

September 6, 2017

Via ECFS & Email

Chairman Ajit Pai
Commissioner Mignon Clyburn
Commissioner Michael O'Rielly
Commissioner Brendan Carr
Commissioner Jessica Rosenworcel
Federal Communications Commission
445 12th Street, SW
Washington, DC 20554

***Re: Reply Comments in Support of Petition for Reconsideration
WC Docket No. 02-60***

Dear Chairman Pai and Members of the Commission:

In its petition for reconsideration submitted to you on July 31, 2017 ("Petition"), DRS Global Enterprise Solutions, Inc. ("DRS") wrote, *inter alia*, "by requesting providers to offer voluntary price reductions, the Commission is skewing the fair and competitive landscape."¹ DRS stands by this position and proffers, by way of this letter, that anti-competitive effects of the Commission's Order are already taking shape.

As context, for funding year 2016, the Commission and the Universal Service Administrative Company prorated funds available to health care providers ("HCPs") through the Rural Health Care Program ("RHC Program"). This proration disproportionately impacted Alaskan HCPs. According to the Commission: the "average effective increase in price paid by an HCP in the continental US by virtue of the proration was approximately 11 percent, whereas in remote Alaska it was approximately 648 percent."² The Commission's solution was to allow service provider partners of Alaskan HCPs, such as DRS, to reduce their service charges and pass on the benefit of the price reductions to the HCPs.³ Standing to lose in excess of \$380,000, DRS petitioned the Commission to reconsider this approach.

On August 15, 2017, five Tribal Organizations serviced by another service provider, GCI Communication Corp. ("GCI"), sent a letter to the Commission ("Letter") which referenced DRS's Petition and stated:

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

¹ *In re Rural Health Care Support Mechanism*, Petition for Reconsideration, DRS Global Enterprise Solutions, Inc., WC Docket No. 02-60 (July 31, 2017) ("Petition") (responding to *In re Rural Health Care Support Mechanism*, Order, FCC 17-84, WC Docket No. 02-60, slip op. (June 30, 2017) ("Order")).

² See Order, slip op. at 2.

³ See *id.*

achieved. As the FCC considers this appeal, therefore, we hope it will take into account the contents of the enclosed appeals.⁴

As an initial matter, DRS applauds these Tribal Organizations for advocating for a process that does not leave behind Alaskan HCPs, which happen to be some of the organizations most in need of funding from the RHC Program. But at the same time, DRS views this Letter as evidence of some of the anti-competitive impacts of the Commission's Order.

First, the Letter confirms that these Tribal Organizations are themselves concerned about the financial burdens of prorated funding and are not eager or even able to shoulder the financial burden of the Commission's prorated funding action. As DRS wrote in its Petition:

HCPs will choose to do business with service providers that reduce their prices in accordance with the Commission's waiver. HCPs are unlikely to continue to do business with service providers that are financially unable to reduce their prices.

The Letter demonstrates that these anti-competitive effects are a very real concern.

Second, the Letter also implies that GCI may implement the Order and voluntarily reduce the cost of service to these Tribal Organizations. If smaller providers, like DRS, do not follow suit because they cannot sustain the loss of income, these smaller providers will be put at a significant disadvantage and will be prevented from competing fully in the marketplace. As DRS correctly noted in its Petition:

The Order thereby alters the bidding landscape, favoring large companies that can take the financial hit of forgiving or reducing revenue by hundreds of thousands (to millions) of dollars. This hampers the ability of small and mid-sized businesses from staying competitive.

DRS continues to stand by this argument.

Given these issues, what can be done to reconcile the concerns of the Tribal Organizations with DRS's Petition? The FCC should not only reverse the Order, but should issue a new order simultaneously that solves the funding requirements of Alaskan HCPs without the defects described in DRS's Petition, including anti-competitive effects. Such a solution must take into account DRS's legal arguments and involve the common sense approach of drawing on the undispersed and reserve funding available to meet the RHC Program shortfall.

Whatever tack the Commission takes, it should ensure that it does not create an unnecessarily anti-competitive environment that penalizes either service providers or their health care provider customers through unexpected and unrealistic shifting of financial burdens. Because, at the end of the day, critical health care services are at risk and neither Alaskan Tribal Organizations nor DRS and other small providers are financially able to shoulder the costs of the Commission's pro rata funding decisions.

⁴ Letter from Geoff Strommer, counsel to the Aleutian/Pribilof Island Association, the Norton Sound Health Corporation, the Bristol Bay Area Health Corporation, the Maniilaq Association, and the Council of Athabaskan Tribal Governments, to the Commission, WC Docket No. 02-60 (Aug. 15, 2017).

We look forward to working with the Commission on a solution to these issues.

Sincerely,

DRS Global Enterprise Solutions, Inc.



By: _____

Allison D. Rule
Ronald E. Quirk
Alexander I. Schneider

Its Attorneys

cc: Geoff Strommer, Esq.
John Nakahata, Esq.
Christopher Nierman, Esq.