

Before the
Federal Communications Commission
Washington, DC 20554

In the Matter of)	
)	
Rural Health Care)	
Universal Service Support Mechanism)	
)	
RE: Appeal of Administrator's Denial)	
of FRNs 1727933, 1727961, and 1728095)	
submitted by Utah Telehealth Network)	
)	CC Docket No. 02-60
)	
)	

**Appeal of Administrator's Denial of Rural Health Care Program Funding Requests and
Request for Waiver for Funding Year 2017
RE: Telecommunications Program FCC Form 466**

I. INTRODUCTION AND SUMMARY

The Utah Education and Telehealth Network (UETN) is the state's designated Education and Telehealth Network¹. UETN's mandated mission parallels the goals of Universal Service with respect to education and healthcare. Part of UETN's responsibilities include the "development of telehealth services as a means of reducing health care costs and increasing health care quality and access, with emphasis on assisting rural health care providers and special populations." The Utah Telehealth Network component of UETN has surmounted numerous

¹ Utah Code 53B-17-105, Utah Education and Telehealth Network. 2(g) in consultation with health care providers from a variety of health care systems, explore and encourage the development of telehealth services as a means of reducing health care costs and increasing health care quality and access, with emphasis on assisting rural health care providers and special populations.

challenges to build a coalition of rural healthcare providers as a means to accomplish this aspect of the UETN telehealth mission. The taxpayers of Utah expect UETN to accomplish our goals in the most efficient and sensible manner available to us. Accomplishing this includes our mandate to qualify and apply for all federal funding for which the services UETN facilitates are eligible. UETN's long experience working with USAC in both the E-rate and RHC programs has given us the impression that the FCC and USAC are equally concerned about finding the most cost-effective solutions that will help us achieve USF goals. In accomplishing the UETN mission, UETN now provides one of the most efficient and functional statewide education and telehealth broadband networks in the nation.

As documented in the record, UTN applied for Telecomm program funds via the FCC Form 466 on June 30, 2017, on behalf of the named HCPs listed in the attached USAC Appeal Denial Letter, dated September 27, 2018. As UTN made clear in the original appeal, all contracts resulted from a complex procurement process undertaken by UETN to leverage both E-rate and RHC needs to obtain better and more cost-effective pricing for all services². These contracts/amendments were executed one to two days prior to the allowable contract date established by the Form 465 filing. In the denial letter from USAC, it is apparent that USAC has confused contract signature dates with the signature dates of the amendments to these contracts that came subsequently and resulted from the parts of the comprehensive competitive bidding process that were specific to the HCP's needs. Additionally, it should be noted that all HCPs in this matter are located in some of the most isolated rural areas in the contiguous United States.

² This process, which included an RFP posted for 52 days beginning 11/14/2016, produced two bids each for HCPs 11645 and 17003 and one bid for HCP 24074. No bids were received through USAC RHC 28 day postings for HCPs 11645 and 17003 Form 465s submitted annually for USAC Funding Years 2007 – 2017, or for HCP 24074 Form 465s posted 10/31/2016 for USAC Funding Year 2016 and again on June 1, 2017 for USAC Funding Year 2017.

Obtaining bids from service providers reluctant to commit to serving such remote areas is challenging enough in itself, let alone the difficulty in maintaining a coalition of public service providers that is constantly battered by the bureaucratic vagaries of administrative processes. Particularly frustrating is USAC's inability to incorporate common sense determinations so clearly elucidated by numerous FCC Orders overturning similar Administrator decisions. We are therefore compelled to appeal to the FCC once again.

II. Request

The Utah Education and Telehealth Network (UETN) respectfully requests that the FCC waive the 28 day competitive bidding period for these FRNs and remand these funding requests to USAC for review on the merits of the requests, while considering all the benefits to rural and tribal users as factors that far exceed strict compliance with the bureaucratic technicalities that so often offend common sense. The FCC has on numerous occasions seen the wisdom in taking such action, most recently in the streamlined Order released October 31, 2018.³

Respectfully submitted,

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³ See, e.g., Application for Review of the Decision of the Universal Service Administrator by Aberdeen School District et al.; Schools and Libraries Universal Service Support Mechanism, CC Docket No. 02-6, Order, 22 FCC Rcd 8757 (2007) (granting waivers of violations of the 28-day rule when the applicants only missed the deadline by one to three days, thereby allowing their requests for services to be competitively bid for a meaningful period of time, and there was no evidence of waste, fraud or abuse).