

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

In the Matter of
Enhanced Communications Group, LLC
File No.: EB-IHD-22-00033161
NAL/Acct. No.: 202332080032
FRN: 0005076914

NOTICE OF APPARENT LIABILITY FOR FORFEITURE

Adopted: July 13, 2023

Released: July 14, 2023

By the Commission:

TABLE OF CONTENTS

Table with 2 columns: Heading and Paragraph #. Includes sections I through VI with sub-sections and page numbers.

## I. INTRODUCTION

1. We propose in this Notice of Apparent Liability for Forfeiture (NAL) a forfeiture penalty of \$1,000,000 against Enhanced Communications Group, LLC (Enhanced or Company) for its failure to cooperate with Telecommunications Reporting Worksheets (Worksheets) documentation requirements, as well as its failure to file accurate Worksheets in apparent violation of sections 251(e)(2) and 254(d) of the Communications Act of 1934, as amended (Act), and sections 1.1154, 52.17, 52.32, 54.706, 54.711, and 64.604 of the Commission's rules,<sup>1</sup> and Commission orders issued pursuant to section 254(d) of the Act.<sup>2</sup>

2. The Federal Communications Commission (FCC or Commission) has directed the Universal Service Administrative Company (USAC) to administer the collection and disbursement of the Universal Service Fund (USF). USAC relies on the accuracy of information in Worksheets, filed by telecommunications service providers and certain telecommunications providers (collectively, service providers), to determine the service providers' USF contribution obligations. The Commission also relies on accurate Worksheets to ensure service providers are fully assessed for the Telecommunications Relay Service (TRS) Fund, Local Number Portability (LNP), North American Numbering Plan (NANP), and federal regulatory fee contribution requirements. To ensure that the information submitted in Worksheets is complete and accurate, the Commission's rules: (a) grant USAC the authority to audit service providers that file Worksheets and to verify information submitted in Worksheets; (b) require service providers to maintain documentation supporting the data reported in Worksheets; and (c) require service providers to submit the supporting documentation to USAC and the Commission upon demand.

3. The failure to maintain and submit the required documentation requested by USAC to verify and audit the accuracy of information reported in Worksheets undermines the Commission's efforts to maintain the USF, TRS Fund, LNP, NANP, and federal regulatory fee payment requirements that the FCC has implemented under the Act. In this case, Enhanced failed to cooperate with a USAC audit, and failed repeatedly to respond to directives from USAC to provide documentation supporting information reported in the Company's Annual Worksheets for 2017 through 2022. Moreover, the Company repeatedly filed inaccurate Annual Worksheets for 2017 through 2022. We therefore find them apparently liable for a forfeiture penalty of \$1,000,000.

## II. BACKGROUND

### A. Legal Background

#### 1. FCC Requirements to File Accurate Worksheets When Due

4. The Act codifies Congress's long-standing 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>3</sup> In implementing this Congressional mandate, the Commission directed all telecommunications carriers providing interstate telecommunications services to contribute to the USF based on their interstate and international end-user telecommunications revenues.<sup>4</sup> The Commission also requires certain providers of interstate telecommunications to contribute to the USF.<sup>5</sup>

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<sup>1</sup> 47 U.S.C. §§ 251(e)(2), 254(d); 47 CFR §§ 1.1154, 52.17, 52.32, 54.706, 54.711, 64.604.

<sup>2</sup> See, e.g., *Wireline Competition Bureau Releases the 2022 Telecommunications Reporting Worksheets and Accompanying Instructions*, Public Notice, 36 FCC Rcd 14176 (WCB 2021) (*2022 Annual Worksheet Instructions*).

<sup>3</sup> 47 U.S.C. § 254(d).

<sup>4</sup> 47 CFR § 54.706(b).

5. The Commission has established specific procedures to administer the USF. Each service provider, with certain exceptions, is required to contribute to the USF, file annually an FCC Form 499-A, also known as the Annual Worksheet,<sup>6</sup> and file quarterly an FCC Form 499-Q, also known as the Quarterly Worksheet.<sup>7</sup> USAC, as the Commission's administrator of the USF, uses the revenue projections submitted in the Quarterly Worksheets to determine and invoice each service provider's monthly universal service contribution amount.<sup>8</sup> Monthly USF contributions that were invoiced based on projected revenues reported in a service provider's Quarterly Worksheets are then subject to an annual true-up based on actual revenues reported in the service provider's Annual Worksheet.<sup>9</sup> Each service provider's Annual Worksheet for 2016 through 2021 revenues were respectively due by April 1 of 2017 through 2022.<sup>10</sup> The Commission's rules require that service providers report accurate information in the Annual Worksheets.<sup>11</sup> The Commission's rules also explicitly warn service providers that the failure to

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<sup>5</sup> *Id.* § 54.706(a) (“Entities that provide interstate telecommunications to the public, or to such classes of users as to be effectively available to the public, for a fee will be considered telecommunications carriers providing interstate telecommunications services and must contribute to the universal service support mechanisms.”). Enhanced is a reseller of interstate and international telecommunications service. See boom! Mobile, Enhanced Communications Group (ECG) (Apr. 7, 2015), <https://boom.us/pages/enhanced-communications-group-ecg> (Enhanced is a “provider of telecommunications services [including] mobile communications services for voice and internet, . . . traditional local & long distance phone service, voice over internet systems, wireless voice and internet products and services . . .”); Universal Service Administrative Company, <https://efile.universalservice.org/EFileContributor/CompanyForms/SearchCompanyForms?fileId=821178> (stating in Annual Worksheets that Enhanced provides “Toll Reseller” and “Cellular/PCS/SMR (wireless telephony inc. by resale)” services) (last visited June 23, 2023); *International Authorizations Granted*, Public Notice, 14 FCC Rcd 9992 (IB June 22, 1999) (granting authority to provide international telecommunications service as a facilities-based or resale service provider).

<sup>6</sup> See 47 CFR § 54.711; *Telseven, LLC*, Notice of Apparent Liability for Forfeiture, 27 FCC Rcd 6636, 6637, para. 2 (2012) (*Telseven NAL*), Forfeiture Order, 31 FCC Rcd 1629 (2016) (*Telseven Forfeiture Order*). Within 30 days of beginning to provide service, new service providers must register with the Commission by obtaining an FCC registration number (FRN) from the Commission Registration System (CORES) and obtaining a FCC Form 499 Filer ID Number (FCC Filer ID Number) from USAC's E-File system. E.g., *2022 Annual Worksheet Instructions*, 36 FCC Rcd at 14199.

<sup>7</sup> See 47 CFR § 54.711; *Telseven NAL*, 27 FCC Rcd at 6637, para. 2.

<sup>8</sup> E.g., *2022 Annual Worksheet Instructions*, *supra* note 2, 36 FCC Rcd at 14236.

<sup>9</sup> 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>10</sup> See *2022 Annual Worksheet Instructions*, *supra* note 2, 36 FCC Rcd at 14200; *Wireline Competition Bureau Releases the 2021 Telecommunications Reporting Worksheets and Accompanying Instructions*, Public Notice, 35 FCC Rcd 13671, 13693 (WCB 2020) (*2021 Annual Worksheet Instructions*); *Wireline Competition Bureau Releases the 2020 Telecommunications Reporting Worksheets and Accompanying Instructions*, Public Notice, 35 FCC Rcd 1350, 1373 (*2020 Annual Worksheet Instructions*); *Wireline Competition Bureau Releases the 2019 Telecommunications Reporting Worksheets and Accompanying Instructions*, Public Notice, 34 FCC Rcd 426, 448, (*2019 Annual Worksheet Instructions*); *Wireline Competition Bureau Releases the 2018 Telecommunications Reporting Worksheets and Accompanying Instructions*, Public Notice, 33 FCC Rcd 1801, 1823 (WCB 2018) (*2018 Annual Worksheet Instructions*); *Wireline Competition Bureau Releases the 2017 Telecommunications Reporting Worksheets and Accompanying Instructions*, Public Notice, 32 FCC Rcd 1238, 1261 (WCB 2017) (*2017 Annual Worksheet Instructions*). Quarterly Worksheet filings are due on February 1, May 1, August 1, and November 1 of each year. See, e.g., *2022 Annual Worksheet Instructions*, *supra* note 2, 36 FCC Rcd at 14200.

<sup>11</sup> 47 CFR §§ 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.” E.g., 2022 FCC Form 499-A, Line 606. While the Commission requires revisions to Worksheets when errors are discovered, see *2022 Annual Worksheet Instructions*,

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file timely and accurate Worksheets or submit timely USF payments potentially subjects them to enforcement action.<sup>12</sup>

6. Section 225(b)(1) of the Act, which codifies Title IV of the Americans with Disabilities Act of 1990, directs the Commission to “ensure that interstate and intrastate telecommunications relay services are available, to the extent possible and in the most efficient manner, to hearing-impaired and speech-impaired individuals in the United States.”<sup>13</sup> To that end, the Commission established the TRS Fund to reimburse TRS providers for the costs of providing interstate TRS.<sup>14</sup> The Commission implemented TRS capability rules to enable persons with hearing and speech disabilities to communicate by telephone with voice-telephone users.<sup>15</sup> Such services provide telephone access to a significant number of Americans who without it might not be able to make calls to or receive calls from voice-telephone users.<sup>16</sup> Pursuant to section 64.604(c)(5)(iii)(A) of the Commission’s rules, certain service providers<sup>17</sup> must contribute to the TRS Fund based on their interstate end-user revenues.<sup>18</sup> Under the Commission’s rules, the TRS Fund administrator, Rolka Loube Associates, LLC (Rolka Loube), uses Annual Worksheet filings to determine each service provider’s annual or monthly TRS Fund contribution amounts.<sup>19</sup>

7. Section 251(e)(1) of the Act directs the Commission to oversee the administration of telecommunications numbering to ensure the availability of telephone numbers on an equitable basis.<sup>20</sup> Section 251(e)(2) of the Act requires that “[t]he cost of establishing telecommunications numbering administration arrangements and numbering portability shall be borne by all telecommunications carriers on a competitively neutral basis as determined by the Commission.”<sup>21</sup> In carrying out these statutory

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*supra* note 2, 36 FCC Rcd at 14200-14201, the requirement 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* 2022 FCC Form 499-A, Line 606.

<sup>12</sup> 47 CFR § 54.713.

<sup>13</sup> 47 U.S.C. § 225(b)(1).

<sup>14</sup> *See Telecommunications Relay Servs. & the Ams. with Disabilities Act of 1990*, Third Report and Order, 8 FCC Rcd 5300, 5301, para. 7 (1993).

<sup>15</sup> *See Telecommunications Relay Servs. and Speech-to-Speech Servs. for Individuals with Hearing and Speech Disabilities*, Report and Order, 15 FCC Rcd 5140, 5143, para. 5 (2000).

<sup>16</sup> *Id.*

<sup>17</sup> Every carrier providing interstate or intrastate telecommunications services (including interconnected VoIP service providers pursuant to 47 CFR § 64.601(b)) and every provider of non-interconnected VoIP service must contribute to the TRS Fund. 47 CFR § 64.604(c)(5)(iii)(A).

<sup>18</sup> *Id.* Under the Commission’s rules, service providers must contribute at least \$25 per year, and service providers whose annual contributions are less than \$1,200 must pay the entire amount at the beginning of the contribution period. Otherwise, if their account is in good standing, service providers are permitted to divide their contributions into 12 equal monthly payments. *See id.* § 64.604(c)(5)(iii)(B).

<sup>19</sup> *Id.* Rolka Loube replaced the National Exchange Carrier Association as the TRS Fund administrator effective July 1, 2011. *See Interstate Telecommuns. Relay Serv. (TRS) Fund Adm’r Transition*, Public Notice, 26 FCC Rcd 8436 (2011).

<sup>20</sup> 47 U.S.C. § 251(e)(1).

<sup>21</sup> *Id.* § 251(e)(2). “Number Portability” means “the ability of users of telecommunications services to retain, at the same location, existing telecommunications numbers without impairment of quality, reliability, or convenience when switching from one telecommunications carrier to another.” *Id.* § 153(37). The inability of customers to retain their telephone numbers when changing local service providers would hamper the development of local competition. *Telephone Number Portability*, Third Report and Order, 13 FCC Rcd 11701, 11702, para. 3 (1998),

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directives, the Commission adopted sections 52.17 and 52.32 of the Commission's rules,<sup>22</sup> which require service providers<sup>23</sup> to contribute to the costs of numbering administration and LNP on the basis of their end-user telecommunications revenues.<sup>24</sup> The NANP administrator's billing and collection agent, Welch LLP (Welch),<sup>25</sup> and the LNP administrator, iconectiv, LLC (iconectiv),<sup>26</sup> use Annual Worksheet filings to determine service providers' required payments for covering, respectively, the costs of NANP and LNP administration.<sup>27</sup>

8. The Act directs the Commission to “assess and collect regulatory fees to recover the costs of carrying out” the functions of the Commission,<sup>28</sup> including “enforcement activities, policy and rulemaking activities, user information services, and international activities.”<sup>29</sup> Consistent with this directive, the Commission has implemented rules for annual regulatory fees for entities regulated by the Commission.<sup>30</sup> Service providers<sup>31</sup> must pay federal regulatory fees annually based on interstate and international end-user revenues as reported in Annual Worksheets.<sup>32</sup>

## 2. USAC Authority to Audit Service Providers that File Worksheets

9. Because USAC, Rolka Loube, iconectiv, Welch, and the Commission rely on Worksheets to determine respective payment requirements for administration of the USF, TRS Fund, LNP, NANP,

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*aff'd*, Memorandum Opinion and Order on Reconsideration and Order on Application for Review, 17 FCC Rcd 2578 (2002).

<sup>22</sup> 47 CFR §§ 52.17, 52.32.

<sup>23</sup> All telecommunications carriers and interconnected VoIP providers in the United States shall contribute to meet the costs of establishing numbering administration and LNP. *See id.* §§ 52.17, 52.32.

<sup>24</sup> *See id.* § 52.17(a) (“Contributions to support numbering administration shall be the product of the contributors’ end-user telecommunications revenues for the prior calendar year and a contribution factor determined annually [with] such contributions to be no less than twenty-five dollars (\$25).”); *id.* § 52.32(a) (service providers that have no intrastate, interstate, or international end-user telecommunications revenues derived from providing telecommunications service in areas a regional database serves must pay \$100 contributions for LNP, and if service providers derive intrastate, interstate, or international end-user telecommunications revenues in areas a regional database serves, the service providers must pay a charge that recovers the remaining shared costs of long-term number portability attributable to each service provider on a proportional basis.)

<sup>25</sup> In 2004, the Commission selected Welch & Company, LLP as the billing and collection agent for the NANP. New Release, Fed. Comm’n Comm’n, Federal Communications Commission Selects Welch & Co., LLP as the Next North American Numbering Plan Billing & Collection Agent (WCB Apr. 12, 2004), <https://www.fcc.gov/document/federal-communications-commission-selects-welch-company-llp-next>. In 2007, the billing and collection agent changed its name to Welch LLP. *See* Welch LLP, <https://welchllp.com> (last visited June 23, 2023); Ottawa Business Journal, *Welch LLP celebrates 100th anniversary in Ottawa* (Feb. 8, 2018), <https://obj.ca/welch-llp-celebrates-100th-anniversary-in-ottawa>.

<sup>26</sup> *See Telcordia Techs., Inc. Petition to Reform Amendment 57 & to Order a Competitive Bidding Process for No. Portability Admin.*, Order, 31 FCC Rcd 8406 (2016) (approving the recommendation of the North American Numbering Council (NANC) that iconectiv serve as the LNP administrator).

<sup>27</sup> 47 CFR §§ 52.17(b), 52.32(b).

<sup>28</sup> 47 U.S.C. § 159(a); *see also id.* § 156(a).

<sup>29</sup> *2022 Annual Worksheet Instructions*, *supra* note 2, 36 FCC Rcd at 14192.

<sup>30</sup> *See* 47 CFR §§ 1.1152–1.1156, 1.1157(b).

<sup>31</sup> *See* Federal Communications Commission, *Regulatory Fees*, <https://www.fcc.gov/licensing-databases/fees/regulatory-fees> (identifying Commission licensees and other regulated entities that must pay federal regulatory fees) (last visited June 23, 2023).

<sup>32</sup> *See* 47 CFR § 1.1154.

and federal regulatory fees, the accuracy and timeliness of Worksheet filings are vital. The Commission's rules therefore grant USAC authority to audit any service provider reporting data to USAC in the Worksheets.<sup>33</sup> To enable USAC to conduct audits, the Commission's rules require service providers to retain, for at least five years from the date of USF contributions, all records required to demonstrate to an auditor that the USF contributions made were in compliance with the Commission's universal service rules, including, without limitation, financial statements and supporting documentation; accounting records; historical customer records; general ledgers; and any other relevant documentation.<sup>34</sup> USAC's audit authority furthers the objective to ensure that service providers "contribute, on an equitable and nondiscriminatory basis" to the Commission's universal service support mechanisms.<sup>35</sup>

### 3. FCC Requirements to Maintain Documentation Supporting Worksheets and to Provide Documentation to USAC or the FCC Upon Request

10. Because the Commission, through USAC, must be able to verify that each service provider is fully compliant with the Commission's Worksheet reporting requirements, the Commission's rules also establish the ability of USAC and the FCC to review documents that support the accuracy of information reported in Worksheets.<sup>36</sup> In order to further the goals of truthfulness and accuracy, section 54.711(a) of the Commission's rules provides that USAC has the authority to verify any information contained in Annual and Quarterly Worksheets.<sup>37</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>38</sup>

11. When a service provider underreports its revenues in its Worksheets, and then exacerbates the problem by not complying with USAC's attempts to verify the reported revenues through supporting documentation, the service provider could prevent administrators from fully invoicing the service provider for its USF, TRS Fund, LNP, NANP, and federal regulatory fee payment obligations.<sup>39</sup> A service provider's failure to comply with the Worksheet reporting and documentation 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>40</sup> The effects on the administration of the TRS Fund, LNP, NANP and on the Commission's assessment of federal regulatory fees are similar. Indeed, a service provider that impedes the Commission and USAC from verifying the revenue information submitted in Worksheets can evade its federal obligations to contribute fully toward the vital programs linked to the reporting rules.<sup>41</sup> As a consequence

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<sup>33</sup> See *id.* § 54.707.

<sup>34</sup> See *id.* § 54.706(e).

<sup>35</sup> See 47 U.S.C. § 254(d).

<sup>36</sup> See 47 CFR § 54.711(a).

<sup>37</sup> See *id.*

<sup>38</sup> See *id.*

<sup>39</sup> See *id.* § 54.711(a); *Telseven NAL*, *supra* note 6, 27 FCC Rcd at 6643-44, 6646-48, paras. 15, 23-25, *Telseven Forfeiture Order*, *supra* note 6, 31 FCC Rcd at 1636, para. 20; *Telrite Corp.*, Notice of Apparent Liability for Forfeiture and Order, 23 FCC Rcd 7231, 7241-42, para. 24 (2008), *consent decree adopted*, Order, 27 FCC Rcd 4110 (2012).

<sup>40</sup> 47 U.S.C. § 254(d).

<sup>41</sup> See, e.g., *Telseven NAL*, *supra* note 6, 27 FCC Rcd at 6638-39, para. 6; *Globalcom, Inc.*, Notice of Apparent Liability for Forfeiture, 25 FCC Rcd 3479, 3484, para. 12 (2010) (*Globalcom NAL*), *consent decree adopted*, Order, 29 FCC Rcd 2593 (2014); *Local Phone Services, Inc.*, Notice of Apparent Liability for Forfeiture, 21 FCC Rcd 9974, 9977-78, para. 9 (2006) (*LPSI NAL*), *forfeiture issued*, Order of Forfeiture, 23 FCC Rcd 8952 (2008).

of this evasion, other service providers carry an unfair burden of funding the USF and the other federal regulatory requirements arising under the Act.<sup>42</sup> Delinquent service providers obtain an unfair competitive advantage over service providers that comply with the reporting provisions, and fully pay USF, TRS Fund, LNP, NANP, and federal regulatory fee assessments on time, as required under the Commission's rules.<sup>43</sup>

## B. Factual Background

12. Enhanced is a limited liability corporation that was organized in the State of Oklahoma on February 6, 1998.<sup>44</sup> The Company is a reseller of interstate and international telecommunications services.<sup>45</sup> Enhanced provides “mobile communications services for voice and data, internet surfing services, traditional 1+ long distance services, web, cloud and data-based services.”<sup>46</sup> The Company is headquartered in Bartlesville, Oklahoma,<sup>47</sup> and began providing interstate telecommunications services to end users in February of 1998.<sup>48</sup>

13. Between March 29, 2017, and August 24, 2022, USAC repeatedly tried to verify the accuracy of data reported in Enhanced's Annual Worksheet filings for 2017 through 2022; and, in particular, substantial decreases in certain interstate, international and total revenues; revenues from alleged reseller customers; non-telecommunications revenues; and revenues collected from customers to recover the Company's USF contributions.<sup>49</sup> As detailed more fully below, the Company, however, repeatedly failed to respond or submitted non-responsive documents, unsubstantiated claims, or late responses, thereby repeatedly preventing USAC from verifying the accuracy of the Annual Worksheet filings over the course of the nearly five-and-a-half year period.<sup>50</sup> Enhanced did not provide USAC the documentation needed to complete the verification process for the Annual Worksheets for 2017 through 2022 until October 20, 2022.<sup>51</sup>

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<sup>42</sup> See *Telseven NAL*, *supra* note 6, 27 FCC Rcd at 6638-39, para. 6; *Globalcom NAL*, 25 FCC Rcd at 3484, para. 12; *LPSI NAL*, 21 FCC Rcd at 9977-78, para. 9.

<sup>43</sup> See *Telseven NAL*, *supra* note 6, 27 FCC Rcd at 6638-39, para. 6; *Globalcom NAL*, 25 FCC Rcd at 3484, para. 12; *LPSI NAL*, 21 FCC Rcd at 9977-78, para. 9.

<sup>44</sup> Revised Response to Letter of Inquiry, from Leon Nowalsky, Nowalsky & Gothard, Counsel to Enhanced Communications Group, LLC, to Jeffrey J. Gee, Chief, Investigations & Hearings Division, FCC Enforcement Bureau, at 1, Response to Question 1 (May 31, 2022) (on file in EB-IHD-22-00033161) (Revised LOI Response).

<sup>45</sup> See Universal Service Administrative Company, <https://efile.universalservice.org/EFileContributor/CompanyForms/SearchCompanyForms?filerId=821178> (stating in Annual Worksheets that Enhanced provides “Toll Reseller” and “Cellular/PCS/SMR (wireless telephony inc. by resale)” services) (last visited June 23, 2023); *International Authorizations Granted*, Public Notice, 14 FCC Rcd 9992 (IB June 22, 1999); see also 47 CFR § 54.706(a) (identifying resale of interstate service, personal communications services (PCS), and cellular telephone, paging, mobile radio services as telecommunications).

<sup>46</sup> Revised LOI Response at 6, Response to Question 13 (“In addition, ECG sells and leases eBikes, eMotorcycles and eChoppers”).

<sup>47</sup> *Id.* at 1, Response to Question 3.

<sup>48</sup> *Id.* at 6, Response to Question 14.

<sup>49</sup> Letter from Fred Theobald, Director of Contributor Operations, Universal Service Administrative Company, to David Janas, Special Counsel, Investigations & Hearings Division, FCC Enforcement Bureau (Apr. 12, 2023) (on file in EB-IHD-22-00033161) (April 2023 USAC Letter).

<sup>50</sup> *Id.* at 1.

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

### 1. Failures to Provide Documentation Supporting the 2017 Annual Worksheet

14. On March 27, 2017, Enhanced filed its 2017 Annual Worksheet.<sup>52</sup> On March 29, 2017, USAC requested documentation that supported a large decrease in the Company's reported percentage of interstate and international long distance revenue on Line 414.1 of the Worksheet.<sup>53</sup> The response deadline was April 5, 2017, but the Company failed to respond by the deadline.<sup>54</sup> This was its *first* failure to comply with a response deadline between March 29, 2017, and August 24, 2022. On May 1, 2017, USAC again requested the supporting documentation.<sup>55</sup> On May 21, 2017, the Company did not provide supporting documentation and claimed, "actual traffic was significantly less in interstate revenues. The new customers added to the company's revenue stream in 2016 made significantly more intrastate calls. The existing customer base minutes of use demand was much more intrastate based."<sup>56</sup> To attempt to verify the validity of the Company's claim and the accuracy of the 2017 Annual Worksheet, USAC, on May 25, 2017, requested the total, interstate, and international revenue breakdowns to support the revenues reported on Line 414.1 of the 2017 Annual Worksheet.<sup>57</sup>

15. Enhanced did not provide the supporting documentation. Instead, on September 6, 2017, Enhanced filed a revision to its 2017 Annual Worksheet.<sup>58</sup> On October 16 and 20, 2017, USAC again requested documentation supporting interstate and international revenues reported on Line 414.1 of the revised Worksheet.<sup>59</sup> The response deadline was October 23, 2017, but the Company failed to respond by the deadline, its *second* failure to comply with a response deadline between March 29, 2017, and August 24, 2022.<sup>60</sup> On September 30, 2019, and February 7 and March 10, 2020, USAC informed the Company that it had still not responded to USAC's documentation requests concerning the 2017 Annual Worksheet.<sup>61</sup> On December 23, 2020, Enhanced filed another revision to its 2017 Annual Worksheet, and again, USAC requested documentation that supported the revised filing.<sup>62</sup> The Company did not submit the supporting documentation.<sup>63</sup> On April 12, 2021, USAC informed the Company that it was not in compliance with the Commission's reporting and documentation requirements with regard to the revised 2017 Annual Worksheet.<sup>64</sup>

### 2. Failures to Provide Documentation Supporting the 2018 Annual Worksheet

16. Enhanced filed its 2018 Annual Worksheet on March 28, 2018.<sup>65</sup> On October 11, 2018, USAC requested documentation to support revenues reported on Line 309 of the 2018 Annual Worksheet.

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

<sup>53</sup> *Id.*

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

<sup>55</sup> *Id.*

<sup>56</sup> *Id.*

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

<sup>58</sup> *Id.*

<sup>59</sup> *Id.* at 1-2. USAC observed that in the revised 2017 Annual Worksheet, Enhanced shifted revenues from Line 414.1 to Block 3 of the Worksheet (which are not subject to USF assessments), and the Company reported the same amounts of interstate and international revenues that it reported in the original March 27, 2017 filing. *Id.* at 2 n.1.

<sup>60</sup> *Id.* at 2.

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

<sup>62</sup> *Id.*

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

<sup>64</sup> *Id.*

<sup>65</sup> *Id.*



In particular, USAC requested documentation identifying Enhanced’s reseller customers, the reseller customers’ FCC Filer ID Numbers, and amounts that the Company billed the reseller customers in 2017.<sup>66</sup> The response deadline was October 18, 2018, but the Company failed to respond by the deadline.<sup>67</sup> This was its *third* failure to comply with a response deadline between March 29, 2017, and August 24, 2022.

17. Enhanced filed a revision to its 2018 Annual Worksheet on December 23, 2020.<sup>68</sup> On the same day, USAC requested documentation to support the revised filing, including the documentation USAC requested on October 11, 2018.<sup>69</sup> When the Company did not respond, USAC requested the documentation again on January 13, 2021, and provided Enhanced with a response deadline of January 27, 2021.<sup>70</sup> The company did not respond by this deadline, its *fourth* failure to comply with a response deadline between March 29, 2017, and August 24, 2022.<sup>71</sup> USAC again requested the documentation on February 9, March 19, and April 12, 2021.<sup>72</sup> On June 2, 2021, USAC informed Enhanced that because the Company did not comply with the documentation requirements, USAC rejected the Company’s December 23, 2020 revision to the 2018 Annual Worksheet filing.<sup>73</sup> USAC instructed Enhanced to file a corrected 2018 Annual Worksheet by July 2, 2021.<sup>74</sup> USAC also directed Enhanced to provide by July 2, 2021, documentation supporting revenues reported in the 2018 Annual Worksheet revision. USAC informed the Company that if it failed to file the revisions, USAC would make the revisions to the 2018 Annual Worksheet.<sup>75</sup> This would enable USAC to issue invoices to the Company for USF contributions, even though the Company was not complying with the reporting and documentation requirements.<sup>76</sup> Enhanced failed to file a corrected 2018 Annual Worksheet, and provide supporting documentation, by July 2, 2021, the Company’s *fifth* failure to comply with a response deadline between March 29, 2017, and August 24, 2022.<sup>77</sup> On July 8, 2021, USAC made the revisions to the 2018 Annual Worksheet to enable USAC to issue USF invoices.<sup>78</sup>

### 3. Failures to Provide Documentation Supporting the 2019 Annual Worksheet

18. On April 4, 2019, Enhanced filed its 2019 Annual Worksheet.<sup>79</sup> On September 30, 2019,

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<sup>66</sup> *Id.*

<sup>67</sup> *Id.*

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

<sup>69</sup> *Id.*

<sup>70</sup> *Id.*

<sup>71</sup> *Id.*

<sup>72</sup> *Id.*

<sup>73</sup> *Id.* at 2 n.2. Under the Commission’s rules, USAC has the authority to verify the accuracy of any information reported by service providers in Worksheets and this authority necessarily includes the discretion to reject Worksheets containing incomplete or inaccurate information. *See, e.g.*, 47 CFR §§ 54.706(e), 54.711(a); *Federal-State Joint Board on Universal Service*, Order, 22 FCC Rcd 4925, 4931, paras. 21-22 (WCB 2001).

<sup>74</sup> April 2023 USAC Letter, *supra* note 49, at 2.

<sup>75</sup> If a service provider fails to file an accurate Worksheet by a filing deadline, USAC “shall bill that [service provider] based on whatever relevant data [USAC] has available, including, but not limited to, the number of lines presubscribed to the [service provider] and data from previous years, taking into consideration any estimated changes in such data.” 47 CFR. § 54.709(d).

<sup>76</sup> April 2023 USAC Letter, *supra* note 49, at 3.

<sup>77</sup> *Id.*

<sup>78</sup> *Id.*

<sup>79</sup> *Id.*

USAC requested the following supporting documentation: (a) a calendar year 2018 General Ledger<sup>80</sup> or another comparable 2018 calendar year financial statement supporting the total gross billed revenues reported on the 2019 Annual Worksheet; (b) the Company's federal income tax return for 2018; (c) documentation showing how revenue items listed on the General Ledger were utilized to report total, interstate and international revenues on Lines 304 to 314 and 404 to 418 of the 2019 Annual Worksheet; and (d) documentation supporting any differences between the revenues reported on the 2019 Annual Worksheet and revenues identified in the financial statements provided by the Company.<sup>81</sup> USAC's response deadline was October 15, 2019, but again, the Company failed to respond by the deadline, its *sixth* failure to comply with a response deadline between March 29, 2017, and August 24, 2022.<sup>82</sup>

19. On December 16, 2019, USAC again requested the supporting documentation and the response deadline was January 16, 2020, but the Company again failed to respond by the deadline, its *seventh* failure to comply with a response deadline between March 29, 2017, and August 24, 2022.<sup>83</sup> On January 28, 2020, USAC again requested the supporting documentation, and on February 12, 2020, the Company provided only the 2018 income statement and 2018 federal income tax return.<sup>84</sup> Enhanced also stated that the items on Line 418.3 on the 2019 Annual Worksheet represented "equipment sales, internet access, and management fees. The tax mapping is that wireless sales are at the FCC safe harbor percentage and traditional long distance toll service is reported at actual jurisdictional traffic results."<sup>85</sup> This unsupported statement did not comply with USAC's directive to provide (a) documentation showing how revenue items listed on the 2018 income statement were utilized to report total, interstate, and international revenues on Lines 304 to 314 and 404 to 418 of the 2019 Annual Worksheet; and (b) documentation supporting any differences between the revenues reported on the 2019 Annual Worksheet and revenues identified in the financial statements provided by the Company.<sup>86</sup> On March 10, 2020, USAC again requested documentation showing how revenue items listed on the Company's 2018 income statement were used to report total, interstate, and international revenues in the 2019 Annual Worksheet, and in particular, USAC requested that the Company identify the Lines on the 2019 Annual Worksheet that Enhanced reported the "MRC," "USAGE," and "Wireless Income" revenue items listed on the income statement.<sup>87</sup> On May 4, 2020, USAC informed the Company that it had still not responded to USAC's requests for documentation supporting the 2019 Annual Worksheet.<sup>88</sup>

20. On October 21, 2020, USAC informed Enhanced that the Company also potentially misreported revenues on Line 403 of its 2019 Annual Worksheet, which is used to report revenues obtained by billing end users to recover USF contributions.<sup>89</sup> In response, Enhanced provided updated

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<sup>80</sup> A general ledger is the master set of accounts that summarize all transactions and is used to aggregate information into the financial statements of a business. AccountingTools, *General ledger definition* (Nov. 15, 2022), <https://www.accountingtools.com/articles/general-ledger>.

<sup>81</sup> April 2023 USAC Letter, *supra* note 49, at 3.

<sup>82</sup> *Id.*

<sup>83</sup> *Id.*

<sup>84</sup> *Id.*

<sup>85</sup> *Id.* Enhanced's February 12, 2020 statement was not clear, but Enhanced presumably used the term, "tax mapping" in an alleged attempt to answer USAC's request to provide documentation showing how the Company utilized revenue data in the Company's documentation to report revenues on specific Lines of the Annual Worksheet.

<sup>86</sup> *Id.* at 3-4.

<sup>87</sup> USAC also requested that Enhanced provide documentation identifying the specific services that were included in the "MRC," "USAGE," and "Wireless Income" revenue items listed on the income statement. *Id.* at 4.

<sup>88</sup> *Id.*

<sup>89</sup> *Id.*

USF recovery revenues to USAC on December 22, 2020, and filed a revision to its 2019 Annual Worksheet on December 23, 2020.<sup>90</sup> On December 23, 2020, USAC requested the following documentation to support the revised 2019 Annual Worksheet: (a) the Company's General Ledger for the calendar year 2018; (b) documentation showing the Lines of the 2019 Annual Worksheet that were used to report the revenue items listed on the General Ledger; (c) any documentation other than the General Ledger that the Company used to determine interstate and international revenues reported on the revised 2019 Annual Worksheet; and (d) invoices from Enhanced's five largest paying customers for January, April, July, and October 2018.<sup>91</sup> USAC requested this documentation again on January 13, 2021, and provided Enhanced with a response deadline of January 27, 2021.<sup>92</sup> The Company again did not respond by the deadline.<sup>93</sup> This was its *eighth* failure to comply with a response deadline between March 29, 2017, and August 24, 2022.<sup>94</sup> USAC requested the documentation again on February 9, March 19, and April 12, 2021.<sup>95</sup>

21. On June 2, 2021, USAC informed Enhanced that because the Company did not comply with the documentation requirements, USAC rejected the Company's December 23, 2020 revision to the 2019 Annual Worksheet filing.<sup>96</sup> USAC instructed Enhanced to file a revised 2019 Annual Worksheet, and provide documentation supporting the revised filing, by July 2, 2021.<sup>97</sup> USAC again informed the Company that if it failed to file the revised Worksheet, USAC would make the revisions.<sup>98</sup> Enhanced failed to file the revision to its 2019 Annual Worksheet, and provide supporting documentation, by July 2, 2021, the Company's *ninth* failure to comply with a response deadline between March 29, 2017, and August 24, 2022.<sup>99</sup> On July 8, 2021, USAC made the revisions in order to issue USF invoices.<sup>100</sup>

#### 4. Failures to Cooperate with USAC Audit Concerning the 2020 Annual Worksheet

22. On March 31, 2020, Enhanced filed its 2020 Annual Worksheet.<sup>101</sup> On April 16, 2021, USAC informed Enhanced that it was auditing the accuracy and completeness of the Company's 2020 Annual Worksheet and the accuracy of federal USF recovery surcharges on its customer invoices for 2019.<sup>102</sup> USAC provided the Company with audit documents that included a document request with a response deadline of April 30, 2021.<sup>103</sup> USAC provided the audit documents through Box, a secure file

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

<sup>91</sup> *Id.*

<sup>92</sup> *Id.*

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

<sup>94</sup> *Id.*

<sup>95</sup> *Id.*

<sup>96</sup> *Id.*

<sup>97</sup> *Id.*

<sup>98</sup> *Id.*

<sup>99</sup> *Id.*

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

<sup>101</sup> *Id.*

<sup>102</sup> *Id.* at 4-5. See 47 CFR § 54.706(e) (service providers must 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"); *id.* § 54.707 (establishing USAC authority to conduct audits).

<sup>103</sup> April 2023 USAC Letter, *supra* note 49, at 5.

sharing platform, and requested that Enhanced confirm receipt of the audit documents.<sup>104</sup> When no confirmation was provided by the Company, USAC again requested confirmation on April 21, 2021, and again received no response.<sup>105</sup> On April 26, 2021, USAC contacted Enhanced’s consultant, which the Company had designated as its primary point of contact, to request confirmation a third time.<sup>106</sup> The Company’s consultant informed USAC that he refused to use USAC’s secure file sharing system and that USAC must e-mail him the audit documents.<sup>107</sup> Enhanced’s consultant claimed he refused to access the file-sharing platform because it involved using “an unsecured link to an unknown site.”<sup>108</sup> On April 28, 2021, USAC informed the Company that USAC’s data security policies prohibit USAC from sending confidential documents through an unsecured e-mail, and “Box is a well-established secure document exchange platform that is a FEDRAMP certified solution.”<sup>109</sup> On April 30, 2021, the deadline for the Company to respond to the Initial Document Request expired. This was its *tenth* failure to comply with a deadline to provide supporting documentation between March 29, 2017, and August 24, 2022.

23. On May 5, 2021, Enhanced’s consultant again refused to utilize the file-sharing platform and requested USAC send him the audit documents by certified mail, which as USAC observed, would have further delayed the audit.<sup>110</sup> The Company also requested a new deadline to respond to the Initial Document Request.<sup>111</sup> On May 12, 2021, Enhanced finally agreed to have another Company representative access the audit documents through the file-sharing platform.<sup>112</sup> On the same day, USAC gave the Company a deadline of May 27, 2021, to respond to the Initial Document Request and informed the Company that given the audit delays already experienced it could not provide a further deadline extension.<sup>113</sup> Enhanced did not submit responses to the Initial Document Request by May 27, 2021, its *eleventh* failure to comply with a response deadline between March 29, 2017, and August 24, 2022.<sup>114</sup> On June 2, 2021, USAC informed the Company that given its failures to cooperate with the audit, USAC was terminating the audit and referring the matter to the FCC’s Enforcement Bureau (Bureau).<sup>115</sup>

### 5. Further Failure to Provide Documentation Supporting the 2020 Annual Worksheet

24. On March 21, 2022, USAC informed Enhanced that it rejected the Worksheet filing due to the Company’s failure during the audit process to provide documentation supporting its wholesale and non-telecommunications revenues reported in the 2020 Annual Worksheet.<sup>116</sup> USAC directed the Company to file a revised 2020 Annual Worksheet, with an April 20, 2022 deadline, and provide

<sup>104</sup> *Id.* Box is a secure file-sharing platform that the Commission also utilizes for investigations conducted by the Bureau. See Box, <https://www.box.com> (last visited June 23, 2023).

<sup>105</sup> April 2023 USAC Letter, *supra* note 49, at 5.

<sup>106</sup> *Id.*

<sup>107</sup> *Id.*

<sup>108</sup> *Id.*

<sup>109</sup> *Id.* FedRAMP is the “Federal Risk and Authorization Management Program,” which standardizes security assessment and authorization for cloud products and services used by federal agencies to make sure data is consistently protected at a high level. See FedRamp, <https://www.fedramp.gov/> (last visited June 23, 2022).

<sup>110</sup> April 2023 USAC Letter, *supra* note 49, at 5.

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

<sup>112</sup> *Id.*

<sup>113</sup> *Id.*

<sup>114</sup> *Id.*

<sup>115</sup> *Id.*

<sup>116</sup> *Id.*

documentation to support the reported wholesale and non-telecommunications revenues.<sup>117</sup> Specifically, USAC directed Enhanced to provide the following documentation to support the 2020 Annual Worksheet: (a) audited financial records or the federal income tax return for 2019, including documentation supporting the total revenues for 2019 and any variance between total revenues identified on the documentation and total revenues reported on the 2020 Annual Worksheet; (b) documentation of wholesale customers with revenues reported in Block 3 of the 2020 Annual Worksheet, including each customer's FCC Filer ID Number, name, total, interstate and international revenues, reseller certificate signature date, documentation clarifying any variance between the total revenues collected from the wholesale customers and revenue reported on Line 315 of the 2020 Annual Worksheet, and samples of 2019 invoices to the wholesale customers; (c) documentation identifying all services sold in 2019 and for each service, the name, description, total, interstate and international revenues, the Line the revenue was reported in the 2020 Annual Worksheet, and documentation supporting the correct Line that the revenue should be reported; and (d) invoices for the Company's five customers assessed the most federal USF surcharges in 2019, and for each invoice documentation showing how the USF surcharge to the customer was calculated.<sup>118</sup> The Company did not submit the requested documentation for the 2020 Annual Worksheet by April 20, 2022.<sup>119</sup> This was its *twelfth* failure to comply with a response deadline between March 29, 2017, and August 24, 2022. The Company also did not file a revised 2020 Annual Worksheet that complied with the FCC's reporting requirements.<sup>120</sup> On April 26, 2022, USAC created the revised Worksheet so that USAC could issue USF invoices to Enhanced.<sup>121</sup>

25. USAC also observed that the Company failed to provide valid reseller certificates to support revenues reported on Lines 309 and 315 of the 2020 Annual Worksheet.<sup>122</sup> Reseller certificates supporting the 2020 Annual Worksheet, which is used to report 2019 revenues, must be executed in 2019, but Enhanced submitted alleged reseller certificates executed in 2022.<sup>123</sup> The reseller certificates submitted by Enhanced also included alleged certificates for Unified Signal, Inc. (Unified Signal) and Furrion, LLC (Furrion), which were *de minimis* in 2019 and thus could not be reported as resellers in 2019.<sup>124</sup> Additionally, USAC found that the total revenues for Enhanced's list of resellers was nearly

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<sup>117</sup> *Id.* at 5-6.

<sup>118</sup> *Id.* at 6.

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

<sup>120</sup> *Id.*

<sup>121</sup> *Id.* On June 3, 2022, Enhanced attempted to file a revised 2020 Annual Worksheet, with a downward revision to Line 423, the net universal service contribution base revenues, and USAC rejected the filing because it was outside the deadline for filing downward revisions to universal service contribution base revenues. *Id.* There is a one-year deadline for filing downward revisions to Annual Worksheets, and so the deadline for filing revisions to the 2020 Annual Worksheet was March 31, 2021. *See, e.g., 2020 Annual Worksheet Instructions, supra* note 10, 35 FCC Rcd at 1374; Universal Service Administrative Company, <https://www.usac.org/service-providers/contributing-to-the-usf/when-to-file/> (last visited June 23, 2023).

<sup>122</sup> April 2023 USAC Letter, *supra* note 49, at 6. USAC accepts reseller certificates from a wholesaler to verify that the wholesaler had a reasonable expectation that its carrier customers qualify as contributing resellers and will contribute to the USF, and thus the wholesaler need not make USF contributions based on the wholesale revenues. *See, e.g., 2022 Annual Worksheet Instructions, supra* note 2, 36 FCC Rcd at 14225.

<sup>123</sup> April 2023 USAC Letter, *supra* note 49, at 6.

<sup>124</sup> *Id.* Under section 54.708 of the Commission's rules, if a service provider's contribution to the USF in any given year would be less than \$10,000, the service provider is not required to contribute to the USF. *See* 47 CFR § 54.708. If a service provider is *de minimis* and thus does not contribute to the USF, then revenues allegedly obtained from the service provider cannot be reported as reseller revenues in the Annual Worksheet. "A 'reseller' is a telecommunications carrier or telecommunications provider that: (1) incorporates purchased telecommunications into its own offerings; and (2) can reasonably be expected to contribute to federal universal service support mechanisms based on revenues from those offerings." *2020 Annual Worksheet Instructions, supra* note 10, 35 FCC

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\$200,000 less than the total revenues reported on Lines 309 and 315 of the 2020 Annual Worksheet.<sup>125</sup> In other words, USAC found that Enhanced over-reported reseller revenues on Lines 309 and 315 (in Block 3 - Carrier's Carrier Revenue Information) of the Annual Worksheet by nearly \$200,000. By over-reporting revenues in Block 3, Enhanced under-reported revenues on Line 420, the Company's net universal service contribution base revenues, and thereby precluded USAC from fully assessing USF contributions when the contributions were due.

#### 6. Failures to Provide Documentation Supporting the 2021 Annual Worksheet

26. On March 26, 2021, Enhanced filed its 2021 Annual Worksheet, and on June 4, 2021, the Company filed a revision to the Worksheet. On June 16, 2021, USAC directed the Company to provide documentation supporting international revenue reported on Line 414.1 of the revised Worksheet.<sup>126</sup> The deadline for the Company's response was June 23, 2021, and again Enhanced failed to comply, representing the *thirteenth* failure to comply with a document production deadline between March 29, 2017, and August 24, 2022.<sup>127</sup> USAC requested the documentation again on July 15, 2021, and provided an August 14, 2021 deadline to comply.<sup>128</sup> The Company again failed to provide the documentation, the *fourteenth* failure to comply with a documentation production deadline between March 29, 2017, and August 24, 2022.<sup>129</sup> USAC reminded the Company of the pending documentation requests again on August 16 and September 22, 2021.<sup>130</sup>

27. On June 3, 2022, Enhanced filed a second revision to its 2021 Annual Worksheet.<sup>131</sup> On August 17, 2022, USAC again requested documentation to support revenue reported on Line 414.1 of the revised Worksheet.<sup>132</sup> The deadline for the Company to respond was August 24, 2022, but again Enhanced did not comply.<sup>133</sup> This was its *fifteenth* failure to comply with a documentation production deadline concerning the Company's Annual Worksheets between March 29, 2017, and August 24, 2022.

#### 7. Failures to Provide Documentation Supporting the 2022 Annual Worksheet

28. Enhanced filed its 2022 Annual Worksheet on March 22, 2022.<sup>134</sup> On May 10, 2022, USAC requested documentation to support the large decrease in non-telecommunications revenue reported on Line 418 of Enhanced's 2022 Annual Worksheet.<sup>135</sup> USAC also requested documentation to

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Rcd at 1396 (citing *Universal Serv. Contribution Methodology*, Order, 27 FCC Rcd 13780, 13781-82, para. 3 (2012)).

<sup>125</sup> April 2023 USAC Letter, *supra* note 49, at 6-7.

<sup>126</sup> USAC observed that the Company misapplied the Safe Harbor rate of 37.1% to Line 414.1, and requested a traffic study to support the revenues reported on Line 414.1 of the 2021 Annual Worksheet. *Id.* at 7. *See 2021 Annual Worksheet Instructions*, *supra* note 10, 35 FCC Rcd at 13720-23 (discussing use of safe harbor percentages and traffic studies for reporting interstate and international revenues).

<sup>127</sup> April 2023 USAC Letter, *supra* note 49, at 7.

<sup>128</sup> *Id.*

<sup>129</sup> *Id.*

<sup>130</sup> *Id.* USAC also placed Enhanced's 2021 Annual Worksheet in "Issue-Carrier Response Required" status on September 22, 2021. *Id.*

<sup>131</sup> *Id.*

<sup>132</sup> USAC observed that the Company continued to misapply the Safe Harbor rate of 37.1% to Line 414.1, and again requested a traffic study to support the revenues reported on Line 414.1 of the 2021 Annual Worksheet. *Id.*

<sup>133</sup> *Id.*

<sup>134</sup> *Id.*

<sup>135</sup> *Id.*

support the accuracy of the interstate and international revenues reported on the 2022 Annual Worksheet, and to demonstrate why the Company substantially over-projected interstate and international revenues in its Quarterly Worksheets due on November 1, 2020, February 1, May 1, and August 1, 2021.<sup>136</sup> The Company's response was due by May 17, 2022, but the Company did not respond, its *sixteenth* failure to comply with a response deadline between March 29, 2017, and August 24, 2022.<sup>137</sup>

29. On June 3, 2022, Enhanced filed a revision to its 2022 Annual Worksheet.<sup>138</sup> On July 29, 2022, USAC requested documentation to support the accuracy of the interstate and international revenues reported on the revised 2022 Annual Worksheet, and to demonstrate why the Company substantially over-projected interstate and international revenues in its Quarterly Worksheets.<sup>139</sup> The Company's response was due by August 7, 2022. The Company did not respond, the *seventeenth* failure to comply with a document production deadline between March 29, 2017, and August 24, 2022.<sup>140</sup>

30. When reviewing documentation that Enhanced provided in response to a March 23, 2022 Letter of Inquiry (LOI) from the Bureau, USAC observed that the Company failed to provide valid reseller certificates to support revenues reported on Lines 309 and 315 of the Company's 2022 Annual Worksheet.<sup>141</sup> Reseller certificates submitted by Enhanced to support the 2022 Annual Worksheet included certifications by Unified Signal, one allegedly signed on March 30, 2022, a second allegedly signed on May 10, 2022.<sup>142</sup> However, Unified Signal was not a contributor to the USF in 2021, and the alleged reseller's FCC Filer ID Number was deactivated in 2020.<sup>143</sup> Reseller certificates submitted by Unified Signal, and reseller certificates allegedly signed in 2022, do not support wholesaler revenues reported in Enhanced's 2022 Annual Worksheet, which is used to report 2021 revenues.<sup>144</sup> In its 2022 Annual Worksheet, Enhanced nonetheless reported approximately \$87,000 of its revenues as reseller revenues allegedly received from Unified Signal.<sup>145</sup>

## 8. Summary and Impact of Enhanced's Worksheet Documentation Failures

31. In summary, between March 29, 2017, and August 24, 2022, Enhanced failed to comply with 17 deadlines to provide USAC with timely, complete, and relevant documentation to support revenues reported in the Company's Annual Worksheet filings for 2017 through 2022. Enhanced failed to comply with deadlines to provide supporting documentation for the: (a) 2017 Annual Worksheet by April 5 and October 23, 2017; (b) 2018 Annual Worksheet by October 18, 2018, and January 27 and July 2, 2021; (c) 2019 Annual Worksheet by October 15, 2019, January 16, 2020, and January 27 and July 2, 2021; (d) 2020 Annual Worksheet by April 30 and May 27, 2021, and April 20, 2022; (e) 2021 Annual Worksheet by June 23 and August 14, 2021, and August 24, 2022; and (f) 2022 Annual Worksheet by

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<sup>136</sup> *Id.*

<sup>137</sup> *Id.*

<sup>138</sup> *Id.*

<sup>139</sup> *Id.*

<sup>140</sup> *Id.* at 8.

<sup>141</sup> *Id.*

<sup>142</sup> April 2023 USAC Letter, *supra* note 49, at 8. Reseller certificates for 2021 revenues, which are reported in the 2022 Annual Worksheet, must be executed in 2021. *Id.* See, e.g., *2022 Annual Worksheet Instructions*, *supra* note 2, 36 FCC Red at 14225-26.

<sup>143</sup> A service provider cannot file Worksheets or pay USF contributions without an active FCC Filer ID Number. See April 2023 USAC Letter, *supra* note 49, at 8; *2022 Annual Worksheet Instructions*, *supra* note 2, 36 FCC Red at 14202.

<sup>144</sup> April 2023 USAC Letter, *supra* note 49, at 8.

<sup>145</sup> *Id.*

May 17 and August 7, 2022.

32. By precluding USAC from verifying the Company's revenues information in the Annual Worksheet filings for 2017 through 2022, Enhanced has prevented the administrators of the USF, TRS Fund, LNP, NANP, and federal regulatory fee cost recovery requirements from determining whether Enhanced has fully paid its obligations under the Act and the Commission's rules and orders for these important payment requirements.<sup>146</sup> The Commission reserves the right to take further enforcement action against Enhanced for any violations of payment requirements arising under the Act and pursuant to the Commission's rules or orders.

## 9. Letter of Inquiry

33. On September 13, 2021, USAC referred this matter to the Bureau for investigation of Enhanced's repeated failures to comply with USAC's directives to provide documentation supporting the Company's Annual Worksheets for 2017 through 2021.<sup>147</sup> On March 23, 2022, the Bureau issued an LOI to Enhanced concerning the Company's compliance with requirements arising under the Act and the Commission's rules.<sup>148</sup> On April 27, 2022, Enhanced requested a 30-day extension of time to submit the Company's LOI response.<sup>149</sup> The Bureau granted the extension request, and the Company was given a new deadline of May 23, 2022, to submit the response to the LOI.<sup>150</sup> On May 23, 2022, Enhanced submitted a response to the LOI.<sup>151</sup>

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<sup>146</sup> See 47 CFR §§ 1.1154, 52.17(b), 52.32(b), 54.711(a), 64.604(c)(5)(iii)(B) (establishing requirements to file Worksheets so that administrators can assess payment requirements for, respectively, federal regulatory fees, LNP, NANP, USF, and TRS). USAC estimates that Enhanced underpaid the USF by \$230,636.89. April 2023 USAC Letter, *supra* note 49, at 9.

<sup>147</sup> *Id.*

<sup>148</sup> See LOI. On April 22, 2022, the day the Company's LOI response was due, Enhanced informed the Bureau that the Company could not provide a complete response on time and requested an extension for an unspecified period of time. E-mail from Carla Turner, Accounting Supervisor, Enhanced Communications Group, LLC, to Jeffrey Brown, Honors Attorney, Investigations & Hearings Division, FCC Enforcement Bureau (Apr. 22, 2022, 16:50 EDT) (on file in EB-IHD-22-00033161). Investigation targets must provide a detailed explanation supporting an extension request and provide Bureau staff ample time to consider and respond to the request. Requesting an extension the day the response is due does not give Bureau staff enough time to consider and respond to an extension request.

<sup>149</sup> E-mail from Leon Nowalsky, Counsel to Enhanced Communications Group, LLC, to Jeffrey Brown, Attorney Advisor, Investigations & Hearings Division, FCC Enforcement Bureau (Apr. 27, 2022, 15:14 EDT) (on file in EB-IHD-22-00033161).

<sup>150</sup> On May 10, 2022, the Bureau agreed to grant the 30-day extension request. The Bureau and the Company also entered into an agreement to toll applicable statutes of limitations for 90 days. See Tolling Agreement executed by Jeffrey J. Gee, Chief, Investigations & Hearings Division, FCC Enforcement Bureau, and Jeff Holley, Chief Executive Officer, Enhanced Communications Group, LLC (May 18, 2022) (on file in EB-IHD-22-00033161) (Tolling Agreement).

<sup>151</sup> Response to Letter of Inquiry, from Leon Nowalsky, Nowalsky & Gothard, Counsel to Enhanced Communications Group, LLC, to Jeffrey J. Gee, Chief, Investigations & Hearings Division, FCC Enforcement Bureau (May 23, 2022) (on file in EB-IHD-22-00033161) (LOI Response). The Company informed the Bureau that Enhanced would supplement its LOI response after the Company's internal financial reports were corrected. E-mail from Leon Nowalsky, Nowalsky & Gothard, Counsel to Enhanced Communications Group, LLC, to Jeffrey Brown, Attorney Advisor, Investigations & Hearings Division, FCC Enforcement Bureau (May 23, 2022, 15:49 EDT) (on file in EB-IHD-22-00033161) (May 23, 2022, Counsel E-mail). On May 27, 2022, Enhanced provided the Company's unaudited income statements for 2019 through 2021, and on May 31, 2022, Enhanced submitted a revised LOI response. See E-mail from Leon Nowalsky, Nowalsky & Gothard, Counsel to Enhanced Communications Group, LLC, to Jeffrey Brown, Attorney Advisor, Investigations & Hearings Division, FCC Enforcement Bureau (May 27, 2022, 11:23 EDT) (on file in EB-IHD-22-00033161) (May 27, 2022, Counsel E-

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## 10. Failures to File Accurate Annual Worksheets

34. In response to the Bureau's March 23, 2022 LOI, the Company provided documentation that enabled USAC to analyze the accuracy of the Company's Annual Worksheets for 2019 through 2021.<sup>152</sup> On September 23, 2022, USAC requested documentation from the Company concerning non-telecommunications revenue and wholesale revenue reported in the Enhanced Communications' Annual Worksheets for 2017 through 2019, and the Company provided the documentation on October 7, 2022.<sup>153</sup> USAC requested additional documentation concerning non-telecommunications revenue and wholesale revenue on October 18, 2022, which the Company provided on October 20, 2022, and which finally enabled USAC to complete the process of verifying the Annual Worksheets for 2017 through 2022.<sup>154</sup>

35. On March 2, 2023, USAC informed the Company that USAC rejected the Annual Worksheets for 2017 through 2022 filed by Enhanced Communications.<sup>155</sup> USAC partially denied the Company's reported reseller revenue on Line 309 of the Annual Worksheets.<sup>156</sup> USAC denied the reported wholesale revenues from alleged reseller Unified Signal because the reseller certificate for Unified Signal was invalid, and the Company did not otherwise show that revenues from Unified Signal were exempt from USF contributions.<sup>157</sup>

36. USAC directed the Company to file revisions to the Annual Worksheets for 2017 through 2022 that complied with the FCC's reporting rules within 30 days, and Enhanced filed revised versions of those six Worksheets on April 5, 2023.<sup>158</sup> USAC, however, rejected each of Enhanced's revised filings because, based on the documentation provided in the Company's LOI response and provided to USAC on October 20, 2022, Enhanced's reported revenues were inaccurate. On April 7, 2023, USAC issued estimates for the 2017 through 2022 Annual Worksheets, which were based on the Company's documentation. USAC estimated that Enhanced underpaid a total of \$230,636.89 to the USF.<sup>159</sup> On May

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mail); Revised LOI Response, *supra* note 44. Enhanced provided an additional LOI response on June 3, 2022, informing the Bureau it filed revised Annual Worksheets for 2020 through 2022 in order to correct earlier Worksheet filings. E-mail from Leon Nowalsky, Nowalsky & Gothard, Counsel to Enhanced Communications Group, LLC, to Jeffrey Brown, Attorney Advisor, Investigations & Hearings Division, FCC Enforcement Bureau (June 3, 2022, 14:52 EDT) (on file in EB-IHD-22-00033161) (June 3, 2022 Counsel E-mail). USAC rejected the 2020 through 2022 Annual Worksheet revisions that Enhanced filed on June 3, 2022, because they were also inaccurate. April 2023 USAC Letter, *supra* note 49, at 6-7.

<sup>152</sup> April 2023 USAC Letter, *supra* note 49, at 8.

<sup>153</sup> *Id.*

<sup>154</sup> *Id.*

<sup>155</sup> *Id.*

<sup>156</sup> Based on the review of the Company's LOI response and on the documentation provided to USAC in October of 2022, USAC accepted Enhanced's reporting of non-telecommunications revenue reported on Line 418.3 of the Annual Worksheets for 2017 through 2022. April 2023 USAC Letter, *supra* note 49, at 9 & n.11.

<sup>157</sup> *Id.* at 9 (citing *2022 Annual Worksheet Instructions*, *supra* note 2, 36 FCC Rcd at 14223-26). Valid reseller certificates are acceptable to verify that a wholesaler had a reasonable expectation that its carrier customers qualify as contributing resellers and will contribute to the USF, and thus the wholesaler need not make USF contributions based on the wholesale revenues. *See, e.g., 2022 Annual Worksheet Instructions*, *supra* note 2, 36 FCC Rcd at 14225.

<sup>158</sup> April 2023 USAC Letter, *supra* note 49, at 9.

<sup>159</sup> USAC estimated that Enhanced Communications underpaid (1) \$7,949.09 based on the 2022 Annual Worksheet, an underpayment of 16% for the year; (2) \$24,290.67 based on the 2021 Annual Worksheet, an underpayment of 1,018% for the year; (3) \$50,655.17 based on the 2020 Annual Worksheet, an underpayment of 101% for the year; (4) \$62,608.51 for the 2019 Annual Worksheet, an underpayment of 131% for the year; (5) \$49,088.90 for the 2018 Annual Worksheet, an underpayment of 4,579% for the year; and (6) \$36,044.55 for the 2017 Annual Worksheet, an

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15, 2023, USAC issued an invoice to the Company to recover the \$230,636.89 estimated underpayment.<sup>160</sup>

### III. DISCUSSION

#### A. Enhanced Apparently Violated a Commission Rule by Failing to Provide USAC Documentation Supporting the Company's Annual Worksheets

37. Based on evidence developed through the Bureau's investigation, the Company apparently willfully and repeatedly violated section 54.711(a) of the Commission's rules by failing to comply with USAC directives to provide documentation supporting the accuracy of Enhanced's Annual Worksheet filings for 2017 through 2022.<sup>161</sup> Specifically, Enhanced failed to comply with 17 deadlines to provide USAC with timely, complete, and relevant documentation to support revenues reported in the Company's Annual Worksheet filings, as follows: (a) 2017 Annual Worksheet by April 5 and October 23, 2017; (b) 2018 Annual Worksheet by October 18, 2018, and January 27 and July 2, 2021; (c) 2019 Annual Worksheet by October 15, 2019, January 16, 2020, January 27 and July 2, 2021; (d) 2020 Annual Worksheet by April 30 and May 27, 2021, and April 20, 2022; (e) 2021 Annual Worksheet by June 23 and August 14, 2021, and August 24, 2022; and (f) 2022 Annual Worksheet by May 17 and August 7, 2022.<sup>162</sup>

38. Companies that file Worksheets are required to maintain documentation to justify the information reported in the Worksheets and provide it to the Commission or USAC upon request.<sup>163</sup> The obligation is clearly stated in the Commission's rules and orders, is reiterated in the instructions to the Worksheets, and has been the subject of prior enforcement actions.<sup>164</sup> To verify the accuracy of the Company's Annual Worksheet filings for 2017 through 2022, USAC directed the Company to provide documentation that supported substantial decreases in the Company's interstate, international and total revenues; revenues from alleged reseller customers; non-telecommunications revenues; and revenues collected from customers to recover the Company's USF contributions. USAC's documentation

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underpayment of 119% for the year. Letter from Fred Theobald, Director of Contributor Operations, Universal Service Administrative Company, to Jeffrey Brown, Honors Attorney, Investigations & Hearings Division, FCC Enforcement Bureau (June 26, 2023) (on file in EB-IHD-22-00033161) (June 2023 USAC Letter).

<sup>160</sup> *Id.* at 1.

<sup>161</sup> 47 CFR § 54.711(a).

<sup>162</sup> As discussed below, 4 of these 17 failures to submit supporting documentation by USAC's deadlines on April 20, May 17, and August 7 and 24, 2022, occurred within the statute of limitations. *See* 47 U.S.C. § 503(b)(6); Tolling Agreement, *supra* note 150.

<sup>163</sup> *See* 47 CFR § 54.711(a) ("Contributors shall maintain records and documentation to justify information reported in the Telecommunications Reporting Worksheet, including the methodology used to determine projections, for three years and shall provide such records and documentation to the Commission or the Administrator upon request."); *id.* § 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.").

<sup>164</sup> *See, e.g.*, 47 CFR § 54.711(a); *PayG, LLC*, Notice of Apparent Liability for Forfeiture, FCC 22-69, 2022 WL 4245060, \*12, para. 38 (Sept. 14, 2022) (*PayG NAL*); *Correct Solutions, LLC*, Notice of Apparent Liability for Forfeiture, DA 22-303, 2022 WL 1000385, \*9, para. 27 (Apr. 1, 2022) (*Correct Solutions NAL*); *2022 Annual Worksheet Instructions*, *supra* note 2, 36 FCC Rcd at 14201-02; *US South Commc'ns, Inc.*, Notice of Apparent Liability for Forfeiture, 35 FCC Rcd 12668, 12676, para. 22 (EB 2020) (*US South NAL*) (forfeiture paid); *Compu-Phone Voice & Data, Inc.*, Notice of Apparent Liability for Forfeiture, 35 FCC Rcd 6573, 6583, para. 23 (EB 2020) (*Compu-Phone NAL*) (forfeiture paid); *Blue Casa Tel., LLC*, Notice of Apparent Liability for Forfeiture, 35 FCC Rcd 6333, 6344, para. 25 (EB 2020) (*Blue Casa NAL*) (forfeiture paid).

directives were not unusual and were consistent with the Commission's rules.<sup>165</sup>

39. USAC's ability to verify the accuracy of Worksheets on behalf of the Commission is fundamental to implementing the Congressional directive to ensure the equitable and non-discriminatory distribution of universal service costs among all service providers. A service provider must timely respond to each directive by USAC to provide documentation supporting information reported in a Worksheet. Service providers have an obligation to respond in a timely, complete, 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 each Worksheet to ensure compliance with payment requirements under FCC rules—is frustrated when the Commission and USAC have to make multiple requests, or wait multiple months or years, to obtain the documentation needed to verify the accuracy of a Worksheet.<sup>166</sup> We consider each individual failure to respond fully and accurately by a deadline to be a separate violation of section 54.711(a) of the Commission's rules.<sup>167</sup>

40. Enhanced claimed it failed to respond to one of the 17 documentation deadlines from USAC—USAC's May 12, 2021 request, which had a deadline of May 27, 2021—because the Company's management changed in 2020.<sup>168</sup> The Company claimed that USAC's correspondence was addressed to a former employee, and “at the time the correspondence was sent, the CORES data base listed [a current employee] as the contact person for [Enhanced] rather than [the former employee].”<sup>169</sup> This is inaccurate. USAC's May 12, 2021, documentation request was sent by E-mail to the same employee that Enhanced identified as the contact person listed in CORES (not the former employee identified by Enhanced in the Company's LOI Response).<sup>170</sup> In fact, USAC spoke to the Enhanced employee by telephone earlier that day.<sup>171</sup>

41. We find that the Company apparently willfully and repeatedly violated section 54.711(a) of the Commission's rules by failing to comply with USAC's directives to provide documentation supporting the accuracy of the Company's Annual Worksheets. Specifically, Enhanced failed to submit timely and complete responses to USAC in response to directives with 17 separate due dates over approximately a five-and-one-half-year period between March 29, 2017, and August 24, 2022.<sup>172</sup> Enhanced failed to submit documentation requested by USAC for the (a) 2017 Annual Worksheet by April 5 and October 23, 2017; (b) 2018 Annual Worksheet by October 18, 2018, and January 27 and July 2, 2021; (c) 2019 Annual Worksheet by October 15, 2019, January 16, 2020, January 27 and July 2, 2021; (d) 2020 Annual Worksheet by April 30 and May 27, 2021, and April 20, 2022; (e) 2021 Annual

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<sup>165</sup> See 47 CFR §§ 54.706(e), 54.707, 54.711(a).

<sup>166</sup> In this case, USAC began requesting supporting documentation for the 2017 Worksheet on March 29, 2017, and did not obtain the documentation needed to verify the Annual Worksheet filings for 2017 through 2022 until October 20, 2022, more than a five-and-a-half year period. See April 2023 USAC Letter, *supra* note 49, at 1.

<sup>167</sup> E.g., *PayG NAL* at \*7, para. 22; *Correct Solutions NAL* at \*5, para. 16; *US South NAL*, 35 FCC Rcd at 12674, para. 14.

<sup>168</sup> See LOI Revised Response, *supra* note 44, at 20, Response to Question 41. USAC's correspondence on May 12, 2021 concerned USAC's audit of the Company's 2020 Annual Worksheet. *Id.*

<sup>169</sup> *Id.* CORES is the Commission's Registration System. See Federal Communications Commission, *Commission Registration System for the FCC*, <https://www.fcc.gov/licensing-databases/commission-registration-system-fcc> (last visited June 23, 2023).

<sup>170</sup> See Revised LOI Response, *supra* note 44, at 20, Response to Question 41.

<sup>171</sup> See April 2023 USAC Letter, *supra* note 49, at 5 n.6. The Company is obligated to update Company representatives within one week of a change by filing a revised Annual or Quarterly Worksheet. See, e.g., *2022 Annual Worksheet Instructions*, *supra* note 2, 36 FCC Rcd at 14199.

<sup>172</sup> See April 2023 USAC Letter, *supra* note 49, at 1.

Worksheet by June 23 and August 14, 2021, and August 24, 2022; and (f) 2022 Annual Worksheet by May 17 and August 7, 2022.

**B. Enhanced Apparently Violated a Commission Rule by Failing to Comply with Documentation Directives in Connection with a USAC Audit**

42. Under the Commission's rules, USAC has the authority to audit any service provider reporting data to USAC.<sup>173</sup> Additionally, service providers must retain, for at least five years from the date of USF contributions, all records required to demonstrate to an auditor that the USF contributions made were in compliance with the Commission's universal service rules.<sup>174</sup> A service provider must comply with USAC directives to provide documentation supporting Annual and Quarterly Worksheet filings, and to demonstrate to auditors that the contributions made were in compliance with the Commission's universal service rules.<sup>175</sup> Compliance with the documentation retention and production requirements are especially critical in the context of a USAC audit of compliance with the FCC's reporting and contribution requirements.

43. On April 16, 2021, USAC attempted to audit the accuracy and completeness of the Company's 2020 Annual Worksheet and the accuracy of federal USF recovery surcharges on the Company's 2019 customer invoices.<sup>176</sup> Pursuant to the audit, USAC requested documents from the Company by April 30, 2021, and the Company failed to comply with the documentation production requirement.<sup>177</sup> USAC gave the Company a second opportunity to comply with the documentation production directive by May 27, 2021, and again, Enhanced failed to comply with the requirement.<sup>178</sup> On June 2, 2021, USAC therefore terminated the audit and informed the Company that USAC was referring the matter to the Bureau.<sup>179</sup>

44. USAC's ability to verify the accuracy of Worksheets on behalf of the Commission by auditing a service provider is another key component of implementing the Congressional directive to ensure the equitable and non-discriminatory distribution of universal service costs among all service providers.<sup>180</sup> We conclude that Enhanced's repeated refusals to comply with the documentation requirements between March 29, 2017, and August 24, 2022, and particularly the Company's failures to comply with documentation production directives during USAC's attempted audit, demonstrate a cavalier disregard for the documentation retention and production, reporting, and contribution requirements established under the Commission's rules pursuant to the Act.

**C. Enhanced Repeatedly Filed Inaccurate Annual Worksheets**

45. Based on the evidence developed through the Bureau's investigation, we find that Enhanced apparently willfully and repeatedly violated sections 52.17(b), 52.32(b), 54.711(a) and 64.604(c)(5)(iii)(B) of the Commission's rules and Commission orders by filing inaccurate Annual Worksheet filings for 2017 through 2022.<sup>181</sup> The Act directs the Commission to establish, administer, and

<sup>173</sup> See 47 CFR § 54.707.

<sup>174</sup> See *id.* § 54.706(e).

<sup>175</sup> See *id.* §§ 54.706(e), 54.711(a).

<sup>176</sup> April 2023 USAC Letter, *supra* note 49, at 5.

<sup>177</sup> *Id.*

<sup>178</sup> *Id.*

<sup>179</sup> *Id.*

<sup>180</sup> See 47 U.S.C. § 254(d).

<sup>181</sup> See 47 CFR §§ 52.17(b), 52.32(b), 54.711(a), 64.604(c)(5)(iii)(B); 2022 Annual Worksheet Instructions, *supra* note 2, 36 FCC Rcd 14176; 2021 Annual Worksheet Instructions, *supra* note 10, 35 FCC Rcd 13671; 2020 Annual Worksheet Instructions, *supra* note 10, 35 FCC Rcd 1350; 2019 Annual Worksheet Instructions, *supra* note 10, 34

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maintain programs to promote universal service, TRS, and to ensure LNP and effective numbering administration more generally, among other mandates.<sup>182</sup> To help accomplish these goals, the Commission has established the USF, the TRS Fund, and cost recovery requirements for LNP and NANP. As Congress has directed,<sup>183</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>184</sup> The administrators of the USF, TRS, LNP, and NANP rely upon the accuracy of reported data to calculate accurately any necessary contributions.<sup>185</sup> The Commission also uses the Annual Worksheet data to calculate and assess annual regulatory fees in accordance with the Act.<sup>186</sup>

46. On March 2, 2023, after USAC obtained documentation from Enhanced that enabled USAC to assess the accuracy of the Company's 2017 through 2022 Annual Worksheet filings, USAC concluded that the Company's Annual Worksheet filings for 2017 through 2022 were inaccurate.<sup>187</sup> USAC provided Enhanced guidance on the inaccuracies in the 2017 through 2022 Annual Worksheets, and directed Enhanced to file revised Worksheets.<sup>188</sup> Enhanced filed the revisions on April 5, 2023.<sup>189</sup> USAC, however, rejected each of Enhanced's revised filings because the Company's documentation did not support Enhanced's reported revenues.<sup>190</sup> We therefore conclude that Enhanced apparently willfully

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FCC Rcd 426, 448; *2018 Annual Worksheet Instructions*, *supra* note 10, 33 FCC Rcd 1801; *2017 Annual Worksheet Instructions*, *supra* note 10, 32 FCC Rcd 1238.

<sup>182</sup> See 47 U.S.C. §§ 225(b)(1)–(2), 251(b)(2), (e), 254(a)(2).

<sup>183</sup> See *id.* §§ 225(d)(3), 251(e)(2), 254(d).

<sup>184</sup> See 47 CFR §§ 52.17(b), 52.32(b), 54.711(a), 64.604(c)(5)(iii)(B).

<sup>185</sup> Although some providers might not need to contribute to each fund and cost recovery mechanism, all service providers must file Annual Worksheets. See, e.g., *2022 Annual Worksheet Instructions*, *supra* note 2, 36 FCC Rcd at 14191-92.

<sup>186</sup> See 47 CFR § 1.1154; see also 47 U.S.C. § 159(a) (authorizing the Commission to collect annual regulatory fees to recover the costs of carrying out the functions of the Commission); *id.* § 156(a).

<sup>187</sup> As discussed above, the Company provided documentation with its LOI Response that enabled USAC to analyze the accuracy of the Company's Annual Worksheets for 2019 through 2021. On September 23, 2022, USAC requested documentation from the Company concerning Enhanced Communications' Annual Worksheets for 2017 through 2019, and the Company provided the documentation on October 7, 2022. On October 18, 2022, USAC requested additional documentation, which the Company provided on October 20, 2022, and which finally enabled USAC to complete the process of verifying the Annual Worksheets for 2017 through 2022.

<sup>188</sup> April 2023 USAC Letter, *supra* note 49, at 9. Enhanced acknowledged in its LOI response that it filed inaccurate Annual Worksheets for 2020 through 2022, and therefore submitted revised filings on June 3, 2022. Revised LOI Response, *supra* note 44, at 12, Response to Question 20 ("based upon USAC's previous review of [Enhanced]'s 499-As and [Enhanced]'s recategorizing of its revenues, [Enhanced] will be submitting, before June 3, 2022, revised 499-As for the period of 2019, 2020 and 2021"). However, USAC rejected the June 3, 2022 revised filings because the filings were also inaccurate. April 2023 USAC Letter, *supra* note 49, at 7.

<sup>189</sup> *Id.* at 9.

<sup>190</sup> June 2023 USAC Letter, *supra* note 159, at 1. USAC observed that Enhanced apparently moved revenues previously reported inaccurately as reseller revenues on Line 309 to Line 418.3, which includes non-telecommunications revenues that are not subject to USF contribution assessments. However, USAC determined that Enhanced should have reported a portion of the revenues on Line 409, which includes mobile services revenues that are subject to USF contributions. For the 2020 through 2022 Annual Worksheets, Enhanced also continued to misapply the Safe Harbor rate of 37.1% to Line 414.1. *Id.*; see also, e.g., *2021 Annual Worksheet Instructions*, *supra* note 10, 35 FCC Rcd at 13720-23 (discussing use of safe harbor percentages and traffic studies for reporting interstate and international revenues).

and repeatedly 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 and Commission orders by failing to file accurate Annual Worksheets for 2017 through 2022, including the six revised filings for 2017 through 2022 submitted on April 5, 2023.<sup>191</sup>

#### IV. PROPOSED FORFEITURE

47. 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>192</sup> Here, section 503(b)(2)(B) of the Act authorizes us to assess a forfeiture against Enhanced of up to \$237,268 for each violation or each day of a continuing violation, up to a statutory maximum of \$2,372,677 for a single act or failure to act.<sup>193</sup> In exercising our forfeiture 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>194</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>195</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>196</sup>

48. The Commission may adopt upward or downward adjustments to forfeitures when appropriate.<sup>197</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>198</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>199</sup>

49. Section 503(b)(6)(B) of the Act provides that no forfeiture penalty shall be imposed if

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<sup>191</sup> See 47 U.S.C. §§ 1.1154, 52.17(b), 52.32(b), 54.711(a), 64.604(c)(5)(iii)(B); *2022 Annual Worksheet Instructions*, *supra* note 2, 36 FCC Rcd 14176; *2021 Annual Worksheet Instructions*, *supra* note 10, 35 FCC Rcd 13671; *2020 Annual Worksheet Instructions*, *supra* note 10, 35 FCC Rcd 1350; *2019 Annual Worksheet Instructions*, *supra* note 10, 34 FCC Rcd 426, 448; *2018 Annual Worksheet Instructions*, *supra* note 10, 33 FCC Rcd 1801; *2017 Annual Worksheet Instructions*, *supra* note 10, 32 FCC Rcd 1238.

<sup>192</sup> 47 U.S.C. § 503(b).

<sup>193</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 22-1356 (EB Dec. 23, 2022) (*2022 Inflation Update Order*); see also *Annual Adjustment of Civil Monetary Penalties to Reflect Inflation*, 88 Fed. Reg. 783 (Jan. 5, 2023) (setting January 15, 2023, as the effective date for the increases).

<sup>194</sup> 47 U.S.C. § 503(b)(2)(E).

<sup>195</sup> 47 CFR § 1.80(b)(10), Tbl. 1 to Para. (b)(10).

<sup>196</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, 17109-10, para. 53 (1997) (citing 47 U.S.C. § 503(b)(2)(E)) (*1997 Forfeiture Guidelines Order*), *recon. denied*, Memorandum Opinion and Order, 15 FCC Rcd 303 (1999).

<sup>197</sup> See *1997 Forfeiture Guidelines Order*, 12 FCC Rcd at 17110, para. 53 (citing 47 U.S.C. § 503(b)(2)(E)).

<sup>198</sup> 47 CFR § 1.80(b)(10), Tbl. 3 to Para. (b)(10). See also *1997 Forfeiture Guidelines Order*, 12 FCC Rcd at 17098-99, para. 22 (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>199</sup> 47 CFR § 1.80(b)(10), Tbl. 3 to Para. (b)(10).

“the violation charged occurred more than 1 year prior to the date of issuance of the required notice or notice of apparent liability.”<sup>200</sup> In this case, we propose forfeitures for the Company’s apparent failures (a) to submit timely and complete responses to USAC’s directives to provide supporting documentation by the April 20, May 17, and August 7 and 24, 2022 response deadlines, and (b) to file accurate Annual Worksheets for 2017 through 2022, which Enhanced filed on April 5, 2023.<sup>201</sup>

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

50. As the Commission observed in another USF enforcement action,<sup>202</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>203</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 thus ensure compliance with the Commission’s contributions requirements.<sup>204</sup> The Commission has previously imposed a \$50,000 base forfeiture for a service provider’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>205</sup> We thus propose a \$200,000 base forfeiture against the Company for four failures to submit timely and complete responses to USAC’s directives by the April 20, May 17, and August 7 and 24, 2022, response deadlines.

51. In assessing a forfeiture amount, we consider the nature, extent and gravity of the failure to comply with USAC’s verification functions to be very serious.<sup>206</sup> USAC’s verification of Worksheets through supporting documentation, and USAC’s ability to audit a service provider that files Worksheets, are vital components of ensuring the integrity of the USF. We have also considered the degree of the Company’s culpability.<sup>207</sup> Contributors have an important obligation to comply with USAC verification functions, and the Company is thus highly culpable for the consistent failures to respond to USAC verification directives, which were repeated in this case over multiple years. We find that Enhanced’s failures to comply with documentation directives by April 30, and May 27, 2021, during USAC’s attempted audit, constitute egregious misconduct.

52. 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>208</sup> As the

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<sup>200</sup> 47 U.S.C. § 503(b)(6)(B).

<sup>201</sup> Enhanced and the Commission agreed to toll the one-year statute of limitations for 90 days. *See Tolling Agreement, supra* note 150. The statute of limitations for the earliest of these apparent violations, which occurred on April 20, 2022, therefore expires on July 19, 2023.

<sup>202</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>203</sup> *Globcom NAL*, 18 FCC Rcd at 19904, para. 30.

<sup>204</sup> *See Federal-State Board on Universal Serv.*, Report and Order and Second Further Notice of Proposed Rulemaking, 17 FCC Rcd 24952, 24971, para. 34 & n.99 (2002) (noting that “persons willfully making false statements in the Worksheets can be punished by fine or imprisonment under title 18 of the United States Code, and citing 18 U.S.C. § 1001) (*2002 Report and Order and Second Further Notice of Proposed Rulemaking*).

<sup>205</sup> *See PayG NAL, supra* note 164, at \*12, para. 37; *see also US South NAL, supra* note 164, 35 FCC Rcd at 12676, para. 22; *Compu-Phone NAL, supra* note 164, 35 FCC Rcd at 6583, para. 23; *Blue Casa NAL, supra* note 164, 35 FCC Rcd at 6344, para. 25.

<sup>206</sup> *See* 47 U.S.C. § 503(b)(2)(E).

<sup>207</sup> *See id.*

<sup>208</sup> 47 CFR § 1.80(b)(10), Tbl. 3 to Para. (b)(10).

Commission has previously stated,<sup>209</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>210</sup> Enhanced nonetheless repeatedly violated the documentation requirements and prevented USAC from verifying the accuracy of their Worksheets for nearly five and a half years.<sup>211</sup> In this case, we therefore apply an upward adjustment of \$200,000, or 100 percent of the proposed base forfeiture, because of the repeated nature of the Company's apparent violations.<sup>212</sup>

53. We propose a forfeiture of \$400,000 against the Company, which includes a \$200,000 base forfeiture for Enhanced's failures to comply with USAC's four documentation directives by the deadlines established on April 20, May 17, and August 7 and 24, 2022, and an upward adjustment of \$200,000 for the repeated nature of the documentation violations, including 17 separate violations between March 29, 2017, and August 24, 2022.

54. Section 1.80 of the Commission's rules provides for upward adjustments to proposed forfeiture amounts for egregious misconduct. A service provider's failure to comply with USAC document production directives during an audit is particularly egregious misconduct that demonstrates a blatant disregard for the reporting, documentation retention and production, and contribution requirements established by the FCC pursuant to the Act. Service providers contemplating failures to cooperate with documentation requirements during an audit by USAC are on notice that we are prepared to impose upward adjustments and assess the statutory maximum forfeiture authorized under the Act for each violation.<sup>213</sup> Currently, the Act authorizes the Commission to assess forfeitures of \$237,268 for each violation under section 503(b)(2)(B) of the Act,<sup>214</sup> and maximum forfeiture amounts are adjusted annually for inflation under the Federal Civil Penalties Inflation Adjustment Act Improvements Act of 2015 (2015 Inflation Adjustment Act).<sup>215</sup>

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

55. 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>216</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

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<sup>209</sup>*E.g.*, Conquest Operator Servs. Corp., Order of Forfeiture, 14 FCC Rcd 12518, 12528, para. 20 (1999) (forfeiture paid).

<sup>210</sup> See *supra* note 164 and accompanying text.

<sup>211</sup> See April 2023 USAC Letter, *supra* note 49.

<sup>212</sup> See *PayG NAL*, *supra* note 164, at \*12, para. 38; see also *Correct Solutions NAL*, *supra* note 164, at \*8, para. 26 (providing notice of future upward adjustments of 100 percent or more of the \$50,000 base forfeiture for repeated or continuous violations of section 54.711(a) of the Commission's rules).

<sup>213</sup> See 47 U.S.C. § 503(b)(2).

<sup>214</sup> *Id.* § 503(b)(2)(B).

<sup>215</sup> Pub. L. No. 114-74, § 701, 129 Stat. 584, 599 (2015). The 2015 Inflation Adjustment Act amended the Federal Civil Penalties Inflation Adjustment Act of 1990, which is codified, as amended, at 28 U.S.C. § 2461 note (1990 Inflation Adjustment Act). Federal agencies must annually adjust civil monetary penalties, and publish each annual adjustment by January 15. 1990 Inflation Adjustment Act § 4(a). The 2015 Inflation Adjustment Act provides that the new penalty levels shall apply to penalties assessed after the effective date of the increase, "including [penalties] whose associated violation predated such increase." 1990 Inflation Adjustment Act § 6.

<sup>216</sup> 47 CFR § 1.80(b)(10), Tbl. 1 to Para. (b)(10).



failure of a service provider to file timely or accurate Worksheets.<sup>217</sup> However, given the accumulating record of non-compliance with the requirements to file accurate Worksheets by each filing deadline, service providers failing to comply with these requirements have been provided notice that the Commission could impose substantially higher upward adjustments for prior violations and for repeated or continuous violations.<sup>218</sup> Enforcement actions for the failure to file timely or accurate Worksheets can include upward adjustments up to the statutory maximum forfeiture authorized under section 503(b)(2) of the Act.<sup>219</sup> In this case, we propose a forfeiture of \$600,000 for the Company's repeated failures to file accurate Annual Worksheets, which represents a \$100,000 forfeiture for each of the six inaccurate Annual Worksheet filings for 2017 through 2022, which Enhanced filed on April 5, 2023.<sup>220</sup>

56. 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>221</sup> The administrators of the USF, TRS Fund, LNP, NANP, and federal regulatory fees rely on the data reported in Worksheets to determine accurate amounts that service providers owe for these important funding mechanisms arising under the Act.<sup>222</sup> Enhanced's failures to file accurate Annual Worksheets each year for 2017 through 2022 had serious implications for the administration of these funding mechanisms. The ability of the administrators to assess accurate USF, TRS Fund, LNP, and NANP, and federal regulatory fee payment requirements depends 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>223</sup> and to these other important cost recovery requirements arising under the Act. We have also considered the degree of the Company's culpability.<sup>224</sup> The Company has an important obligation to file accurate Worksheets by each annual filing deadline, and Enhanced repeatedly failed to comply for six years. The Company is thus highly culpable for the repeated filing failures. We therefore propose a forfeiture of \$600,000 for the Company's failures to file six accurate Annual Worksheets.

### C. Total Proposed Forfeiture

57. Consistent with the Act and the Commission's rules,<sup>225</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 million dollars (\$1,000,000). The total proposed forfeiture includes a forfeiture of (a) four hundred thousand dollars (\$400,000) for the Company's failures to respond to USAC directives to provide documentation supporting Enhanced's Annual Worksheets; and (b) six hundred thousand dollars (\$600,000) for the Company's failures to file accurate Worksheets.

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<sup>217</sup> *E.g.*, *PTT Phone Cards, Inc.*, Forfeiture Order, 30 FCC Rcd 14701, 14707, para. 19 (2015); *ADMA Telecom, Inc.*, Forfeiture Order, 26 FCC Rcd 4152, 4155, 4162, paras. 9, 28 (2011); *Globcom Forfeiture Order*, *supra* note 202, 21 FCC Rcd at 4720-21, 4727, paras. 26-28, 31, 45.

<sup>218</sup> *E.g.*, *PayG NAL*, *supra* note 164, at \*13, para. 41 (providing notice of upward adjustments as high as the statutory maximum forfeiture for prior violations and for repeated or continuous violations); *Correct Solutions NAL*, *supra* note 164, at \*8, para. 26 (providing notice of future upward adjustments to \$100,000 or more).

<sup>219</sup> *See* 47 U.S.C. § 503(b)(2); *PayG NAL*, *supra* note 164, at \*13, para. 41.

<sup>220</sup> *See PayG NAL*, *supra* note 164, at \*13, para. 41; *Correct Solutions NAL*, *supra* note 164, at \*8, para. 26.

<sup>221</sup> *See* 47 U.S.C. § 503(b)(2)(E).

<sup>222</sup> *See* 47 CFR §§ 1.1154, 52.17, 52.32, 54.711, 64.604(c)(5)(iii).

<sup>223</sup> *See* 47 U.S.C. § 254(d).

<sup>224</sup> *See id.* § 503(b)(2)(E).

<sup>225</sup> *See id.*; 47 CFR § 1.80(b)(10), Tbl. 3 to Paragraph (b)(10).

## V. CONCLUSION

58. We have determined that Enhanced apparently willfully and repeatedly violated sections 251(e)(2) and 254(d) of the Act,<sup>226</sup> sections 1.1154, 52.17(b), 52.32(b), 54.711(a), 64.604(c)(5)(iii)(B) of the Commission's rules,<sup>227</sup> and Commission orders issued pursuant to section 254(d) of the Act,<sup>228</sup> by failing to respond to USAC documentation directives and to file accurate Annual Worksheets. As such, Enhanced is apparently liable for a forfeiture of \$1,000,000.<sup>229</sup>

## VI. ORDERING CLAUSES

59. Accordingly, **IT IS ORDERED** that, pursuant to section 503(b) of the Act, 47 U.S.C. § 503(b), and section 1.80 of the Commission's rules, 47 CFR § 1.80, Enhanced Communications Group, LLC is hereby **NOTIFIED** of this **APPARENT LIABILITY FOR A FORFEITURE** in the amount of one million dollars (\$1,000,000) for willful and repeated violations of sections 251(e)(2) and 254(d) of the Act, 47 U.S.C. §§ 251(e)(2), 254(d), sections 1.1154, 52.17(b), 52.32(b), 54.711(a), 64.604(c)(5)(iii)(B) of the Commission's rules, 47 CFR §§ 1.1154, 52.17(b), 52.32(b), 54.711(a), 64.604(c)(5)(iii)(B), and Commission orders issued pursuant to section 254(d) of the Act, 47 U.S.C. § 254(d).<sup>230</sup>

60. **IT IS FURTHER ORDERED** that, pursuant to section 1.80 of the Commission's rules, 47 CFR § 1.80, within thirty (30) calendar days of the release date of this Notice of Apparent Liability for Forfeiture and Order, Enhanced Communications Group, LLC **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 63 below.

61. In order for Enhanced Communications Group, LLC to pay the proposed forfeiture, Enhanced Communications Group, LLC shall notify Patrick McGrath, Kalun Lee, Georgina Feigen, David Janas, and Jeffrey Brown at [Patrick.McGrath@fcc.gov](mailto:Patrick.McGrath@fcc.gov), [Kalun.Lee@fcc.gov](mailto:Kalun.Lee@fcc.gov), [Georgina.Feigen@fcc.gov](mailto:Georgina.Feigen@fcc.gov), [David.Janas@fcc.gov](mailto:David.Janas@fcc.gov), [Jeffrey.Brown@fcc.gov](mailto:Jeffrey.Brown@fcc.gov), and [EnforcementBureauHHD@fcc.gov](mailto:EnforcementBureauHHD@fcc.gov) of its intent to pay, whereupon an invoice will be posted in the Commission's Registration System (CORES) at <https://apps.fcc.gov/cores/userLogin.do>. Upon payment, Enhanced Communications Group, LLC shall send electronic notification of payment to Patrick McGrath, Kalun Lee, Georgina Feigen, David Janas and Jeffrey Brown, Enforcement Bureau, Federal Communications Commission, at [Patrick.McGrath@fcc.gov](mailto:Patrick.McGrath@fcc.gov), [Kalun.Lee@fcc.gov](mailto:Kalun.Lee@fcc.gov), [Georgina.Feigen@fcc.gov](mailto:Georgina.Feigen@fcc.gov), [David.Janas@fcc.gov](mailto:David.Janas@fcc.gov), [Jeffrey.Brown@fcc.gov](mailto:Jeffrey.Brown@fcc.gov), and [EnforcementBureauHHD@fcc.gov](mailto:EnforcementBureauHHD@fcc.gov) on the date said payment is made. Payment of the forfeiture must be made by credit card using 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 forfeiture payments by check or money order. Below are instructions that payors should follow based on the form of payment

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<sup>226</sup> *Id.* §§ 251(e)(2), 254(d).

<sup>227</sup> 47 CFR §§ 1.1154, 52.17(b), 52.32(b), 54.711(a), 64.604(c)(5)(iii)(B).

<sup>228</sup> See 2022 Annual Worksheet Instructions, *supra* note 2, 36 FCC Rcd 14176; 2021 Annual Worksheet Instructions, *supra* note 10, 35 FCC Rcd 13671; 2020 Annual Worksheet Instructions, *supra* note 10, 35 FCC Rcd 1350; 2019 Annual Worksheet Instructions, *supra* note 10, 34 FCC Rcd 426, 448; 2018 Annual Worksheet Instructions, *supra* note 10, 33 FCC Rcd 1801; 2017 Annual Worksheet Instructions, *supra* note 10, 32 FCC Rcd 1238.

<sup>229</sup> Any entity that is a "Small Business Concern" as defined in the Small Business Act (Pub. L. 85-536, as amended) may avail itself of rights set forth in that Act, including rights set forth in 15 U.S.C. § 657, "Oversight of Regulatory Enforcement," in addition to other rights set forth herein.

<sup>230</sup> See 2022 Annual Worksheet Instructions, *supra* note 2, 36 FCC Rcd 14176; 2021 Annual Worksheet Instructions, *supra* note 10, 35 FCC Rcd 13671; 2020 Annual Worksheet Instructions, *supra* note 10, 35 FCC Rcd 1350; 2019 Annual Worksheet Instructions, *supra* note 10, 34 FCC Rcd at 448; 2018 Annual Worksheet Instructions, *supra* note 10, 33 FCC Rcd 1801; 2017 Annual Worksheet Instructions, *supra* note 10, 32 FCC Rcd 1238.

selected:<sup>231</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>232</sup> or printed CORES form<sup>233</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>234</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 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.
- 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.

62. 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>235</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).

63. 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

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<sup>231</sup> For questions regarding payment procedures, please contact the Financial Operations Group Help Desk by phone at 1-877-480-3201 (option #1).

<sup>232</sup> FCC Form 159 is accessible at <https://www.fcc.gov/licensing-databases/fees/fcc-remittance-advice-form-159>.

<sup>233</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>234</sup> Instructions for completing the form may be obtained at <http://www.fcc.gov/Forms/Form159/159.pdf>.

<sup>235</sup> See 47 CFR § 1.1914.

to sections 1.16 and 1.80(f)(3) of the Commission's rules.<sup>236</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 – Investigations & Hearings Division, and must include the NAL/Account Number referenced in the caption. The statement must also be e-mailed to [Patrick.McGrath@fcc.gov](mailto:Patrick.McGrath@fcc.gov), [Kalun.Lee@fcc.gov](mailto:Kalun.Lee@fcc.gov), [Georgina.Feigen@fcc.gov](mailto:Georgina.Feigen@fcc.gov), [David.Janas@fcc.gov](mailto:David.Janas@fcc.gov), [Jeffrey.Brown@fcc.gov](mailto:Jeffrey.Brown@fcc.gov), and [EnforcementBureauIHD@fcc.gov](mailto:EnforcementBureauIHD@fcc.gov).

64. 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>237</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>238</sup>

65. **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 Jeff Holley, Chief Executive Officer, Enhanced Communications Group, LLC, 312 SE Delaware Avenue, Bartlesville, OK 74003, and by e-mail to [jeff.holley@boom.us](mailto:jeff.holley@boom.us).

FEDERAL COMMUNICATIONS COMMISSION

Marlene H. Dortch  
Secretary

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<sup>236</sup> 47 CFR §§ 1.16, 1.80(f)(3).

<sup>237</sup> 47 U.S.C. § 503(b)(2)(E).

<sup>238</sup> See, e.g., *Ocean Adrian Hinson, Surry County, North Carolina*, Forfeiture Order, 34 FCC Rcd 7619, 7621, para. 9 & n.21 (2019); *Vearl 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 Commc 'ns, 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).