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300 The Atrium, 1200 N Street, Lincoln, NE 68508
P.O. Box 94927, Lincoln, NE 68509-4927
Website: www.psc.nebraska.gov
Phone: 402-471-3101
Fax: 402-471-0251

EXECUTIVE DIRECTOR:

MICHAEL G. HYBL

NEBRASKA CONSUMER HOTLINE:

1-800-526-0017

July 26, 2010

The Honorable Julius Genachoski, Chairman
The Honorable Michael Copps
The Honorable Robert McDowell
The Honorable Meredith Attwell Baker
The Honorable Mignon Clyburn
Federal Communications Commission
445 12th Street, SW
Washington, D. C. 20554

RE: WC Docket No. 02-60
Rural Health Care Support Mechanism

Dear Chairman Genachoski:

On July 15, 2010, the Federal Communications Commission (FCC) released a Notice of Proposed Rulemaking (NPR) on the above Docket. This letter is sent to address a matter that was not included in the NPR. However, it is hoped that after consideration, you are able to remedy a problem that will be sensible plus time and cost efficient.

In 2004, the Nebraska Public Service Commission (PSC) added an annual disbursement of \$900,000 from the Nebraska Universal Service Fund (NUSF) to assist in the development of a statewide telehealth network. It has been developed and has resulted in significant savings in health care costs.

More importantly, patients receive timely diagnoses and treatment at less cost to them as well. Most importantly, however, patient anxiety is relieved more expediently compared to when they had to travel many miles, sometimes hundreds, for treatment and wait longer for results if their x-rays and other medical records were transported by other means. Today, surgeons are able to guide local physicians through difficult procedures saving lives that may have been lost because travel was required.

In March 2005, the FCC changed its definition of "rural" health care facilities and temporarily grandfathered some organizations that technically no longer qualified for subsidies. According to a final rule published in the *Federal Register* on April 10, 2008, the FCC extended the grandfather period for an additional three years to July 2011. The Nebraska Public Service Commission, along with healthcare providers, is grateful for the extensions that have been granted.

In 2008, the American Telemedicine Association (ATA) petitioned the FCC for the additional extension. The FCC granted the extension and in its rule stated, "In its petition, ATA identifies multiple health care facilities that participate in telehealth communications networks in Nebraska and Montana that would be adversely affected by the loss in universal service rural health care funding if the new definition of rural were applied to their rural health care funding applications." It also adds ATA comments, "This, in turn, would serve only to endanger the continued availability of telemedicine and telehealth services that these health care facilities provide."

Unless the 2005 definition of "rural" health care facilities is changed, three hub hospitals, Norfolk, Kearney and Grand Island, and one endpoint, Fremont, will become ineligible for a total of approximately \$223,000 annually. Under current technological hub and spoke construction, these facilities file for 22 backbone lines that originate at their organizations and facilitate connections to the Nebraska Statewide Telehealth Network (NSTN) for 32 rural eligible hospitals and eight (8) health departments. The rural areas these organizations serve are sparsely populated and geographically vast.

It appears that the most sensible, orderly and efficient remedy would be to permanently grandfather these facilities. In the meantime, if the FCC does not change the definition, other plans are being considered that would allow continued connections of rural eligible sites to tertiary care centers. However, if those are adopted, they would require additional filings and paperwork and, hence, higher costs.

It would be deeply appreciated if the FCC would consider the effects of the current "rural" definition and allow the aforementioned facilities and others facing the same challenge to be permanently grandfathered. If you have questions or would like to discuss this matter, you or your staff are welcome to call me at my office (402) 471-0215 or via cell phone at (402) 880-4000 or Nebraska Telehealth Coordinator Laurie Casados at (402) 471-3101. Thank you for your thoughtful consideration of this request.

Respectfully,

A handwritten signature in cursive script that reads "Anne Boyle".

Anne Boyle
Commissioner

AB:kjl