

ONE HUNDRED SEVENTEENTH CONGRESS
Congress of the United States
House of Representatives
COMMITTEE ON ENERGY AND COMMERCE
2125 RAYBURN HOUSE OFFICE BUILDING
WASHINGTON, DC 20515-6115

Majority (202) 225-2927
Minority (202) 225-3641

October 26, 2022

Mr. Cobby Pourtavosi
Chief Executive Officer
Excess Telecom, Inc.
P.O. Box 69344
West Hollywood, CA 90015

Dear Mr. Pourtavosi:

I write today to request information regarding your company's compliance with the consumer protection and fraud prohibitions included in the historic bipartisan broadband affordability programs, the Emergency Broadband Benefit (EBB) and Affordable Connectivity Program (ACP). In today's world, access to broadband internet is a necessity, but unfortunately too many Americans are not connected because they cannot afford the monthly cost of broadband service.¹ During the height of the coronavirus disease of 2019 (COVID-19) pandemic, Congress created these programs to make broadband access more affordable to families struggling to make ends meet, and to date over 14 million households have signed up for assistance.² The success of the current program, ACP, is crucial to making progress in our shared goal of connecting all Americans.

I recognize that the success of the program depends upon the voluntary participation of companies like yours and appreciate your contributions to getting families connected during a global crisis. However, as the Chairman of the Committee with oversight of the program, I must make sure that participating companies comply with the safeguards and consumer protection standards imposed by Congress and the Federal Communications Commission (FCC).

In crafting EBB, and its successor ACP, Congress explicitly outlined requirements designed to prevent waste, fraud, and abuse, maximize the enrollment of eligible households, and ensure that consumers are protected in the process. Importantly, Congress incorporated lessons

¹ The Pew Charitable Trusts, *How Can the United States Address Broadband Affordability*, (Apr. 29, 2022) (<https://www.pewtrusts.org/en/research-and-analysis/articles/2022/04/29/how-can-the-united-states-address-broadband-affordability>).

² Universal Service Administrative Company, *ACP Enrollment and Claims Tracker* (<https://www.usac.org/about/affordable-connectivity-program/acp-enrollment-and-claims-tracker/>) (accessed Oct. 25, 2022).

learned in the emergency implementation of EBB to fully inform the creation of ACP, including by enhancing safeguards to preserve program integrity and ensuring that ACP would truly benefit consumers and not leave them vulnerable to predatory schemes or misleading practices.

That is why I am deeply concerned by reports that some providers may not be adhering to the requirements of the program.³ Specifically, these reports detail problems customers have faced, including either having their benefits initiated, transferred to a new provider, or changed to a different plan without their knowledge or consent.⁴ Other customers have reported a delay in the application of the benefit or a requirement to opt-in to future full-price service, which has resulted in surprise bills that have been sent to collection agencies.⁵ There have also been reports of aggressive upselling of more expensive offerings, requirements that customers accept slower speed service tiers, and other harmful and predatory practices.⁶

³ *High prices, low speeds and fraud plague U.S. aid to keep people online*, Washington Post (Oct. 25, 2022) (<https://www.washingtonpost.com/business/2022/10/25/broadband-subsidies-coronavirus-aid/>); *see also* *Thousands allegedly bilked U.S. for free internet – in one child’s name*, Washington Post (Sept. 8, 2022) (<https://www.washingtonpost.com/us-policy/2022/09/08/fcc-broadband-fraud-coronavirus/>); *You can get free broadband in L.A. if you’re a lower-income consumer. Here’s what to ask for*, Los Angeles Times (July 25, 2022) (<https://www.latimes.com/business/technology/story/2022-07-25/you-can-get-free-broadband-in-l-a-if-youre-a-lower-income-consumer-heres-what-to-ask-for>); *FCC and ISPs’ ‘match’ process messed up a massive broadband credit for low-income citizens—leaving thousands furious*, Daily Dot (July 15, 2021) (<https://www.dailydot.com/debug/fcc-ebb-complaints-spectrum-comcast/>).

⁴ *If you get free phone or internet in California, watch out for this snag*, Los Angeles Times (Aug. 12, 2022) (<https://www.latimes.com/business/technology/story/2022-08-12/free-mobile-phone-service-is-available-but-it-could-end-your-free-home-broadband>) (“And, unbeknownst to him, Assurance used Rick’s \$30-a-month federal ACP subsidy instead of using the roughly \$25 a month in state and federal LifeLine subsidies to pay for service. As a result, he lost the subsidy he’d been receiving on his Spectrum broadband service.”).

⁵ *See, e.g., Spectrum is forcing full-price plans on people seeking FCC benefit*, Protocol (May 25, 2021); *FCC and ISPs’ ‘match’ process messed up a massive broadband credit for low-income citizens—leaving thousands furious*, Daily Dot (July 15, 2021) (<https://www.dailydot.com/debug/fcc-ebb-complaints-spectrum-comcast/>) (“Meanwhile, a Florida resident told the FCC in a complaint that Spectrum had not applied the EBB credit to their account a month after being approved by the USAC. Spectrum told them their ‘application was received and everything I could do was done.’”); *What happened when readers tried signing up for the government’s subsidized internet program?*, The Press Democrat (Aug. 19, 2022) (<https://www.pressdemocrat.com/article/news/what-happened-when-readers-tried-signing-up-for-the-governments-subsidized/>) (“Scott Wilson, a military veteran with cognitive challenges from a brain tumor, attempted to enroll in [ACP-subsidized] free internet and ended up with two bills – one from Xfinity and one from parent company Comcast – and extra services and charges he didn’t want. He had incredible difficulty reaching anyone by phone, and while he eventually canceled his account, he received a collections letter months later...”).

⁶ *See, e.g., The government has a program to cut your Internet bill. Verizon was using it to force you onto a new data plan.*, Washington Post (May 21, 2021) (<https://www.washingtonpost.com/technology/2021/05/17/Verizon-emergency-broadband-benefit/>) (“Reader Eric ... was told his current no-contract Internet service, which costs him \$62 per month, would need to become part of a new Verizon Fios plan. That would run him \$79 per month.”); *High prices, low speeds and fraud plague U.S. aid to keep people online*, Washington Post (Oct. 25, 2022) (<https://www.washingtonpost.com/business/2022/10/25/broadband-subsidies-coronavirus-aid/>); *You can get free broadband in L.A. if you’re a lower-income consumer. Here’s what to ask for*, Los Angeles Times (July 25, 2022) (<https://www.latimes.com/business/technology/story/2022-07-25/you-can-get-free-broadband-in-l-a-if-youre-a-lower-income-consumer-heres-what-to-ask-for>) (“[Tim Hebb] kept at it, knowing from a separate page on Spectrum’s site that the company offers a \$30, 100 Mbps tier to people who qualify for [ACP]. He called the

I recognize that many issues have been resolved since the early days of EBB. The rules and processes that were rapidly deployed to meet the COVID-19 emergency were strengthened when EBB was reestablished as the longer-term ACP. I appreciate your company's efforts to see many of these improvements through. Unfortunately, recent complaints allege actions that are now explicitly prohibited by Congress and the FCC.

I take these consumer complaints seriously and want to ensure that all providers are abiding by the law so that all eligible consumers can truly benefit from these programs. To assist the Committee's oversight and legislative responsibilities, please provide answers to the following questions by no later than Wednesday, November 9, 2022. For all questions, if your company has multiple brands or subsidiaries that previously participated or currently participate in EBB or ACP, please break out your answers by brand or subsidiary.

1. How many EBB beneficiaries did your company enroll? Please present this information broken out by month.
2. How many customers are currently or have been enrolled in ACP through your company? Please present this information broken out by month through October 2022.
3. Please describe the process(es) your company uses to enroll consumers in ACP. If your company employs multiple processes, please identify which of the processes is most frequently used by consumers and present a breakdown of the approximate percentage of consumers enrolled through each process.
4. How many complaints did your company receive from current or prospective customers regarding your administration of EBB? How many of those complaints were referred by the FCC or any other federal or state agency? Please provide a narrative summary detailing the nature and frequency of the complaints received and any additional information gleaned through any internal review of the issues raised.
5. How many complaints has your company received from current or prospective customers regarding your administration of ACP? How many of those complaints were referred by the FCC or any other federal or state agency? Please provide a narrative summary detailing the nature and frequency of the complaints received and any additional information gleaned through any internal review of the issues raised.
6. Please provide an explanation of your company's process for resolving complaints regarding EBB and ACP including a general description of whether and how the complaints discussed in Questions 4 and 5 were resolved.

customer service line, where a representative 'pilfered 15-20 minutes of my life that I'll never get back trying to sell me a \$105+ bundle of services after I explicitly asked for the ACP-compatible Internet 100 plan for \$30/ month,' he said in an email.").

7. Is your company aware of any complaints from current or prospective customers alleging that your company has not allowed eligible customers to apply the ACP benefit to any broadband service offering at the same terms available to households that are not eligible for ACP? Please provide a narrative summary of any such complaints received over the previous 12 months.
8. Is your company aware of any instances in which it has billed a customer enrolled in ACP, or a customer the company is aware is seeking to enroll, the full amount of the service without applying the benefit to their account? If so, what is your company's process for resolving such incidents, and how long does that process take?
9. Has your company received complaints about a customer's ACP benefit being applied to one of your service offerings using their name or other personal information, or being transferred to or from your company's service, without the customer's knowledge or consent? Please provide a narrative summary of any such complaints received over the previous 12 months.
10. If your company offers a discounted connected device as part of ACP, has it received any complaints about delay or failure to deliver those devices?
11. Please describe your company's training and other compliance processes for representatives employed by or affiliated with your company who assist customers regarding ACP and submit all training materials and scripts provided to these representatives or other consumer-facing employees regarding ACP. Please include information detailing how the company provides all consumer disclosures required by the ACP rules and whether those disclosures are in languages other than English and made accessible for consumers with disabilities. If your company contracts with any other entity to provide representatives to assist current or prospective customers with ACP, please provide a list of all such entities, including each entity's business name and address and its role or function in your ACP enrollment or customer service processes.
12. Do representatives employed by or affiliated with your company receive any performance-based employment incentives? If so, please describe those incentives and explain how they comply with the FCC's rules prohibiting compensation based on commissions.
13. Do representatives employed by or affiliated with your company who assist customers with ACP inquiries or enrollment engage in related or parallel sales or promotion of non-ACP service offerings or offer either extended service contracts or bundled services? If so, please describe those practices and explain how each practice complies with the FCC's prohibitions on upselling or downselling.

Mr. Cobby Pourtavosi

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If you have any questions about this letter, please contact Jennifer Epperson of the Committee staff at (202) 225-2927.

Sincerely,

A handwritten signature in blue ink that reads "Frank Pallone, Jr." with a stylized, cursive script.

Frank Pallone, Jr.
Chairman