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Sent Via Electronic Mail

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Michael O'Rielly, Commissioner (Mike.O'Rielly@fcc.gov)
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Jessica Rosenworcel, Commissioner (Jessica.Rosenworcel@fcc.gov)
Federal Communications Commission
445 12th Street, SW
Washington, DC 20554

Re: DRS Global Enterprise Solutions Appeal of Waiver and RHC Cap

Dear Members of the Commission,

In June, we filed, on behalf of five Tribal Organizations (TOs) in Alaska,¹ appeals from decisions made under the FCC Rural Health Care (RHC) program to deny funding based upon the exhaustion of 2016 funds in the \$400 million cap. I attach the appeals for your reference.

In each case, these TOs were substantially impacted by this loss of 2016 funding—close to \$3 million in aggregate. Although the FCC approved a waiver to allow Alaska telecommunications providers the options to forego collections on these amounts in 2016 as a one-time emergency option, it is voluntary for the providers and is by no means a solution long term solution that solves the problem from 2017 on.

We are also aware that DRS Global Enterprise Solutions filed an appeal with the FCC challenging the legality of the waiver and the RHC cap. Should this waiver appeal prevail, this could very well shift the financial burdens back to the TOs for 2016 and beyond until and unless a permanent resolution of the cap issue is achieved. As the FCC considers this appeal, therefore, we hope that it will take into account the contents of the enclosed appeals.

In particular, as outlined in more detail in the enclosed appeals, we want to underscore that we do not think that Congress authorized a cap when it established the RHC program. Section 254(h)(1)(A) of the Telecommunications Act is written unambiguously as a mandatory program that includes funding as an entitlement associated with that mandate. Under Section 254(h)(1)(A), Congress instructed the FCC to make payments to telecommunications providers on behalf of rural health care providers and a “[t]elecommunications carrier providing service under this paragraph **shall be entitled** to have an amount equal to the difference, if any, between

¹ The five TOs are: the Aleutian/Pribilof Island Association, the Norton Sound Health Corporation, the Bristol Bay Area Health Corporation, the Maniilaq Association, and the Council of Athabascan Tribal Governments.

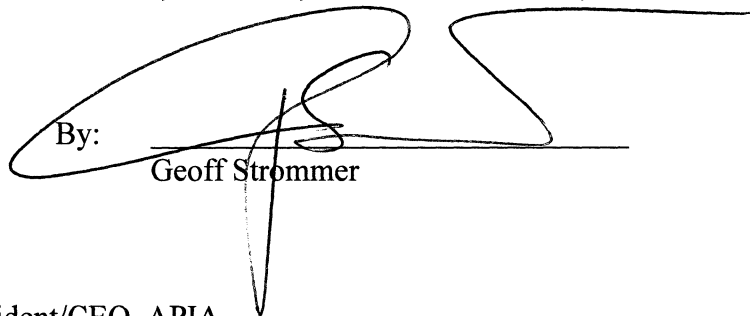
the rates for services provided to health care providers for rural areas in a State and the rates for similar services provided to other customers in comparable rural areas in that State treated as a service obligation as a part of its **obligation** to participate in the mechanisms to preserve and advance universal service.” (Emphasis added) 47 U.S.C. § 254(h)(1)(A).

Finally, we know that the FCC is actively considering long-term solutions to the RHC funding shortfalls resulting from the cap that are expected to increase as telehealth solutions continue to expand. We and our tribal clients stand ready to work with the FCC to craft policy and funding solutions that will allow this positive expansion of telehealth solutions for remote areas to continue.

Thank you for your consideration of these issues and I look forward to following up with you soon.

Sincerely,

HOBBS, STRAUS, DEAN & WALKER, LLP

By: 
Geoff Strommer

Enclosures

cc: Dimitri Philemonof, President/CEO, APIA
Robert J. Clark, President/CEO, BBAHC
Charleen Fisher, Executive Director, CATG
Tim Gilbert, President/CEO, Maniilaq Association
Angie Gorn, President/CEO, NSHC