the HCPs subsequently electronically transmitted to USAC. The Investigation revealed that Madison directed an NSS employee to backdate the forged urban rate documents to correspond to “2012 funding support,” and the employee gave Madison three forged Comcast sales quotes bearing the date of “05/09/13,” which corresponded to FY2012.²⁹⁰ At least one of these three forged and backdated Comcast sales quotes was transmitted to USAC as documentation of the urban rate in support of a funding request for FY2012.²⁹¹ As demonstrated by Comcast’s response to the Bureau’s LOI, Comcast did not issue any of these urban rate documents, did not offer the telecommunications services at the prices listed in the documents, and had no record of “Robyn Midler” or “Robyn Milder,” who purportedly issued the documents on Comcast’s behalf, being a Comcast employee, independent contractor, agent, or other representative.²⁹² Additionally, a plain review of all of

²⁸⁵ *United States v. Lemire*, 720 F.2d 1323, 1341 (D.C. Cir. 1983).

²⁸⁶ *United States v. O’Connell*, 172 F.3d 921 (D.C. Cir. 1998); *see also United States v. Alston*, 609 F.2d 531, 538 (D.C. Cir. 1979).

²⁸⁷ *United States v. Cusino*, 694 F.2d 185, 187 (9th Cir. 1982); *see also United States v. Kennedy*, 714 F.3d 951, 958 (6th Cir. 2013); *United States v. Jackson*, 524 F.3d 532 (4th Cir. 2008); *United States v. DeRosier*, 501 F.3d 888, 897–98 (8th Cir. 2007).

²⁸⁸ *United States v. Wynn*, 684 F.3d 473 (4th Cir. 2012).

²⁸⁹ USAC’s network servers are currently located in Virginia. The apparently forged urban rate documents concern HCPs located in Mississippi and may have been transmitted by NSS to certain consultants located in Kentucky and Connecticut, who then transmitted these apparently forged documents to USAC. NSS’s principal place of business is located in Nevada. As a result, all Form 466s that rely on forged urban rate documents and data transmissions by NSS of the forged urban rate documents were the result of interstate electronic and wire activity. Additionally, USF payments made by USAC in reliance upon these apparently forged documents and false information were sent to NSS via interstate wire.

²⁹⁰ Email from ██████████, Billing Manager, NSS, to Scott Madison, President, NSS (Aug. 9, 2013, 5:16 p.m.). *See also* Appendix E; Appendix F; Appendix G.

²⁹¹ *See* Invoice spreadsheet for South Sunflower, FY 2012, HCP No. 12791, FRN 1224839, on file in EB-IHD-15-0001913.

²⁹² *See supra* Section III.C.

these urban rate documents reveals significant internal inconsistencies and what appear to be markings from the manual pasting of Comcast's trade insignia.²⁹³

116. The Investigation uncovered that on five occasions apparently forged urban rate documents were transmitted to USAC and were used to support information contained in four Form 466s that HCPs South Sunflower, Hardy Wilson, and FGH/MGH filed with USAC. NSS utilized, or caused HCPs to utilize, interstate wires to transmit each of these apparently forged urban rate documents to USAC in connection with NSS's claims for support from the Fund and caused USAC to utilize interstate wires to transmit payments to NSS in reliance on these apparently forged documents.²⁹⁴ As a result of its reliance on information contained in the forged urban rate documents, which also appeared in the Form 466s, USAC disbursed via interstate wire USF support to NSS to which NSS was not entitled.²⁹⁵ Therefore, pursuant to Section 503(b)(1)(D), the Commission finds that NSS apparently violated the wire fraud statute.

E. Joint and Several Liability of NSS and Scott Madison

117. Based upon the facts and circumstances of this case, NSS and Madison are jointly and severally liable for any forfeiture penalties.

118. The Commission may "pierce the corporate veil" and hold one entity or individual liable for the acts or omissions of a different, related entity when: (1) there is a common identity of officers, directors or shareholders; (2) there is common control between the entities; and (3) it is necessary to preserve the integrity of the Communications Act and to prevent the entities from defeating the purpose of statutory provisions.²⁹⁶ Here, NSS is apparently the corporate vehicle for the activities of one person, Scott Madison. In all material respects, the evidence shows that Madison alone controls NSS.

119. At all times relevant to the violations described in this NAL, Madison shared a common identity with and control over NSS. Until 2014, Madison was apparently the sole shareholder of NSS. Upon the hiring of [REDACTED] in 2014, Madison gave [REDACTED] shares, while Madison retained [REDACTED] voting shares.²⁹⁷

[REDACTED]²⁹⁸

²⁹³ See Appendix E; Appendix F; Appendix G.

²⁹⁴ As discussed above, NSS is located in Nevada; South Sunflower, Hardy Wilson, and FGH/MGH are located in Mississippi; USAC is headquartered in Washington, DC with its network servers located in Virginia. See *supra* Section II. South Sunflower and Hardy Wilson used USF Healthcare Consulting, Inc., a healthcare consultant located in Kentucky, to file their Form 466s; FGH/MGH used PEM Filings, LLC, a healthcare consultant located in Connecticut, to filing its Form 466. See FY 2012, Form 466, HCP No. 12791, FRN 1224839 (June 10, 2013) and FY 2013, Form 466, HCP No. 12791, FRN 1338163 (Feb. 1, 2014); FY 2013, Form 466, HCP No. 16415, FRN 1347127 (June 20, 2014), and FY 2012, Form 466 HCP No. 15801, FRN 12267351 (June 22, 2013).

²⁹⁵ The Commission recognizes that violations of Title 18, United States Code, Section 1343 can take many forms including, but not limited to, each instance in which USAC, in reliance upon these apparently forged urban rate documents, issued USF payments through interstate wires to NSS.

²⁹⁶ See *TelSeven, LLC, Patrick B. Hines*, Forfeiture Order, 31 FCC Rcd. 1629, 1633-36 (2016); see also *TelSeven, LLC, Patrick B. Hines*, Notice of Apparent Liability for Forfeiture, 27 FCC Rcd. 6636, 6649-50 (2012).

²⁹⁷ NSS Operating Agreement at 19-20. [REDACTED]

[REDACTED]. See *id.*, Exhibit A. NS 0003717.

[REDACTED] See Membership

Admission Agreement at 1. NS 0003718.

[REDACTED], Madison would still be in a position to overrule [REDACTED] in all matters of NSS's management.

²⁹⁸ *Id.* at 19-20, A-1 [REDACTED]

(continued...)

Additionally, the Operating Agreement provided that the [REDACTED] Pursuant to the NSS Operating Agreement, [REDACTED] therefore, any managerial action taken thereafter required Madison’s consent.³⁰⁰ [REDACTED].³⁰¹

120. Madison is apparently the singular financial authority within NSS. Madison was the sole personal guarantor on at least two loans NSS obtained from financial institutions.³⁰² In his capacity as the personal guarantor of NSS business loans, Madison “absolutely and unconditionally guarantee[d] full and punctual payment and satisfaction of Guarantor’s Share of the Indebtedness of Borrower to Lender,” which was \$3,000,000.00.³⁰³ Madison further agreed that his personal guaranty for NSS business loans “will only be reduced by sums actually paid” by Madison and “will not be reduced by payments from anyone other than” Madison.³⁰⁴ It does not appear that any other individual besides Madison personally guaranteed NSS’s business loans. Additionally, signatory authority for NSS’s bank accounts appears to rest almost exclusively with Madison.³⁰⁵

121. Madison is apparently NSS’s sole signatory in its legal filings. Madison signed on behalf of NSS in various state and federal regulatory filings, including those filed with the Commission, as NSS’s Managing Member, Managing Partner, or President, both before and after [REDACTED] joined NSS.³⁰⁶

122. The Investigation revealed that almost all of the decisions related to the daily business operations of NSS were made by Madison, or made with his knowledge. Madison set the profit margins with regard to contracts involving the procurement of underlying services and contracts with HCPs that were ultimately submitted in connection with NSS’s claims for USF support. Additionally, personnel

(Continued from previous page) _____

[REDACTED] (emphasis added). NS 0003711-12, 3717.

²⁹⁹ *Id.* at 8.

³⁰⁰ *Id.* at 20

³⁰¹ *Id.* at 24.

³⁰² See *Western Alliance Bank v. Network Service Solutions LLC, Scott Madison, and Doe Defendants I through X*, Application for Appointment of Receiver and Writ of Possession, Case No. CV15-02150 (Second Jud. Dist. Ct., Washoe Co., Nev. Nov. 2, 2015), Exhs. 1-26 (Business Loan Agreement, Promissory Note, Commercial Guaranty, Commercial Security Agreement, First Independent Bank (Jan. 23, 2012); Change in Terms Agreements, First Independent Bank (Jan. 17, 2013; Apr. 5, 2013; Apr. 15, 2014); Business Loan Agreement, First Independent Bank (Apr. 15, 2014); Business Loan Agreement, First Independent Bank (Apr. 5, 2013); Commercial Guaranty, First Independent Bank (Apr. 15, 2014).

³⁰³ *Id.* at Exh. 16.

³⁰⁴ *Id.*

³⁰⁵ Information on file in EB-IHD-15-0001913. Other signatories on NSS bank accounts appear to be Madison’s wife, [REDACTED], and the company’s bookkeeper, [REDACTED]. However, their roles in the conduct of NSS’s financial affairs appear to be minor.

³⁰⁶ See, e.g., [REDACTED] NS 0003720, 3852, 3967, 3968.

decisions related to the hiring and terminating of NSS employees and outside contractors were made at Madison's sole discretion.³⁰⁷

123. Madison also personally directed or was otherwise intimately involved in much of the apparently improper conduct described above. For example, he apparently directed and assisted in the preparation of *post facto* bid matrices for Texoma, SCRMC, and East Central.³⁰⁸ Madison also had contemporaneous knowledge that NSS apparently furnished a \$10,000 gift to Texoma to induce a contract award.³⁰⁹ NSS, which Madison controlled, then received USF funding in connection with that contract.³¹⁰ Madison later sought to explain that the gift was furnished by a rogue employee.³¹¹ Further, Madison apparently knew that both the \$138.00 urban rate letters and forged Comcast quotes were invalid and permitted NSS to submit these documents in support of its claims for USF support in no less than 83 instances.³¹² All of the apparently false \$138.00 urban rate letters on NSS letterhead bear Madison's signature and title.³¹³ ██████████ backdated the date on an apparently forged Comcast sales quote at Madison's direction.³¹⁴ These facts demonstrate that NSS and Madison shared a common identity and that Madison exercised dominant control over decision making and financial authority within NSS.

124. Furthermore, holding Madison personally liable is necessary to preserve the integrity of the Communications Act and to prevent entities such as NSS from defeating the purpose of statutory provisions and the Commission's Rules. Telecommunications providers must respect the RHC Program's competitive bidding and rate rules to prevent waste, fraud, and abuse. The failure to hold Madison responsible for the forfeiture penalty described in this NAL would establish a loophole in our Rules, which are aimed to achieve compliance, enforcement, and the recovery of improper payments for conduct that violates our Rules.³¹⁵

125. Section 503(b)(1) of the Act specifies that “[a]ny person who is determined by the Commission . . . to have willfully or repeatedly failed to comply with any of the provisions of [the] Act or [Commission] rule . . . shall be liable . . . for a forfeiture penalty.”³¹⁶ In these circumstances, we are entitled to look through NSS's corporate structure to prevent Madison from using a corporate entity to circumvent these statutory directives and the Commission's Rules.

126. Accordingly, we find that NSS apparently willfully and repeatedly violated Sections 54.603, 54.605, 54.607, 54.609, 54.613, and 54.615 of the Commission's Rules. Furthermore, pursuant to Section 503(b)(1)(D) of the Act,³¹⁷ we find that NSS apparently violated the wire fraud statute. We find accordingly that NSS and Scott Madison are for legal purposes one and the same, and are jointly and severally liable for the resulting forfeiture.

³⁰⁷ See Emails between Scott Madison, President, NSS and ██████████, Director of Business Operations, NSS (Aug. 16-18, 2014).

³⁰⁸ See *supra* Section III.A.2.

³⁰⁹ See *supra* Section III.A.3.

³¹⁰ *Id.*

³¹¹ *Id.*

³¹² See *supra* Section III.C; Appendix C; Appendix D.

³¹³ See *supra* Section III.C.1.

³¹⁴ See Appendix E, Appendix F, Appendix G.

³¹⁵ *Id.*

³¹⁶ 47 U.S.C. § 503(b)(1) (emphasis added). “The term ‘person’ includes an individual, partnership, association, joint-stock company, trust, or corporation.” 47 U.S.C. § 153(39).

³¹⁷ 47 U.S.C. § 503(b)(1)(D).

V. PROPOSED FORFEITURE

127. For the violations at issue here, Section 503(b)(2)(B) of the Act authorizes the Commission to assess a forfeiture penalty against a telecommunications carrier of up to \$189,361 for each violation or each day of a continuing violation, up to a statutory maximum of \$1,893,610 for a single act or failure to act.³¹⁸ The Commission retains the discretion to issue forfeitures on a case-by-case basis, under its general forfeiture authority contained in Section 503 of the Act. In determining the appropriate forfeiture amount, we consider the factors enumerated in Section 503(b)(2)(E) of the Act, including “the nature, circumstances, extent, and gravity of the violation and, with respect to the violator, the degree of culpability, any history of prior offenses, ability to pay, and such other matters as justice may require,”³¹⁹ as well as our forfeiture guidelines.³²⁰

128. Deterring the conduct outlined here and the importance of preserving the Fund for the critical mission of the RHC Program are of paramount importance to the Commission. In developing an appropriate forfeiture, we are mindful that this is the first NAL issued in connection with the RHC Program. The Commission must propose significant forfeitures when—such as here—a service provider apparently presents forged and false rate documents that are the basis of its claims for universal service support, receives proprietary information at the exclusion of other market participants, engages in a relationship with facilities-based providers and HCPs that results in a competitive bidding process that was neither fair nor open, and comes to agreements in principle with HCPs to receive contracts under the RHC Program even before the request for bids is made public. This apparent conduct undermines the fundamental operation of the RHC Program, and therefore warrants a significant proposed forfeiture.

129. Based on the facts and record before us, we have determined that NSS’s apparent violations involve: (i) receiving numerous contracts for services as a result of competitive bidding that was not fair and open, including one instance in which a \$10,000 network server was provided to the HCP; (ii) the preparation and transmittal of apparently forged and false urban rate documents; (iii) the filing of invoices with USAC that contained inflated rural rates; and (iv) wire fraud. We find these apparent violations occurred, at a minimum, beginning in 2012 and continued through the present as a result of NSS’s failure to take actions that would have corrected the forms that were filed in connection with these activities.³²¹

³¹⁸ See 47 U.S.C. § 503(b)(2)(B); 47 CFR § 1.80(b)(2). These amounts reflect inflation adjustments to the forfeitures specified in Section 503(b)(2)(B) (\$100,000 per violation or per day of a continuing violation and \$1,000,000 per any single act or failure to act). The Federal Civil Penalties Inflation Adjustment Act of 1990, Pub. L. No. 101-410, 104 Stat. 890, as amended by the Debt Collection Improvement Act of 1996, Pub. L. No. 104-134, Sec. 31001, 110 Stat. 1321 (DCIA), requires the Commission to adjust its forfeiture penalties periodically for inflation. See 28 U.S.C. § 2461 note (4). The Commission most recently adjusted its penalties to account for inflation in 2016. See *Amendment of Section 1.80(b) of the Commission’s Rules, Adjustment of Civil Monetary Penalties to Reflect Inflation*, DA 16-644, 2016 WL 3218781 (Enf. Bur. 2016) (ordering inflation adjustments effective July 1, 2016 and for those penalties assessed after July 1, 2016). NSS filed an FCC Form 499 with the Commission in which it described its principal communications function as Toll Reseller. See FCC Form 499, Network Services Solutions, LLC (filer ID 825703). Toll resellers are common carriers for penalty purposes. See, e.g., *Cardinal Broadband LLC*, Notice of Apparent Liability for Forfeiture, 23 FCC Rcd. 12233 (Enf. Bur. 2008); *Telrite Corp.*, Notice of Apparent Liability for Forfeiture, 23 FCC Rec. 7231 (2008).

³¹⁹ 47 U.S.C. § 503(b)(2)(E).

³²⁰ See 47 CFR § 1.80(b)(8); Note to Paragraph (b)(8): Guidelines for Assessing Forfeitures.

³²¹ See *Purple Communications, Inc.*, Forfeiture Order, 30 FCC Rcd 14892 (2015) (*Purple*); *BellSouth Telecommunications, LLC, d/b/a AT&T Southeast*, Notice of Apparent Liability for Forfeiture, FCC 16-98, para. 67 (July 7, 2016) (*BellSouth NAL*); *Total Call Mobile, Inc.*, Notice of Apparent Liability for Forfeiture and Order, 31 FCC Rcd. 4191, paras. 81, 89 (2016); *Purple Communications, Inc.*, Notice of Apparent Liability for Forfeiture, 29 FCC Rcd 5491, 5506, n.87 (2014) (*Purple NAL*); *VCI Company*, Notice of Apparent Liability for Forfeiture and Order, 22 FCC Rcd 15933, 15940, para. 20 (2007).

130. In accordance with Commission precedent for penalties assessed for violations of the Commission's Rules across USF programs, we propose a forfeiture against NSS as follows: (1) a base forfeiture of \$20,000 for each instance in which NSS filed or assisted HCPs in filing Form 466s to USAC or the Commission that contained false information;³²² and (2) an upward adjustment of the base forfeiture equal to three times the total amount improperly received or requested by NSS. Additionally, in light of the egregious nature of NSS's conduct, certain additional upward adjustments are warranted.

131. For the conduct described above, as outlined in Appendix B, NSS submitted or caused HCPs to submit 175 improper Form 466s that contained apparently false information.³²³ Of these, 88 Form 466s are associated with NSS's violations of the Commission's competitive bidding rules; and 87 Form 466s are associated with NSS's violations of the Commission's Rules governing urban rates. The proposed forfeiture penalty is calculated accordingly.

132. As further described below, in total, we propose a forfeiture penalty of \$21,691,498.85 for NSS's apparent violations.³²⁴

A. Proposed Forfeiture Amount for NSS's Conduct in Apparent Violation of the Commission's Competitive Bidding Rules

133. The Commission's Rules require service providers to participate in, and obtain contracts from HCPs as a result of, fair and open competitive bidding. When service providers such as NSS receive contracts as a result of improper conduct in the bidding process such as competitive bidding that is not fair and open, they receive reimbursement from the Fund to which they are not entitled—even where there are no other bidders for a given Form 465 request for bids. Without the requisite level playing field and transparency mandated by the Commission's Rules, the RHC Program would be susceptible to fraud, inside dealing, and market manipulation. Such an outcome would present a severe threat to the continued functioning of the RHC Program and would prevent it from serving its fundamental purpose of allowing rural health care facilities to enjoy the same advances in telecommunications technology so critical to 21st century medicine as their urban counterparts.

134. In total, the Investigation uncovered evidence that demonstrates that NSS apparently violated the Commission's Rules and Orders requiring fair and open competitive bidding in the RHC Program, and that 88 of the 175 total Form 466s at issue here resulted in or caused false information to be

³²² See, e.g., *Budget Prepay, Inc.*, Notice of Apparent Liability for Forfeiture, 29 FCC Rcd 2508, 2513 (2014). In *Budget Prepay*, the Commission imposed a three-part forfeiture for Lifeline violations: (1) a base forfeiture of \$20,000 for each instance in which an ETC files an FCC Form 497 that includes ineligible subscribers; (2) a base forfeiture of \$5,000 for each ineligible subscriber for whom the ETC requests and/or receives support; and (3) an upward adjustment of the base forfeiture equal to three times the reimbursements requested and/or received by the ETC for ineligible subscribers. While we draw on the overall structure of that framework, the calculation related to the number of ineligible subscribers is not applicable in the Rural Health Care Program context and we do not utilize it here. See also *VCI Company*, Notice of Apparent Liability for Forfeiture, 22 FCC Rcd 15933, 15940 para. 18 (2007) ("Accordingly, we establish \$20,000 per form as the base forfeiture amount for the filing of inaccurate requests for reimbursement under the low-income program, in violation of sections 54.407(c) and 54.413(b) of the Commission's rules."). On each Form 466, representatives from HCPs certify that "the HCP . . . that I am representing satisfies all the requirements herein and will abide by all the relevant requirements, including all applicable FCC rules," and specifically references the relevant regulation governing fair and open competitive bidding in the RHC Program. See Form 466, box 47 (citing 47 CFR § 54.603). The Investigation demonstrates that NSS was intimately involved in the preparation, drafting, and execution of Form 466s by HCPs. Even in those instances where NSS did not "guide" HCPs in the preparation, drafting, and execution of these forms, the urban and rural rates contained in each Form 466 can only be provided by the service provider, as that information is not readily ascertainable by the HCP.

³²³ Each of the entries in Appendix B relates to a single Form 466, therefore totaling 175 entries.

³²⁴ This proposed forfeiture is less than the statutory maximum allowed for the continuing violations cited in this NAL.

transmitted to USAC and the Commission. We apply a base forfeiture of \$20,000 per form to each of these 88 Form 466s, for a total base forfeiture of \$1,760,000.

135. The loss to the Fund as a result of contracts NSS received in apparent violation of the Commission's Rules governing competitive bidding in the RHC Program for HCPs Bond, Weems, Texoma, and East Central is \$1,298,480.74.³²⁵ Therefore, we propose an upward adjustment of the base forfeiture equal to three times the amount NSS improperly received from the Fund, or \$3,895,442.22, for a total proposed forfeiture amount of \$5,655,442.22 for NSS's apparent violations of the Commission's Rules governing competitive bidding.

B. Proposed Forfeiture Amount for NSS's Apparent Violations of the Commission's Rules Governing Urban Rates

136. The various submissions of apparently false documents as the basis for NSS's claims from the Fund are egregious acts of misconduct, and the Commission proposes a commensurate forfeiture. The Commission, in the RHC Program and elsewhere, relies on program participants to act with integrity in submitting claims for support from the Fund.

137. Therefore, the Commission proposes (1) a base forfeiture of \$20,000 for each Form 466 for which NSS provided apparently false rate documents, or for which an HCP relied on apparently false rates as the basis of NSS's claims from the Fund; (2) an upward adjustment of the base forfeiture equal to three times the amount NSS improperly received from the Fund as a result of its misconduct; and (3) an additional upward adjustment of \$1,893,610 for each apparently forged document NSS filed, transmitted, or relied on as the basis of its claims for USF funding.

138. The record before the Commission shows that 87 of the 175 Form 466s at issue here contain apparently false information from NSS, either where NSS submitted apparently forged Comcast sales rate quotes or relied on urban rate documents bearing false rates of \$138.00 for telecommunications services. We apply a base forfeiture of \$20,000 per form to each of these 87 Form 466s, for a total base forfeiture of \$1,740,000.³²⁶ NSS received \$2,204,085.21 from the Fund as a result of this conduct, and we accordingly propose an upward adjustment to \$6,612,255.63.

139. Furthermore, in at least four instances in which NSS purposefully submitted apparently forged Comcast sales quotes as urban rate documentation to increase its amount of funding from the USF, NSS acted with complete disregard of the RHC Program Rules. The Commission therefore proposes an additional upward adjustment of \$1,873,610 for each of the four Form 466s at issue, for an additional forfeiture of \$7,494,440.³²⁷

140. We propose a forfeiture amount of \$15,926,695.63 related to NSS's false urban rate violations, resulting from a combination of the \$1,740,000 base forfeiture for the form 466s supported by false information, the upwardly adjusted forfeiture of \$7,494,440 for the four Form 466s supported by forged urban rate documents, and the upwardly adjusted forfeiture of \$6,612,255.63 for the loss to the Fund.

³²⁵ Neither the base forfeiture nor the loss to the Fund calculations include any FY2013 Form 466s filed by HCPs Tallahatchie, SCRMC, Weems, or East Central. *See supra* Section III.A.1 (Tallahatchie); Section III.A.2 (SCRMC and East Central); Section III.A.4 (Weems).

³²⁶ *See supra* Section III.C.2; Appendix C. *See also supra* Section III.C.1 (HCPs South Sunflower, Hardy Wilson, and FGH/MGH); Appendix D. Neither the base forfeiture nor the loss to the Fund calculations include the FY2013 Form 466 filed by HCP Tallahatchie. *See supra* Section III.C.1.

³²⁷ *See* Appendix D. These particular penalties are proposed for NSS's use of forged urban rate documents in apparent violations of RHC Program Rules, specifically 47 CFR §§ 54.605, 54.609, and 54.613. Because we include a base forfeiture of \$20,000 per form for each of the four urban rate documents, we upwardly adjust to \$1,873,610 per form for an additional forfeiture.

C. Proposed Forfeiture Amount for NSS's Apparent Violation of the Wire Fraud Statute Pursuant to Section 503(b)(1)(D)

141. In accordance with our Rules,³²⁸ the Commission proposes a base forfeiture of \$5,000 for NSS's single apparent violation of wire fraud pursuant to Section 503(b)(1)(D).³²⁹ In light of the egregiousness of NSS's conduct in using apparently forged urban rate documents in furtherance of its scheme to defraud, and causing USAC to utilize interstate wires to transmit USF payments to NSS in reliance upon forged documents, a substantial upward adjustment is warranted. Therefore, we propose an upward adjustment of \$189,361, which is the statutory maximum for non-continuing violations.

VI. CONCLUSION

142. In sum, considering NSS's competitive bidding violations, urban rate violations, as well as NSS's violation of the wire fraud statute, we propose a total forfeiture penalty of \$21,691,498.85.

143. In addition to assessing a forfeiture, we also believe it is appropriate to order that NSS repay the amounts improperly overpaid by the Fund as a result of NSS's apparent violations, and plan to order a recovery of those disbursements at the forfeiture stage if we conclude that NSS has violated the Commission's Rules and Orders. The Commission has stated that "funds disbursed from the . . . rural health care support mechanism[] in violation of a Commission rule that implements the statute or a substantive program goal should be recovered."³³⁰ To be clear, an erroneous or illegal overpayment from the Fund must be recouped.³³¹ We have a duty to recover those misspent funds, and if payment is not received by the Commission as demanded, we have an inherent right to collect³³² by exercising available legal procedures.³³³ Accordingly, NSS is apparently responsible for returning the RHC Program funds it received while in violation of the Commission's Rules.

144. Recovery of such funds is not barred by the passage of time.³³⁴ The Commission stated that funding disbursed in violation of a statute or a rule that implements the statute or a substantive

³²⁸ See 47 CFR § 1.80, Section I (Base Amounts for Section 503 Forfeitures).

³²⁹ See Appendix D. We note that NSS caused USAC to utilize interstate wires to transmit a USF support payment to NSS related to HCP Hardy Wilson on or about November 6, 2015.

³³⁰ *Comprehensive Review of the Universal Service Fund Management, Administration, and Oversight*, 22 FCC Rcd 16372, 16387-88, para. 30 (2007).

³³¹ See *Fansteel Metallurgical Corp. v. United States*, 172 F. Supp. 268, 270 (Ct. Cl. 1959) ("when a payment is erroneously or illegally made it is in direct violation of article IV, section 3, clause 2, of the Constitution. . . . Under these circumstances it is not only lawful but the duty of the Government to sue for a refund thereof"); see also *Amtec Corp. v. United States*, 69 Fed. Cl. 79, 88 (2005), *aff'd*, 239 Fed. Appx. 585 (Fed. Cir. 2007).

³³² *United States v. Wurts*, 3003 U.S. 414, 415-16 (1938); *United States v. Lahey Clinic Hospital, Inc.* 399 F.3d 1, 15 (1st Cir.), *cert. denied*, 546 U.S. 815 (2005) (the only time a government agency is barred from exercising its right to recover overpayments is when Congress has clearly manifested its intention to raise a statutory barrier).

³³³ See 31 U.S.C. §§ 3711, 3716, 3717; 31 CFR §§ 901, *et seq.*, 47 CFR §§ 1.1901, *et seq.*

³³⁴ See *BellSouth Telecommunications, LLC d/b/a AT&T Southeast*, Notice of Apparent Liability for Forfeiture, ___ FCC Rcd ___, paras. 69-71 (FCC 16-98) (July 27, 2016). See also *Holmberg v. Armbrrecht*, 327 U.S. 392, 396 (1946) ("Traditionally, and for good reasons, statutes of limitation are not controlling measures of equitable relief."); *United States v. Wurts*, 303 U.S. 414, 415-16 (1938) ("The Government by appropriate action can recover funds which its agents have wrongfully, erroneously, or illegally paid. . . . Ordinarily, recovery of Government funds, paid by mistake to one having no just right to keep the funds, is not barred by the passage of time."); *Request for Waiver or Review of a Decision of the Universal Service Administrator by Premio Computer, Inc.*, Order, 29 FCC Rcd 8185 para. 6 n.16 (Wireline Comp. Bur. 2014) (*Premio Computer*) ("The Government's right to recover funds, from a person who received them by mistake and without right, is not barred unless Congress has clearly manifested its intention to raise a statutory barrier to recovery. Congress has imposed no such statutory barrier to recovery but, to the contrary, in the Debt Collection Improvement Act, has generally directed agencies to try to collect a claim of the

(continued....)

program goal must be recovered in full.³³⁵ Based on this mandate, we propose a recovery of \$3,502,565.95 in USF support NSS received as a result of its apparent violations related to competitive bidding and rates charged in the RHC Program, and wire fraud as described above.

145. As discussed above, we believe that piercing the corporate veil is appropriate in this case. Based upon the ongoing, widespread conduct exhibited by NSS at Madison's direction, we find that the imposition of a significant forfeiture amount is necessary to curtail future violations and imposing a significant forfeiture should achieve broader industry compliance with the Commission's Rules.

146. In addition, in light of NSS's apparent egregious misconduct and demonstrated harm to the Fund from the apparent violations, we order NSS to submit a report within 30 days of release of this NAL explaining why the Commission should not: (1) order USAC to hold all payments and disbursements to NSS; and (2) initiate proceedings against NSS to revoke its Commission authorizations.

147. We recognize that the proposed forfeiture discussed herein may cause uncertainty for those HCPs that have selected NSS as their service provider. Accordingly, should we determine that revocation of NSS's Commission authorizations is appropriate, we will consider using our discretion to waive Section 54.603(b) of the Commission's Rules to provide these HCPs with the option of selecting a new service provider if needed to help alleviate any disruption in service.³³⁶

VII. ORDERING CLAUSES

148. Accordingly, **IT IS ORDERED** that, pursuant to Section 503(b) of the Act, and 1.80 of the Rules,³³⁷ Network Services Solutions, LLC and Scott Madison are hereby **NOTIFIED** of this **APPARENT LIABILITY FOR A TOTAL FORFEITURE AND ORDER** in the amount of \$21,691,498.85 for apparently willfully and repeatedly violating Sections 54.603, 54.605, 54.607, 54.609, 54.613, and 54.615 of the Commission's Rules³³⁸ and apparently knowingly, willfully, and with reckless indifference to the truth violating Section 1343 of Title 18 of the United States Code.

149. **IT IS FURTHER ORDERED** that, pursuant to Section 1.80 of the Rules,³³⁹ within thirty (30) calendar days of the release date of this Notice of Apparent Liability for Forfeiture and Order, NSS and Scott Madison **SHALL PAY** the full amount of the proposed forfeiture or **SHALL FILE** a written statement seeking reduction or cancellation of the proposed forfeiture consistent with paragraph 149 below.

150. Payment of the forfeiture must be made by check or similar instrument, wire transfer, or credit card, and must include the NAL/Account number and FRN referenced above. NSS shall also send electronic notification of payment to Loyaan Egal at Loyaan.Egal@fcc.gov, to Rakesh Patel at Rakesh.Patel@fcc.gov, to Mary Beth DeLuca at MaryBeth.DeLuca@fcc.gov, and to David M. Sobotkin at David.Sobotkin@fcc.gov on the date said payment is made. Regardless of the form of payment, a completed FCC Form 159 (Remittance Advice) must be submitted.³⁴⁰ When completing the FCC Form

(Continued from previous page) _____

U.S. government for money or property arising out of activities of, or referred to, the agency.") (internal citations and quotations omitted).

³³⁵ *Comprehensive Review of the Universal Service Fund Management, Administration, and Oversight*, 22 FCC Rcd at 16387-88, para. 30 (2007); *cf. Fifth Report and Order*, 19 FCC Rcd 15808, 15815, para. 20 (2004).

³³⁶ *Northeast Cellular Telephone Co. v. FCC*, 897 F.2d 1164, 1166 (D.C. Cir. 1990).

³³⁷ 47 U.S.C. § 503(b); 47 CFR § 1.80.

³³⁸ 47 CFR §§ 54.407, 54.409, 54.410.

³³⁹ 47 CFR § 1.80.

³⁴⁰ An FCC Form 159 and detailed instructions for completing the form may be obtained at <http://www.fcc.gov/Forms/Form159/159.pdf>.

159, enter the Account Number in block number 23A (call sign/other ID) and enter the letters “FORF” in block number 24A (payment type code). Below are additional instructions you should follow based on the form of payment you select:

- Payment by check or money order must be made payable to the order of the Federal Communications Commission. Such payments (along with the completed Form 159) must be mailed to Federal Communications Commission, P.O. Box 979088, St. Louis, MO 63197-9000, or sent via overnight mail to U.S. Bank – Government Lockbox #979088, SL-MO-C2-GL, 1005 Convention Plaza, St. Louis, MO 63101.
- Payment by wire transfer must be made to ABA Number 021030004, receiving bank TREAS/NYC, and Account Number 27000001. To complete the wire transfer and ensure appropriate crediting of the wired funds, a completed Form 159 must be faxed to U.S. Bank at (314) 418-4232 on the same business day the wire transfer is initiated.
- Payment by credit card must be made by providing the required credit card information on FCC Form 159 and signing and dating the Form 159 to authorize the credit card payment. The completed Form 159 must then be mailed to Federal Communications Commission, P.O. Box 979088, St. Louis, MO 63197-9000, or sent via overnight mail to U.S. Bank – Government Lockbox #979088, SL-MO-C2-GL, 1005 Convention Plaza, St. Louis, MO 63101.

Any request for making full payment over time under an installment plan should be sent to: Chief Financial Officer—Financial Operations, Federal Communications Commission, 445 12th Street, S.W., Room 1-A625, Washington, D.C. 20554.³⁴¹ If you have questions regarding payment procedures, please contact the Financial Operations Group Help Desk by phone, 1-877-480-3201, or by e-mail, ARINQUIRIES@fcc.gov.

151. The written statement seeking reduction or cancellation of the proposed forfeiture, if any, must include a detailed factual statement supported by appropriate documentation and affidavits pursuant to Sections 1.16 and 1.80(f)(3) of the Rules.³⁴² The written statement must be mailed to the Office of the Secretary, Federal Communications Commission, 445 12th Street, SW, Washington, DC 20554, ATTN: Enforcement Bureau, Federal Communications Commission and must include the NAL/Acct. No. referenced in the caption. The written statement shall also be emailed to Loyaan.Egal@fcc.gov, Rakesh.Patel@fcc.gov, MaryBeth.DeLuca@fcc.gov, and David.Sobotkin@fcc.gov.

152. The Commission will not consider reducing or canceling a forfeiture in response to a claim of inability to pay unless the petitioner submits: (1) federal tax returns for the most recent three-year period; (2) financial statements prepared according to generally accepted accounting principles (GAAP); or (3) some other reliable and objective documentation that accurately reflects the petitioner’s current financial status. Any claim of inability to pay must specifically identify the basis for the claim by reference to the financial documentation submitted.

153. **IT IS FURTHER ORDERED** that NSS shall respond to the order in paragraph 146 within thirty (30) calendar days of the release date of this Notice of Apparent Liability for Forfeiture and Order.

³⁴¹ See 47 CFR § 1.1914.

³⁴² 47 CFR §§ 1.16, 1.80(f)(3).

154. **IT IS FURTHER ORDERED** that a copy of this Notice of Apparent Liability for Forfeiture and Order shall be sent by certified mail, return receipt requested, and first class mail to Scott Madison, President, Network Services Solutions, LLC, 3700 Barron Way, Reno, NV 89511.

FEDERAL COMMUNICATIONS COMMISSION

Marlene H. Dortch
Secretary

APPENDIX A

OVERVIEW OF \$138.00 URBAN RATES AS REPRESENTED BY NSS

Service	City	State	Rate	Term
100 Mbps Ethernet	Little Rock	AR	\$138.00	36 months
100 Mbps MPLS	Birmingham	AL	\$138.00	36 months
10 Mbps Ethernet	Jackson	MS	\$138.00	36 months
50 Mbps Ethernet	Jackson	MS	\$138.00	36 months
100 Mbps Point to Point	Jackson	MS	\$138.00	36 months
100 Mbps Switched Ethernet	Jackson	MS	\$138.00	36 months
1,000 Mbps MPLS	Jackson	MS	\$138.00	36 months
10 Mbps Switched Ethernet	Jackson	MS	\$138.00	36 months
100 Mbps Ethernet	New Orleans	LA	\$138.00	36 months
100 Mbps Ethernet	Lafayette	LA	\$138.00	36 months
20 Mbps Ethernet	Dallas	TX	\$138.00	60 months
100 Mbps Ethernet	Dallas	TX	\$138.00	36 months
10 Mbps Point to Point	Dallas	TX	\$138.00	36 months
10 Mbps MPLS	Memphis	TN	\$138.00	36 months
100 Mbps Ethernet	San Francisco	CA	\$138.00	36 months
5 Mbps Ethernet	San Francisco	CA	\$138.00	36 months
20 Mbps Ethernet	San Francisco	CA	\$138.00	36 months
10 Mbps Ethernet	Sacramento	CA	\$138.00	36 months
100 Mbps MPLS	Los Angeles	CA	\$138.00	36 months
10.5 Ethernet	Los Angeles	CA	\$138.00	36 months
20 Mbps Ethernet	St. Louis	MO	\$138.00	36 months
45 Mbps Ethernet	Charlotte	NC	\$138.00	36 months
50 Mbps MPLS	Raleigh	NC	\$138.00	36 months
10 Mbps Ethernet	Lexington	KY	\$138.00	36 months
50 Mbps Ethernet	Lexington	KY	\$138.00	36 months

APPENDIX B

FORM 466s CHARGED

HCP Number	HCP Name	FRN	FY
10254	Northeastern Rural Health Clinics, Inc.	1465189	2014
10254	Northeastern Rural Health Clinics, Inc.	1569144	2015
10256	Mountain Valleys Health Centers, Big Valley Health Center	1465638	2014
10256	Mountain Valleys Health Centers, Big Valley Health Center	1570623	2015
10256	Mountain Valleys Health Centers, Big Valley Health Center	1570624	2015
10795	East Central Mississippi Health Care - Sebastopol Medical Clinic	1455924	2014
10795	East Central Mississippi Health Care - Sebastopol Medical Clinic	1455926*	2014
10795	East Central Mississippi Health Care - Sebastopol Medical Clinic	1455927	2014
10795	East Central Mississippi Health Care - Sebastopol Medical Clinic	1455929	2014
10796	East Central Mississippi Health Care - Walnut Grove Medical Clinic	1455918*	2014
10797	East Central Mississippi Health Care - Philadelphia Health Center	1455920*	2014
11142	Mitchell County Hospital	1449767	2014
11852	Mountain Valleys Health Centers, Butte Valley Health Center	1570625	2015
11856	Childress Regional Medical Center	1449144	2014
12791	South Sunflower County Hospital	1224839	2012

12791	South Sunflower County Hospital	1338163	2013
12791	South Sunflower County Hospital	1449025	2014
12791	South Sunflower County Hospital	1449153	2014
12816	IHSCAL Toiyabe	1574163	2015
13498	Bond County Health Department	1348427*	2013
13498	Bond County Health Department	1348767*	2013
13498	Bond County Health Department	1456297*	2014
13498	Bond County Health Department	1567571*	2015
13498	Bond County Health Department	1568203	2015
13965	Burney Health Center	1570621	2015
14347	East Carroll Parish Hospital	1465999	2014
15570	Jeff Davis Hospital	1568145	2015
15801	Forrest General Hospital/Marion General Hospital	1226735	2012
15925	Monroe County Hospital	1576349	2015
16153	Electra Memorial Hospital	1450662	2014
16394	Rush Foundation Hospital-Rush Medical Clinic	1343269	2013
16415	Hardy Wilson Memorial Hospital	1347127	2013
16415	Hardy Wilson Memorial Hospital	1466623	2014

16667	Iraan General Hospital	1449753	2014
16667	Iraan General Hospital	1570993	2015
17021	Mountain Valleys Health Centers, Tulelake Health Center	1570626	2015
17728	Fall River Valley Health Center	1570622	2015
22207	Community Counseling Services, Inc.-Malvern	1467123	2014
22207	Community Counseling Services, Inc.-Malvern	1467125	2014
22207	Community Counseling Services, Inc.-Malvern	1467126	2014
22207	Community Counseling Services, Inc.-Malvern	1567956	2015
22207	Community Counseling Services, Inc.-Malvern	1567957	2015
22207	Community Counseling Services, Inc.-Malvern	1567958	2015
24921	Hood Memorial Hospital	1466841	2014
26203	North Runnels County Hospital District dba North Runnels Hospital	1466656	2014
26203	North Runnels County Hospital District dba North Runnels Hospital	1570936	2015
26967	Weems Mental Health Center - Clarke County	1446204*	2014
26967	Weems Mental Health Center - Clarke County	1462363	2014
26968	Weems Mental Health Center - Jasper County	1462357*	2014
26969	Weems Mental Health Center - Kemper County	1462366	2014
26970	Weems Mental Health Center - Leake County	1462371	2014

26971	Weems Mental Health Center - Neshoba County	1462373	2014
26972	Weems Mental Health Center - Newton County	1462381*	2014
26973	Weems Mental Health Center - Scott County	1462379	2014
26974	Weems Mental Health Center - Smith County	1462341	2014
27109	Quinco Mental Health Bolivar Facility	1465431	2014
27135	Quinco Mental Health Centers Henderson Facility	1465179	2014
27157	Quinco Mental Health Lexington Facility	1465429	2014
27229	Quinco Mental Health Centers Savannah Facility	1465426	2014
27230	Quinco Mental Health Centers Selmer Facility	1465425	2014
27665	McDuffie Regional Medical Center	1450493	2014
27665	McDuffie Regional Medical Center	1450495	2014
31331	St. Genevieve County Memorial Hospital - Pointe Bassee Family	1452625	2014
32862	Communicare Oxford	1461380	2014
32862	Communicare Oxford	1461382	2014
32906	Rush Health Systems - John C Stennis Memorial Hospital	1343287	2013
33245	Texoma Community Center – Cooke	1348862	2013
33245	Texoma Community Center – Cooke	1348881*	2013
33245	Texoma Community Center – Cooke	1348885*	2013

33245	Texoma Community Center – Cooke	1348886*	2013
33245	Texoma Community Center – Cooke	1348891*	2013
33245	Texoma Community Center – Cooke	1348892*	2013
33245	Texoma Community Center – Cooke	1348895*	2013
33245	Texoma Community Center – Cooke	1348905*	2013
33245	Texoma Community Center – Cooke	1348906*	2013
33245	Texoma Community Center – Cooke	1348907*	2013
33245	Texoma Community Center – Cooke	1348913*	2013
33245	Texoma Community Center – Cooke	1348916*	2013
33245	Texoma Community Center – Cooke	1348919*	2013
33245	Texoma Community Center – Cooke	1348923*	2013
33245	Texoma Community Center – Cooke	1348946*	2013
33245	Texoma Community Center – Cooke	1348949*	2013
33245	Texoma Community Center – Cooke	1348952*	2013
33245	Texoma Community Center – Cooke	1348956*	2013
33245	Texoma Community Center – Cooke	1348957*	2013
33245	Texoma Community Center – Cooke	1348961*	2013
33245	Texoma Community Center – Cooke	1348962*	2013

33245	Texoma Community Center – Cooke	1348964*	2013
33245	Texoma Community Center – Cooke	1348967*	2013
33245	Texoma Community Center – Cooke	1348968*	2013
33245	Texoma Community Center – Cooke	1348970*	2013
33245	Texoma Community Center – Cooke	1348976*	2013
33245	Texoma Community Center – Cooke	1348981*	2013
33245	Texoma Community Center – Cooke	1464295*	2014
33245	Texoma Community Center – Cooke	1465177*	2014
33245	Texoma Community Center – Cooke	1465180*	2014
33245	Texoma Community Center – Cooke	1465181*	2014
33245	Texoma Community Center – Cooke	1465182*	2014
33245	Texoma Community Center – Cooke	1465184*	2014
33245	Texoma Community Center – Cooke	1465460*	2014
33245	Texoma Community Center – Cooke	1465462*	2014
33245	Texoma Community Center – Cooke	1465468*	2014
33245	Texoma Community Center – Cooke	1465471*	2014
33245	Texoma Community Center – Cooke	1435473*	2014
33245	Texoma Community Center – Cooke	1465479*	2014

33245	Texoma Community Center – Cooke	1465480*	2014
33245	Texoma Community Center – Cooke	1465482*	2014
33245	Texoma Community Center – Cooke	1465484*	2014
33245	Texoma Community Center – Cooke	1465486*	2014
33245	Texoma Community Center – Cooke	1465487*	2014
33245	Texoma Community Center – Cooke	1465524*	2014
33245	Texoma Community Center – Cooke	1465525*	2014
33245	Texoma Community Center – Cooke	1465527*	2014
33245	Texoma Community Center – Cooke	1465530*	2014
33245	Texoma Community Center – Cooke	1465531*	2014
33245	Texoma Community Center – Cooke	1465533*	2014
33245	Texoma Community Center – Cooke	1465536*	2014
33245	Texoma Community Center – Cooke	1465538*	2014
33245	Texoma Community Center – Cooke	1465545	2014
33245	Texoma Community Center – Cooke	1465547*	2014
33245	Texoma Community Center – Cooke	1567660*	2015
33245	Texoma Community Center – Cooke	1568156*	2015
33245	Texoma Community Center – Cooke	1568161*	2015

33245	Texoma Community Center – Cooke	1568162*	2015
33245	Texoma Community Center – Cooke	1568163*	2015
33245	Texoma Community Center – Cooke	1568164*	2015
33245	Texoma Community Center – Cooke	1568165*	2015
33245	Texoma Community Center – Cooke	1568166*	2015
33245	Texoma Community Center – Cooke	1568167*	2015
33245	Texoma Community Center – Cooke	1568168*	2015
33245	Texoma Community Center – Cooke	1568169*	2015
33245	Texoma Community Center – Cooke	1568170*	2015
33245	Texoma Community Center – Cooke	1568171*	2015
33245	Texoma Community Center – Cooke	1568172*	2015
33245	Texoma Community Center – Cooke	1568173*	2015
33245	Texoma Community Center – Cooke	1568174*	2015
33245	Texoma Community Center – Cooke	1568176*	2015
33245	Texoma Community Center – Cooke	1568177*	2015
33245	Texoma Community Center – Cooke	1568178*	2015
33245	Texoma Community Center – Cooke	1568179*	2015
33245	Texoma Community Center – Cooke	1568180*	2015

33245	Texoma Community Center – Cooke	1568181*	2015
33245	Texoma Community Center – Cooke	1568183*	2015
33245	Texoma Community Center – Cooke	1568184*	2015
33245	Texoma Community Center – Cooke	1568185*	2015
33245	Texoma Community Center – Cooke	1568186*	2015
33245	Texoma Community Center – Cooke	1568190	2015
37604	Coastal Family Health Center - Vancleave	1463754	2014
37604	Coastal Family Health Center - Vancleave	1463769	2014
37604	Coastal Family Health Center - Vancleave	1463773	2014
37604	Coastal Family Health Center - Vancleave	1463777	2014
37604	Coastal Family Health Center - Vancleave	1463780	2014
37604	Coastal Family Health Center - Vancleave	1463784	2014
37604	Coastal Family Health Center - Vancleave	1463786	2014
37604	Coastal Family Health Center - Vancleave	1463789	2014
37604	Coastal Family Health Center - Vancleave	1463811	2014
37604	Coastal Family Health Center - Vancleave	1463812	2014
37604	Coastal Family Health Center - Vancleave	1463817	2014
37604	Coastal Family Health Center - Vancleave	1570849	2015

37604	Coastal Family Health Center - Vancleave	1570852	2015
37604	Coastal Family Health Center - Vancleave	1570853	2015
37604	Coastal Family Health Center - Vancleave	1570854	2015
37604	Coastal Family Health Center - Vancleave	1570855	2015
37604	Coastal Family Health Center - Vancleave	1570856	2015
37604	Coastal Family Health Center - Vancleave	1570857	2015
37604	Coastal Family Health Center - Vancleave	1570858	2015
37604	Coastal Family Health Center - Vancleave	1570859	2015
37604	Coastal Family Health Center - Vancleave	1570860	2015
37604	Coastal Family Health Center - Vancleave	1570861	2015
39286	El Futuro, Inc.--Siler City	1464330	2014
39286	El Futuro, Inc.--Siler City	1570415	2015
39710	Cheaha Regional Mental Health Center - Sylacauga	1569846	2015
39712	Cheaha Regional Mental Health Center - Talladega	1569843	2015
39713	Cheaha Regional Mental Health Center - Clay	1570290	2015
39714	Cheaha Regional Mental Health Center - Roanoke	1570282	2015

* Indicates Form 466s charged in support of apparent competitive bidding violations.

APPENDIX C

FORM 466s SUPPORTED BY APPARENTLY FALSE \$138.00 RATE DOCUMENTS

HCP Number	HCP Name	FRN	FY
10254	Northeastern Rural Health Clinics, Inc.	1465189	2014
10254	Northeastern Rural Health Clinics, Inc.	1569144	2015
10256	Mountain Valleys Health Centers, Big Valley Health Center	1465638	2014
10256	Mountain Valleys Health Centers, Big Valley Health Center	1570623	2015
10256	Mountain Valleys Health Centers, Big Valley Health Center	1570624	2015
10795	East Central Mississippi Health Care - Sebastopol Medical Clinic	1455924	2014
10795	East Central Mississippi Health Care - Sebastopol Medical Clinic	1455927	2014
10795	East Central Mississippi Health Care - Sebastopol Medical Clinic	1455929	2014
11142	Mitchell County Hospital	1449767	2014
11852	Mountain Valleys Health Centers, Butte Valley Health Center	1570625	2015
11856	Childress Regional Medical Center	1449144	2014
12791	South Sunflower County Hospital	1449025	2014
12791	South Sunflower County Hospital	1449153	2014
12816	IHSCAL Toiyabe	1574163	2015
13498	Bond County Health Department	1568203	2015

13965	Burney Health Center	1570621	2015
14347	East Carroll Parish Hospital	1465999	2014
15570	Jeff Davis Hospital	1568145	2015
15925	Monroe County Hospital	1576349	2015
16153	Electra Memorial Hospital	1450662	2014
16394	Rush Foundation Hospital-Rush Medical Clinic	1343269	2013
16415	Hardy Wilson Memorial Hospital	1466623	2014
16667	Iraan General Hospital	1449753	2014
16667	Iraan General Hospital	1570993	2015
17021	Mountain Valleys Health Centers, Tulelake Health Center	1570626	2015
17728	Fall River Valley Health Center	1570622	2015
22207	Community Counseling Services, Inc.-Malvern	1467123	2014
22207	Community Counseling Services, Inc.-Malvern	1467125	2014
22207	Community Counseling Services, Inc.-Malvern	1467126	2014
22207	Community Counseling Services, Inc.-Malvern	1567956	2015
22207	Community Counseling Services, Inc.-Malvern	1567957	2015
22207	Community Counseling Services, Inc.-Malvern	1567958	2015
24921	Hood Memorial Hospital	1466841	2014

26203	North Runnels County Hospital District dba North Runnels Hospital	1466656	2014
26203	North Runnels County Hospital District dba North Runnels Hospital	1570936	2015
26967	Weems Mental Health Center - Clarke County	1462363	2014
26969	Weems Mental Health Center - Kemper County	1462366	2014
26970	Weems Mental Health Center - Leake County	1462371	2014
26971	Weems Mental Health Center - Neshoba County	1462373	2014
26973	Weems Mental Health Center - Scott County	1462379	2014
26974	Weems Mental Health Center - Smith County	1462341	2014
27109	Quinco Mental Health Bolivar Facility	1465431	2014
27135	Quinco Mental Health Centers Henderson Facility	1465179	2014
27157	Quinco Mental Health Lexington Facility	1465429	2014
27229	Quinco Mental Health Centers Savannah Facility	1465426	2014
27230	Quinco Mental Health Centers Selmer Facility	1465425	2014
27665	McDuffie Regional Medical Center	1450493	2014
27665	McDuffie Regional Medical Center	1450495	2014
31331	St. Genevieve County Memorial Hospital - Pointe Bassee Family	1452625	2014
32862	Communicare Oxford	1461380	2014
32862	Communicare Oxford	1461382	2014

32906	Rush Health Systems - John C Stennis Memorial Hospital	1343287	2013
33245	Texoma Community Center – Cooke	1348862	2013
33245	Texoma Community Center – Cooke	1465545	2014
33245	Texoma Community Center – Cooke	1568190	2015
37604	Coastal Family Health Center - Vancleave	1463754	2014
37604	Coastal Family Health Center - Vancleave	1463769	2014
37604	Coastal Family Health Center - Vancleave	1463773	2014
37604	Coastal Family Health Center - Vancleave	1463777	2014
37604	Coastal Family Health Center - Vancleave	1463780	2014
37604	Coastal Family Health Center - Vancleave	1463784	2014
37604	Coastal Family Health Center - Vancleave	1463786	2014
37604	Coastal Family Health Center - Vancleave	1463789	2014
37604	Coastal Family Health Center - Vancleave	1463811	2014
37604	Coastal Family Health Center - Vancleave	1463812	2014
37604	Coastal Family Health Center - Vancleave	1463817	2014
37604	Coastal Family Health Center - Vancleave	1570849	2015
37604	Coastal Family Health Center - Vancleave	1570852	2015
37604	Coastal Family Health Center - Vancleave	1570853	2015

37604	Coastal Family Health Center - Vancleave	1570854	2015
37604	Coastal Family Health Center - Vancleave	1570855	2015
37604	Coastal Family Health Center - Vancleave	1570856	2015
37604	Coastal Family Health Center - Vancleave	1570857	2015
37604	Coastal Family Health Center - Vancleave	1570858	2015
37604	Coastal Family Health Center - Vancleave	1570859	2015
37604	Coastal Family Health Center - Vancleave	1570860	2015
37604	Coastal Family Health Center - Vancleave	1570861	2015
39286	El Futuro, Inc.--Siler City	1464330	2014
39286	El Futuro, Inc.--Siler City	1570415	2015
39710	Cheaha Regional Mental Health Center - Sylacauga	1569846	2015
39712	Cheaha Regional Mental Health Center - Talladega	1569843	2015
39713	Cheaha Regional Mental Health Center - Clay	1570290	2015
39714	Cheaha Regional Mental Health Center - Roanoke	1570282	2015

APPENDIX D

FORM 466s SUPPORTED BY APPARENTLY FORGED COMCAST RATE DOCUMENTS

HCP Number	HCP Name	FY	FRN	Description of the Wire	Approximate Wire Date	Approximate Wire Payment Date From USAC to NSS
12791	South Sunflower County Hospital	2012	1224839	Submission of Apparently Forged Urban Rate to USAC via Web Portal	June 10, 2013 and January 24, 2014	February 21, 2014
12791	South Sunflower County Hospital	2013	1338163	Submission of Apparently Forged Urban Rate to USAC via Web Portal	February 1, 2014	July 7, 2014
15801	Forrest General Hospital/Marion General Hospital	2012	1226735	Submission of Apparently Forged Urban Rate to USAC via Web Portal	June 22, 2013	December 20, 2013
16415	Hardy Wilson Memorial Hospital	2013	1347127	Submission of Apparently Forged Urban Rate to USAC via Web Portal	June 20, 2014	November 6, 2015*

* Indicates wire charged in support of apparent wire fraud violation.

APPENDIX E

APPARENTLY FORGED URBAN RATE DOCUMENT SUBMITTED TO USAC BY HCP SOUTH SUNFLOWER ON JUNE 10, 2013



BUSINESS CLASS

BUSINESS CLASS SERVICES

4

400 High Street -- to -- 501 North West Street, Jackson, MS 39201

SERVICE INFORMATION - 50Mbps Point 2 Point - 3yr Term

Services	Qty	3 Year	Install
400 High Street, Jackson, MS 39201 - 50M Access	1	\$520.00	\$500.00
501 N West Street, Jackson, MS 39201 - 50M Access	1	\$520.00	\$500.00
Installation Waiver	1	\$0.00	(\$1,000.00)
Total		\$1,040.00	\$0.00

50Mbps Fiber P2P Installation Cost	\$0.00
---	---------------

Comcast Business Class 50Mbps P2P Service

All pricing is budgetary until a site survey is completed after the service agreement is signed. In the event that special construction is required to deliver the service the customer may opt out.

All prices are **plus** fees and taxes

Comcast Business Class Services Accounts Include
24/7 Dedicated Business Technical Support

Robyn Milder
Comcast Business Services
Sacramento Service Area
Robyn@comcast.com

APPENDIX F

APPARENTLY FORGED URBAN RATE DOCUMENT BACKDATED BY NSS AND SUBMITTED TO USAC BY HCP SOUTH SUNFLOWER ON JANUARY 24, 2014



BUSINESS CLASS

BUSINESS CLASS SERVICES

Network Service Solutions, LLC 05/09/13

400 High Street -- to -- 501 North West Street, Jackson, MS 39201

SERVICE INFORMATION - 50Mbps Point 2 Point - 3yr Term

Services	Qty	3 Year	Install
400 High Street, Jackson, MS 39201 - 50M Access	1	\$520.00	\$500.00
501 N West Street, Jackson, MS 39201 - 50M Access	1	\$520.00	\$500.00
Installation Waiver	1	\$0.00	(\$1,000.00)
Total		\$1,040.00	\$0.00

50Mbps Fiber P2P Installation Cost	\$0.00
---	---------------

Comcast Business Class 50Mbps P2P Service

All pricing is budgetary until a site survey is completed after the service agreement is signed. In the event that special construction is required to deliver the service the customer may opt out.

All prices are **plus** fees and taxes

Comcast Business Class Services Accounts Include
24/7 Dedicated Business Technical Support

Robyn Milder
Comcast Business Services
Sacramento Service Area
Robyn@comcast.com

APPENDIX G

EMAIL FROM NSS EMPLOYEE TO SCOTT MADISON ATTACHING APPARENTLY BACKDATED AND FORGED URBAN RATE DOCUMENTS AT HIS REQUEST

[Redacted]

From: [Redacted]
Sent: Friday, August 09, 2013 5:16 PM
To: Scott Madison
Subject: RE: MS, Communicare Bid, OW, 8-5-13.MM
Attachments: NSS - MS - 10M P2P - 3yr Comcast Quote.pdf; NSS - MS - 50M P2P - 3yr Comcast Quote (2).pdf; NSS - MS 100M P2P - 3yr Comcast Quote (2).pdf

05/09/13

Before you ask, yes, it is a weekday (Thursday).

[Redacted]



775-[Redacted] | Direct
775-[Redacted] | Cell

From: Scott Madison
Sent: Wednesday, August 07, 2013 5:33 PM
To: [Redacted]
Subject: FW: MS, Communicare Bid, OW, 8-5-13.MM

Needs some dates that support 2012 funding support.

thanks

Scott Madison
President



800-726-2575 Main
775-[Redacted] Office
775-[Redacted] Fax

**STATEMENT OF COMMISSIONER AJIT PAI,
APPROVING IN PART AND DISSENTING IN PART**

Re: *Network Services Solutions, LLC, Scott Madison*, File No.: EB-IHD-15-0001913.

Fabricating documents.¹ Doctoring evidence to conceal unfair bidding practices.² Offering a “bribe in order to get the customer to sign.”³ Fixing competitive bidding processes to boost federal subsidies.⁴ These are things Network Services Solutions (NSS) allegedly did in what appears to be an ongoing criminal enterprise designed to rob taxpayers of millions of dollars through the Universal Service Fund’s rural healthcare program.

I agree completely with my colleagues that it appears that NSS willfully and repeatedly violated our rules and that we must recover the taxpayer funds that NSS unlawfully siphoned.

I also agree that NSS should be barred from getting any further federal subsidies from the Universal Service Fund. Indeed, I was distressed that the Chairman’s initial draft would have allowed NSS to continue to profit from its apparently fraudulent activities. I’m accordingly grateful to my colleagues for supporting my call to turn off the spigot.⁵

And I agree with my colleagues that NSS’s conduct merits a hefty fine. But the *NAL* fatally compromises our ability to impose a lawful forfeiture of more than \$189,361 upon the carrier.⁶ Specifically, the *NAL* ties the proposed forfeiture to forms submitted on or before June 30, 2015⁷—which is at least 127 days beyond the Act’s one-year statute of limitations.⁸ It then claims NSS’s “apparent violations . . . continued through the present as a result of NSS’s failure to take actions that would have corrected the forms that were filed in connection with these activities.”⁹

This legal theory cannot be right. *For one*, it “stretches the concept of a continuing violation past the breaking point.”¹⁰ For example, under this theory, the statute-of-limitations clock might never commence for an inaccurately filed form and the Commission could issue forfeitures for conduct that

¹ See *NAL* at paras. 74–78.

² See *NAL* at paras. 38–44.

³ See *NAL* at para. 48 (quoting Email from ██████████, Billing Manager, NSS, to Scott Madison, President, NSS, and ██████████, Controller/Office Manager, FW: Sales Order – Texoma – Network Services Signed Service Agreements (Nov. 25, 2013, 5:59 p.m.)).

⁴ See *NAL* at paras. 55–69.

⁵ See *NAL* at paras. 146–47.

⁶ I agree with the proposed forfeiture of \$189,361 for the one count of wire fraud within the Act’s one-year statute of limitations. See *NAL* at para. 141.

⁷ See *NAL* at paras. 133–40 (relying on 175 Forms 466, the most recent of which appears to have been submitted on June 30, 2015).

⁸ Communications Act § 503(b)(6)(B) (“No forfeiture penalty shall be determined or imposed against any person under this subsection if . . . the violation charged occurred more than 1 year prior to the date of the issues of the required . . . notice of apparent liability.”).

⁹ *NAL* at para. 129.

¹⁰ See *BellSouth Telecommunications, LLC, d/b/a AT&T Southeast*, File No.: EB-IHD-14-00017954, *NAL*/Acct. No.: 201632080007, Notice of Apparent Liability for Forfeiture, 31 FCC Rcd 8501, 8528–29 (2016) (Dissenting Statement of Commissioner Ajit Pai) (quoting *Intelsat License LLC f/k/a Intelsat North America, LLC*, File No. EB-11-IH-1376; *NAL*/Acct. No. 201432080001; FRN 0009308008, Notice of Apparent Liability, 28 FCC Rcd 17183, 17194 (2013) (Statement of Commissioner Ajit Pai, Dissenting)).

occurred more than a decade ago. *For another*, NSS did not sign, certify, nor even submit the forms at issue here.¹¹ I cannot discern any rule, any precedent, or any legal theory (nor does the *NAL* proffer one) that imposes the continuing obligation that the *NAL* seems to contemplate.¹²

For what it's worth, we easily could have avoided this legal pitfall. Over the last year, NSS itself submitted 463 separate requests for payment in connection with its apparently illegal activities.¹³ I accordingly proposed to my colleagues to rely on these submissions for our forfeiture calculation—an approach that was on solid legal footing and that could have sustained an even larger forfeiture. But as happens all too often at this agency, my efforts at compromise were rebuffed.

For these reasons, I must dissent in part.

¹¹ Instead, it appears NSS's customers signed, certified, and submitted these forms as required by our rules.

¹² Notably, the *NAL* cites instances in which the FCC hypothesized a continuing obligation on carriers to correct forms they signed and submitted, *NAL* at note 321, but not one where the obligation was to correct a form submitted by another entity.

¹³ The first such request was filed November 4, 2015, for funding request number (FRN) 14666561 and the last such set of requests was filed July 1, 2016 for the following FRNs: 15676601, 15679561, 15679571, 15679581, 15681561, 15681611, 15681621, 15681631, 15681641, 15681651, 15681661, 15681671, 15681681, 15681691, 15681701, 15681711, 15681731, 15681741, 15681761, 15681771, 15681781, 15681791, 15681801, 15681811, 15681831, 15681841, 15681851, 15681861, 15681901, 15682031, 15691441, 15698431, 15698461, 15702821, 15702901, 15704151, 15706211, 15706221, 15706231, 15706241, 15706251, 15706261, 15708521, 15708531, 15708541, 15708551, 15708561, 15708571, 15708581, 15708591, 15708601, 15708611, 15709361, 15709931, 15741631.