

**Before the  
FEDERAL COMMUNICATIONS COMMISSION  
Washington, D.C. 20554**

**In the Matter of** )  
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**Rural Health Care Support Mechanism** ) **WC Docket No. 02-60**  
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**COMMENTS OF CENTURYTEL, INC.**

CenturyTel, Inc. ("CenturyTel"), through its attorneys, hereby offers the following comments in connection with the above-captioned Further Notice of Proposed Rulemaking ("Notice") seeking comment on whether and how to enhance rural public and non-profit health care providers' access to advanced telecommunications and information services.<sup>1</sup>

**I. INTRODUCTION**

CenturyTel, Inc, through its subsidiaries, is a leader in providing integrated communications services to rural markets. CenturyTel provides a variety of high quality communications services in twenty-two states, including local exchange services, long distance services, and dial-up and high-speed DSL Internet access services. Based on its experience in rural markets, CenturyTel urges the Commission to provide support for infrastructure that will enable rural health care providers ("RHCPs") access to the advanced telecommunications capability necessary for telemedicine services vital to rural communities and envisioned by Congress under Section 254 of the Communications Act.

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<sup>1</sup> *Rural Health Care Support Mechanism*, WC Docket No. 02-60, Second Report and Order, Order on Reconsideration, and Further Notice of Proposed Rulemaking, FCC 04-289 (rel. Dec. 17, 2004).

## II. BACKGROUND

Nearly a decade ago Congress specifically directed telecommunications carriers “to provide telecommunications services which are necessary for the provision of health care services in a State...to any public or nonprofit health care provider that serves persons who reside in rural areas in that State at rates that are reasonably comparable to rates charged for similar services in urban areas of the State.”<sup>2</sup> Congress also directed the Federal Communications Commission (the “Commission”) to enhance access to advanced telecommunications and information services for health care providers.<sup>3</sup> In response to these statutory directives, the Commission adopted a support mechanism for RHCPs in the *1997 Universal Service Order* (“1997 Order”).<sup>4</sup>

In 2003, due to lower-than-expected demand for support,<sup>5</sup> the Commission made significant modifications to improve the effectiveness of the rural health care support mechanism. Among other changes, the *2003 Report and Order*: (1) clarified that part-time basis RHCPs are eligible for prorated support; (2) revised the rules to allow RHCPs to compare rural rates in any city with a population of at least 50,000 in the state; and (3) revised the rules to allow RHCPs to receive discounts for satellite services even where alternative terrestrial-based services may be available. Despite these revisions, RHCP demand for support remains weak. Further reform is needed to achieve the telemedicine goals of Sections 254(h)(1)(A) and 254(h)(2)(A).

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<sup>2</sup> See 47 U.S.C. § 254(h)(1)(A).

<sup>3</sup> 47 U.S.C. § 254(h)(2)(A).

<sup>4</sup> *Federal-State Joint Board on Universal Service*, CC Docket No. 96-45, Report and Order, 12 FCC Rcd 8776 (1997).

<sup>5</sup> The Rural Health Care Program has an annual cap of \$400 million. However, in the last five years, a total of only \$30 million was actually disbursed to rural facilities. See Separate Statement of Commissioner Michael J. Copps Re: Rural Health Care Support Mechanism (WC Docket No. 02-60).

### **III. SUPPORT FOR INFRASTRUCTURE DEVELOPMENT IS SUPPORTED BY THE STATUTE**

In the current Notice, the Commission requested comment on whether and how to support infrastructure development or “network buildout” needed to enhance RHCP access to advanced telecommunications and information services.<sup>6</sup> Although the Commission agreed in the 1997 Order that infrastructure development did not qualify for support as a telecommunications service under 254(h)(1)(A), it found it had discretionary authority to establish rules to provide universal service support to promote the construction of infrastructure to be used to provide advanced services to RHCPs under the independent authority of section 254(h)(2)(A).<sup>7</sup> As discussed below, CenturyTel strongly supports the Commission’s proposal to provide such support.

#### ***A. Supporting Infrastructure Development Is Consistent With The Statute***

The Commission is statutorily mandated to enhance access to advanced telecommunications and information services for RHCPs.<sup>8</sup> Providing support for telecommunications infrastructure development will aid in accomplishing this statutory mandate.<sup>9</sup> Extending or upgrading infrastructure enhances the availability of advanced services that may be offered over that infrastructure.

Furthermore, the Telecommunications Act of 1996 provides an independent mandate for the Commission to provide funding for infrastructure to support advanced services to RHCPs. Specifically, Section 706 of the Telecommunications Act of 1996 requires the Commission to adopt policies to encourage the deployment of advanced telecommunications capability to all

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<sup>6</sup> 1997 Order, *supra* note 4, at 9101-10, para. 635.

<sup>7</sup> *Id.* at 9109, para. 634.

<sup>8</sup> 47 U.S.C. § 254 (b)(2), § 254(h)(2)(A).

<sup>9</sup> *See* Notice at para. 52.

Americans.<sup>10</sup> The Commission must achieve this deployment on a reasonable and timely basis by “utilizing, in a manner consistent with the public interest, convenience, and necessity...regulating methods that remove barriers to infrastructure investment.” One method that the Commission should adopt to help remove barriers to infrastructure investment and speed the delivery of advanced services to RHCPs and their patients is to provide targeted universal service support for such investments made to serve RHCPs.

Such steps clearly are needed. As the Commission found in its 2004 Report to Congress under Section 706, the United States ranked 11<sup>th</sup> in the world for broadband penetration. Numerous municipalities across America are floating bonds to develop their own broadband networks.<sup>11</sup> These statistics show that there is clear necessity for extending and upgrading network infrastructure. The Commission should provide assistance in removing barriers to infrastructure development by providing universal service support for this purpose.

***B. Supporting Infrastructure Development Is Good Public Policy***

There has been a great deal of interest in expanding universal service to cover broadband. For example, in the 2004 Report to Congress, then-Commissioner Martin stated that although 93% of Americans received high-speed service, the Commission should still continue its efforts to eliminate barriers to infrastructure investment and to accelerate broadband deployment.<sup>12</sup>

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<sup>10</sup> In Section 706, the term “advanced telecommunications capability” is defined, “without regard to any transmission media or technology, as high-speed, switched, broadband telecommunications capability that enables users to originate and receive high-quality voice, data, graphics, and video telecommunications using any technology,” see 47 U.S.C. §157 note. In its proceedings under Section 706, the Commission has defined “advanced telecommunications capability” as a service that permits transmission speeds of at least 200 kbps in both directions. See *Deployment of Advanced Telecommunications Capacity to All Americans in a Reasonable and Timely Fashion*, CC Docket 98-146, Third Report, FCC 02-33 (rel. Feb. 6, 2002). See also 47 U.S.C. § 254 (b)(2) (“[a]ccess to advanced services. Access to advanced telecommunications and information services should be provided in all regions of the Nation”).

<sup>11</sup> Commissioner Adelstein Statement of Dissent, Availability of Telecommunications Capability in the United States, Fourth Report to Congress, September 9, 2004 at 26. FCC 04-208.

<sup>12</sup> *Id.* at Statement of Commissioner Martin, p. 6. Also see Commissioner Adelstein dissent, “If we are soon to achieve universal access to broadband, we need to give providers serving those hardest-to-reach consumers more

The Rural Health Care Support Mechanism would be a good test case for the expansion of universal service funding to cover broadband infrastructure. The number of Rural Health Care providers is relatively limited, and the expansion of funding would not overwhelm the fund, given the \$400 million cap on the Rural Health Care fund. In addition, ability to bring broadband to RHCPs and provide them with interactive telemedicine capabilities and the vast array of resources available through the Internet will allow customers of RCHPs in rural areas to enjoy the same benefits as other Americans.<sup>13</sup>

Telemedicine networks save lives and improves the standard of health care in sparsely populated, rural areas by using technology to bridge often vast geographic distances between urban medical centers and small community health care facilities. Telemedicine allows rural patients, many of whom cannot shoulder the cost of transportation and treatment in hard-to-reach metropolitan areas, to be diagnosed and treated by specialists and medical equipment located hundreds of miles away. Patients thus avoid the need to travel long distances, become separated from family members, incur additional expense, or take time off from work. Telemedicine makes access to health care more comparable between rural and urban areas, in accordance with the statutory directives cited above.

For all Americans to have access to the rapidly growing list of technologies and resources that improve and prolong life, adequate telecommunications infrastructure is needed. Currently, while universal service support may make it economically possible for RHCPs to purchase advanced telecommunications services where available, there are many areas where revenue from the monthly service fees cannot support the initial cost of building facilities. Pure reliance on market forces to spur costly network infrastructure investment is among the largest barriers

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tools, and we must protect and advance programs like universal service that have facilitated build-out to so many communities,” at p. 7.

<sup>13</sup> *Id.*

preventing RHCPs from gaining access to advanced telecommunications capabilities today. There is no market or business incentive to build costly infrastructure to provide services to a single or highly limited number of entities. Therefore, the Commission should develop a new funding mechanism to support network infrastructure investments. Such a program will allow RHCPs to offer much-needed advanced medical capabilities to their patients in rural areas. Support for infrastructure thus will help realize the goals of Section 254 (b)(2), 254(h)(2)(A) and Section 706.

#### **IV. THE STRUCTURE OF THE PROGRAM SHOULD BE CONSUMER FRIENDLY**

It is clear to CenturyTel from discussions with RHCPs that: (i) RHCPs are not adequately aware of the resources available through the Commission's Rural Health Care Support Program; and (ii) in some cases even when they know about the program, RHCPs cannot afford the combined cost of the network infrastructure and customer equipment needed to receive the advanced services in rural areas. Clearly, support for infrastructure development administrated as discussed below would aid in accelerating deployment of advanced telecommunications capability to rural areas.

##### ***A. The Commission's Rules Can Ensure Support is "Competitively Neutral"***

In order to ensure competitive neutrality under Section 254(h)(2)(A), the Commission should provide that all telecommunications carriers are eligible to receive support for the costs of building facilities that bring advanced telecommunications services to RHCPs. If the applicant is an incumbent local exchange carrier ("ILEC") then its support can be based on the rates listed in the company's special construction tariff or, because of unique service and geographic issues, on an individual assessment basis. Non-ILECs should be required to provide the FCC with detailed cost justification. The FCC should review these costs and direct the Universal Service

Administrative Company (“USAC”) to provide cost-based support to the extent the Commission agrees that the costs involved are reasonable and prudent.

***B. Support Will Be “Economically Reasonable” If Consumers Share the Cost***

In order to ensure that the RHCP chooses service providers and technologies that are economically reasonable, the Commission may choose to structure the program so that it provides support for less than 100 percent of the costs of infrastructure construction. If an RHCP is required to bear even a small amount of the costs associated with infrastructure construction, it will choose services and service providers efficiently. As the Commission has recognized in the context of the schools and libraries program, “[r]equiring schools and libraries to pay a share of the cost should encourage them to avoid unnecessary and wasteful expenditures because they will be unlikely to commit their own funds for purchases that they cannot use effectively.”<sup>14</sup> The Commission found this to be the case even though some schools and libraries receive discounts of 90 percent on the services they purchase. CenturyTel urges the Commission to support at least 90 percent of the costs of infrastructure development to serve RHCPs in order to ensure maximum facility deployment and maximum progress toward achieving the goals of Sections 254(h) and 706.

As discussed below, RHCPs already state that the program is difficult to understand. Therefore, the Commission should not adopt an even more complicated process for RHCPs than exists today, such as one similar to the competitive bidding process used in the Schools and Libraries Program to choose the provider and services. Given the built-in economic incentive for RHCPs to choose the lowest priced provider, there is no need for an elaborate bidding process.

The Commission in the 1997 Order stated, “[t]he willingness of individual states to fund installation and maintenance of internal connections is strong evidence that those states consider

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<sup>14</sup> 1997 Order, *supra* note 4, 9035-9036 at para. 493.

such expenditures to be economically reasonable in light of the positive . . . benefits they . . . generate.”<sup>15</sup> Many companies working in conjunction with municipalities are making extraordinary commitments and investments to bring broadband to their customers and residents.<sup>16</sup> CenturyTel is among these innovative companies and has played an integral role in aiding communities such as Forks, Washington in receiving advanced telecommunications services.<sup>17</sup> This deployment took nearly five years to come to fruition. With increasing reliance on high speed communications, deployment of infrastructure cannot wait for service providers and states to “courageously take risks” to invest in such costly infrastructure.<sup>18</sup> Therefore, universal service funding for infrastructure development is needed to move this process along.

Finally, the Commission should not prohibit telecommunications carriers from providing services to schools, libraries, or commercial or residential customers using excess capacity on facilities originally constructed with federal support to serve RHCPs. The very fact that the market had not previously produced adequate demand to support the construction of the facilities is *prima facie* evidence of the need for federal support for the deployment of advanced services to serve the RHCP. Once the carrier has constructed the facility, however, services that can be provided using that facility may support additional rural economic development that itself advances the goals of Sections 254 and 706. Furthermore, there is no danger that the carrier would doubly recover any costs. Rather, the carrier would recover the costs of construction only once (from the RHCP, the federal support mechanism, or both), while the costs of service would be recovered from recurring service charges to its individual customers, whether they are RHCPs, schools, libraries, businesses, or individuals. One lump sum payment for the

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<sup>15</sup> 1997 Order, *supra* note 4, at 9018.

<sup>16</sup> Report to Congress, *supra* note 11, at 7.

<sup>17</sup> Report to Congress, *supra* note 11, at 26-27.

<sup>18</sup> Report to Congress, *supra* note 11, at 7.

infrastructure build-out, instead of prorated payments, would better ensure that costs are not being double-recovered.

**C. *Ensuring Technical Feasibility Is Not an Issue***

In this context, the technical feasibility requirement of Section 254(h)(2)(A) is self effectuating. The Commission has long held that the determination of technical feasibility rests solely on “technical or operational concerns” and may not include consideration of costs.<sup>19</sup> Here, to the extent that an RHCP, with support from the rural health care support fund, is willing to pay for the construction of the facilities and to purchase services provided using them, a telecommunications carrier would have every incentive to construct the facility and provide the requested services if it were at all able to do so.

**D. *Public Awareness Can Be Improved By FCC Outreach***

The FCC should raise public awareness about the Rural Health Care Support Mechanism. Based on the poor acceptance rate of this program,<sup>20</sup> the FCC should find it consistent with its statutory obligations to better publicize the availability of RHCP support.<sup>21</sup> CenturyTel has undertaken an effort to proactively inform RHCPs within its 22 state territory of the program. Many RHCPs have informed CenturyTel they were not aware of the rural health care support mechanism or how it worked. Therefore, CenturyTel agrees with Commissioner Copps that great benefits would result if the Commission were to “work much more closely with the American Hospital Association, state health care organizations, [and] rural government associations” to get the word out about the program.<sup>22</sup> The Commission’s “Indian Telecom

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<sup>19</sup> *Implementation of the Local Competition Provisions of the Telecommunications Act of 1996*, CC Docket No. 96-98, First Report and Order, 12 FCC Rcd 15499, paras. 198-99 (1996) (subsequent history omitted).

<sup>20</sup> *Supra* note 5.

<sup>21</sup> Such a campaign could be analogous to the one the Commission recently launched to publicize the availability of Lifeline and Link Up support. FCC Indian Telecom Initiatives *see* CGB website at <http://www.fcc.gov/indians/itibrochure.pdf>.

<sup>22</sup> Statement of Commissioner Copps, *supra* note 5.

Initiatives” were instrumental in educating Indian tribes and tribal organizations about the availability of support for telecommunications services and infrastructure. The FCC could initiate a similar education effort targeting RHCPs.<sup>23</sup>

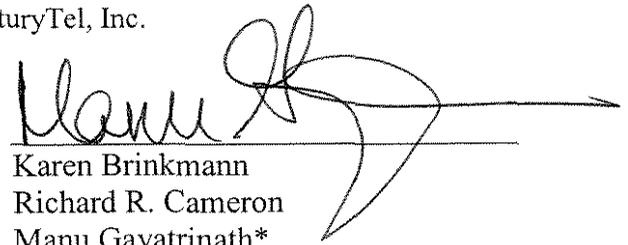
V. CONCLUSION

The Rural Health Care Support Program should provide support for infrastructure development. Not only is funding for infrastructure development statutorily supported, it is also good public policy. The Commission should also conduct more marketing efforts to inform RHCPs about the availability of the support. The Rural Health Care Support Program could be a testing ground for funding broadband in rural areas, consistent with the objectives of the Commission and Congress that all Americans have access to advanced telecommunications capabilities.

Respectfully Submitted,

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<sup>23</sup> For example the Commission has been trying to raise the visibility of the rural health care program through a partnership with the Appalachian Regional Commission. See Remarks of Kevin J. Martin, “Bucks for Broadband Summit,” Jan. 12, 2005.