

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

In the Matter of	)	
	)	
Rural Health Care Support Mechanism	)	WC Docket No. 02-60
	)	
Juniata Valley Network and Pennsylvania Mountains	)	
Healthcare Alliance Request for Merger of Rural Health	)	
Care Pilot Program Projects	)	

**ORDER**

**Adopted: August 12, 2009**

**Released: August 12, 2009**

By the Acting Chief, Wireline Competition Bureau:

**I. INTRODUCTION**

1. In this order, the Wireline Competition Bureau (Bureau) grants a request from two participants in the Rural Health Care Pilot Program (Pilot Program), the Juniata Valley Network (JVN) and Pennsylvania Mountains Healthcare Alliance and its designated agent, Pennsylvania Mountains Healthcare Resource Development (collectively PMHA),<sup>1</sup> to merge their respective Pilot Program projects and designate PMHA as the successor to JVN's Pilot Program project.<sup>2</sup> Specifically, the Bureau finds that JVN has demonstrated that it is unable to continue to participate in the Pilot Program due to extenuating circumstances. The Bureau also finds that PMHA has demonstrated that the public interest would be served by designating PMHA as the successor to JVN because PMHA: (1) has committed to fulfill the goals identified in JVN's Pilot Program application; (2) will use any funds saved by combining the projects to broaden the goals identified in both applications; and (3) has identified an eligible source for the 15 percent of costs not funded by the Pilot Program.

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<sup>1</sup> Pennsylvania Mountains Healthcare Resource Development (PMHRD) became the fiduciary agent for the PMHA project during the FCC Form 465 submission process. Letter from Charles E. Giffin, Project Manager, PMHRD, to Thomas Buckley, Senior Deputy Division Chief, Wireline Competition Bureau, Federal Communications Commission, WC Docket No. 02-60 (dated May 11, 2009) (May 11 Letter); *see Rural Health Care Support Mechanism*, WC Docket No. 02-60, Order, 22 FCC Rcd 20360, 20403, para. 83 (2007) (*2007 RHC PP Selection Order*) ("FCC Form 465 is the means by which an applicant requests bids for supported services and certifies to USAC that the applicant is eligible to benefit from the RHC support mechanism."); 47 C.F.R. § 54.603(b). The PMHA members filed Letters of Agency (LOAs) with USAC designating PMHRD, a non-profit entity, to represent them in connection with PMHA's Pilot Program project. *See 2007 RHC PP Selection Order*, 22 FCC Rcd at 20406, para. 87; *see also id.* at 20397, para. 73.

<sup>2</sup> Letter from Charles E. Giffin, Project Manager, PMHRD, and Kay Hamilton, President & CEO, JVN, and Ronald M. Cowan, Project Manager, JVN, to Daniel Johnson, Universal Service Administrative Company (USAC), WC Docket No. 02-60 (dated Mar. 30, 2009) (March 30 Letter); Letter from Joseph Gribik, President and CEO, Pennsylvania Mountains Healthcare Alliance, to Thomas Buckley, Senior Deputy Division Chief, Wireline Competition Bureau, Federal Communications Commission, WC Docket No. 02-60 (dated May 28, 2009) (May 28 Letter).

## II. BACKGROUND

2. On September 26, 2006, the Commission established the Pilot Program, pursuant to section 254(h)(2)(A) of the Communications Act of 1934, as amended (the Act), to examine ways to use the universal service rural health care funding mechanism to enhance public and non-profit health care providers' access to advanced telecommunications and information services.<sup>3</sup> On November 16, 2007, the Commission selected 69 participants, including JVN and PMHA, to participate in the Pilot Program.<sup>4</sup> Participants are eligible to receive funding, up to their maximum support amount, for up to 85 percent of the costs associated with: (1) the construction of state or regional broadband networks and the advanced telecommunications and information services provided over those networks; (2) connecting to nationwide backbone providers Internet2 or National LambdaRail (NLR); and (3) connecting to the public Internet.<sup>5</sup> If a participant is unable to participate in the Pilot Program due to extenuating circumstances, the Bureau may designate a successor.<sup>6</sup>

3. JVN is a consortium of health care providers serving the Appalachian region of Pennsylvania.<sup>7</sup> Its member organizations include four rural hospitals: Lewistown Hospital, JC Blair Memorial Hospital, Tyrone Hospital, and the Fulton County Medical Center, as well as several smaller health care providers.<sup>8</sup> PMHA is a consortium of health care providers also serving the Appalachian region of Pennsylvania.<sup>9</sup> Its participating member organizations include sixteen rural hospitals and its

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<sup>3</sup> 47 U.S.C. § 254(h)(2)(A); *Rural Health Care Support Mechanism*, WC Docket No. 02-60, Order, 21 FCC Rcd 11111, para. 1 (2006) (*2006 Pilot Program Order*).

<sup>4</sup> See *2007 RHC PP Selection Order*, 22 FCC Rcd at 20429-30, Appendix B; Juniata Valley Network Application, WC Docket No. 02-60 (filed May 7, 2007) (JVN Application); Pennsylvania Mountains Healthcare Alliance Application, WC Docket No. 02-60 (filed May 7, 2007) (PMHA Application).

<sup>5</sup> *2007 RHC PP Selection Order*, 22 FCC Rcd at 20361, para. 2.

<sup>6</sup> *Id.* at 20422, para. 124 (“In instances where a selected participant, including a consortium, is unable to participate in the Pilot Program for the three-year term due to extenuating circumstances, a successor may be designated by the Bureau upon request.”). On December 5, 2008, under its delegated authority, the Bureau granted a merger request to designate the University of Mississippi Medical Center as the successor to As One Together for Health’s Pilot Program project. *Rural Health Care Support Mechanism, As One Together for Health and the University of Mississippi Medical Center Request for Merger of Rural Health Care Pilot Program Projects*, WC Docket No. 02-60, Order, 23 FCC Rcd 17401 (Wireline Comp. Bur. 2008) (*As One Together Merger Order*). On the same day, the Bureau granted a request to designate the Southern Ohio Health Care Network as the successor to Holzer Consolidated Health Systems’ Pilot Program project. *Rural Health Care Support Mechanism, Holzer Consolidated Health Systems and Southern Ohio Health Care Network Request for Merger of Rural Health Care Pilot Program Projects*, WC Docket No. 02-60, Order, 23 FCC Rcd 17396 (Wireline Comp. Bur. 2008) (*Holzer Merger Order*); see also *Rural Health Care Support Mechanism, Texas Healthcare Network and Texas Health Information Network Collaborative Request for Merger of Rural Health Care Pilot Program Projects*, WC Docket No. 02-60, Order, 24 FCC Rcd 4587 (Wireline Comp. Bur. 2009) (*Texas Healthcare Network Merger Order*) (granting merger of two Texas Pilot Program projects); *Rural Health Care Support Mechanism, North Carolina TeleHealth Network, Albemarle Health, Western Carolina University, and University Health Systems of Eastern Carolina Request for Merger of Pilot Program Projects*, WC Docket No. 02-60, Order, DA 09-1696 (Wireline Comp. Bur. rel. July 31, 2009) (*North Carolina TeleHealth Merger Order*).

<sup>7</sup> JVN Application at 5, 43.

<sup>8</sup> *Id.* at 5-6, 72-77; March 30 Letter at 2.

<sup>9</sup> PMHA Application at 3.

fiduciary agent, PMHRD.<sup>10</sup> The maximum Pilot Program support the Commission awarded to JVN is \$3,310,048, and the maximum Pilot Program support the Commission awarded to PMHA is \$1,180,004.<sup>11</sup>

4. In its Pilot Program application, JVN proposed to create a high bandwidth telecommunications network to connect the health care communities of Juniata, Mifflin, Huntingdon, and Fulton Counties.<sup>12</sup> More specifically, JVN intended that the network would enable participating providers to: (1) share patient electronic medical records among health care facilities; (2) use the network for telemedicine, teleradiology, and telecardiology applications and enable the sharing of images stored in the various health care facilities' picture archiving and communication systems; (3) pilot test applications for real time medical consultations between practitioners at different health care facilities; (4) improve the ability of medical practitioners to acquire Continuing Medical Education (CME) and Continuing Education (CE) experiences that are required to maintain their professional licenses in Pennsylvania; (5) improve the capability to broadcast medical educational programming to local schools in the region; (6) pilot test the use of the network to allow for critical backup of health care facility data for disaster recovery purposes; (7) complete an initial network planning study to evaluate the costs and feasibility of creating a wireless broadband health care network in the region that could be accessed by home health care nurses and paramedics; and (8) increase the interaction between local health care facilities, the Lewistown Hospital School of Nursing, and participating school-based health clinics.<sup>13</sup> PMHA proposed to construct and deploy a dedicated regional broadband network to facilitate collaborative telemedicine practices in an 18-county region of rural Pennsylvania.<sup>14</sup> PMHA planned to use this network to: (1) increase the efficiency and quality of existing telemedicine efforts in its member hospitals; (2) address capacity issues related to the shortage of health care professionals working in specific specialty areas in its member hospitals; (3) improve the quality of care received by patients by providing access to a range of providers and services from various member hospitals; and (4) reduce the long-term costs of delivering care through increased efficiencies associated with telemedicine applications.<sup>15</sup>

5. On March 30, 2009, JVN and PMHA requested that the Commission allow JVN's project to merge with PMHA's project and designate PMHA as JVN's successor.<sup>16</sup> PMHRD will serve as the project manager and fiduciary agent for the merged projects.<sup>17</sup> The parties indicate that JVN cannot continue as a participant in the Pilot Program due to the consortium's resource limitations.<sup>18</sup> In particular, they note that several participants withdrew from the JVN project because they could not afford to contribute to the project's costs, and that the JVN consortium could not bear the costs of certain equipment that the Pilot Program did not fund.<sup>19</sup> JVN and PMHA jointly request that JVN's maximum

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<sup>10</sup> Pennsylvania Mountains Healthcare Alliance, Pennsylvania Mountains Healthcare Alliance – Quarterly Data Report, WC Docket No. 02-60 (filed July 30, 2008).

<sup>11</sup> *2007 RHC PP Selection Order*, 22 FCC Rcd at 20429-30, Appendix B.

<sup>12</sup> JVN Application at 5, 22.

<sup>13</sup> *Id.* at 22-28.

<sup>14</sup> PMHA Application at 3, 8.

<sup>15</sup> *Id.* at 9.

<sup>16</sup> March 30 Letter at 1; *see* May 28 Letter.

<sup>17</sup> May 11 Letter at 1-2.

<sup>18</sup> *See id.* at 1; Letter from Ron Cowan, Vice President of Information Management and Chief Information Officer, Lewistown Hospital, to Thomas Buckley, Senior Deputy Division Chief, Wireline Competition Bureau, Federal Communications Commission, WC Docket No. 02-60 (dated May 29, 2009) (May 29 Letter).

<sup>19</sup> May 11 Letter at 1; *see also* May 29 Letter.

support amount awarded in the *2007 RHC PP Selection Order* be available to PMHA to build a telecommunications network connecting the four hospital facilities identified in the JVN Application with the facilities listed in the PMHA Application.<sup>20</sup> The parties indicate that the benefits of merging the two projects include (i) potential cost savings due to the elimination of redundancies, and (ii) the ability to expand the combined project to include additional facilities.<sup>21</sup>

### III. DISCUSSION

6. The Bureau grants the request by JVN and PMHA to merge their Pilot Program projects and designate PMHA as the successor to JVN's project. Consistent with past Pilot Program merger decisions, the Bureau finds that JVN has demonstrated that, due to extenuating circumstances, JVN will not be able to fulfill the goals and objectives detailed in its Pilot Program application.<sup>22</sup> The Bureau also finds that PMHA has demonstrated that it is committed to fulfilling the eligible funding goals and objectives identified in JVN's Pilot Program application, as well as the goals and objectives identified in its own application.<sup>23</sup> Merging the two projects and designating PMHA as successor to JVN serves the public interest and furthers the goals of the Pilot Program by stimulating the deployment of the broadband infrastructure necessary to support innovative telehealth and, in particular, telemedicine services in areas within Pennsylvania where the need for those services is most acute.<sup>24</sup>

7. JVN has demonstrated that it will be unable to continue its participation in the Pilot Program because it lacks the financial resources to implement and sustain its approved project.<sup>25</sup> Accordingly, appointing a successor to JVN is necessary to enable the approved Pilot Program project to deploy a dedicated, high bandwidth telecommunications network connecting rural health care providers in Juniata, Mifflin, Huntingdon, and Fulton Counties.<sup>26</sup>

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<sup>20</sup> May 11 Letter at 2; March 30 Letter at 2; *see also* May 29 Letter.

<sup>21</sup> *See* May 11 Letter at 1-2; May 29 Letter.

<sup>22</sup> *See* May 11 Letter at 1; May 29 Letter.; *see also 2007 RHC PP Selection Order*, 22 FCC Rcd at 20422, para. 124; *see As One Together Merger Order*, 23 FCC Rcd at 17403, para. 6; *Holzer Merger Order*, 23 FCC Rcd at 17398, para. 6; *Texas Healthcare Network Merger Order*, 24 FCC Rcd at 4590, para. 8; *North Carolina TeleHealth Merger Order*, DA 09-1696, para. 7.

<sup>23</sup> *See* March 30 Letter at 2-3; May 11 Letter at 2-3; *see also As One Together Merger Order*, 23 FCC Rcd at 17403, para. 7; *Holzer Merger Order*, 23 FCC Rcd at 17398, para. 7; *Texas Healthcare Network Merger Order*, 24 FCC Rcd at 4590-91, para. 9; *North Carolina TeleHealth Merger Order*, DA 09-1696, para. 8.

<sup>24</sup> *See* JVN Application at 22-28; *see also As One Together Merger Order*, 23 FCC Rcd at 17403, para. 8; *Holzer Merger Order*, 23 FCC Rcd at 17398-99, para. 8; *Texas Healthcare Network Merger Order*, 24 FCC Rcd at 4591, para. 10; *North Carolina TeleHealth Merger Order*, DA 09-1696, para. 9.

<sup>25</sup> *See* May 11 Letter at 1; May 29 Letter.

<sup>26</sup> *See* JVN Application at 5, 7, 22. A dedicated broadband network may be used for the provision of medical care or medical expertise from a distance using telecommunications technology (telemedicine or telehealth) for long-distance clinical care, consumer and professional health-related education, public health, health administration, research, and electronic health records, as permitted by the *2006 Pilot Program Order* and the *2007 RHC PP Selection Order*. *See 2006 Pilot Program Order*, 21 FCC Rcd at 11111-12, paras. 1 n.2, 5; *2007 RHC PP Selection Order*, 22 FCC Rcd at 20367-68, para. 16. Eligible health care providers are: (i) post-secondary educational institutions offering health care instruction, teaching hospitals, and medical schools; (ii) community health centers or health centers providing health care to migrants; (iii) local health departments or agencies; (iv) community mental health centers; (v) not-for-profit hospitals; (vi) rural health clinics; and (vii) consortia of health care providers consisting of one or more entities described in clauses (i) through (vi). 47 U.S.C. § 254(h)(7)(B); *see also 2007 RHC PP Selection Order*, 22 FCC Rcd at 20368, para. 18. Other network members may include ineligible health

8. PMHA has committed and is qualified to achieve the goals identified in JVN's application. Specifically, in selecting PMHA as a participant, the Commission has already determined that PMHA is qualified to participate in the Pilot Program.<sup>27</sup> For example, the Commission found that PMHA demonstrated that it was capable of leveraging existing technologies and aggregating the specific needs of health care providers.<sup>28</sup> As successor to JVN, PMHA has committed to fulfill the project goals identified in JVN's project application as well as those in PMHA's own project application.<sup>29</sup> Furthermore, the members of the PMHA consortium have committed to provide the required 15 percent of non-funded eligible costs for the combined projects.<sup>30</sup>

9. The Bureau finds that it will serve the public interest and is consistent with the goals of the Pilot Program to designate PMHA as successor to JVN. As noted in the *2007 RHC PP Selection Order*, one of the goals of the Pilot Program is to "stimulate deployment of the broadband infrastructure necessary to support innovative telehealth and, in particular, telemedicine services to those areas of the country where the need for those benefits is most acute."<sup>31</sup> In selecting JVN for participation in the Pilot Program, the Commission found that its project will advance the goals of the Pilot Program by bringing the benefits of telemedicine to rural communities.<sup>32</sup> Designating PMHA as successor to JVN will continue to make Pilot Program funds available for connecting eligible health care providers throughout Pennsylvania to a dedicated broadband infrastructure, bringing the benefits of telemedicine to rural parts of the commonwealth.

10. Appointing PMHA as successor to JVN also serves the public interest because it will ensure that Pilot Program funds are used efficiently. Specifically, JVN and PMHA indicate that merging the two projects will allow the objectives of both projects to be achieved at a lower cost, and that redundancies between JVN and PMHA's projects will be reduced.<sup>33</sup> PMHA has committed to use any funds saved by merging the two projects to add more rural health care facilities to the network than were included in the original two project applications.<sup>34</sup>

11. For these reasons, the Bureau finds that JVN and PMHA have demonstrated that it is in the public interest to merge the two projects and designate PMHA as successor to JVN. Accordingly, the maximum funding available to PMHA for the combined PMHA/JVN project over the three funding years is \$4,490,052 (\$1,496,684 annually over three funding years).<sup>35</sup> To ensure that the benefits of the Pilot

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care providers that use the dedicated network for health-related purposes. See *2007 RHC PP Selection Order*, 22 FCC Rcd at 20395-96, para. 71.

<sup>27</sup> *2007 RHC PP Selection Order*, 22 FCC Rcd at 20429-30, Appendix B.

<sup>28</sup> *Id.* at 20376-78, paras. 40 and 41.

<sup>29</sup> The Bureau notes that PMHA has committed to fulfill all of the goals eligible for funding in JVN's Pilot Project application. See March 30 Letter at 2-3; May 11 Letter at 2-3.

<sup>30</sup> *Id.* at 2.

<sup>31</sup> *2007 RHC PP Selection Order*, 22 FCC Rcd at 20361, para. 1.

<sup>32</sup> *Id.* at 20376, para. 39.

<sup>33</sup> See May 11 Letter at 1-2; May 29 Letter; *2007 RHC PP Selection Order*, 22 FCC Rcd at 20387, para. 53 ("To ensure efficiencies and avoid duplication of efforts or network facilities, in the *2006 Pilot Program Order*, we instructed applicants to indicate how their proposed telemedicine program will be coordinated throughout the state or region.").

<sup>34</sup> May 11 Letter at 1-2; see also May 29 Letter.

<sup>35</sup> To determine the maximum funding amount available to the combined PMHA/JVN project, the Bureau added the maximum funding amounts the Commission awarded to PMHA, \$1,180,004, and JVN, \$3,310,048. To the extent

Program are achieved, we encourage other selected participants that are unable to continue their Pilot Program projects to seek the designation of successors, consistent with the *2007 RHC PP Selection Order* and the Bureau's orders designating Pilot Program project successors.<sup>36</sup>

12. PMHA shall follow the network plans set forth in JVN's and PMHA's applications. To the extent PMHA seeks to modify those plans, PMHA must follow the network modification requirements detailed in the *2007 RHC PP Selection Order*.<sup>37</sup> The Bureau also reminds PMHA that it must adhere to the requirements of the *2007 RHC PP Selection Order* and that it shall be subject to audit and investigation by the Commission's Office of Inspector General to determine compliance with the Pilot Program, Commission rules and orders, and section 254 of the Act.<sup>38</sup> In addition, if funds are not distributed or used in accordance with the *2007 RHC PP Selection Order*, the Commission will recover such funds.<sup>39</sup>

#### IV. ORDERING CLAUSES

13. Accordingly, IT IS ORDERED that, pursuant to the authority contained in sections 1-4 and 254 of the Communications Act of 1934, as amended, 47 U.S.C. §§ 151-54, 254, and pursuant to authority delegated under sections 0.91 and 0.291 of the Commission's rules, 47 C.F.R. §§ 0.91, 0.291, the request filed by the Juniata Valley Network and Pennsylvania Mountains Healthcare Alliance IS GRANTED to the extent provided herein.

14. IT IS FURTHER ORDERED that, pursuant to section 1.102(b)(1) of the Commission's rules, 47 C.F.R. § 1.102(b)(1), this order SHALL BE EFFECTIVE upon release.

FEDERAL COMMUNICATIONS COMMISSION

Julie A. Veach  
Acting Chief  
Wireline Competition Bureau

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PMHA does not use all of the available funds in a funding year, USAC will "carry over" the remaining funds to the following funding year. See Letter from Dana Shaffer, Chief, Wireline Competition Bureau, Federal Communications Commission, to Scott Barash, Acting Chief Executive Officer, Universal Service Administrative Company (dated Jan. 17, 2008), available at [http://hraunfoss.fcc.gov/edocs\\_public/attachmatch/DOC-279603A1.pdf](http://hraunfoss.fcc.gov/edocs_public/attachmatch/DOC-279603A1.pdf).

<sup>36</sup> *2007 RHC PP Selection Order*, 22 FCC Rcd at 20422, para. 124; *As One Together Merger Order*, 23 FCC Rcd 17401; *Holzer Merger Order*, 23 FCC Rcd at 17396; *Texas Healthcare Network Merger Order*, 24 FCC Rcd 4587; *North Carolina TeleHealth Merger Order*, DA 09-1696.

<sup>37</sup> *2007 RHC PP Selection Order*, 22 FCC Rcd at 20401, para. 80.

<sup>38</sup> *Id.* at 20422, para. 125.

<sup>39</sup> *Id.* at 20423, para. 125.