

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

In the Matter of
PayG, LLC d/b/a Skyswitch
File No.: EB-IHD-21-00031864
NAL/Acct. No.: 202232080089
FRN: 0027004217

NOTICE OF APPARENT LIABILITY FOR FORFEITURE

Adopted: September 13, 2022

Released: September 14, 2022

By the Commission:

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I. INTRODUCTION

1. Telecommunications service providers and certain telecommunications providers (collectively, service providers) are required to file accurate Telecommunications Reporting Worksheets (Worksheets). To ensure that the information submitted to the Universal Service Administration Company (USAC) by service providers is complete, timely, and accurate, the Federal Communications Commission’s (Commission or FCC) rules grant USAC the authority to verify the information and require service providers to maintain records to allow verification. Companies and persons doing business with the Commission must also comply with the requirement to maintain current information in the Commission Registration System (CORES). PayG, LLC, d/b/a/ Skyswitch (PayG or Company) repeatedly failed to timely respond to directives from USAC to provide records that justify financial and other information reported in its 2019 and 2020 Annual Worksheets, repeatedly filed inaccurate Annual Worksheets, and willfully failed to maintain current information in CORES. We therefore propose in this Notice of Apparent Liability for Forfeiture (NAL) a penalty of \$153,000 for PayG’s failures to cooperate with verification functions performed by USAC on behalf of the Commission, to file accurate

Worksheets, and to maintain current information in CORES, in apparent violation of sections 1.8002(b)(2), 52.17(b), 52.32(b), 54.711(a) and 64.604(c)(5)(iii)(B) of the Commission's rules and a Commission order.<sup>1</sup>

## II. BACKGROUND

### A. Legal Framework

2. The Communications Act of 1934, as amended (Act) codifies Congress's historical commitment to promoting universal service to ensure that consumers in all regions of the nation have access to affordable, quality telecommunications services. In particular, section 254(d) of the Act requires, among other things, that "[e]very telecommunications carrier [providing] interstate telecommunications services . . . contribute, on an equitable and nondiscriminatory basis, to the specific, predictable, and sufficient mechanisms established by the Commission to preserve and advance universal service."<sup>2</sup> In implementing this Congressional mandate, the Commission directed all telecommunications carriers providing interstate telecommunications services to contribute to the Universal Service Fund (USF) based on their interstate and international end-user telecommunications revenues.<sup>3</sup> The Commission also requires certain providers of interstate telecommunications to contribute to the USF.<sup>4</sup>

3. When service providers fail to pay their share of obligations to the USF, they undermine the Congressional mandates embodied in section 254(d) of the Act.<sup>5</sup> Delinquent contributors also obtain an unfair competitive advantage over companies that comply with the universal service provisions of the Act and the Commission's rules.<sup>6</sup> Because an equitable contribution scheme relies on accurate information, the Commission, through USAC, must be able to verify that each service provider is compliant with the Commission's rules, including being able to review documents that support the accuracy of information provided to USAC and the Commission.<sup>7</sup> Thus, a service provider circumventing the vetting of its information or stonewalling reasonable requests from the Commission or USAC frustrates Congress's policy objective to ensure the equitable and non-discriminatory distribution of universal service costs among all service providers.<sup>8</sup>

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<sup>1</sup> 47 CFR §§ 1.8002(b)(2), 52.17(b), 52.32(b), 54.711(a), 64.604(c)(5)(iii)(B); *Wireline Competition Bureau Releases the 2020 Telecommunications Reporting Worksheets and Accompanying Instructions*, Public Notice, 35 FCC Rcd 1350, 1362 (WCB 2020) (*2020 Annual Worksheet Instructions*) (stating that the Commission requires service providers to report revenue data through Worksheets so the Commission can calculate and assess Interstate Telecommunications Service Provider regulatory fees. *See also* 47 U.S.C. § 159(a), (b)(1)(A), (g) (authorizing the Commission to collect annual regulatory fees to recover the costs of enforcement, policy and rulemaking, user information, and international activities); 47 CFR § 1.1154 (providing a schedule of regulatory fee charges for service providers such as Pay and referencing Worksheet filings). Although certain Worksheet filers might not need to contribute to each of the support and cost recovery mechanisms for the administration of local number portability, numbering, universal service, and telecommunications relay service, and regulatory fees, all service providers must file accurate Worksheets. *See 2020 Annual Worksheet Instructions* 35 FCC Rcd at 1363.

<sup>2</sup> 47 U.S.C. § 254(d).

<sup>3</sup> 47 CFR § 54.706(b).

<sup>4</sup> *See* 47 U.S.C. § 254(d) ("Any other provider of interstate telecommunications may be required to contribute to the preservation and advancement of universal service if the public interest so requires.").

<sup>5</sup> *See Telseven, LLC*, Notice of Apparent Liability for Forfeiture, 27 FCC Rcd 6636, 6637, para. 2 (2012) (*Telseven NAL*), *forfeiture issued*, Forfeiture Order, 31 FCC Rcd 1629 (2016).

<sup>6</sup> *See id.*

<sup>7</sup> *See* 47 CFR § 54.711(a); *see also id.* § 54.706(e).

<sup>8</sup> *See* 47 U.S.C. § 254(d).

4. The Commission has established specific procedures to administer the USF. Each service provider required to contribute to the USF is required to file annually an FCC Form 499-A, also known as the Annual Telecommunications Reporting Worksheet (Annual Worksheet),<sup>9</sup> and, with certain exceptions, to file quarterly an FCC Form 499-Q, also known as the Quarterly Telecommunications Reporting Worksheet (Quarterly Worksheet).<sup>10</sup> USAC uses the revenue projections submitted on the Quarterly Worksheets to determine each service provider's monthly universal service contribution amount.<sup>11</sup> The Commission's rules explicitly warn service providers that failure to file timely forms or submit timely USF payments potentially subjects them to enforcement action.<sup>12</sup> The Commission's rules also require that the information contained in the Worksheets be truthful and that the USF payments be accurate.<sup>13</sup>

5. In order to confirm the truthfulness and accuracy of service providers' submissions, section 54.711(a) of the Commission's rules provides that the Commission and USAC have the authority to verify any information contained in Annual and Quarterly Worksheets.<sup>14</sup> Filers are required to maintain records and documentation to justify the information reported in the Worksheets, including the methodology used to determine revenue projections, for a period of three years, and to provide it to the Commission or USAC upon request.<sup>15</sup> The recordkeeping requirement is necessary to verify that contributors report correct information on the Worksheets.<sup>16</sup> The Commission and USAC may review records and documentation underlying revenue reported on a contributor's Worksheets to determine

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<sup>9</sup> See 47 CFR § 54.711; *Telseven NAL*, 27 FCC Rcd at 6637, para. 2. Within 30 days of beginning to provide service, new service providers must register with the Commission by obtaining an FCC registration number (FRN) from CORES and obtaining a Filer ID from USAC's E-File system. *2020 Annual Worksheet Instructions*, 35 FCC Rcd at 1372.

<sup>10</sup> See 47 CFR § 54.711; *Telseven NAL*, 27 FCC Rcd at 6637, para. 2.

<sup>11</sup> Individual universal service contribution amounts that are based upon quarterly filings are subject to an annual true-up based on the Annual Worksheet. See *Federal-State Joint Board on Universal Service*, Report and Order and Order on Reconsideration, 16 FCC Rcd 5748, 5752-53, para. 12 (2001); 47 CFR § 54.711.

<sup>12</sup> 47 CFR § 54.713.

<sup>13</sup> *Id.* §§ 54.711(a), 54.713. An officer of a company completing an Annual Worksheet must certify, in part, as follows: "I have examined the foregoing report and, to the best of my knowledge, information and belief, all statements of fact contained in this Worksheet are true and that said Worksheet is an accurate statement of the affairs of the above-named company for the previous calendar year." 2020 FCC Form 499-A, Line 605. While the Commission permits revisions to Worksheets in certain circumstances, see *2020 Annual Worksheet Instructions*, 35 FCC Rcd at 1373-74, that opportunity does not affect the separate requirement to submit accurate information in the first instance to the best of the filer's knowledge, information and belief. See 2020 FCC Form 499-A, Line 605.

<sup>14</sup> 47 CFR § 54.711(a); see also 47 CFR § 54.707 (providing that USAC has the authority to audit contributors reporting data to USAC).

<sup>15</sup> *Id.* § 54.711(a). Additionally, under section 54.706(e) of the Commission's rules, any entity required to contribute to the USF shall retain, for at least five years from the date of the contribution, all records that may be required to demonstrate to auditors that the contributions made were in compliance with the universal service Commission's rules. These records include without limitation the following: financial statements and supporting documentation; accounting records; historical customer records; general ledgers; and any other relevant documentation. *Id.* § 54.706(e).

<sup>16</sup> *Federal-State Board on Universal Service*, Report and Order and Second Further Notice of Proposed Rulemaking, 17 FCC Rcd 24952, 25791, para. 34 (2002) (*2002 Report and Order and Second Further Notice of Proposed Rulemaking*).

whether the contributor is properly reporting revenues, and thus contributing its fair share to the costs of the universal service program.<sup>17</sup>

6. USAC, administrators of other programs arising under the Act, and the Commission rely on the Worksheets service providers file to determine liability for, and subsequent billing and collection of, payments for the USF, and other important federal regulatory mechanisms.<sup>18</sup> The accuracy of the Worksheets is therefore vital. The Commission or USAC can verify the accuracy of a service provider's Worksheet by analyzing supporting documents in the service provider's files. The failure of a service provider to maintain, and provide to the Commission or USAC upon request, records and documentation supporting its Worksheets thwarts the Commission's ability to verify reported revenue. This could result in a smaller base of USF contributions revenues than would otherwise have been reported. Responding to USAC verification directives and maintaining and submitting documentation to USAC upon request is therefore necessary to ensure the integrity of the USF. A contributor's failure to comply with these verification functions can impede the very purpose for which Congress enacted section 254(d) – to ensure that every required contributor to the USF “contribute[s], on an equitable and nondiscriminatory basis, to the specific, predictable, and sufficient mechanisms established by the Commission to preserve and advance universal service.”<sup>19</sup> The effect on other programs arising under the Act that rely on assessments of the Worksheets is similar. Indeed, a service provider that impedes the Commission and USAC from verifying the revenue information submitted in its Worksheets can evade its federal obligations to contribute fully toward the vital programs linked to the reporting obligations.<sup>20</sup> As a consequence of this evasion, other service providers shoulder an unfair burden of the USF and other federal regulatory programs arising under the Act.<sup>21</sup>

7. Maintaining current contact information in CORES is a similarly important responsibility for persons and companies subject to the Commission's rules and the Act. Companies doing business with the Commission are each assigned a unique 10-digit FCC Registration Number (FRN).<sup>22</sup> The FRN is obtained through CORES over the Internet at the CORES link at [www.fcc.gov](http://www.fcc.gov) or by filing FCC Form 160.<sup>23</sup> The Commission's rules provide that anyone doing business with the Commission must obtain an FRN, and an FRN must be provided by contributors to the USF.<sup>24</sup> When registering for an FRN, an entity's name, entity type, contact name and title, address, and taxpayer identification number (TIN) must be provided.<sup>25</sup> Information provided when registering for an FRN must be kept current by registrants,

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<sup>17</sup> See 47 CFR § 54.711(a); see also *id.* § 54.706(e).

<sup>18</sup> The effective administration of Telecommunications Relay Service (TRS), see *id.* § 64.604; Local Number Portability (LNP); see *id.* § 52.32, the North American Numbering Plan (NANP); see *id.* § 52.17, and federal regulatory fees, see *id.* §§ 1.1154, 1.1157, also rely on the accuracy of the Worksheets.

<sup>19</sup> 47 U.S.C. § 254(d).

<sup>20</sup> See, e.g., *Unipoint Tech., Inc.*, Notice of Apparent Liability for Forfeiture, 27 FCC Rcd 12751, 12753, para. 5 (2012), *forfeiture issued*, Forfeiture Order, 29 FCC Rcd 1633 (2014) (*Unipoint Forfeiture Order*); *ADMA Telecom, Inc.*, Notice of Apparent Liability for Forfeiture, 24 FCC Rcd 838, 846-47, para. 17 (2009), *forfeiture issued*, Forfeiture Order, 26 FCC Rcd 4152 (2011) (*ADMA Forfeiture Order*); *Local Phone Services, Inc.*, Notice of Apparent Liability for Forfeiture, 21 FCC Rcd 9974, 9977-78, para. 9 (2006), *forfeiture issued*, Order of Forfeiture, 23 FCC Rcd 8952 (2008) (proposed forfeiture reduced from \$529,000 to \$436,765 to account for updated revenue information provided to USAC by the service provider).

<sup>21</sup> See *id.*

<sup>22</sup> 47 CFR § 1.8001(a).

<sup>23</sup> *Id.* § 1.8001(b).

<sup>24</sup> *Id.* §§ 1.8002(a), 1.8003.

<sup>25</sup> *Id.* § 1.8002(b)(1).

either by updating the information online at the CORES link at [www.fcc.gov](http://www.fcc.gov) or by filing FCC Form 161 (CORES Update/Change Form).<sup>26</sup> Accurate information in CORES allows Commission staff to contact regulated companies quickly instead of wasting limited Commission resources to locate a company.

#### **B. Factual Background**

8. PayG is a limited liability company that was incorporated in 2011 and began providing interstate telecommunications services in the last quarter of 2011.<sup>27</sup> The Company's headquarters are located in Tampa, Florida.<sup>28</sup> PayG has the authority to provide resale service pursuant to section 214 of the Act.<sup>29</sup> PayG provides "Hosted PBX and UCAAS, Call Center and CCAAS, Business SMS, Virtual Fax, Session Initiation Protocol (SIP), Trunking, Web Conferencing, Video Surveillance, and USAAS and Voice API" services.<sup>30</sup> The Company provides service in 26 states.<sup>31</sup>

9. Between May 22, 2019, and November 23, 2020, USAC repeatedly requested supporting documentation from PayG in order to verify the accuracy of PayG's 2019 and 2020 Annual Worksheets, and in particular the accuracy of wholesale revenue for ordinary long distance service claimed on Line 311, revenues other than telecommunications revenues claimed on Line 418.3, Block 3 Carrier's Carrier Revenue Information, and the validity of reseller certifications associated with Block 3 revenues.<sup>32</sup> The Company, however, repeatedly failed to respond, or submitted non-responsive documents and late responses, over the course of this approximately 19-month period.<sup>33</sup> In so doing, PayG repeatedly delayed USAC from verifying the accuracy of the reported data in PayG's 2019 and 2020 Annual Worksheets.<sup>34</sup>

10. PayG failed to comply with six USAC directives to provide timely and complete documentation to support revenues reported in the Company's 2019 and 2020 Annual Worksheets. *First*, to verify the accuracy of the Company's 2019 Annual Worksheet filing, on May 22, 2019, USAC directed PayG to provide documentation supporting wholesale revenue for ordinary long distance service claimed on Line 311 and revenues other than telecommunications revenues claimed on Line 418.3.<sup>35</sup> PayG's response was due June 5, 2019, but PayG did not respond by the deadline.<sup>36</sup> *Second*, on January 29, 2020,

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<sup>26</sup> *Id.* § 1.8002(b)(2).

<sup>27</sup> Response to Letter of Inquiry, from Leon Nowalsky, Counsel to PayG d/b/a/ Skyswitch, to Marlene H. Dortch, Secretary, Federal Communications Commission at 1, 6 (June 14, 2021) (on file in EB-IHD-21-00031864) (LOI Response). Business Communications Management, Inc. (BCM), a wholly owned subsidiary of BCM One Group Holdings (BCM One) acquired PayG effective December 21, 2020. *Id.* at 1.

<sup>28</sup> *Id.* at 2.

<sup>29</sup> See *International Authorizations Granted*, Public Notice, 32 FCC Rcd 10423 (2017). On December 4, 2020, the Commission approved an application to transfer control of PayG to Thompson Street Capital Partners V, L.P. See *International Authorizations Granted*, Public Notice, 35 FCC Rcd 14174, 14182 (IB 2020).

<sup>30</sup> LOI Response at 6, Response to Question 11.

<sup>31</sup> *Id.* at 6-7, Response to Question 13. PayG provides service in Alabama, Arizona, California, Colorado, Connecticut, Delaware, Florida, Georgia, Illinois, Indiana, Maryland, Michigan, Minnesota, Mississippi, Missouri, Nebraska, New Jersey, New Mexico, New York, North Carolina, Ohio, Oklahoma, Pennsylvania, South Carolina, Texas, and Virginia. *Id.*

<sup>32</sup> See Letter from Fred Theobald, Director of Contributor Operations, Universal Services Administrative Company, to Pam Slipakoff, Investigations & Hearings Division, FCC Enforcement Bureau (July 5, 2022) (on file in EB-IHD-21-00031864) (USAC Letter).

<sup>33</sup> See generally *id.*

<sup>34</sup> *Id.*

<sup>35</sup> *Id.* at 1.

USAC again directed PayG to provide the documentation, with a response deadline of February 5, 2020.<sup>37</sup> PayG did not respond by this deadline either.<sup>38</sup> On February 16, 2020, PayG submitted an incomplete response.<sup>39</sup>

11. *Third*, on February 17, 2020, USAC again directed PayG to provide the documentation that was missing from its submission on February 16, 2020 (documentation for reseller revenue and revenue reported on Line 418.3).<sup>40</sup> USAC also directed PayG to provide: (1) documentation to support the accuracy of revenue reported on Line 311; (2) names, descriptions and revenue amounts for individual services reported on Line 418.3; and (3) copies of reseller certifications for all resellers that purchased PayG services during the calendar year 2018.<sup>41</sup> This documentation was due to USAC on February 28, 2020.<sup>42</sup> On February 25, 2020, PayG again provided an incomplete response to USAC.<sup>43</sup>

12. *Fourth*, on July 7, 2020, USAC again directed PayG to provide the missing reseller certifications and the missing documentation supporting Line 418.3 of PayG's 2019 Annual Worksheet.<sup>44</sup> PayG's response was due to USAC on July 10, 2020, but PayG did not respond by the deadline.<sup>45</sup> On July 16, 2020, PayG provided USAC with 78 e-mails, each allegedly containing a reseller certification.<sup>46</sup> These certificates were allegedly signed and dated in 2018, and PayG claimed that the reseller certificates supported PayG's 2019 Annual Worksheet filing.<sup>47</sup> Also on July 16, 2020, PayG again failed to provide documentation supporting Line 418.3 of the Company's 2019 Annual Worksheet.<sup>48</sup>

13. *Fifth*, to enable USAC to verify the accuracy of PayG's 2020 Annual Worksheet, on July 7, 2020, USAC also directed PayG to provide: (1) documentation to support the accuracy of revenue on Line 311; (2) the names, descriptions and revenue amounts for individual services reported on Line 418.3; and (3) copies of reseller certifications for all resellers that purchased PayG services during the calendar year 2019.<sup>49</sup> PayG's deadline to submit the documentation was August 4, 2020, and PayG again failed to

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<sup>36</sup> *Id.* On October 15, 2019, USAC again directed the Company to provide the documentation, but did not give the Company a response deadline. *Id.*

<sup>37</sup> *Id.*

<sup>38</sup> *Id.*

<sup>39</sup> *Id.* On February 17, 2020, USAC informed PayG that while it provided the name and FCC Form 499 Filer ID numbers for 80 resellers, the Company failed to provide the reseller revenue information and did not provide documentation for revenue reported on Line 418.3. *Id.*

<sup>40</sup> *Id.*

<sup>41</sup> *Id.* at 1-2.

<sup>42</sup> *Id.* at 2.

<sup>43</sup> *Id.* While PayG provided USAC the names of reseller companies, their Filer IDs, and amounts PayG billed the companies in 2018, the Company did not identify the services purchased by each reseller. PayG also did not provide documentation for revenues other than telecommunications revenues reported on Line 418.3, and PayG failed to provide USAC reseller certifications. PayG sent USAC an electronic file purporting to contain reseller certifications, but USAC could not open the file. *Id.*

<sup>44</sup> *Id.*

<sup>45</sup> *Id.*

<sup>46</sup> *Id.*

<sup>47</sup> *Id.*

<sup>48</sup> *Id.*

<sup>49</sup> *Id.*

submit the documentation.<sup>50</sup> *Sixth*, on November 16, 2020, USAC again directed PayG to provide the documentation, and gave PayG a deadline of November 23, 2020.<sup>51</sup> Again, PayG did not respond by the deadline.<sup>52</sup> On December 8, 2020, USAC informed PayG that the Company's repeated failures to comply with the documentation directives could be referred to the Commission for enforcement action.<sup>53</sup>

14. On February 9, 2021, USAC referred this matter to the FCC's Enforcement Bureau (Bureau) for investigation of PayG's repeated failures to comply with USAC's directives to provide documentation supporting the Company's 2019 and 2020 Annual Worksheets.<sup>54</sup> The Bureau sent a Letter of Inquiry (LOI) to PayG on March 16, 2021.<sup>55</sup>

15. On April 1, 2021, PayG filed its 2021 Annual Worksheet.<sup>56</sup> On June 11, 2021, PayG requested clarification from USAC concerning the outstanding documentation directives, and USAC responded the following business day, June 14, 2021, providing additional details.<sup>57</sup> On June 14, 2021, PayG responded to the LOI.<sup>58</sup> In its LOI Response, PayG acknowledged that it incorrectly reported end user revenues as reseller revenues, and therefore also on June 14, 2021, PayG filed revisions to its 2017, 2018, 2019, 2020, and 2021 Annual Worksheets purportedly to correct the inaccuracies.<sup>59</sup>

16. In its LOI Response, PayG states that its point of contact and address were not current in CORES on March 16, 2021, the date of the LOI.<sup>60</sup> Although PayG's contact information changed on December 20, 2020, the Company did not update its contact information in CORES until June 11, 2021.<sup>61</sup>

17. On July 13, 2021, PayG informed USAC that the Company needed to file further revisions to its 2019, 2020, and 2021 Annual Worksheets because revenues from five customers were reported as reseller revenues on Line 305, when the revenues should have been reported as end user revenues on Lines 404 and 414.<sup>62</sup> On July 15, 2021, USAC requested documentation to support moving

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<sup>50</sup> *Id.*

<sup>51</sup> *Id.*

<sup>52</sup> *Id.*

<sup>53</sup> *Id.* at 2-3. PayG contacted USAC on January 20, 2021, and committed to replying to all pending documentation directives by February 17, 2021. However, PayG did not submit the missing documentation by this date. *Id.* at 3.

<sup>54</sup> *Id.* at 3.

<sup>55</sup> Letter from Jeffrey J. Gee, Chief, Investigations & Hearings Division, FCC Enforcement Bureau, to Louie Holmes, Chief Executive Officer, PayG, LLC d/b/a Skyswitch (Mar. 16, 2021) (LOI) (on file in EB-IHD-21-00031864).

<sup>56</sup> USAC Letter at 3.

<sup>57</sup> *Id.*

<sup>58</sup> *See* LOI Response. PayG's response to the LOI was originally due on April 15, 2021. Bureau staff granted PayG's request to extend the response deadline to June 14, 2020.

<sup>59</sup> *Id.* at 9, Response to Question 16.

<sup>60</sup> *Id.* at 2-3, Response to Question 5 ("The information provided by PayG in the CORES database was incorrect as of the date of the LOI due to the acquisition of PayG by BCM One, which was closed on December 20, 2020. The information was not timely updated to reflect the new ownership of PayG.").

<sup>61</sup> *Id.*

<sup>62</sup> USAC Letter at 3. Revenues from resellers are excluded from the USF contributions base and revenues from end users are included in the USF contributions base. *Id.*

revenues from Line 305 to Lines 404 and 414, and the Company provided USAC the documentation.<sup>63</sup> On July 19, 2021, PayG filed the revisions to its 2019, 2020, and 2021 Annual Worksheets.<sup>64</sup>

18. On August 27, 2021, after reviewing the documentation that PayG submitted to support the revised 2019, 2020, and 2021 Annual Worksheets, USAC determined that reported revenues from 331 of PayG's alleged reseller customers should have been reported as end user revenues.<sup>65</sup> Pursuant to the Commission's instructions for Annual Worksheet filings, USAC accepts reseller certifications as proof that a wholesaler had a reasonable expectation that its carrier customers qualify as contributing resellers.<sup>66</sup> The Annual Worksheets instructions provide that the reseller certifications must be signed and dated by an authorized representative of the carrier customer.<sup>67</sup> USAC determined that 199 of the alleged reseller certifications provided by PayG were signed by a consultant working on behalf of PayG who was not authorized by the 199 customers to sign the reseller certifications on their behalf.<sup>68</sup> USAC also rejected an additional 122 alleged reseller certifications because the companies identified in the certificates qualified as *de minimis* and thus did not directly contribute to the USF.<sup>69</sup> USAC therefore found that a total of 321 reseller certifications executed by PayG's consultant were invalid.<sup>70</sup> Moreover, for 85 of these 321 invalid reseller certifications executed by PayG's consultant, it appeared that they were improperly backdated as their execution dates predated when the alleged resellers obtained FCC 499 Filer ID numbers from USAC.<sup>71</sup> In addition, the Company failed to provide a reseller certificate or any other evidence indicating that it had a reasonable expectation that another 10 PayG customers were contributing

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<sup>63</sup> *Id.*

<sup>64</sup> *Id.* On July 27, 2021, PayG filed a supplemental response to the LOI stating that it revised its 2019, 2020, and 2021 Annual Worksheets. See Letter from Leon Nowalsky, Counsel to PayG d/b/a/ Skyswitch, to Pam Slipakoff, Attorney Advisor, FCC Enforcement Bureau (July 27, 2021) (on file in EB-IHD-21-00031864).

<sup>65</sup> USAC Letter at 5.

<sup>66</sup> *Id.* at 4 (citing *2020 Annual Worksheet Instructions*, 35 FCC Rcd at 1397-98).

<sup>67</sup> *Id.* (citing *2020 Annual Worksheet Instructions*, 35 FCC Rcd at 1398-99).

<sup>68</sup> *Id.* at 4.

<sup>69</sup> *Id.* at 5. When an authorized company representative signs a reseller certification, the representative certifies, as follows: "under penalty of perjury that the company is purchasing service(s) for resale, at least in part, and that the company is incorporating the purchased services into its own offerings which are, at least in part, assessable U.S. telecommunications or interconnected Voice over Internet Protocol services. I also certify under penalty of perjury that the company either directly contributes or has a reasonable expectation that another entity in the downstream chain of resellers directly contributes to the federal universal service support mechanisms on the assessable portion of revenues from offerings that incorporate the purchased services." *2020 Annual Worksheet Instructions*, 35 FCC Rcd at 1398-99. Incidentally, USAC observed that PayG's consultant, who signed the reseller certifications for these 122 *de minimis* companies, should have known that these companies did not directly contribute to the USF because these companies were also clients of the consultant. USAC Letter at 5. See generally 47 CFR § 54.708 ("If a contributor's contribution to universal service in any given year is less than \$10,000 that contributor will not be required to submit a contribution . . .").

<sup>70</sup> *Id.* at 5. The Annual Worksheet Instructions provide that the reseller certifications must be obtained during the calendar years reported on the Annual Worksheets, which in this case were calendar years 2018-20. *Id.* at 4 (citing *2020 Annual Worksheet Instructions*, 35 FCC Rcd at 1398-99).

<sup>71</sup> *Id.* at 5 ("It was impossible for PayG's consultant to sign these reseller certifications on the stated execution dates, as USAC had not yet issued the required Filer ID numbers."). In order to report revenues from a customer as Carrier's Carrier Revenues in Block 3 of an Annual Worksheet filing, the filer must obtain the customer's Filer ID number. *2020 Annual Worksheet Instructions*, 35 FCC Rcd at 1398. Thus, if a customer does not yet have a Filer ID number during the calendar year reported in the Annual Worksheet, the customer would not be able to execute a reseller certification.



to the USF as resellers.<sup>72</sup> Based on the documentation provided to USAC as of August 27, 2021, USAC determined that PayG had inaccurately reported revenues for a total of 331 of its customers.<sup>73</sup>

19. On August 27, 2021, USAC informed PayG that it rejected PayG's July 19, 2021, revisions to the 2019, 2020, and 2021 Annual Worksheets because PayG failed to provide sufficient supporting documentation.<sup>74</sup> USAC directed PayG to either revise the 2019, 2020, and 2021 Annual Worksheets or provide sufficient supporting documentation.<sup>75</sup> USAC also identified for PayG the 331 customers and their associated revenues that would need to be reported as end user revenues, given that the Company failed to provide supporting documentation that the revenues could be reported as reseller revenues.<sup>76</sup> USAC shared these findings with PayG, which were based on the documentation PayG provided to USAC through August 27, 2021.<sup>77</sup> On September 27, October 6, November 5, 9 and 17, and December 13, 2021, PayG provided USAC additional documentation to show that only 77 of the 331 customers were resellers.<sup>78</sup>

20. After approximately three years of requesting supporting documentation from PayG to support the Company's 2019, 2020, and 2021 Annual Worksheet filings, USAC finally obtained all necessary documentation from PayG and concluded that revenues collected from 254 PayG customers should not have been recorded as reseller revenues on Lines 305.2 and 311 of Block 3 (Carrier's Carrier Revenue Information) of the Company's 2019, 2020, and 2021 Annual Worksheet filings.<sup>79</sup> Rather, these revenues should have been reported as end user telecommunications revenue on Lines 404.5, 414.2 and 418.3 of Block 4-A (End User and Non-Telecommunications Revenue Information) of the Annual Worksheet filings.<sup>80</sup> Revenues reported in Block 3 are not included on Line 423 (Net universal service contribution base amounts) and thus not used to calculate a company's USF contribution, while revenues reported on Lines 404.5 and 414.2 are included on Line 423 and used to calculate a company's USF contribution obligation.<sup>81</sup> By reporting revenue for the 252 customers as Block 3 revenues, PayG under-reported its universal service contribution base amounts in its 2019, 2020, and 2021 FCC Form 499-A filings, and as a result, the Company did not fully pay its USF obligations when the payments were due.<sup>82</sup>

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<sup>72</sup> USAC Letter at 5.

<sup>73</sup> *Id.*

<sup>74</sup> *Id.*

<sup>75</sup> *Id.*

<sup>76</sup> *Id.* On September 20, 2021, PayG requested confirmation from USAC regarding the list of companies and associated revenues, and USAC provided confirmation on that same day. *Id.* at 6.

<sup>77</sup> USAC Letter at 5.

<sup>78</sup> Between December 13, 2021, and April 13, 2022, USAC requested additional supporting documentation for the Company's 2019, 2020, and 2021 Annual Worksheet filings. *Id.* at 6-9. PayG responded to USAC's requests on time and provided documentation requested by USAC. *Id.*

<sup>79</sup> *Id.* at 9-10. USAC has concluded that in the Company's 2019 Annual Worksheet, PayG incorrectly reported revenues from 86 companies as Carrier's Carrier Revenue on Line 305.2; in its 2020 Annual Worksheet, PayG incorrectly reported revenues from 88 companies as Carrier's Carrier Revenue on Line 305.2; and in its 2021 Annual Worksheet, PayG incorrectly reported revenues from 80 companies as Carrier's Carrier Revenue on Line 311. *Id.* at 10, n.17.

<sup>80</sup> *Id.* at 10.

<sup>81</sup> *Id.*

<sup>82</sup> PayG admits that "from January 1, 2018, through [June 14, 2021], USAC did not invoice PayG for USF due to inaccurate information listed on its 499-As and 499-Qs [*i.e.*, Annual and Quarterly Worksheets]." LOI Response at 14, Response to Question 18. USAC found that PayG needed to revise its 2019, 2020, and 2021 Annual Worksheet

(continued....)

### III. DISCUSSION

#### A. PayG Repeatedly Failed to Provide USAC Documentation to Support the Company's Worksheets Upon Request

21. Based on the evidence developed through the Bureau's investigation, the Company apparently violated section 54.711(a) of the Commission's rules by willfully and repeatedly failing to comply with USAC's directives to provide information and documentation supporting the accuracy of PayG's 2019 and 2020 Worksheets.<sup>83</sup> Specifically, PayG failed to submit relevant documentation to USAC by the deadlines established on June 5, 2019, and February 5 and 25, July 10, August 4, and November 23, 2020.<sup>84</sup>

22. USAC's ability to verify the accuracy of Worksheets is fundamental to implementing the Congressional directive to ensure the equitable and non-discriminatory distribution of universal service costs among all service providers. A USF contributor must timely respond to every directive by USAC to provide documentation supporting information reported in its Worksheets. Contributors have an obligation to respond in a timely, full, and accurate manner in every instance, regardless of the number of times USAC must follow up to obtain or clarify a response. More importantly, the goal of section 54.711(a) of the Commission's rules – to allow USAC to verify submissions to ensure accurate contributions – is frustrated when the Commission and USAC have to make multiple requests, or wait multiple months, to obtain the documentation needed to verify the accuracy of Worksheets. We consider each individual failure to respond fully and accurately by a deadline a separate violation of section 54.711(a) of the Commission's rules.<sup>85</sup>

23. As discussed herein, PayG failed to comply with USAC's directives to submit the necessary documentation supporting the Company's 2019 and 2020 Annual Worksheets by the response deadlines established on June 5, 2019, February 5 and 25, July 10, August 4, and November 23, 2020.<sup>86</sup> Thus, USAC received incomplete responses from PayG on February 16 and 25, 2020, but the Company failed to submit the requested documentation to support the Company's Annual Worksheets.<sup>87</sup> PayG did not comply with USAC's documentation directives until after the Company received the LOI from the Bureau on March 16, 2021.<sup>88</sup> PayG began providing USAC documentation needed to verify the accuracy of the Company's Annual Worksheets on July 19, 2021, over two years after USAC first requested the supporting documentation.<sup>89</sup> USAC did not obtain all the documentation it needed from PayG to verify the accuracy of PayG's Annual Worksheets until April 15, 2022.<sup>90</sup> The Company's repeated failures to

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filings, and move a total of \$8,551,594 of reseller revenues from Block 3 to the appropriate lines for end user revenues in Block 4 of the Annual Worksheet filings. USAC Letter at 10. PayG filed revisions to its 2019, 2020, and 2021 Annual Worksheet filings on April 22, 2022. *Id.* USAC determined that by underreporting revenues PayG underpaid the USF by \$332,500.92. *Id.* The Commission reserves the right to take further enforcement action against PayG for any violations of USF payment obligations and other payment obligations arising under the Act.

<sup>83</sup> 47 CFR § 54.711(a).

<sup>84</sup> USAC Letter at 1-2.

<sup>85</sup> *E.g., Compu-Phone Voice & Data, Inc.*, Notice of Apparent Liability for Forfeiture, 35 FCC Rcd 6573, 6580, para. 14 (EB 2020) (forfeiture paid) (“We consider each individual failure to fully respond by a deadline a separate violation of section 54.711(a) of the Commission's rules.”).

<sup>86</sup> *See supra* para. 21; USAC Letter at 1-2.

<sup>87</sup> *See id.* In addition to being incomplete, this response, which was due on February 5, 2020, was also late. *Id.* at 1. *See supra* paras. 9-10 (discussing PayG's incomplete responses).

<sup>88</sup> *See* LOI Response at 24, Response to Question 39.

<sup>89</sup> USAC Letter at 3.

submit the supporting documentation prevented USAC from verifying the accuracy of the Company's 2019, 2020, and 2021 Annual Worksheets for a period of nearly three years.

24. PayG claims it failed to promptly respond to USAC's requests for documentation that supported the Company's Worksheet filings due to:

communications issues between PayG and its compliance vendor, confusion over the entity from whom a response was required, complexity of the data needed to be analyzed to properly respond, the complications that were inherently difficult in analyzing the products/services raw data and reorganizing it for accuracy and presentation to USAC, and finally the effect the Covid pandemic and the corresponding shut-down had on PayG's ability to access and analyze the data necessary to reply to USAC's requests.<sup>91</sup>

Each of these explanations is unpersuasive.

25. First, under section 54.711(a) of the Commission's rules,<sup>92</sup> PayG must ensure that USAC obtains supporting documentation upon request.<sup>93</sup> If PayG had "communications issues" with its compliance vendor that impeded PayG's compliance, then it was PayG's responsibility to resolve those issues.<sup>94</sup> If PayG was unable to resolve quickly issues with individuals designated to respond to USAC, then PayG needed to designate someone else to handle the matter.<sup>95</sup> It is well-established that entities regulated by the Commission are responsible for the acts or omissions of their agents.<sup>96</sup> Thus, the consultant's failures to respond to USAC's directives is imputed to the Company.<sup>97</sup>

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<sup>90</sup> *Id.* at 9.

<sup>91</sup> LOI Response at 32, Response to Question 40.

<sup>92</sup> 47 CFR § 54.711(a).

<sup>93</sup> *Id.*

<sup>94</sup> PayG claimed that its "compliance vendor was waiting to compile all of the requested information prior to responding. In hindsight, it would have been more reasonable to submit partial responses than delay all responses until all of the requested information was compiled." LOI Response at 32, Response to Question 40. PayG is obligated to possess the supporting documentation at the time it files its Annual Worksheets and be prepared to provide it to USAC or the Commission upon request for a period of three years. *See* 47 CFR § 54.711(a). Moreover, we note that while PayG claims it allegedly had difficulties that prevented prompt responses, PayG did not inform USAC it would have difficulties providing the documentation by the deadlines or request an extension of time to respond. Instead, PayG simply did not answer USAC's directives until July of 2021. USAC Letter at 3-4.

<sup>95</sup> USAC informed both PayG and its designated agent on multiple occasions that the Company had failed to provide USAC with the documentation needed to verify the Annual Worksheets. USAC Letter at 1-3.

<sup>96</sup> *See* 47 U.S.C. § 217; *Telecom Mgmt., Inc.*, Order of Forfeiture, 21 FCC Rcd 10470, 10474, para. 11 (2006) (finding telecommunications provider liable for failure of its designated agent to comply with USF payment obligations on its behalf); *Eure Family LP*, Memorandum Opinion and Order, 17 FCC Rcd 21861, 21864, para. 7 (2002) ("Further, the Commission has explained that under long established principles of common law, statutory duties are nondelegable and that employers are routinely held liable for breach of statutory duties by their independent contractors"). *See also MTD, Inc.*, Memorandum Opinion and Order, 6 FCC Rcd 34, 34, para. 5 (1991); *Wagenvoord Broadcasting Co.*, Memorandum Opinion and Order, 35 FCC Rcd 361, 361-62, para. 3 (1972) (both cases stating that responsibility is not lessened when independent contractors are used).

<sup>97</sup> *See Correct Solutions, LLC*, Notice of Apparent Liability for Forfeiture, DA 22-303, 2022 WL 1000385 \*6, para. 18 & n.57 (EB Apr. 1, 2022) (forfeiture paid) (*Correct Solutions NAL*).

26. Second, PayG cannot simply ignore a documentation request from USAC that PayG unilaterally considers confusing.<sup>98</sup> PayG claims its failure to respond on a timely basis was partly due to confusion over whether USAC needed documentation for PayG or for Skyswitch, LLC (Skyswitch).<sup>99</sup> PayG could have quickly resolved this alleged issue with a telephone call or e-mail to USAC. Moreover, given that PayG knew that Skyswitch never conducted operations,<sup>100</sup> it is difficult to see how PayG could have been confused over which entity was responsible for providing supporting documentation for the Company's Annual Worksheet filings, and PayG could have easily communicated Skyswitch, LLC's non-operational status to USAC.

27. Third, all filers must possess the information and documentation that supports the accuracy of a Worksheet at the time of the filing and be able to provide the information to the Commission and USAC when directed.<sup>101</sup> PayG's claim that it was difficult to prepare supporting documentation for the Worksheets indicates that it failed to comply with the requirement to retain supporting documentation at the time of the Worksheet filings or failed to maintain the documentation so that it could submit it to USAC.<sup>102</sup> Moreover, USAC's documentation directives were not unusual and were consistent with the Commission's rules. Companies that file Annual Worksheets are required to maintain records and documentation to justify the information reported on the Annual Worksheets, including the methodology used to determine projections to allocate interstate revenues.<sup>103</sup> To verify the accuracy of the Company's Worksheets, before the Bureau issued an LOI, USAC directed the Company to provide documentation that supported wholesale revenue and revenues other than telecommunications revenues.<sup>104</sup> USAC's directives required PayG to submit documentation the Company was required by Commission rules to have when it filed its Worksheets.<sup>105</sup> The Company was required to maintain the supporting documentation for three years and provide it to the Commission or USAC upon request.<sup>106</sup>

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<sup>98</sup> Section 54.711(a) of the Commission's rules requires service providers to submit documentation to support Worksheets "upon request." If a service provider is genuinely confused with a documentation request, the service provider must seek clarification in order to comply with the request rather than ignoring it.

<sup>99</sup> PayG claimed that "PayG started a new corporate entity called Skyswitch, LLC . . . to initiate a management buyout. Although the buyout did not occur, [Skyswitch, LLC] continued to exist with a separate Filer ID (833762) from that of PayG, LLC, Filer ID (832542). While the initial USAC inquiries were directed at PayG, later inquiries referred to Skyswitch, LLC [but] Skyswitch, LLC never conducted operations . . . ." LOI Response at 32, Response to Question 40.

<sup>100</sup> *Id.*

<sup>101</sup> See, e.g., *Correct Solutions NAL*, at \*6, para. 18.

<sup>102</sup> See, e.g., LOI Response at 33, Response to Question 40. ("With respect to those questions involving block 418.3 and specifically all of the products sold by PayG, the product/service descriptions, and revenues associated with each product/service, PayG was unable to readily respond to the inquiry and in fact has only recently been able to obtain this information which is being submitted in response to this LOI.")

<sup>103</sup> See 47 CFR § 54.711(a).

<sup>104</sup> USAC Letter at 1-2.

<sup>105</sup> See *Correct Solutions NAL*, at \*6, para 18; see also 47 CFR § 54.711(a).

<sup>106</sup> See 47 CFR § 54.711(a); see also *id.* at § 54.706(e) ("Any entity required to contribute to the federal universal service support mechanisms shall retain, for at least five years from the date of the contribution, all records that may be required to demonstrate to auditors that the contributions made were in compliance with the Commission's universal service rules. These records shall include without limitation the following: Financial statements and supporting documentation; accounting records; historical customer records; general ledgers; and any other relevant documentation. This document retention requirement also applies to any contractor or consultant working on behalf of the contributor.").

The obligation is clearly stated in the Commission's rules and orders, is provided in the instructions to the Worksheets, and has been the subject of prior enforcement actions.<sup>107</sup>

28. Finally, PayG cannot repeatedly ignore documentation requests from USAC because its normal business operations have allegedly been impeded. The Company claims the "delay in PayG's responses was the result of the pandemic and the corresponding business shutdown."<sup>108</sup> When USAC requested the supporting documentation on May 22, 2019, January 29, February 17, July 7, and November 16, 2020, however, PayG did not raise this issue with USAC or request a reasonable extension of time to respond.<sup>109</sup> Instead, PayG simply did not fully respond to USAC's documentation directives.<sup>110</sup> In conclusion, we find that PayG failed to timely respond to six USAC directives to provide supporting documentation for its 2019 and 2020 Annual Worksheet filings.

29. We thus find that the Company apparently violated section 54.711(a) of the Commission's rules by willfully and repeatedly failing to timely respond to USAC's directives to provide documentation supporting the accuracy of the Company's Worksheets. Specifically, PayG failed to submit timely responses to USAC in response to six directives with six separate due dates over an 18-month period between May 22, 2019, and November 23, 2020.<sup>111</sup>

#### **B. PayG Repeatedly Filed Inaccurate Annual Worksheets**

30. Based on the evidence developed through the Bureau's investigation, we find that PayG apparently violated sections 52.17(b), 52.32(b), 54.711(a) and 64.604(c)(5)(iii)(B) of the Commission's rules and a Commission order by willfully and repeatedly filing inaccurate Annual Worksheet filings for 2018, 2019, 2020, and 2021.<sup>112</sup> The Act directs the Commission to establish, administer, and maintain programs to promote universal service and TRS, and to ensure LNP and effective numbering administration more generally, among other mandates.<sup>113</sup> To help accomplish these goals, the Commission has established the USF, the TRS Fund, and cost recovery mechanisms for LNP and NANP. As Congress has directed,<sup>114</sup> the Commission funds these programs through assessments on service providers. To gather the data necessary to calculate the assessments, the Commission requires service providers to file Annual Worksheets reporting the providers' revenues from various types of services during the preceding calendar year.<sup>115</sup> The administrators of the USF, TRS, LNP, and NANP rely upon the accuracy of reported data to calculate and assess any necessary contributions. Although some providers might not need to contribute to each fund and cost recovery mechanism, all service providers

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<sup>107</sup> See, e.g., *US South Communications, Inc.*, Notice of Apparent Liability for Forfeiture, 35 FCC Rcd 12668, 12676, para. 22 (EB 2020) (forfeiture paid); *Compu-Phone Voice & Data, Inc.*, Notice of Apparent Liability for Forfeiture, 35 FCC Rcd 6573, 6583, para. 23 (EB 2020) (forfeiture paid); *Blue Casa Telephone, LLC*, Notice of Apparent Liability for Forfeiture, 35 FCC Rcd 6333, 6344, para. 25 (EB 2020) (forfeiture paid).

<sup>108</sup> LOI Response at 33, Response to Question 40.

<sup>109</sup> USAC Letter at 1-2.

<sup>110</sup> *Id.* PayG sent USAC incomplete responses on February 16 and 25, 2020. See *supra* paras. 10-13.

<sup>111</sup> *Id.*

<sup>112</sup> 47 CFR §§ 52.17(b), 52.32(b), 54.711(a), 64.604(c)(5)(iii)(B) *2020 Annual Worksheet Instructions* 35 FCC Rcd at 1362-63.

<sup>113</sup> See 47 U.S.C. §§ 225(b)(1)-(2), 251(b)(2), (e), 254(a)(2).

<sup>114</sup> See 47 U.S.C. §§ 225(d)(3), 251(e)(2), 254(d).

<sup>115</sup> See 47 CFR §§ 52.32(b), 54.711(a), 64.604(c)(5)(iii)(B).

must file Annual Worksheets.<sup>116</sup> The Commission also uses the Annual Worksheet data to calculate and assess annual regulatory fees in accordance with the Act.<sup>117</sup>

31. PayG acknowledges it filed inaccurate information in its Annual Worksheets for 2018, 2019, 2020, and 2021 by reporting revenues from end user customers as revenues from resellers.<sup>118</sup> On June 14, 2021, PayG therefore filed revised Annual Worksheets for 2018, 2019, 2020, and 2021.<sup>119</sup> Three of these Worksheets were still inaccurate, however. On July 19, 2021, PayG filed further revisions to its 2019, 2020, and 2021 Annual Worksheets because it again inaccurately reported certain customer revenues as reseller revenues.<sup>120</sup> After USAC obtained documentation from PayG, USAC found that PayG continued to report inaccurate revenues from 254 customers as reseller revenues.<sup>121</sup> USAC therefore directed the Company to refile its 2019, 2020, and 2021 Annual Worksheets, and PayG again filed corrected Worksheets on April 22, 2022.<sup>122</sup>

32. We therefore conclude that PayG apparently violated sections 1.1154, 52.17(b), 52.32(b), 54.711(a), and 64.604(c)(5)(iii)(B) of the Commission's rules by willfully and repeatedly failing to file accurate 2018, 2019, 2020, and 2021 Annual Worksheets by the April 1 filing deadlines of each year.<sup>123</sup>

#### C. PayG Failed to Maintain Current Contact Information in CORES

33. Based on the evidence developed through the Bureau's investigation, we find that the Company apparently violated section 1.8002(b)(2) of the Commission's rules by willfully failing to update its contact information in CORES on a timely basis.<sup>124</sup> In its LOI Response, PayG acknowledges that its point of contact and address were not current in CORES on March 16, 2021, the date of the LOI.<sup>125</sup> Although the Company's contact information changed on December 20, 2020, PayG did not update its contact information in CORES until June 11, 2021.<sup>126</sup> A nearly six-month delay in updating information in CORES does not comply with PayG's obligation to keep its information current.

#### IV. PROPOSED FORFEITURE

34. Section 503(b) of the Act authorizes the Commission to impose a forfeiture against any entity that "willfully or repeatedly fail[s] to comply with any of the provisions of [the Act] or of any rule, regulation, or order issued by the Commission[.]"<sup>127</sup> Here, section 503(b)(2)(B) of the Act authorizes us to assess a forfeiture against PayG of up to \$220,213 for each day of a continuing violation, up to a statutory maximum of \$2,202,123 for a single act or failure to act.<sup>128</sup> In exercising our forfeiture

<sup>116</sup> See, e.g., *2020 Annual Worksheet Instructions*, 35 FCC Rcd at 1363.

<sup>117</sup> See 47 CFR § 1.1154; see also 47 U.S.C. § 159(a), (b)(1)(A), (g) (authorizing the Commission to collect annual regulatory fees to recover the costs of enforcement, policy and rulemaking, user information, and international activities).

<sup>118</sup> See LOI Response at 8-10, 13, Response to Questions 14-17.

<sup>119</sup> *Id.*

<sup>120</sup> USAC Letter at 3.

<sup>121</sup> *Id.* at 9-10.

<sup>122</sup> *Id.* at 10.

<sup>123</sup> See 47 CFR §§ 1.1154, 52.17(b), 52.32(b), 54.711(a), 64.604(c)(5)(iii)(B).

<sup>124</sup> See 47 CFR § 1.8002(b)(2).

<sup>125</sup> LOI Response at 3, Response to Question 5.

<sup>126</sup> See *id.*

<sup>127</sup> 47 U.S.C. § 503(b).

authority, we must consider 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.”<sup>129</sup> In addition, the Commission has established forfeiture guidelines that establish base penalties for certain violations and identify criteria that we consider when determining the appropriate penalty in any given case.<sup>130</sup>

35. The Commission may adopt upward or downward adjustments to forfeitures when appropriate.<sup>131</sup> Under section 1.80 of the Commission’s rules, we may adjust a forfeiture upward for egregious misconduct, ability to pay and relative disincentive, an intentional violation, substantial harm, prior violations of Commission requirements, substantial economic gain, or repeated or continuous violations.<sup>132</sup> We may adjust a forfeiture downward for a minor violation, good faith or voluntary disclosure, a history of overall compliance, or an inability to pay.<sup>133</sup> The forfeiture guidelines listed in section 1.80 of the Commission’s rules specifically “are intended as a guide for frequently recurring violations” and not “a complete or exhaustive list of violations.”<sup>134</sup> Section 1.80 of the Commission’s rules does not specify base forfeitures for the failure to respond timely, fully and accurately to USAC directives to submit documentation to support the accuracy of a contributor’s Worksheets.

36. Section 503(b)(6)(B) of the Act provides that no forfeiture penalty shall be imposed if “the violation charged occurred more than 1 year prior to the date of issuance of the required notice or notice of apparent liability.”<sup>135</sup> In this case, we propose forfeitures for the Company’s apparent failures to submit a timely and complete response to USAC’s directive to provide supporting documentation by the November 23, 2020, deadline, to file an accurate Annual Worksheet on April 1, 2021, and to update its contact information in CORES on December 20, 2020.

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<sup>128</sup> 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) of the Act (\$100,000 per violation or per day of a continuing violation and a statutory maximum of \$1,000,000 for a single act or failure to act). See *Amendment of Section 1.80(b) of the Commission’s Rules, Adjustment of Civil Monetary Penalties to Reflect Inflation*, Order, DA 21-1631 (EB Dec. 22, 2021); see also *Annual Adjustment of Civil Monetary Penalties to Reflect Inflation*, 87 Fed. Reg. 396 (Jan. 5, 2022) (setting January 5, 2022, as the effective date for the increases).

<sup>129</sup> 47 U.S.C. § 503(b)(2)(E).

<sup>130</sup> 47 CFR § 1.80(b)(10), Table 1 to Para. (b)(10).

<sup>131</sup> See *Commission’s Forfeiture Policy Statement & Amendment of Section 1.80 of the Rules to Incorporate the Forfeiture Guidelines*, Report and Order, 12 FCC Rcd 17087, 17110, para. 53 (1997) (citing 47 U.S.C. § 503(b)(2)(E)) (*1997 Forfeiture Guidelines*), *recon. denied*, Memorandum Opinion and Order, 15 FCC Rcd 303 (1999).

<sup>132</sup> 47 CFR § 1.80(b)(10), Table 3 to Para. (b)(10). See also *1997 Forfeiture Guidelines*, 12 FCC Rcd at 17098-99, para. 22 (1997) (noting that “[a]lthough we have adopted the base forfeiture amounts as guidelines to provide a measure of predictability to the forfeiture process, we retain our discretion to depart from the guidelines and issue forfeitures on a case-by-case basis, under our general forfeiture authority contained in Section 503 of the Act”).

<sup>133</sup> 47 CFR § 1.80(b)(10), Table 3 to Para. (b)(10) .

<sup>134</sup> *1997 Forfeiture Guidelines*, 12 FCC Rcd at 17109-10, para. 53.

<sup>135</sup> 47 U.S.C. § 503(b)(6)(B). PayG and the Commission agreed to toll the statute of limitations for 300 days. See Tolling Agreement executed by Jeffrey J. Gee, Chief, Investigations & Hearings Division, FCC Enforcement Bureau, and Geoff Bloss, PayG, LLC d/b/a Skyswitch (Apr. 15, 2021) (on file in EB-IHD-21-00031864); Second Tolling Agreement executed by Jeffrey J. Gee, Chief, Investigations & Hearings Division, FCC Enforcement Bureau, and Geoff Bloss, PayG, LLC d/b/a Skyswitch (Oct. 22, 2021) (on file in EB-IHD-21-00031864); Third Tolling Agreement executed by Jeffrey J. Gee, Chief, Investigations & Hearings Division, FCC Enforcement Bureau, and Geoff Bloss, PayG, LLC d/b/a Skyswitch (Nov. 29, 2021) (on file in EB-IHD-21-00031864).

**A. Failure to Cooperate with USAC Verification Functions**

37. As the Commission observed in another USF enforcement action,<sup>136</sup> “the size and scope of the universal service and [other federal regulatory] programs impose a monumental burden on the Commission [and] USAC . . . to verify that each and every carrier has complied with the revenue reporting requirements. By necessity, the Commission and the other entities must rely on carriers’ compliance with our rules.”<sup>137</sup> To assist the Commission and USAC in this endeavor, the Commission’s document retention and production rules were adopted to ensure the accuracy of each Worksheet and as a result ensure compliance with USF contribution obligations.<sup>138</sup> The Bureau has previously imposed a \$50,000 base forfeiture for a contributor’s failure under section 54.711(a) of the Commission’s rules to maintain documentation that supports revenues reported in Worksheets, and provide it to USAC upon request.<sup>139</sup> We thus propose a \$50,000 base forfeiture against the Company for its failure to submit a timely and complete response to USAC’s directives by the deadline of November 23, 2021.

38. In assessing a forfeiture amount, we consider the nature, extent and gravity of the failure to comply with USAC verification functions to be very serious.<sup>140</sup> USAC’s verification of Worksheets is a vital component of ensuring the integrity of the USF. We have also considered the degree of the Company’s culpability.<sup>141</sup> Contributors have an important obligation to comply with USAC verification functions, and the Company is thus highly culpable for the failures to respond to USAC verification directives, which were repeated in this case over multiple years. Section 1.80 of the Commission’s rules provides for an upward adjustment to forfeiture amounts for prior violations of any FCC requirements and for repeated or continuous violations.<sup>142</sup> As the Commission has previously stated,<sup>143</sup> given the accumulating record of non-compliance with section 54.711(a) of the Commission’s rules, service providers contemplating failures to comply with the requirements of the rule have been on notice that we are prepared to impose higher upward adjustments in future enforcement actions for prior violations and for repeated or continuous violations. Although the Commission has recently issued several enforcement actions specifically involving service providers’ failures to comply with the Worksheet documentation requirements under section 54.711(a) of the Commission’s rules,<sup>144</sup> PayG nonetheless repeatedly violated the documentation requirements and prevented USAC from verifying the accuracy of their Worksheets for nearly a three-year period.<sup>145</sup> In this case, we therefore apply an upward adjustment of \$50,000, 100 percent of the proposed base forfeiture, because of the repeated nature of the Company’s apparent violations, including the Company’s failures to respond to USAC directives to provide supporting

<sup>136</sup> *Globcom, Inc.*, Notice of Apparent Liability for Forfeiture and Order, 18 FCC Rcd 19893 (2003) (*Globcom NAL*), *forfeiture issued*, Order of Forfeiture, 21 FCC Rcd 4710 (2006) (*Globcom Forfeiture Order*).

<sup>137</sup> *Globcom NAL*, 18 FCC Rcd at 19904, para. 30.

<sup>138</sup> *See 2002 Report and Order and Second Further Notice of Proposed Rulemaking*, 17 FCC Rcd at 24971, para. 34.

<sup>139</sup> *See, e.g., US South Communications, Inc.*, Notice of Apparent Liability for Forfeiture, 35 FCC Rcd 12668, 12676, para. 22 (EB 2020) (*forfeiture paid*); *Compu-Phone Voice & Data, Inc.*, Notice of Apparent Liability for Forfeiture, *LLC*, 35 FCC Rcd 6573, 6583, para. 23 (EB 2020) (*forfeiture paid*); *Blue Casa Telephone, LLC*, Notice of Apparent Liability for Forfeiture, 35 FCC Rcd 6333, 6344, para. 25 (EB 2020) (*forfeiture paid*).

<sup>140</sup> *See* 47 U.S.C. § 503(b)(2)(E).

<sup>141</sup> *See id.*

<sup>142</sup> 47 CFR § 1.80(b)(10), Table 3 to Para. (b)(10).

<sup>143</sup> *E.g., Conquest Operator Servs. Corp.*, Order of Forfeiture, 14 FCC Rcd 12518, 12528, para. 20 (1999) (*forfeiture paid*) (*Conquest Operator*).

<sup>144</sup> *See, e.g., Blue Casa Telephone, LLC*, 35 FCC Rcd 6333; *Compu-Phone Voice & Data, Inc.*, 35 FCC Rcd 6573; *US South Communications, Inc.*, 35 FCC Rcd 12668, 12676.

<sup>145</sup> *See* USAC Letter at 9.



documentation by the June 5, 2019, February 5 and 17, July 10, and November 23, 2020, deadlines.<sup>146</sup> We therefore propose a forfeiture of \$100,000 against the Company, which includes a \$50,000 base forfeiture for failing to submit information and documentation in response to USAC's directives by November 23, 2021, and an upward adjustment of \$50,000 for the Company's repeated and ongoing failures to comply with USAC's directives.

**B. Failure to File Accurate Annual Worksheets**

39. Section 1.80 of the Commission's rules lists a base forfeiture of \$3,000 for the failure to file required forms or information.<sup>147</sup> Given the importance of the Worksheet filing requirements, the Commission has consistently applied an upward adjustment and proposed a forfeiture of \$50,000 for each failure of a service provider to file timely or accurate Worksheets.<sup>148</sup>

40. In assessing a forfeiture amount, we consider the nature, extent and gravity of the failure to comply with the Worksheet filing requirements to be very serious.<sup>149</sup> The Commission, USAC, and the administrators of TRS, LNP, and the NANP rely on the data reported in Worksheets to determine the accurate amounts that service providers owe for these important funding mechanisms arising under the Act.<sup>150</sup> PayG's failures to file accurate Annual Worksheets for 2018, 2019, 2020, and 2021 had serious implications for the administration of these funding mechanisms. The ability of the Commission and administrators acting on its behalf to assess accurate regulatory fees, and contributions for the USF, TRS, LNP, and NANP administration, depend on every service provider's compliance with the obligation to file accurate Worksheets by each filing deadline. A service provider's failure to file accurate Worksheets impedes the Congressional mandate that each service provider contribute on an equitable and nondiscriminatory basis to the USF,<sup>151</sup> and to these other important funding mechanisms arising under the Act. We have also considered the degree of the Company's culpability and repeated violations.<sup>152</sup> The Company has an important obligation to file accurate Annual Worksheets by the filing deadlines every year, and PayG failed to comply for four years. The Company is thus highly culpable for the repeated filing failures.

41. Again, given the accumulating record of non-compliance with the requirements to file accurate Worksheets by each filing deadline, service providers contemplating failures to comply with these requirements are on notice that we are prepared to impose substantially higher upward adjustments in future enforcement actions for prior violations and for repeated or continuous violations. Future enforcement items for the failure to file timely or accurate Worksheets could include upward adjustments up to the statutory maximum forfeiture authorized under section 503(b)(2) of the Act.<sup>153</sup> In this case, we

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<sup>146</sup> See *Correct Solutions NAL*, at \*8, para. 26 ("future enforcement items could include upward adjustments to 100 percent or more of the proposed base forfeiture") (citing *Peace Communications, LLC*, Notice of Apparent Liability for Forfeiture, 36 FCC Rcd 11388, 11395, para. 17 (EB 2021); *Conquest Operator* 14 FCC Rcd at 12528, para. 20; 47 U.S.C. § 503(b)(2)(B)).

<sup>147</sup> 47 CFR § 1.80(b)(10), Table 1 to Para. (b)(10).

<sup>148</sup> E.g., *ADMA, Forfeiture Order*, 26 FCC Rcd at 4155, 4162, paras. 9, 28 (2011); *Globcom Forfeiture Order*, 21 FCC Rcd 4710, 4720-21, 4727, paras. 26-28, 31, 45; *PTT Phone Cards Inc.*, Forfeiture Order, 30 FCC Rcd 14701, 14707, para. 19 (2015).

<sup>149</sup> See 47 U.S.C. § 503(b)(2)(E).

<sup>150</sup> See 47 CFR §§ 1.1154, 1.1157, 52.17(a), 52.32, 54.711, 64.604(c)(5)(iii).

<sup>151</sup> See 47 U.S.C. § 254(d).

<sup>152</sup> See *id.* § 503(b)(2)(E); 47 CFR § 1.80(b)(10), Table 3 to Para. (b)(10).

<sup>153</sup> See 47 U.S.C. § 503(b)(2).

propose a forfeiture of \$50,000 against the Company for its failure to file an accurate Annual Worksheet on April 1, 2021.

**C. Failure to Update CORES**

42. Section 1.80 of the Commission's rules list a \$3,000 base forfeiture for failure to file required forms or information.<sup>154</sup> This is the first instance of the Commission taking enforcement action for a company's failure to comply with the requirements of section 1.8002(b)(2) of the Commission's rules. We therefore consider the \$3,000 base forfeiture an appropriate proposed forfeiture in this particular case. The requirement is an administrative but important function. The public interest is best served when the Commission is able to use resources efficiently. Commission staff should not need to expend significant resources to locate an investigation target. Although the Company's contact information changed on December 20, 2020, PayG failed to update CORES until June 11, 2021, several months after receiving the Bureau's LOI. While we propose a \$3,000 forfeiture in this case, if we subsequently observe that assessing a \$3,000 forfeiture for the violation of section 1.8002(b)(2) of the Commission's rules does not effectively deter non-compliance with the requirement, we are prepared to revisit forfeiture assessments, and if necessary, impose forfeitures of up to \$30,000 per violation.

**D. Total Proposed Forfeiture**

43. Consistent with the Act and the Commission's rules,<sup>155</sup> we have exercised our discretion and considered the specific circumstances related to the Company and the violations it apparently committed, and we find the Company apparently liable for a forfeiture of one hundred fifty-three thousand dollars (\$153,000). The total proposed forfeiture includes a forfeiture of (a) one hundred thousand dollars (\$100,000) for the Company's willful and repeated failures to comply with USAC documentation directives; (b) fifty thousand dollars (\$50,000) for the Company's willful and repeated failures to file accurate Annual Worksheets; and (c) three thousand dollars (\$3,000) for the Company's willful failure to update CORES with current contact information.

**V. CONCLUSION**

44. We have determined that PayG apparently violated sections 1.8002(b)(2), 52.17(b), 52.32(b), 54.711(a) and 64.604(c)(5)(iii)(B) of the Commission's rules and a Commission order by willfully and repeatedly failing to timely respond to USAC documentation directives concerning verification of the Company's Worksheets, by willfully and repeatedly filing inaccurate Annual Worksheets, and by willfully failing to maintain current contact information in CORES.<sup>156</sup> As such, PayG is apparently liable for a forfeiture of \$153,000.

**VI. ORDERING CLAUSES**

45. Accordingly, **IT IS ORDERED** that, pursuant to section 503(b) of the Act<sup>157</sup> and section 1.80 of the Commission's rules,<sup>158</sup> PayG, LLC d/b/a Skyswitch is hereby **NOTIFIED** of this **APPARENT LIABILITY FOR A FORFEITURE** in the amount of one hundred fifty-three thousand

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<sup>154</sup> 47 CFR § 1.80(b)(10), Table 1 to Para. (b)(10).

<sup>155</sup> See 47 U.S.C. § 503(b)(2)(E); 47 CFR § 1.80(b)(10), Table 3 to Para. (b)(10).

<sup>156</sup> 47 CFR §§ 1.8002(b)(2), 52.17(b), 52.32(b), 54.711(a) and 64.604(c)(5)(iii)(B); *2020 Annual Worksheet Instructions*, 35 FCC Rcd at 1362. This NAL applies exclusively to the Commission rule violations by PayG described herein and does not address any other potential criminal, civil or administrative liabilities of PayG and its successors, assigns, agents or consultants.

<sup>157</sup> 47 U.S.C. § 503(b).

<sup>158</sup> 47 CFR § 1.80.

dollars (\$153,000) for willful and repeated violations of section 54.711(a) and the willful violation of section 1.8002(b)(2) and of the Commission's rules.<sup>159</sup>

46. **IT IS FURTHER ORDERED** that, pursuant to section 1.80 of the Commission's rules,<sup>160</sup> within thirty (30) calendar days of the release date of this Notice of Apparent Liability for Forfeiture, PayG, LLC d/b/a Skyswitch **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 49 below.

47. PayG, LLC d/b/a Skyswitch] shall send electronic notification of payment to Pam Slipakoff, Enforcement Bureau, Federal Communications Commission, at [Jeffrey.Gee@fcc.gov](mailto:Jeffrey.Gee@fcc.gov), [Kalun.Lee@fcc.gov](mailto:Kalun.Lee@fcc.gov), [Rizwan.Chowdhry@fcc.gov](mailto:Rizwan.Chowdhry@fcc.gov), [David.Janas@fcc.gov](mailto:David.Janas@fcc.gov), [Pam.Slipakoff@fcc.gov](mailto:Pam.Slipakoff@fcc.gov), and [EnforcementBureauIHD@fcc.gov](mailto:EnforcementBureauIHD@fcc.gov) on the date said payment is made. Payment of the forfeiture must be made by credit card using the Commission's Registration System (CORES) at <https://apps.fcc.gov/cores/userLogin.do>, ACH (Automated Clearing House) debit from a bank account, or by wire transfer from a bank account. The Commission no longer accepts Civil Penalty payments by check or money order. Below are instructions that payors should follow based on the form of payment selected:<sup>161</sup>

- Payment by wire transfer must be made to ABA Number 021030004, receiving bank TREAS/NYC, and Account Number 27000001. In the OBI field, enter the FRN(s) captioned above and the letters "FORF". In addition, a completed Form 159<sup>162</sup> or printed CORES form<sup>163</sup> must be faxed to the Federal Communications Commission at 202-418-2843 or e-mailed to [RROGWireFaxes@fcc.gov](mailto:RROGWireFaxes@fcc.gov) on the same business day the wire transfer is initiated. Failure to provide all required information in Form 159 or CORES may result in payment not being recognized as having been received. When completing FCC Form 159 or CORES, enter the Account Number in block number 23A (call sign/other ID), enter the letters "FORF" in block number 24A (payment type code), and enter in block number 11 the FRN(s) captioned above (Payor FRN).<sup>164</sup> For additional detail and wire transfer instructions, go to <https://www.fcc.gov/licensing-databases/fees/wire-transfer>.
- Payment by credit card must be made by using CORES at <https://apps.fcc.gov/cores/userLogin.do>. To pay by credit card, log-in using the FCC Username associated to the FRN captioned above. If payment must be split across FRNs, complete this process for each FRN. Next, select "Manage Existing FRNs | FRN Financial | Bills & Fees" from the CORES Menu, then select FRN Financial and the view/make payments option next to the FRN. Select the "Open Bills" tab and find the bill number associated with the NAL Acct. No. The bill number is the NAL Acct. No. with the first two digits excluded (e.g., NAL 1912345678 would be associated with FCC Bill Number 12345678). After selecting the bill for payment, choose the "Pay by Credit Card" option. Please note that there is a \$24,999.99 limit on credit card transactions.

<sup>159</sup> 47 CFR §§ 1.8002(b)(2), 52.17(b), 52.32(b), 54.711(a) and 64.604(c)(5)(iii)(B).

<sup>160</sup> 47 CFR § 1.80.

<sup>161</sup> For questions regarding payment procedures, please contact the Financial Operations Group Help Desk by phone at 1-877-480-3201 (option #1).

<sup>162</sup> FCC Form 159 is accessible at <https://www.fcc.gov/licensing-databases/fees/fcc-remittance-advice-form-159>.

<sup>163</sup> Information completed using the Commission's Registration System (CORES) does not require the submission of an FCC Form 159. CORES is accessible at <https://apps.fcc.gov/cores/userLogin.do>.

<sup>164</sup> Instructions for completing the form may be obtained at <http://www.fcc.gov/Forms/Form159/159.pdf>.

- Payment by ACH must be made by using CORES at <https://apps.fcc.gov/cores/userLogin.do>. To pay by ACH, log in using the FCC Username associated to the FRN captioned above. If payment must be split across FRNs, complete this process for each FRN. Next, select “Manage Existing FRNs | FRN Financial | Bills & Fees” on the CORES Menu, then select FRN Financial and the view/make payments option next to the FRN. Select the “Open Bills” tab and find the bill number associated with the NAL Acct. No. The bill number is the NAL Acct. No. with the first two digits excluded (e.g., NAL 1912345678 would be associated with FCC Bill Number 12345678). Finally, choose the “Pay from Bank Account” option. Please contact the appropriate financial institution to confirm the correct Routing Number and the correct account number from which payment will be made and verify with that financial institution that the designated account has authorization to accept ACH transactions.

48. Any request for making full payment over time under an installment plan should be sent to: Chief Financial Officer—Financial Operations, Federal Communications Commission, 45 L Street, NE, Washington, D.C. 20554.<sup>165</sup> Questions regarding payment procedures should be directed to the Financial Operations Group Help Desk by phone, 1-877-480-3201, or by e-mail, [ARINQUIRIES@fcc.gov](mailto:ARINQUIRIES@fcc.gov).

49. 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 Commission’s rules.<sup>166</sup> The written statement must be mailed to the Office of the Secretary, Federal Communications Commission, 45 L Street, NE, Washington, D.C. 20554, ATTN: Enforcement Bureau – Investigation and Hearing Division, and must include the NAL/Account Number referenced in the caption. The statement must also be e-mailed to [Jeffrey.Gee@fcc.gov](mailto:Jeffrey.Gee@fcc.gov), [Kalun.Lee@fcc.gov](mailto:Kalun.Lee@fcc.gov), [Rizwan.Chowdhry@fcc.gov](mailto:Rizwan.Chowdhry@fcc.gov), [David.Janas@fcc.gov](mailto:David.Janas@fcc.gov), [Pam.Slipakoff@fcc.gov](mailto:Pam.Slipakoff@fcc.gov), and [EnforcementBureauHD@fcc.gov](mailto:EnforcementBureauHD@fcc.gov).

50. The Commission will not consider reducing or canceling a forfeiture in response to a claim of inability to pay unless the petitioner submits the following documentation: (1) federal tax returns for the past three years; (2) financial statements for the past three years prepared according to generally accepted accounting practices; or (3) some other reliable and objective documentation that accurately reflects the petitioner’s current financial status.<sup>167</sup> Any claim of inability to pay must specifically identify the basis for the claim by reference to the financial documentation. Inability to pay, however, is only one of several factors that the Commission will consider in determining the appropriate forfeiture, and we retain the discretion to decline reducing or canceling the forfeiture if other prongs of 47 U.S.C. § 503(b)(2)(E) support that result.<sup>168</sup>

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<sup>165</sup> See 47 CFR § 1.1914.

<sup>166</sup> 47 CFR §§ 1.16, 1.80(f)(3).

<sup>167</sup> 47 U.S.C. § 503(b)(2)(E).

<sup>168</sup> See, e.g., *Ocean Adrian Hinson, Surry County, North Carolina*, Forfeiture Order, 34 FCC Rcd 7619, 7621, para. 9 & n.21 (2019); *Yearl Pennington and Michael Williamson*, Forfeiture Order, 34 FCC Rcd 770, paras. 18–21 (2019); *Fabrice Polynice, Harold Sido and Veronise Sido, North Miami, Florida*, Forfeiture Order, 33 FCC Rcd 6852, 6860–62, paras. 21–25 (2018); *Adrian Abramovich, Marketing Strategy Leaders, Inc., and Marketing Leaders, Inc.*, Forfeiture Order, 33 FCC Rcd 4663, 4678-79, paras. 44-45 (2018); *Purple Communications, Inc.*, Forfeiture Order, 30 FCC Rcd 14892, 14903-904, paras. 32-33 (2015); *TV Max, Inc., et al.*, Forfeiture Order, 29 FCC Rcd 8648, 8661, para. 25 (2014).

51. **IT IS FURTHER ORDERED** that a copy of this Notice of Apparent Liability for Forfeiture shall be sent by first class mail and certified mail, return receipt requested, to Geoff Bloss, Chief Executive Officer, PayG, LLC d/b/a Skyswitch, 295 Madison Avenue, 5<sup>th</sup> Floor, New York, NY 10017, and to Marc Korman, Esq., Sidley Austin LLP, 1501 K Street, NW, Washington, D.C. 20005.

FEDERAL COMMUNICATIONS COMMISSION

Marlene H. Dortch  
Secretary