



May 20, 2013

*Ex Parte Notice*

Ms. Marlene H. Dortch, Secretary  
Federal Communications Commission  
445 12<sup>th</sup> Street, S.W.  
Washington, D.C. 20554

**RE: Healthcare Connect Fund, WC Docket No. 02-60**

Dear Ms. Dortch:

InterBel Telephone Cooperative, Inc. (InterBel), hereby submits Ex Parte comments on the Healthcare Connect Fund.

**Background:** InterBel is a rural provider (RLEC) of communication services in Eureka, located in northwest Montana, serving 3,700 access lines. Our mission is to provide advanced services in our community and we continue to meet this challenge. InterBel has provided broadband since 1998, reaches 100% of our customers today, with an 80% take-rate having speeds up to 25 meg down and 10 meg up. InterBel has been involved with the local support of ERATE to schools, libraries and rural medical clinics. In 2000, InterBel assisted with building a Community Learning Center (equipped with 30 computers and a T-1 backbone). In 2001 we brought an ITV classroom to the High School for Distance Learning. In 2003, we initiated and worked with Eureka Prompt Care (AKA; Eureka Health) in obtaining ERATE funding for an existing T-1 they had from InterBel for years past.

**Competitive Overbuilds using RHCPP grant money:** On April 20, 2009, InterBel met with Kip Smith, CEO of HIEM (Health Information Education of Montana). Mr. Smith informed us of their recent approval for an RHCPP grant to over-build our fiber network over a 70 mile route, to reach only two rural medical clinics in Eureka. At the time, both clinics were already being served by InterBel with broadband capability; one with a T-1 and the other with a 6-meg DSL circuit. InterBel had plans in-place for a fiber to the premise upgrade, which was implemented in November 2009. Today the clinics are being served by InterBel with a symmetrical 20 meg circuit to one clinic and a symmetrical 10 meg to the second clinic.

In 2009, Mr. Smith stated, "their intention is to sell excess capacity (dark fiber) to generate revenue and share on-going operational costs of the HIEM network." This practice, if allowed, will essentially place InterBel in the position of competing with a grant funded network not only with HIEM for the two medical clinics, but with whoever else provides services through HIEM's "excess capacity" dark-fiber lease program.



**RHCPP Grant Application Process and Verifications:** InterBel questions what verification process is used in approving an RHCPP grants when complete fiber over-builds are being proposed. The HIEM, \$13.6 million RHCPP grant application was approved to build a fiber optic telecommunications network; alleging that “access to affordable, reliable bandwidth has been a serious constraint”<sup>1</sup>; when in fact there was no lack of bandwidth with nearly every facility sited in the application. Additionally concerning, was the Quarterly Report filed by HIEM for the reporting period ending September 30, 2010; stating “each organization will be charged the same dollar amount they are being charged at present, for T1, 500 MG, and GigE services after those institutions replace these services by utilizing the HIEM network.”<sup>2</sup> A table in the Quarterly Report, titled “Hiem Fiber Sustainability Plan” provides a 5 year revenue forecast with 9 of 10 HIEM member facilities using a mere T-1 on the proposed HIEM network over a projected 5-year period. Ironically, 7 of the 10 member facilities already had the T-1 transport from their existing incumbent providers.

**InterBel Support of MTA Filing:** InterBel supports the Ex Parte Notice of the Montana Telephone Association on April 29, 2013. Specifically, InterBel concurs with MTA’s Ex Parte Notice for the Health Care Connect Fund; Forms 460, 461, 462, and 463.3 MTA urges the Commission to observe certain principles in reviewing these forms:<sup>3</sup>

- Public notice of HCP RFPs should be as transparent and visible as possible. Interested stakeholders, including potentially interested stakeholders, should be given every opportunity to receive notice of HCP plans to apply for and/or receive Healthcare Connect funds, especially those that may involve construction projects. MTA is concerned that posting RFPs on USAC’s web site may be too passive. Stakeholders should not be expected simply to divine when or where a Healthcare Connect project is planned that may affect them either positively or negatively. The burden should be placed on the HCP to ensure that all

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<sup>1</sup> Application for Rural Health Care Network Pilot Program Project. WC Docket No. 02-60. A proposal Present for Consideration to the Federal Communications Commission. Submitted by Health Information Exchange of Montana, Inc. (HIEM). May 7, 2002. p.2.

<sup>2</sup> Quarterly Report. Rural Health Care network Pilot Program Project. WC Docket 02-60. Submitted by Health Information Exchange of Montana, Inc. Submitted April 29, 2009, for reporting period ending September 30, 2010. P. 11. Similar statements are made in each Quarterly Report filed by HIEM.

<sup>3</sup> Health Care Connect Fund. WC Docket No. 02-60. Ex Parte Notice of the Montana Telephone Association. April 29, 2013



reasonable measures have been undertaken to ensure that the maximum number of potential stakeholders are aware of the HCP's plans.

- Any projects that contemplate funding for construction should exhaust all options in considering whether construction in fact is the least cost alternative.<sup>4</sup> Again, the burden should be on the HCP to develop an RFP which fully explores all options before justifying any support for construction funds. For example, instead of seeking bids for an RFP for 100 miles of fiber, perhaps only 10 miles of construction would do. Similarly, perhaps a consortium of vendors rather than a single vendor would be the optimal use of vendors to minimize or obviate the need for construction. And as noted above, the burden should be on the RHP to explore all possible options for solving its network needs.

**InterBel Support of USTelecom Filing:** InterBel supports the Motion for Reconsideration filed by USTelecom on April 1, 2013. Specifically, InterBel concurs with USTelecom's request that the Commission "reconsider permitting and encouraging the speculative installation and resale of excess capacity." As USTelecom points out,

By 'sharing' excess capacity for a fee with ineligible users, which could include, for example, non-health care, for-profit businesses, the HCP is reselling network capacity in violation of the statute...Congress clearly contemplated the scenario of an HCP retaining ownership of the network capacity while leasing use of the network capacity to another...Similarly, the statute does not create a carve-out for HCPs that use the payments from reselling network capacity to others in a certain manner or for HCPs that charge a certain amount for their excess network capacity.<sup>4</sup>

Further, InterBel supports USTelecom's assertion that "Dark fiber is not eligible for support under §254(h)(1)(A) or (h)(2)(A) of the Act as it is neither a telecommunications service, advanced telecommunications service nor an information service" and as such it "cannot be included in the permissible uses of HCF funding..."<sup>5</sup>

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<sup>4</sup> In the Matter of Rural Health Care Support Mechanism. WC Docket No. 02-60. Petition for Reconsideration and Clarification of the United States Telecom Association. April 1, 2013. Pp. 3-4

<sup>5</sup> Id. P.5.



In closing, I will share notable quote from Senator Roy Blunt (R-Mo.), as it applies to grants, stimulus money or government funding: “Government must not fund (new) competitors where an existing business has already invested its own money to provide broadband services. This is very different from bringing broadband access to areas that would otherwise not be served.”

Respectfully submitted,

A handwritten signature in blue ink, appearing to read "RWi", is written above a horizontal line.

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