STATEMENT OF
COMMISSIONER AJIT PAI
APPROVING IN PART AND DISSENTING IN PART

Re: *Rural Health Care Support Mechanism*, WC Docket No. 02-60.

When I was growing up, I remember my father getting up early in the morning to drive from our hometown of Parsons 45 minutes west in order to provide medical care in the town of Independence. On another day, he would drive 45 minutes north to do the same in the town of Chanute. Other towns were on his itinerary as well. In most cases, he was the only specialist residents of those towns would ever have a chance to see. When I think of how far he went, literally and figuratively, to deliver health care to people in Southeast Kansas, it makes me appreciate the power of today's communications services all the more. With a broadband connection, we can improve health care and reduce substantially the burdens on doctors and patients alike in rural Kansas and many other places.

This background, together with our careful analysis of lessons learned from the 2006 rural health care pilot program, explains why I support the vast majority of today's item, including all of the reforms that create the Healthcare Connect Fund. I am especially pleased that a majority of participants in this program must be rural health care providers. Connecting country clinics to facilities in big cities like Wichita and Kansas City will enhance the services that all Americans receive in their hometowns and ensure that people have access to advanced medicine and health care services no matter where they live.

Similarly, I believe today's order strikes an appropriate balance in several other respects. The uniform discount we adopt should provide ample incentive for eligible providers to join a consortium and participate. The significant contribution we require from participants aligns their incentives with those of universal service contributors. The option to construct facilities gives health care providers a competitive alternative. And the safeguards we adopt ensure that existing broadband network operators will have a full and fair opportunity to compete for that business.

There are two parts of today's item, unfortunately, where I part ways with my colleagues. The first part involves the Skilled Nursing Facility Pilot Program. The order recognizes that, "on this record," this program may not comply with Section 254 of the Communications Act. That provision directs us to support "health care providers,"[1] and yet the order reaches "no conclusion about whether or under what circumstances a [skilled nursing facility] might qualify as a health care provider under the statute."[2] It's also fair to say that we have not had the chance to assess how the reforms we implement today will work

[1] 47 U.S.C. § 254(h)(2)(A).

[2] *Report and Order*, para. 346. A post-adoption footnote now directs the Bureau to "approve any given application only to the extent that it demonstrates that it satisfies the statutory criteria," *i.e.*, the application must show that funding skilled nursing facilities will "enhance eligible [health care provider] access to 'advanced telecommunications and information services.'" *Id.* at n.798. I welcome the news that the statutory criteria will now play a factor in the administration of the Pilot Program. But this direction is wholly unhelpful. Skilled nursing facilities do not offer "advanced telecommunications and information services" any more than banks or grocery stores do. I therefore do not see how funding skilled nursing facilities could "enhance" the access of an eligible health care provider to such services; indeed, the sparse explanation contained in the item would appear to justify also including in the rural health care program banks, grocery stores, or *any* entity that could be connected to a health care provider. To be sure, including a skilled nursing facility in the program could be authorized by the statute if it were itself an eligible health care provider—but that, of course, is precisely the question the Commission cannot answer "on this record."

on the ground and how much the new Healthcare Connect Fund will cost. Nonetheless, the order instructs the Bureau to set up the Pilot Program—without specifying any rules or giving much guidance. In my view, it is a mistake to go forward with this program before the full Commission figures out the basics, namely how the program will work and whether it complies with the Communications Act.

The second part involves the rural health care program's budget caps. The order defers hard decisions about enforcing these caps. This leaves in place the current first-come-first-served system. As a result, everyone who submits an application will get fully funded—until one day, they won't. Once we hit the cap, rural health care providers that long relied on the Telecommunications Program to span the breadth of Kansas or Alaska will be cut off, without forewarning or prioritization. Pilot program sites that have incorporated telemedicine into their practices will go offline. The Commission quickly abandoned this approach in the E-Rate program, and I do not think leaving that work for a later day serves health care providers who are starting their investment plans now.

Finally, I would be remiss not to thank the staff of Telecommunications Access Policy Division of the Wireline Competition Bureau for developing the reforms we adopt today: Christi Barnhart, Soumitra Das, Chas Eberle, Trent Harkrader, Beth McCarthy, Avis Mitchell, Linda Oliver, Michelle Schaefer, Geoff Waldau, Mark Walker, and Chin Yoo. These experts dug through the Code of Federal Regulations to find the 46 amendments to our rules (spanning 29 pages) needed to put the Healthcare Connect Fund in place. They also reviewed over twelve hundred filings since the Notice of Proposed Rulemaking and scrubbed over a thousand footnotes in the item. They remind us all that being a public servant is about *service*, and I thank you all for serving so adeptly.