

December 9, 2010

## VIA ELECTRONIC FILING

Sharon Gillett, Chief  
Wireline Competition Bureau  
Federal Communications Commission  
445 12th Street, S.W.  
Washington, DC 20554

**Re: WC Docket No. 02-60; Request to Extend Rural Health Care Pilot Program  
Funding Deadlines for Funding Commitments and Invoicing**

Dear Ms. Gillett:

On behalf of the New England Telehealth Consortium (“NETC”), I write to request the Wireline Competition Bureau (“WCB”) grant a six-month extension of the Rural Health Care Pilot Program (“Pilot Program”) deadline to apply for funding commitments from the Universal Service Administrative Company (“USAC”). NETC also requests a one-year extension to the five-year period to invoice USAC for Pilot Program funds.

NETC acknowledges and appreciates that the WCB previously extended the deadline to apply for funding commitments by one-year, until June 2011.<sup>1</sup> However, for the reasons discussed below, NETC believes there is good cause to grant a further six-month extension to NETC, until December 31, 2011. NETC is taking full advantage of the current one-year extension and has

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<sup>1</sup> *Rural Health Care Support Mechanism*, WC Docket No. 02-60, Order, 25 FCC Rcd 1423 (Wireline Comp. Bur.2010) (2010 Pilot Program Extension Order). The Commission has delegated authority to WCB to waive relevant Commission rules “to the extent they prove unreasonable or inconsistent with the sound and efficient administration of the Pilot Program.” See *Rural Health Care Support Mechanism*, WC Docket No. 02-60, Order, 22 FCC Rcd 20360, ¶ 124 (2007) (2007 Pilot Program Selection Order); see also 2010 Pilot Program Extension Order at ¶ 6.

made significant progress, thus demonstrating a substantial likelihood of achieving the objectives set forth in our Pilot Program application. When complete, NETC's network will serve 477 health care locations serving rural residents throughout Maine, New Hampshire and Vermont. With over \$24 million in potential funding, NETC is one of the largest of the Pilot Program projects.

### Background

As reported previously, NETC filed its first Form 465 in May 2008, identifying expected NETC participants for purposes of a network design request for proposals ("RFP"). However, NETC's Form 465 and RFP were not approved by USAC for posting until December 2008. On March 16, 2009, USAC rejected NETC's first Form 466A and related vendor selection documentation because USAC believed the selection criteria description and documentation of the selection process was insufficient to justify selection of a network design vendor. On January 21, 2010, after a further nine month delay, NETC received its first Funding Commitment Letter ("FCL") from USAC in the amount of \$746,134.25 to procure the design for the NETC network. That design was completed in June 2010 and NETC has since prepared RFPs for vendors to implement that design. USAC is in the final stages of reviewing those RFPs and NETC hopes to post the Form 465 and RFPs by December 31, 2010. Vendor selection could begin 28 days later, leaving five months to select among competing vendors and negotiate vendor contracts. Because no single vendor will likely be able to serve the entire NETC footprint, NETC expects to have to negotiate and seek USAC approval for multiple vendor contracts.

NETC staff and management have invested thousands of hours into procuring and administering the NETC project. Under the current rules, none of those costs are or have been eligible for Pilot Program funding. To date, NETC participants have expended over \$1,296,000 in administrative costs to move the project forward. With the continued support of its members, NETC continues to work diligently and remains optimistic that it will complete the RFP posting, vendor selection, and contract negotiations by the current June 2011 deadline. Nevertheless, the potential remains for unforeseen delays. Such delays could prevent NETC from obtaining some or all of the funding commitments for which it would otherwise be eligible, thus jeopardizing the project.

### Request to Extend Deadline to Apply for Funding Commitments

On February 18, 2010, in response to extension requests from 17 of the 62 Pilot Projects (including NETC), WCB granted a one-year extension to the deadline for Pilot Projects to request FCLs from USAC. WCB acknowledged that Pilot Program projects faced a variety of obstacles in meeting the original June 2010 deadline including complex program requirements and processes and associated paperwork preparation time, the economic downturn, and the complexity of preparing and posting RFPs and "negotiating with vendors for complex networks."<sup>2</sup> WCB specifically noted the challenges faced by projects "with many participating sites in their networks (often exceeding 200) [experiencing] delay due to the extensive

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<sup>2</sup> See *id.* at ¶ 5.

coordination necessary to deploy their networks to these facilities.”<sup>3</sup> WCB concluded that a waiver of the deadline for all participants was necessary to avoid “substantial hardship” to projects thereby “endangering [their] success,” and ultimately found that “waiver of the [funding year] deadline services the public interest and is consistent with the sound and efficient administration of the Pilot Program.”<sup>4</sup>

NETC continues to face many of the obstacles identified by WCB in the first extension grant. Certainly, the high number of health care providers – 477 – to be served by NETC presents an ongoing challenge. In addition, the continuing economic difficulties combined with challenges presented by health care reform have placed many of our members under additional pressures. Yet these new and continuing challenges make the success of the NETC project more important than ever.

NETC has been working diligently since September to obtain USAC pre-approval of its sites, scoping documents and sustainability plan in order to be able to submit Form 465 and related documents to solicit vendors to build and operate the network. Following the required 28-day bidding period NETC must evaluate all vendor proposals received (possibly as many as 40), thoroughly document its selections and selection process, obtain USAC approval of its selected vendors, negotiate appropriate contracts with selected vendors and prudently obligate over \$24 million – all prior to June 30, 2011.

With a six-month extension of the current program deadline, NETC can ensure that it accomplishes our shared goal of serving health care facilities throughout Maine, New Hampshire and Vermont. Such a result would be in the public interest and would avoid a great disservice to the rural residents in these states. The Pilot Program has already provided critical funding to assist NETC in designing a network that is poised to become a reality for rural communities across New England. We remain very excited about this opportunity and believe our actions thus far demonstrate our commitment to use our available time and our available funding to successfully implement an efficient and high quality health care network in Maine, New Hampshire and Vermont.

For all of the above reasons, we respectfully request a six-month further extension of the Pilot Program deadline to apply for funding commitments, until December 31, 2011.

#### Request to Extend Deadline for Invoicing

The Commission has established a five-year deadline period for Pilot Program participants to invoice for the support for which they have received FCLs.<sup>5</sup> This five-year period begins for each participant “from the date of [their] initial FCL.”<sup>6</sup> NETC received its initial FCL on January 21, 2010 and therefore NETC’s invoicing deadline is currently January 21, 2015.

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<sup>3</sup> *Id.*

<sup>4</sup> *Id.* at ¶¶ 6-7.

<sup>5</sup> 2007 Pilot Program Selection Order at ¶¶ 4, 35, 94.

<sup>6</sup> *See id.* at ¶ 94.

However, because a significant number of NETC's 477 locations may not be able to connect into the network until as late as 2013, they may not be able to take advantage of the full five years of potential support.

Indeed, as noted by the Michigan Public Health Institute ("MPHI") Pilot Project in their recent request to extend the invoicing deadline,<sup>7</sup> the current five-year deadline provides projects that wait until the last minute to get their FCLs a potentially unfair advantage over projects that obtained their FCLs early.<sup>8</sup> This certainly applies with regard to projects such as NETC that obtained a design FCL which added an additional one to two years of time between when the design FCL was approved and when the FCLs that implement the design reasonably could be obtained. NETC also agrees with MPHI that because invoicing will already occur for some projects well into 2016, it would impose no significant administrative burden on USAC or the FCC to allow all projects to invoice until that time. Accordingly, we respectfully request that NETC's invoicing deadline be extended from January 2015 to January 2016.<sup>9</sup>

Should you have any questions or require any additional information, please contact me at (207) 973-3511.

Sincerely,



Brian Thibeau, President  
New England Telehealth Consortium

cc: Trent Harkrader, Chief, Telecommunications Access Policy Division  
Ernesto Beckford, Attorney Advisor  
Jamie Susskind, Attorney Advisor

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<sup>7</sup> See Letter from Jeffrey R. Taylor, Executive Director, MPHI to Sharon Gillett, Chief, FCC WCB, November 17, 2010, <http://fjallfoss.fcc.gov/ecfs/comment/view?id=6016061748> (December 6, 2010, 10:29 EST) (*MPHI Letter*).

<sup>8</sup> Depending on when USAC issues initial FCLs for such projects (which could be weeks after the current June 30, 2011 date to apply for a funding commitment), they will be able to invoice well into 2016.

<sup>9</sup> Notwithstanding, NETC supports the suggestion by the MPHI that WCB modify the invoicing deadline for all Pilot Program participants to run from the date of *each* FCL rather than from the date of each project's *initial* FCL. See *MPHI Letter* at 2.