Before the
Federal Communications Commission
Washington, D.C. 20554

In the Matter of	)	
	)	WC Docket No. 02-60
Rural Health Care Support Mechanism	)	FCC 10-125

REPLY COMMENTS

The National Telecommunications Cooperative Association (NTCA)[1] responds to initial comments filed September 8, 2010 on the July 15, 2010 Notice of Proposed Rulemaking (NPRM) released by the Federal Communications Commission (Commission or FCC) seeking comment on proposed changes to the universal service fund (USF) rural health care (RHC) support mechanism.[2]

NTCA renews its call for a 60-day comment period on RHC applications posted on the Universal Service Administrative Company (USAC) website as a means to provide USAC with up-to-date information on broadband services availability where applicants claim no available or insufficient broadband coverage. A number of commenters agree with NTCA that the Commission should screen carefully for any applications that present overbuild situations, and should reject applications that rely on shared excess capacity to meet the 15% contribution requirement. Finally, the comments demonstrate that allowing RHC participants to receive discounts on Internet backbone service from providers in addition to Internet2 and National LambdaRail (NLR) will promote broadband deployment in rural areas for health care.

[1] NTCA is a premier industry association representing rural telecommunications providers. Established in 1954 by eight rural telephone companies, today NTCA represents 585 rural rate-of-return regulated telecommunications providers. All of NTCA's members are full service rural local exchange carriers (LECs) and many of its members provide wireless, cable, Internet, satellite and long distance services to their communities. Each member is a "rural telephone company" as defined in the Communications Act of 1934, as amended (Act). NTCA's members are dedicated to providing competitive modern telecommunications services and ensuring the economic future of their rural communities.
[2] *In the Matter of Rural Health Care Support Mechanism*, WC Docket No. 02-60, Notice of Proposed Rulemaking (rel. July 15, 2010) (NPRM). NTCA's silence on any positions raised by parties in these proceedings connotes neither NTCA's agreement nor disagreement with their positions or proposals.

Concerns expressed about the potential for overbuilding of existing networks highlight the need to provide interested parties with adequate flexibility and opportunity to comment on applications as recommended by NTCA. Verizon and Verizon Wireless, for example, assert that: "it does not make sense to build new broadband facilities where the marketplace already provides network access."[3] The Montana Telecommunications Association (MTA), the Montana Independent Telecommunications Systems, and the Health Information Exchange of Montana comments describe an overbuild scenario involving a rural health care pilot program participant in Eureka, Montana that, if replicated elsewhere, demonstrates clearly the need for external comment on a pending application for new network construction.[4] Commenters including the MTA and the American Telemedicine Association (ATA) stress the importance of looking first to existing networks before funding new construction.[5] NTCA agrees that the Commission must review carefully those RHC applications that propose duplication of existing telecommunications facilities. The ATA concurs in expressing the need to avoid overbuilding as an unnecessary waste of limited USF resources.[6] Verizon similarly notes that "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."[7] NTCA agrees.

A robust 60-day comment process will permit existing broadband providers to provide valuable insight regarding risks of overbuilding, claims regarding unavailable service, or assertions about the status of broadband service that is currently available, as well as information on the potential efficiency of upgrading existing facilities in lieu of constructing new facilities. USAC should not be forced to rely on the NTIA's national broadband mapping project alone to

[3] Verizon and Verizon Wireless (Verizon) Comment, p. 3.
[4] Montana Telecommunications Association (MTA) Comment, pp. 12-13; Montana Independent Telecommunications Systems Comment, pp. 5-6; Health Information Exchange of Montana (HIEM) Comment, p. 2.
[5] American Telemedicine Association (ATA) Comment, p. 5; MTA Comment, p. 4.
[6] ATA Comment, pp. 5, 13.
[7] Verizon Comment, p. 4.

determine whether adequate broadband services are available in a given area. The map, once completed, will only offer a snapshot in time of broadband availability – but that snapshot will become outdated fairly quickly and may not provide the granularity necessary. Allowing commenters to provide information that they deem relevant to consideration of the proposed project will offer USAC a more complete and accurate picture of availability and potential inefficiency in network investment. This will improve USAC's decision-making process and will enable better (and faster) use of existing networks where available or reasonably upgradeable. Consequently, the Commission should direct USAC to permit public comments via a website portal for 60 days after sufficient information regarding the application has been posted for public review.

Some commenters, such as the California Hospital Association, urge the Commission to allow in-kind contributions to meet the 15% RHC provider commitment.[8] These commenters contend that the 15% requirement is difficult for some RHC providers to meet, and that more RHC applicants could qualify for funding if their stake can be satisfied through in-kind contributions. The Commission should look carefully at applications that would rely upon in-kind contributions to achieve sustainability, especially those applications that rely on use of excess fiber capacity as their contribution. The Illinois Health Net, for example, encourages the Commission to permit RHC applicants to use fiber strands as an eligible source of funds for sustainability.[9] The apparent theory is that the excess capacity created by extra fiberoptic strands will generate revenues sufficient to meet the 15% contribution requirement and thereby promote sustainability.

Although looking to anticipated revenues from anticipated excess capacity may facilitate applications, this creates greater risk of unnecessary overbuilding and greater uncertainty that the

[8] California Hospital Association Comment, pp. 1-2; HIEM Comment, p. 3; Rural Nebraska Healthcare Network Comment, p. 11.
[9] Illinois Rural Health Net Comment, pp. 8-9.

projects are indeed sustainable – resulting in greater risk of potential stranded USF investment. The applicants would be relying on potential but uncertain future resale revenues associated with the capacity. Commenters have questioned the potential sharing of excess capacity. The MTA asserts: "the proposed rule exceeds the statutory authority of the Telecommunications Act."[10] The NPRM attempts to deflect this argument by saying that RHC provider traffic and costs can and should be allocated where excess capacity is shared with a non-RHC applicant.[11] This approach, however, reveals the complexity and potential irregularities involved in separating qualified and unqualified expenses and revenues. Verizon and Verizon Wireless correctly urge the Commission to "be cautious about allowing healthcare providers to share access to RHC fund broadband facilities."[12] This speculative approach to sustainability presents substantial risk, and the Commission therefore should not approve applications that will use in-kind contributions and rely on revenues from excess capacity to satisfy the 15% contribution requirement.

Finally, several commenters observe that the NPRM appears to play favorites in permitting RHC providers to include the connecting costs (membership fees) of *only* Internet backbone providers NLR and Internet2 as an allowed expense.[13] As proposed in the NPRM, RHC participants can receive a discount up to 85% of the connection costs to the Internet backbones offered by NLR and Internet2.[14] As NTCA stated in its 2006 comments on the application of NLR to participate in the Rural Health Care Pilot Program, the Commission should allow rural health care providers and their local carriers to have more choices for access to a dedicated national backbone.[15] AT&T and Verizon concur.[16] Restricting hefty discounts for connection and service fees to the Internet backbone to just two backbone providers will not

[10] MTA Comment, p. 10.
[11] NPRM, ¶ 73.
[12] Verizon and Verizon Wireless Comment, p. 1.
[13] Verizon Comment, p. 6; AT&T Comment, pp. 2-4.
[14] NPRM, ¶ 13.
[15] *In the Matter of Rural Health Care Support Mechanism, Petition for Reconsideration or, In the Alternative, Clarification Filed By National LambdaRail, Inc*., WC Docket No. 02-60, NTCA Initial Comments (filed Nov. 21. 2006) , pp. 1, 4, 5.
[16] AT&T Comment, pp. 3-4; Verizon Comment, pp. 6-7.

maximize RHC providers' options for service, nor is such a restriction in the public or program interest.

For these reasons, the Commission should permit a 60-day comment period on RHC applications posted on the USAC website to provide up-to-date information on broadband services availability, potential for overbuilding, and other information relevant to consideration of the applications. The Commission should screen carefully projects that present the likelihood of overbuilding existing network facilities, and should reject applications that rely on shared excess capacity to meet the 15% contribution requirement. Finally, the Commission should ensure that RHC participants can receive discounts on Internet backbone service from providers in addition to Internet2 and NLR.

Respectfully submitted,

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CERTIFICATE OF SERVICE

I, Rita H. Bolden, certify that a copy of the foregoing Reply Comments of the National Telecommunications Cooperative Association in WC Docket No. 02-60, FCC 10-125, was served on this 23rd day of September 2010 via electronic mail to the following persons:

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