

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

In the Matter of)
City Communications, Inc.)
File No.: EB-FD-22-00034222
NAL/Acct. No.: 202432200001
FRN: 0023589245

NOTICE OF APPARENT LIABILITY FOR FORFEITURE AND ORDER INITIATING
REMOVAL PROCEEDING

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By the Commission:

TABLE OF CONTENTS

Heading Paragraph #
I. INTRODUCTION..... 1
II. BACKGROUND..... 6
A. Legal Framework..... 6
B. Relevant Entities..... 23
C. Relationships Among the Relevant Entities..... 31
D. City Communications’ Application History to Participate in EBB and ACP..... 35
III. THE BUREAU’S INVESTIGATION 38
A. Subscribers Enrolled Using Duplicate Non-Subscriber BQP Information 41
B. Subscribers Enrolled Using Fake or False Addresses..... 46
C. City’s Reimbursement Requests 53
D. Inaccurate Company Address and Contact Information 55
E. City Communications’ Failure to Send Transfer Notices 61
IV. DISCUSSION 63
A. City Communications Enrolled Ineligible Subscribers Using the Same Non-Subscriber BQPs and Fake or False Addresses 64
B. City Communications Committed Wire Fraud 66
C. City Communications Certified False Reimbursement Requests 71
D. City Communications’ Untruthful, Inaccurate, and Incomplete Statements in Submissions to the Commission 75
V. PROPOSED FORFEITURE 82
A. Proposed Forfeiture Amount for City Communications’ Apparent Violations of Commission Rules by Improperly Enrolling Subscribers in ACP..... 85
B. Proposed Forfeiture Amount for City Communications’ Apparent Violations of the Federal Wire Fraud Statute 88
C. Proposed Forfeiture Amount for City Communications’ Apparent Violations of Commission Rules through Repeated Inaccurate and Untruthful Statements 89
D. Proposed Forfeiture Amount for City Communications’ Apparent Violations of Commission Orders 90
E. Total Proposed Forfeiture 91
VI. CONCLUSION 92

VII. ORDER INITIATING REMOVAL PROCEEDING	93
VIII. ORDERING CLAUSES	98
APPENDIX A – Service Provider Reimbursement Request EBB Certifications	
APPENDIX B – Service Provider Reimbursement Request ACP Certifications	

I. INTRODUCTION

1. In this Notice of Apparent Liability for Forfeiture and Order Initiating Removal Proceeding (NAL), we propose a penalty of \$16,971,253 against City Communications, Inc. (City Communications, City, or the Company) for apparently willfully and repeatedly violating Federal Communications Commission (FCC or Commission) rules relating to the Emergency Broadband Benefit Program (EBB), the Affordable Connectivity Program (ACP), and the federal wire fraud statute.¹ The apparent violations for which the Commission proposes forfeiture amounts occurred from March 16, 2022 to the present.²

2. EBB was established by the FCC on February 25, 2021³ at the direction of Congress through the Consolidated Appropriations Act of 2021.⁴ The purpose of the program was to facilitate the provision of broadband services and devices to eligible households⁵ so that they could stay connected during the COVID-19 pandemic. Efforts to slow the spread of COVID-19 resulted in the closure of businesses and schools across the country for extended periods, which in turn caused millions of Americans to become newly unemployed or unable to find work. In addition, these closures caused Americans to turn to virtual learning, telemedicine, and telework, which increased every household's need for access to broadband services. The cost of broadband services, however, is a barrier to access for many families, and the support provided by EBB was designed to alleviate some of that burden.⁶ By the end of 2021, more than nine million American households had benefited from EBB subsidies for broadband services and connected devices,⁷ including students accessing virtual classrooms, adults working remotely, and people providing and receiving critical healthcare services.⁸

3. Although EBB ended on December 31, 2021, Congress, pursuant to the Infrastructure Investment and Jobs Act (Infrastructure Act),⁹ built upon EBB by appropriating new funding for ACP to provide discounted broadband service and connected devices to low-income households. To ensure the

¹ 47 CFR §§ 54.1600-54.1612, 54.1800-54.1814; 18 U.S.C. § 1343.

² See Tolling Agreements executed by Fraud Division, FCC Enforcement Bureau, and Andre Truffelli, City Communications (Mar. 15, 2023 and Apr. 14, 2023) (Tolling Agreements) (on file in Investigation Number EB-FD-22-00034222).

³ 47 CFR §§ 54.1600-54.1612; *Emergency Broadband Benefit Program*, WC Docket No. 20-445, Report and Order, 36 FCC Rcd 4612 (2021) (*Emergency Broadband Benefit Program Order*).

⁴ Consolidated Appropriations Act, Pub. L. No. 116-260, 134 Stat. 1182, 2129-63 (2020) (codified at 47 U.S.C. § 1752), available at <https://www.congress.gov/bill/116th-congress/house-bill/133/text> (Consolidated Appropriations Act).

⁵ See *infra* para. 7.

⁶ See *Emergency Broadband Benefit Program Order*, 36 FCC Rcd at 4613, para. 1.

⁷ See Universal Service Administrative Co., About, Emergency Broadband Benefit Program, Emergency Broadband Benefit Program Enrollments and Claims Tracker, <https://www.usac.org/about/emergency-broadband-benefit-program/emergency-broadband-benefit-program-enrollments-and-claims-tracker/> (last visited Dec. 1, 2023).

⁸ See Fed. Comm'n's Comm'n, Home, Consumer, Emergency Broadband Benefit, <https://www.fcc.gov/broadbandbenefit> (last visited Dec. 1, 2023).

⁹ Infrastructure Investment and Jobs Act, Pub. L. No. 117-58, 135 Stat. 429 (2021) (codified at 47 U.S.C. § 1752, as modified by the Infrastructure Act), <https://www.govinfo.gov/content/pkg/BILLS-117hr3684enr/pdf/BILLS-117hr3684enr.pdf>; see also *Affordable Connectivity Program*, WC Docket No. 21-450, Report and Order and Further Notice of Proposed Rulemaking, 37 FCC Rcd 484 (2022) (*Affordable Connectivity Program Order*).

integrity and effectiveness of EBB, and then ACP, Congress and the Commission authored a regulatory framework which imposed responsibilities and obligations on participating service providers, including requiring service providers to determine a customer's eligibility to participate in these programs prior to enrolling the customer for service.¹⁰ By the end of 2022, more than 15.4 million American households were enrolled in ACP.¹¹

4. From at least January 2022 through August 2023, City sought and received EBB and ACP funding for subscribers that were improperly enrolled in these programs. The Company enrolled these subscribers with fake or false identifying information by either using an address to which the purported subscriber had no connection or repeatedly using the same benefit qualifying person (BQP)¹² to enroll multiple subscribers. As a result of this conduct, City apparently violated 47 CFR §§ 54.1605, 54.1606(b),¹³ 54.1608(e)(3), 54.1805, 54.1806(b),¹⁴ 54.1808(e)(3), and 54.1810(i)¹⁵ and apparently improperly received more than \$3.1 million from EBB and ACP. Despite these apparent violations, from January 2022 to August 2023, City falsely and repeatedly certified in its reimbursement requests¹⁶ to the FCC and the Universal Service Administrative Company (USAC) that it was in compliance with the Commission's rules; based on these misrepresentations, made under penalty of perjury, City received funding from EBB and ACP. City submitted these reimbursement requests via interstate wires in apparent violation of the federal wire fraud statute.¹⁷

5. The investigation by the Commission's Enforcement Bureau (Bureau) further identified apparent violations of ACP rules governing the transfer of subscriber benefits from one provider to

¹⁰ 47 CFR §§ 54.1800-54.1814.

¹¹ See Universal Service Administrative Co., About, Affordable Connectivity Program, ACP Enrollment and Claims Tracker, <https://usac.org/about/affordable-connectivity-program/acp-enrollment-and-claims-tracker/> (last visited Dec. 1, 2023).

¹² Generally, a benefit qualifying person is the member of the household who meets the requirements to receive ACP benefits. In the case of a non-subscriber BQP, that person is someone in the applicant's household other than the applicant, often times a dependent child. See 47 CFR § 54.1800(j), (l); *Emergency Broadband Benefit Program Order*, *supra* note 3, at 4643-45, paras. 66, 68 and n.222; *Wireline Competition Bureau Announces Additional Program Integrity Measures for Affordable Connectivity Program Enrollments Based on a Benefit Qualifying Person*, Public Notice, 37 FCC Rcd 10211 (WCB 2022); Advisory, FCC OIG, *Advisory Regarding Provider Enrollments of Multiple ACP Households Based on the Same Child/Dependent* (Sept. 8, 2022), <https://www.fcc.gov/document/oig-advisory-regarding-acp-enrollment-fraud>.

¹³ 47 CFR § 54.1606(b) restricts a provider from providing "a consumer with service that it represents to be Emergency Broadband Benefit-supported service or seek reimbursement for such service, unless and until it has: (1) Confirmed that the household is an eligible household pursuant to 47 CFR 54.1605; (2) Completed any other necessary enrollment steps, and; (3) Securely retained all information and documentation it receives related to the eligibility determination and enrollment, consistent with 47 CFR 54.1611."

¹⁴ 47 CFR § 54.1806(b) restricts a provider from providing "a consumer with service that it represents to be Affordable Connectivity Program-supported service or seek reimbursement for such service, unless and until it has: (1) Confirmed that the household is an eligible household pursuant to § 54.1805(a) and (b); (2) Completed any other necessary enrollment steps, and; (3) Securely retained all information and documentation it receives related to the eligibility determination and enrollment, consistent with § 54.1811."

¹⁵ 47 CFR § 54.1810(i)(1) prohibits participating providers "from engaging in unjust and unreasonable acts or practices that would undermine the purpose, intent, or integrity of the Affordable Connectivity Program."

¹⁶ See 47 CFR §§ 54.1608, 54.1808.

¹⁷ While the Bureau finds that City Communications apparently committed wire fraud by submitting reimbursement requests for December 2021, January 2022, and February 2022 service months; those months are not included in the forfeiture section below because they fall outside the statute of limitations.

another, in apparent violation of section 54.1810(b)(2).¹⁸ The Bureau also found that City Communications apparently willfully and repeatedly made misrepresentations to the Commission in its applications and election notices to participate in EBB and ACP, and to the Bureau in the course of its investigation, all in violation of Rule 1.17. City also failed to respond fully to two Letters of Inquiry from the Bureau, which are Commission orders. We find that the proposed \$16,971,253 forfeiture penalty reflects the scope, duration, seriousness, and egregiousness of City Communications' numerous apparent violations and resulting harm to ACP.

II. BACKGROUND

A. Legal Framework

1. Emergency Broadband Benefit Program

6. The Consolidated Appropriations Act became law on December 27, 2020.¹⁹ Among other Congressional actions intended to provide relief during the COVID-19 pandemic, the Consolidated Appropriations Act established an Emergency Broadband Connectivity Fund of \$3.2 billion in the Treasury of the United States,²⁰ to remain available until expended. The Consolidated Appropriations Act directed the Commission to use these funds to establish EBB, under which eligible households could receive a monthly discount on the cost of broadband service and a one-time discount on eligible connected devices during an emergency period relating to the COVID-19 pandemic, and participating service providers could receive a reimbursement for providing these discounts.²¹

7. The Consolidated Appropriations Act directed, and our rules provide, that a household would be eligible for the Emergency Broadband Benefit if at least one member of the household: (i) met the qualifications for participation in the Lifeline Program (household income is at or below 135% of the federal poverty guidelines or a household member participated in the Supplemental Nutrition Assistance Program, Medicaid, Supplemental Security Income, Federal Public Housing Assistance, Veterans Pension/Survivors Benefit, or certain Tribal assistance programs); (ii) applied for and been approved to receive benefits under the free and reduced price lunch program or the school breakfast program; (iii) experienced a substantial loss of income since February 29, 2020 that was documented by layoff or furlough notice, application for unemployment insurance benefits, or similar documentation or that is otherwise verifiable; (iv) received a Federal Pell Grant in the current award year; or (v) met the eligibility criteria for a participating provider's existing low-income or COVID-19 program, subject to approval by the Commission.²² Additionally, to receive the EBB benefit, the rules make clear that no member of a household could have already been receiving an EBB benefit.²³ The Commission determined that the National Lifeline Eligibility Verifier (National Verifier), which is operated by USAC to verify certain

¹⁸ 47 CFR § 54.1810(b)(2) requires participating service providers to provide "written notice to the transferred subscriber" within five business days of completing a subscriber transfer in NLAD.

¹⁹ Consolidated Appropriations Act, Pub. L. No. 116-260, 134 Stat. 1182, 2129-63 (2020) (codified at 47 U.S.C. § 1752), <https://www.congress.gov/bill/116th-congress/house-bill/133/text> (Consolidated Appropriations Act).

²⁰ *Id.* § 904(i).

²¹ *Id.* § 904(b)(1). Under section 904, the emergency period "ends on the date that is 6 months after the date on which the determination by the Secretary of Health and Human Services pursuant to section 319 of the Public Health Service Act (42 U.S.C. 247d) that a public health emergency exists as a result of COVID-19, including any renewal thereof, terminates." *Id.* § 904(a)(8); see *Emergency Broadband Benefit Program Order*, *supra* note 3, at 4613, para. 2. The emergency period ended on November 11, 2023, and the program continues under the ACP.

²² Consolidated Appropriations Act, § 904(a)(6); 47 CFR § 54.1605(a).

²³ 47 CFR § 54.1605(b).

eligibility criteria for household participation in the Commission's Universal Service Lifeline Program, should also be used for EBB.²⁴

8. A participating service provider was required to verify household eligibility in one of three ways under EBB. It could use the National Verifier, it could seek Wireline Competition Bureau (WCB) approval to use an alternative verification process, or it could rely on a school to verify the household's eligibility through a household member's participation in the reduced price lunch program or school breakfast program.²⁵

9. Providers participating in EBB were required to "implement policies and procedures for ensuring that their Emergency Broadband Benefit Program households [we]re eligible to receive the Emergency Broadband Benefit."²⁶ In particular,

[a] provider [could] not provide a consumer with service that it represent[ed] to be Emergency Broadband Benefit-supported service or seek reimbursement for such service, unless and until it ha[d]: (1) Confirmed that the household [wa]s an eligible household pursuant to 47 CFR 54.1605; (2) Completed any other necessary enrollment steps, and; (3) Securely retained all information and documentation it receive[d] related to the eligibility determination and enrollment, consistent with 47 CFR 1611.²⁷

10. Broadband providers were not required to participate in EBB; instead, they could voluntarily choose to participate by filing an election notice, which had to be certified and submitted to USAC, along with supporting documentation to show the provider was qualified to offer broadband services and/or discounted connected devices.²⁸ Eligible Telecommunications Carriers (ETCs) needed only to file an election notice with USAC, while non-ETCs were required to apply and receive authorization from WCB before submitting their elections.²⁹ Broadband providers had to have been providing broadband services as of December 1, 2020 to participate in EBB.³⁰ ETCs and approved non-ETC providers were required to file an election notice with USAC stating, among other things, the jurisdictions in which they would participate in the program.³¹

11. Participating providers that also supplied an eligible household with a connected device (defined in the Consolidated Appropriations Act as a laptop, desktop computer, or tablet) could receive a single reimbursement of up to \$100 for the connected device, if the charge to the eligible household for

²⁴ *Emergency Broadband Benefit Program Order*, *supra* note 3, at 4638, para. 54; Consolidated Appropriations Act, §§ 904(a)(6), (b)(2). The National Verifier was used in EBB and is available for use in the successor ACP to automatically check and confirm a household's eligibility electronically against state and federal eligibility databases, followed by manual review of eligibility documentation for applicants whose eligibility cannot be verified using an automated data source. *See Emergency Broadband Benefit Program Order*, *supra* note 3, at 4635, para. 50.

²⁵ 47 CFR § 54.1606(a)(1)-(3); 47 U.S.C. § 1752(b)(2).

²⁶ 47 CFR § 54.1606(b).

²⁷ *Id.*

²⁸ *Emergency Broadband Benefit Program Order*, *supra* note 3, at 4616, para. 10.

²⁹ 47 CFR § 54.1601(a)-(c).

³⁰ *Emergency Broadband Benefit Program Order*, *supra* note 3, at 4622, para. 22; EBB Provider Approval & Alternative Eligibility Verification Application Filing Instructions, at 5 (Mar. 2021).

³¹ *See* 47 CFR § 54.1601(c).

that device was more than \$10 but less than \$50.³² A participating provider could receive reimbursement for only one supported device per eligible household.³³

12. On May 12, 2021, EBB providers began enrolling consumers in the program.³⁴ Consumers could check for program eligibility and search for participating providers in their states in a number of ways. Consumers could visit the FCC website directly to find a list of EBB providers in their state, use USAC's "Companies Near Me" tool, or visit various state or nonprofit websites advertising EBB and be directed to the FCC list.³⁵ Consumers could begin their search on the webpage containing the list of participating providers and then could click the link to a specific provider and be directed to the provider's website for information on its EBB offerings.³⁶

13. Additional relevant EBB rule provisions include:

a. Definitions for household and economic unit:

A 'household' is any individual or group of individuals who are living together at the same address as one economic unit. A household may include related and unrelated persons. An 'economic unit' consists of all adult individuals contributing to and sharing in the income and expenses of a household. An adult is any person eighteen years or older. If an adult has no or minimal income, and lives with someone who provides financial support to him/her, both people shall be considered part of the same household. Children under the age of eighteen living with their parents or guardians are considered to be part of the same household as their parents or guardians.³⁷

b. "All participating providers in the Emergency Broadband Benefit Program must make available the Emergency Broadband Benefit Program to qualifying low-income consumers."³⁸

c. "If the prospective household shares an address with one or more existing Emergency Broadband Benefit Program subscribers according to the National Lifeline Accountability Database or National Verifier, the prospective subscriber must complete a form certifying compliance with the one-per-household rule prior to initial enrollment."³⁹

d. Participating providers "must require that enrollment representatives register with the Administrator before the enrollment representative can provide information directly or indirectly to the National Lifeline Accountability Database or the National Verifier." As part of the registration process, enrollment representatives must include their first and last name, date of birth, last four digits of their social security number, email address, and residential address. Enrollment representatives will then be assigned a unique identifier, which they will use to access the National Lifeline Accountability Database (NLAD), the

³² Consolidated Appropriations Act, § 904(b)(5), 134 Stat. 1182; 47 CFR § 54.1603(b).

³³ Consolidated Appropriations Act, § 904(b)(5), 134 Stat. 1182; 47 CFR § 54.1603(b).

³⁴ *Wireline Competition Bureau Announces Emergency Broadband Benefit Program Launch Date*, WC Docket No. 20-445, Public Notice, 36 FCC Rcd 7614 (WCB 2021).

³⁵ *Id.* at 7615.

³⁶ The Affordable Connectivity Program uses the same format to identify providers participating in that program. *See, e.g.*, Fed. Comm'n's Comm'n, <https://www.fcc.gov/affordable-connectivity-program-providers>; <https://data.usac.org/publicreports/CompaniesNearMe/Download/Report> (last visited May 23, 2022).

³⁷ 47 CFR § 54.1600(l).

³⁸ *Id.* § 54.1604(a).

³⁹ *Id.* § 54.1606(c).

National Verifier, any eligibility database, and to complete any EBB enrollment or verification forms.⁴⁰

e. To receive EBB reimbursement, an officer of the participating provider must certify, as part of each request for reimbursement—which typically occurs monthly—that, among other things, (1) the participating provider is in compliance with all EBB rules, (2) the participating provider has obtained valid certification and applications forms for each of the subscribers for whom it is seeking reimbursement, and (3) the provider has retained all necessary documentation for no less than the six full preceding calendar years.⁴¹

2. Affordable Connectivity Program

14. The Infrastructure Act extended EBB’s objectives, and left much of EBB’s basic framework in place but made “changes to the benefit amount, rules regarding plan and subscriber eligibility, and providers’ public promotion obligations, among other changes.”⁴² With these new changes, the Infrastructure Act transitioned EBB to ACP. Provisions that carried over from EBB to ACP include, but are not limited to:

a. Definitions such as “participating provider,” “broadband provider,” “broadband internet access service,” and “household.”

b. The three eligibility verification processes being the National Verifier, an alternative verification process, or relying on a school to verify the household’s eligibility based on the household’s participation in the free and reduced price lunch program or school breakfast program.⁴³

c. The process for participating providers to register enrollment representatives with USAC.⁴⁴

d. A participating provider’s officer certifications in connection with the provider’s reimbursement requests.⁴⁵

e. The requirement that, in addition to meeting one of the eligibility qualifications, “neither the eligible household nor any member of the household may already be receiving another affordable connectivity benefit from that participating provider or any other participating provider.”⁴⁶

f. Participating providers shall make available the affordable connectivity benefit to eligible households.⁴⁷

15. Provisions that changed or were removed in the transition from EBB to ACP include, but are not limited to:

⁴⁰ *Id.* § 54.1607(a)(1)-(4).

⁴¹ *Id.* §§ 54.1608(e), 54.1611.

⁴² *Affordable Connectivity Program Order*, *supra* note 9, at 486, para. 4; *see also* Infrastructure Investment and Jobs Act, Pub. L. No. 117-58, 135 Stat. 429 (2021), <https://www.govinfo.gov/content/pkg/BILLS-117hr3684enr/pdf/BILLS-117hr3684enr.pdf>.

⁴³ *See* 47 CFR §§ 54.1606(a)(1)-(3), 54.1806(a)(1)-(3).

⁴⁴ *See id.* §§ 54.1607(a)(1)-(4), 54.1807(a)(1).

⁴⁵ *See id.* §§ 54.1608(e), 54.1611, 54.1808(e), 54.1811.

⁴⁶ *See id.* §§ 54.1605(b), 54.1805(b).

⁴⁷ *See id.* §§ 54.1604(a), 54.1804(a).

- a. The standard non-tribal monthly broadband benefit decreased from \$50 to \$30.⁴⁸
 - b. The eligibility criterion based on a household having experienced a substantial loss of income since February 29, 2020 was removed.
 - c. The eligibility criterion based on income was adjusted from at or below 135% of the Federal Poverty Guidelines to at or below 200% of the Federal Poverty Guidelines.⁴⁹
16. Finally, express provisions that are new to ACP include, but are not limited to:
- a. An additional eligibility criterion based on a consumer's participation in Special Supplemental Nutrition Program for Women, Infants, and Children (WIC).⁵⁰
 - b. A participating provider must annually certify, under penalty of perjury, that it has policies in place to comply with all ACP rules and procedures. In addition, the participating provider must acknowledge that it "is liable for violations of the Affordable Connectivity Program rules and that its liability extends to violations by its agents, contractors, and representatives[.]"⁵¹
 - c. USAC shall recertify subscribers' eligibility using the National Verifier where the subscriber's eligibility was initially determined by the National Verifier.⁵²
 - d. Participating providers are prohibited from offering to enrollment representatives, their direct supervisors, or entities operating on the providers' behalf, any form of compensation that is (1) based on the number of consumers or households that apply for or are enrolled in ACP with the provider, (2) based on revenues the provider received in connection with ACP, including payments for connected devices, (3) based on the provider permitting the retention of cash payments received from a subscriber in connection with a connected device, or (4) characterized as paid in connection with a non-ACP activity that is actually based on ACP applications, enrollments, or revenues.⁵³
 - e. Participating providers are prohibited from engaging in unjust or unreasonable acts or practices that would undermine the purpose, intent, or integrity of ACP, including violating any ACP rule.⁵⁴
 - f. The Commission's rules limit ACP subscribers to one benefit transfer between participating providers per service month.⁵⁵ There are four limited exceptions to this rule: (1) the subscriber's benefit was improperly transferred, (2) the subscriber's service provider ceases operations or fails to provide service, (3) the service provider is found to be in violation of ACP rules and the violation impacts the subscriber for whom the

⁴⁸ Compare *id.* § 54.1603(a) with *id.* § 54.1800(b).

⁴⁹ Compare *id.* § 54.1605(a)(1) with *id.* § 54.1800(j)(2).

⁵⁰ 47 CFR § 54.1800(j)(6). See also *Affordable Connectivity Program Order*, *supra* note 9, at 487, para. 5.

⁵¹ 47 CFR § 54.1801(f).

⁵² *Id.* § 54.1806(f)(1).

⁵³ *Id.* § 54.1807(b)(1)-(4).

⁵⁴ *Id.* § 54.1810(i).

⁵⁵ See *id.* § 54.1810(b)(3) ("Participating subscribers can only transfer their affordable connectivity benefit between providers once in a given service month, with the following limited exceptions: (i) The subscriber's benefit was improperly transferred; (ii) The subscriber's service provider ceases operations or fails to provide service; (iii) The subscriber's current service provider is found to be in violation of affordable connectivity program rules, and the violation impacts the subscriber for which the exception is sought; (iv) The subscriber changes its location to a residential address outside of the provider's service area for the Affordable Connectivity Program.").

exception is sought, and (4) the subscriber changes his/her location to a residential address outside the provider's ACP service area.⁵⁶

17. Service providers use the Affordable Connectivity Claims System (ACCS) to claim subscribers for reimbursement and to certify reimbursement requests. The ACCS is available through USAC's "one portal" system.⁵⁷ This process is completed entirely online.⁵⁸

18. In order to claim a subscriber, a service provider must download a new filing template to review the list of subscribers eligible for reimbursement. This filing template includes subscriber data from the NLAD subscriber snapshot report, which is taken on the first of the month. A service provider then populates and submits the reimbursement request template with the necessary information (such as the reimbursement amount sought) for each subscriber. Finally, the Company's certifying officer certifies⁵⁹ and transmits the reimbursement request to USAC electronically.⁶⁰

3. Untruthful and Inaccurate Statements

19. Section 1.17 of the Commission's rules prohibits any person, including applicants for Commission authorizations, in any written statement of fact in connection with any investigatory or adjudicatory matter within the Commission's jurisdiction, from intentionally providing "material factual information that is incorrect or intentionally omit[ting] material information that is necessary to prevent any material factual statement that is made from being incorrect or misleading[.]"⁶¹ The courts and the Commission have consistently highlighted the importance of applicants for Commission authorizations submitting complete and truthful information in their applications. A "lack of candor in an applicant's dealings with the Commission" constitutes a "serious breach[] of trust,"⁶² and is exhibited when an applicant makes an affirmative misrepresentation or fails to disclose relevant facts of "decisional significance."⁶³ Proving a violation of section 1.17 requires a showing of evidence that the applicant "inten[ded] to deceive" the Commission.⁶⁴ Intent to deceive is generally found in cases where a false statement is "coupled with proof that the party . . . [knew] of its falsity[.]"⁶⁵ or where evidence allows intent to be derived "from a motive" to deceive.⁶⁶

⁵⁶ *Id.* § 54.1810(b)(3).

⁵⁷ Universal Service Administrative Co., *Affordable Connectivity Program Claims Process Overview* (Apr. 21, 2022), https://www.usac.org/wp-content/uploads/about/documents/acp/Training-Slides/ACP-Claims_April-21.pdf.

⁵⁸ City Communications submitted its reimbursement requests from its place of business in Georgia to USAC in Washington, D.C./Virginia.

⁵⁹ *See infra* paras. 44-45.

⁶⁰ Universal Service Administrative Co., *Affordable Connectivity Program Claims Process Overview* (Apr. 21, 2022), https://www.usac.org/wp-content/uploads/about/documents/acp/Training-Slides/ACP-Claims_April-21.pdf.

⁶¹ *See* 47 CFR § 1.17(a)(1).

⁶² *Swan Creek Commc'ns, Inc. v. FCC*, 39 F.3d 1217, 1221-22 (D.C. Cir. 1994) (quoting *Policy Regarding Character Qualifications in Broadcast Licensing*, 102 FCC 2d 1179, 1211 (1986)).

⁶³ *Fox Television Stations, Inc.*, Memorandum Opinion and Order, 10 FCC Rcd 8452, 8478 (1995) (quoting *Swan Creek Communication v. FCC*, 39 F.3d 1217, 1222 (D.C. Cir. 1994) and *RKO General, Inc. v. FCC*, 670 F.2d 215, 229 (D.C. Cir. 1981)); and *see, e.g., Acumen Communications*, Order of Revocation, 33 FCC Rcd 4 (EB 2018) (revoking licenses after hearing for, *inter alia*, misrepresentation in application); *Application of Riverside Youth & Rehabilitation*, Memorandum Opinion and Order and Notice of Apparent Liability for Forfeiture, 23 FCC Rcd 10360 (MB 2008) (issuing NAL for apparent misrepresentations in application after application grant was final).

⁶⁴ *See Century Cellunet of Jackson*, Memorandum Opinion and Order, 6 FCC Rcd 6150 (1991).

⁶⁵ *David Ortiz Radio Corp. v. FCC*, 941 F.2d 1253, 1260 (D.C. Cir. 1991) (quoting *Leflore Broadcasting Co. v. FCC*, 636 F.2d 454, 462 (D.C. Cir. 1980)).

⁶⁶ *Joseph Bahr*, Memorandum Opinion and Order, 10 FCC Rcd 32, 33 (1994).

4. Wire Fraud

20. Congress has authorized the Commission to assess a forfeiture penalty for violations of the federal wire fraud statute under Title 18, United States Code, Section 1343. Specifically, section 503(b)(1)(D) of the Communications Act of 1934, as amended (the Act), states that the Commission may propose a forfeiture against a person that the Commission has determined violated “any provision of section . . . 1343 . . . of title 18.”⁶⁷ The Commission’s rules further provide that a “forfeiture penalty may be assessed against any person found to have . . . [v]iolated any provision of section . . . 1343 . . . of Title 18, United States Code[.]”⁶⁸ Section 1343 provides that a violation of the wire fraud statute occurs when a person:

having devised or intending to devise any scheme or artifice to defraud, or for obtaining money or property by means of false or fraudulent pretenses, representations, or promises, transmits or causes to be transmitted by means of wire, radio, or television communication in interstate or foreign commerce, any writings, signs, signals, pictures, or sounds for the purpose of executing such scheme or artifice[.]⁶⁹

21. A finding that wire fraud under section 1343 has occurred “requires proof of (1) a scheme to defraud; and (2) the use of an interstate wire communication to further the scheme.”⁷⁰ Moreover, “[t]he essence of a scheme is a plan to deceive persons as to the substantial identity of the things they are to receive in exchange[.]” and “[a] pattern of deceptive conduct may show the existence of a plan, scheme or artifice.”⁷¹ Where one scheme involves several wire communications or mailings, “the law is settled that each mailing [or wire communication] constitutes a violation of the statute.”⁷² The use of mail or interstate wires to effectuate the fraudulent scheme “need not be an essential element of the scheme[;]” instead, it is “sufficient for the mailing [or the use of the interstate wire] to be incident to an essential part of the scheme or a step in the plot.”⁷³ One need not have used the wires themselves in the scheme to defraud; instead, culpability may arise from having caused the wires to be used.⁷⁴ Use of the Internet, such as by perpetrating a scheme to defraud through online websites, constitutes use of interstate wires for purposes of section 1343.⁷⁵

⁶⁷ 47 U.S.C. § 503(b)(1)(D).

⁶⁸ 47 CFR § 1.80(a)(5).

⁶⁹ 18 U.S.C. § 1343.

⁷⁰ *United States v. Maxwell*, 920 F.2d 1028, 1035 (D.C. Cir. 1990); *see also United States v. Pollack*, 534 F.2d 964, 971 (D.C. Cir. 1976).

⁷¹ *United States v. Brien*, 617 F.2d 299, 307 (1st Cir. 1980) (citations omitted).

⁷² *United States v. Philip Morris USA, Inc.*, 566 F.3d 1095, 1116 (D.C. Cir. 2009) (citations omitted); *see also United States v. Sum of \$70,990,605*, 4 F. Supp. 3d 189, 201 n.9 (D.D.C. 2014).

⁷³ *Schmuck v. United States*, 489 U.S. 705, 710-11 (1989) (citations, quotations, and punctuation omitted).

⁷⁴ *See Pereira v. United States*, 347 U.S. 1, 8 (1954) (“To constitute a violation of these provisions, it is not necessary to show that petitioners actually mailed or transported anything themselves; it is sufficient if they caused it to be done.”); *United States v. Lemire*, 720 F.2d 1327, 1334, n.6 (D.C. Cir. 1983) (*Lemire*) (“[C]ases construing mail fraud apply to the wire fraud statute as well.”).

⁷⁵ *United States v. Dinh*, No. 8-20-CV-1794 (KKM-AAS), 2021 WL 5867221 (M.D. Fla. Dec. 10, 2021) (granting permanent injunction against defendants that defrauded customers by operating online websites that appear to sell goods but did not ship the goods after purchase); *United States v. Collick*, 611 Fed. Appx. 553, 556 (11th Cir. 2015) (“Given that [defendant] testified that [he and co-defendant] used the internet to perpetrate their scheme, his testimony also established that [co-defendant] committed wire fraud.”); *Kyle Traxler and Cleo Commc’ns*, Notice of Apparent Liability for Forfeiture, 37 FCC Rcd 8151 (2022) (*Cleo NAL*).

22. A scheme to defraud requires the specific intent to make a misrepresentation or omission that is material to the scheme.⁷⁶ An intent to defraud includes an act undertaken “willfully and with specific intent to deceive or cheat, ordinarily for the purpose of either causing some financial loss to another or bringing about some financial gain to one’s self.”⁷⁷ “The requisite intent under the federal mail and wire fraud statutes may be inferred from the totality of the circumstances and need not be proven by direct evidence.”⁷⁸ Fraudulent intent may be “shown if a representation is made with reckless indifference to its truth or falsity[,]”⁷⁹ as well as a victim’s reliance on the misrepresentations made by the perpetrator.⁸⁰

B. Relevant Entities

1. City Communications

23. City Communications, Inc. (City Communications) was incorporated in the state of Georgia on February 24, 2014.⁸¹ City is in the business of providing telecommunications services.⁸² This includes providing internet service, tablets, and cellphones as part of the ACP program.⁸³ City is a reseller of AT&T service.⁸⁴

24. City Communications has apparently provided EBB and ACP service in Alabama, Arkansas, California, Florida, Georgia, Kentucky, Louisiana, Maryland, Michigan, Mississippi, North Carolina, Oklahoma, South Carolina, Tennessee, Texas, and Wisconsin.⁸⁵ It is unclear who presently owns City Communications—documents reviewed by the Bureau reference Ashar Syed, Pobish Ashar,

⁷⁶ *Neder v. United States*, 527 U.S. 1, 25 (1999).

⁷⁷ *Lemire*, 720 F.2d at 1341.

⁷⁸ *United States v. O’Connell*, 172 F.3d 921 (D.C. Cir. 1998); *see also United States v. Alston*, 609 F.2d 531, 538 (D.C. Cir. 1979).

⁷⁹ *United States v. Cusino*, 694 F.2d 185, 187 (9th Cir. 1982); *see also United States v. Kennedy*, 714 F.3d 951, 958 (6th Cir. 2013); *United States v. Jackson*, 524 F.3d 532 (4th Cir. 2008); *United States v. DeRosier*, 501 F.3d 888, 897-98 (8th Cir. 2007).

⁸⁰ *United States v. Wynn*, 684 F.3d 473 (4th Cir. 2012).

⁸¹Response to Letter of Inquiry, from City Communications, to Fraud Division, FCC Enforcement Bureau, at Doc. 20, Certificate of Incorporation, Response to Question 41 (Mar. 30, 2023) (on file in EB-FD-22-00034222) (LOI Response). In multiple Orders, the Consumer and Governmental Affairs Bureau found that City Communications, Inc. changed a complainant’s telecommunications service provider without obtaining authorization and verification from the complainant in violation of section 258 of the Commissions Act of 1934 (as amended), which prohibits slamming. *City Communications, Inc.*, Order, 35 FCC Rcd 467 (CGB 2020); *City Communications, Inc.*, Order, 35 FCC Rcd 611 (CGB 2020); *City Communications, Inc.*, Order, 35 FCC Rcd 1858 (CGB 2020); *City Communications, Inc.*, Order, 36 FCC Rcd 13488 (CGB 2021).

⁸² Strategic Alliance Agreement, July 12, 2021 (on file in EB-FD-22-00034222).

⁸³ City Communications, *Broadband & Wireless Home Phone*, <https://citycom.co/index.php/broadband-wireless-home-phone/> (last visited Nov. 22, 2023).

⁸⁴ Office of Regulatory Staff of South Carolina, *City Communications Customers Could be Without Telephone Service After August 13, 2021* (Aug. 9, 2021), <https://ors.sc.gov/news/2021-08/city-communications-customers-could-be-without-telephone-service-after-august-13-2021>. Toll resellers are common carriers for penalty purposes. *See, e.g., Cardinal Broadband, LLC*, Forfeiture Order, 27 FCC Rcd 7985 (2012); *Cardinal Broadband LLC*, Notice of Apparent Liability for Forfeiture, 23 FCC Rcd 12233 (EB 2008); *Telrite Corp.*, Notice of Apparent Liability for Forfeiture, 23 FCC Rcd 7231 (2008); *Enhanced Communications Group, LLC*, Notice of Apparent Liability for Forfeiture, FCC 23-54, 2023 WL 4587311 (July 13, 2023).

⁸⁵ LOI Response at Doc. 8.

and Faraz Syed (also apparently known as Faraz Mobeen) as owners at different times.⁸⁶ City's current executives include Pobish Ashar (CEO) and Faraz Mobeen (CEO), while prior executives include Suzane Anderson (Officer)⁸⁷ and Patrick Hardy (Manager).⁸⁸ Faraz Mobeen was President of City from May 2014 to January 2020.⁸⁹ One of City's reported name variations is Cathect Communications.⁹⁰

25. The bank account City Communications has on record with the Commission to receive ACP payments is owned by Tele Circuit Network Corporation (Tele Circuit).⁹¹ When asked directly to explain City Communications' relationship with Tele Circuit Network Corp., City's response was that the two companies "shared backend operations[.]"⁹² Tele Circuit's annual registration for 2020 in Georgia was submitted by Ashar Syed (Officer).⁹³ Pobish Ashar has been an authorized signatory on at least one of Tele Circuit's bank accounts⁹⁴ and is apparently currently Tele Circuit's Treasurer.⁹⁵ A LexisNexis report regarding Tele Circuit includes a section listing connected businesses; this list includes City Communications and North Forsyth Equity, LLC.⁹⁶ Tele Circuit's current CEO is Ashar Syed;⁹⁷ it lists its business address as 1815 Satellite Boulevard, Suite 504 in Duluth, Georgia.⁹⁸

⁸⁶ Response to second subpoena, from {[REDACTED]} to Fraud Division, FCC Enforcement Bureau (Apr. 24, 2023) (on file in EB-FD-22-00034222) (Second Subpoena Response). Material set off by double brackets {[]} is confidential and is redacted from the public version of this document.

⁸⁷ Information on file in Investigation Number EB-FD-22-00034222.

⁸⁸ Patrick Hardy is listed on City Communications' bank signature card as a manager of City Communications. Response to first subpoena, from {[REDACTED]} to Fraud Division, FCC Enforcement Bureau (Oct. 28, 2022) (on file in EB-FD-22-00034222) (First Subpoena Response); {[REDACTED]} First Subpoena Response at Signature Card 4. Patrick Hardy was also the agent identified by Tone Communication as enrolling all one hundred fifty two subscribers who used the three non-subscriber duplicate BQPs. Response to Letter of Inquiry, from Tone Communication, to Fraud Division, FCC Enforcement Bureau, at DOC-03-Master File spreadsheet, Response to Question 15 (Mar. 30, 2023) (on file in EB-FD-22-00034228) (Tone LOI Response).

⁸⁹ Application for Cathect Communications for Michigan Final Application PSC, Case No. U-20830 (filed Apr. 3, 2020). According to Mobeen's resume, Mobeen stepped down as President of City in January 2020 and became CEO of Cathect then. *Id.* Based on the Bureau's email exchanges with "fmobeen@citycom.co", it appears Mobeen is still working at City in some capacity.

⁹⁰ Information on file in Investigation Number EB-FD-22-00034222.

⁹¹ {[REDACTED]} First Subpoena Response, Second Subpoena Response. The Commission issued an NAL against Tele Circuit Network Corp in 2018 for slamming and cramming, *i.e.*, changing a consumer's preferred service provider to itself without the consumer's authorization and adding unauthorized charges to the consumer's bill. *Tele Circuit Network Corp*, Notice of Apparent Liability for Forfeiture, 33 FCC Rcd 4379 (Apr. 27, 2018). The NAL findings were adopted in a Forfeiture Order against Tele Circuit Network Corp in 2021 and imposed a forfeiture of \$4,145,000 against Tele Circuit. *Tele Circuit Network Corp*, Forfeiture Order, 36 FCC Rcd 7664 (2021) (concurring statements issued by then-Acting Chairwoman Jessica Rosenworcel and Commissioner Geoffrey Starks). The Tele Circuit Network Corp NAL and Forfeiture Order note that Ashar Syed is the President of the company and Syed's then-wife, Pobish Khan (sometimes referred to as Pobish Ashar) is the company's CEO.

⁹² Response to Supplemental Letter of Inquiry, from City Communications, to FCC Enforcement Bureau, at Doc. 3, Response to Question 10 (June 28, 2023) (on file in EB-FD-22-00034222) (SLOI Response).

⁹³ Georgia Corporations Division, State of Georgia, *Secretary of State Annual Registration, Tele Circuit Network Corporation* (filed Jan. 24, 2020), <https://ecorp.sos.ga.gov/BusinessSearch/BusinessFilings>.

⁹⁴ {[REDACTED]} Second Subpoena Response.

⁹⁵ Information on file in Investigation Number EB-FD-22-00034222.

⁹⁶ *Id.*

⁹⁷ *Id.*

⁹⁸ {[REDACTED]} First Subpoena Response.

2. Tone Communication Services LLC

26. Tone Communication Services LLC (Tone Communication) is a limited liability company formed in the state of Texas on July 30, 2019.⁹⁹ Tone Communication is authorized to offer ACP fixed and mobile broadband service in Alabama, Alaska, Arizona, Arkansas, Connecticut, Delaware, Georgia, Hawaii, Idaho, Illinois, Indiana, Iowa, Kansas, Kentucky, Louisiana, Maine, Maryland, Massachusetts, Michigan, Minnesota, Montana, Nebraska, Nevada, New Hampshire, New Jersey, New Mexico, New York, North Carolina, North Dakota, Ohio, Oklahoma, Oregon, Pennsylvania, Rhode Island, South Carolina, South Dakota, Tennessee, Utah, Vermont, Virginia, Washington, West Virginia, Wisconsin, and Wyoming.¹⁰⁰ When asked directly to describe City Communications' relationship with Tone Communication, City Communications stated the companies "shared CSR¹⁰¹ Portal (*sic*)."¹⁰²

27. Ashar Syed is the Owner of Tone Communication.¹⁰³ Both Roselba Bartolini and Ashar Syed have held themselves out in submissions to USAC as CEO;¹⁰⁴ prior executives include Suzane Anderson (former President).¹⁰⁵

28. The bank account Tone Communication has on record with the Commission to receive ACP reimbursement payments is titled in the name of North Forsyth Equity, LLC (North Forsyth Equity).¹⁰⁶ North Forsyth Equity was organized in the state of Georgia in August 2008 by Ashar Syed.¹⁰⁷ When asked directly to characterize City Communications' relationship with North Forsyth Equity, City Communications stated "there is no relationship."¹⁰⁸ North Forsyth Equity's owner is Ashar Syed.¹⁰⁹ Pobish Ashar was previously a registered agent for North Forsyth Equity.¹¹⁰ North Forsyth Equity's current address is 2375 Lexington Lane in Cumming, Georgia,¹¹¹ which is also reported to be a prior

⁹⁹ Letter from Tone Communication Services LLC (Oct. 10, 2022) (on file in Case No. EB-FD-22-00034228). Note: While the letter is dated October 10, 2022, the Bureau did not receive it via email until October 16, 2022.

¹⁰⁰ Fed. Commc'ns Comm'n, *Affordable Connectivity Program Providers*, fcc.gov/affordable-connectivity-program-providers (last visited Sept. 27, 2023).

¹⁰¹ CSR is an abbreviation for Customer Service Representative.

¹⁰² Tone LOI Response at Doc. 3.

¹⁰³ Response to Supplemental Letter of Inquiry, from Tone Communication, to FCC Enforcement Bureau, at Supplemental LOI EB-FD-22-00034228, Response to Question 12 (June 1, 2023) (on file in EB-FD-22-00034228); Response to first subpoena to Tone Communication from {[REDACTED]} to Fraud Division, FCC Enforcement Bureau (Nov. 7, 2022) on file in Investigation Number EB-FD-22-00034228) (Tone First Subpoena Response).

¹⁰⁴ Information on file in Investigation Number EB-FD-22-00034222.

¹⁰⁵ Information on file in Investigation Number EB-FD-22-00034228.

¹⁰⁶ *Id.*

¹⁰⁷ Georgia Corporations Division, State of Georgia, *Secretary of State Business Formation, North Forsyth Equity LLC* (filed Aug. 20, 2008), <https://ecorp.sos.ga.gov/BusinessSearch/BusinessFilings>.

¹⁰⁸ Tone LOI Response at Doc. 3.

¹⁰⁹ {[REDACTED]} Tone First Subpoena Response.

¹¹⁰ Information on file in Investigation Number EB-FD-22-00034228. It appears Pobish Ashar is also known as Pobish Khan and was previously married to Ashar Syed. See *Pobish Ashar v. Ashar Syed*, Civil Action No. 17-1-6780-48, Motion for Contempt (Ga. Super. Ct., Cobb Cnty. Oct. 5, 2017), <https://trellis.law/doc/80975225/> (last visited Dec. 1, 2023) (Pobish Ashar filed for divorce from Ashar Syed on September 5, 2017).

¹¹¹ Georgia Corporations Division, State of Georgia, *Secretary of State 2023 Annual Registration, North Forsyth Equity LLC* (filed Mar. 13, 2023), <https://ecorp.sos.ga.gov/BusinessSearch/BusinessFilings>.

residence of Ishrat Jahan.¹¹² Another address that North Forsyth Equity is associated with is 1815 Satellite Boulevard in Duluth, Georgia.¹¹³

3. Cathect Communications Inc.

29. Cathect Communications Inc. (Cathect Communications or Cathect) was created on June 27, 2019 in Texas.¹¹⁴ Cathect is authorized to participate in ACP in Alabama, Arkansas, California, Florida, Georgia, Idaho, Illinois, Kansas, Kentucky, Louisiana, Michigan, Mississippi, Missouri, Montana, Nevada, North Carolina, Ohio, South Carolina, South Dakota, Tennessee, Texas, and Wisconsin.¹¹⁵ When asked directly to characterize City Communications' relationship with Cathect Communications, City Communications stated that the companies "were associated through the same warehouse for ACP Dispatchment."¹¹⁶

30. Cathect's current executives include Suzane Anderson (Secretary) and Ishrat Jahan (CEO);¹¹⁷ prior executives include Faraz Mobeen (former CEO).¹¹⁸ When Cathect filed its incorporation paperwork in Georgia in 2020, Faraz Mobeen was the Incorporator.¹¹⁹ Cathect lists 2160 Lexington Lane in Cumming, Georgia as its office address,¹²⁰ which is a two-bedroom house purchased in 2018 by Ishrat Jahan and Ashar Syed.¹²¹

C. Relationships Among the Relevant Entities

31. As discussed above, City has a relationship with at least two other entities that participate in ACP—Cathect Communications and Tone Communication.¹²² City also has a relationship with Tele Circuit and North Forsyth Equity. For example:

- In response to the Supplemental Letter of Inquiry (LOI), City produced at least one audio consent to transfer services to Cathect Communications.¹²³

¹¹² Information on file in Investigation Number EB-FD-22-00034228.

¹¹³ *Id.*

¹¹⁴ *Id.*

¹¹⁵ *Affordable Connectivity Program Providers*, <https://www.fcc.gov/affordable-connectivity-program-providers> (last visited Dec. 1, 2023).

¹¹⁶ Tone LOI Response at Doc. 3.

¹¹⁷ Information on file in Investigation Number EB-FD-22-00034228. According to her resume, Suzane Anderson worked as Operations Manager at City Communications in 2018-2019. 12064-2020 – FL PSC application form – Cathect Communications (filed Nov. 16, 2020).

¹¹⁸ Information on file in Investigation Number EB-FD-22-00034228.

¹¹⁹ Attachments to Application Part I – LA – Cathect Communications (filed Apr. 3, 2020) (on file in EB-FD-22-00034228).

¹²⁰ Application for Cathect Communications for Michigan Final Application PSC, Case No. U-20830 (filed Apr. 3, 2020). According to Mobeen's resume, Mobeen stepped down as President of City in January 2020 and became CEO of Cathect then. *Id.* Based on the Bureau's email exchanges with "fmobeen@citycom.co," it appears Mobeen is still working at City in some capacity.

¹²¹ Information on file in Investigation Number EB-FD-22-00034222.

¹²² The Bureau sent an LOI to Tone Communication Services LLC on September 16, 2022, which was substantially similar to the LOI the Bureau sent to City Communications on September 16, 2022

¹²³ SLOI Response at 10.41.54PM.avi.

- In response to the Supplemental LOI, City produced a customer chat checking on a Tone Communication data issue.¹²⁴
- In response to the Supplemental LOI, City produced chat files that mentioned City and Cathect Communications.¹²⁵
- The bank account City has on record with the Commission to receive ACP payments is titled in the name of Tele Circuit.¹²⁶
- In responding to separate LOIs from the Bureau, both City and Tone Communication produced documents describing their ACP enrollment process. These documents are identical.¹²⁷

32. The Bureau reviewed City's bank records and those for companies the Bureau identified as having some financial, personal, or personnel-related link to City. A review of City and Cathect Communications' bank records indicated a commingling of funds between the two companies. On one occasion City wired Cathect \$30,000.¹²⁸ Cathect Communications sent City Communications a total of \$125,000 by various checks.¹²⁹ These checks were either signed by Pobish Ashar or Ashar Syed.¹³⁰ Both individuals are affiliated with City Communications, Tone Communication, and Cathect Communications.¹³¹

33. The Bureau's review revealed other transfers of funds among the various companies, including:

- During the period from May 27, 2022 to April 29, 2023, Tele Circuit transferred approximately \$920,600 to Cathect Communications.
- A \$15,000 check dated December 16, 2021 from Cathect Communications to Tone Communication. This check was signed by Ashar Syed and endorsed by Ashar Syed.
- During the period from October 31, 2022 to December 30, 2022, Tone Communication transferred approximately \$1,015,450 to City.
- During the period from March 8, 2021 to December 30, 2022, Tone Communication transferred approximately \$859,100 to Cathect Communications.
- A \$132,000 check on March 28, 2022 from a Tone Communication account to Tele Circuit.

34. Bank records further show large amounts of money going from City Communications' and related companies' accounts to the following individuals; the Bureau was unable to determine a clear business purpose for any of these transactions:

- During the period from July 23, 2021 to March 31, 2023, North Forsyth Equity transferred \$1,203,000 to Ashar Syed. During the period from May 6, 2022 to March 31, 2023, Tele Circuit transferred \$189,000 to Ashar Syed. Additionally, Ashar Syed

¹²⁴ SLOI Response at City 1.

¹²⁵ SLOI Response at C22, City 20.

¹²⁶ {[REDACTED]} First Subpoena, Second Subpoena.

¹²⁷ Tone LOI Response at Doc-04 ACP enrollment Process; City LOI Response at ACP enrollment Process.

¹²⁸ Information on file in Investigation Number EB-FD-22-00034222.

¹²⁹ *Id.*

¹³⁰ *Id.*

¹³¹ *Id.*

endorsed checks made out to other entities and individuals in the amount that totaled approximately \$297,000 from December 16, 2021 to October 8, 2022. Ashar Syed is the CEO of Tele Circuit and is also affiliated with Tone Communication.¹³²

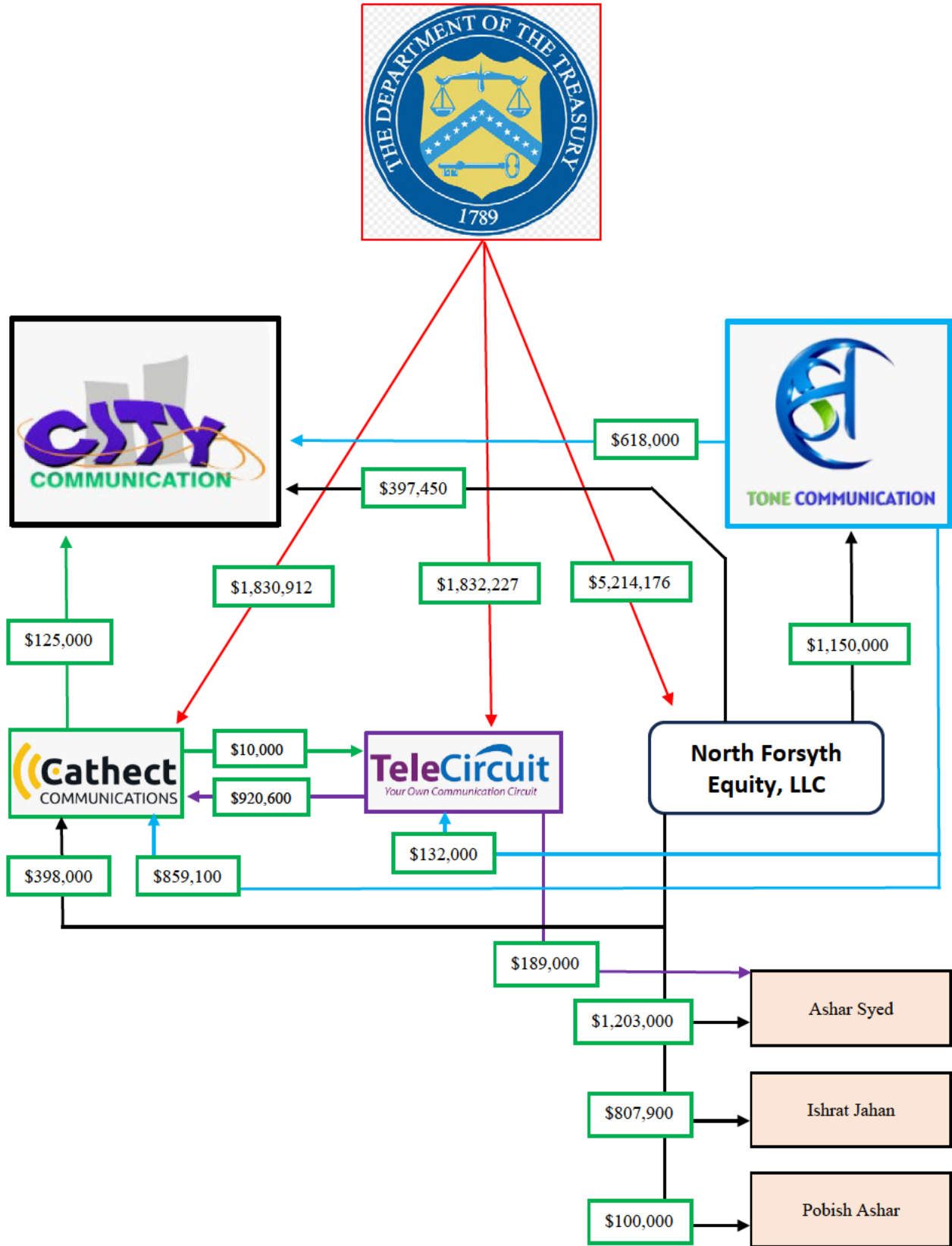
- During the period from September 6, 2022 to March 13, 2023, North Forsyth Equity sent a total of \$807,900 to Ishrat Jahan in a series of transactions; additionally, some of these transactions are those noted above where Ashar Syed, not Jahan, endorsed the check. Ishrat Jahan is the CEO of Cathect Communications.¹³³
- On February 27, 2023, North Forsyth Equity sent \$100,000 to Pobish Ashar, who is the Secretary of City Communications, CFO of Tele Circuit, and apparent ex-wife of Ashar Syed.¹³⁴

On the next page is a diagram of the cash flows among the relevant entities that reflects transactions detailed in the entities' financial statements from March 2021 to May 2023:

¹³² Information on file in Investigation Number EB-FD-22-00034228.

¹³³ *Id.*

¹³⁴ *Id.* Pobish Ashar was also the notary public on affidavits submitted to the Commission by both Tone Communication and City Communications in response to Commission inquiries. *See* Affidavit (Tone submitted by Ashar Syed, CEO of Tone, on June 1, 2023); Affidavit (City submitted by Emma Wilson, Operational Manager of City, on July 13, 2023).



D. City Communications' Application History to Participate in EBB and ACP

35. Because City Communications is a non-ETC, it had to be approved by WCB to be a provider in EBB.¹³⁵ City Communications' EBB approval automatically transitioned to ACP.¹³⁶ City Communications submitted applications to WCB seeking to be an EBB provider on May 9, 2021, June 8, 2021, and October 11, 2021, respectively; WCB approved these applications on May 10, 2021, June 8, 2021, and October 12, 2021.¹³⁷ In its second and third applications, City added states and territories to the jurisdictions in which the Company sought to be authorized to provide EBB services. In the applications, City listed its address as 300 Village Center Drive, Suite 103, Woodstock, GA 30188 and provided suzane@citycom.co and fmobeen@citycom.co as contact email addresses.¹³⁸

36. Separate from these applications,¹³⁹ City submitted three EBB election notices to USAC on May 19, 2021,¹⁴⁰ June 9, 2021,¹⁴¹ and October 18, 2021,¹⁴² respectively, seeking to provide fixed and mobile broadband service as well as connected devices. In each election notice, City listed its address as "300 Village Center Drive, Suite 103, Woodstock, GA 30188," and the email addresses to contact as "suzane@citycom.co" or "fmobeen@citycom.co".¹⁴³ All three election forms were signed by Faraz Mobeen.¹⁴⁴

37. City participated in both EBB and ACP and has sought monthly reimbursement from EBB and/or ACP since August 2021.¹⁴⁵ For its participation in both programs, City received \$3,162,893.23 from August 2021 to October 2023 service months.

III. THE BUREAU'S INVESTIGATION

38. On September 8, 2022, the FCC Office of Inspector General (OIG) issued an advisory warning that participating ACP providers had been enrolling multiple households based on a single BQP even though the Commission's rules prohibit the use of a single BQP to qualify multiple households for ACP support simultaneously.¹⁴⁶ Also on September 8, 2022, in response to concerns that USAC had separately flagged for the Commission, WCB released a public notice detailing immediate action to

¹³⁵ 47 CFR § 54.1601(b).

¹³⁶ *Affordable Connectivity Program Order*, *supra* note 9, at 492, para. 14.

¹³⁷ City Communications Application (filed May 9, 2021) (on file in EB-FD-22-00034222); City Communications Application (filed June 8, 2021) (on file in EB-FD-22-00034222); City Communications Application (filed Oct. 11, 2021) (on file in EB-FD-22-00034222).

¹³⁸ City Communications Application (filed May 9, 2021) (on file in EB-FD-22-00034222); City Communications Application (filed June 8, 2021) (on file in EB-FD-22-00034222); City Communications Application (filed Oct. 11, 2021) (on file in EB-FD-22-00034222).

¹³⁹ The application was an application for FCC approval to participate in the program. *See* Universal Service Administrative Co., About, Affordable Connectivity Program, Participate in ACP, <https://www.usac.org/about/affordable-connectivity-program/participate-in-acp/> (last visited Dec. 1, 2023). Separately, the EBB election form was an election notice submitted to USAC; submitting an election notice to USAC allowed USAC to register the company to participate in the program and to create the necessary system accesses. *Id.*

¹⁴⁰ City Communications EBB Election Form (May 19, 2021) (on file in EB-FD-22-00034222).

¹⁴¹ City Communications EBB Election Form (June 9, 2021) (on file in EB-FD-22-00034222).

¹⁴² City Communications EBB Election Form (Oct. 18, 2021) (on file in EB-FD-22-00034222).

¹⁴³ Information on file in Investigation Number EB-FD-22-00034222.

¹⁴⁴ *Id.*

¹⁴⁵ *Id.*

¹⁴⁶ Advisory, FCC OIG, *Advisory Regarding Provider Enrollments of Multiple ACP Households Based on the Same Child/Dependent* (Sept. 8, 2022), <https://www.fcc.gov/document/oig-advisory-regarding-acp-enrollment-fraud>.

prevent this type of improper enrollments and reminding providers of their obligation to implement policies and procedures for enrolling ACP households that are eligible to receive the benefit.¹⁴⁷

39. The Bureau sent an LOI to City Communications on September 16, 2022 in connection with potential violations of EBB and ACP rules.¹⁴⁸ The LOI was sent to 300 Village Center Drive, Suite 103, Woodstock, GA 30188 by both certified and regular mail.¹⁴⁹ The LOI sought information and documents related to the Company's participation in EBB and ACP, with a focus on information related to subscribers who enrolled in ACP based on the eligibility of a non-subscriber BQP. City Communications responded to the LOI on October 18, 2022, April 30, 2023, and May 11, 2023.

40. The Bureau issued a supplemental LOI (SLOI) to City Communications on April 20, 2023.¹⁵⁰ The SLOI was sent via email to fmobeen@citycom.co, suzane@citycom.co, and valery@citycom.co after Bureau staff met with City Communications representatives and confirmed the best way to send the SLOI. The SLOI sought information and documents regarding the relationship between City Communications and Tone Communication and other related entities, and information related to transfers of customers. City Communications responded to the SLOI on June 2, 2023, June 28, 2023, and July 17, 2023.

A. Subscribers Enrolled Using Duplicate Non-Subscriber BQP Information

41. Based on information obtained from the OIG, from December 10, 2021 through July 29, 2022, City Communications enrolled 1,837 subscribers in Oklahoma and Texas using only four non-subscriber BQPs¹⁵¹—28 subscribers used BQP A, 778 subscribers used BQP B, 37 subscribers used BQP C, and 994 subscribers used BQP D.¹⁵² In the case of a non-subscriber BQP, that person is someone in the applicant's household other than the applicant—often times a dependent child. Often, City Communications used the same non-subscriber BQP to enroll multiple subscribers on the same day; for example:

- on December 25, 2021, non-subscriber BQP D was used to enroll 30 subscribers,

¹⁴⁷ *Wireline Competition Bureau Announces Additional Program Integrity Measures for Affordable Connectivity Program Enrollments Based on a Benefit Qualifying Person*, WC Docket No. 21-450, Public Notice, 37 FCC Rcd 10211 (2022). The FCC and USAC adopted several safeguards to stop duplicate non-subscriber BQP enrollments: (1) USAC identified and de-enrolled households that enrolled in ACP based on a duplicate BQP and USAC continued to conduct regular program integrity checks to identify enrollments based on a duplicate BQP, (2) USAC modified the National Verifier to prevent multiple households from enrolling in ACP using a duplicate BQP, and (3) USAC instituted a process to hold payments to limit the amount of potentially improper payments disbursed to providers that claim households enrolled with a duplicate BQP. Moreover, USAC reminded service providers participating in ACP to implement policies and procedures that included measures to check for intracompany duplicate subscribers. See USAC, *FCC Announces Additional Program Integrity Measures for ACP Enrollments Based on a Benefit Qualifying Person* (Sept. 14, 2022), <https://www.usac.org/wp-content/uploads/about/documents/acp/bulletins/FCC-Announces-Additional-Program-Integrity-Measures-for-BQP-Enrollments.pdf>; USAC, *ACP October Newsletter* (Oct. 28, 2022), <https://www.usac.org/wp-content/uploads/about/documents/acp/bulletins/ACP-October-Newsletter.pdf>.

¹⁴⁸ Letter of Inquiry from the Fraud Division to City Communications (Sept. 16, 2022) (on file in EB-FD-22-00034222) (LOI). The LOI also contained questions related to the Lifeline program in which City Communications stated it does not participate.

¹⁴⁹ *Id.*

¹⁵⁰ Supplemental Letter of Inquiry from the Fraud Division to City Communications (Apr. 20, 2023) (on file in EB-FD-22-00034222) (SLOI).

¹⁵¹ In this NAL, we protect their identities and label the four non-subscriber BQPs as “BQP A,” “BQP B,” “BQP C,” and “BQP D.”

¹⁵² Information on file in Investigation Number EB-FD-22-00034222. Only nine of the subscribers enrolled were purported to be in Texas, the remaining 1,828 were purported to be located in Oklahoma. *Id.*

- on January 13, 2022, non-subscriber BQP D was used to enroll 82 subscribers, and
- on May 15, 2022, non-subscriber BQP D was used to enroll 45 subscribers.¹⁵³

42. Of the 1,837 subscribers City Communications enrolled in 2021 and 2022 using only four non-subscriber BQPs, the Bureau's analysis showed there were only 957 unique addresses used for the 1,837 subscribers.¹⁵⁴ Additionally, the Bureau's analysis of a sample of 185 of those subscribers was only able to verify that one of the 185 subscribers had an address that matched the address listed in the enrollment information. Extrapolating this low verification rate to the remaining subscribers, the Bureau estimates that 1,827 of the 1,837 subscribers enrolled using the four non-subscriber BQPs were enrolled using an address that was not associated with the subscribers. In connection with the 1,837 improperly enrolled subscribers, City Communications claimed a total of \$677,567.98 in reimbursement from EBB and ACP for both monthly service and connected devices for the December 2021 through August 2022 service months.¹⁵⁵ During the same time period, City Communications received more than \$2.5 million total from EBB and ACP for both monthly service and device reimbursement.¹⁵⁶

43. Furthermore, in response to the Bureau's LOI, City Communications sent a list of ACP subscribers in May 2023, which included approximately 4,000 subscribers enrolled through January 2023.¹⁵⁷ The subscriber list shows that prior to July 2022, 22 subscribers enrolled using non-subscriber BQP A, 457 enrolled using non-subscriber BQP B, 18 subscribers using non-subscriber BQP C, and 498 enrolled using non-subscriber BQP D. All of these subscribers were enrolled by agent Patrick Hardy, who is identified in bank documents as serving as manager for City Communications.¹⁵⁸ City Communications' list of ACP subscribers showed no subscribers enrolled using these four non-subscriber BQPs after July 2022.¹⁵⁹

44. City Communications electronically submitted reimbursement requests to USAC, typically one each month,¹⁶⁰ from August 2021 through August 2023, and in doing so, the certifying officer, Faraz Mobeen (CEO/Director), certified to the accuracy and truthfulness of certain statements as required by the programs.¹⁶¹ For the EBB reimbursement requests, City Communications certified to the following relevant statements:

I certify, under penalty of perjury, that:

- I am an officer authorized to submit the reimbursement request on behalf of the participating provider;
- I have read the instructions relating to the reimbursements and the funds sought in the reimbursement request are for services and/or devices that were

¹⁵³ *Id.*

¹⁵⁴ Information on file in Investigation Number EB-FD-22-00034222. Among other resources, the Bureau used web resources including Google and LexisNexis.

¹⁵⁵ Information on file in Investigation Number EB-FD-22-00034222.

¹⁵⁶ Information on file in Investigation Number EB-FD-22-00034222.

¹⁵⁷ LOI Response at Doc. 8 Inquiry 15 ACP Master File Revised.

¹⁵⁸ *Id.* Patrick Hardy is listed on City Communications' bank signature card as a manager of City Communications. {{[REDACTED]}} First Subpoena Response at Signature Card 4.

¹⁵⁹ LOI Response at Doc. 8 Inquiry 15 ACP Master File Revised. At this point, the Commission and USAC had introduced safeguards to prevent improper BQP enrollments. *See supra* para. 38.

¹⁶⁰ City Communications submitted reimbursement requests on two different days in each of March 2022, April 2022, and May 2022, and reimbursement requests on one day in each of the other months from August 2021 to August 2023. Information on file in Investigation Number EB-FD-22-00034222.

¹⁶¹ *Id.*

provided in accordance with the Emergency Broadband Benefit Program rules and requirements;

- The participating provider is in compliance with all of the rules in 47 CFR Part 54, Subpart P;¹⁶²
- The participating provider has obtained valid certification and application forms as required by the rules in 47 CFR Part 54, Subpart P for each of the subscribers for whom it is seeking reimbursement;
- All documentation associated with the reimbursement form, including all records for services and/or connected devices provided, will be retained for a period of at least six years after the last date of delivery of the supported services and/or connected devices provided through the Emergency Broadband Benefit Program, and are subject to audit;
- The information contained in this form is true, complete, and accurate to the best of the officer's knowledge, information, and belief, and is based on information known to the officer or provided to officer by employees responsible for the information being submitted;
- The officer is aware that any false, fictitious, or fraudulent information, or the omission of any material fact, may subject the officer to criminal, civil, or administrative penalties for fraud, false statements, false claims, or otherwise. (18 U.S.C. §§ 286-287, 1000, 1341, 31 U.S.C. §§ 3729-3720, 3801-3812); and No service costs or devices sought for reimbursement have been waived, paid, or promised to be paid by another entity, including any federal program.¹⁶³

45. For ACP reimbursement requests, City Communications certified to the following relevant statements:

- I am an officer authorized to submit the reimbursement request on behalf of the participating provider;
- I have read the instructions relating to the reimbursements and the funds sought in the reimbursement request are for services and/or devices that were provided in accordance with the purposes and objectives set forth in the statute, rules, requirements, and orders governing the Affordable Connectivity Program;
- The participating provider is in compliance with and satisfied all of the rules set forth in 47 CFR Part 54, Subpart R,¹⁶⁴ the statute, requirements, and orders governing the Affordable Connectivity Program reimbursement, and the provider acknowledges that failure to be in compliance and remain in compliance with Affordable Connectivity Program statutes, rules, and orders may result in the denial of reimbursement, cancellation of funding commitments, and/or recoupment of past disbursements;
- The participating provider has obtained valid certification and application forms as required by the rules in 47 CFR Part 54, Subpart R for each of the subscribers for whom it is seeking reimbursement;
- All documentation associated with the reimbursement form, including all records for services and/or connected devices provided, will be retained for a period of at least six years after the last date of delivery of the supported

¹⁶² The rules in Subpart P relate to EBB, 47 CFR §§ 54.1600-54.1612.

¹⁶³ Information on file in Investigation Number EB-FD-22-00034222. The complete list of EBB certifications is attached as Appendix A.

¹⁶⁴ The rules in Subpart R relate to ACP, 47 CFR §§ 54.1800-54.1814.

services and/or connected devices provided through Affordable Connectivity Program, and are subject to audit, inspection, or investigation and will be made available at the request of any representative (including any auditor) appointed by the Commission and its Office of Inspector General, or any local, state, or Federal agency with jurisdiction over the provider;

- The information contained in this form is true, complete, and accurate to the best of the officer's knowledge, information, and belief, and is based on information known to the officer or provided to officer by employees responsible for the information being submitted;
- The officer is aware that any false, fictitious, or fraudulent information, or the omission of any material fact on this request for reimbursement or any other document submitted by the provider, may subject the provider and the officer to punishment by fine or forfeiture under the Communications Act (47 U.S.C. §§ 502, 503(b), or 1606), or fine or imprisonment under Title 18 of the United States Code (18 U.S.C. §§ 1001, 286-87, 1343), or can lead to liability under the False Claims Act (31 U.S.C. §§ 3729-3733, 3801-3812); and
- All enrollments and transfers completed by the provider were bona fide, requested and consented by the subscriber household after receiving the disclosures required under § 54.1810(a) and (b), and made pursuant to program rules.¹⁶⁵

B. Subscribers Enrolled Using Fake or False Addresses

46. The Bureau's investigation identified numerous subscribers apparently enrolled in EBB and ACP by City Communications using fake or false addresses that have no connection to the subscribers to whom they purport to relate. Of the 1,837 subscribers City Communications enrolled using only 4 non-subscriber BQPs, the Bureau's analysis of a sample of 185 of those subscribers was only able to verify that 1 of the 185 subscribers had an address that matched the address listed in the enrollment information.¹⁶⁶ The Bureau was unable to locate 2 of the 185 subscribers in searches (meaning the subscribers could not be found using the name, date of birth, and Social Security number provided in the enrollment data).¹⁶⁷ The remaining 182 subscribers apparently were enrolled with fake or false address information.¹⁶⁸ The Bureau found that 1 of the 185 purported subscribers never lived in the state of Oklahoma while another of the 185 subscribers never lived in Texas even though those were their respective states of residence listed in the enrollment information. Twenty-five of the purported subscribers lived a different state than was listed in the enrollment information. The Bureau was unable to locate recent addresses for two of the purported subscribers – for one person the most recent address the Bureau could find was from 2011, while the most recent address for another was from 2020 in a different state than the enrollment information showed.¹⁶⁹ Additionally, there were only 957 unique addresses associated with the 1,837 subscribers.¹⁷⁰

¹⁶⁵ Universal Service Administrative Co., Lifeline Claims System Certifications for the Affordable Connectivity Program; Affordable Connectivity Program Claims Process Overview (Apr. 21, 2022). The complete list of ACP certifications is attached as Appendix B.

¹⁶⁶ Information on file in Investigation Number EB-FD-22-00034222.

¹⁶⁷ *Id.*

¹⁶⁸ *Id.*

¹⁶⁹ *Id.*

¹⁷⁰ *Id.*

47. In addition to analyzing subscribers enrolled using 4 non-subscriber BQPs, the Bureau also analyzed other groups of subscribers: 122 subscribers who were associated with duplicate addresses but who were not enrolled using any of the 4 non-subscriber BQPs; 50 subscribers with unique addresses who were not enrolled using any of the 4 non-subscriber BQPs; and 50 subscribers with unique addresses to whom City reported providing a connected device. In an attempt to get information directly from City's subscribers, the Bureau reached out via email and telephone to more than 200 City subscribers. Below is the Bureau's analysis of the three additional groups of subscribers and a summary of the Bureau's attempts to contact subscribers.

48. The Bureau reviewed a sample of 122 subscribers associated with duplicate addresses who were not associated with the above duplicate non-subscriber BQP issue. Specifically, the Bureau reviewed 122 subscribers that were associated with 36 unique addresses; there were 8 subscribers associated with 1 address, 7 subscribers with another address, and the remaining 34 addresses had either 3 or 4 subscribers associated with each of them. Of those 122 subscribers, 31 were not associated currently or previously with the addresses listed.¹⁷¹ The Bureau could not locate two of the purported subscribers in searches of commonly used investigative databases and was unable to locate a street listed in connection with one of the purported subscribers. The Bureau found that 10 of the purported subscribers lived 10 or more miles from the address listed in the enrollment information, including 3 who lived more than 100 miles from the address listed in the enrollment information.¹⁷²

49. The Bureau reviewed an additional sample of 50 subscribers with unique addresses who were not associated with the duplicate non-subscriber BQPs. Of those 50 subscribers, 44 were associated currently or previously with the addresses listed, but the remaining 6 were not.¹⁷³ The Bureau found that 1 of the purported subscribers lives nearly 400 miles away from the address listed in the enrollment information list while another lives nearly 100 miles away.¹⁷⁴

50. The Bureau further looked at a sample of 50 subscribers with unique addresses who are associated with having received a connected device. Of those 50 subscribers, the Bureau could not locate 1 purported subscriber in searches of commonly used investigative databases; only 38 subscribers matched the addresses listed while the other 11 subscribers appear to have no current or past connection to the address listed in their enrollments.¹⁷⁵ Five of the 11 subscribers live 15 miles or more from the address listed in the enrollment information, including 1 who lives more than 120 miles from their supposed enrollment address.¹⁷⁶

51. To further confirm subscriber information, the Bureau attempted to contact a sample of 15 City Communications subscribers by phone who had non-duplicate mailing addresses. Out of the 15 subscribers, the Bureau was unable to reach any purported subscribers, and 6 of the cellular phone numbers were no longer in service.¹⁷⁷

52. The Bureau also attempted to contact more than 200 purported City Communications subscribers via email. Only one subscriber responded, stating that they had begun the application process

¹⁷¹ *Id.*

¹⁷² *Id.*

¹⁷³ *Id.*

¹⁷⁴ *Id.*

¹⁷⁵ *Id.*

¹⁷⁶ *Id.*

¹⁷⁷ *Id.*

with City Communications, but never completed it.¹⁷⁸ City Communications claimed this individual as a subscriber in reimbursement requests and received \$159.01 in ACP reimbursement over two months.¹⁷⁹

C. City's Reimbursement Requests

53. City Communications submitted or caused to be submitted apparently fake or false information to USAC in its reimbursement requests in order to obtain payments from ACP. The Bureau's investigation found that City Communications electronically transmitted certified documents containing fake or false subscriber information by interstate wire to USAC.¹⁸⁰ At least once each month, City Communications certified to the accuracy of the information contained in its reimbursement requests and transmitted them to USAC electronically via this "one portal" system, ACCS.¹⁸¹

54. Specifically, from April 2022 to August 2023, City Communications electronically uploaded reimbursement requests to USAC's portal 19 times. With each reimbursement request, City's CEO, Faraz Mobeen, certified to the accuracy and truthfulness of the information contained in the requests.¹⁸² By transmitting these reimbursement requests containing fake or false information electronically via the internet, City Communications used interstate wires.¹⁸³

D. Inaccurate Company Address and Contact Information

55. City Communications repeatedly used 300 Village Center Drive, Suite 103, Woodstock, GA 30188 on all required forms submitted to the FCC.¹⁸⁴ When the Bureau attempted to serve the LOI, it was mailed to the foregoing address via first class and certified mail on September 16, 2022. On October 3, 2022, the first class mail was returned as "return to sender, not deliverable as addressed, unable to forward."¹⁸⁵ The certified mail addressed to City Communications at another one of City's addresses, "P.O Box 2307 225 Parkway 575, Woodstock, GA" was signed for by "Lauren Seyver."¹⁸⁶ Lauren Seyver is not a name that has appeared as an employee of City Communications during the Bureau's investigation.

56. The Bureau also emailed the LOI to email addresses City Communications provided in its EBB applications—"suzane@citycom.co" and "fmobeen@citycom.co"—on October 6, 2022.¹⁸⁷ Because of the lack of response to these emails and the returned mailings, the Bureau sent another copy of the LOI on October 7, 2022 to City Communications' resident agent, Fas Tek Corporate Services at "1725 Windward Concourse Ste 150, Alpharetta, GA 30005-3971" and to the mailing address listed on

¹⁷⁸ *Id.*

¹⁷⁹ Information on file in Investigation Number EB-FD-22-00034222.

¹⁸⁰ Information on file in Investigation Number EB-FD-22-00034222. *See also United States v. Collick*, 611 Fed. Appx. 553, 556 (11th Cir. 2015) ("Given that [defendant] testified that [he and co-defendant] used the internet to perpetrate their scheme, his testimony also established that [co-defendant] committed wire fraud."); *Cleo NAL*, *supra* note 75.

¹⁸¹ Information on file in Investigation Number EB-FD-22-00034222.

¹⁸² City Communications certified its reimbursement requests on April 7, 2022, April 15, 2022, May 6, 2022, May 11, 2022, June 8, 2022, July 5, 2022, August 3, 2022, September 7, 2022, October 7, 2022, November 3, 2022, December 5, 2022, January 4, 2023, February 3, 2023, March 2, 2023, April 4, 2023, May 3, 2023, June 2, 2023, July 2, 2023, and August 2, 2023. Information on file in Investigation Number EB-FD-22-00034222.

¹⁸³ *See, e.g., United States v. Dinh*, No. 8-20-CV-1794 (KKM-AAS), 2021 WL 5867221 (M.D. Fla. Dec. 10, 2021).

¹⁸⁴ Information on file in Investigation Number EB-FD-22-00034222.

¹⁸⁵ Email from FCC Digital Mail to Fraud Division, FCC Enforcement Bureau (Oct. 5, 2022, 11:35 AM EDT).

¹⁸⁶ Email from FCC Digital Mail to Fraud Division, FCC Enforcement Bureau (Oct. 18, 2022, 7:12 AM EDT).

¹⁸⁷ Email from Fraud Division, FCC Enforcement Bureau, to Suzane Anderson and Faraz Mobeen, City Communications (Oct. 6, 2022, 12:23 EDT).

the Company's website, P.O. Box 2307, 225 Parkway 575, Woodstock, GA.¹⁸⁸ While the Bureau received a signed certified green card from Fas Tek Corporate Services on October 17, 2022, the certified mailing to the Company's P.O. Box was returned to sender on November 8, 2022 as "not deliverable as addressed."¹⁸⁹ Beyond the signed green card, the Bureau did not receive any response from Fas Tek Corporate Services or any indication that the Company had received the LOI through its agent.

57. Because of the difficulty in serving the LOI and the lack of communication from City Communications, the Bureau engaged a process server to serve the LOI. On October 14, 2022, an employee of Sparre Process Serving attempted to serve Faraz Mobeen, CEO, City Communications, Inc., at the address listed on all of the Company's EBB and ACP forms, 300 Village Center Drive, Suite 103, Woodstock, GA 30188. The process server was unable to serve the LOI because, according to its report, the location is a "Sidelines Grille. Per manager, they expanded and bought [suite] 103 over 8 months ago, which was a T Mobile store."¹⁹⁰

58. In City Communications' narrative response to the LOI, the Company continually used 300 Village Center Drive, Suite 103, Woodstock, GA 30188 as its address in its response.¹⁹¹ Based on internet research, it appears that 300 Village Center Drive, Suite 103, Woodstock, GA 30188 was previously the Company's address but that address has belonged to "Sidelines Grille" since early 2022.¹⁹²

59. Additionally, during the investigation, the Bureau relied upon the mailing address City Communications previously listed on its website and in documents produced by the Company – P.O. Box 2307, 225 Parkway 575, Woodstock, GA.¹⁹³ The Bureau's certified mailing to this P.O. Box was returned as "not deliverable as addressed."¹⁹⁴ Therefore, City Communications used a second address in communications with the Bureau that the Bureau was unable to confirm was connected to the Company.

60. In January 2023, emails sent to the email addresses "suzane@citycom.co" and "fmobeen@citycom.co" began bouncing back when the Bureau attempted to email the Company's listed contact persons. The message received when the email bounced back was that the user's email box was full.¹⁹⁵ Despite the email bounce back messages, City Communications personnel sometimes, though inconsistently, continued to answer emails from the Bureau.

E. City Communications' Failure to Send Transfer Notices

61. City Communications transferred subscribers from other providers to its ACP service. The rules require participating providers to "provide written notice to the transferred subscriber" within five days of completing a subscriber transfer in NLAD.¹⁹⁶ The written notice must include the name of

¹⁸⁸ Email from FCC Digital Mail to Fraud Division, FCC Enforcement Bureau (Oct. 7, 2022, 13:56 EDT); <https://www.citycom.co/about-city-communications> (last visited Dec. 1, 2023).

¹⁸⁹ Email from FCC Digital Mail to Fraud Division, FCC Enforcement Bureau (Nov. 23, 2022, 7:13 EDT).

¹⁹⁰ Email from Sparre Process Serving, to Fraud Division, FCC Enforcement Bureau (Oct. 14, 2022, 14:52 EDT).

¹⁹¹ Information on file in Investigation Number EB-FD-22-00034222.

¹⁹² See Riverwood Properties LLC, Weatherstone Promenade, <https://riverwoodproperties.com/property/weatherstone-promenade/> (last visited Dec. 1, 2023).

¹⁹³ Email from FCC Digital Mail to Fraud Division, FCC Enforcement Bureau (Oct. 7, 2022, 13:56 EDT); City Communication, About US, <https://citycom.co/index.php/about-us/> (last visited Dec. 1, 2023); Affidavit (City submitted by Emma Wilson, Operational Manager of City, on July 13, 2023).

¹⁹⁴ Email from FCC Digital Mail to Fraud Division, FCC Enforcement Bureau (Nov. 23, 2022, 7:13 AM).

¹⁹⁵ Information on file in Investigation Number EB-FD-22-00034222.

¹⁹⁶ 47 CFR § 54.1810(b)(2).

the transfer-in provider to which the subscriber's ACP benefit was transferred, the date the transfer was initiated, and an explanation of the dispute process if the subscriber believes the transfer was improper.¹⁹⁷

62. The Bureau's SLOI requested "all notices to consumers of transfer of benefits issued pursuant to Commission rule 47 CFR § 54.1810(b)(2) and proof of delivery for each such notice."¹⁹⁸ Bureau staff followed up numerous times with City Communications personnel regarding providing the requested transfer notices. The Company failed to provide to the Bureau any written notice it purportedly sent to subscribers after transferring them to its service or any evidence that the Company has a policy or procedure in place to do so.

IV. DISCUSSION

63. We find that City Communications apparently willfully and repeatedly violated numerous Commission rules and the federal wire fraud statute: (i) by repeatedly using the same non-subscriber BQP to enroll multiple subscribers;¹⁹⁹ (ii) by enrolling subscribers using fake or false addresses;²⁰⁰ (iii) by failing to implement policies and procedures to prevent the improper enrollment of hundreds of subscribers;²⁰¹ (iv) when the Company's certifying officer, Faraz Mobeen, falsely certified that the Company was in compliance with EBB and ACP rules when it submitted reimbursement requests to USAC;²⁰² (v) for transmitting, via interstate wires, certified reimbursement requests containing fake or false information;²⁰³ (vi) by failing to provide written notice to transfer-in subscribers within five business days of the completed transfer in NLAD;²⁰⁴ (vii) by City Communications' continuous use of false addresses;²⁰⁵ and (viii) for failing to respond wholly and completely to the Bureau's two LOIs.²⁰⁶

A. City Communications Enrolled Ineligible Subscribers Using the Same Non-Subscriber BQPs and Fake or False Addresses

64. A non-subscriber BQP may only be used once to qualify a household to receive EBB or ACP benefits. By repeatedly using the same four non-subscriber BQPs to enroll a total of 1,837 subscribers in 2021-2022 before the Commission and USAC adopted additional safeguards, City Communications apparently violated Commission rules because that non-subscriber BQP member of a household had already been used to authorize a different household to receive EBB or ACP benefits. City Communications' own subscriber spreadsheet that it produced to the Bureau showed the repeated use of these same non-subscriber BQPs to enroll multiple purported customers, indicating that City Communications was well aware of the improper enrollments. City Communications also apparently used fake or false addresses to enroll subscribers in addition to the enrollments that improperly used duplicate non-subscriber BQPs. The Bureau was unable to confirm that any of the purported customers apparently enrolled using fake or false information were actually receiving services from City Communications. The Bureau reached out to purported customers via email and telephone and was unable to reach anyone who reported they received service from City Communication that apparently had

¹⁹⁷ *Id.*

¹⁹⁸ SLOI, *supra* note 150.

¹⁹⁹ 47 CFR §§ 54.1605, 54.1805.

²⁰⁰ *Id.* §§ 54.1606, 54.1806, 54.1810(i).

²⁰¹ *Id.* §§ 54.1606(b), 54.1806(b).

²⁰² *Id.* §§ 54.1808(e)(3), 54.1810(i).

²⁰³ 18 U.S.C. § 1343.

²⁰⁴ 47 CFR § 54.1810(b)(2).

²⁰⁵ *Id.* § 1.17.

²⁰⁶ 47 U.S.C. § 503(b)(1)(B).

been enrolled using fake or false information. Therefore, City Communications apparently violated sections 54.1605, 54.1606, 54.1805, and 54.1806 of the Commission's rules.²⁰⁷

65. City apparently repeatedly and knowingly used the same non-subscriber BQP to enroll multiple subscribers and received funding for these improperly enrolled individuals. For example, City's own records showed the Company enrolled dozens of subscribers on a single day using the same non-subscriber BQP. This enrollment practice was then repeated multiple times. As discussed above, on December 25, 2021, non-subscriber BQP D was used to enroll 30 subscribers, on January 13, 2022, non-subscriber BQP D was used to enroll 82 subscribers, and on May 15, 2022, non-subscriber BQP D was used to enroll 45 subscribers.²⁰⁸ Furthermore, between December 10, 2021 to July 29, 2022, City Communications enrolled 1,837 subscribers in Oklahoma and Texas using only four non-subscriber BQPs: 28 subscribers used BQP A, 778 subscribers used BQP B, 37 subscribers used BQP C, and 994 subscribers using BQP D.²⁰⁹

B. City Communications Committed Wire Fraud

66. The Bureau's investigation found that City Communications electronically submitted reimbursement requests containing fake or false information by interstate wire to USAC. These submissions were in furtherance of a scheme to defraud that resulted in the Commission (the Office of the Managing Director, responsible for EBB and ACP payments) disbursing funds from the U.S. Treasury to which City Communications was not entitled. City submitted 19 such reimbursement requests apparently containing fake or false information for the March 2022 through July 2023 service months.

67. A finding that wire fraud has occurred "requires proof of (1) a scheme to defraud; and (2) the use of an interstate wire communication to further the scheme."²¹⁰ In order to be deemed a "scheme to defraud," the misrepresentation or omission must be material to the scheme.²¹¹ In other words, the wrongdoer must have intended the misrepresentation or omission to induce the victim to part with property or influence the victim to undertake an action that he or she would not have otherwise undertaken were it not for the misrepresentation.²¹² City Communications developed a scheme in which agents enrolled subscribers into EBB and ACP using fake or false addresses or improper duplicate non-subscriber BQP information. City Communications certified the accuracy of the subscriber information and compliance with program rules in connection with its claims that it provided internet service and/or devices to the subscribers. These actions were apparently taken in furtherance of City's scheme to obtain payments from the Commission for customers improperly enrolled in EBB or ACP.

68. City's own subscriber list largely matched the subscriber list provided by the OIG to the Bureau in connection with the OIG September 8, 2022 advisory, which identified repeated use of only four non-subscriber BQPs to support hundreds of subscriber enrollments.²¹³ Thus, the Company apparently was aware that multiple enrollments used the same non-subscriber BQPs, which EBB and ACP rules prohibit, but City claimed reimbursement for these subscribers anyway.²¹⁴ Between December

²⁰⁷ 47 CFR §§ 54.1605, 54.1606, 54.1805, and 54.1806.

²⁰⁸ Information on file in Investigation Number EB-FD-22-00034222.

²⁰⁹ *Id.* Only nine of the subscribers enrolled were purported to be in Texas, the remaining 1,828 were purported to be located in Oklahoma. *Id.*

²¹⁰ *United States v. Maxwell*, 920 F.2d 1028, 1035 (D.C. Cir. 1990); *see also United States v. Pollack*, 534 F.2d 964, 971 (D.C. Cir. 1976).

²¹¹ *See United States v. Daniel*, 329 F.3d 480, 485-89 (6th Cir. 2003).

²¹² *See id.*

²¹³ LOI Response at Doc. 8.

²¹⁴ *See United States v. Daniel*, 329 F.3d 480, 487 (6th Cir. 2003) ("To convict a defendant of wire fraud the government must prove specific intent, which means not only that a defendant must knowingly omit a material fact, (continued...)

10, 2021 and July 29, 2022, City Communications enrolled 1,837 subscribers in Oklahoma and Texas using only 4 non-subscriber BQPs and certified reimbursement requests for these customers using interstate wires.²¹⁵ In addition to enrolling persons using the same non-subscriber BQPs, City Communications enrolled persons using fake or false addresses and certified reimbursement requests for these purported customers.²¹⁶

69. To violate the federal wire fraud statute, the wrongdoer must use “wire, radio, or television communication” to further the fraudulent scheme.²¹⁷ City Communications used interstate wires when transmitting its false certified reimbursement requests via the ACCS to USAC. The investigation determined that on at least 19 occasions, for the March 2022 through July 2023 service months, City Communications certified reimbursement requests based on false subscriber information and submitted this information to USAC via interstate wires.²¹⁸

70. We find that City Communications apparently knowingly, willfully, and with reckless indifference to the truth violated the wire fraud statute when it falsely certified compliance with program rules in each of its reimbursement requests for service months March 2022 through July 2023, which, as discussed above, included numerous subscribers the Company had improperly enrolled in 2021 and 2022, and in at least some cases as determined by the Bureau, for subscribers who were not receiving any service from the Company.²¹⁹ Therefore, pursuant to section 503(b)(1)(D), the Commission finds that City Communications apparently violated the wire fraud statute.

C. City Communications Certified False Reimbursement Requests

71. Sections 54.1808(e)(3) and 54.1608(e)(3) require an officer of the participating provider to certify, under penalty of perjury, as part of each request for reimbursement, that the “participating provider is in compliance with and satisfied all requirements in the statute, rules, and orders governing the Affordable Connectivity Program reimbursement[.]”²²⁰ Section 54.1810(i) prohibits participating providers from engaging in unjust and unreasonable acts or practices that would undermine the purpose, intent, or integrity of ACP; violating any ACP rule is an unjust and unreasonable practice.²²¹

72. As discussed above, City apparently violated Commission rules in connection with repeatedly using the same non-subscriber BQPs to enroll subscribers in EBB and ACP and also using fake or false addresses to enroll subscribers in EBB and ACP. This did not prevent the Company, as it should have, from submitting requests for monthly reimbursement from EBB and ACP for a total of more than \$3.1 million including more than \$675,000 in connection with subscribers enrolled using the same non-subscriber BQPs.

73. Each and every time City Communications submitted an EBB or ACP reimbursement, certifications by the certifying officer, Faraz Mobeen, under penalty of perjury included that Mobeen was unaware of any fake or false information in the reimbursement requests and that the company was in compliance with all program rules. It is apparent from the Bureau’s investigation that this was not

but also that the misrepresentation or omission must have the purpose of inducing the victim of the fraud to part with property or undertake some action that he would not otherwise do absent the misrepresentation or omission.”).

²¹⁵ Information on file in Investigation Number EB-FD-22-00034228; USAC Reimbursement Request Data: December 2021-July 2022 service months.

²¹⁶ Information on file in Investigation Number EB-FD-22-00034222.

²¹⁷ *United States v. Gray*, 96 F.3d 769, 771 n.4 (5th Cir. 1996).

²¹⁸ City’s place of business (Georgia) would have required it to submit its reimbursement requests to USAC in Washington, D.C./Virginia using interstate wires.

²¹⁹ Information on file in Investigation Number EB-FD-22-00034222.

²²⁰ 47 CFR § 54.1808(e)(3); *see also* 47 CFR § 54.1608(e)(3).

²²¹ *Id.* § 54.1810(i)(1) & (i)(2)(vii).

true. Contrary to its certifications of compliance, City had enrolled purported customers using duplicate non-subscriber BQPs and fake or false addresses and failed to retain required documents such as transfer notices.

74. With each reimbursement request for March 2022 to July 2023 service months submitted by the certifying officer under penalty of perjury but containing duplicate non-subscriber BQP enrollments or fake or false addresses, City Communications apparently violated sections 54.1608(e)(3) and 54.1808(e)(3) of the Commission's rules.²²² By willfully and repeatedly apparently violating the Commission's rules designed to safeguard ACP, City Communications' actions undermined the purpose, intent, and integrity of the program in apparent violation of section 1810(i) of the Commission's rules because the purpose and intent of ACP is to only provide support to persons who are eligible.²²³ By receiving money it was not entitled to, City Communications took funds that could have instead been used to make broadband service more affordable for low-income Americans.

D. City Communications' Untruthful, Inaccurate, and Incomplete Statements in Submissions to the Commission

75. Rule 1.17 requires applicants for Commission authorization to provide fully truthful and accurate statements and ensure that any material factual written statements are correct and not misleading. On EBB and ACP forms that City Communications submitted to the Commission to participate in the programs, the Company consistently used the same business address – 300 Village Center Drive, Suite 103, Woodstock, GA 30188.²²⁴ City Communications' March 30, 2023 LOI response to the Bureau was multiple pages. Each and every page of City Communications' March 2023 response to the Bureau's LOI similarly listed the company address as 300 Village Center Drive, Suite 103, Woodstock, GA 30188.²²⁵ In responding to one particular inquiry, City Communications specifically answered that its "location" was 300 Village Center Drive, Suite 103, Woodstock, GA 30188.²²⁶ Based on the Bureau's attempts to contact City Communications and the report received from the process server engaged to serve the Bureau's LOI, City Communications apparently does not do business at this address. Instead, since early 2022, the restaurant "Sidelines Grill" has been in operation at that location; to the Bureau's knowledge, Sidelines Grill is in no way affiliated with City Communications. City Communications certified on its applications to the Commission that all material statements made in the application, attachments, and supporting documents were "true, complete, correct, and made in good faith."²²⁷ They were not. City Communications certified on its election notices that its filings were "true, accurate and complete."²²⁸ They were not.

76. The primary focus of Rule 1.17 in its current form is to "enhance the effectiveness of investigatory and adjudicatory proceedings."²²⁹ City Communications' omissions and misrepresentations have harmed the effectiveness of both the adjudication of its authorization and the Bureau's investigation into its conduct. City Communications' misrepresentations made it more difficult to reach it and to serve the Bureau's LOI. To date, City Communications has not cured its misrepresentations and lack of candor by revising or withdrawing its application or election notice or otherwise correcting its mailing address

²²² *Id.* §§ 54.1608(e)(3), 54.1808(e)(3).

²²³ *Id.* § 1810(i).

²²⁴ Information on file in Investigation Number EB-FD-22-00034222.

²²⁵ Information on file in Investigation Number EB-FD-22-00034222.

²²⁶ LOI Response at Doc-1 Inquiry 1.

²²⁷ EBB Provider Approval & Alternative Eligibility Verification Application Filing Instructions, at 19 (Mar. 2021) (on file in EB-FD-00034222).

²²⁸ City Communications EBB Election Form (May 19, 2021) (on file in EB-FD-00034222).

²²⁹ *Amendment of Section 1.17 of the Commission's Rules Concerning Truthful Statements to the Commission*, Report and Order, 18 FCC Rcd 4016, 4022, para. 16 (2003).

with the Commission. All of these submissions appear to be misrepresentations to the Commission in violation of section 1.17 of the Commission's rules.²³⁰

77. It is long settled that a Commission licensee's failure to respond to an LOI from the Bureau violates a Commission order.²³¹ Such violations might not always entail a party's total failure to respond; numerous decisions recognize that parties may violate Commission orders by providing, as here, incomplete responses to Bureau inquiries.²³² Here, the Company's LOI and SLOI responses were woefully incomplete because they failed to include, among other things, complete narrative responses to the inquiries, all of the communications requested, all of the complaints received related to the Company's participation in EBB or ACP, the criteria used to verify subscribers' eligibility for EBB and ACP, and written notices provided to subscribers after completion of service transfers.

78. A participating provider must implement "policies and procedures for ensuring that their Affordable Connectivity Program households are eligible to receive the affordable connectivity benefit."²³³ Despite multiple requests from the Bureau, the Company produced no relevant policies or procedures that it has in place to ensure it enrolls only eligible households in ACP. Additionally, given the flagrant nature of repeated use of the same non-subscriber BQP and enrollment of subscribers using fake or false addresses, it is apparent that the Company does not have sufficient policies and procedures in place to prevent this type of abuse by employees and agents responsible for enrolling subscribers in the programs.

²³⁰ See, e.g., *Purple Communications, Inc.*, Forfeiture Order, 30 FCC Rcd 14892 (2015); *Purple Communications, Inc.*, Notice of Apparent Liability for Forfeiture, 29 FCC Rcd 5491, 5506, n.87 (2014); *VCI Company*, Notice of Apparent Liability for Forfeiture and Order, 22 FCC Rcd 15933, 15933, para. 20 (2007); see also *Truphone, Inc.*, Notice of Apparent Liability for Forfeiture, 37 FCC Rcd 5393, 5402-03, para. 22 (2022); *Cleo NAL*, *supra* note 75.

²³¹ See 47 U.S.C. § 503(b)(1)(B); see also *ABC Fulfillment Services LLC D/B/A HobbyKing USA LLC and Hobbyking.com*; and *Indubitably, Inc. D/B/A HobbyKing Corp., HobbyKing USA LLC, HobbyKing, and HobbyKing.com*, Notice of Apparent Liability for Forfeiture, 33 FCC Rcd 5530, 5538, para. 16 (2018) ("Companies that receive LOIs must timely file complete and accurate responses to the Bureau's questions. Failure to timely and fully respond to the Bureau's inquiries violates the Act. The Commission has repeatedly taken enforcement action against entities that disregard orders to provide information related to potential violations of the Act or the Commission's rules." (internal cites omitted)), *aff'd*, Forfeiture Order, 35 FCC Rcd 7441 (2020); *Net One Int'l, Net One, LLC, Farrahtel Int'l, LLC*, Forfeiture Order, 29 FCC Rcd 264, 267, para. 9 (EB 2014) (imposing a \$25,000 penalty for failure to respond to LOI); *Conexions, LLC d/b/a Conexion Wireless*, Notice of Apparent Liability for Forfeiture and Order, 28 FCC Rcd 15318, 15325, para. 22 (2013) (proposing a \$300,000 forfeiture for failure to provide timely and complete responses to an LOI); *Technical Commc 'n Network, LLC*, Notice of Apparent Liability for Forfeiture and Order, 28 FCC Rcd 1018, 1020, para. 8 (EB 2013) (proposing a \$25,000 forfeiture for failure to provide a complete response to an LOI); *Google, Inc.*, Notice of Apparent Liability for Forfeiture, 27 FCC Rcd 4012 (EB 2012) (proposing \$25,000 penalty for failure to respond fully to LOI) (forfeiture paid); *SBC Commc'ns, Inc.*, Forfeiture Order, 17 FCC Rcd 7589, 7600, para. 28 (2002) (imposing a \$100,000 penalty for failing to submit a sworn written response).

²³² See, e.g., *Communications Options, Inc.*, Notice of Apparent Liability for Forfeiture, 22 FCC Rcd 13680, 13686, paras. 16, 17 (EB 2007) (forfeiture proposed for, inter alia, failure to submit an affidavit or declaration under penalty of perjury, signed and dated by an authorized officer with personal knowledge of the representation provided in the LOI response, verifying the truth and accuracy of the information submitted), *aff'd*, Forfeiture Order, 23 FCC Rcd 3969, 3972-73, paras. 8, 9 (EB 2008) (failure to file prompt sworn responses represents misconduct that "inhibits [the Commission's] ability to adequately detect and deter potential rule violations in areas of critical importance to the Commission"); *Digital Antenna, Inc.*, Notice of Apparent Liability for Forfeiture and Order, 23 FCC Rcd 7600, 7600-02, paras. 3, 5, 7 (EB 2008) (holding that a manufacturer of cellular and PCS boosters was apparently liable for violation of a Commission order when it failed to provide complete responses to Bureau LOIs, including by failing to submit the required sworn statements).

²³³ 47 CFR § 54.1806(b). Section 54.1606(b) contains similar language for EBB.

79. Participating providers must “provide written notice to the transferred subscriber” within five days of completing a subscriber transfer in NLAD.²³⁴ Despite numerous emails and phone calls with City Communications staff to follow up on the SLOI requests for information and documents regarding subscriber transfers and required notices, City Communications produced no evidence showing the Company had a policy or procedure in place to send written notices to transfer-in subscribers and no evidence showing any such written notices ever were sent to transfer-in subscribers. Thus, City Communications failed to provide the written notices to subscribers after transferring them to its service for ACP.

80. The Bureau attempted to contact City Communications by email numerous times to discuss these and other documents requested by the LOIs; often, the Bureau’s emails would receive a bounce back that the email was undeliverable. The Bureau also held several conference calls with City Communications personnel and explained, in detail, what was missing from their LOI responses. City Communications was given more time to supplement the document productions but additional responses and documents productions were still incomplete, and sometimes incomprehensible. Other times documents could not be read due to formatting issues, and were not corrected even after conversations with City Communications.

81. Throughout the duration of this investigation, the Bureau has yet to receive all the information that it requested through its LOIs and City has yet to correct its inaccurate business addresses. We therefore find that City Communications has failed to respond to two Commission orders in violation of section 503(b)(1)(B) of the Act²³⁵ and made misrepresentations in violation of section 1.17 of the Commission’s rules.²³⁶

V. PROPOSED FORFEITURE²³⁷

82. The “Commission is permitted to impose forfeiture penalties to enforce compliance” with program rules.²³⁸ 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[.]”²³⁹ Here, section 503(b)(2)(B) of the Act authorizes us to assess a forfeiture against City Communications of up to \$244,958 for each violation or each day of a continuing violation, up to a statutory maximum of \$2,449,575 for a single act or failure to act.²⁴⁰ 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.”²⁴¹ In addition, the Commission has established forfeiture guidelines that establish base forfeiture amounts for certain violations and identify criteria that

²³⁴ *Id.* § 54.1810(b)(2).

²³⁵ 47 U.S.C. § 503(b)(1)(B).

²³⁶ 47 CFR § 1.17.

²³⁷ The statute of limitations period for the Commission to impose a forfeiture penalty for violations of the Act and the Commission rules discussed herein is one year from the date of the violation. *Id.* In this case, City Communications agreed to toll the statute of limitations period such that violations remain viable if they occurred on or after March 16, 2022.

²³⁸ *Affordable Connectivity Program Order*, *supra* note 9, at 558, para. 154.

²³⁹ 47 U.S.C. § 503(b).

²⁴⁰ *See id.* § 503(b)(2)(B); 47 CFR § 1.80(b)(2). *See Amendment of Section 1.80(b) of the Commission’s Rules, Adjustment of Civil Monetary Penalties to Reflect Inflation*, Order, DA-23-1198 (EB Dec. 22, 2023); *see also Annual Adjustment of Civil Monetary Penalties to Reflect Inflation*, 89 Fed. Reg. 2148 (Jan. 12, 2024) (setting January 15, 2024 as the effective date for the increases). City is a toll reseller, *see supra* para. 23.

²⁴¹ 47 U.S.C. § 503(b)(2)(E).

we consider when determining the appropriate penalty in any given case.²⁴² Under these guidelines, we may adjust a forfeiture upward for violations that are egregious, intentional, or repeated, or that cause substantial harm or generate substantial economic gain for the violator.²⁴³

83. The Commission's forfeiture guidelines do not establish a base forfeiture for violations of EBB and ACP rules. We have therefore looked to the base forfeitures proposed in analogous cases for guidance. For example, in both the American Broadband NAL²⁴⁴ and Total Call Mobile NAL,²⁴⁵ the Commission proposed a per subscriber penalty, which is relevant here because although both cases involve the Commission's Lifeline program, each matter also involved enrolling apparently ineligible subscribers. In addition, we have looked to the Commission's recent Q Link Wireless LLC NAL,²⁴⁶ which involved apparent violations of EBB rules and included a proposed forfeiture amount of treble the loss to the program.

84. We find that City Communications apparently willfully and repeatedly violated multiple Commission rules and the federal wire fraud statute: (i) by repeatedly using the same non-subscriber BQP to enroll multiple subscribers;²⁴⁷ (ii) by enrolling subscribers using fake or false addresses;²⁴⁸ (iii) by falsely certifying that the Company was in compliance with ACP rules when it submitted reimbursement requests to USAC;²⁴⁹ (iv) by transmitting via interstate wires, certified reimbursement requests containing fraudulent information;²⁵⁰ (v) by its continuous use of false business addresses;²⁵¹ and (vi) by failing to respond fully to the Bureau's two LOIs.²⁵² As further described below, we propose a total forfeiture penalty of \$16,971,253 for these apparent violations.

A. Proposed Forfeiture Amount for City Communications' Apparent Violations of Commission Rules by Improperly Enrolling Subscribers in ACP

85. City Communications repeatedly used the same non-subscriber BQP to enroll multiple households in 2021 and 2022 and received payment from the program for these apparently improper enrollments. EBB and ACP rules allow a household to receive only one monthly service benefit.²⁵³ A non-subscriber BQP may only be used to qualify one household. City received funds to which it was not entitled and prevented those funds from benefitting qualified ACP subscribers.

86. City Communications received payments from ACP in connection with at least 1,875 improper enrollments that involved duplicate non-subscriber BQPs and/or fake or false addresses. The Commission proposes a base forfeiture of \$5,000 for each of the 1,875 apparently improper enrollments.²⁵⁴

²⁴² 47 CFR § 1.80(b)(11), Note 2 to paragraph (b)(11).

²⁴³ *Id.*

²⁴⁴ *Am. Broadband & Telecomms. Co.; Jeffrey S. Ansted*, Notice of Apparent Liability for Forfeiture and Order, 33 FCC Rcd 10308 (2018) (*Am. Broadband NAL*).

²⁴⁵ *Total Call Mobile, Inc.*, Notice of Apparent Liability for Forfeiture and Order, 31 FCC Rcd 4191 (2016) (*Total Call Mobile NAL*).

²⁴⁶ *Q Link Wireless LLC*, Notice of Apparent Liability for Forfeiture and Order, 2023 WL 345342 (Jan. 17, 2023).

²⁴⁷ 47 CFR § 54.1805.

²⁴⁸ *Id.* §§ 54.1806, 54.1810(i).

²⁴⁹ *Id.* §§ 54.1808(e)(3), 54.1810(i).

²⁵⁰ 18 U.S.C. § 1343.

²⁵¹ 47 CFR § 1.17.

²⁵² 18 U.S.C. § 503(b)(1)(B).

²⁵³ 47 CFR §§ 54.1605, 54.1805.

²⁵⁴ *See, e.g., Am. Broadband NAL, supra note 244; Total Call Mobile NAL, supra note 245.*

in violation of sections 54.1805 and 54.1806 of the Commission's rules for a total base forfeiture amount of \$9,375,000.²⁵⁵

87. Through 19 reimbursement requests, submitted from March 2022 through July 2023, City Communications requested and received \$2,069,298 from ACP in connection with improperly enrolled subscribers. Each of these 19 reimbursement requests certified that City was in compliance with the Commission's ACP rules. It was not. Each of these reimbursement requests made false representations and included false certifications to USAC, and on the basis of these apparently false representations and false certifications the U.S. Treasury paid City millions of dollars in connection with its ACP participation. That funding represents a substantial loss to ACP. In light of the egregiousness of City's conduct, we propose an upward adjustment of \$2,542,051 to the base forfeiture. This is calculated as treble the loss to the Treasury for City's three highest payment months in the programs, which totaled \$847,350.²⁵⁶ We therefore propose a total forfeiture of \$11,917,051 for City's apparent violation of the Commission's ACP rules in connection with its enrollment of customers.

B. Proposed Forfeiture Amount for City Communications' Apparent Violations of the Federal Wire Fraud Statute

88. In accordance with section 503(b)(1)(D) of the Act, the Commission may assess a base forfeiture of \$5,000 for each wire fraud violation. In light of the egregiousness of City's conduct in using duplicate non-subscriber BQPs and fake or false address information in furtherance of its scheme to defraud via City's reimbursement requests that contained apparent false representations and false certifications, a substantial upward adjustment to the wire fraud base forfeiture is warranted. Therefore, we propose an upward adjustment to the statutory maximum of \$244,958²⁵⁷ for each of City's 19 apparent wire fraud violations, for a forfeiture amount of \$4,654,202.

C. Proposed Forfeiture Amount for City Communications' Apparent Violations of Commission Rules through Repeated Inaccurate and Untruthful Statements

89. The Company made false statements to the Bureau during this investigation. Specifically, City Communications repeatedly falsely reported its business addresses. The Bureau's investigation found no evidence to support the Company's claim that either address was accurate. We propose a forfeiture of \$100,000 for each of the two false addresses City Communications used.²⁵⁸ Accordingly, the total proposed forfeiture amount for the Company's apparent violation of section 1.17 of the Commission's rules is \$200,000.

²⁵⁵ 47 CFR §§ 54.1805, 54.1806.

²⁵⁶ Within the statute of limitations, service months April 2022, May 2022, and June 2022 were City's highest payment months.

²⁵⁷ See 47 U.S.C. § 503(b)(2)(B); 47 CFR § 1.80(b)(2).

²⁵⁸ See, e.g., *Cleo NAL*, *supra* note 75.

D. Proposed Forfeiture Amount for City Communications' Apparent Violations of Commission Orders

90. City failed to respond fully to two LOIs, which are Commission orders.²⁵⁹ We propose a forfeiture of \$100,000 for each of the two LOIs to which City did not fully respond and apparently violated Commission orders, for a forfeiture amount of \$200,000.²⁶⁰

E. Total Proposed Forfeiture

91. Therefore, we propose a total forfeiture penalty of \$16,971,253 related to these apparent violations: \$11,917,051 for City's apparent violations related to improper enrollments of ACP subscribers (\$9,375,000 base forfeiture plus a \$2,542,051 upward adjustment), \$4,654,202 for City's 19 apparent wire fraud violations, \$200,000 for repeated use of false business addresses, and \$200,000 for apparent violations of two Commission orders related to City's failure to respond fully to the Bureau's LOIs.²⁶¹

VI. CONCLUSION

92. We have determined that City Communications apparently willfully and repeatedly violated several of the Commission's ACP rules, section 1.17 of the Commission's rules, two Commission orders, and the wire fraud statute. As such, City Communications is apparently liable for a forfeiture of \$16,971,253.

VII. ORDER INITIATING REMOVAL PROCEEDING

93. This NAL finds City Communications apparently liable for significant and egregious misconduct in the ACP. City's apparently improper enrollments of subscribers and claims for reimbursement for those subscribers resulted in serious harm to the program and undermined the intent of the ACP to provide critical broadband service to eligible consumers.

94. Section 54.1801(e)(2)(ii) of the Commission's ACP rules permits removal of a participating provider from the ACP for, among other reasons, based on "[v]iolations of program rules of the Affordable Connectivity Program [or] the EBB Program . . . [or] for committing any action that indicates a lack of business integrity or business honesty that seriously and directly affects the provider's responsibilities under the Affordable Connectivity Program, that undermines the integrity of the Affordable Connectivity Program, or that harms or threatens to harm prospective or existing program

²⁵⁹ See 47 U.S.C. § 503(b)(1)(B); see also, e.g., *ABC Fulfillment Services LLC D/B/A HobbyKing USA LLC and Hobbyking.com*; and *Indubitably, Inc. D/B/A HobbyKing Corp., HobbyKing USA LLC, HobbyKing, and HobbyKing.com*, Notice of Apparent Liability for Forfeiture, 33 FCC Rcd 5530, 5538, para. 16 (2018) ("Companies that receive LOIs must timely file complete and accurate responses to the Bureau's questions. Failure to timely and fully respond to the Bureau's inquiries violates the Act. The Commission has repeatedly taken enforcement action against entities that disregard orders to provide information related to potential violations of the Act or the Commission's rules." (internal cites omitted)), *aff'd*, Forfeiture Order, 35 FCC 7441 (2020); *Net One Int'l, Net One, LLC, Farrahel Int'l, LLC*, Forfeiture Order, 29 FCC Rcd 264, 267, para. 9 (EB 2014) (imposing a \$25,000 penalty for failure to respond to LOI); *Conexions, LLC d/b/a Conexion Wireless*, Notice of Apparent Liability for Forfeiture and Order, 28 FCC Rcd 15318, 15325, para. 22 (2013) (proposing a \$300,000 forfeiture for failure to provide timely and complete responses to an LOI); *Technical Comm'n Network, LLC*, Notice of Apparent Liability for Forfeiture and Order, 28 FCC Rcd 1018, 1020, para. 8 (EB 2013) (proposing a \$25,000 forfeiture for failure to provide a complete response to an LOI); *Google, Inc.*, Notice of Apparent Liability for Forfeiture, 27 FCC Rcd 4012 (EB 2012) (proposing \$25,000 penalty for failure to respond fully to LOI) (forfeiture paid); *SBC Commc'ns, Inc.*, Forfeiture Order, 17 FCC Rcd 7589, 7600, para. 28 (2002) (imposing a \$100,000 penalty for failing to submit a sworn written response).

²⁶⁰ 47 U.S.C. § 503(b)(1)(B).

²⁶¹ 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.

participants, including without limitation fraudulent enrollments.”²⁶² The Enforcement Bureau and/or the Wireline Competition Bureau may initiate a removal proceeding “[i]f the Commission develops information from Commission-led or sponsored investigations . . . or from other credible sources that yields credible allegations of misconduct.”²⁶³ Based on the findings in the Bureau’s investigation, as described in this NAL, the Commission finds that it has substantial evidence showing City violated ACP rules and took actions indicating a lack of business integrity and business honesty that seriously and directly affects the company’s responsibilities under the ACP and that harms prospective and existing program participants.

95. Specifically, as described in this NAL, the Bureau’s investigation has developed evidence that City enrolled subscribers with fake or false identifying information, conduct that apparently violated EBB and ACP rules (including but not limited to 47 CFR §§ 54.1605, 54.1606(b), 54.1608(e)(3), 54.1805, 54.1806(b), 54.1808(e)(3), and 54.1810(i)). As also described in this NAL, the Bureau’s investigation has developed evidence that City misrepresented that it was in compliance with the Commission’s rules. As a result, City improperly received more than \$3.1 million from the EBB and ACP, as described in the NAL. Fraudulent enrollments and misrepresentations, and resulting improper reimbursement, seriously and directly affect City’s responsibilities under the ACP and undermine the ACP’s integrity, and harm or threaten to harm program participants. Accordingly, the evidence warrants removal for violation of ACP rules, and for lack of business integrity and honesty. The Commission is therefore **ORDERING** the initiation of a proceeding to remove City Communications from the ACP.

96. This NAL and Order, a copy of which is being sent to City Communications by email, serves as immediate notice that the Commission is commencing removal proceedings against City Communications under section 54.1801(e)(2)(iii) of the Commission’s rules. As provided in section 54.1801(e)(2)(iii), the Commission has delegated to the Chief of the Wireline Competition Bureau and/or the Chief of the Enforcement Bureau authority to complete removal proceedings in accordance with that section. This Order shall serve as notice to City that, as a result of the findings in the Bureau’s investigation as described in this NAL and summarized in the paragraph above, the Wireline Competition Bureau and/or the Enforcement Bureau will take interim measures as provided in section 54.1801(e)(2)(iii)(B), including removal of City from the Commission’s list of providers and from the Administrator’s Companies Near Me tool; suspension of City’s ability to enroll or transfer in new subscribers; and an interim funding hold during the pendency of the removal proceeding. Such actions may be taken under section 54.1801(e)(2)(iii)(B) where “based upon adequate evidence of willful misconduct that would warrant removal under paragraph (e)(2)(ii)” and where “necessary to protect the public interest.”

97. City Communications **SHALL RESPOND** in writing to this **ORDER INITIATING REMOVAL PROCEEDING** within thirty (30) calendar days with any relevant evidence demonstrating that a rule violation or other conduct warranting removal has not in fact occurred and that City should not be removed from the ACP.²⁶⁴ Within thirty (30) calendar days of receiving City’s response, the Wireline Competition Bureau and/or the Enforcement Bureau will make a determination and issue an order providing detailed explanation for the determination.²⁶⁵ If the Wireline Competition Bureau and/or Enforcement Bureau determines that a preponderance of the evidence fails to demonstrate that there has been conduct warranting removal, then any interim measures taken under section 54.1801(e)(2)(iii)(B) will be discontinued immediately.²⁶⁶ If the Wireline Competition Bureau and/or Enforcement Bureau determines by a preponderance of the evidence that there has been

²⁶² 47 CFR § 54.1801(e)(2)(ii)(A)-(B).

²⁶³ *Id.* § 54.1801(e)(2); *Affordable Connectivity Program Order*, *supra* note 9, at 113, para. 242.

²⁶⁴ 47 CFR § 54.1801(e)(2)(iii)(C).

²⁶⁵ *Id.* § 54.1801(e)(2)(iii)(D).

²⁶⁶ *Id.*

conduct warranting removal, City's authorization to participate in the ACP will be revoked, and City shall be immediately removed from the program.²⁶⁷ Failure to respond to this Order or to provide evidence in a timely manner will result in a finding against City, removal from the program, and revocation of City's authorization to participate in the ACP.²⁶⁸ Responses to this Order shall be sent by email to Meghan Ingrisano at Meghan.Ingrisano@fcc.gov, Jodi Schulz at Jodi.Schulz@fcc.gov, and Sarah McNally at Sarah.McNally@fcc.gov of the Enforcement Bureau and Jessica.Campbell@fcc.gov of the Wireline Competition Bureau and filed in WC Docket No. 21-450.

VIII. ORDERING CLAUSES

98. 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, City Communications, Inc. is hereby **NOTIFIED** of this **APPARENT LIABILITY FOR A FORFEITURE** in the amount of Sixteen Million Nine Hundred Seventy One Thousand Two Hundred Fifty Three dollars (\$16,971,253) for willful and repeated violations of section 904 of the Consolidated Appropriations Act, 47 U.S.C. § 1752; sections 1.17, 54.1605, 54.1606(b), 54.1608(e)(3), 54.1805, 54.1806(b), 54.1808(e)(3), and 54.1810(i) of the Commission's rules; Title 18, United States Code, section 1343; and the Emergency Broadband Benefit Program Report and Order and Affordable Connectivity Program Report and Order and associated rules.²⁶⁹

99. **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, City Communications, Inc. **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 102 below.

100. In order for City Communications, Inc. to pay the proposed forfeiture, City Communications, Inc. shall notify Meghan Ingrisano at Meghan.Ingrisano@fcc.gov, Jodi Schulz at Jodi.Schulz@fcc.gov, and Sarah McNally at Sarah.McNally@fcc.gov, Enforcement Bureau, Federal Communications Commission, 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, City Communications, Inc. shall send electronic notification of payment to Meghan Ingrisano at Meghan.Ingrisano@fcc.gov, Jodi Schulz at Jodi.Schulz@fcc.gov, and Sarah McNally at Sarah.McNally@fcc.gov, Enforcement Bureau, Federal Communications Commission, 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 selected:²⁷⁰

- 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 159²⁷¹ or printed CORES form²⁷²

²⁶⁷ *Id.*

²⁶⁸ *Id.* § 54.1801(e)(2)(iii)(C).

²⁶⁹ *Emergency Broadband Benefit Program Order, supra note 3; Affordable Connectivity Program Order, supra note 9.*

²⁷⁰ For questions regarding payment procedures, please contact the Financial Operations Group Help Desk by phone at 1-877-480-3201 (option #6).

²⁷¹ FCC Form 159 is accessible at <https://www.fcc.gov/licensing-databases/fees/fcc-remittance-advice-form-159>.

²⁷² 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>.

must be faxed to the Federal Communications Commission at 202-418-2843 or emailed to 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).²⁷³ For additional detail and wire transfer instructions, go to <https://www.fcc.gov/licensing-databases/fees/wire-transfer>.

- Payment by credit card must be made by using CORES at <https://apps.fcc.gov/cores/userLogin.do>. To pay by credit card, log-in using the FCC Username associated to the FRN captioned above. If payment must be split across FRNs, complete this process for each FRN. Next, select “Manage Existing FRNs | FRN Financial | Bills & Fees” from the CORES Menu, then select FRN Financial and the view/make payments option next to the FRN. Select the “Open Bills” tab and find the bill number associated with the NAL Acct. No. The bill number is the NAL Acct. No. with the first two digits excluded (e.g., NAL 1912345678 would be associated with FCC Bill Number 12345678). After selecting the bill for payment, choose the “Pay by Credit Card” option. Please note that there is a \$24,999.99 limit on credit card transactions.
- 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.

101. 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. 20554.²⁷⁴ Questions regarding payment procedures should be directed to the Financial Operations Group Help Desk by phone, 1-877-480-3201, or by email, ARINQUIRIES@fcc.gov.

102. The written statement seeking reduction or cancellation of the proposed forfeiture, if any, must include a detailed factual statement supported by appropriate documentation and affidavits pursuant to sections 1.16 and 1.80(g)(3) of the Commission’s rules.²⁷⁵ 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 – Fraud Division, and must include the NAL/Account Number referenced in the caption. The statement must also be emailed to Meghan Ingrisano at Meghan.Ingrisano@fcc.gov, Jodi Schulz at Jodi.Schulz@fcc.gov, and Sarah McNally at Sarah.McNally@fcc.gov, Enforcement Bureau, Federal Communications Commission.

103. 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

²⁷³ Instructions for completing the form may be obtained at <http://www.fcc.gov/Forms/Form159/159.pdf>.

²⁷⁴ See 47 CFR § 1.1914.

²⁷⁵ *Id.* §§ 1.16, 1.80(g)(3).

accepted accounting practices; or (3) some other reliable and objective documentation that accurately reflects the petitioner's current financial status.²⁷⁶ 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.²⁷⁷

104. **IT IS FURTHER ORDERED** that a copy of this Notice of Apparent Liability for Forfeiture and Order Initiating Removal Proceeding shall be sent by first class mail and certified mail, return receipt requested, to Faraz Mobeen, City Communications, Inc., 300 Village Center Drive, Suite 103, Woodstock, GA 30188, 225 Parkway 575, Woodstock, GA 30188, and c/o Fas Tek Corporate Services at 1725 Windward Concourse Ste 150, Alpharetta, GA 30005-3971, and by email to fmobeen@citycom.co, suzane@citycom.co, and valery@citycom.co.

FEDERAL COMMUNICATIONS COMMISSION

Marlene H. Dortch
Secretary

²⁷⁶ 47 U.S.C. § 503(b)(2)(E).

²⁷⁷ 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 Communications, Inc.*, Forfeiture Order, 30 FCC Rcd 14892, 14903-904, paras. 32-33 (2015); *TV Max, Inc., et al.*, Forfeiture Order, 29 FCC Rcd 8648, 8661, para. 25 (2014).

APPENDIX A

Service Provider Reimbursement Request EBB Certifications

- 1) I am an officer authorized to submit the reimbursement request on behalf of the participating provider;
- 2) I have read the instructions relating to the reimbursements and the funds sought in the reimbursement request are for services and/or devices that were provided in accordance with the Emergency Broadband Benefit Program rules and requirements;
- 3) The participating provider is in compliance with all of the rules in 47 CFR Part 54, Subpart P;
- 4) The participating provider has obtained valid certification and application forms as required by the rules in 47 CFR Part 54, Subpart P for each of the subscribers for whom it is seeking reimbursement;
- 5) The amount for which the participating provider is seeking reimbursement from the Emergency Broadband Connectivity Fund is not more than the standard rate;
- 6) Each eligible household for which the participating provider is seeking reimbursement for providing an Internet service offering has not been or will not be charged for 1) such offering, if the standard rate for such offering is less than or equal to the amount of the emergency broadband benefit for such household; or 2) more for such offering than the difference between the standard rate for such offering and the amount of the emergency broadband benefit for such household;
- 7) Each eligible household for which the participating provider is seeking reimbursement for providing an Internet service offering 1) will not be required to pay an early termination fee if such eligible household elects to enter into a contract to receive such Internet service offering if such household later terminates such contract; 2) was not, after December 27, 2020, subject to a mandatory waiting period for such Internet service offering based on having previously received broadband Internet access service from such participating provider; and 3) will otherwise be subject to the participating provider's generally applicable terms and conditions as applied to other customers;
- 8) Each eligible household that is receiving a supported service offering at a standard rate that does not require the participating provider to assess and collect a monthly fee from the household has used the supporting service, as usage is defined by 47 CFR § 54.407(c)(2), [at] least once during the service month being claimed;
- 9) Each eligible household for which the participating provider is seeking reimbursement for supplying such household with a connected device was charged by the provider more than \$10.00 but less than \$50.00 for such connected device, and that no such household had already received a reimbursable connected device from the participating provider or any other participating provider when the connected device was distributed to the household;
- 10) The connected device meets the Commission's requirements, that the reimbursement claim amount reflects the market value of the device, and the connected device has been delivered to the household;
- 11) For each household whose eligibility was verified using an alternative verification process, such verification process was designed to avoid waste, fraud, and abuse;
- 12) The provider has retained the relevant supporting documents that demonstrate the connected devices requested are eligible for reimbursement;
- 13) All documentation associated with the reimbursement form, including all records for services and/or connected devices provided, will be retained for a period of at least six years after the last date of delivery of the supported services and/or connected devices provided through the Emergency Broadband Benefit Program, and are subject to audit;
- 14) The provider neither received nor paid kickbacks, as defined by 41 U.S.C. § 8701,

in connection with the Emergency Broadband Benefit Program;

- 15) The information contained in this form is true, complete, and accurate to the best of the officer's knowledge, information, and belief, and is based on information known to the officer or provided to officer by employees responsible for the information being submitted;
- 16) The officer is aware that any false, fictitious, or fraudulent information, or the omission of any material fact, may subject the officer to criminal, civil, or administrative penalties for fraud, false statements, false claims, or otherwise. (18 U.S.C. §§ 286-287, 1000, 1341, 31 U.S.C. §§ 3729-3720, 3801-3812); and No service costs or devices sought for reimbursement have been waived, paid, or promised to be paid by another entity, including any federal program;
- 17) No service costs or devices sought for reimbursement have been waived, paid, or promised to be paid by another entity, including any federal program; and
- 18) No Federal subsidy made available through a program administered by the Commission that provides funds to be used for the capital expenditures necessary for the provision of advanced communications services has been or will be used to purchase, rent, lease, or otherwise obtain, any covered communications equipment or service, or maintain any covered communications equipment or service previously purchased, rented, leased, or otherwise obtained, as required by 47 CFR § 54.10.

Appendix B**Service Provider Reimbursement Request ACP Certifications**

- 1) I am an officer authorized to submit the reimbursement request on behalf of the participating provider;
- 2) I have read the instructions relating to the reimbursements and the funds sought in the reimbursement request are for services and/or devices that were provided in accordance with the purposes and objectives set forth in the statute, rules, requirements, and orders governing the Affordable Connectivity Program;
- 3) The participating provider is in compliance with and satisfied all of the rules set forth in 47 CFR Part 54, Subpart R, the statute, requirements, and orders governing the Affordable Connectivity Program reimbursement, and the provider acknowledges that failure to be in compliance and remain in compliance with Affordable Connectivity Program statutes, rules, and orders may result in the denial of reimbursement, cancellation of funding commitments, and/or recoupment of past disbursements;
- 4) The participating provider has obtained valid certification and application forms as required by the rules in 47 CFR Part 54, Subpart R for each of the subscribers for whom it is seeking reimbursement;
- 5) The amount for which the participating provider is seeking reimbursement from the Affordable Connectivity Fund is not more than the amount charged to the eligible household and the discount has already been passed through to the household;
- 6) Each eligible household for which the participating provider is seeking reimbursement for providing an Internet service offering discounted by the affordable connectivity benefit has not been and will not be charged for the amount the provider is seeking for reimbursement;
- 7) Each eligible household for which the participating provider is seeking reimbursement for providing an Internet service offering discounted by the affordable connectivity benefit 1) will not be required to pay an early termination fee if such eligible household elects to enter into a contract to receive such Internet service offering if such household later terminates such contract; 2) was not, after the date of the enactment of the Consolidated Appropriations Act, 2021, as amended by the Infrastructure Investment and Jobs Act, subject to a mandatory waiting period for such Internet service offering based on having previously received broadband Internet access service from such participating provider; and 3) will otherwise be subject to the participating provider's generally applicable terms and conditions as applied to other customers;
- 8) Each eligible household that is receiving a supported service offering that does not require the participating provider to assess and collect a monthly fee from the household has used the supported service, as usage is defined by 47 CFR § 54.407(c)(2), at least once during the service month being claimed;
- 9) Each eligible household for which the participating provider is seeking reimbursement for supplying such household with a connected device was charged by the provider and paid more than \$10.00 but less than \$50.00 for such connected device, and that no such household had already received a reimbursable connected device from the participating provider or any other participating provider when the connected device was distributed to the household;
- 10) If seeking reimbursement for a connected device, the connected device meets the Commission's requirements, the representations regarding the devices made on the provider's website and promotional materials are true and accurate, that the reimbursement claim amount reflects the market value of the connected device less the amount charged to and paid by the eligible household, and the connected device has been delivered to the household;
- 11) If seeking reimbursement for a connected device, the provider has retained the relevant supporting documents that demonstrate the connected devices requested are eligible

- for reimbursement and submitted the required information;
- 12) For each household whose eligibility was verified using an alternative verification process, such verification process was designed to avoid waste, fraud, and abuse;
 - 13) All documentation associated with the reimbursement form, including all records for services and/or connected devices provided, will be retained for a period of at least six years after the last date of delivery of the supported services and/or connected devices provided through Affordable Connectivity Program, and are subject to audit, inspection, or investigation and will be made available at the request of any representative (including any auditor) appointed by the Commission and its Office of Inspector General, or any local, state, or Federal agency with jurisdiction over the provider;
 - 14) The provider has not offered, promised, received, or paid kickbacks, as defined by 41 U.S.C. § 8701, in connection with the Affordable Connectivity Program;
 - 15) The information contained in this form is true, complete, and accurate to the best of the officer's knowledge, information, and belief, and is based on information known to the officer or provided to officer by employees responsible for the information being submitted;
 - 16) The officer is aware that any false, fictitious, or fraudulent information, or the omission of any material fact on this request for reimbursement or any other document submitted by the provider, may subject the provider and the officer to punishment by fine or forfeiture under the Communications Act (47 U.S.C. §§ 502, 503(b), or 1606), or fine or imprisonment under Title 18 of the United States Code (18 U.S.C. §§ 1001, 286-87, 1343), or can lead to liability under the False Claims Act (31 U.S.C. §§ 3729-3733, 3801-3812);
 - 17) No service costs or devices sought for reimbursement have been waived, paid, or promised to be paid by another entity, including any federal or state program;
 - 18) No Federal subsidy made available through a program administered by the Commission that provides funds to be used for the capital expenditures necessary for the provision of advanced communications services has been or will be used to purchase, rent, lease, or otherwise obtain, any covered communications equipment or service, or maintain any covered communications equipment or service previously purchased, rented, leased, or otherwise obtained, as required by 47 CFR § 54.10;
 - 19) For each ACP claim, the provider certifies it did not require enrollment in the ACP as a condition for enrolling in Lifeline or some other purpose, or imply such a condition existed. Evidence that a household claimed for ACP reimbursement was enrolled without the household's consent or as a requirement of receiving Lifeline service may lead to denial of support claims, as well as other penalties and referral to law enforcement;
 - 20) All enrollments and transfers completed by the provider were bona fide, requested and consented by the subscriber household after receiving the disclosures required under § 54.1810(a) and (b), and made pursuant to program rules; and
 - 21) The provider used the National Lifeline Accountability Database as a tool for enrollment, reimbursement calculations, and duplicate checks in all states, territories, and the District of Columbia, and checked their records in accordance with § 54.1806(a)(4).