



Federal Communications Commission
Washington, D.C. 20554

January 17, 2008

Mr. Scott Barash
Acting Chief Executive Officer
Universal Service Administrative Company
2000 L Street, N.W.
Suite 200
Washington, D.C. 20036

Re: Rural Health Care Pilot Program

Dear Mr. Barash:

This letter responds to questions raised by participants in the Commission's Rural Health Care Pilot Program (Pilot Program) and the Universal Service Administrative Company (USAC) concerning the carry over of universal service funds for the Pilot Program.

In the *Rural Health Care Pilot Program Selection Order*, the Commission made available approximately \$417 million in universal service funds for the Pilot Program.¹ The Commission spread this total over a three-year commitment period to ensure that sufficient funds are available each year to achieve the goals and objectives of the Pilot Program and that those funds are disbursed in an economically reasonable and fiscally responsible manner.² Importantly, the Commission did not intend to place participants in a "use or lose" situation whereby the total amount of funding available for each participant would be decreased by the amount of funds that were not disbursed in a particular Funding Year. The *Order* states that participants have five years from receipt of a funding commitment letter (FCL) to use the funds to complete their build-outs.³ Indeed, the purpose of the Pilot Program is to ensure that participants receive sufficient funds to implement to the fullest extent possible their plans to deploy the broadband facilities necessary to support telehealth and telemedicine applications.⁴ Moreover, participants should be motivated by their communications needs, not the need to request a particular amount of money by a particular deadline. A "carry over" policy encourages the efficient use of program funds by ensuring that they are requested and used in a manner that furthers participants' communications needs and the goals of the Pilot Program. It also promotes program efficiency by avoiding the need for individual participants to seek waivers to access the full support amount contemplated by the *Order*. Conversely, a "use or lose" policy creates perverse incentives for participants to seek funding for services in order to access the full support amount, regardless of whether such services are necessary, appropriate, or cost-effective. Such a policy would be contrary to the goals of the Pilot Program and the responsibility of the Commission protect the universal service fund against waste, fraud, and abuse.

For the same reasons, USAC shall carry over any difference in funds between the amount approved in the participant's FCL(s) and the participant's maximum support amount for the relevant Funding Year.

¹ See *Rural Health Care Support Mechanism*, WC Docket No. 02-60, Order, FCC 07-198, para. 2 (rel. Nov. 19, 2007) (*Rural Health Care Pilot Program Selection Order*), available at http://hraunfoss.fcc.gov/edocs_public/attachmatch/DOC-279101A1.pdf.

² *Id.* paras. 2, 23, 32.

³ *Id.* paras. 4, 35.

⁴ *Id.* para. 1, 16, 32.

Under the *Order*, each FCL caps the participant's support for the services covered by the FCL and the last FCL issued to the participant in a Funding Year caps the support available for that Funding Year.⁵ Accordingly, the difference between the total amount committed under all FCLs for the Funding Year and the maximum support amount – the “cap carry over” amount – shall be applied in addition to the participant's maximum support amount for the next Funding Year. For example, if a participant receives an FCL in Year 1 of the Pilot Program for a network design study, and the FCL amount is less than the participant's maximum support amount for Year 1, the difference between the FCL amount and the maximum support amount will be applied in addition to the participant's maximum support amount for Year 2 of the Pilot Program.

We emphasize that USAC shall account for the funds in a manner that ensures that all “cap carry over” amounts are made available to Pilot Program participants. The Commission allocated a full \$417,777,519.24 to the Pilot Program “to enable the 69 qualified applicants to implement their plans to the fullest extent possible” and “to enable participants to fully realize the benefits to telehealth and telemedicine” through “significant build-out of dedicated broadband network capacity.”⁶

We also stress that while the Commission provided the flexibility detailed above to ensure that program funds are used efficiently and appropriately to maximize the benefits of the Pilot Program, participants must comply with all applicable rules and process requirements. In particular, we note that the Commission has not waived either the June 30 deadline for submitting FCC Form 466-A for each Funding Year or the Pilot Program's three-year commitment period.⁷ Therefore, participants that seek commitments after the July 1 deadline for each Funding Year (e.g., instead of waiting to request commitments against the maximum support amount for the next Funding Year, plus the amount of any carry over) would need to seek a waiver of that deadline. Likewise, participants that seek funds beyond the three-year commitment period but did not file FCC Forms 466-A for such funds by end of third Funding Year (June 30, 2010) will need to seek a waiver of the June 30 deadline for each applicable Funding Year and the requirement in the *Order* that the Pilot Program be limited to three Funding Years.

Please let me know if you have any questions. I appreciate USAC's continued commitment to ensuring the success of the Pilot Program.

Sincerely,



Dana R. Shaffer
Chief
Wireline Competition Bureau

⁵ See *id.* paras. 32-35, 80.

⁶ *Id.* para. 32.

⁷ 47 C.F.R. § 54.623(c)(3); *Rural Health Care Pilot Program Selection Order* at para. 33.