

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

In the Matter of)
)
Rural Health Care Support Mechanism) WC Docket No. 02-60

ORDER

Adopted: May 3, 2011

Released: May 3, 2011

By the Chief, Wireline Competition Bureau:

I. INTRODUCTION

1. In response to various requests for extensions of time to meet certain Pilot Program deadlines, the Wireline Competition Bureau (Bureau) takes several actions to facilitate ongoing administration and completion of the Rural Health Care Pilot Program (Pilot Program).¹ First, subject to certain conditions, the Bureau extends by one year, to June 30, 2012, the deadline for participants in the Pilot Program to choose a vendor and request funding commitments from the Universal Service Administrative Company (USAC).² Second, the Bureau extends by one year the invoice deadline for Pilot Program participants.³

II. BACKGROUND

2. In September 2006, the Commission established a three-year pilot to examine ways 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.⁴ In November 2007, the Commission selected 69 projects to participate in the Pilot Program and specified the maximum amount

¹ The Commission has delegated authority to the Bureau to waive the relevant sections of Subpart G of Part 54 of the Commission's rules "to the extent they prove unreasonable or inconsistent with the sound and efficient administration of the Pilot Program." *Rural Health Care Support Mechanism*, WC Docket No. 02-60, Order, 22 FCC Rcd 20360, 20422, para 124 (2007) (*2007 Pilot Program Selection Order*).

² The first funding year commenced on July 1, 2007; the second funding year commenced on July 1, 2008; and the third funding year commenced on July 1, 2009. See *2007 Pilot Program Selection Order*, 22 FCC Rcd at 20373, para 33. The Commission initially established June 30, 2010, as the filing deadline for participants to submit forms for the second and third funding years of the Pilot Program. See *id.* (citing 47 C.F.R. § 54.623); *Deadline Established for Completing Funding Year 2008 Application Process for the Rural Health Care Pilot Program*, WC Docket No. 02-60, Public Notice, 24 FCC Rcd 10590 (Wireline Comp. Bur. 2009). On February 18, 2010, the Bureau extended by one year, to June 30, 2011, the deadline for Pilot Program participants to select a vendor and file their funding commitment requests with USAC. *Rural Health Care Support Mechanism*, WC Docket No. 02-60, Order, 25 FCC Rcd 1423 (2010) (*2010 Pilot Program Extension Order*).

³ See *2007 Pilot Program Selection Order*, 22 FCC Rcd at 20409-10, 20362, paras. 4, 94; see also *2010 Pilot Program Extension Order*, 25 FCC Rcd at 1427, para. 8.

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

of funding that would be provided to each project.⁵ Participants are eligible to receive funding for a three-year period, 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 telecommunications and information services provided over those networks; (2) connecting to nationwide backbone providers Internet2 or National LambdaRail (NLR); and (3) connecting to the public Internet.⁶ In order to receive funding, a participant must request funding on FCC Form 466-A, and receive a funding commitment letter from USAC.

3. *Requirements to Participate in the Program.* The Commission required participants in the Pilot Program to select the most cost effective vendor, following the same procedures that apply to the existing rural health care funding mechanism.⁷ First, participants file an FCC Form 465 with USAC to begin a competitive bidding process by making a bona fide request for supported services.⁸ USAC posts the completed FCC Form 465 on its website, and the participant must wait at least twenty-eight days before selecting a service provider.⁹ This competitive bidding process is intended to allow participants an opportunity to identify and select the most cost-effective service provider for their proposed network projects.¹⁰

4. After a vendor is selected, the participant submits a funding request to USAC on an FCC Form 466-A, which specifies the vendor selected and the cost of the selected service(s).¹¹ After receiving and approving a participant's FCC Form 466-A and related attachments, USAC issues a funding commitment letter for the requested services.¹² Pursuant to the Commission's rules, a rural health care funding year runs from July 1 through June 30 and rural health care support recipients, including Pilot Program participants, must submit their FCC Forms 466-A for a given funding year by the end of that funding year, i.e., by June 30.¹³ The original deadline for requesting all remaining funding for the Pilot Program on FCC Form 466-A was June 30, 2010.¹⁴ Funds are not actually disbursed until the program participant submits invoices for work completed.¹⁵ Each participant has five years from the date of their

⁵ See *2007 Pilot Program Selection Order*, 22 FCC Rcd 20360, 20429-30, Appendix B. As a result of the merger of certain projects there are currently 62 participants in the Pilot Program. See FCC Rural Health Care Pilot Program Webpage, available at <http://www.fcc.gov/cgb/rural/rhcp.html> (last visited Mar. 22, 2011).

⁶ *2007 Pilot Program Selection Order*, 22 FCC Rcd at 20361, para. 2.

⁷ See *id.* at 20400, 20403, paras. 78, 86.

⁸ The Form 465 is the means by which an applicant requests bids for supported services and certifies to USAC that the applicant is eligible to receive support from the RHC support mechanism. *Id.* at 20403, para. 83. Participants must provide sufficient information to define the scope of the project and network costs to enable an effective competitive bidding process. See *id.* at 20400, 20403, paras. 78, 86.

⁹ *Id.* at 20403, para. 83.

¹⁰ See *id.* at 20413-14, para 101.

¹¹ See *id.* at 20403-04, para 83.

¹² See *id.* at 20409, para 93.

¹³ 47 C.F.R. § 54.623(b)-(c); see also, FCC Form 466-A Instructions, available at <http://www.usac.org/rhc/tools/required-forms.aspx> (last visited Mar. 22, 2011).

¹⁴ *2007 Pilot Program Selection Order*, 22 FCC Rcd at 20370, para. 23.

¹⁵ *Id.* at 20411, para. 98.

initial funding commitment letter to complete network buildout and submit invoices to USAC for reimbursement.¹⁶

5. In February 2010, the Bureau extended by one year, to June 30, 2011, the deadline for Pilot Program participants to select a vendor and submit funding requests to USAC.¹⁷ The Bureau concluded that by providing participants an extra year to file their funding commitment requests, greater progress could be made toward the deployment of networks funded by the Pilot Program.¹⁸ The Bureau also noted, however, that it could be necessary to “set milestones to determine whether projects are no longer capable of continuing in the Pilot Program.”¹⁹ The Bureau declined in that order to provide additional time for Pilot Program participants to file invoices.²⁰

6. *Program extension requests.* Twenty-three participants in the Pilot Program, listed in Appendix A, have requested an extension of the June 30, 2011 deadline to request a funding commitment.²¹ On December 6, 2010, the Bureau issued a public notice seeking comments on the first

¹⁶ See *2007 Pilot Program Selection Order*, 22 FCC Rcd at 20409-10, 20362, paras. 4, 94 (2007); see also *2010 Pilot Program Extension Order*, 25 FCC Rcd at 1427, para. 8. For instance, if a particular participant received its initial funding commitment on April 7, 2011, it is required to complete invoicing by April 7, 2016.

¹⁷ See *2010 Pilot Program Extension Order*, 25 FCC Rcd at 1426, paras. 6-7.

¹⁸ See *id.* at para. 7.

¹⁹ *2010 Pilot Program Extension Order*, 25 FCC Rcd at 1428, para. 9.

²⁰ *Id.* at 1427, para. 8.

²¹ Letter from Don Kelso, Executive Director, Indiana Rural Health Association, to Sharon Gillett, Chief, Wireline Competition Bureau, Federal Communications Commission, WC Docket No. 02-60 (filed Nov. 17, 2010) (ITN Extension Petition); Letter from Kenneth L. Oakley, PhD, FACHE, Project Coordinator, Western New York Rural Area Health Education Center, to Sharon Gillett, Chief, Wireline Competition Bureau, Federal Communications Commission, WC Docket No. 02-60 (filed Dec. 8, 2010) (R-AHEC Extension and Invoicing Petition); Letter from Rebecca Madison, Executive Director, Alaska eHealth Network, to Sharon Gillett, Chief, Wireline Competition Bureau, Federal Communications Commission, WC Docket No. 02-60 (filed Dec. 9, 2010) (AeHN Extension Petition); Letter from Brian Thibeau, President, New England Telehealth Consortium, to Sharon Gillett, Chief, Wireline Competition Bureau, Federal Communications Commission, WC Docket No. 02-60 (filed Dec. 9, 2010) (NETC Extension and Invoicing Petition); Letter from Kim Lamb, Executive Director, Oregon Health Network, to Sharon Gillett, Chief, Wireline Competition Bureau, Federal Communications Commission, WC Docket No. 02-60 (filed Dec. 14, 2010) (OHN Extension Petition); Letter from Art Spies, Project Coordinator, Iowa Rural Health Telecommunications Program, to Sharon Gillett, Chief, Wireline Competition Bureau, Federal Communications Commission, WC Docket No. 02-60 (filed Dec. 21, 2010) (IRHTP Extension Petition); Letter from W. Roger Poston, II, Ed.D., Associate Project Coordinator, Palmetto State Providers Network, to Sharon Gillett, Chief, Wireline Competition Bureau, Federal Communications Commission, WC Docket No. 02-60 (filed Dec. 21, 2010) (PSPN Extension Petition); Letter from Kipman Smith, Executive Director, Health Information Exchange of Montana, to Sharon Gillett, Chief, Wireline Competition Bureau, Federal Communications Commission, WC Docket No. 02-60 (filed Dec. 22, 2010) (HIEM Extension and Invoicing Petition); Letter from Dale Alverson, MD, Project Coordinator, Southwest Telehealth Access Grid, to Sharon Gillett, Chief, Wireline Competition Bureau, Federal Communications Commission, WC Docket No. 02-60 (filed Dec. 22, 2010) (SWTAG Extension Petition); Letter from Michael Simpson, Project Coordinator, Adirondack-Champlain Telemedicine Information Network, WC Docket No. 02-60 (filed Jan. 4, 2011) (ACTION Extension Petition); Letter from Suzanne Leslie, Project Coordinator, Arkansas Telehealth Network, to Sharon Gillett, Chief, Wireline Competition Bureau, Federal Communications Commission, WC Docket No. 02-60 (filed Jan. 5, 2011) (ATN Extension Petition); Letter from David Mathews, PhD, Project Coordinator, Kentucky Behavioral Telehealth Network, to Federal Communications Commission, WC Docket No. 02-60 (filed Jan. 5, 2011) (KBTN Extension Petition); Letter from Julie Schourup, MD, MPH, Project Coordinator, Arizona Rural Community Health Information Exchange, to Federal Communications Commission, WC Docket No. 02-60 (filed Jan. 7, 2011) (ARCHIE Extension Petition); Letter
(continued....)

such petition, which was filed by the Indiana Telehealth Network (ITN).²² On January 28, 2011, the Bureau issued a public notice stating that ITN's filing would be treated as a request for extension for all participants in the Pilot Program, and that extension requests filed by participants after the ITN petition would be treated as *ex parte* comments in the open proceeding initiated by ITN.²³ Projects requested an extension of time ranging from six months to three years in duration.²⁴ Additionally, one petitioner, the Southwest Telehealth Access Grid, asked that the Pilot Program be extended by an additional funding year.²⁵

7. Generally, the petitioners assert that they have taken full advantage of the prior extension of the deadline for participants to select a vendor and submit funding requests to USAC.²⁶ However, despite significant progress on their respective projects, they are concerned that they will still be unable to

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from Maureen Ideker, Steering Committee Chair, Greater Minnesota Telehealth Broadband Initiative, to Sharon Gillett, Chief, Wireline Competition Bureau, Federal Communications Commission, WC Docket No. 02-60 (filed Jan. 7, 2011) (GMTBI Extension Petition); Letter from Hank Fanberg, Associate Project Coordinator, Texas Health Information Network Collaborative, to Sharon Gillett, Chief, Wireline Competition Bureau, Federal Communications Commission, WC Docket No. 02-60 (filed Jan. 7, 2011) (THINC Extension Petition); Comments of June E. Collmer, RN, NP, JD, Interim Executive Director, and Karen S. Rheuban, MD, Board Chair, Virginia Telehealth Network (Virginia Acute Stroke Telehealth Project), WC Docket No. 02-60 (filed Jan. 7, 2011) (VTN Extension and Invoicing Petition); Letter from Eric P. Brown, President & CEO, California Telehealth Network, to Sharon Gillett, Chief, Wireline Competition Bureau, Federal Communications Commission, WC Docket No. 02-60 (filed Jan. 18, 2011) (CTN Extension and Invoicing Petition); Letter from Norman H. Okamura, Project Coordinator, Pacific Broadband Telehealth Demonstration Project, to Sharon Gillett, Chief, Wireline Competition Bureau, Federal Communications Commission, WC Docket No. 02-60 (filed Jan. 21, 2011) (PBTDP Extension and Invoicing Petition); Letter from Joy Grosser, Vice President and Chief Information Officer, Iowa Health System, to Marlene H. Dortch, Secretary, Federal Communications Commission, WC Docket No. 02-60 (filed Feb. 18, 2011) (IHS Extension Petition); Letter from Judith Argon, Project Coordinator, Geisinger Health System, to Sharon Gillett, Chief, Wireline Competition Bureau, WC Docket No. 02-60 (filed Feb. 15, 2011) (Geisinger Extension Petition); Letter from Dr. Robert Galli, Project Coordinator, University of Mississippi Medical Center, WC Docket No. 02-60, to Thomas Buckley, Senior Deputy Division Chief, Wireline Competition Bureau, Federal Communications Commission (filed Mar. 7, 2011) (UMMS Extension Petition); Letter from Deb LaMarche, Program Manager, Utah Telehealth Network, to Sharon Gillett, Chief, Wireline Competition Bureau, WC Docket No. 02-60 (filed Mar. 16, 2011) (UTN Extension Petition); Letter from Jeff Mero, Executive Director, Association of Washington Public Hospital Districts, to Marlene H. Dortch, Secretary, Federal Communications Commission, WC Docket No. 02-60 (Apr. 4, 2011) (AWPHD Extension Petition).

²² See *Comment Sought on Indiana Telehealth Network Request for Extension of the June 30, 2011 Deadline for Funding Commitment Requests Under the Rural Health Care Pilot Program*, WC Docket No. 02-60, Public Notice, DA 10-2297 (Wireline Comp. Bur. Dec. 6, 2010).

²³ See *Requests for Extension of the June 30, 2011 Deadline for Funding Commitments under the Universal Service Rural Health Care Pilot Program*, WC Docket No. 02-60, Public Notice, DA 11-172 (Wireline Comp. Bur. Jan. 28, 2011).

²⁴ See Appendix A.

²⁵ SWTAG Extension Petition at 1.

²⁶ See, e.g., HIEM Extension and Invoicing Petition at 2; ITN Extension Petition at 2; GMTBI Extension Petition at 1; ATN Extension Petition at 2; NETC Extension and Invoicing Petition at 1-2; OHN Extension Petition at 1. For example, since June 30, 2010, USAC has issued 81 funding commitments to Pilot Program participants. Without the prior one year extension, Pilot participants would have been unable to draw on these funds.

meet the June 30, 2011 deadline.²⁷ Petitioners argue that several factors justify further extension of the June 30, 2011 deadline. They state that complying with program requirements can be time-consuming, and note that the program does not provide support for administrative expenses, such as paperwork preparation and legal fees.²⁸ For example, several petitioners point to the complexities involved in preparing and posting RFPs and negotiating contracts with vendors, often for large networks, as a source of project delay.²⁹ Other petitioners attribute delays to the program's administrative review process, such as the length of time involved in USAC's determination of the eligibility of network sites.³⁰ In addition, projects with many participating sites in their networks have experienced delay due to the extensive coordination necessary to deploy their networks to these facilities under the Pilot Program.³¹ Some petitioners state that an extension would enable them to more easily administer statewide or regional networks with multiple funding streams, including projects that are concurrently funded by the Broadband Technology Opportunities Program (BTOP).³² Due to the economic downturn, some petitioners have incurred delays due to changes in the project scope or leadership structure, or in securing their 15 percent match.³³ Finally, several petitioners reported incurring delay due to geographic and weather conditions, which can hinder the progress of network deployment.³⁴ The petitioners, therefore, argue that an extension is appropriate to ensure that Pilot Program projects are afforded sufficient opportunity to complete their network deployment. No comments were filed in opposition of granting an extension of the June 30, 2011 deadline.³⁵

²⁷ See, e.g., ACTION Extension Petition at 1; AeHN Extension Petition at 2; GMTBI Extension Petition at 1; IHS Extension Petition at 1; NETC Extension and Invoicing Petition at 2; OHN Extension Petition at 2; PSPN Extension Petition at 1; SWTAG Extension Petition at 2; THINC Extension Petition at 2.

²⁸ ARCHIE Extension Petition at 1; ATN Extension Petition 2; GMTBI Extension Petition at 1-2; HIEM Extension and Invoicing Petition at 2; IRHTP Extension Petition at 1; KBTN Extension Petition at 1; NETC Extension and Invoicing Petition at 2; OHN Extension Petition at 2-3; THINC Extension Petition at 2; UMMC Extension Petition at 1; VTN Extension and Invoicing Petition at 2-3.

²⁹ HIEM Extension and Invoicing Petition at 2; IHS Extension Petition at 1; IRHTP Extension Petition at 1; NETC Extension and Invoicing Petition at 2; OHN Extension Petition at 2-3; PSPN Extension Petition at 1; UTN Extension Petition at 1; AWPFD Extension Petition at 1.

³⁰ AeHN Extension Petition at 1-2; ATN Extension Petition at 2; PBTDP Extension and Invoicing Petition at 2; UMMC Extension Petition at 1; AWPFD Extension Petition at 1.

³¹ GMTBI Extension Petition at 1; IHS Extension Petition at 1; KBTN Extension Petition at 1; NETC Extension and Invoicing Petition at 2-3; OHN Extension Petition at 2-3.

³² ATN Extension Petition at 3; PBTDP Extension and Invoicing Petition at 2; THINC Extension Petition at 1-2; AWPFD Extension and Invoicing Petition at 1.

³³ ACTION Extension Petition at 1-2; AeHN Extension Petition at 1; ARCHIE Extension Petition at 1; CTN Extension and Invoicing Petition at 1; HIEM Extension and Invoicing Petition at 2; ITN Extension Petition at 1; NETC Extension and Invoicing Petition at 3; SWTAG Extension Petition at 1; VTN Extension and Invoicing Petition at 4.

³⁴ ACTION Extension Petition at 1; OHN Extension Petition at 3; HIEM Extension and Invoicing Petition at 1.

³⁵ Comments were received in favor of granting a one year extension. See Letter from J. David Kirby, President, KirbyIMC, to Sharon Gillett, Chief, Wireline Competition Bureau, Federal Communications Commission, WC Docket No. 02-60 (filed Dec. 30, 2010); Letter from Stephen C. Ward, FACHE, Project Coordinator, Colorado Health Care Connections, to Sharon Gillett, Chief, Wireline Competition Bureau, Federal Communications Commission, WC Docket No. 02-60 (filed Jan. 26, 2011).

8. *Invoice filing deadline extension requests.* Eleven participants in the Pilot Program, listed in Appendix B, have requested an extension of the five-year invoicing deadline.³⁶ On December 9, 2010, the Bureau issued a public notice seeking comments on the first petition filed by Michigan Public Health Institute (MPHI).³⁷ On February 22, 2011, the Bureau issued a public notice seeking comment on additional requests related to the five-year invoicing deadline.³⁸ Participants sought various waivers of the invoicing deadline: 1) a general waiver;³⁹ 2) a one year extension of the current deadline;⁴⁰ 3) a fifteen-month extension of the current deadline;⁴¹ 4) a three-year extension of the current deadline;⁴² and 5) five years to invoice from the date of each individual funding commitment letter, rather than five years to invoice from the date of the first funding commitment letter.⁴³

9. Petitioners state that additional time to complete the invoicing process will benefit their projects and compensate for earlier delays in getting their respective projects off the ground.⁴⁴ They assert that additional time to complete invoicing is needed to enable coordination with the construction of other federally funded broadband projects,⁴⁵ to help petitioners obtain the maximum benefit from their projects despite administrative challenges,⁴⁶ and to ensure that multi-stage projects have sufficient time to

³⁶ See Letter from Jeffrey R. Taylor, Ph.D., Executive Director, Michigan Public Health Institute, to Sharon Gillett, Chief, Wireline Competition Bureau, Federal Communications Commission, WC Docket No. 02-60 (filed Nov. 17, 2010) (MPHI Invoicing Petition); R-AHEC Extension and Invoicing Petition at 1; NETC Extension and Invoicing Petition at 1; HIEM Extension and Invoicing Petition at 1; Letter from WD Matthews, Kentucky Behavioral Telehealth Network, to Sharon Gillett, Chief, Wireline Competition Bureau, Federal Communications Commission, WC Docket No. 02-60 (filed Jan. 4, 2011) (KBTN Invoicing Petition); VTN Extension and Invoicing Petition at 4; Letter from Lawrence J. Malone, Chairman and Project Coordinator, West Virginia Telehealth Alliance, to Sharon Gillett, Chief, Wireline Competition Bureau, Federal Communications Commission, WC Docket No. 02-60 (filed Jan. 7, 2011) (WVTA Invoicing Petition); Letter from Suzanne Leslie, Project Coordinator, Arkansas Telehealth Network, to Sharon Gillett, Chief, Wireline Competition Bureau, Federal Communications Commission, WC Docket no. 02-60 (filed Jan. 10, 2011) (ATN Invoicing Petition); Letter from Don Kelso, Executive Director, Indiana Telehealth Network, to Sharon Gillett, Chief, Wireline Competition Bureau, Federal Communications Commission, WC Docket No. 02-60 (filed Jan. 10, 2011) (ITN Invoicing Petition); CTN Extension and Invoicing Petition at 1; PBTDP Extension and Invoicing Petition at 1.

³⁷ See *Wireline Competition Bureau Seeks Comment on Michigan Public Health Institute Petition for Waiver of the Five-Year Invoicing Period Under the Rural Health Care Pilot Program*, WC Docket No. 02-60, Public Notice, DA 10-2334 (Wireline comp. Bur. Dec. 9, 2010).

³⁸ See *Wireline Competition Bureau Seeks Comment on Requests for Waiver of the Rural Health Care Pilot Program Five-Year Invoicing Deadline*, WC Docket No. 02-60, Public Notice, DA 11-336 (Wireline Comp. Bur. Feb. 22, 2011).

³⁹ See Invoicing Petition at 1.

⁴⁰ See NETC Extension and Invoicing Petition at 1; CTN Extension and Invoicing Petition at 1; PBTDP Extension and Invoicing Petition at 1.

⁴¹ See MPHI Invoicing Petition at 1; VTN Extension and Invoicing Petition at 4; WVTA Invoicing Petition at 1.

⁴² See ATN Invoicing Petition at 3.

⁴³ See ITN Invoicing Petition at 1; HIEM Extension and Invoicing Petition at 1-2; VTN Extension and Invoicing Petition at 4; R-AHEC Extension and Invoicing Petition at 1; MPHI Invoicing Petition at 2.

⁴⁴ See e.g., NETC Extension and Invoicing Petition at 2, 4; R-AHEC Extension and Invoicing Petition at 1.

⁴⁵ See ATN Invoicing Petition at 3; MPHI Invoicing Petition at 1.

⁴⁶ See e.g., NETC Extension and Invoicing Petition at 2, 4; WVTA Invoicing Petition at 1-2; R-AHEC Extension and Invoicing Petition at 1; KBTN Invoicing Petition at 1; CTN Extension and Invoicing Petition at 2.

complete invoicing.⁴⁷ Finally, petitioners argue that an extended invoicing deadline will provide no additional burden on USAC or the Commission.⁴⁸

III. DISCUSSION

10. When the Commission established the Pilot Program in 2006, it concluded that participants could receive funding for a three-year period, and five years was sufficient time to complete network buildout and submit invoices to USAC for reimbursement. After more than three years, while two-thirds of the Pilot projects have made substantial progress in beginning the construction of networks to improve health care delivery in rural areas, some Pilot Program participants have not even selected a vendor for their projects, a necessary first step before they submit funding requests to USAC. To provide one last opportunity for participants to complete the necessary steps to proceed with their funded projects and to stimulate deployment of broadband infrastructure necessary to support innovative telehealth in areas where the need is most acute, while at the same time ensuring the administrability of the program and the prudent use of public resources, the Bureau grants a one-year waiver of the current deadline subject to the condition that Pilot Program participants have received at least one funding commitment letter or filed at least one complete Form 466-A packet with USAC on or before June 30, 2011.⁴⁹ Participants must meet this condition to receive the deadline extension. If they are not able to do so, their projects will be deemed “no longer capable of continuing in the Pilot Program.”⁵⁰

11. A number of program participants have also requested an extension of the five-year invoicing deadline.⁵¹ In this order, the Bureau provides an additional year for Pilot Program participants to complete the invoicing process for completed construction for their respective projects. Accordingly, participants will not receive funding for invoices submitted to USAC more than six years from the date of their initial funding commitment letters.

12. *Program Extension.* We conclude that a limited one-time waiver of the June 30, 2011 deadline, subject to certain conditions, is appropriate for Pilot Program participants. The goal of the Pilot Program was to stimulate deployment of the broadband infrastructure necessary to support innovative telehealth and, in particular, telemedicine services in those areas of the country where the need for those benefits is most acute.⁵² Absent a waiver of the funding year filing deadline, a number of projects would suffer substantial hardship in meeting the existing June 30, 2011 funding commitment request deadline, thereby endangering the success of their projects. Although two-thirds of projects have received at least one funding commitment to date,⁵³ a substantial portion of the funds allocated to participants in the *2007 Pilot Program Selection Order* remain uncommitted.⁵⁴ Most projects continue, however, to work toward

⁴⁷ See, e.g., NETC Extension and Invoicing Petition at 4; HIEM Extension and Invoicing Petition at 2-3.

⁴⁸ See e.g., ATN Invoicing Petition at 2; MPHI Invoicing Petition at 3.

⁴⁹ Establishing a June 30, 2012 deadline for filing funding requests addresses the issues raised by the petitioners listed in Appendix A. These petitioners asked for an extension of the current June 30, 2011 deadline.

⁵⁰ *2010 Pilot Program Extension Order*, 25 FCC Rcd at 1428, para. 9.

⁵¹ Extending the invoicing deadline addresses the issues raised by the petitioners listed in Appendix B.

⁵² See *2006 Pilot Program Order*, 21 FCC Rcd at 11111, para. 1.

⁵³ Out of the 62 projects participating in the Pilot Program, 41 projects (or 66%) have received funding commitment letters to date. Per Appendix B of the *2007 Pilot Program Selection Order*, the maximum allowable funding for such participants is \$324 million, which is equal to 78% of the \$418 million maximum allowable funding for all participants. See *2007 Pilot Program Selection Order*, Appendix B, 22 FCC Rcd. at 20429-30.

⁵⁴ As of April 2011, the Pilot Program has committed \$145 million to participating projects. This amount represents 35% of the total aggregate budget of \$418 million for all 62 projects.

receiving their funding commitments by preparing RFPs, selecting or negotiating with vendors, or preparing funding commitments requests, and appear to be close to filing the necessary forms to receive a funding commitment. As discussed above, delays for these projects have been due to, among other things, the difficulty in coordinating among network sites (which can be numerous and geographically diverse), ongoing negotiations over complex network deployment agreements with vendors, and the economic downturn.⁵⁵ We therefore find that waiver of section 54.623(b), as conditioned below, is necessary for the sound and efficient administration of the Pilot Program, and thus is in the public interest.⁵⁶

13. We conclude that a one year extension is sufficient to permit participants to focus their energies on taking the necessary actions to remain in the program. A one year extension establishes an appropriate timeframe for the submission of funding commitment requests. We thus decline to extend the deadline for three years as requested by AeHN,⁵⁷ or to issue individualized deadlines of shorter periods of time as requested by NETC, HIEM, OHN, and UTN.⁵⁸ We agree with all remaining petitioners who requested up to a one year extension, which they indicate is adequate to ensure that they are afforded sufficient opportunity to request funding for their networks under the Pilot Program.⁵⁹ AeHN does not offer evidence of special circumstances, beyond that submitted by the parties seeking a one year extension, to justify its request for a three year extension; therefore, we do not find that a three year extension is appropriate. Conversely, for administrative efficiency, we conclude it is more appropriate to adopt a one year extension of the deadline for all participants, rather than extending the deadline by varying lengths of time in response to specific requests.

14. While we find that grant of a one year extension of the funding request filing deadline is warranted based on the circumstances described by the participants, it is also important to promote timely

⁵⁵ ACTION Extension Petition at 1-2; AeHN Extension Petition at 1; ARCHIE Extension Petition at 1; CTN Extension and Invoicing Petition at 1; GMTBI Extension Petition at 1; HIEM Extension and Invoicing Petition at 2; IHS Extension Petition at 1; IRHTTP Extension Petition at 1; ITN Extension Petition at 1; KBTN Extension Petition at 1; NETC Extension and Invoicing Petition at 2-3; OHN Extension Petition at 2-3; PSPN Extension Petition at 1; SWTAG Extension Petition at 1; VTN Extension and Invoicing Petition at 4; UTN Extension Petition at 1.

⁵⁶ See 47 C.F.R. § 54.623(b). The Commission may waive any provision of its rules on its own motion and for good cause shown. 47 C.F.R. § 1.3. A rule may be waived where the particular facts make strict compliance inconsistent with the public interest. *Northeast Cellular Telephone Co. v. FCC*, 897 F.2d 1164, 1166 (D.C. Cir. 1990) (*Northeast Cellular*). In addition, the Commission may take into account considerations of hardship, equity, or more effective implementation of overall policy on an individual basis. *WAIT Radio v. FCC*, 418 F.2d 1153, 1157, (D.C. Cir. 1969). In sum, waiver is appropriate if special circumstances warrant a deviation from the general rule, and such deviation would better serve the public interest than strict adherence to the general rule. *Northeast Cellular*, 897 F.2d at 1166; *Network IP v. FCC*, 548 F.3d 116, 127-28 (D.C. Cir. 2008). *Accord, Network IP, LLC v. FCC*, 548 F.3d 116, 127 (D.C. Cir. 2008).

⁵⁷ AeHN Extension Petition at 1.

⁵⁸ HIEM Extension and Invoicing Petition at 3 (requesting a nine month extension); NETC Extension and Invoicing Petition at 1 (requesting a six month extension); OHN Extension Petition at 1 (requesting a six month extension); UTN Extension Petition at 1 (requesting a four month extension).

⁵⁹ ACTION Extension Petition at 1; ARCHIE Extension Petition at 1; ATN Extension Petition at 1; CTN Extension and Invoicing Petition at 1; Geisinger Extension Petition at 1; GMTBI Extension Petition at 1; ITN Extension Petition at 1; IHS Extension Petition at 1; IRHTTP Extension Petition at 1; KBTN Extension Petition at 1; PBTBD Extension and Invoicing Petition at 1; PSPN Extension Petition at 1; SWTAG Extension Petition at 1; THINC Extension Petition at 1; VTN Extension and Invoicing Petition at 1; R-AHEC Extension and Invoicing Petition at 2; AWPHD Extension Petition at 1; see also UMMC Extension Petition at 1 (no specific length of extension requested).

deployment of these projects, consistent with the sound and efficient administration of the Pilot Program. As stated above, when the Bureau extended the Pilot Program in the *2010 Pilot Program Extension Order*, it recognized the potential need to establish “milestones to determine whether projects are no longer capable of continuing in the Pilot Program.”⁶⁰ As such, we find it is appropriate to condition this waiver on Pilot Program participants either receiving at least one funding commitment letter or filing a complete Form 466-A packet with USAC on or before June 30, 2011.⁶¹ By meeting this condition, projects have demonstrated substantial progress toward network deployment by, for instance, securing letters of agency from network participants and entering into at least one contract for service with a selected vendor. In most cases, they have expended significant resources and time to perform these actions. Further, by taking the steps to obtain a funding commitment letter, most notably the filing of the Form 466-A packet, a Pilot Program project demonstrates its commitment to creating a cost-effective, yet sustainable, broadband network.

15. To date, 41 projects (or 66%) have received at least one funding commitment letter from USAC. Several other projects have yet to receive a funding commitment letter from USAC, but have made significant progress since the *2010 Pilot Program Extension Order* and appear to be prepared to submit their Form 466-A packet to USAC in the near term. By granting a one year extension to projects that have received at least one funding commitment letter or filed a complete Form 466-A packet with USAC by June 30, 2011, we seek to ensure that funds committed thus far for networks that are under construction are not wasted.

16. Projects failing to meet this condition of waiver will not benefit from the deadline extension. Experience over the last three and a half years of the Pilot Program shows that, on average, it takes approximately one year for projects to move from the start of the competitive bidding process (i.e., filing of the FCC Form 465) to the invoicing stage. Even greater periods of time are needed for participants with multi-stage projects and those with numerous participating health care facilities. Thus, even with a one year extension, it is unlikely that projects that have not received at least one funding commitment letter or filed a completed Form 466-A package by June 30, 2011 will be able to meet the deadline for requesting all of their funding commitment letters from USAC.

17. Further, in the *2010 Pilot Program Extension Order*, participants were previously afforded an additional year, until June 30, 2011, to select a vendor and file their requests for funding with USAC. As noted above, many participants took full advantage of the one year extension. We believe that the *2010 Pilot Program Extension Order* provided ample notice to participants that further extensions of time would not be uniformly afforded, and that participants not awarded another extension must submit all requests for funding by June 30, 2011 to be eligible for Pilot Program support.

18. Accordingly, we extend the funding request filing deadline until June 30, 2012 for participants who have received at least one funding commitment letter or filed a complete Form 466-A packet with USAC by June 30, 2011. Pilot Program participants receiving a one year extension must file all of their funding commitment requests (FCC Forms 466-A) for the second and third funding years of the Pilot Program with USAC by June 30, 2012, to be eligible for Pilot Program universal service support

⁶⁰ *2010 Pilot Program Extension Order*, 25 FCC Rcd at 1428, para. 9.

⁶¹ A complete Form 466-A packet consists of the (a) FCC Form 466-A, (b) FCC Form 466-A attachment, (3) sustainability plan, (4) network cost worksheet, (5) vendor certification, (6) project certification, (7) competitive bidding documentation, and (8) contract(s) signed by both the vendor and the participant. USAC will evaluate the information submitted by each project to determine if it constitutes a complete Form 466-A package. For participants to receive an extension, the Form 466-A package must be received by USAC or postmarked by June 30, 2011.

for such funding years. Participants who have not received a funding commitment letter or filed at least one complete Form 466-A packet by June 30, 2011 will not be given additional time to request funding from the Pilot Program.

19. *Invoicing Extension.* We also conclude that it is in the public interest to provide Pilot Program participants one additional year from the date of their initial funding commitment letter in which they may submit invoices to USAC for reimbursement under the Pilot Program, thus allowing participants to submit invoices for up to six years from the date of their first funding commitment letter. An additional year should provide participants with sufficient time to overcome earlier project delays and conclude the construction of their respective projects. We agree with petitioners that argue that a one year extension of the invoicing deadline will not be overly burdensome for USAC or the Commission, especially given the additional one year extension we are providing to permit some participants to seek additional funding requests. We find that a one year extension will afford Pilot Program participants additional time to complete the invoicing process, while minimizing the duration of a pilot that was only intended to be in operation for three years.⁶²

20. We decline to permit Pilot Program participants to submit invoices to USAC beyond the specified six-year period. Petitioners requesting an extension of time greater than one year in duration have not demonstrated special circumstances warranting such an extension. Six years should be more than ample time for participants to conclude their invoicing processes. Accordingly, we extend the deadline for submitting invoices to USAC for reimbursement to allow each Pilot Program participant six years from the date of its initial funding commitment letter to complete the invoicing process.

21. Lastly, we find it unnecessary to extend the Pilot Program for an additional funding year as requested by one party, because a one year extension of the funding year deadline accomplishes the same purpose of allowing additional time for participants to submit a funding commitment request.⁶³

22. We conclude that participants who have received at least one funding commitment letter or filed a complete Form 466-A package with USAC by June 30, 2011 will have one additional year to file all of their funding commitment requests for the second and third funding years of the Pilot Program. For participants receiving a one year extension, all funding commitment requests must be filed with USAC by June 30, 2012, to be eligible for support for the second and third funding years of the Pilot Program. Participants who have not received a funding commitment letter or filed at least one complete Form 466-A packet with USAC by June 30, 2011 will not be given additional time beyond that date to request Pilot Program funding. Finally, we also conclude that all Pilot Program participants will receive a one year extension of the five-year invoicing deadline. Participants must submit all invoices to USAC within six years of the date of their initial funding commitment letter.

IV. ORDERING CLAUSES

23. 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. §§ 151-54, 254, and pursuant to sections 0.91, 0.291 of the Commission's rules, 47 C.F.R. §§ 0.91, 0.291, 1.3 of the Commission's rules, 47 C.F.R. § 1.3, and 54.623 of the Commission's rules, 47 C.F.R. § 54.623, the June 31, 2011 funding

⁶² With the extensions granted in this order, we anticipate that those projects that remain active would submit their initial funding commitment requests by the June 30, 2011 deadline. Assuming those remaining projects receive funding commitments in 2011, a six-year deadline to submit invoices would mean that those projects would be submitting invoices up until 2017 – more than a decade after the establishment of the three-year Pilot Program.

⁶³ See SWTAG Petition at 1.

request deadline, IS WAIVED as set forth above for the second and third funding years of the Pilot Program to the extent described herein.

24. IT IS FURTHER 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. §§ 151-54, 254, and pursuant to sections 0.91, 0.291 of the Commission's rules, 47 C.F.R. §§ 0.91, 0.291, and 1.3 of the Commission's rules, 47 C.F.R. § 1.3, the five year invoicing request deadline for participants in the Pilot Program to submit invoices to USAC IS WAIVED and extended to six years from the date of each respective project's initial funding commitment letter.

25. IT IS FURTHER 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. §§ 151-54, 254, and pursuant to authority delegated under sections 0.91, 0.291 of the Commission's rules, 47 C.F.R. §§ 0.91, 0.291, and section 1.3 of the Commission's rules, 47 C.F.R. § 1.3, the petitions for an extension of the time period for Pilot Program participants to request funding commitments and submit invoices for reimbursement, filed by the petitioners listed in Appendices A and B, ARE GRANTED to the extent specified herein.

26. 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

Sharon E. Gillett
Chief
Wireline Competition Bureau

APPENDIX A

Petitioners Requesting Extension of June 30, 2011 Deadline Under the Rural Health Care Pilot Program

Petitioner	Date Filed	Length of Extension Requested
Indiana Telehealth Network (ITN)	November 17, 2010	1 year
Western New York Rural Area Health Education Center (Western NY R-AHEC)	December 8, 2010	1 year
Alaska e-Health Network (AeHN)	December 9, 2010	3 years
New England Telehealth Consortium (NETC)	December 9, 2010	6 months
Oregon Health Network (OHN)	December 14, 2010	6 months
Iowa Rural Health Telecommunications Program (IRHTP)	December 21, 2010	1 year
Palmetto State Providers Network (PSPN)	December 21, 2010	1 year
Health Information Exchange of Montana (HIEM)	December 22, 2010	9 months
Southwest Telehealth Access Grid (SWTAG)	December 22, 2010	1 year
Adirondack – Champlain Telemedicine Information Network (ACTION)	January 4, 2011	1 year
Arkansas Telehealth Network (ATN)	January 5, 2011	1 year
Kentucky Behavioral Telehealth Network (KBTN)	January 5, 2011	1 year
Arizona Rural Community Health Information Exchange (ARCHIE)	January 7, 2011	1 year
Greater Minnesota Telehealth Broadband Initiative (GMTBI)	January 7, 2011	1 year
Texas Health Information Network Collaborative (THINC)	January 7, 2011	1 year
Virginia Telehealth Network (VTN)	January 7, 2011	1 year
California Telehealth Network (CTN)	January 18, 2011	1 year
Pacific Broadband Telehealth Demonstration Project (PBTDP)	January 21, 2011	1 year
Geisinger Health System (Geisinger)	February 15, 2011	1 year
Iowa Health System (IHS)	February 18, 2011	1 year
Association of Washington Public Hospital Districts	April 4, 2011	1 year
University of Mississippi Medical Center (UMMS)	March 7, 2011	No length specified (general)
Utah Telehealth Network	March 16, 2011	4 months

APPENDIX B

Petitioners Requesting Extension of the Five Year Invoicing Deadline Under the Rural Health Care Pilot Program

Petitioner	Date Filed	Length of Extension Requested
Michigan Public Health Institute (MPHI)	November 17, 2010	15 months or 5 years from the date of each funding commitment letter (FCL)
Western New York Rural Area Health Education Center (Western NY R-AHEC)	December 8, 2010	5 years from the date of each FCL or 5 years from the date each facility begins invoicing
New England Telehealth Consortium (NETC)	December 9, 2010	1 year
Health Information Exchange of Montana (HIEM)	December 22, 2010	5 years from the date of each FCL
Kentucky Behavioral Telehealth Network (KBTN)	January 5, 2011	No length specified (general)
Virginia Telehealth Network (VTN)	January 7, 2011	15 months or 5 years from the date of each FCL
West Virginia Telehealth Alliance (WVTA)	January 7, 2011	15 months
Arkansas Telehealth Network (ATN)	January 5, 2011	3 years
Indiana Telehealth Network (ITN)	January 10, 2011	5 years from the date of each FCL
California Telehealth Network (CTN)	January 14, 2011	1 year
Pacific Broadband Telehealth Demonstration Project (PBTDP)	January 21, 2011	1 year