



January 27, 2009

Honorable Michael J. Copps
Chairman
Federal Communications Commission
445 12th Street, SW
Washington, DC 20554

Dear Chairman Copps:

On behalf of the over 500 member companies of the Telecommunications Industry Association (“TIA”), I write to urge swift action by the Federal Communications Commission to inject much-needed capital into the flagging economy, promote the deployment of critical communications infrastructure, and facilitate the more efficient and effective delivery of health-care services to Americans living in rural areas. In particular, TIA asks you to consider in the near term steps to expand and make permanent the Rural Health Care Pilot Program (“RHCPP”), which currently subsidizes the construction of high-speed networks linking public and not-for-profit health care facilities to a dedicated broadband backbone. The requested action would make use of funds already allocated to the rural health care support program from which RHCPP draws (“Rural Health Care Program”), and would support numerous federal policy goals.

The American Economy Is In Need of Substantial Stimulus. As President Obama has emphasized, the nation’s economic health is in “dire” condition, reeling from “a crisis unlike any we have seen in our lifetime.”¹ This crisis necessitates “bold” action to prevent “a bad situation [from] becom[ing] dramatically worse.”² To that end, President Obama has urged the Congress to adopt an “American Recovery and Reinvestment Plan” designed to stimulate economic activity while revitalizing public infrastructures and enhancing American competitiveness as we face the global challenges of the twenty-first century. Among other things, the President has noted the pressing need to “renew our information superhighway”³ and to “invest in priorities like ... health care.”⁴ In particular, President Obama has underscored the need to “modernize our

¹ See, e.g., Francine Knowles, *542,000: That’s the number of jobs lost in December*, CHICAGO SUN-TIMES at 23 (Jan. 10, 2009) (“‘Clearly the situation is dire. It is deteriorating,’ Obama told a news conference in Washington.”); Remarks of President-Elect Barack Obama As Prepared for Delivery, American Recovery and Reinvestment (Jan. 8, 2009), available at <http://change.gov/newsroom/entry/president-elect-obama-speaks-on-the-need-for-urgent-action-on-an-american-r/> (“*American Recovery*”).

² *Id.*

³ President-Elect Barack Obama, Weekly Public Address (Dec. 6, 2008), available at <http://change.gov/newsroom/entry/the-key-parts-of-the-jobs-plan/> (“*December 6 Address*”).

⁴ *American Recovery*.

health care system” by “ensur[ing] that our hospitals are connected to each other through the Internet.”⁵

The Commission Is Empowered to Adopt Rules Expanding Use of Universal Service Monies to Promote Deployment to Rural Health Care Providers. While the Congress, to be sure, has the lead role to play in crafting and adopting any economic stimulus program, the FCC has within its existing mandate the power to ensure that additional public funds are promptly directed toward the deployment of high-speed communications networks to rural health care providers. As you know, the Telecommunications Act of 1996 expressly provides for the use of the Universal Service Fund to subsidize construction of high-speed telecommunications networks to health-care facilities serving rural populations,⁶ and the Commission has issued regulations establishing a Rural Health Care Program.⁷ Moreover, in recent years the Commission has recognized that this program suffers from chronic underutilization, and established the RHCPP to “bring the benefits of innovative telehealth and, in particular, telemedicine services to those areas of the country where the need for those benefits is most acute.”⁸ Unfortunately, however, while the Pilot Program has indeed promoted investment in rural health care networks, the Rural Health Care Program remains underused, and the Pilot Program is set to expire in mid-2010.

The Commission Should Expand Funding to the RHCPP and Permanently Extend the Pilot Program. In light of the pressing need for economic recovery, the President’s focus on investing funds into our communications and health care infrastructures, and the statutory powers at the Commission’s disposal, TIA strongly urges you to take action to expand and make permanent the RHCPP. This action will direct funding in the near term to critical infrastructure deployment projects; improve our nation’s high-speed communications network; reduce health-care costs while improving care; and even mitigate reliance on fossil fuels by those who must now travel substantial distances for adequate medical care.

Specifically, TIA requests two actions. First, TIA asks the Commission to raise immediately the current cap on funding available to RHCPP participants. At present, funding for the RHCPP is capped at \$139 million annually – “well below the \$400 million-dollar annual cap” applicable to the Rural Health Care Program.⁹ Even accounting for the Pilot Program, the Rural Health Care Program remains underutilized, meaning that monies allocated to the program continue to go unused. Under the prevailing economic circumstances, the public interest would best be served by

⁵ *December 6 Address.*

⁶ *See* 47 U.S.C. § 254(h)(1)(A); *id.* § 254(h)(2)(B).

⁷ *See Federal-State Joint Board on Universal Service*, Report and Order, 12 FCC Rcd 8776 (1997) (subsequent history omitted).

⁸ *Rural Health Care Support Mechanism*, Order, 21 FCC Rcd 11111, ¶ 1 (2006) (“2006 Order”). Using Rural Health Care Program funds, the RHCPP subsidizes up to 85% of the costs an applicant incurs in deploying a dedicated broadband network to selected public and non-profit health care providers.

⁹ *Rural Health Care Support Mechanism*, Order, 22 FCC Rcd 20360, ¶ 2 (2007) (“2007 Order”); 47 C.F.R. § 54.623 (establishing \$400 million cap).

Commission action raising the annual RHCPP cap. The Commission could take this action without any delay simply by issuing an order explaining the modification.

Second, TIA asks the Commission to adopt the Pilot Program (subject to the expansion just described) on a permanent basis. The *2006 Order* adopting the RHCPP announced the Commission's intention to "explore permanent rules to enhance access to advanced services for public and non-profit health care providers."¹⁰ The need for a permanent process is even more clear now than it was in 2006. When it implemented the Pilot Program, the Commission recognized that "the [Rural Health Care Program] continues to be greatly underutilized and is not fully realizing the benefits intended by the statute and our rules."¹¹ This assessment of the Rural Health Care Program rings equally true today. In contrast, more than 80 providers applied for access to RHCPP funding, and that funding is being put to productive use, and selected participants are now using this funding to construct facilities linking rural and urban facilities together across the nation. The 69 projects being funded offer great promise,¹² as made clear by these few examples:

- A network in West Virginia will connect approximately 450 facilities to improve connectivity for rural health centers, with a focus on regions with high concentrations of poor and elderly individuals suffering from chronic medical conditions.
- Six existing networks will be connected and enhanced to reach approximately 120 health care facilities, using videoconferencing and web portals to offer distance education, improve clinical practice, facilitate collaborative research, and improve disaster response in underserved rural areas.
- A new network will link 300 facilities to improve mental illness counseling and patient-physician interaction for rural Californians.
- Approximately 140 Minnesota facilities will be connected to a new statewide fiber network to enable videoconferencing capability.
- Existing networks in South Dakota, North Dakota, Iowa, Minnesota, Nebraska, and Wyoming will be enhanced to connect about 180 facilities to Internet2 in order to serve an aging population.
- Deployments in Michigan will link approximately 390 primarily rural facilities to Internet2 at speeds of up to 100 Mbps.
- A Tennessee provider will bolster existing networks to serve approximately 450 facilities, with a focus on diabetes research.

¹⁰ *2006 Order* at ¶ 4.

¹¹ *2006 Order* at ¶ 8.

¹² The Commission's original description of all selected projects is available at http://hraunfoss.fcc.gov/edocs_public/attachmatch/DOC-278260A2.pdf.

In short, the RHCPP has demonstrably bolstered investment in communications networks used to promote rural health care. Moreover, the Commission has before it an open proceeding (WC Docket No. 02-60) that can and should serve as an appropriate vehicle for adoption of the new permanent program. Indeed, a 2004 Further Notice of Proposed Rulemaking in that docket expressly posed a host of questions addressing whether the Commission should authorize ongoing support for new broadband deployment in connection with the Rural Health Care Program, satisfying any applicable legal requirement mandating notice and comment prior to the action TIA requests herein.¹³

In addition to serving the public interest, adoption of a permanent and expanded version of the RHCPP would be consistent with the support you and your fellow Commissioners have previously expressed for the Pilot Program. In 2007, you rightly applauded the Commission's choice to "tap[] into the long underutilized Universal Service system's rural health care support mechanism to tackle the[] challenges" facing rural America, and highlighted the need to "develop permanent programs to bring the capabilities and services to the many rural communities that are not part of this pilot program."¹⁴ Your fellow Commissioners have agreed that the program promises substantial benefits to the nation. Likewise, [then-Chairman Martin highlighted the need "to continue to encourage the deployment of broadband facilities that connect networks of rural and non-rural public and not-for-profit healthcare providers within a state or region – as well as connect such state-wide or regional healthcare networks to each other across the nation."¹⁵] Commissioner Adelstein observed that he had "repeatedly supported efforts to improve the connectivity of rural health care providers and enhance the Rural Health Care program," noting that "[f]or rural residents, telemedicine can bridge distances that might otherwise be unaffordable or physically impractical to cross."¹⁶ Similarly, Commissioner McDowell observed that the RHCPP would "speed the development of regional, state and national broadband networks dedicated to health care" and thus played a central role in "carrying out the Congressional mandate that the Commission improve the availability of advanced telecommunications and information services for rural health care providers."¹⁷ Thus, as each sitting Commissioner has suggested, the steps outlined above comprise only the next logical step in the ongoing development of the Rural Health Care Program.

¹³ See *Rural Health Care Support Mechanism*, Second Report and Order, Order on Reconsideration, and Further Notice of Proposed Rulemaking, 19 FCC Rcd 24613, ¶ 53 (2004) ("Should the Commission authorize support for upgrades to the public switched or backbone networks? How would the program be structured so that it is competitively neutral, technically feasible and economically reasonable? If so, how should the Commission limit such support so that funds are only provided when such upgrades can be shown to be necessary to deliver services to eligible health care providers? Should certifications or other evidence of necessity attesting to the use of such support be required from the rural health care provider or the service provider? Are other safeguards required to ensure that no waste, fraud or abuse occurs? Should these charges be prorated over a specified number of years?").

¹⁴ 2007 Order, Statement of Commissioner Michael J. Copps.

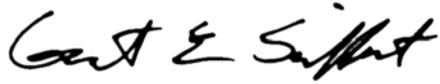
¹⁵ *Id.*, Statement of Chairman Kevin J. Martin.

¹⁶ *Id.*, Statement of Commissioner Jonathan S. Adelstein.

¹⁷ *Id.*, Statement of Commissioner Robert M McDowell.

On behalf of TIA and its members, I thank you for your consideration of these issues.
We look forward to working with you on this and other matters.

Sincerely,

A handwritten signature in black ink, appearing to read "Grant E. Seiffert". The signature is written in a cursive style with some loops and flourishes.

Grant Seiffert
President
Telecommunications Industry Association

cc: Commissioner Jonathan Adelstein
Commissioner Robert M. McDowell