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December 17, 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 for Additional Pilot Program Funding

Dear Ms. Gillett:

On behalf of the Oregon Health Network (“OHN”), I write to request the Wireline Competition Bureau (“WCB”) provide additional Rural Health Care Pilot Program (“Pilot Program”) funding to OHN. OHN was initially awarded \$20.182 million in Pilot Program funding and has made effective use of that funding in establishing the first statewide telehealth and telemedicine network in Oregon. This record of achievement shows OHN will make effective use of additional funding. We make this request in part because a significant amount of the \$417 million the Commission set aside for the Pilot Program has been relinquished by other projects and will be lost unless WCB designates successor projects. Further, upcoming program deadlines make it increasingly likely more of the \$417 million will be unclaimed. OHN strongly believes relinquished or unused Pilot Program funding should be rededicated to successor projects such as OHN that have shown success with their original awards.

Accordingly, OHN is requesting \$46.2 million in additional Pilot Program funding to be expended over an eight-year period, through 2019. As explained further below, this additional funding would allow OHN to achieve the following goals:

- Allow existing eligible OHN members and the OHN Network Operations Center (“NOC”) to extend the 85% Pilot Program discount for their monthly recurring costs (“MRC”) for five additional years (from 2014 through 2019) at a cost of \$4.6 million per year, or \$23 million;
- Allow existing eligible OHN members to increase the amount of bandwidth they are obtaining to better reflect actual needs and to address Electronic Health Records (“EHR”) mandates established since the start of the Pilot Program. This would affect 62 estimated sites with under 100 mbps connections at a cost of \$650 thousand per year for eight years (from 2011 through 2019), or \$5.2 million;
- Allow OHN to add an additional 100 eligible health care provider members at a cost of \$3.6 million per year for eight years (from 2011 through 2019) or \$18 million.

Achieving these goals would bring further health and cost savings benefits to rural communities across the state. OHN has demonstrated it can realize the goals set forth above and believes the public interest and the objectives of the Pilot Program will be served if this request is granted.

Background

The Federal Communications Commission (“FCC” or “Commission”) established the Pilot Program “to examine ways to stimulate deployment of the broadband infrastructure necessary to support telehealth and telemedicine in those areas of the country where the need for such services is most acute.”¹ Sixty-two Pilot Program projects are currently eligible to receive up to \$417 million in funding. However, as the Commission has noted, as of July 2010, only 29 of the 62 Pilot Program projects had received funding commitments. While many of the projects without commitments continue to pursue them, it is clear some of the 62 projects are no longer active.² In addition, Pilot Program projects that do not meet the June 2011 deadline to request funding commitments will have their awarded but uncommitted Pilot Program funding no longer available for use.³

The Commission delegated authority to WCB to “waive the relevant sections of [the] rules . . . to the extent they prove unreasonable or inconsistent with the sound and efficient administration of the Pilot Program.”⁴ The Commission also specifically indicated: “In instances where a selected participant, including a consortium, is unable to participate in the Pilot Program . . . a successor

¹ See *Rural Health Care Support Mechanism*, WC Docket No. 02-60, Notice of Proposed Rulemaking, FCC 10-125, ¶ 6 (July 15, 2010) (*NPRM*); see also *Rural Health Care Support Mechanism*, WC Docket No. 02-60, Order, 22 FCC Rcd 20360 (2007) (*2007 Pilot Program Selection Order*).

² See, e.g., Letter from Bradley S. Williams, CIO, Kansas Board of Regents and Kan-Ed Executive Director, to Jeff Mitchell, Administrator, Universal Service Administrative Company, WC Docket No. 02-60 (Apr. 30, 2010), available at <http://fjallfoss.fcc.gov/ecfs/document/view?id=7020511858> (relinquishing \$3.8 million Pilot Program award). In addition, based on research on the FCC’s Electronic Comment Filing System, several Pilot Program projects have not filed quarterly reports in over two years, suggesting they are no longer active. These include Puerto Rico (\$7.4 million), North Dakota (\$286,000), and Penn State (\$894,000) and may include others. Even among projects that remain active, some have yet to post a request for proposals, the first step in the funding commitment process.

³ Up to \$3.9 million of OHN’s original \$20.182 million pilot award is at risk of not being committed by the June 2011 funding commitment deadline which is why OHN has separately requested a six-month further extension of the deadline. See Letter from Kim Lamb, Executive Director, OHN, to Sharon Gillett, Chief, Wireline Competition Bureau, FCC, WC Docket No. 02-60 (Dec. 14, 2010). Other Pilot Program projects have also requested a commitment deadline. See, e.g., Letter from Don Kelso, Executive Director, Indiana Rural Health Association, to Sharon Gillett, Chief, Wireline Competition Bureau, Federal Communications Commission, WC Docket No. 02-60 (Nov. 17, 2010). According to the most recent informal monthly report from the Universal Service Administrative Company, through November 2010 about \$114 million of the \$417 million available Pilot Program funding has been committed to projects, leaving \$303 million currently uncommitted. Projects will also have unusable Pilot Program funds if they are unable to expend committed funding during the five years available for invoicing. See *2007 Pilot Program Selection Order* at ¶¶ 4, 35, 94.

⁴ See *2007 Pilot Program Selection Order*, 22 FCC Rcd. at 20422, ¶ 124.



may be designated by [WCB].”⁵ WCB has previously designated successor projects where it was in the public interest and otherwise furthered the goals of the Pilot Program.⁶

Request for Unused or Relinquished Pilot Program Funds

OHN’s success utilizing its original Pilot Program award demonstrates OHN would be a worthy successor project for Pilot Program funds that have been relinquished or will be unused by other projects. OHN has shown it can provide the 15% required match from eligible sources and thus will be able to make use of the unused support. Indeed, OHN currently has 35 eligible health care providers live on its network, 68 in the process of being connected, and 56 expected to receipt committed funds by June 2011, for a total of 159 active OHN members.⁷ While this is a significant accomplishment, OHN urges WCB to help OHN maintain project momentum by granting this request. This would allow OHN to continue the generous Pilot Program subsidy for an additional five year period for existing members, increase bandwidths to levels OHN members now require (and could not have reasonably anticipated needing at the Pilot Program outset), and add up to 100 further eligible OHN participants.

Extending the Pilot Program for Existing OHN Members

Extending the Pilot Program subsidy for an additional five-year period will benefit health care in Oregon by ensuring OHN remains fully intact for a longer period of time. OHN staff could then continue their work to ensure our mostly rural sites maximize the value of their Pilot Program supported connections. This is critical as Oregon strives to support parallel federal initiatives to bring affordable broadband that in turn supports Department of Health and Human Services (“HHS”) and Centers for Medicare & Medicaid Services’ (“CMS”) initiatives such as the HITECH Act (requiring “meaningful use” of EHRs). OHN’s efforts are also supporting the use and adoption of telemedicine applications to enhance patient care, healthcare education, and interoperability of hospital networks.

Extending the Pilot Program subsidy for five more years will also allow for continued support to critical urban sites – especially Community Health Centers, Mental Health Centers, Urban Health Clinics, and Community Colleges. Under current (and proposed) Rural Health Care program rules, urban sites will not be eligible for support once the Pilot Program funding ends – and as a result these sites may begin to leaving OHN after May 2014 (OHN’s Pilot Program invoicing deadline). These facilities provide vital and critical care and education and, given the

⁵ *Id.*

⁶ See, e.g., *Rural Health Care Support Mechanism, Juniata Valley Network and Pennsylvania Mountains Healthcare Alliance Request for Merger of Rural Health Care Pilot Program Projects*, WC Docket No. 02-60, Order, DA 09-1782, ¶ 6 (Wireline Comp. Bur. 2009) (*Pennsylvania Mountains Merger Order*) (other merger orders cited therein).

⁷ See Letter from Jeffrey A. Mitchell, Lukas Nace Gutierrez & Sachs LLP, Counsel to OHN, to Marlene Dortch, Secretary, FCC, WC Docket No. 02-60, Attached slide presentation at 7 (dated Nov. 22, 2010).



impact of the continued economic downturn on Oregon and the demands being placed by HHS initiatives, their need for a supported connection to the OHN NOC has never been greater.⁸

Accelerating Demand for Greater Bandwidth

Allowing OHN members additional Pilot Program funding to obtain increased bandwidth levels under the Pilot Program is also critical to maximizing the value of the Commission's Pilot Program investment. Initial deployment of broadband, especially in largely underserved rural areas, came at a high cost for the early adopters who typically chose the minimum, least cost option of a 10Mbps connection. With the continued deployment of broadband infrastructure, spurred in part by the Pilot Program, and falling costs associated with more infrastructure and competition, not only can these health providers now afford higher bandwidths, but their technology needs are rapidly evolving to higher bandwidths in order to maintain required functionality. The HHS' meaningful use requirements are creating additional pressure to have the bandwidth needed to support EHRs.

Further, the continued adoption and use of bandwidth-intensive applications such as digital lab/radiology images, ePrescribing, remote patient consults using video conferencing, and robotic surgery are just a few of the types of uses and applications that are driving the demand for increased bandwidth levels that can support their use.

Growing OHN

Having completed the difficult initial work of establishing OHN, increasing the size of OHN membership would be a reliable way to make effective use of unused Pilot Program funding. Adding up to 100 eligible participants to OHN would increase the value of the network by opening new resources and referral opportunities to existing OHN members. Increased membership will strengthen the sustainability of OHN because participation (membership) fees are the primary funding stream to support regulatory compliance and network administration costs. OHN also supports the education, marketing, deployment, and administration needed for every eligible site. OHN believes the addition of 100 sites along with a restructuring of our participation fees will ensure OHN is able to cover operational overhead. Additional funding through grants, business development, and connection with non-eligible sites will also need to occur, but a large portion of our need to create sustainability will occur through achieving a greater critical mass of participating members.

OHN is a network that provides support, connection, and interoperability among participating sites. There are many more eligible sites in Oregon that would gain overall business and technology value through participation. Adding an additional 100 of such sites would increase the value of OHN to new and existing members as new members share patients with other

⁸ See, e.g., Corey Paul, *Leaders pull no punches at summit*, OregonBusiness, Dec. 14, 2010, available at <http://www.oregonbusiness.com/the-latest/4555-leaders-pull-no-punches-at-summit> ("Fiscal calamity or a decade of budget austerity loom for Oregon as the recession leaves thousands of Oregonians jobless and the demand for government money outpaces its ability to pay for services, business and political leaders agreed on Monday.").



hospitals, require the services of specialists from the larger hospital systems, expand their patient referral networks beyond current borders, focus on streamlined administrative processes to reduce cost, and ultimately look to the future of being part of an overall Health Information Exchange (“HIE”) solution in the State of Oregon.

Conclusion

FCC Rural Health Care programs including the Pilot Program have had a dramatic and positive impact on rural communities in Oregon in the last several years. OHN and Oregon’s rural residents remain grateful for this. But OHN has demonstrated that it can immediately make use of additional Pilot Program funding to further increase access to health care in Oregon’s rural communities. Effective use of relinquished or unused Pilot Program funding is clearly in the public interest. Moreover, if OHN’s request is granted, it will further “stimulate the deployment of the broadband infrastructure necessary to support innovative telehealth and, in particular, telemedicine services in areas . . . where the need for those services is most acute” – and thus will continue to further the goals of the Pilot Program.⁹

OHN therefore respectfully requests WCB provide OHN with \$46.9 million in unused or relinquished Pilot Program funding. In the event WCB fully or partially grants OHN’s request, OHN respectfully requests WCB also grant OHN additional time to obtain funding commitments for these newly available funds, and an additional five years to expend any newly committed funds.¹⁰

Should you have any questions or require any additional information, please contact me at (503) 344-3742.

Sincerely,

A handwritten signature in black ink, appearing to read 'Kim Lamb', is written over a light blue background.

Kim Lamb, Executive Director
Oregon Health Network

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

⁹ Cf. *Pennsylvania Mountain Merger Order* at ¶ 6.

¹⁰ OHN’s current invoicing deadline is May 2014, five years after the date of OHN’s initial funding commitment letters. The extension would thus be until May 2019. Alternatively OHN supports the suggestion by the Michigan Public Health Institute (“MPHI”) that WCB modify the Pilot Program invoicing deadline to run from the date of each FCL rather than from the date of the each project’s initial FCL. See Letter from Jeffrey R. Taylor, Executive Director, MPHI to Sharon Gillett, Chief, FCC WCB, WC Docket No. 02-60, at 2 (dated Nov. 17, 2010).