

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

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

ORDER

Adopted: June 19, 2014

Released: June 19, 2014

By the Associate Chief, Wireline Competition Bureau:

1. In this Order, the Wireline Competition Bureau (Bureau), on its own motion, grants a limited, one-year waiver of the requirement that consortium lead entities in both the Healthcare Connect Fund (HCF) and the Rural Health Care Pilot Program (Pilot) file an annual report for the preceding funding year under section 54.647 of the Commission’s rules and the *Healthcare Connect Fund Order*.¹ The Bureau relieves Pilot and HCF consortium lead entities of their obligation to submit annual reports for funding year 2013 (July 1, 2013-June 30, 2014) as we seek comment on the content and format of the annual reports for funding year 2014 and beyond in the Public Notice accompanying this Order.²

2. *Background.* In the *HCF Order*, the Commission adopted annual reporting requirements for consortium lead entities in HCF and extended the reporting requirements for Pilot consortium leaders with the expectation that the Bureau would establish a consistent format for the reports from both programs.³ Specifically, the Commission anticipated using the data collected through the consortium annual reports to aid in evaluating HCF progress toward the three performance goals identified in the *HCF Order*: (1) increased access to broadband for health care providers; (2) development and deployment of broadband health care networks; and (3) reduced burden on the Universal Service Fund by maximizing the cost-effectiveness of the program.⁴ To ensure that the information gathered through the annual reports is useful in measuring progress toward these goals, the Commission also delegated authority to the Bureau to modify the requirements as necessary, as well as to provide and modify any guidance needed.⁵

¹ 47 C.F.R. § 54.647; *Rural Health Care Support Mechanism*, WC Docket No. 02-60, Report and Order, 27 FCC Rcd 16678, 16807-09, paras. 317-21 (*HCF Order*) (describing the reporting obligations of both HCF and Pilot consortium leaders); *see also id.* at 16809, para. 320 (delegating authority to the Bureau “to modify specific reporting requirements if necessary”); 47 C.F.R. § 1.3 (Commission may waive its rules on its own motion).

² *Wireline Competition Bureau Seeks Comment on Healthcare Connect Fund Annual Reports*, WC Docket No. 02-60, Public Notice, DA 14-853 (Wireline Comp. Bur. rel. June 19, 2014) (*Annual Reports PN*).

³ *See HCF Order*, 27 FCC Rcd at 16808, 16809, paras. 317, 321. The *HCF Order* also made the Pilot reporting requirements the same as those for HCF consortia. *Id.* at para. 321. As such, we find that § 54.647 applies equally to both Pilot and HCF consortia, and emphasize that this limited, one-time waiver applies to consortia in both programs.

⁴ *See id.* at 16695, para. 31.

⁵ *See id.* at 16809, para. 320; *see also* 47 C.F.R. § 54.647(a) (“Each consortium lead entity must file an annual report with the Administrator on or before September 30 for the preceding funding year, with the information and in the form specified by the Wireline Competition Bureau.”).

3. Pursuant to section 54.647(a) of the Commission's rules, Pilot and HCF consortium lead entities must file their annual reports for the preceding funding year by September 30.⁶ In the accompanying Public Notice released today, the Bureau seeks comment on what specific information to collect for annual reports and how best to collect it.⁷ For administrative efficiency and benefit to the Commission, it is necessary for all consortium lead entities—whether in HCF or the Pilot Program—to submit the annual reports using the same format.⁸

4. *Discussion.* On its own motion, the Bureau grants a limited, one-year waiver to all Pilot and HCF consortium lead entities of the annual report requirement under section 54.647 of the Commission's rules and paragraphs 317-321 of the *HCF Order*.⁹ Generally, the Commission's rules may be waived for good cause shown.¹⁰ Given that Pilot and HCF consortia are on different funding schedules for funding year 2013, which allow new HCF sites to begin receiving funds beginning January 1, 2014, at the earliest,¹¹ the Commission could only collect six months of HCF consortia data at most this funding year. This truncated timeframe would not provide a representative data set, as consortia continue to organize themselves and receive their first support payments throughout the six-month period. In contrast, Pilot and HCF consortia will be on the same funding schedule for funding year 2014,¹² and new consortia will have had the additional six months to organize and begin receiving services and support. In addition, the Bureau has not yet specified the precise content and format for the required reports, which would make funding year 2013 submissions inconsistent across consortia and thus more challenging to analyze. We find that these particular facts would make strict compliance inconsistent with the public interest and therefore warrant grant of a one-time waiver this year of the annual reporting requirements. This will allow consortia more time to compile data, lessen potential confusion among filers as to what must be filed on September 30, and allow program participants to focus on building and organizing their consortia. Upon conclusion of the proceeding to determine the form of the annual reports, all Pilot and HCF consortium lead entities will be required to file an annual report, beginning in funding year 2014. After adoption of the new annual report format, the Bureau will release a public notice announcing that consortium lead entities must submit annual reports for funding year 2014 in keeping with section 54.647 and directing filers to instructions for completing and submitting their reports.

5. Accordingly, IT IS ORDERED that, pursuant to sections 0.91, 0.291, and 1.3 of the Commission's rules, 47 C.F.R. §§ 0.91, 0.291, 1.3, section 54.647 of the Commission's rules, 47 C.F.R. § 54.647, IS WAIVED to the extent described above.

⁶ 47 C.F.R. § 54.647(a).

⁷ See *Annual Reports PN*, DA 14-853, at 2.

⁸ See also *HCF Order*, 27 FCC Rcd at 16809, para. 321 (stating that the reporting requirements will be the same for both HCF and Pilot consortium lead entities).

⁹ 47 C.F.R. § 54.647; *HCF Order*, 27 FCC Rcd at 16807-09, paras. 317-321.

¹⁰ 47 C.F.R. § 1.3. The Commission may exercise its discretion to waive a rule 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, 1159 (D.C. Cir. 1969); *Northeast Cellular*, 897 F.2d at 1166.

¹¹ See *HCF Order*, 27 FCC Rcd at 16818-19, paras. 353-56.

¹² *Id.* at 16819, para. 354.

6. 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

Trent Harkrader
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Wireline Competition Bureau