

**ORIGINAL**

Before the  
**FEDERAL COMMUNICATIONS COMMISSION**  
Washington, DC 20554

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In the Matter of )  
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Federal-State Joint Board on )  
Universal Service )  
)  
Highland Cellular, Inc. )  
)  
Petition for Designation as an )  
Eligible Telecommunications Carrier )  
in the State of Virginia )

CC Docket No. 96-45

SEP 19 2002

FEDERAL COMMUNICATIONS COMMISSION  
OFFICE OF THE SECRETARY

To: Wireline Competition Bureau

**Petition for Designation as an Eligible Telecommunications Carrier  
in the Commonwealth of Virginia**

Highland Cellular, Inc. ("Highland Cellular", "Company"), by counsel and pursuant to Section 214(e)(6) of the Commission's Act of 1934, as amended, 47 U.S.C. § 214(e)(6), hereby petitions the Commission for designation as an Eligible Telecommunications Carrier ("ETC") throughout its licensed service area in the Commonwealth of Virginia. As demonstrated below, Highland Cellular meets all the statutory and regulatory prerequisites for ETC designation.

**I. Highland Cellular's Universal Service Offering.**

Highland Cellular is authorized as the "A2-band" cellular carrier for the Virginia-2 Rural Service Area ("RSA") serving the counties of Bland and Tazewell. The company has operated continuously for over seven years and is locally owned and operated. Highland Cellular has constructed a digital network and plans to further upgrade its existing facilities in the near future. With high-cost support available from the federal government, Highland Cellular can deliver high-quality service to rural areas of Virginia, and offer customers a viable competitive alternative to incumbent wireline networks. A grant of this application will thus benefit the citizens of Virginia,

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Highland Cellular currently provides all the services and functionalities supported by the federal universal service program, enumerated in Section 54.101(a) of the Commission's Rules, throughout its cellular service area in Virginia. Upon designation as an ETC, Highland Cellular will make available to consumers a universal service offering over its cellular network infrastructure, using the same antenna, cell-site, tower, trunking, mobile switching, and interconnection facilities used by the company to serve its existing conventional mobile cellular service customers. Highland Cellular will provide service to any customer requesting this service within the designated service area.

**II. Highland Cellular Satisfies All the Statutory and Regulatory Prerequisites For Designation as an ETC.**

Highland Cellular satisfies each of the five elements required for ETC designation by the FCC pursuant to Section 214(e)(6) set forth in the FCC's *Section 214(e)(6) Public Notice*,<sup>1</sup> as shown below.

**A. The Virginia State Corporation Commission Has Provided an Affirmative Statement That It Does Not Regulate CMRS Carriers.**

As a CMRS carrier, Highland Cellular is entitled to seek designation as an ETC.<sup>2</sup> Section 254(e) of Act, 47 U.S.C. § 254(e), provides that "only an eligible telecommunications carrier designated under section 214(e) shall be eligible to receive specific federal universal service support." 47 U.S.C. § 214(e). Pursuant to 47 U.S.C. § 214(e)(6), the Commission may, upon

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<sup>1</sup> *Procedures for FCC Designation of Eligible Telecommunications Carriers Pursuant to Section 214(e)(6) of the Communications Act, Public Notice*, 12 FCC Rcd 22947 (1997) ("*Section 214(e)(6) Public Notice*").

<sup>2</sup> *See Federal-State Joint Board on Universal Service, CC Docket No. 96-45, First Report and Order*, 12 FCC Rcd 8776, 8858-59 (1997) ("*First Report and Order*").

request, designate as an ETC “a common carrier providing telephone exchange service and exchange access that is not subject to the jurisdiction of a State Commission.”

In the *Section 214(e)(6) Public Notice*, the Commission established that a carrier must demonstrate it “is not subject to the jurisdiction of a state commission.”<sup>3</sup> In its *Twelfth Report and Order* in this docket, the Commission stated that where a carrier provides the Commission with an “affirmative statement” from the state commission or a court of competent jurisdiction that the state lacks jurisdiction to perform the designation, the Commission would consider requests filed pursuant to Section 214(e)(6).<sup>4</sup>

On April 9, 2002, Virginia’s State Corporation Commission (“SCC”) issued an Order dismissing Virginia Cellular, LLC’s application for designation as an ETC and directed the company to file its ETC application with the FCC. Specifically, the Commission held: “The Commission finds that § 214(e)(6) of the Act is applicable to Virginia Cellular’s Application as this Commission has not asserted jurisdiction over CMRS carriers and that the Applicant should apply to the FCC for ETC designation.”<sup>5</sup> The SCC has clearly indicated it does not intend to designate CMRS carriers as ETCs. Accordingly, Highland Cellular requests ETC designation as “a common carrier providing

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<sup>3</sup> *Section 214(e)(6) Public Notice*, at 22948.

<sup>4</sup> *Federal-State Joint Board on Universal Service; Promoting Deployment and Subscriberhip in Unserved and Underserved Areas, Including Tribal and Insular Areas, Twelfth Report and Order, and Further Notice of Proposed Rulemaking*, 15 FCC Rcd 12208, 12264 (2000).

<sup>5</sup> Application of Virginia Cellular LLC, For Designation As An Eligible Telecommunications Provider under 47 U.S.C. § 214(e)(2), Case No. PUC010263, Order (April 9, 2002), p. 4-5. A copy of the Order is attached hereto as Exhibit A.

telephone exchange service and exchange access that is not subject to the jurisdiction of a State commission.” 47 U.S.C. § 214(e)(6).

**B. Highland Cellular Offers All of the Services Supported By the Federal High-Cost Universal Service Program.**

In order to be designated as an ETC, a carrier must be a common carrier and must offer and advertise the supported services throughout the designated service area. 47 U.S.C. § 214(e)(1). The FCC has identified the following services and functionalities as the core services to be offered by an ETC and supported by federal universal service support mechanisms:

1. voice-grade access to the public switched telephone network;
2. local usage;
3. dual tone multi-frequency signaling or its functional equivalent;
4. single-party service or its functional equivalent;
5. access to emergency services;
6. access to operator services;
7. access to interexchange service;
8. access to directory assistance; and
9. toll limitation for qualifying low-income consumers.

47 C.F.R. § 54.101(a).

According to the *Section 214(e)(6) Public Notice*, a certification that the carrier provides each of the supported services is required.<sup>6</sup> As shown below and in the Declaration attached as Exhibit B hereto, Highland Cellular now provides or will provide, upon designation, the required services.

1. Voice-grade access to the public switched telephone network. The FCC concluded that voice-grade access means the ability to make and receive phone calls, within a bandwidth of approximately 2700 Hz within the 300 to 3000 Hz frequency range.<sup>7</sup> Highland Cellular meets this

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<sup>6</sup> *Section 214(e)(6) Public Notice, supra*, 12 FCC Rcd at 22948.

<sup>7</sup> *First Report and Order, supra*, 12 FCC Rcd at 8810-11.

requirement by providing voice-grade access to the public switched telephone network. Through its interconnection arrangements with local telephone companies, all customers of Highland Cellular are able to make and receive calls on the public switched telephone network within the specified bandwidth.

2. Local Usage. Beyond providing access to the public switched network, an ETC must include local usage as part of a universal service offering. To date, the FCC has not quantified a minimum amount of local usage required to be included in a universal service offering, but has initiated a separate proceeding to address this issue.<sup>8</sup> As it relates to local usage, the NPRM sought comments on a definition of the public service package that must be offered by all ETCs. Specifically, the FCC sought comments on how much, *if any*, local usage should be required to be provided to customers as part of a universal service offering.<sup>9</sup> In the *First Report and Order*, the FCC deferred a determination on the amount of local usage that a carrier would be required to provide.<sup>10</sup> Any minimum local usage requirement established by the FCC as a result of the *October 1998 NPRM* will be applicable to all designated ETCs, not simply wireless service providers. Highland Cellular will comply with any and all minimum local usage requirements adopted by the

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<sup>8</sup> See *Federal-State Joint Board on Universal Service, Memorandum Opinion and Order and Further Notice of Proposed Rulemaking*, 13 FCC Rcd 21252 (1998) (“*October 1998 NPRM*”).

<sup>9</sup> *October 1998 NPRM*, 13 FCC Rcd at 21277-21281.

<sup>10</sup> *First Report and Order*, 12 FCC Rcd at 8813. See also, *Western Wireless Corporation*, 16 FCC Rcd 48, 52-53 (2000), *aff'd*, FCC 01-311 (October 19, 2001); *Cellco Partnership*, 16 FCC Rcd 39, 42 (2000).

FCC. Highland Cellular will meet the local usage requirements by including a variety of local usage plans as part of a universal service offering.

3. Dual-tone, multi-frequency (“DTMF”) signaling, or its functional equivalent.

DTMF is a method of signaling that facilitates the transportation of call set-up and call detail information. Consistent with the principles of competitive and technological neutrality, the FCC permits carriers to provide signaling that is functionally equivalent to DTMF in satisfaction of this service requirement. 47 C.F.R. § 54.101(a)(3). Highland Cellular currently uses out-of-band digital signaling and in-band multi-frequency (“MF”) signaling that is functionally equivalent to DTMF signaling. Highland Cellular therefore meets the requirement to provide DTMF signaling or its functional equivalent.

4. Single-party service or its functional equivalent. “Single-party service” means

that only one party will be served by a subscriber loop or access line in contrast to a multi-party line.<sup>11</sup> The FCC concluded that a wireless provider offers the equivalent of single-party service when it offers a dedicated message path for the length of a user’s particular transmission.<sup>12</sup> Highland Cellular meets the requirement of single-party service by providing a dedicated message path for the length of all customer calls.

5. Access to emergency services. The ability to reach a public emergency service provider by dialing 911 is a required service in any universal service offering. Phase I E911, which includes the capability of providing both automatic numbering information (“ANI”) and automatic

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<sup>11</sup> See *First Report and Order*, *supra*, 12 FCC Rcd at 8810.

<sup>12</sup> See *id.*

location information (“ALI”), is only required if a public emergency service provider makes arrangements with the local provider for the delivery of such information.<sup>13</sup> Highland Cellular currently provides all of its customers with access to emergency service by dialing 911 in satisfaction of this requirement, and will comply with all federal and state requirements for implementing Phase II E-911 functionality.

6. Access to operator services. Access to operator services is defined as any automatic or live assistance provided to a consumer to arrange for the billing or completion, or both, of a telephone call.<sup>14</sup> Highland Cellular meets this requirement by providing all of its customers with access to operator services provided by either the Company or other entities (*e.g.*, LECs, IXC, etc.)

7. Access to interexchange service. A universal service provider must offer consumers access to interexchange service to make and receive toll or interexchange calls. Equal access, however, is not required. “The FCC do[es] not include equal access to interexchange service among the services supported by universal service mechanisms.”<sup>15</sup> Highland Cellular presently meets this requirement by providing all of its customers with the ability to make and receive interexchange or toll calls through direct interconnection arrangements the Company has with several IXCs. Additionally, customers are able to reach their IXC of choice by dialing the appropriate access code.

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<sup>13</sup> *See id.* at 8815-17.

<sup>14</sup> *See id.* at 8817-18.

<sup>15</sup> *Id.* at 8819.

8. Access to directory assistance. The ability to place a call to directory assistance is a required service offering.<sup>16</sup> Highland Cellular meets this requirement by providing all of its customers with access to directory assistance by dialing “411” or “555-1212”.

9. Toll limitation for qualifying low-income consumers. An ETC must offer either “toll control” or “toll blocking” services to qualifying Lifeline customers at no charge. The FCC no longer requires an ETC to provide both services as part of the toll limitation service required under 47 C.F.R. § 54.101(a)(9).<sup>17</sup> In particular, all ETCs must provide toll blocking, which allows customers to block the completion of outgoing toll calls.<sup>18</sup> Highland Cellular currently has no Lifeline customers in Virginia because only carriers designated as an ETC can participate in Lifeline. *See* 47 C.F.R. §§ 54.400-415. Once designated as an ETC, Highland Cellular will participate in Lifeline as required, and will provide their current toll blocking capabilities in satisfaction of the FCC’s requirement.

**C. Highland Cellular Will Offer Supported Services Through its Own Facilities.**

The Commission’s *Section 214(e)(6) Public Notice* established that a carrier requesting designation must certify that it offers the supported services “either using its own facilities or a combination of its own facilities and resale of another carrier’s services.”<sup>19</sup> Highland Cellular will provide the supported services using its existing network infrastructure, which includes the same

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<sup>16</sup> *See id.* at 8821.

<sup>17</sup> *See Universal Service Fourth Order on Reconsideration in CC Docket No, 96-45, Report and Order in CC Docket Nos. 96-45, 96-262, 94-1, 91-213, 95-72, 13 FCC Rcd 5318 (1997).*

<sup>18</sup> *First Report and Order, supra*, 12 FCC Rcd at 8821-22.

<sup>19</sup> *Section 214 Public Notice, supra*, 12 FCC Rcd at 22949.

antenna, cell-site, tower, trunking, mobile switching, and interconnection facilities used by the company to serve its existing conventional mobile cellular service customers. *See also* Exhibit B hereto.

**D. Highland Cellular Will Advertise its Universal Service Offering.**

Highland Cellular will advertise the availability of the supported services and the corresponding charges in a manner that fully informs the general public within the designated service area of the services and charges.<sup>20</sup> Highland Cellular currently advertises its wireless services through several different media. Highland Cellular will use media of general distribution that it currently employs to advertise its universal service offerings throughout the service areas designated by the Commission. Highland Cellular will comply with all form and content requirements, if any, promulgated by the FCC in the future and required of all designated ETCs.

**III. Highland Cellular Requests Designation Throughout Its Licensed Service Area in Virginia.**

Highland Cellular is not a “rural telephone company” as that term is defined by 47 U.S.C. § 153(37). Accordingly, Highland Cellular is required to describe the geographic area in which it requests designation.<sup>21</sup> Highland Cellular requests ETC designation for its entire licensed service area in Virginia, which is the boundary for the Channel Block A2 portion of the Virginia-2 RSA. That boundary is contiguous with those of Bland and Tazewell counties. A map of Highland Cellular’s proposed ETC service area is attached hereto as Exhibit C.

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<sup>20</sup> *Id.*

<sup>21</sup> *Id.*

**A. Non-Rural Areas**

In areas served by a non-rural local exchange carrier, there are no restrictions on how a state commission defines a competitive ETC's "service area". Highland Cellular's authorized service area covers a portion of the areas served by Verizon South, Inc. ("Verizon South").<sup>22</sup> A list of specific wire centers served by Verizon South is attached hereto as Exhibit D.<sup>23</sup>

The FCC may designate Highland Cellular as an ETC in the area that Highland Cellular serves, without redefining the service areas of Verizon South.<sup>24</sup>

**B. Rural Areas**

Highland Cellular's authorized service area covers the following rural telephone company service areas:

*1. Burke's Garden Telephone Company*

A list of specific wire centers served by Burke's Garden Telephone Company is attached hereto as Exhibit E. Because Highland Cellular's service area covers the company's study area in its entirety, Highland Cellular may be designated as an ETC in this rural telephone company service area upon

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<sup>22</sup> Verizon South offers service in Virginia under the GTE South, Inc. and Bell Atlantic-Virginia, Inc. brand names.

<sup>23</sup> Those wire centers that RCC partially serves are indicated on Exhibit D with the word "partial." To the extent Highland Cellular serves only a portion of a wire center listed in Exhibit D, Highland Cellular requests ETC designation in that portion of the wire center where it provides service.

<sup>24</sup> See 47 U.S.C. § 214(e)(2).

a finding that such designation would serve the public interest.<sup>25</sup> No redefinition of the incumbent telephone company service areas is required.<sup>26</sup>

2. *United Telephone Company - Southeast Virginia ("UTC")*

A list of specific wire centers served by UTC is attached hereto as Exhibit F. In addition to finding that the public interest would be served by designating Highland Cellular as an ETC in this rural telephone company service area,<sup>27</sup> the FCC must propose a redefinition of the incumbent LEC service area, with which the SCC will be presumably required to concur.<sup>28</sup> Highland Cellular hereby requests that UTC's service area be redefined as follows.

UTC provides service to two noncontiguous areas within the state. Highland Cellular serves three wire centers within UTC's service area, as set forth in Exhibit F attached hereto.<sup>29</sup> Highland Cellular is licensed to serve the Bland and Ceres wire centers in their entirety. Highland Cellular serves a portion of UTC's Saltville wire center. Highland Cellular is not licensed to serve the noncontiguous service areas that UTC is licensed to serve. The wire centers that make up this

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<sup>25</sup> See 47 C.F.R. § 54.207(c).

<sup>26</sup> See 47 U.S.C. § 214(e)(2).

<sup>27</sup> See *id.*

<sup>28</sup> Anticipating that it may have to decide whether to concur with the FCC's proposed redefinition of affected LEC service areas, the SCC has left Docket No. PUC010263 open for possible future proceedings. See Application of Virginia Cellular LLC, For Designation as an Eligible Telecommunications Provider Under 47 U.S.C. § 214(e)(2), Case No. PUC010263, Order (April 9, 2002), p. 5.

<sup>29</sup> Those wire centers that RCC partially serves are indicated on Exhibit F with the word "partial." To the extent Highland Cellular serves only a portion of a wire center listed in Exhibit F, Highland Cellular requests ETC designation in that portion of the wire center where it provides service.

noncontiguous area are listed in Exhibit F. Accordingly, Highland Cellular requests the Commission to designate the following wire centers as one service area, to be included within Highland Cellular's requested ETC service area:

Bland  
Ceres  
Saltville

Highland Cellular requests that the Commission designate the remaining areas served by UTC as a separate service area, which is not included within Highland Cellular's requested ETC area:

Abingdon  
Austinville  
Bristol  
Cana  
Chilhowie  
Comers Rock-Elk Creek  
Cripple Creek  
Damascus  
Fries  
Galax  
Glade Spring  
Gate City  
Hillsville  
Independence  
Konarock  
Laurel Fork  
Marion-Atkins  
Meadowview  
Mouth of Wilson  
Max Meadows  
Rich Valley  
Rural Retreat  
Sugar Grove  
Sylvatus  
Wytheville

In sum, Highland Cellular requests that UTC's Bland, Ceres and Saltville wire centers be designated as one service area and the remaining noncontiguous wire centers be designated as a second service area. This will permit the FCC to designate Highland Cellular's ETC service area to be contiguous with its FCC licensed area, which comprises Bland and Tazewell counties.

**IV. The Proposed Redefinition of Rural LEC Service Areas Is Consistent With the Joint Board's Analysis.**

Pursuant to 47 C.F.R. § 54.207(c)(1), a petition to redefine a rural LEC service area must contain, "an analysis that takes into account the recommendations of any Federal-State Joint Board convened to provide recommendations with respect to the definition of a service area served by a rural telephone company." As set forth above, Highland Cellular requests that the Commission redefine the service area of UTC.

In the *Recommended Decision* which laid the foundation for the FCC's *First Report and Order*, the Federal-State Joint Board on Universal Service ("Joint Board") enumerated three factors to be considered when redefining a rural service area.<sup>30</sup> First, the Joint Board advised the state commission to consider whether the competitive carrier is attempting to "cream skim" by only proposing to serve the lowest cost exchanges.<sup>31</sup> As a wireless carrier, Highland Cellular is restricted to providing service in those areas where it is licensed by the FCC. Highland Cellular is not picking and choosing the lowest cost exchanges. Highland Cellular has based its requested ETC area solely on its licensed service area and proposes to serve its entire service area.

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<sup>30</sup> *Federal-State Joint Board on Universal Service, Recommended Decision*, 12 FCC Rcd 87 (1996) ("*Recommended Decision*").

<sup>31</sup> *See Recommended Decision*, 12 FCC Rcd at 180.

Moreover, because of the May 15, 2002 deadline for incumbent LECs to elect to disaggregate high-cost support, any cream-skimming argument incumbent LECs may make are effectively moot.<sup>32</sup> Incumbent LECs have been on notice for over two years that the federal policy with respect to high-cost support favors disaggregating support so as to move more support dollars into higher-cost areas and away from low-cost areas. Having had notice of the lengthy and detailed proceedings conducted by the Rural Task Force, the Joint Board, and the FCC, any incumbent LEC that has elected not to disaggregate support must not be concerned about cream skimming in its particular service area. In the state of Virginia all incumbent LECs, including UTC, have chosen Path 1 disaggregation. Therefore, the Commission can reasonably conclude that UTC is not concerned about cream skimming. If UTC is concerned, it may request the state or the FCC to disaggregate its support under Path 2.

Second, the Joint Board urged the Commission to consider the rural carrier's special status under the Telecommunications Act of 1996.<sup>33</sup> In deciding whether to award ETC status to Highland Cellular, the Commission will weigh numerous factors and will consider how the public interest is affected by an award of ETC status pursuant to 47 U.S.C. § 214(e)(2). Congress mandated this public interest analysis in order to protect the special status of rural carriers in the same way it established special considerations for rural carriers with regard to interconnection, unbundling, and

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<sup>32</sup> *Federal-State Joint Board on Universal Service, Fourteenth Report and Order, Twenty-Second Order on Reconsideration, and Further Notice of Proposed Rulemaking in CC Docket No. 96-45, and Report and Order in CC Docket No. 00-256, 16 FCC Rcd 11244, 11302-09 (2001) ("Fourteenth Report and Order").*

<sup>33</sup> *See id.*

resale requirements.<sup>34</sup> Accordingly, if the Commission finds that Highland Cellular's ETC designation is in the public interest, it has duly recognized the special status of the rural carrier for purposes of determining whether Highland Cellular's service area designation should be adopted for federal universal service funding purposes. No action in this proceeding will affect or prejudice any future action this Commission or the SCC may take with respect to the LECs' status as a rural telephone company.

Finally, the Joint Board recommended that the FCC consider the administrative burden a rural LEC would face by calculating its costs on a basis other than its entire study area.<sup>35</sup> In the instant case, Highland Cellular is proposing to redefine rural LEC service areas solely for ETC designation purposes. Redefining service areas for ETC purposes will in no way impact the way the affected rural LECs calculate their costs, but it is solely to determine the LEC area in which Highland Cellular is to be designated as an ETC. As set forth above, UTC had until May 15, 2002 to disaggregate its high cost support pursuant to the FCC's *Fourteenth Report and Order* but chose Path 1 disaggregation. Accordingly, redefining rural LEC service areas as proposed in this Petition will not impose any additional burdens on UTC.

**V. A Grant of This Application Will Serve the Public Interest.**

Because Highland Cellular is seeking designation in areas served by two rural LECs, the FCC must consider public interest factors prior to designating Highland Cellular as an ETC.<sup>36</sup>

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<sup>34</sup> *See id.*

<sup>35</sup> *See id.*

<sup>36</sup> *See* 47 U.S.C. § 214(e)(6).

Designating Highland Cellular as an ETC in Virginia would further the public interest by bringing the benefits of competition to an underserved marketplace.

The FCC has recognized the advantages wireless carriers can bring to the universal service program. In particular, the FCC has found that “imposing additional burdens on wireless entrants would be particularly harmful to competition in rural areas, where wireless carriers could potentially offer service at much lower costs than traditional wireline service.”<sup>37</sup> One of the principal goals of the Telecommunications Act of 1996 was to “promote competition and reduce regulation in order to secure lower prices and higher quality services for American telecommunications consumers and encourage the rapid deployment of new telecommunications technologies.”<sup>38</sup> Competition drives down prices and promotes the development of advanced communications as carriers vie for a consumer’s business.

In its decision to designate Western Wireless as an ETC in the State of Wyoming, the FCC observed: “Designation of competitive ETCs promotes competition and benefits consumers in rural and high-cost areas by increasing customer choice, innovative services, and new technologies.”<sup>39</sup> Similarly, in designating the cellular carrier Smith Bagley, Inc. as an ETC in Arizona, the state commission found competitive entry to provide additional consumer choice and a potential solution to “health and safety risks associated with geographic isolation.”<sup>40</sup> More recently, in designating

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<sup>37</sup> *First Report and Order, supra*, 12 FCC Rcd at 8881-8882.

<sup>38</sup> Telecommunications Act of 1996, Public Law, 104-104, 100 Stat. 56 (1996).

<sup>39</sup> *Western Wireless Corporation*, DA 00-2896 (rel. Dec. 26, 2000) (“*Wyoming Order*”), 16 FCC Rcd 48, 55; *aff’d*, FCC 01-311 (rel. Oct. 19, 2001), at ¶19.

<sup>40</sup> *Smith Bagley, Inc., Order*, Decision No. 63269, Docket No. T-02556A-99-0207 (Ariz., Dec.15, 2001), at p. 12.

Guam Cellular and Paging, Inc. as an ETC in the territory of Guam, the Commission found that the designation of Guamcell as an ETC in the area served by the rural telephone company in Guam would serve the public interest “by promoting competition and the provision of new technologies to consumers in high cost and rural areas of Guam.”<sup>41</sup>

Designating Highland Cellular as an ETC will bring to consumers the benefits of competition, including increased choices, higher quality service, and lower rates. In a competitive market, rural consumers will be able to choose the services that best meet their communications needs. With a choice of service providers, the consumer is able to select a provider based on service quality, service availability, and rates.

The public interest standard under Section 214(e)(2) for designating ETCs in territories served by rural telephone companies emphasizes competition and consumer benefit, not incumbent protection. For example, the Commission has stated:

We do not believe that it is self-evident that rural telephone companies cannot survive competition from wireless providers. Specifically, we find no merit to the contention that designation of an additional ETC in areas served by rural telephone companies will necessarily create incentives to reduce investment in infrastructure, raise rates, or reduce service quality to consumers in rural areas. To the contrary, we believe that competition may provide incentives to the incumbent to implement new operating efficiencies, lower prices, and offer better service to its customers.<sup>42</sup>

Highland Cellular will provide consumers with the benefits of competition, including a variety of service plans, wide local calling areas, high quality mobile service, and competitive rates.

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<sup>41</sup> *Guam Cellular and Paging, Inc.*, DA 02-174, (rel. Jan. 25, 2002).

<sup>42</sup> *Wyoming Order*, *supra*, 16 FCC Rcd at 57.

With the introduction of competition, the incumbent provider will have an incentive to introduce new, innovative, or advanced service offerings. Conversely, a denial of Highland Cellular's request for designation as an ETC would deprive rural consumers of the benefits of competition, including increased choices, higher quality service, and lower rates.

Highland Cellular commits to use available federal high-cost support for the construction, maintenance and upgrading of facilities for which the support is intended, in compliance with Section 254 of the Act.<sup>43</sup> Many remote rural areas will not support deploying the type of robust wireless network required to compete on a level playing field with incumbent carriers. Wireless telephone service is today a convenience, but in most rural areas it cannot be counted on as a potential replacement for wireline service unless high-cost support is made available to drive infrastructure investment. Indeed, without the high-cost program it is doubtful that many rural areas would have wireline telephone service even today. Provision of high-cost support to Highland Cellular will begin to level the playing field with the incumbent LECs and make available for the first time a potential competitor for primary telephone service in remote areas of Virginia.

#### **VI. High-Cost Certification**

Under FCC Rule Sections 54.313 and 54.314, carriers wishing to obtain high-cost support must either be certified by the appropriate state commission or, where the state commission does not exercise jurisdiction, must self-certify with the FCC and the Universal Service Administrative Company ("USAC") their compliance with Section 254(e) of the Act. As explained above, the SCC does not exercise jurisdiction over CMRS carriers such as Highland Cellular. Therefore, in

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<sup>43</sup> 47 U.S.C. § 254(e).

accordance with Section 54.313(b) and 54.314(b), Highland Cellular has submitted its high-cost certification with the FCC and USAC. A copy of this certification is attached hereto as Exhibit G. Highland Cellular respectfully requests that the Commission issue a finding that Highland Cellular has met the high-cost certification requirement and that Highland Cellular is, therefore, entitled to begin receiving high-cost support as of the date it receives a grant of ETC status in order that funding will not be delayed.<sup>44</sup>

#### **VII. Anti-drug Abuse Certification**

Highland Cellular certifies that no party to this petition is subject to a denial of federal benefits, including FCC benefits, pursuant to Section 5301 of the Anti-Drug Abuse Act of 1988, 21 U.S.C. § 862. See Exhibit H hereto.

#### **VIII. Conclusion**

Highland Cellular respectfully requests the Commission to designate it as an ETC on an expedited basis.

Respectfully submitted,

**Highland Cellular, Inc.**

By 

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September 19, 2002

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<sup>44</sup> See Guam Cellular and Paging, Inc., Petition for Waiver of FCC Rule Section 54.314, filed February 6, 2002.

**Exhibit A**

## STATE CORPORATION COMMISSION

1-200  
11-01-02

AT RICHMOND, APRIL 9, 2002

COMMONWEALTH OF VIRGINIA, ex rel.

At the relation of the

STATE CORPORATION COMMISSION

CASE NO. PUC970135

Ex Parte, in re: Implementation  
of Requirements of § 214(e) of the  
Telecommunications Act of 1996

IN RE:

APPLICATION OF VIRGINIA CELLULAR LLC

CASE NO. PUC010263

For designation as an eligible  
telecommunications provider under  
47 U.S.C. § 214(e) (2)

ORDER

On September 15, 1997, the State Corporation Commission ("Commission") established the docket in Case No. PUC970135 to consider the requests of local exchange carriers ("LECs") to be designated as eligible telecommunications carriers ("ETC designation") to receive universal service support pursuant to § 214(e) of the Telecommunications Act of 1996, 47 U.S.C. § 251 et seq., ("Act") and associated Federal Regulations.<sup>1</sup> The Commission's exercise of its jurisdiction under § 214(e) (2) of the Act has been to establish a simple and streamlined process for telecommunications carriers to certify their eligibility with a minimum of regulatory burden placed upon each applicant.

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<sup>1</sup> 47 C.F.R. § 54.201-207.

All Virginia carriers receiving an ETC designation have merely been required to file an affidavit which, among other matters, certifies that all requirements of the Act for designation are met.<sup>2</sup>

Until the above-captioned Application was filed in Case No. PUC010263 by Virginia Cellular LLC ("Virginia Cellular" or "Applicant") for ETC designation, these proceedings have been uncontested. This is the first application by a Commercial Mobile Radio Service ("CMRS") carrier for ETC designation.<sup>3</sup> Pursuant to the Order Requesting Comments, Objections, or Requests for Hearing, issued by the Commission on January 24, 2002, the Virginia Telecommunications Industry Association ("VTIA") and NTELOS Telephone Inc. ("NTELOS") filed their respective comments and requests for hearing on February 20, 2002. Virginia Cellular filed Reply Comments on March 6, 2002.<sup>4</sup>

The comments of NTELOS and VTIA both contest the sufficiency of the Application and claim Virginia Cellular has

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<sup>2</sup> See Order issued November 21, 1997, in Case No. PUC970135, pp. 2-4 ("November 21, 1997, Order"). Also, the annual certification procedure to comply with 47 C.F.R. §§ 54.313 and 314 has been reduced to filing a form affidavit approved by the Commission in a Preliminary Order, issued August 29, 2001, in Case No. PUC010172.

<sup>3</sup> Virginia Cellular is a CMRS carrier as defined in 47 U.S.C. § 153(27) and is authorized as the "A-band" cellular carrier for the Virginia 6 Rural Service Area, serving the counties of Rockingham, Augusta, Nelson, and Highland and the cities of Harrisonburg, Staunton, and Waynesboro.

<sup>4</sup> On March 4, 2002, Virginia Cellular filed a Consent Motion requesting until March 6, 2002, to file Reply Comments. There being no objection, we now grant the Consent Motion.

failed to demonstrate how the public interest will be served.<sup>5</sup> NTELOS and VTIA each allude in their comments to other expected applications for ETC designation by wireless and CLEC carriers to follow this case of first impression. For that reason, we are asked by VTIA and NTELOS to convene a hearing and establish certain standards for the provisioning of the nine services specified in 47 C.F.R. § 54.101.<sup>6</sup> Each applicant is required to provide these nine services to be eligible for ETC designation.

VTIA further comments that "[i]t is not clear how the designation of Virginia Cellular as an ETC will affect the distribution of Universal Funds to the existing carriers in any given rural exchange area." Virginia Cellular replies that this "macroeconomic concern" need not be addressed with this Application. Rather, the Federal Communications Commission ("FCC") and the Federal State Joint Board on Universal Service

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<sup>5</sup> § 214(e)(2) of the Act requires that an ETC designation in areas served by a rural telephone company be based upon a finding that the designation is in the public interest. The Commission did recognize in its November 21, 1997, Order that any carrier seeking ETC designation in a rural area would have the burden of proving that such designation is in the public interest if challenged. Virginia Cellular is seeking ETC designation in the service territories of the following rural telephone companies: Shenandoah Telephone Company ("Shenandoah"), Clifton Forge Waynesboro Telephone Company ("NTELOS"), New Hope Telephone Company, North River Cooperative, Highland Telephone Cooperative, and Mountain Grove-Williamsville Telephone Company ("MGW").

<sup>6</sup> The nine services required to be offered include: voice grade access to the public switched network; local usage; dual tone multi-frequency signaling or its functional equivalent; single-party service or its functional equivalent; access to emergency services; access to operator services; access to interexchange service; access to directory assistance; and toll limitation for qualifying low-income consumers. Also, the services must be advertised in appropriate media sources. See In Re: Federal-State Joint Board of Universal Service, Report and Order, CC Docket No. 96-45, ¶ 145 (May 8, 1997) ("Universal Service Report & Order").

are reported by Virginia Cellular to be conducting ongoing proceedings to ensure the solvency of the high-cost support fund.<sup>7</sup> Presumably, VTIA views any public interest served by Virginia Cellular's ETC designation to depend upon whether there would be a consequent diminution of universal service funds.

Virginia Cellular cites the authority of § 214(e)(6) of the Act for this Commission to send Applicant to the FCC for ETC designation if this Commission declines to act on its Application.<sup>8</sup> In its Reply Comments, Virginia Cellular reports that the "FCC has been actively processing ETC applications on behalf of states which have declined to exercise jurisdiction [over CMRS carriers]. Its internal processing time has been six months, and it has met that timeline in almost all of its proceedings [and] . . . most, if not all of the issues raised by the commenters have been previously addressed by the FCC in its prior orders involving applications for ETC status."<sup>9</sup>

The Commission finds that § 214(e)(6) of the Act is applicable to Virginia Cellular's Application as this Commission has not asserted jurisdiction over CMRS carriers and that the

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<sup>7</sup> Reply Comments at p. 5.

<sup>8</sup> Pursuant to § 332(c)(3), 47 U.S.C. § 332(c)(3), state regulation of the entry of or the rates charged by any commercial mobile service or any private mobile service is preempted. The Commission has deregulated all Virginia radio common carriers and cellular mobile radio communications carriers. See Final Order issued October 23, 1995, Case No. PUC950062.

<sup>9</sup> Reply Comments at p. 3.

Applicant should apply to the FCC for ETC designation.<sup>10</sup> The Applicant points out that if Virginia Cellular is designated as an ETC carrier, then the Commission must redefine the service areas of NTELOS and Shenandoah, pursuant to 47 C.F.R.

§ 54.207(c).<sup>11</sup> The Applicant has indicated a willingness to propose a plan to redefine these companies' service areas and may submit such a plan with its application to the FCC for ETC designation.

If necessary, this Commission will participate with the FCC and Federal-State Joint Board in redefining the service areas of NTELOS and Shenandoah for "the purpose of determining universal service obligations and support mechanisms." (47 C.F.R.

§ 54.207(a))<sup>12</sup> Although the FCC will make the final determination on Virginia Cellular's requests, we need to leave this docket open in case there is additional action we must take with respect to defining the service areas of NTELOS and Shenandoah.<sup>13</sup>

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<sup>10</sup> The action is similar to that taken by the Commission in Case No. PUC010172 in its August 29, 2001, Order that required cooperatives to certify directly with the FCC.

<sup>11</sup> The Commission believes that the service area of MGW does not necessarily need to be redefined if Virginia Cellular is designated as an ETC in that territory. However, if the FCC determines otherwise, the Commission will consider additional action if necessary.

<sup>12</sup> Pursuant to 47 C.F.R. § 54.207(c), if the Applicant proposes to redefine these two companies' service areas, the FCC's procedures require the Commission's agreement on the definitions.

<sup>13</sup> At this juncture, it is unclear whether the Commission will need to address the redefinitions once disaggregation plans are filed at the FCC pursuant to 47 C.F.R. § 54.315(a).

NOW UPON CONSIDERATION of all the pleadings of record and the applicable law, the Commission is of the opinion that Virginia Cellular should request the FCC to grant the requested ETC designation, pursuant to 47 U.S.C. § 214(e)(6).

Accordingly, IT IS ORDERED THAT Case No. PUC010263 will remain open for further order of the Commission.

AN ATTESTED COPY hereof shall be sent by the Clerk of the Commission to: all LECs certified in the Commonwealth of Virginia, as set out in Appendix A of this Order; David A. LaFuria, Esquire, Lukas Nace Gutierrez & Sachs, 1111 Nineteenth Street, N.W., Suite 1200, Washington, D.C. 20036; C. Meade Browder, Jr., Senior Assistant Attorney General, Division of Consumer Counsel, Office of Attorney General, 900 East Main Street, Second Floor, Richmond, Virginia 23219; William F. Caton, Acting Secretary, Federal Communications Commission, Office of the Secretary, 445 12th Street, S.W., Washington, D.C. 20554; and the Commission's Office of General Counsel and Division of Communications.

**Exhibit B**

## DECLARATION UNDER PENALTY OF PERJURY

I, Rete Stearns, do hereby declare under penalty of perjury as follows:

1. I am the President of Highland Cellular, Inc. ("Highland Cellular").

1. This Affidavit is submitted in support of Highland Cellular's Petition for Designation as an Eligible Telecommunications Carrier ("ETC").

3. Highland Cellular currently provides cellular service in the Virginia 2 Rural Service Area ("RSA") serving the counties of Bland and Tazewell.

4. As a carrier not subject to state commission jurisdiction in the State of Virginia, Highland Cellular is seeking designation as an ETC under Section 214(e)(6) of the Communications Act of 1934, as amended, 47 U.S.C. § 214(e)(6).

5. Highland Cellular meets the criteria for ETC designation as explained herein.

6. Highland Cellular is a "common carrier" for purposes of obtaining ETC designation pursuant to 47 U.S.C. § 214(e)(1). A "common carrier" is generally defined in 47 U.S.C. § 153(10) as a person engaged as a common carrier on a for-hire basis in interstate communications by wire or radio. Section 20.9(a)7 of the Commission's Rules provide that cellular service is a common carrier service. *See* 47 C.F.R. § 20.9(a)(7).

7. Highland Cellular currently offers and is able to provide, within its designated service areas, the services and functionalities identified in 47 C.F.R. § 54.101(a). Each of these services and functionalities is discussed more fully below.

a. Voice-grade access to the public switched telephone network. The FCC concluded that voice-grade access means the ability to make and receive phone calls, within a bandwidth of approximately 2700 Hz within the 300 to 3000 Hz frequency range. *See Federal-State Joint Board on Universal Service, CC Docket No. 96-45, First Report and Order, 12 FCC Rcd 8776, 8810-11 (1997) ("Universal Service Order")*. Highland Cellular meets this requirement by providing voice-grade access to the public switched telephone network. Through its interconnection arrangements with local telephone companies, all customers of Highland Cellular are able to make and receive calls on the public switched telephone network within the specified bandwidth.

b. Local Usage. Beyond providing access to the public switched network, an ETC must include local usage as part of a universal service offering. To date, the FCC has not quantified a minimum amount of local usage required to be included in a universal service offering, but has initiated a separate proceeding to address this issue. *See Federal-State Joint Board on Universal Service, Memorandum Opinion and Order and Further Notice of Proposed Rulemaking, 13 FCC Rcd 21252 (1998) ("October 1998 NPRM")*. As it relates to local usage, the NPRM sought comments on a definition of the public service package that must be offered by all ETCs. Specifically, the FCC sought comments on how much, *if any*, local usage should be

required to be provided to customers as part of a universal service offering. *October 1998 NPRM*, 13 FCC Rcd at 21277-21281. In the *Universal Service Order*, the FCC deferred a determination on the amount of local usage that a carrier would be required to provide. *Universal Service Order*, 12 FCC Rcd at 8813. Any minimum local usage requirement established by the FCC as a result of the *October 1998 NPRM* will be applicable to all designated ETCs, not simply wireless service providers. Highland Cellular will comply with any and all minimum local usage requirements adopted by the FCC. Highland Cellular will meet the local usage requirements by including local usage as part of a universal service offering.

c. Dual-tone, multi-frequency (“DTMF”) signaling, or its functional equivalent. DTMF is a method of signaling that facilitates the transportation of call set-up and call detail information. Consistent with the principles of competitive and technological neutrality, the FCC permits carriers to provide signaling that is functionally equivalent to DTMF in satisfaction of this service requirement. 47 C.F.R. § 54.101(a)(3). Highland Cellular currently uses out-of-band digital signaling and in-band multi-frequency (“MF”) signaling that is functionally equivalent to DTMF signaling. Highland Cellular therefore meets the requirement to provide DTMF signaling or its functional equivalent.

d. Single-party service or its functional equivalent. “Single-party service” means that only one party will be served by a subscriber loop or access line in contrast to a multi-party line. *Universal Service Order*, 12 FCC Rcd at 8810. The FCC concluded that a wireless provider offers the equivalent of single-party service when it offers a dedicated message path for the length of a user’s particular transmission. *Id.* Highland Cellular meets the requirement of single-party service by providing a dedicated message path for the length of all customer calls.

e. Access to emergency services. The ability to reach a public emergency service provider by dialing 911 is a required service in any universal service offering. Enhanced 911 or E911, which includes the capability of providing both automatic numbering information (“ANI”) and automatic location information (“ALI”), is only required if a public emergency service provider makes arrangements with the local provider for the delivery of such information. *See id.* at 8815-17. Highland Cellular currently provides all of its customers with access to emergency service by dialing 911 in satisfaction of this requirement. Highland Cellular will comply with all Phase II E-911 requirements.

f. Access to operator services. Access to operator services is defined as any automatic or live assistance provided to a consumer to arrange for the billing or completion, or both, of a telephone call. *Id.* at 8817-18. Highland Cellular meets this requirement by providing all of its customers with access to operator services provided by either the Company or other entities (*e.g.*, LECs, IXC, etc.)

g. Access to interexchange service. A universal service provider must offer consumers access to interexchange service to make and receive toll or interexchange calls. Equal access, however, is not required. “The FCC do[es] not include equal access to interexchange service among the services supported by universal service mechanisms.” *Id.* at 8819. Highland Cellular presently meets this requirement by providing all of its customers with the ability to make and receive interexchange or toll calls through direct interconnection

arrangements the Company has with several IXCs. Additionally, customers are able to reach their IXC of choice by dialing the appropriate access code.

h. Access to directory assistance. The ability to place a call to directory assistance is a required service offering. *Id.* at 8821. Highland Cellular meets this requirement by providing all of its customers with access to directory assistance by dialing "411" or "555-1212".

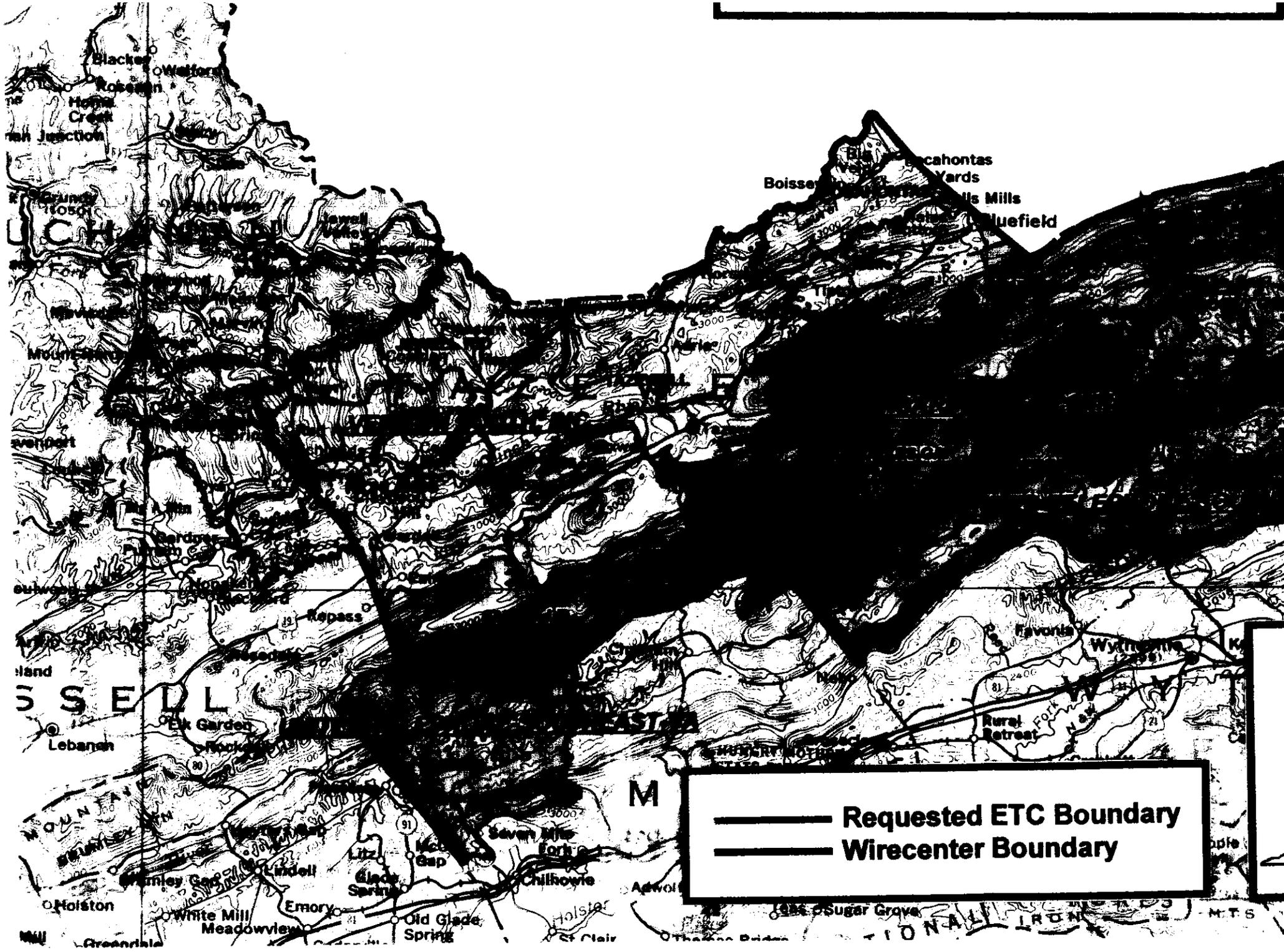
i. Toll limitation for qualifying low-income consumers. An ETC must offer either "toll control" or "toll blocking" services to qualifying Lifeline customers at no charge. The FCC no longer requires an ETC to provide both services as part of the toll limitation service required under 47 C.F.R. § 54.101(a)(9). *See Universal Service Fourth Order on Reconsideration*, FCC 97-420 (Dec. 30, 1997). In particular, all ETCs must provide toll blocking, which allows customers to block the completion of outgoing toll calls. *Universal Service Order*, 12 FCC Rcd at 8821-22. Highland Cellular currently has no Lifeline customers in Virginia because only carriers designated as an ETC can participate in Lifeline. *See* 47 C.F.R. § 54.400-415. Once designated as an ETC, Highland Cellular will participate in Lifeline as required, and will provide its current toll blocking capabilities in satisfaction of the FCC's requirement. Today, the Company provides toll-blocking services for all international calls and toll blocking for selected customers. Accordingly, Highland Cellular currently has the technology to provide toll blocking and will use this technology to provide the service to its Lifeline customers, at no charge, as part of its universal service offerings.

8. Highland Cellular will provide the supported services using its existing network infrastructure, which includes the same antenna, cell-site, tower, trunking, mobile switching, and interconnection facilities used by the company to serve its existing conventional mobile cellular service customers.

9. I declare under penalty of perjury that the foregoing is true and correct. Executed on September 11, 2002.

  
\_\_\_\_\_  
Rete Stearns, President  
Highland Cellular, Inc.

**Exhibit C**



**Requested ETC Boundary**  
**Wirecenter Boundary**

**Exhibit D**  
**Non-Rural LEC Wire Centers**  
**For Immediate Designation**

<b>CARRIER</b>	<b>WIRE CENTER CODE</b>	<b>LOCALITY NAME</b>
GTE South, Inc. (Verizon)	BLFDVAXA	Bluefield
GTE South, Inc. (Verizon)	JWRGVAXA	Jewell Ridge
GTE South, Inc. (Verizon)	PCHNVAXA	Pochahontas
GTE South, Inc. (Verizon)	RCLDVAXA	Richlands
GTE South, Inc. (Verizon)	RCGPVAXA	Rocky Gap
GTE South, Inc. (Verizon)	TZWLVAXA	Tazewell
Bell Atlantic - Virginia, Inc. (Verizon)	HNKRVAXA	Honaker

**Exhibit E**  
**Rural LEC Wire Centers**  
**For Immediate Designation**

<b>CARRIER</b>	<b>WIRE CENTER CODE</b>	<b>LOCALITY NAME</b>
Burke's Garden Telephone Company, Inc.	BRGRVAXA	Burkes Garden

**Exhibit F**  
**Rural LEC Wire Centers**  
**For Reclassification**

<b>CARRIER</b>	<b>WIRE CENTER CODES SERVED</b>	<b>LOCALITY NAME</b>	<b>SERVED Y/N</b>	<b>ENTIRE/PARTIAL</b>
United Telephone Company - Southeast Virginia	ABNGVAXA	Abingdon	N	
United Telephone Company - Southeast Virginia	ATVLVAXA	Austinville	N	
United Telephone Company - Southeast Virginia	BLNDVAXA	Bland	Y	Entire
United Telephone Company - Southeast Virginia	BRSTVAXA	Bristol	N	
United Telephone Company - Southeast Virginia	CANAVAXA	Cana	N	
United Telephone Company - Southeast Virginia	CERSVAXA	Ceres	Y	Entire
United Telephone Company - Southeast Virginia	CHLHVAXA	Chilhowie	N	
United Telephone Company - Southeast Virginia	CMRKVAXA	Comers Rock-Elk Creek	N	
United Telephone Company - Southeast Virginia	CRCKVAXA	Cripple Creek	N	
United Telephone Company - Southeast Virginia	DMSCVAXA	Damascus	N	
United Telephone Company - Southeast Virginia	FRISVAXA	Fries	N	
United Telephone Company - Southeast Virginia	GALXVAXA	Galax	N	
United Telephone Company - Southeast Virginia	GDSPVAXA	Glade Spring	N	

United Telephone Company - Southeast Virginia	GTCYVAXA	Gate City	N	
United Telephone Company - Southeast Virginia	HLVLVAXA	Hillsville	N	
United Telephone Company - Southeast Virginia	INDPVAXA	Independence	N	
United Telephone Company - Southeast Virginia	KNRKVAXA	Konnarock	N	
United Telephone Company - Southeast Virginia	LRFKVAXA	Laurel Fork	N	
United Telephone Company - Southeast Virginia	MARNVAXA	Marion-Atkins	N	
United Telephone Company - Southeast Virginia	MDVWVAXA	Meadowview	N	
United Telephone Company - Southeast Virginia	MTWLVAXA	Mouth of Wilson	N	
United Telephone Company - Southeast Virginia	MXMDVAXA	Max Meadows	N	
United Telephone Company - Southeast Virginia	RCVYVAXA	Rich Valley	N	
United Telephone Company - Southeast Virginia	RRRTVAXA	Rural Retreat	N	
United Telephone Company - Southeast Virginia	SGGVVAXA	Sugar Grove	N	
United Telephone Company - Southeast Virginia	SLVLVAXA	Saltville	Y	Partial
United Telephone Company - Southeast Virginia	SYLVVAXA	Sylvatus	N	
United Telephone Company - Southeast Virginia	WYVLVAXA	Wytheville	N	

**Exhibit G**



STAMP AND RETURN

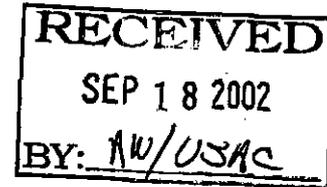
HIGHLAND GROUP  
[COMPANY LETTERHEAD]

September 16, 2002

550 North Eisenhower Drive  
Beckley, West Virginia 25801-3157  
Tel: (304) 255-5981 Fax: (304) 252-1852

**VIA HAND DELIVERY**

Ms. Marlene H. Dortch, Secretary  
Office of Managing Director  
Federal Communications Commission  
445 12<sup>th</sup> Street, S.W.  
Room TW-B204  
Washington, DC 20554



Ms. Irene Flannery  
Vice President - High-cost and Low Income Division  
2120 L Street, N.W.  
Suite 600  
Washington, D.C. 20037

**Re: Highland Cellular, Inc.  
Certification for High-Cost Loop Support  
CC Docket No. 96-45**

Dear Ms. Dortch and Ms. Flannery:

This certification is submitted on behalf of Highland Cellular, Inc. ("Highland Cellular") in accordance with FCC Rule Sections 54.313 and 54.314. On behalf of Highland Cellular, I hereby certify under penalty of perjury that all high-cost support provided to the Company will be used only for the provision, maintenance, and upgrading of facilities and services for which the support is intended, pursuant to Section 254(e) of the Telecommunications Act of 1996.

Highland Cellular, Inc.

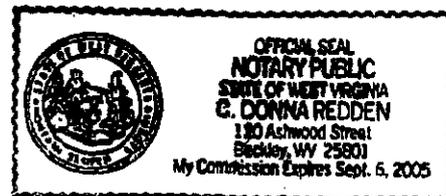
By: \_\_\_\_\_

*Rete Stearns*  
Rete Stearns  
Its President

SUBSCRIBED, SWORN TO AND ACKNOWLEDGED before me this 16<sup>th</sup> day of September, 2002.

*Donna Redden*  
\_\_\_\_\_  
NOTARY PUBLIC

My Commission Expires: 9-6-05



**Exhibit H**

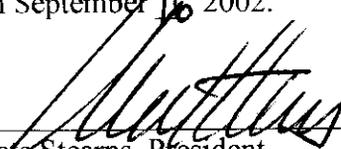
## DECLARATION UNDER PENALTY OF PERJURY

I, Rete Stearns, do hereby declare under penalty of perjury as follows:

1. I am the President of Highland Cellular, Inc.

2. To the best of my knowledge, the Petitioner referred to in the foregoing Petition, including all officers, directors, or persons holding 5% or more of the outstanding stock or shares (voting and/or non voting) of the applicant as specified in 1.2002(b) of the Commission's rules are not subject to a denial of federal benefits, including FCC benefits, pursuant to Section 5301 of the Anti-Drug Abuse Act of 1988, 21 U.S.C. §862.

3. I declare under penalty of perjury that the foregoing is true and correct. Executed on September 11, 2002.

  
\_\_\_\_\_  
Rete Stearns, President  
Highland Cellular, Inc.

**BEFORE THE FEDERAL COMMUNICATIONS COMMISSION**

**In the Matter of** )  
 )  
**Federal -State Joint Board on** ) **CC Docket No. 96-45**  
**Universal Service** )  
 )  
**Highland Cellular, Inc.** )  
 )  
**Petition for Designation as an** )  
**Eligible Telecommunications** )  
**Carrier in the State of Virginia** )

**CERTIFICATE OF SERVICE**

I hereby certify that a true and correct copy of the PETITION FOR DESIGNATION AS AN ELIGIBLE TELECOMMUNICATIONS CARRIER IN THE STATE OF VIRIGINIA was sent via U.S. Mail to the following persons on this 19<sup>th</sup> day of September 2002.

Elmer E. Halterman  
General Manager  
Highland Telephone Cooperative  
P.O. Box 340 Monterey, Virginia 24465

K. L. Chapman, Jr.  
President  
New Hope Telephone Company  
P. O. Box 38  
New Hope, Virginia 24469

C. Douglas Wine  
Manager  
North River Telephone Cooperative  
P. O. Box 236  
Mt. Crawford, Virginia 22841-0236

Mr. L. Ronald Smith  
President  
Mountain Grove-Williamsville Telephone  
Company  
P.O. Box 105  
Williamsville, Virginia 24487

James S. Quarforth  
President  
Clifton Forge- Waynesboro Telephone  
Company  
P.O. Box 2008  
Staunton, Virginia 24401

Christopher E. French  
President  
Shenandoah Telephone Company  
P. O. Box 459  
Edinburg, Virginia 22824

Thomas W. Sokol  
State Executive-Virginia  
Central Telephone Company  
1108 East Main Street, Suite 1200  
Richmond, Virginia 23219

Lydia R. Pulley  
Vice President and General Counsel  
Verizon South Inc.  
600 East Main Street, 11<sup>th</sup> Floor  
Richmond, Virginia 23219

Robert W. Woltz  
President  
Verizon Virginia Inc.  
P.O. Box 27241  
600 East Main Street  
Richmond, Virginia 23261

William Irby  
Director, Communications Division  
Virginia Corporation Commission  
P.O. Box 1197  
Richmond, Virginia 23218

Kathleen A. Cummings  
Deputy Director, Communications Division  
Virginia Corporation Commission  
P.O. Box 1197  
Richmond, Virginia 23218

Sheree King  
Virginia Corporation Commission  
P.O. Box 1197  
Richmond, Virginia 23218

  
\_\_\_\_\_  
Janelle Wood