

GWEN MOORE
4TH DISTRICT, WISCONSIN

COMMITTEE ON
FINANCIAL SERVICES
MONETARY POLICY AND TRADE, RANKING MEMBER
FINANCIAL INSTITUTIONS AND CONSUMER CREDIT
OVERSIGHT AND INVESTIGATION

DEMOCRATIC STEERING AND
POLICY COMMITTEE

CONGRESSIONAL BLACK CAUCUS WHIP



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Congress of the United States

House of Representatives

May 17, 2018

The Honorable Steven Mnuchin
Secretary
U.S. Department of the Treasury
1500 Pennsylvania Avenue NW
Washington, DC 20500

The Honorable Ajit Pai
Chairman
Federal Communications Commission
445 12th St SW
Washington, DC 20554

Re: Transfer of Universal Service Fund

Dear Secretary Mnuchin and Chairman Pai,

We are writing to inquire about procedures and safeguards that have been put in place by the U.S. Department of Treasury (Treasury) and the Federal Communications Commission (FCC) in connection with the transfer of Universal Service Fund (USF) banking services from a private banking institution to the Treasury. We would like to know what processes are in place for oversight and maintenance of the funds, and we seek assurance that the change in banking services will not cause disruptions in providing telecommunications access to Americans in fulfillment of the mission of universal service.

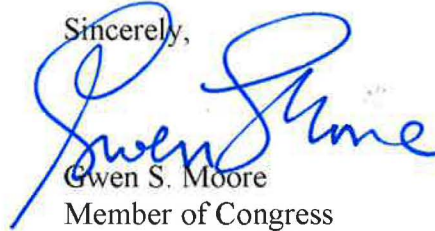
Congress codified the USF with bipartisan support over twenty years ago to promote universal access to telecommunications in the United States. The USF plays a key role in helping bridge the digital divide in rural and urban populations across the country. It provides access to telemedicine in rural areas through increased connectivity (Rural Health Care Program), phone and broadband services for low-income Americans (Lifeline Program), discounts to schools and libraries (E-Rate Program), and funding to support availability and affordability of voice and broadband services in rural America (the High-Cost Program).

Program funds are generated through contributions from service providers, and this process is overseen by the Universal Service Administrative Company. Up until now, these funds have been deposited in a private account. Given the vital role that USF plays in promoting access to essential services, we seek to ensure that, notwithstanding the movement of such funds to the Treasury, the funds collected in furtherance of the USF mission will continue to be used for their congressional intent – and will not be used to pay down the federal debt or for other general funding purposes – and also that they will continue to remain available during the event of a government shutdown, just as they were when retained previously in a commercial bank account.

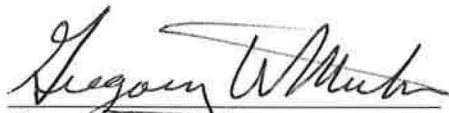
As of the date of this letter, despite the transfer of funds, we have not seen any detailed, publicly stated explanations or documented plans indicating how the FCC and/or Treasury will ensure that these funds will remain dedicated to their intended purpose, separated from other funds retained by Treasury, and available for continued distribution for the specific purpose of universal service, particularly in the event of a government shutdown (two of which have occurred in the last five months). We therefore seek a clear explanation of what procedures and safeguards are in place at Treasury and/or within the FCC to address these concerns, and we also ask for a clear explanation of how the FCC plans to address the USF funding shortfalls that will be created by the loss of interest income that was generated previously by keeping such funds with a private banking institution.

These funds are important to the communities which rely on them and it is important that there is a rigorous system in place to ensure their stability, distribution and purposeful use regardless of the government's operating status. We look forward to your response.

Sincerely,




Gwen S. Moore
Member of Congress




Gregory W. Meeks
Member of Congress



John Garamendi
Member of Congress



Richard M. Nolan
Member of Congress



Eleanor Holmes Norton
Member of Congress



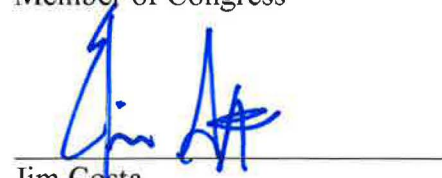
Peter Welch
Member of Congress



Anna G. Eshoo
Member of Congress



Carol Shea-Porter
Member of Congress



Jim Costa
Member of Congress



FEDERAL COMMUNICATIONS COMMISSION
WASHINGTON

OFFICE OF
THE CHAIRMAN

July 23, 2018

The Honorable Gwen Moore
U.S. House of Representatives
2252 Rayburn House Office Building
Washington, D.C. 20515

Dear Congresswoman Moore:

Thank you for your letter arguing for a rigorous system to be in place to ensure the Universal Service Fund's stable distribution and purposeful use to close the digital divide. I agree with you on the importance of the Fund's mission of providing all Americans with access to robust, affordable communications services. And I agree with you that the processes for oversight and maintenance of the Fund must be robust and resilient. That is why, in response to guidance from the Government Accountability Office, the Office of Management and Budget, and the Commission's Office of Inspector General, I directed the FCC's Managing Director to work with the administrator of the Fund, the Universal Service Administrative Company (USAC), and the Treasury Department to move Fund monies from a private bank account to the Treasury.

The decision to transfer these taxpayer funds to a public account reduces risks associated with holding them outside the Treasury and applies to the Fund the same rigorous management practices and regulatory safeguards as are applied to other federal programs. Our Managing Director's Office worked closely with USAC and the Treasury to ensure that the funds were securely deposited in the Treasury and established procedures and controls to protect against any payment disruptions either during the transition or following the transfer.

To ensure the transfer of the Fund to the Treasury would be as seamless as possible for contributors and beneficiaries, the Commission, USAC, and the Treasury developed and implemented a comprehensive project plan and conducted a wide range of development, coordination, and educational activities, including IT security and user testing of all new connections and processes. Outreach and education for contributors and beneficiaries via email, meetings, and webinars started last fall and is wrapping up now. As of May 1, 2018, all disbursements to Fund beneficiaries have been made from the Treasury. As of May 10, all cash balances had been transferred to the Treasury. And as of June, all contributions to the Fund must be paid through USAC's E-file portal, which is now connected to the Treasury's pay.gov payment system.

Importantly, a potential lapse of appropriations will not impact Fund distributions. Specifically, the Commission will rely on prior-year carry-over funds not subject to appropriations to fund any expenses the FCC incurs to certify Fund disbursements during a lapse in appropriations. Moreover, federal law permits the Commission to continue its certification activity during such a lapse because doing so is "authorized by necessary implication from the

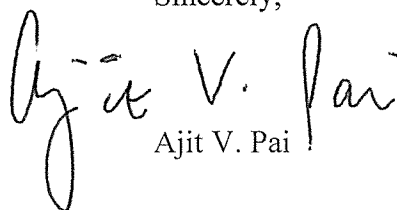
specific terms of duties that have been imposed on, or of authorities that have been invested in, the agency.”¹⁷

Please note that the transfer of the Fund to the Treasury will not affect the programmatic use of the funds. Section 254 of the Communications Act specifically authorizes and appropriates funding for the Universal Service Fund, and where those monies are held has no effect on the statutory requirement to devote them to connecting all Americans. In fiscal-law terms, the Fund is a “special fund,”¹⁸ and it has long been accounted for as such in the Commission’s budget. The USF is therefore separately maintained from the general fund within the Treasury and will remain dedicated for its intended use. Accordingly, the account holding the USF funds in the Treasury is identified by a FCC Treasury Account Symbol and a unique Account Locator Code to track those funds separately from any other funds.

Nor will the transfer to Treasury lead to funding shortfalls for the Fund. As you may know, funding levels for universal service programs are set by FCC rule, and each quarter USAC collects sufficient contributions to ensure sufficient funding. In doing so, USAC reduces the amount of contributions needed by any interest income. In other words, the loss of interest income may impact total contributions, but will not impact funding levels for the Fund’s programs. (And again, consistent with the recommendations from GAO and OMB—as well as basic principles of good government and common sense—the agency should not and will not gamble billions of dollars of taxpayers’ hard-earned money simply to eke out gains from a few percentage points of interest.) Moreover, we plan to continue our efforts to eliminate waste, fraud, and abuse in the FCC’s universal service programs to ensure efficient spending and mitigate potential increases in contributions.

I am confident that the Commission has taken the right steps to secure the Fund. We have followed the recommendations of our federal partners and entrusted the funds to Treasury. This decision will not have a programming impact, but it will protect essential financial resources going forward. Again, thank you for your interest in this managerial decision.

Sincerely,



Ajit V. Pai

¹⁷ See 43 U.S. Op. Att. Gen 293, 298 (1981); *see also* GAO, Principles of Federal Appropriations Law, vol. I, chapt. 6, at 149-50 (3rd ed. 2004).

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FEDERAL COMMUNICATIONS COMMISSION
WASHINGTON

OFFICE OF
THE CHAIRMAN

July 23, 2018

The Honorable Rick Nolan
U.S. House of Representatives
2366 Rayburn House Office Building
Washington, D.C. 20515

Dear Congressman Nolan:

Thank you for your letter arguing for a rigorous system to be in place to ensure the Universal Service Fund's stable distribution and purposeful use to close the digital divide. I agree with you on the importance of the Fund's mission of providing all Americans with access to robust, affordable communications services. And I agree with you that the processes for oversight and maintenance of the Fund must be robust and resilient. That is why, in response to guidance from the Government Accountability Office, the Office of Management and Budget, and the Commission's Office of Inspector General, I directed the FCC's Managing Director to work with the administrator of the Fund, the Universal Service Administrative Company (USAC), and the Treasury Department to move Fund monies from a private bank account to the Treasury.

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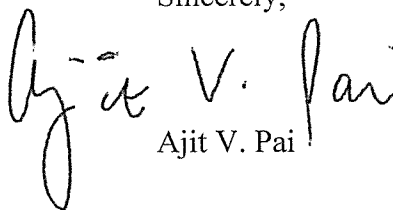
specific terms of duties that have been imposed on, or of authorities that have been invested in, the agency.”⁵

Please note that the transfer of the Fund to the Treasury will not affect the programmatic use of the funds. Section 254 of the Communications Act specifically authorizes and appropriates funding for the Universal Service Fund, and where those monies are held has no effect on the statutory requirement to devote them to connecting all Americans. In fiscal-law terms, the Fund is a “special fund,”⁶ and it has long been accounted for as such in the Commission’s budget. The USF is therefore separately maintained from the general fund within the Treasury and will remain dedicated for its intended use. Accordingly, the account holding the USF funds in the Treasury is identified by a FCC Treasury Account Symbol and a unique Account Locator Code to track those funds separately from any other funds.

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I am confident that the Commission has taken the right steps to secure the Fund. We have followed the recommendations of our federal partners and entrusted the funds to Treasury. This decision will not have a programming impact, but it will protect essential financial resources going forward. Again, thank you for your interest in this managerial decision.

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FEDERAL COMMUNICATIONS COMMISSION
WASHINGTON

OFFICE OF
THE CHAIRMAN

July 23, 2018

The Honorable Peter Welch
U.S. House of Representatives
2303 Rayburn House Office Building
Washington, D.C. 20515

Dear Congressman Welch:

Thank you for your letter arguing for a rigorous system to be in place to ensure the Universal Service Fund's stable distribution and purposeful use to close the digital divide. I agree with you on the importance of the Fund's mission of providing all Americans with access to robust, affordable communications services. And I agree with you that the processes for oversight and maintenance of the Fund must be robust and resilient. That is why, in response to guidance from the Government Accountability Office, the Office of Management and Budget, and the Commission's Office of Inspector General, I directed the FCC's Managing Director to work with the administrator of the Fund, the Universal Service Administrative Company (USAC), and the Treasury Department to move Fund monies from a private bank account to the Treasury.

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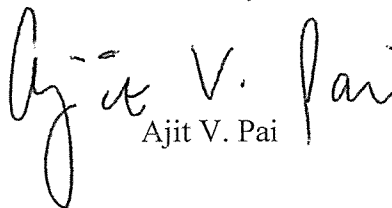
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FEDERAL COMMUNICATIONS COMMISSION
WASHINGTON

OFFICE OF
THE CHAIRMAN

July 23, 2018

The Honorable Carol Shea-Porter
U.S. House of Representatives
1530 Longworth House Office Building
Washington, D.C. 20515

Dear Congresswoman Shea-Porter:

Thank you for your letter arguing for a rigorous system to be in place to ensure the Universal Service Fund's stable distribution and purposeful use to close the digital divide. I agree with you on the importance of the Fund's mission of providing all Americans with access to robust, affordable communications services. And I agree with you that the processes for oversight and maintenance of the Fund must be robust and resilient. That is why, in response to guidance from the Government Accountability Office, the Office of Management and Budget, and the Commission's Office of Inspector General, I directed the FCC's Managing Director to work with the administrator of the Fund, the Universal Service Administrative Company (USAC), and the Treasury Department to move Fund monies from a private bank account to the Treasury.

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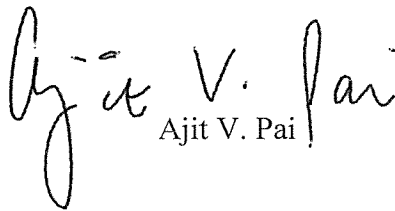
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Ajit V. Pai

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FEDERAL COMMUNICATIONS COMMISSION
WASHINGTON

OFFICE OF
THE CHAIRMAN

July 23, 2018

The Honorable John Garamendi
U.S. House of Representatives
2438 Rayburn House Office Building
Washington, D.C. 20515

Dear Congressman Garamendi:

Thank you for your letter arguing for a rigorous system to be in place to ensure the Universal Service Fund's stable distribution and purposeful use to close the digital divide. I agree with you on the importance of the Fund's mission of providing all Americans with access to robust, affordable communications services. And I agree with you that the processes for oversight and maintenance of the Fund must be robust and resilient. That is why, in response to guidance from the Government Accountability Office, the Office of Management and Budget, and the Commission's Office of Inspector General, I directed the FCC's Managing Director to work with the administrator of the Fund, the Universal Service Administrative Company (USAC), and the Treasury Department to move Fund monies from a private bank account to the Treasury.

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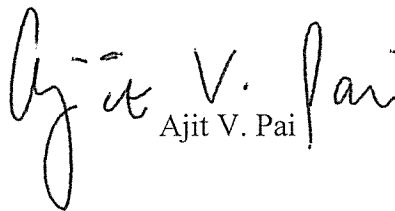
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FEDERAL COMMUNICATIONS COMMISSION
WASHINGTON

OFFICE OF
THE CHAIRMAN

July 23, 2018

The Honorable Eleanor Holmes Norton
U.S. House of Representatives
2136 Rayburn House Office Building
Washington, D.C. 20515

Dear Congresswoman Norton:

Thank you for your letter arguing for a rigorous system to be in place to ensure the Universal Service Fund's stable distribution and purposeful use to close the digital divide. I agree with you on the importance of the Fund's mission of providing all Americans with access to robust, affordable communications services. And I agree with you that the processes for oversight and maintenance of the Fund must be robust and resilient. That is why, in response to guidance from the Government Accountability Office, the Office of Management and Budget, and the Commission's Office of Inspector General, I directed the FCC's Managing Director to work with the administrator of the Fund, the Universal Service Administrative Company (USAC), and the Treasury Department to move Fund monies from a private bank account to the Treasury.

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To ensure the transfer of the Fund to the Treasury would be as seamless as possible for contributors and beneficiaries, the Commission, USAC, and the Treasury developed and implemented a comprehensive project plan and conducted a wide range of development, coordination, and educational activities, including IT security and user testing of all new connections and processes. Outreach and education for contributors and beneficiaries via email, meetings, and webinars started last fall and is wrapping up now. As of May 1, 2018, all disbursements to Fund beneficiaries have been made from the Treasury. As of May 10, all cash balances had been transferred to the Treasury. And as of June, all contributions to the Fund must be paid through USAC's E-file portal, which is now connected to the Treasury's pay.gov payment system.

Importantly, a potential lapse of appropriations will not impact Fund distributions. Specifically, the Commission will rely on prior-year carry-over funds not subject to appropriations to fund any expenses the FCC incurs to certify Fund disbursements during a lapse in appropriations. Moreover, federal law permits the Commission to continue its certification activity during such a lapse because doing so is "authorized by necessary implication from the

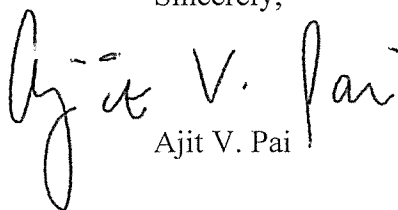
specific terms of duties that have been imposed on, or of authorities that have been invested in, the agency.”¹³

Please note that the transfer of the Fund to the Treasury will not affect the programmatic use of the funds. Section 254 of the Communications Act specifically authorizes and appropriates funding for the Universal Service Fund, and where those monies are held has no effect on the statutory requirement to devote them to connecting all Americans. In fiscal-law terms, the Fund is a “special fund,”¹⁴ and it has long been accounted for as such in the Commission’s budget. The USF is therefore separately maintained from the general fund within the Treasury and will remain dedicated for its intended use. Accordingly, the account holding the USF funds in the Treasury is identified by a FCC Treasury Account Symbol and a unique Account Locator Code to track those funds separately from any other funds.

Nor will the transfer to Treasury lead to funding shortfalls for the Fund. As you may know, funding levels for universal service programs are set by FCC rule, and each quarter USAC collects sufficient contributions to ensure sufficient funding. In doing so, USAC reduces the amount of contributions needed by any interest income. In other words, the loss of interest income may impact total contributions, but will not impact funding levels for the Fund’s programs. (And again, consistent with the recommendations from GAO and OMB—as well as basic principles of good government and common sense—the agency should not and will not gamble billions of dollars of taxpayers’ hard-earned money simply to eke out gains from a few percentage points of interest.) Moreover, we plan to continue our efforts to eliminate waste, fraud, and abuse in the FCC’s universal service programs to ensure efficient spending and mitigate potential increases in contributions.

I am confident that the Commission has taken the right steps to secure the Fund. We have followed the recommendations of our federal partners and entrusted the funds to Treasury. This decision will not have a programming impact, but it will protect essential financial resources going forward. Again, thank you for your interest in this managerial decision.

Sincerely,



Ajit V. Pai

¹³ See 43 U.S. Op. Att. Gen 293, 298 (1981); *see also* GAO, Principles of Federal Appropriations Law, vol. I, chapt. 6, at 149-50 (3rd ed. 2004).

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FEDERAL COMMUNICATIONS COMMISSION
WASHINGTON

OFFICE OF
THE CHAIRMAN

July 23, 2018

The Honorable Gregory W. Meeks
U.S. House of Representatives
2234 Rayburn House Office Building
Washington, D.C. 20515

Dear Congressman Meeks:

Thank you for your letter arguing for a rigorous system to be in place to ensure the Universal Service Fund's stable distribution and purposeful use to close the digital divide. I agree with you on the importance of the Fund's mission of providing all Americans with access to robust, affordable communications services. And I agree with you that the processes for oversight and maintenance of the Fund must be robust and resilient. That is why, in response to guidance from the Government Accountability Office, the Office of Management and Budget, and the Commission's Office of Inspector General, I directed the FCC's Managing Director to work with the administrator of the Fund, the Universal Service Administrative Company (USAC), and the Treasury Department to move Fund monies from a private bank account to the Treasury.

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To ensure the transfer of the Fund to the Treasury would be as seamless as possible for contributors and beneficiaries, the Commission, USAC, and the Treasury developed and implemented a comprehensive project plan and conducted a wide range of development, coordination, and educational activities, including IT security and user testing of all new connections and processes. Outreach and education for contributors and beneficiaries via email, meetings, and webinars started last fall and is wrapping up now. As of May 1, 2018, all disbursements to Fund beneficiaries have been made from the Treasury. As of May 10, all cash balances had been transferred to the Treasury. And as of June, all contributions to the Fund must be paid through USAC's E-file portal, which is now connected to the Treasury's pay.gov payment system.

Importantly, a potential lapse of appropriations will not impact Fund distributions. Specifically, the Commission will rely on prior-year carry-over funds not subject to appropriations to fund any expenses the FCC incurs to certify Fund disbursements during a lapse in appropriations. Moreover, federal law permits the Commission to continue its certification activity during such a lapse because doing so is "authorized by necessary implication from the

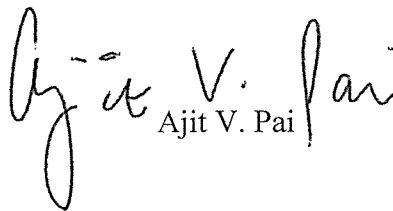
specific terms of duties that have been imposed on, or of authorities that have been invested in, the agency.”³

Please note that the transfer of the Fund to the Treasury will not affect the programmatic use of the funds. Section 254 of the Communications Act specifically authorizes and appropriates funding for the Universal Service Fund, and where those monies are held has no effect on the statutory requirement to devote them to connecting all Americans. In fiscal-law terms, the Fund is a “special fund,”⁴ and it has long been accounted for as such in the Commission’s budget. The USF is therefore separately maintained from the general fund within the Treasury and will remain dedicated for its intended use. Accordingly, the account holding the USF funds in the Treasury is identified by a FCC Treasury Account Symbol and a unique Account Locator Code to track those funds separately from any other funds.

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FEDERAL COMMUNICATIONS COMMISSION
WASHINGTON

OFFICE OF
THE CHAIRMAN

July 23, 2018

The Honorable Anna G. Eshoo
U.S. House of Representatives
241 Cannon House Office Building
Washington, D.C. 20515

Dear Congresswoman Eshoo:

Thank you for your letter arguing for a rigorous system to be in place to ensure the Universal Service Fund's stable distribution and purposeful use to close the digital divide. I agree with you on the importance of the Fund's mission of providing all Americans with access to robust, affordable communications services. And I agree with you that the processes for oversight and maintenance of the Fund must be robust and resilient. That is why, in response to guidance from the Government Accountability Office, the Office of Management and Budget, and the Commission's Office of Inspector General, I directed the FCC's Managing Director to work with the administrator of the Fund, the Universal Service Administrative Company (USAC), and the Treasury Department to move Fund monies from a private bank account to the Treasury.

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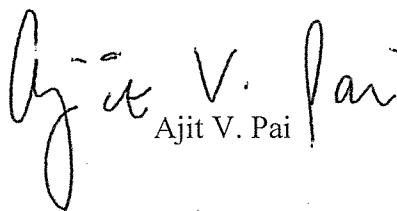
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FEDERAL COMMUNICATIONS COMMISSION
WASHINGTON

OFFICE OF
THE CHAIRMAN

July 23, 2018

The Honorable Jim Costa
U.S. House of Representatives
2081 Rayburn House Office Building
Washington, D.C. 20515

Dear Congressman Costa:

Thank you for your letter arguing for a rigorous system to be in place to ensure the Universal Service Fund's stable distribution and purposeful use to close the digital divide. I agree with you on the importance of the Fund's mission of providing all Americans with access to robust, affordable communications services. And I agree with you that the processes for oversight and maintenance of the Fund must be robust and resilient. That is why, in response to guidance from the Government Accountability Office, the Office of Management and Budget, and the Commission's Office of Inspector General, I directed the FCC's Managing Director to work with the administrator of the Fund, the Universal Service Administrative Company (USAC), and the Treasury Department to move Fund monies from a private bank account to the Treasury.

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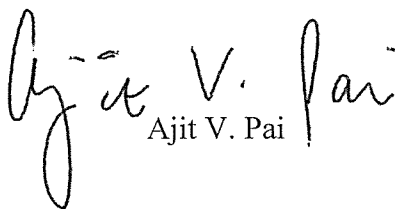
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