



PUBLIC NOTICE

Federal Communications Commission
445 12th St., S.W.
Washington, D.C. 20554

News Media Information 202 / 418-0500
Internet: <http://www.fcc.gov>
TTY: 1-888-835-5322

DA 12-273

Release Date: February 27, 2012

WIRELINE COMPETITION BUREAU SEEKS COMMENT ON FUNDING PILOT PROGRAM PARTICIPANTS TRANSITIONING OUT OF THE RURAL HEALTH CARE PILOT PROGRAM IN FUNDING YEAR 2012

WC Docket No. 02-60

Comment Date: April 18, 2012

Reply Comment Date: May 3, 2012

1. The Wireline Competition Bureau (Bureau) seeks comment on whether to fund Rural Health Care Pilot Program (Pilot Program) participants who will exhaust funding allocated to them before or during funding year 2012 (July 1, 2012-June 30, 2013). This funding would maintain support for qualifying Pilot Program participants, on an interim basis, during the 2012 funding year to provide time to establish a process to transition them into the permanent Rural Health Care support mechanism (RHC support mechanism). To support these transitioning Pilot Program participants, the funds that were previously designated for projects that withdrew from the Program or otherwise failed to meet the June 30, 2011, deadline could be used without increasing overall demand.

I. BACKGROUND

2. The rural health care telecommunications program ensures that rural health care providers pay no more than their urban counterparts for their telecommunications needs in the provision of health care services.¹ The rural health care Internet access program provides a 25 percent discount off the cost of monthly Internet access for eligible rural health care providers.² Together the telecommunications and Internet access programs are commonly referred to as the “Primary Program.”

¹ Section 254 (h)(1)(A) of the Telecommunications Act of 1996 directs that telecommunications providers provide telecommunication services that are necessary for the provision of health care services in rural areas at rates that are reasonably comparable to rates in urban areas. 47 U.S.C. § 254(h)(1)(A). See *Universal Service First Report and Order*, 12 FCC Rcd at 9093-9161, paras. 608-749; 47 C.F.R. Part 54, Subpart G.

² 47 C.F.R. § 54.621. See *Rural Health Care Support Mechanism*, WC Docket No. 02-60, Report and Order, Order on Reconsideration, and Further Notice of Proposed Rulemaking, 18 FCC Rcd 24546 (2003) (*2003 Order and Further Notice*). A 50 percent subsidy (rather than 25 percent) is available for Internet access services for health care providers in states that are “entirely rural,” that is, states in which every county meets the Commission’s definition of rural. *Rural Health Care Support Mechanism*, WC Docket No. 02-60, Second Report and Order, Order on Reconsideration, and Further Notice of Proposed Rulemaking, 19 FCC Rcd 24613, 24631 para. 38 (2004) (*Second Report and Order Further Notice*).

3. In 2006, the Commission created a three-year Pilot Program to examine ways to use the RHC support mechanism to enhance public and non-profit health care providers' access to advanced telecommunications and information services.³ Participants in the Pilot Program are eligible to receive universal service funding to support up to 85 percent of the eligible costs of broadband infrastructure deployment of telehealth networks that connect to rural and urban health care providers in a State or region.⁴ Although the FCC originally selected 69 different projects to participate in the Pilot Program,⁵ only 50 projects are currently in existence today. Several projects merged⁶ and twelve projects either withdrew from the program or otherwise failed to meet the June 30, 2011 funding commitment deadline and were no longer eligible to participate in the Pilot Program.⁷ Funding that was designated to support these twelve projects totaled approximately \$30 million.

4. Approximately 484 individual health care providers (HCPs) participating in the Pilot Program are scheduled to transition out of the program during the 2012 funding year because their respective Pilot projects will have reached their funding cap under the *2007 Pilot Program Selection Order*, and the HCPs will have exhausted the amounts of Pilot Program support allocated to them under the relevant funding commitment letters issued by USAC.⁸ These providers are members of networks, as was required by the Pilot Program, and they applied for Pilot funding as consortia (as explicitly permitted under section 254(h)(7)(B) of the Act). The rural HCPs that have exhausted their Pilot funding could seek support from the Primary Program in the 2012 funding year (July 1, 2012-June 30, 2013).⁹ Significant differences between Pilot and Primary Program rules regarding eligibility and funding may make it difficult, however, for Pilot Program participants to apply for funding in the Primary Program.¹⁰

³ 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*).

⁴ See *Rural Health Care Support Mechanism*, WC Docket No. 02-60, Report and Order, 22 FCC Rcd 20360 at 20361 para. 2 (2007) (*2007 Pilot Program Selection Order*).

⁵ *Id.*

⁶ Between 2008 and 2009, twelve projects merged in five states, leaving a total of 62 projects in May 2011.

⁷ The original deadline for requesting all remaining funding for the Pilot Program was June 30, 2010. However, the Bureau subsequently extended the deadline to select a vendor and submit all remaining funding requests to USAC until June 30, 2012. In the interim, projects that were unable to receive at least one funding commitment by the June 30, 2011 deadline were deemed "no longer capable of continuing in the Pilot Program." See *Rural Health Care Support Mechanism*, WC Docket No. 02-60, Order, 26 FCC Rcd 6619, 6625 para. 10 (Wireline Competition Bur. 2011).

⁸ Letter from Craig Davis, Vice President of Rural Health Care, Universal Service Administrative Company, to Sharon Gillett, Chief, Wireline Competition Bureau, WC Docket No. 02-60 (dated Feb. 17, 2012). Approximately 22.5 percent of HCPs participating in the Pilot Program are expected to transition to the Primary Program after June 30, 2012, if located in a rural area. *Id.*

⁹ For many projects, there are other individual HCPs that will remain eligible for the balance of their three years of funding after June 30 of this year.

¹⁰ The Commission recognized there were several differences between the Pilot and Primary Programs in the *2007 Pilot Selection Report and Order*. Unlike the Primary Program, support under the Pilot Program was not limited to subsidizing the urban-rural price differential for telecommunications service providers. Instead, Pilot participants could choose any technology and provider of high capacity broadband services, and funding would provide an 85% fixed discount. In addition, the Commission opened participation in the Pilot Program to all eligible public and non-profit health care providers (not just those that met the Commission's definition of a rural health care provider) as long as they served rural areas. *2007 Pilot Program Selection Order*, 22 FCC Rcd at 20420-22 paras. 118-122.

One Pilot project (and its service provider) has already raised questions about transitioning to the funding mechanisms in the Primary Program.¹¹

5. In July 2010, the Commission sought comment on a number of issues, including how to transition Pilot Program participants to the ongoing rural health care support mechanism.¹² We now seek more focused comment on supporting select Pilot Program participants at their current funding levels to “bridge” the disparity in funding and application requirements between the Pilot Program and Primary Programs for the 2012-2013 funding year. The Commission recognized in the *2006 Pilot Program Order* that circumstances may necessitate additional funding for Pilot Program participants.¹³ Accordingly, this “bridge” funding could provide additional time to consider how best to transition Pilot Program participants, while preserving the connectivity that has been developed under the Pilot. To support these transitioning Pilot Program participants, the funds that were previously designated for projects that withdrew from the Program or otherwise failed to meet the June 30, 2011, deadline could be used without increasing overall demand.¹⁴

6. *Exhaustion of Pilot Program Funds.* We seek comment on providing funds only to those participants that will have exhausted all Pilot Program funding allocated to them before or during funding year 2012 (July 1, 2012-June 30, 2013), as described above. USAC estimates that approximately 14 out of the existing 50 projects will have some individual health care providers that will have spent all of the money in their initial award.¹⁵ We seek comment on this proposal and how providing such funding for an additional year would impact the sustainability of the networks developed with Pilot Program funds.

7. *Support levels for 2012-2013 funding year.* We also seek comment on whether to maintain the existing level of support that these Pilot Program participants receive annually for their recurring costs. For instance, USAC could determine each participant’s allocation for funding year 2012 by calculating the yearly average amount of support for recurring costs that participants have received over the life of their Pilot projects and fund them at that amount. Using this methodology, USAC estimates that it would cost approximately \$10 million to fund transitioning health care providers in funding year 2012.¹⁶ We seek comment on this proposal to maintain the current level of support for eligible Pilot Program participants’ recurring costs. Alternatively, those recipients could receive a lower discount than the current 85 percent. Commenters who suggest alternative funding support levels should offer explanation why the funding level should be different than what is currently provided in the Pilot Program.

¹¹ Letter from Jeffrey Mitchell, on behalf of Palmetto State Providers Network (PSPN), to Marlene Dortch, Secretary, Federal Communications Commission, WC Docket No. 02-06 (dated Jan. 31, 2012). PSPN stressed the importance of its ability to continue operating as a consortium in the Primary Program and explained how transitioning from the Pilot Program to the Primary Program may impact PSPN’s continued growth and long-term sustainability.

¹² See *Rural Health Care Support Mechanism*, WC Docket No. 02-60, Notice of Proposed Rulemaking, 25 FCC Rcd 9371 para. 113 (2010 Notice of Proposed Rulemaking).

¹³ See *2006 Pilot Program Order*, 21 FCC Rcd 11115 para. 18, fn. 18 (2006). The *2006 Pilot Program Order* noted that the Commission may continue to fund Pilot Program participants, outside the limitations of the program, who were “already accepted into the program, upon request, and subject to the availability of funds.” *Id.*

¹⁴ See para. 3, *infra*.

¹⁵ Letter from Craig Davis, Vice President of Rural Health Care, Universal Service Administrative Company, to Sharon Gillett, Chief, Wireline Competition Bureau, WC Docket No. 02-60 (dated Feb. 17, 2012).

¹⁶ *Id.*

8. *Duration.* Pilot Program participants who meet eligibility requirements to receive transitional funding would only be eligible to receive funds for the 2012 funding year (July 1, 2012-June 30, 2013). We seek comment on this proposal. Commenters who suggest that Pilot Program participants should be eligible for funding for a different period of time should provide reasoning for their proposal.

9. *Paperwork Reduction Act of 1995.* This document does not contain new or modified information collection(s) subject to the Paperwork Reduction Act of 1995 (PRA), Public Law 104-13. In addition, therefore, it does not contain any new or modified information burden for small business concerns with fewer than 25 employees, pursuant to the Small Paperwork Relief Act of 2002, Public Law 107-198, *see* 44 U.S.C. § 3506(c)(4).

10. Pursuant to sections 1.415 and 1.419 of the Commission's rules, 47 CFR §§ 1.415, 1.419, interested parties may file comments on or before the dates indicated on the first page of this document. All pleadings are to reference **WC Docket No. 02-60**. Comments may be filed using: (1) the Commission's Electronic Comment Filing System (ECFS), or (2) by filing paper copies.¹⁷ All filings must be addressed to the Commission's Secretary, Office of the Secretary, Federal Communications Commission.

11. *Electronic Filers:* Comments may be filed electronically using the Internet by accessing the ECFS: <http://apps.fcc.gov/ecfs/>. Filers should follow the instructions provided on the website for submitting comments.

12. *Paper Filers:* Parties who choose to file by paper must file an original and one copy of each filing. If more than one docket or rulemaking number appears in the caption of this proceeding, filers must submit two additional copies for each additional docket or rulemaking number. Filings can be sent by hand or messenger delivery, by commercial overnight courier, or by first-class or overnight U.S. Postal Service mail. All filings must be addressed to the Commission's Secretary, Office of the Secretary, Federal Communications Commission.

- All hand-delivered or messenger-delivered paper filings for the Commission's Secretary must be delivered to FCC Headquarters at 445 12th St., SW, Room TW-A325, Washington, D.D. 20554. All hand deliveries must be held together with rubber bands or fasteners. Any envelopes must be disposed of before entering the building. The filing hours are 8:00 a.m. to 7:00 p.m.
- Commercial overnight mail (other than U.S. Postal Service Express Mail and Priority Mail) must be sent to 9300 East Hampton Drive, Capitol Heights, MD 20743.
- U.S. Postal Service first-class, Express, and Priority mail must be addressed to 445 12th Street, S.W., Washington D.C. 20554.

13. *Additional copies.* One copy of each filing must be sent to each of the following:

- The Commission's duplicating contractor, Best Copy and Printing, Inc., 445 12th Street, S.W., Room CY-B402, Washington, D.C. 20554, www.bcpweb.com; phone: (202) 488-5300 fax: (202) 488-5563;
- Christianna Lewis Barnhart, Telecommunications Access Policy Division, Wireline Competition Bureau, 445 12th Street, S.W., Room 5-B552, Washington, D.C. 20554; e-mail: Christianna.Barnhart@fcc.gov and

¹⁷ See *Electronic Filing of Documents in Rulemaking Proceedings*, GC Docket No. 97-113, Report and Order, 13 FCC Rcd 11322 (1998).

- Charles Tyler, Telecommunications Access Policy Division, Wireline Competition Bureau, 445 12th Street, S.W., Room 5-B521, Washington, D.C. 20554; e-mail: Charles.Tyler@fcc.gov.

14. People with Disabilities: To request materials in accessible formats for people with disabilities (Braille, large print, electronic files, audio format), send an e-mail to fcc504@fcc.gov or call the Consumer & Governmental Affairs Bureau at (202) 418-0530 (voice), (202) 418-0432

15. Filings and comments are also available for public inspection and copying during regular business hours at the FCC Reference Information Center, Portals II, 445 12th Street, S.W., Room CY-A257, Washington, D.C. 20554. They may also be purchased from the Commission's duplicating contractor, Best Copy and Printing, Inc., Portals II, 445 12th Street, S.W., Room CY-B402, Washington, D.C. 20554, telephone: (202) 488-5300, fax: (202) 488-5563, or via e-mail www.bcpweb.com.

16. This matter shall be treated as a "permit-but-disclose" proceeding in accordance with the Commission's *ex parte* rules.¹⁸ Persons making oral *ex parte* presentations are reminded that memoranda summarizing the presentations must contain summaries of the substance of the presentation and not merely a listing of the subjects discussed. More than a one or two sentence description of the views and arguments presented generally is required.¹⁹ Other rules pertaining to oral and written *ex parte* presentations in permit-but-disclose proceedings are set forth in section 1.1206(b) of the Commission's rules.²⁰

17. For further information, please contact Christianna Lewis Barnhart, Telecommunications Access Policy Division, Wireline Competition Bureau at (202) 418-1372 or TTY (202) 418-0484.

- FCC -

¹⁸ 47 C.F.R. §§ 1.1200 *et seq.*

¹⁹ *See* 47 C.F.R. § 1.1206(b)(2).

²⁰ 47 C.F.R. § 1.1206(b).