

**Before the
Federal Communications Commission
Washington, D.C. 20554**

In the Matter of)	
)	
Rural Health Care Support Mechanism)	WC Docket No. 02-60
)	
As One Together for Health and the University of)	
Mississippi Medical Center Request for Merger of Rural)	
Health Care Pilot Program Projects)	

ORDER

Adopted: December 5, 2008

Released: December 5, 2008

By the Chief, Wireline Competition Bureau:

I. INTRODUCTION

1. In this order, the Wireline Competition Bureau (Bureau) grants a request from two participants in the Rural Health Care Pilot Program (Pilot Program), As One Together for Health (ATH) and the University of Mississippi Medical Center (UMC), to merge and designate UMC as ATH's successor.¹ Specifically, the Bureau finds that ATH has demonstrated that it is unable to continue to participate in the Pilot Program due to extenuating circumstances. The Bureau also finds that UMC has demonstrated that the public interest would be served by designating UMC as the successor to ATH because UMC: (1) has committed to fulfill the goals identified in ATH's Pilot Program application; (2) will use any funds saved by combining the projects to broaden the goals identified in each application; and (3) has identified an eligible source for the 15 percent of costs not funded by the Pilot Program.

II. BACKGROUND

2. On September 26, 2006, the Commission established the Pilot Program, pursuant to section 254(h)(2)(A) of the Communications Act of 1934, as amended, to examine methods to use the universal service rural health care funding mechanism to enhance public and non-profit health care providers' access to advanced telecommunications and information services.² On November 16, 2007, the Commission selected 69 participants, including ATH and UMC, to participate in the Pilot Program.³ Participants are eligible to receive funding, up to their maximum support amount, for up to 85 percent of the costs associated with: (1) the construction of state or regional broadband networks and the advanced

¹ Letter from Robert L. Robinson, Executive Director State of Mississippi Division of Medicaid, and Robert Galli, M.D., Chair Emergency Medicine the University of Mississippi Medical Center, to Daniel Johnson, Universal Service Administrative Company, WC Docket No. 02-60 (dated April 17, 2008) (April 17 Letter); Letter from Robert Galli, M.D., Chair Emergency Medicine the University of Mississippi Medical Center, to Tom Buckley, Federal Communications Commission, WC Docket No. 02-60 (dated May 7, 2008) (May 7 Letter); Letter from Robert Galli, M.D., Chair Emergency Medicine the University of Mississippi Medical Center, to Tom Buckley, Federal Communications Commission, WC Docket No. 02-60 (dated June 3, 2008) (June 3 Letter).

² 47 U.S.C. § 254(h)(2)(A); 47 U.S.C. §§ 151 *et seq.*; *Rural Health Care Support Mechanism*, WC Docket No. 02-60, Order, 21 FCC Rcd 11111, para. 1 (2006) (*2006 Pilot Program Order*).

³ See *Rural Health Care Support Mechanism*, WC Docket No. 02-60, Order, 22 FCC Rcd 20360, 20429-30, Appendix B (2007) (*2007 RHC PP Selection Order*).

telecommunications and information services provided over those networks; (2) connecting to Internet2 or NLR; and (3) connecting to the public Internet.⁴ If a participant is unable to participate in the Pilot Program due to extenuating circumstances, the Bureau may designate a successor.⁵

3. The maximum support the Commission awarded to ATH is \$1,912,964 and the maximum support the Commission awarded to UMC is \$3,918,319.⁶ ATH proposes to build a Mississippi statewide broadband network, connected to Internet2 or NLR, linking more than two hundred health care facilities.⁷ ATH plans to use its broadband network for: (1) telehealth applications that will bring medical services to rural communities where the need is most acute; (2) emergency preparedness and response; (3) transmission of electronic medical health records; and (4) education.⁸ UMC plans to upgrade an existing Mississippi broadband network and extend it to more than fifty additional health care facilities.⁹ UMC will use the network to: (1) address the shortage of primary care physicians in rural areas of Mississippi; (2) develop electronic health records; (3) conduct syndromes surveillance; and (4) develop portable patient health records.¹⁰

4. On April 17, 2008, ATH and UMC requested that the Commission allow ATH's project to merge with UMC's project and designate UMC as ATH's successor.¹¹ ATH and UMC jointly request that ATH's maximum support amount, awarded in the *2007 RHC PP Selection Order*, be available to UMC for the expansion of an existing telemedicine network to eligible facilities identified in ATH's Pilot Program application.¹²

III. DISCUSSION

5. The Bureau grants ATH and UMC's request to merge their Pilot Program projects and designate UMC as the successor to ATH's project. The Bureau finds that ATH has demonstrated that, due to extenuating circumstances, it will not be able to fulfill the goals and objectives detailed in its Pilot Program application.¹³ The Bureau also finds that UMC has demonstrated that it is committed to fulfilling the goals and objectives identified in ATH's Pilot Program application, as well as, the goals and objectives identified in its own application. Merging the two projects and designating UMC as ATH's successor serves the public interest and furthers the goals of the Pilot Program by stimulating the deployment of the

⁴ *Id.* at 20361, para. 2.

⁵ *Id.* at 20422, para. 124. Participants are required to comply with certain Commission rules and administrative requirements for reimbursement under the Pilot Program. For example, pursuant to sections 54.603 and 54.615 of the Commission's rules, each eligible health care provider must participate in a competitive bidding process and follow any additional applicable state, local, or other procurement requirements to select the most cost-effective provider of services eligible for Pilot Program funding. *Id.* at 20412, para. 100; 47 C.F.R. §§ 54.603, 54.615.

⁶ *2007 RHC PP Selection Order*, 22 FCC Rcd at 20429-30, Appendix B.

⁷ As One Together for Health Pilot Program Application, WC Docket No. 02-60 at 1-4 (filed May 7, 2007) (ATH Application).

⁸ *Id.*

⁹ University of Mississippi Medical Center, WC Docket No. 02-60 at 3-4, 36-41 (filed May 7, 2007) (UMC Application) (stating that only 11 of Mississippi's 82 counties do not have a physician shortage).

¹⁰ *Id.*

¹¹ See April 17 Letter; May 7 Letter; June 3 Letter.

¹² See April 17 Letter.

¹³ *2007 RHC PP Selection Order*, 22 FCC Rcd at 20422, para. 124.

broadband infrastructure necessary to support innovative telehealth and, in particular, telemedicine services to areas within Mississippi where the need for those services is most acute.¹⁴

6. The Commission delegated authority to the Bureau to designate a successor when a participant is unable to participate for the duration of the Pilot Program.¹⁵ ATH has demonstrated that it will be unable to participate in the Pilot Program for the duration of the Pilot Program because ATH's lead participant, the Mississippi Division of Medicaid, oversees Medicaid enrollment, payment of eligible claims, and management of Medicaid services, not the deployment and management of a broadband network.¹⁶ The Mississippi Division of Medicaid contends that it lacks the expertise and resources necessary to manage the project, and, therefore, may be unable to fulfill the goals identified in ATH's application.¹⁷ Accordingly, appointing a successor to ATH is necessary to enable the approved ATH Pilot Program project to deploy a broadband network to underserved Mississippi health care facilities, enabling them to: (1) deliver telehealth services; (2) prepare and respond to disasters; and (3) transmit electronic health records.¹⁸

7. UMC has committed to, and is qualified to, achieve the goals identified in ATH's application. Specifically, in selecting UMC as a participant, the Commission has already determined that UMC is qualified to participate in the Pilot Program.¹⁹ For example, the Commission found that UMC demonstrated that it was capable of leveraging existing technologies and aggregating the specific needs of health care providers.²⁰ As ATH's successor, UMC has committed to fulfill the project goals identified in ATH's application as well as its own application.²¹ Furthermore, UMC has committed to provide the fifteen percent of non-funded eligible costs for the combined project.²²

8. The Bureau finds that it will serve the public interest, and is consistent with the goals of the Pilot Program, to designate UMC as ATH's successor. As noted in the *2007 RHC PP Selection Order*, one of the goals of the Pilot Program is to "stimulate deployment of the broadband infrastructure necessary to support innovative telehealth and, in particular, telemedicine services to those areas of the country where the need for those benefits is most acute."²³ In selecting ATH for participation in the Pilot Program, the Commission found that the ATH project will advance the goals of the Pilot Program by bringing the benefits of telemedicine to rural communities.²⁴ Designating UMC as ATH's successor will enable funding to continue to be available to connect eligible health care providers throughout Mississippi to the broadband infrastructure, bringing the benefits of telemedicine to rural parts of Mississippi where the need is most acute.

9. Appointing UMC as ATH's successor also serves the public interest because it will ensure that Pilot Program funds are used efficiently. By merging the two projects, UMC can avoid the duplication of

¹⁴ ATH Application at 2.

¹⁵ *2007 RHC PP Selection Order*, 22 FCC Rcd at 20422, para. 124.

¹⁶ April 17 Letter.

¹⁷ *Id.*

¹⁸ ATH application at 1-4.

¹⁹ *2007 RHC PP Selection Order*, 22 FCC Rcd at 20430, Appendix B.

²⁰ *Id.* at 203776-78, paras. 40 and 41.

²¹ May 7 Letter.

²² June 3 Letter.

²³ *2007 RHC PP Selection Order*, 22 FCC Rcd at 20361, para. 1.

²⁴ *Id.* at 20375-76, para. 39.

efforts and expenditure of money that may occur if ATH and UMC separately attempted to achieve their project goals. Specifically, in their applications, ATH and UMC identified approximately twenty-five of the same facilities that they individually intended to connect to their separate healthcare networks.²⁵ UMC has committed to use any funds saved to broaden the scope of the merged project by connecting to additional rural health care facilities, and improving the connection speeds to rural health care facilities already in the scope of the merged project.²⁶

10. For these reasons, the Bureau finds that, in this unique circumstance, ATH and UMC have demonstrated that it is in the public interest to merge the two projects and designate UMC as ATH's successor. Accordingly, the maximum funding amount available to UMC for the combined UMC/ATH project over the three Funding years is \$5,831,283 (\$1,943,761 over three funding years).²⁷

11. UMC shall follow the network plans set forth in ATH and UMC's applications. To the extent UMC seeks to modify those plans, UMC must follow the network modification requirements detailed in the *2007 RHC PP Selection Order*.²⁸ The Bureau also reminds UMC that it must adhere to the requirements of the *2007 RHC PP Selection Order* and that, it shall be subject to audit by the Commission's Office of Inspector General (OIG) and, if necessary, will be investigated by the OIG, to determine compliance with the Pilot Program, Commission rules and orders, as well as section 254 of the Act.²⁹ In addition, if funds are not distributed or used in accordance with the *2007 RHC PP Selection Order*, the Commission will recover such funds.³⁰

IV. ORDERING CLAUSES

12. Accordingly, IT IS ORDERED that, pursuant to the authority contained in sections 1-4 and 254 of the Communications Act of 1934, as amended, 47 U.S.C. §§ 151-154, 254, and pursuant to authority delegated under sections 0.91 and 0.291 of the Commission's rules, 47 C.F.R. §§ 0.91, 0.291, the request filed by As One Together for Health and the University of Mississippi Medical Center IS GRANTED to the extent provided herein.

²⁵ Compare, e.g. ATH Application (listing Magee General Hospital, Lawrence County Hospital, Scott Regional Hospital, and Laird Hospital as facilities that will be connected to ATH's healthcare network), with UMC Application (listing Magee General Hospital, Lawrence County Hospital, Scott Regional Hospital, and Laird Hospital as facilities that will be connected to UMC's healthcare network); see also *2007 RHC PP Selection Order*, 22 FCC Rcd at 20406, para. 87, n 291.

²⁶ June 3 Letter

²⁷ To determine the maximum funding amount available to the combined UMC/ATH project, the Bureau added the maximum funding amounts the Commission awarded to UMC, \$3,918,319, and ATH, \$1,912,964. To the extent UMC does not use all of the available funds in a funding year, USAC will "carry over" the remaining funds to the following funding year. See Letter to Scott Barash, Acting Chief Executive Officer, Universal Service Administrative Company, from Dana Shaffer, Chief, Wireline Competition Bureau, Federal Communications Commission (Jan. 17, 2008).

²⁸ *2007 RHC PP Selection Order*, 22 FCC Rcd at 20401, para. 80.

²⁹ *Id.* at 40422, para. 125.

³⁰ *Id.* at 40423.

13. IT IS FURTHER ORDERED that, pursuant to section 1.102(b)(1) of the Commission's Rules, 47 C.F.R. § 1.102(b)(1), this order SHALL BE EFFECTIVE upon release.

FEDERAL COMMUNICATIONS COMMISSION

Dana R. Shaffer
Chief
Wireline Competition Bureau