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

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

**Reply Comments of  
Modern Technologies Group/AirCom Consultants, Inc./Quality Towers Ltd**

**I. Introduction**

Modern Technologies Group, AirCom Consultants,<sup>1</sup> and Quality Towers Limited<sup>2</sup> (“MTG/AirCom/QTL”) respectfully submit these reply comments in response to comments filed in the Notice of Proposed Rulemaking (“NPRM”) issued by the Federal Communications Commission (“FCC” or “Commission”) in the proceeding referenced above.<sup>3</sup>

MTG/AirCom/QTL applauds the FCC for recognizing the importance of broadband in delivering healthcare services to rural and tribal lands whose access to infrastructure and services have lagged their urban/suburban counterparts. Through the rural health care support mechanism

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<sup>1</sup> The Arizona-based Modern Technologies Group and AirCom Consultants have over 35 years of specialized experience in building telecommunications infrastructure to rural and tribal lands, including providing rural health care facilities. Its principal, Rhonda McKenzie, brings a wide range of experience and knowledge including as an executive with major telecommunications carriers, an entrepreneur founding and running successful telecommunications companies, and as an M.B.A and as a Ph.D. in Public Policy with Health Care Informatics CCHIT certification.

<sup>2</sup> Quality Towers Limited has over 35 years of experience in tower construction for delivering telecommunications and broadcast services. Its principal, George Jackson, has a wide range of experience and knowledge owning and operating several successful telecommunications companies and is well-versed in the challenges of building infrastructure in rural America.

<sup>3</sup> FCC, In the Matter of Rural Health Care Support Mechanism, Notice of Proposed Rulemaking, [hereinafter “NPRM”], WC Docket No. 02-60, July 15, 2010.

programs, the FCC is positioned to bring much needed infrastructure to communities neglected by traditional carriers.

In Arizona, native tribes and rural communities are especially in need of broadband facilities. For a long time, these communities' broadband needs have been overlooked. Various groups have made promises to these communities regarding broadband infrastructure, but many have not delivered, especially to meet these communities' growing healthcare needs. Dedicated broadband access for health care services can bring benefits, which are already experienced by urban counterparts who have access, such as improved quality of care, reduced cost of care, greater training and research opportunities as well as improved coordination to health providers. As the NPRM recognizes, and as many commenters have pointed out, the FCC has the opportunity in this proceeding to make a significant difference to health care delivery in these overlooked communities.<sup>4</sup>

MTG/AirCom/QTL notes the support that other commenters gave to issues which we found of importance. We further highlight actions that will be important to ensure both wide participation in the program and positive outcomes. The broadband health care needs are too great in these communities to be hamstrung by well-intentioned, but overly burdensome rules. Inflexible rules

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<sup>4</sup> MTG/AirCom/QTL observes that the FCC's programs complement other Recovery Act programs to bring broadband to unserved and underserved areas. For example, the National Telecommunications and Information Administration awarded a Broadband Technology Opportunities Program (BTOP) grant to GovNET, LLC to construct middle mile infrastructure in Arizona. Applicants in the FCC's Health Infrastructure Program are poised to leverage projects such as this to extend the reach of facilities to rural health providers. The FCC can further extend the benefits of Recovery Act projects in achieving important national objectives.

could undermine the functioning of these programs to bring broadband to rural communities.

The following list highlights actions that the FCC should prioritize in its final rules.

- Streamline program administration to reduce burdens and to increase the number of potential applicants;
- Expand the scope of eligible costs to include program administration and legal expense necessary for infrastructure;
- Promote projects that propose higher broadband speeds to meet current and future applications;
- Reduce the matching requirement on a need basis and allow in-kind contributions including spectrum;
- Increase the funding available for this infrastructure program;
- Use compliance with the Office of the National Coordinator for Health IT 2014 deadline for electronic health record use as a measure for how participants are utilizing dedicated broadband health care networks;
- Incentivize participation of small and women business owned enterprises.

## **II. Streamline Program Administration to Reduce Burdens and to Increase the Number of Potential Applicants**

Rural health care providers face many challenges in bringing care to the communities they serve. Managing the development and operation of a broadband service brings a new challenge to these providers. As the University of Hawaii identifies in its comments in reference to the FCC's predecessor pilot program, "program administration is one of the major challenges."<sup>5</sup> In separate comments, the American Hospital Association (AHA) and the California Hospital Association express concern that a program that is too administratively burdensome will reduce participation and urge the Commission to streamline processes.<sup>6</sup>

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<sup>5</sup> Comments of University of Hawaii, WC Docket No. 02-60, p 1.

<sup>6</sup> Comments of American Hospital Association, WC Docket No. 02-60, p 2; Comments of California Hospital Association, WC Docket No. 02-60, p 2.

For the proposed programs, rural health care providers that are often understaffed and limited in resources will have similar challenges with program administration. The FCC should craft rules that reduce these administrative burdens. California Telehealth Network and UC Davis (CTN/UCD) ask the FCC not to apply a one-size-fits all model to program administration.<sup>7</sup> CTN/UCD recommends allowing a percentage of project funds to be used for administrative expenses beyond a set dollar limit of \$100,000. For larger projects that may be statewide, a set limit does not reflect the complexity of program administration and is inadequate. Further, limiting administrative expenses on a dollar ceiling could prevent applicants from pursuing funds, if they have to incur additional expenses beyond the matching requirement. University of Hawaii suggests taking several steps to streamline grant processes, including adopting electronic submission of documents, removing wet signature requirements, and streamlining the process for reimbursements.<sup>8</sup> MTG/AirCom/QTL agrees with the comments of CTN/UCD and the University of Hawaii and urges the FCC to consider implementing appropriate measures to reduce programmatic administration burdens.

### **III. Expand the Scope of Eligible Costs to include Program Administration and Legal Expenses Necessary for Infrastructure**

Most rural health care providers have little experience in managing telecommunications infrastructure projects. The AHA notes that “structuring and management of communications

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<sup>7</sup> Comments of California Telehealth Network and UC Davis, WC Docket No. 02-60, p 14.

<sup>8</sup> Comments of University of Hawaii, WC Docket No. 02-60, p 2. (Preapproval of project timelines, budgets, and the setting of strict administrative rules that would allow for greater self-management are mechanisms that could help facilitate reimbursement processes.)

services are not primary disciplines for health care facilities.”<sup>9</sup> As a result, providers will require assistance in many areas to bring forward projects to serve their broadband needs. The Rural Nebraska Healthcare Network observes the difficulties faced by participants in the Pilot Program in developing health care broadband networks and the support required to get through the process.<sup>10</sup> A rural health care provider will require assistance to implement the goals of the program.

The NPRM proposes sharp lines designating eligible and ineligible costs. However, in light of the assistance required, the list of ineligible costs is overly broad. The Rural Nebraska Healthcare Network requests eligibility for personnel, travel, legal, program administration, and technical consultation and coordination as these expenses are necessary to deploying broadband networks.<sup>11</sup> In addition, the AHA supports expanding the eligible expense list to include consulting, administrative and legal expenses. Nebraska Statewide Telehealth proposes adding legal costs and the cost for ensuring technological redundancy as eligible expenses.<sup>12</sup>

Along these lines, MTG/AirCom/QTL supports an expansion of eligible costs needed to develop and manage broadband health care networks. Without more support rural health care providers will have even greater difficulties in obtaining the broadband access they desperately need.

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<sup>9</sup> Comments of American Hospital Association, WC Docket No. 02-60, p 2.

<sup>10</sup> Comments of Rural Nebraska Healthcare Network, WC Docket No. 02-60, p 7.

<sup>11</sup> Comments of Rural Nebraska Healthcare Network, WC Docket No. 02-60, p 8.

<sup>12</sup> Comments of Nebraska Statewide Telehealth, WC Docket No. 02-60, p 4

#### **IV. Promote projects that propose higher broadband speeds to meet current and future applications**

Reflecting the difficulty of obtaining broadband in rural areas and the associated expenses, commenters voice support for a wide range of minimum broadband speeds. Some propose slower speeds for single providers and speeds up to 100 Mbps for large hospitals. Iowa Health System seeks a target speed of 1 Gbps and saw 100 Mbps as the minimum required for video applications.<sup>13</sup> In its comments, the Health Information Exchange of Montana (HIE – MT) recognizes varying broadband needs based on different applications. It cautions the Commission against implying that a minimum bandwidth speed represented adequate bandwidth requirements.<sup>14</sup>

No clear consensus emerges in the record regarding minimum broadband speeds. However, as MTG/AirCom/QTL stated in its comments, applicants that propose higher speeds should be given additional consideration. This approach allows health care providers the flexibility to fashion projects to their needs while providing an incentive to develop higher speed projects. MTG/AirCom/QTL is aware of the broadband challenges that face rural health care providers and believes a flexible approach should be implemented.

#### **V. Reduce the matching requirement on a need basis and allow in-kind contributions, including spectrum**

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<sup>13</sup> Comments of Iowa Health System, WC Docket No. 02-60, p 3.

<sup>14</sup> Comments of Health Information Exchange of Montana, WC Docket No. 02-60, p 21.

Rural health care providers are typically financially strained with very limited budgets. The NPRM proposes a 15% matching requirement. However, many commenters conclude that rural health care providers may have difficulty obtaining the match, which would preclude them from applying for funds. Commenters taking this position include the HIE-MT, Arizona Rural Health Office, Rural Wisconsin Health Cooperative, the California Hospital Association, and the Nebraska Statewide Telehealth Network. Some of the commenters propose a waiver process to allow them to obtain more than 85% funding, such as the Nebraska Statewide Telehealth Network and the California Hospital Association. A strong consensus emerges to allow in-kind, non-financial contributions to satisfy the matching requirement. This view is taken by both those who believed 15% was an appropriate match (University of Hawaii, Internet2) and others who see the burden that the 15% matching requirement placed on rural health care providers. (Arizona Rural Health Office, Rural Wisconsin Health Cooperative, California Hospital Association). Other commenters also ask the Commission to allow in-kind contributions, such as Illinois Rural HealthNet and the Iowa Health System.

MTG/AirCom/QTL agrees with commenters that note the 15% matching requirement is too high a threshold for rural health care providers. The Commission should allow a waiver process for those providers that can demonstrate that a higher percentage of funding is warranted.

MTG/AirCom/QTL supports commenters who advocate for non-financial in-kind contributions to satisfy matching requirements, such as fiber optic cabling and spectrum licenses.

## **VI. Increase the funding available for the infrastructure program**

Commenters recognize the cost and complexity of bringing broadband infrastructure to rural communities. By definition, rural communities are far from metropolitan areas that have greater

access to backbone connectivity. These areas are hard to reach and may be situated in areas surrounded by mountains or other obstacles that prevent cost-effective build out of broadband services. The NPRM currently caps the infrastructure program at \$100 million a year. CTN expresses its belief that this was the wrong approach and it is not the time to slow roll the “birth of telehealth networks” and urges the Commission to be aggressive in supporting the building of networks, especially in light of national health care and broadband reform efforts.<sup>15</sup> The Rural Nebraska Healthcare Network cautions the Commissions against capping the infrastructure program at \$100 million. The Rural Nebraska Healthcare Network observes that limits on infrastructure funding can have the effect of inhibiting potential applicants from bringing forth projects.<sup>16</sup> These comments mirror MTG/AirCom/QTL comments. MTG/AirCom/QTL fully supports increasing available funding in the program for the aforementioned reasons. While MTG/AirCom/QTL sought an increase to \$150 million, the CTN request to increase available infrastructure funding to \$200 million may be more appropriate.

**VII. Use compliance with the Department of Health and Human Services ONC’s 2014 EHR deadline to measure how participants are utilizing dedicated broadband health care networks**

The NPRM asks for comments on a proposal to require participants of the program to specify how they will use the networks for which they seek funding to improve or provide health care delivery. The NPRM also asks for comments on how to monitor how participants are utilizing the broadband networks for health IT purposes.<sup>17</sup> MTG/AirCom/QTL proposes that the

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<sup>15</sup> Comments of CTN/ UCD, WC Docket No 02-60, p 13.

<sup>16</sup> Comments of Rural Nebraska Healthcare Network, WC Docket No. 02-60, p 21.

<sup>17</sup> NPRM at para 53.

Commission measure and monitor participants' use to achieve the goal set by the American Reinvestment and Recovery Act (ARRA or the Recovery Act) for each person to have an electronic health record by 2014.

The Recovery Act established the Office of the National Coordinator for Health Information Technology (ONC). The Recovery Act directed the National Coordinator to work with other Federal agencies to set milestones for electronic exchange of health record, the use of electronic health records for each person in the United States by 2014, and other strategic Health IT initiatives.<sup>18</sup> Rural health care providers need broadband infrastructure to fully realize the benefits of using electronic health records. Using compliance with the electronic health record 2014 target as a measure of how participants use new broadband facilities provides a synergistic target for providers as it updates to digital record keeping. This compliance measure furthers the important goal of digitizing health records and promotes proper use of broadband by rural providers to achieve national Health IT objectives.<sup>19</sup> MTG/AirCom/QTL supports program participants using new infrastructure to support meeting the 2014 goal.

### **VIII. Incentivize participation of small and women business owned enterprises**

MTG/AirCom/QTL reiterates the need for the programs to foster the participation of small business enterprises (SBEs) and women-owned enterprises (WBEs). SBEs and WBEs participation mean more skilled jobs for the rural communities where these networks will be built. The Commission should reduce barriers from WBE and SBEs from applying for or

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<sup>18</sup> American Reinvestment and Recovery Act, Public Law 111-5, approved Feb. 17 2009.

<sup>19</sup> NPRM at para 53.

bidding on contracts. For non-profit SBE or WBEs acting as consortium leaders, the Commission should consider reducing capital matching requirements and increasing the performance bond minimum requirement for contracts of \$300,000 or higher from the current \$150,000 floor. Reducing the administrative burdens as discussed previously will also help SBE and WBE participation. The FCC has been proactive in soliciting WBE and SBE involvement in its telecommunications programs and should continue these efforts, where possible, in these programs.

## **IX. Conclusion**

MTG/AirCom/QTSL applauds the FCC efforts to expand its Rural Health Support Mechanism with the creation the Health Infrastructure Program and the Health Broadband Services Program. These programs can bridge the digital divide that rural communities experience in health care. However, the Commission must ensure the rules for these programs align with the realities of rural health care providers, who often suffer from knowledge, experience, and infrastructure gaps when it comes to the challenges of building dedicated broadband networks. Onerous rules could limit the effectiveness of the program and the corresponding benefits it hopes to bring.

In Arizona, after years of being left behind and the growing health care problems its rural communities face, the nation cannot afford suboptimally designed programs. Commercial broadband providers have often overlooked these hard to reach communities leaving rural and Native American communities, literally and figuratively, in the desert. The Commission's efforts in bringing broadband infrastructure to these communities can create a true "broadband oasis".