



December 5, 2012

Ex Parte

Ms. Marlene H. Dortch
Secretary
Federal Communications Commission
445 12th Street, SW
Washington, DC 20554

Re: *Rural Health Care Universal Support Mechanism*, WC Docket No. 02-60

Dear Ms. Dortch:

On December 3, 2012, Megan Delany and Chris Nierman of General Communication, Inc. (“GCI”), and I, on behalf of GCI, met with Nicholas Degani, Legal Adviser to Commissioner Pai, regarding the above-referenced proceeding. On December 4, 2012, Ms. Delany, Mr. Nierman and I met with Christine Kurth, Policy Director and Wireline Adviser to Commissioner McDowell. On December 5, 2012, Ms. Delany, Mr. Nierman and I met with Angela Kronenberg, Legal Adviser to Commissioner Clyburn, and Patricia Argeris Delgado, Legal Adviser to Commissioner Rosenworcel.

In each meeting, the GCI attendees said that they supported the approach of avoiding substantive alterations to the rural healthcare Primary Program, and creating a new broadband support program that permitted health care providers to procure services as well as facilities. The GCI attendees provided each person with a copy of the attached summary of proposed process reforms that could be made to the Primary Program as well as any new program to better streamline the processes for applying for and distributing support. Notably, very few of these proposals would need to be effectuated through a rule change. Nonetheless, the Commission should take the opportunity presented by this order to direct USAC to make these long overdue changes. Making the Primary Program work better will make it more efficient for beneficiaries and providers alike, and could encourage more beneficiaries to utilize the program.

We also discussed that, in light of proposals to create a new program with unknown demand, it would be helpful to provide a better mechanism to address any potential situation in which demand exceeded supply. Under 47 C.F.R. § 54.623, were demand to spike dramatically to exceed the \$400 million cap, funds would be distributed on a pro-rata basis for all applications received during a specific filing window, but would otherwise be funded on a first-come, first-served basis.¹ This could lead to chaotic results, especially since USAC does not appear to have a filing window at this time, and one has never heretofore been necessary. In addition, shortfalls created by pro-rata reductions could be especially disruptive, as rural health care providers frequently procure services under multiyear contracts, and the providers have little money

¹ See 47 C.F.R. § 54.623(f).

available to “make up the difference” in the event that USF support is lower than was anticipated. GCI has many Primary Program-participating rural healthcare providers that it serves under multi-year contracts.

Given that the Commission is creating a new mechanism with unknown demand, at least until the levels of demand are known and the new mechanism can be refined, it would make sense to establish the Primary Program as Priority One and the new program as Priority Two. Rural healthcare support has been low to date, reaching a high of \$86 million in 2010 and declining slightly to \$81 million in 2011, according to USAC’s 2011 Annual Report. Thus, any significant growth that led to exceeding the cap would overwhelmingly come from the new program. This would allow the Commission to review and, if necessary, adjust its new program, while not disrupting the Primary Program, at least pending further review.

Finally, we noted that the Commission could make budget forecasting easier by requiring all applicants, including those in the Primary Program, to submit applications within 120 days of the start of the funding year, or the service start date. This would reform the application process, which currently permits applications to be filed for that entire funding year at any time during the year. By getting Primary Program applicants to file sooner, USAC and the Commission will have a better ability to monitor whether the rural healthcare mechanism will exceed the cap. This reform would also smooth out USAC’s workload and reduce the application backlogs that have plagued this mechanism.

Please let me know if you have any questions.

Sincerely,



John T. Nakahata
Counsel to General Communication Inc.

cc: Nicholas Degani
Christine Kurth
Angela Kronenberg
Patricia Argeris Delgado

Universal Service Rural Health Care Reform

Proposed Reform

- Applicants for all programs should be able to include multiple sites on a single application, and substitute site and services on applications where appropriate.
 - Eliminate the Primary Program requirement that each separate location must be treated as an individual health care provider with a separate application.
 - *Can be accomplished through changes in USAC procedures to allow multiple “providers” on a single application.*
 - *54.601 specifies that each separate site or location is considered an individual health care provider, but that doesn’t mean that these multiple providers cannot be processed in a single application.*
- Evergreen contract requirements should be simplified for all programs to apply to the whole contract, including service growth in out-years, as in e-rate, and to permit electronic filing of Form 466 in out-years.
 - *Can be accomplished through changes in USAC procedures or FCC interpretation of the existing competitive bidding requirement. 2010 NPRM proposed to codify the “evergreen” rule, but the proposed 54.641 should not prohibit the addition of services that were competitively bid as part of the initial bid, provided that they are addressed in the contract entered at the time of the contract.*
- Allow service providers online transparency to help correct errors, as in e-rate.
 - *Can be accomplished through changes in USAC systems. No rule changes are required. But it will happen faster if the Commission directs it.*
- Disburse support more than twice per year (reduces carrying costs).
 - *Can be accomplished through changes in USAC processes. Although support is currently required to be offset against contributions, contributions are billed monthly, while RHC support is only distributed twice per year. 54.611 does not mandate that distributions occur only twice per year.*
 - *Alternatively, make contribution offset optional, as proposed in the 2010 NPRM and as is the case for e-rate support.*
- Require applicants to submit their applications within 120 days of the start of the funding year, or of the service start date, whichever is later.
 - *While this could be done with USAC administrative guidance, it would best be done by rule.*
- Clarify that reimbursement for satellite services should not be capped by rates for unavailable terrestrial services.
 - *This could be done as a Bureau public notice or order, and does not require notice and comment as it is a simple declaratory ruling.*
- Expand eligible health care providers to include skilled nursing facilities, but without a “majority of beds” test in small communities that are unlikely to have more than one site.
 - *This requires a rule change. The 2010 NPRM proposed to expand coverage to certain skilled nursing facilities with a “majority of beds” test.*