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*NOT ADMITTED IN VA

June 22, 2012

VIA ELECTRONIC FILING

Marlene H. Dortch, Secretary
Federal Communications Commission
445 12th Street, S.W., Room TW-B204
Washington, DC 20554

**Re: Notice of *Ex Parte* in WC Docket No. 02-60
Palmetto State Providers Network
FRC, LLC**

Madam Secretary:

In accordance with Section 1.1206 of the Commission's rules, 47 C.F.R. § 1.1206, we hereby provide notice of an oral *ex parte* presentation in connection with the above captioned proceeding. On June 20, 2012, W. Roger Poston, II, Director, Academic and Research Systems, Office of the CIO, Medical University of South Carolina, and Associate Project Manager of the Palmetto State Providers Network ("PSPN"), Larry Vincent, Vice President, FRC, LLC, ("FRC") and undersigned counsel met separately with Commissioner Clyburn, Louis Peraertz, Legal Advisor to Commissioner Clyburn, and A. Seth Atkisson, Law Clerk to Commissioner Clyburn; with Commissioner Pai, Nicholas Degani, Legal Advisor to Commissioner Pai, and Jeremy Pederson; with Priscilla Delgado Argeris, Legal Advisor to Commissioner Rosenwerchel; and, from the Wireline Competition Bureau ("WCB" or "Bureau"), with Lisa Hone, Acting Associate Bureau Chief, Office of the Bureau Chief, and Trent Harkrader, Division Chief, Attorney Advisors Christianna Barnhart, Linda Oliver, Mark Walker, and Chin Yoo, and Olivia Jahn, all of the Telecommunications Access Policy Division.

Although we discussed how PSPN has successfully utilized its \$7.9 pilot program award to implement a cost-effective statewide medical broadband network,¹ the purpose of our

¹ Please refer to the presentation slides attached to this *ex parte* notice and to PSPN's *ex parte* letter from January 2012. See Letter from Jeffrey Mitchell, on behalf of PSPN, to Marlene Dortch, Secretary, Federal Communications Commission, WC Docket No. 02-06 (Jan. 31, 2012) (*PSPN Ex Parte*).

meetings was to discuss the urgent need for the Commission to act promptly to provide “bridge” funding for those RHC pilot program participants who, like PSPN, will exhaust their pilot program awards this year.² This bridge funding is needed solely because the Commission has failed to timely implement proposed universal service reforms that would finally make it possible to obtain support for broadband through the RHC program.³ The proposed bridge funding will not impact the universal service contribution factor because funding will be provided from unused pilot program funding which was previously collected.⁴

We noted that if the Commission fails to act, 55 of the 120 sites on the PSPN network may be forced to drop off as soon as September 2012. Because many PSPN sites are small and/or very rural, they will have difficulty affording their connections without ongoing universal service support. Notably, such ongoing support was contemplated in PSPN’s USAC-approved sustainability plan.⁵ Moreover, ongoing support was reasonably anticipated by PSPN when it designed its network and was in fact proposed by the Commission almost two years ago as part of the proposed RHC reforms.⁶ We noted that continuing uncertainty as to the level of future funding for PSPN is already having a detrimental effect by discouraging the deployment of new cost-saving and life-saving applications across the network.

We also discussed the obstacles presented should PSPN attempt to migrate the 120 PSPN participants to the legacy or “primary” RHC program. Specifically, we noted that the legacy RHC program does not support consortium applications. This means PSPN sites would have to submit individual applications for RHC support rather than have a lead entity handle the

² See Public Notice, *Wireline Competition Bureau Seeks Comment on Funding Pilot Program Participants Transitioning out of the Rural Health Care Pilot Program in Funding Year 2012*, WC Docket No. 02-60, DA 12-273 (rel. Feb. 27, 2012) (*Bridge Funding PN*).

³ See *Rural Health Care Support Mechanism*, WC Docket No. 02-60, Notice of Proposed Rulemaking, 25 FCC Rcd 9371 (2010) (*RHC NPRM*). Ironically, PSPN and the other pilot projects that need bridge funding are victims of their own success: because they were the first pilot projects to establish their networks, they are the first projects to exhaust the recurring support that was available through the pilot program. Moreover, with all due respect to the Commission, it is inexplicable that here we sit in 2012 and the only support for advanced services through the currently configured RHC program is a 25% flat rate subsidy for Internet access. This seems to stand in opposition to the purposes of Section 254(h). See *Conference Report on S. 652, Telecommunications Act of 1996: Joint Explanatory Statement Of the Committee of Conference*, 142 Cong. Rec. H1078, 1112-1113 (“New subsection (h) of section 254 is intended to ensure that health care providers for rural areas . . . have affordable access to modern telecommunications services that will enable them to provide medical and educational services to all parts of the Nation. The ability of . . . rural health care providers to obtain access to advanced telecommunications services is critical to ensuring that these services are available on a universal basis. . . . This universal access will assure that no one is barred from benefiting from the power of the Information Age.”). Moreover, Congress clearly did not express any intent to prioritize the provision of advanced services for schools and libraries (“E-rate”) over rural health care facilities. Unfortunately, the Commission’s efforts modernizing the E-rate program continue to far outpace efforts on behalf of the equally important RHC program.

⁴ See *Bridge Funding PN* at ¶¶ 3, 5.

⁵ See PSPN RHC Pilot 14th Quarterly Report, at 42-53, <http://fjallfoss.fcc.gov/ecfs/document/view?id=7021717570> (“PSPN Sustainability Plan”).

⁶ See *RHC NPRM* at ¶¶ 90-113 (discussing proposed Health Broadband Services Program).

application on a consolidated network-wide basis. Not only would this process be extremely burdensome and costly to both PSPN and USAC, but the increased administrative burden alone will cause PSPN participants to withdraw from the network. However, the greater obstacle is that support amounts under the primary program will be zero for urban sites and will remain uncertain for rural sites until USAC completes a site-by-site support calculation using a formula that has yet to be determined.⁷ This process could take months during which time PSPN sites would be forced to take services “at risk.” Many if not most PSPN participants will be unable to accept such uncertainty and potential liability.

Thus, while we are exploring with USAC the possibility of migrating some PSPN sites to the legacy RHC program, we explained that this is not viable option for maintaining much less growing this network. Indeed, for the reasons already stated, notwithstanding efforts at migration, the network will lose a substantial number of participants starting in September 2012. If the Commission allows this to happen, it will immediately diminish the value of the funding already invested and will irreparably damage good-will in the state. Accordingly, we urged Commissioners and the Bureau to implement the proposed temporary bridge funding without further delay.

Finally, regarding PSPN’s need for ongoing universal support, we discussed how the Commission’s investment has already driven down the cost of broadband service and stimulated significant broadband investment in rural areas of the state. We noted that competitive procurement of a statewide network solution, which was made possible through the pilot program, further reduced costs through economies of scale and significant competition among potential vendors. We noted that the ability to realize such cost savings through the pilot program stands in contrast to the legacy RHC program where health care providers must apply for support individually and most cases receive no competitive offers for services.⁸ In addition, a significant amount of PSPN’s initial funding went to one-time costs that were necessary to implement the network but which are not needed on a recurring basis. For these reasons, we also urged the Commission to act on permanent RHC reforms before the end of 2012. This will allow the continuation of the proven, cost-effective universal service policies that were part of the pilot program, without the need for a further round of temporary bridge funding next year.

⁷ We previously discussed key differences between existing RHC program rules and the rules governing the pilot program and how those differences affect the amount of support potentially available to pilot projects under the legacy program. For example, unlike the pilot program, the legacy RHC program (1) does not support urban participants; (2) provides support to telecommunications providers only (not non-traditional service providers); (3) supports telecommunications services only (not broadband services); (4) provides support based on the urban-rural price difference rather than a fixed discount percentage (85% in the pilot program); and (5) has a distance-sensitive support limitation known as the Maximum Allowable Distance (“MAD”). See *PSPN Ex Parte* at 2, 4-5.

⁸ See Letter from Craig Davis, Vice President of Rural Health Care, USAC, to Sharon Gillett, Chief, WCB, FCC, WC Docket No. 02-60, 1-2 (dated May 30, 2012) (noting well over 80% of applications for support in the legacy RHC program receive no competitive bids in response to requests for service).

Marlene H. Dortch

June 22, 2012

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We appreciated everyone's time and obvious interest in this critical situation. If you have any questions or require any additional information, please contact undersigned counsel directly.

Sincerely,



Jeffrey A. Mitchell
Counsel for FRC, LLC

Enclosure

cc: Zach Katz, FCC
Michael Steffen, FCC

Palmetto State Providers Network

***Building on a Rural Health Care Pilot
Program Success Story***

W. Roger Poston, II, Ed.D.

Director, Academic and Research
Systems, Office of the CIO
Medical University of South Carolina

Larry Vincent

Vice President
FRC, LLC

Jeff Mitchell, Esq.

Lukas Nace Gutierrez & Sacks LLP
Counsel for FRC LLC



AGENDA



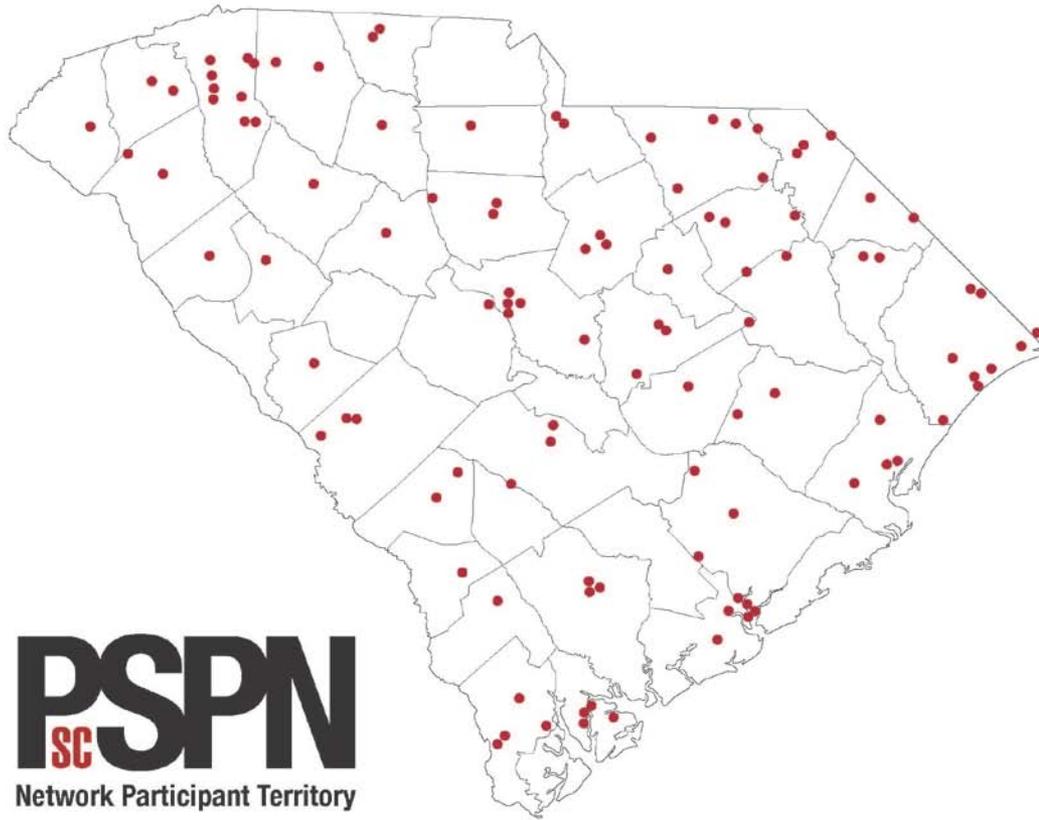
- Introduction
- Pilot Program Benefits
- PSPN Network Attributes
- Bridge Funding
- Rural Health Care Reform

RHC Pilot Program Success



- **\$7.9 million Award**
 - Competitively bid statewide health broadband network
 - 120 health care and health education providers connected
 - Projecting 100% utilization of Award
 - Network architecture dramatically reduced costs while increasing services and capacity
- **Network Highlights**
 - Network as a service
 - 10 MB to 1 GB Ethernet at edge
 - Postalized pricing
 - Sustainability contemplates continued RHC support

PSPN Participant Map



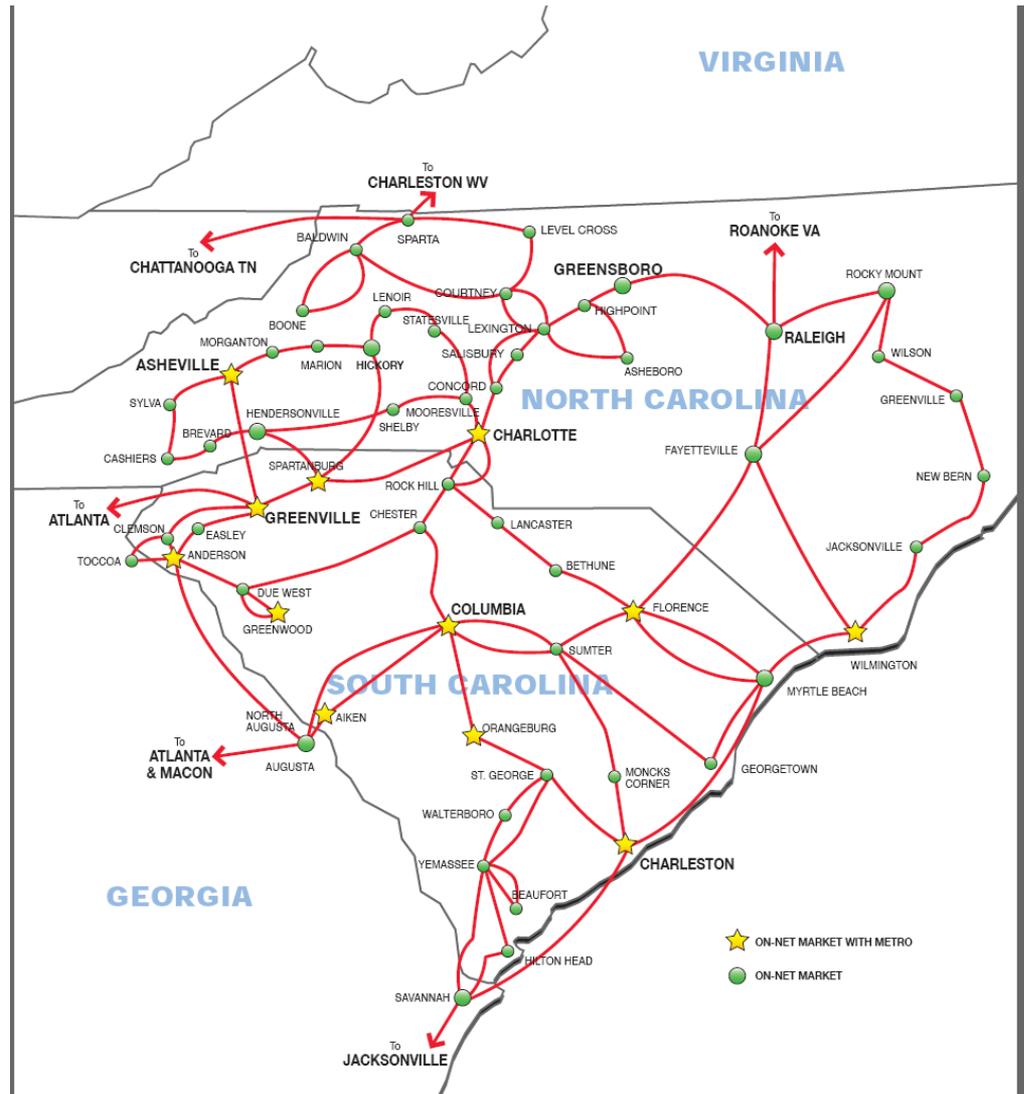
RHC Pilot Program Goals

- *“[E]xpressly designed to explore, from the ground up, how to best encourage the deployment of broadband facilities necessary to support the enormous benefits of telehealth and telemedicine applications.”*
 - RHCPP Selection Order at ¶ 15
- *“A primary goal of the Pilot Program is to ensure the long-term success of rural health care networks”*
 - RHCPP Selection Order at ¶ 54

Pilot Program Results in SC

- **Efficient Use of Scarce USF Dollars**
 - Increased competitive bidding
 - USAC notes little in legacy RHC program
 - More efficient network design (many-to-many)
 - Enabled replacement of outmoded and costly, low bandwidth, point-to-point connections
- **Stimulated broadband investment**
 - Last mile upgrades by local telcos
 - Joined to FRC backbone
- **Increase participation by SC health care providers**
 - Affordable price point
 - Consortium model centralized administrative burdens

PSPN/FRC Fiber Backbone Network

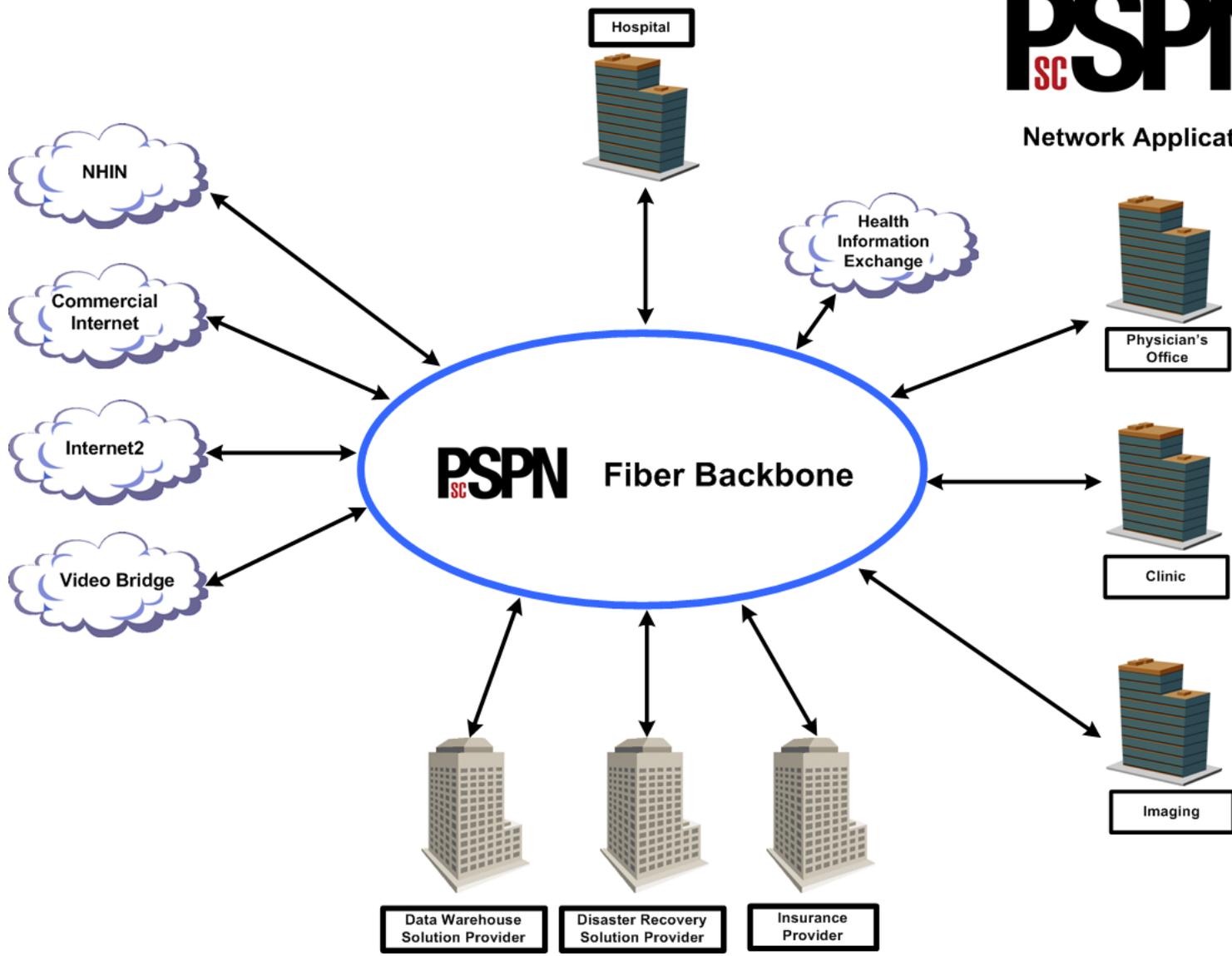


PSPN Network

- Any-to-any connection, similar to Internet
- Flat rate for connections anywhere on network
- A single, PSPN Ethernet connection serves multiple purposes
 - Internet
 - Private broadband
 - EMR
 - Telemedicine, video, etc
- Provides one invoice to USAC vs multiple invoices
- PSPN manages entire network except HCP's local LAN
- PSPN provides high bandwidth, private broadband for superior security and performance vs Internet

PSPN

Network Applications



Traditional HCP IT Connections

- Linear point-to-point circuits with single purpose
 - Results in many unnecessary connections to HCP
- Multiple vendors for local loop and long haul
- Longer connections often feature distance sensitive rates
- HCP manages multiple connections, security, performance, billing, etc.

Beyond the Pilot Program

- *RHC funding needed in FY 2012*
 - Pilot program funding runs out for many PSPN participants in September 2012
 - Wireline Bureau proposed “bridge” funding in February 2012
 - Needed because RHC reform never acted on (NPRM July 2010)
- *Impacts of Funding Uncertainty*
 - Participants cannot afford to be “at risk” for full or unknown cost of service
 - Participants will begin leave network as soon as October 2012
 - Undermines potential growth of network

RHC Reform – Issues

- *Timing*
 - Implement reformed RHC program by July 2013 to avoid need for further temporary “bridge” funding
- *Policy*
 - Allow consortium participation
 - Ensure adequate broadband services subsidy level
 - Recognize rural for-profit health care clinics and sole practitioners that either bill Medicare or have patient volumes consisting of a certain percentage of Medicaid beneficiaries as eligible “public health providers.”