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

In the Matter of	)	
	)	
Rural Health Care Support Mechanism	)	CC Docket No. 02-60
	)	
A National Broadband Plan	)	
For Our Future	)	GN Docket No. 09-51
	)	

COMMENTS OF VERIZON[1] AND VERIZON WIRELESS

Reforming the rural healthcare universal service fund ("RHC fund") to better support national telemedicine priorities is an important component of the National Broadband Plan. Telemedicine initiatives offer the promise of cutting-edge healthcare for all Americans regardless of where they live. The benefits of telemedicine—e.g., remote consultations with healthcare providers, long-distance patient monitoring, and secure access to patient records—are, however, only attainable if healthcare providers have ready access to modern IT solutions offered over broadband networks. In this proceeding the Commission should adopt its conclusion to keep the RHC fund at its current size, explore RHC fund infrastructure support in areas where sufficient broadband facilities are unavailable and not where such facilities are already in place, and reimburse service providers directly instead of as an off-set against universal service contributions. In addition, the Commission should be cautious about allowing healthcare providers to share access to RHC fund broadband facilities and should ensure that reforms to the program do not privilege one class of network service providers over another.

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1 In addition to Verizon Wireless, the Verizon companies participating in this filing ("Verizon") are the regulated, wholly owned subsidiaries of Verizon Communications Inc.

Available RHC fund support. The Commission proposes to reform the RHC fund within the existing $400 million budget for the fund, allocating $100 million to infrastructure grants and $300 million to ongoing support. 47 C.F.R. § 54.623(a).[2] Keeping the program capped at existing levels is a sensible approach. Demand for RHC support has historically been far below the program cap. The Commission's pilot program for RHC fund infrastructure projects caused demand to inch up in recent years, but the program still distributes less than $70 million per year. *Id*. In light of historic demand for RHC fund support and the Commission's commitment in the NBP to manage the overall Universal Service Fund (USF) so that its total size remains close 2010 levels, maintaining the current RHC fund budget is appropriate.[3] In addition, as the Commission recognizes there are many competing priorities for USF broadband dollars—including E-Rate funding, high cost support, and potentially broadband discounts for low income households—that will put pressure on efforts to keep the amount that consumers must pay for the fund in check. *Id*. Therefore, if after further RHC fund reforms are implemented demand for program support still remains below the cap, the Commission should not view that outcome as a failure.

Targeted infrastructure funding. The Commission proposes to continue to make RHC support available to construct new broadband facilities to reach unserved or underserved healthcare providers. RHC NPRM ¶ 23 (the pool of rural healthcare providers would also expand). Putting healthcare providers in the network construction and management business raises some concerns regarding their ability to oversee network operations in a way that would

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2 *Rural Health Care Support Mechanism*, Notice of Proposed Rulemaking, 25 FCC Rcd 9371, ¶ 128 (2010) ("RHC NPRM").

3 *See* Federal Communications Commission, "Connecting America: The National Broadband Plan," http://www.broadband.gov/download-plan/, at 149-50, (March 16, 2010) (NBP).

avoid stranded investment of universal service dollars. Construction of new broadband facilities is expensive, and once built there is additional expense associated with operating and maintaining those facilities. Many parties raised similar concerns in response to the Commission's proposal to allow schools and libraries to use E-Rate support for dark or leased fiber facilities. *See, e.g.*, Letter from David Cohen, USTelecom, to Marlene Dortch, FCC, WC Docket No. 02-6, at 2 (Aug. 30, 2010) ("The addition of dark fiber to the ESL has the very real potential to be enormously expensive. . .transforming E-rate from a widely accessible program that benefits many into a network construction and capital grant program that only benefits a few.") ("USTelecom Dark Fiber Letter"). RHC fund support for network construction would also be additive of broadband facility support that the Commission envisions distributing in rural areas through the new Connect America Fund and the Mobility Fund. NBP at 135.

Nonetheless, if there is value in using RHC fund support for broadband infrastructure then the Commission's proposal to target such support to those rural areas where sufficient infrastructure is unavailable is a fair approach. RHC NPRM ¶ 23. The Commission recognizes that universal service funding is scare and that it does not make sense to build new broadband facilities where the marketplace already provides network access. Where sufficient broadband infrastructure is truly lacking, RHC fund applicants seeking support for new facility costs should not have difficulty making such a showing, particularly once the National Telecommunications and Information Administration broadband mapping project is complete in February of next year.

The Commission should not pursue an additional suggestion to provide RHC fund infrastructure support even in some areas where there are existing broadband facilities. *Id*. In rural areas where broadband infrastructure is already in place, the RHC NPRM proposes to require applicants to make a showing that “the cost of new network deployment would be significantly less expensive over a specified time period (e.g., 15-20 years) than purchasing services from an existing network carrier.” *Id*. While such a showing would be essential if the Commission does proceed with this proposal—which it should not do—it is difficult to conceive of a case where it could actually be less expensive to build and operate an entirely new rural broadband network versus purchasing services from an existing provider that already has facilities in place. This is especially true if, as it should be, any proposed ongoing RHC fund support that an applicant would need to run a new network built with universal service subsidies is also considered in determining whether an over-build project would be “significantly less expensive.” Moreover, the complexity and speculation involved in requiring Commission staff or the Universal Service Administrative Company (USAC) to make a judgment as to whether new network construction would indeed be significantly less expensive over time counsels in favor of avoiding these issues. The RHC fund is foremost a program designed to provide discounts for “*services* provided to health care providers for rural areas in a State. . .” 47 U.S.C. § 254(h)(1)(A) (emphasis added). Where sufficient carrier network facilities are already in place, those facilities should be used to provision discounted RHC services.

The off-set rule. The current RHC fund reimbursement rule whereby service providers are compensated as an off-set against universal service contributions is an historical anachronism that should be eliminated. 47 C.F.R. § 54.611(a). The rule was adopted by the Commission shortly after passage of the 1996 Act, at a time when incumbent local exchange carriers had few competitors for many services purchased by RHC providers. RHC NPRM ¶ 135. Today, the marketplace is vastly different, characterized by the widest possible array of competitive alternatives offered by many competitors over traditional network platforms as well as broadband and wireless facilities. In such an environment the off-set rule does not make sense and only adds administrative complexity to the RHC program. Providers should be reimbursed by USAC directly for specific services rendered, as is the case with the E-Rate and other Commission programs. *Id*.

Shared access to broadband facilities. In situations where RHC fund applicants secure infrastructure support for network construction, the Commission proposes to require applicants to take an ownership interest, indefensible right of use, or a capital lease in the facilities, which would enable them to allow other entities and individuals in their rural communities to use those facilities. RHC NPRM ¶¶ 55-82. Shared use of broadband facilities would be limited to situations where there is excess capacity on the infrastructure built with RHC fund support, and the Commission also asks whether such "community use" RHC fund projects should be encouraged, prohibited, or restricted. *Id*. Where universal service funding is used to construct broadband facilities in unserved rural areas, it does make sense to explore how to maximize the benefit of those facilities. Rural healthcare providers, however, are not generally in the business of running broadband networks, and this situation becomes even more complicated if a program applicant could be allowed (or even expected) to provide broadband services to both itself and to others.

Moreover, RHC support, as well as other universal service funding, should not be used to create subsidized competition. *See, e.g., Federal-State Joint Board on Universal Service*, Report and Order, 12 FCC Rcd 8776, ¶¶ 46-51 (1997) ("*First Report and Order*") (adopting "competitive neutrality" as an additional guiding principal of USF policy). The lengthy, detailed discussion in the RHC NPRM regarding allocation of RHC provider traffic and costs—including suggestions that RHC providers engage in the same kind of fully-distributed cost and common cost allocations as network providers—underscores just how complicated an infrastructure program that supports shared-use facilities could become. RHC NPRM ¶¶ 67-75. The Commission should be cautious here. If there is a simple way to allocate community-use traffic/costs (which would not be eligible for RHC fund support) on shared facilities and an applicant's own traffic/costs, then allowing other rural entities and individuals to access broadband infrastructure purchased with RHC fund subsidies may be worthwhile. If not, then parsing shared-use facilities in this way could make the proposed RHC fund infrastructure program unworkable.

Competitively neutral program rules. The Commission has repeatedly emphasized that universal service rules must be competitively neutral to avoid providing an unfair advantage to any one class of providers or any one technology over another. *First Report and Order* ¶¶ 46-51. Nonetheless, the Commission seems to suggest in multiple parts of the RHC NPRM that two individual network providers—Internet2 and National LambdaRail (NLR)—will have some sort of special funding status going forward. For example, the Commission calls out these providers by name, suggesting that RHC fund infrastructure support "may be used to support up to 85 percent of the cost of connecting health care networks to Internet2 or National LambdaRail. . ." RHC NPRM ¶ 13. And recurring Internet2 and NLR membership fees are specifically identified as eligible for RHC fund support. *Id*. ¶¶ 32, 40-41. Some applicants may indeed partner with these providers in seeking funding under a revamped RHC program. There is no basis, however, to suggest that Internet2 and NLR should receive special treatment. These entities provide dedicated nationwide network backbone services like many competing network service providers. *Id*. at n.33. Similar services provided by all network service providers must be eligible or ineligible for RHC fund support on a competitively neutral basis regardless of the provider that offers the service.

In addition, the proposal to allow RHC providers to receive program support "for the lease of dark or lit fiber to provide broadband connectivity from any provider" raises a potential conflict with RHC fund competitive bidding requirements. RHC NPRM ¶ 101. In purchasing services using RHC fund support, applicants must conduct a competitive bidding process and select a provider based on the most cost-effective bid.[4] The hallmark of any competitive bidding requirement is a fair and open process that is free of collusion. USTelecom Dark Fiber Letter at 3;[5] Comments of Verizon and Verizon Wireless, *Schools and Libraries Universal Service Support Mechanism*, CC Docket No. 02-6, GN Docket No. 09-51, at 12 (July 9, 2010). Under the proposal in the RHC NPRM, "state, regional or local government entities" and other dark or lit fiber providers would presumably be bidding service providers in response to a RHC entity's request for quote. RHC NPRM ¶ 101. These RHC entities, however, are "likely to be tightly linked to the municipality or other local entity through the flow of funds and the sharing of information, facilities and even staff. How applicants maintain a 'fair and open' competitive bidding environment under these circumstances is a substantial open issue that must be addressed. . ." USTelecom Dark Fiber Letter at 3. It is also not clear that municipalities or other government entities are or would even want to be in the RHC fund service provider business.

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4 *See* USAC, Rural Health Care, *Step 3: 28-day Competitive Bidding Requirement*, http://www.usac.org/rhc/health-care-providers/step03/; RHC NPRM ¶¶ 85-86.

5 The other concerns raised by USTelecom regarding E-Rate support for dark or leased fiber also apply in this situation. In particular, to be eligible for funding, supported RHC services must be provisioned by a "telecommunications carrier," which often dark fiber providers—e.g., municipalities and other government entities—are not. 47 U.S.C. § 254(h)(1)(A); USTelecom Dark Fiber Letter at 1.

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For these reasons, the Commission should move forward with universal service rural healthcare fund reforms that will best position the fund to support important national telemedicine priorities, including those reforms discussed herein.

Respectfully submitted,

By: ______________________

Michael E. Glover, *Of Counsel*

Edward Shakin
Christopher M. Miller
VERIZON
1320 North Courthouse Road
9th Floor
Arlington, VA 22201-2909
(703) 351-3071

John T. Scott, III
VERIZON WIRELESS
1300 I Street, NW
Suite 400 West
Washington, DC 20005
(202) 589-3770

Attorneys for Verizon
and Verizon Wireless

September 8, 2010