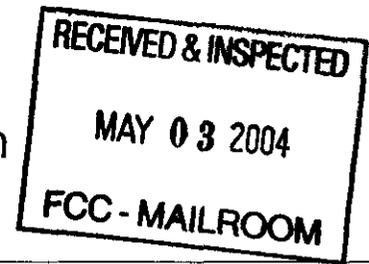


DOCKET FILE COPY ORIGINAL

Public Service Commission  
Of West Virginia



201 Brooks Street, P O Box 812  
Charleston, West Virginia 25323

Edward H Staats  
Chairman



April 26, 2004

Ms. Marlene H. Dortch, Secretary  
Federal Communications Commission  
Office of the Secretary  
445 12<sup>th</sup> Street, SW  
Washington, DC 20554

**Re: CC Docket No. 96-45: Certification Under 47 U.S.C. § 254(e).**

Dear Secretary Dortch:

By recommended decision entered May 10, 2002, which became a final order of the Public Service Commission of West Virginia (WVPSC) on May 20, 2002, Highland Cellular, Inc. – a commercial mobile radio services provider (CMRS) – was designated an eligible telecommunications carrier (ETC) by the WVPSC. See “Recommended Decision,” *Highland Cellular, Inc*, Case No. 01-1604-T-PC (May 10, 2002; Final May 30, 2002). In accordance with 47 C.F.R. §§ 54.313 & .314, on June 28, 2002, the WVPSC certified to the FCC and the USAC that Highland Cellular, Inc. was eligible to receive federal support during October 1, 2002 to December 31, 2002. See June 28, 2002 correspondence (copy attached). The WVPSC further certified that Highland will use federal universal service support only for the provision, maintenance and upgrading of facilities and services for which the support is intended, consistent with Section 254(e) of the Communications Act of 1934, as amended. The certification was the product of formal proceedings before the WVPSC. See “Commission Order,” *Petition to Initiate a General Investigation Re Certification of the Disposition of Federal Universal Service Funding for Calendar Year 2002*, Case No. 01-1129-T-GI (June 28, 2002).<sup>1</sup>

Highland Cellular, Inc. recently requested that the WVPSC reopen its case for the limited

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<sup>1</sup>WVPSC orders and decisions can be viewed or downloaded from the following link on the Commission’s Internet website: <http://www.psc.state.wv.us/orders>.

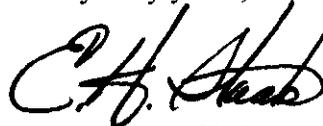
Ms. Marlene H. Dortch  
April 26, 2004  
Page 2

purpose of certifying that it should be eligible for receipt of universal service funding from the time of the WVPSC's grant of ETC status to Highland Cellular, Inc. on May 30, 2002, in Case No. 01-1604-T-PC. Highland Cellular, Inc. based its request upon *In the Matter of Federal-State Joint Board on Universal Service RFB Cellular, Inc*, CC Docket No. 96-45. On April 26, 2004, the WVPSC entered an Order granting Highland Cellular, Inc.'s request. *See General Investigation Re Certificate of the Disposition of Federal Universal Service Funding by Incumbent Local Exchange Carriers, Etc*, Case No. 01-1129-T-GI (June 28, 2002) (copy attached).

Accordingly, the WVPSC now certifies that Highland Cellular, Inc. would be eligible, given the appropriate waivers by the FCC of applicable regulations, for receipt of universal service funding from the time of the Commission's grant of ETC status to Highland on May 30, 2002, in Case No. 01-1604-T-PC. The WVPSC does not object to Highland Cellular, Inc.'s petition for waiver of the certification filing deadlines set forth in 47 C.F.R. Section 54.313.

On behalf of the people of West Virginia, the WVPSC expresses its appreciation for the Commission's efforts in arriving at a mechanism to provide support that will reduce monthly rates for the bulk of consumers and make those rates more comparable to rates paid by consumers in other parts of the Nation.

Very truly yours,



E H Staats, Chairman

EHS/ljm

Enclosure

cc Irene Flannery, Universal Service Administrative Company  
2000 L Street, NW  
Suite 200  
Washington, DC 20036

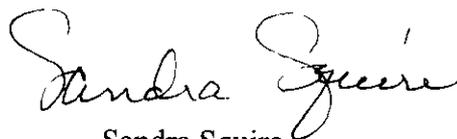
PUBLIC SERVICE COMMISSION  
OF WEST VIRGINIA  
CHARLESTON

CERTIFICATION OF TRUE COPY

RE: CASE NO 01-1129-T-GI  
GENERAL INVESTIGATION REGARDING CERTIFICATE OF DISPOSITION OF  
FEDERAL UNIVERSAL SERVICE FUNDING BY INCUMBENT LOCAL EXCHANGE  
CARRIERS, ETC.

I, Sandra Squire, Executive Secretary of the Public Service Commission of West Virginia, certify that the attached is a true copy of the April 26, 2004, Commission Order in the above-styled proceeding, as the same appears on file and of record in my office.

Given under my hand and the seal of the Public Service Commission of West Virginia, in the City of Charleston, Kanawha County, this 26th day of April, 2004.



Sandra Squire  
Executive Secretary

SS/s  
Attachment

**PUBLIC SERVICE COMMISSION  
OF WEST VIRGINIA  
CHARLESTON**

At a session of the PUBLIC SERVICE COMMISSION OF WEST VIRGINIA in the City of Charleston on the 26<sup>th</sup> day of April, 2004.

CASE NO. 01-1129-T-GI (REOPENED)

GENERAL INVESTIGATION REGARDING  
CERTIFICATE OF DISPOSITION OF FEDERAL  
UNIVERSAL SERVICE FUNDING BY  
INCUMBENT LOCAL EXCHANGE CARRIERS,  
ETC.

**COMMISSION ORDER**

On September 26, 2001, the Commission certified to the Federal Communications Commission (FCC) and the Universal Service Administrative Company (USAC) that several incumbent local exchange carriers (LECs) and competitive eligible telecommunications carriers (ETCs) were eligible to continue to receive federal universal service support for the entire calendar year 2002, based upon their verified statements that they use federal universal service funds only for the provision, maintenance and upgrading of facilities and services for which the support is intended, consistent with Section 254(e) of the Communications Act of 1934, as amended.<sup>1</sup> Comm'n Order p. 3, GI re: Certification of the Disposition of Universal Service Funds, Case No. 01-1129-T-PC (Sept. 26, 2001).

On May 30, 2002, Highland Cellular, Inc. was designated, pursuant to 47 U.S.C. § 241(e), as an ETC by the Commission. Comm'n Order p. 8, Highland Cellular, Inc., Case No. 01-1604-T-PC (Rec. Dec. May 10, 2002, final May 30, 2002).

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<sup>1</sup>The Telecommunications Act of 1934 was substantially modified in 1996. Therefore, the Commission and the parties refer to the statute with the terms "Telecommunications Act of 1996" and "Telecommunications Act of 1934, as amended" interchangeably in this case.

On June 28, 2002, Highland filed a verified statement that it will use federal universal service fund support only for the provision, maintenance and upgrading of facilities and services which support is necessary, consistent with Section 254(e) of the Telecommunications Act of 1996. Verified Statement p. 1.

On June 28, 2002, the Commission reopened Case No. 01-1129-T-GI and certified to the FCC and the USAC that Highland was eligible to receive federal universal service support beginning in the fourth quarter of calendar year 2002, based upon the verified statement submitted to the Commission. Comm'n Order p. 3, GI re: Certification of the Disposition of Universal Service Funds, Case No. 01-1129-T-GI (June 28, 2002).

On January 20, 2004, Highland filed a petition to reopen this proceeding for the limited purpose of certifying that it should be eligible for receipt of universal service funding from the time of the Commission's grant of ETC status to Highland on May 30, 2002, in Case No. 01-1604-T-PC. Highland recently learned of an FCC Order, entered December 4, 2002, which granted RFB Cellular, Inc.'s request to allow it to receive high-cost universal service support as of the date the Michigan Public Service Commission designated RFB Cellular as an ETC. (*Citing In the Matter of Federal-State Joint Board on Universal Service RFB Cellular, Inc.*, CC Docket No. 96-45). In order to obtain necessary waivers from the FCC, in accordance with *RFB Cellular*, Highland has asked this Commission to reopen this proceeding and enter an order determining that Highland shall only use universal service fund support for purposes consistent with 47 U.S.C. §254(e), and certifying to the FCC and USAC that Highland is eligible to receive federal universal service support beginning on May 30, 2002, the date of its ETC designation. Highland has also asked the Commission to include in its letter of transmission to the FCC that it does not object to Highland's petition for waiver of the certification filing deadlines set forth in 47 C.F.R. Section 54.313.

On March 5, 2004, Commission Staff (Staff) filed a Final Joint Staff Memorandum, recommending the matter be reopened and the relief requested be granted.

### DISCUSSION

This case should be reopened to consider Highland's petition.

The Commission agrees with the reasoning of Staff and Highland and believes it is appropriate to certify that Highland would be eligible, given the appropriate waivers by the FCC of applicable regulations, for receipt of universal service funding from the time of the Commission's grant of ETC status to Highland on May 30, 2002, in Case No. 01-1604-T-PC.

## FINDINGS OF FACT

1. On May 30, 2002, Highland was designated, pursuant to 47 U.S.C. § 241(e), as an ETC by the Commission. Comm'n Order p. 8, Highland Cellular, Case No. 01-1604-T-PC (Rec. Dec. May 10, 2002, final May 30, 2002).
2. On June 28, 2002, Highland filed a verified statement that it will use federal universal service fund support only for the provision, maintenance and upgrading of facilities and services for which support is necessary, consistent with Section 245(e) of the Telecommunications Act of 1996. Verified Statement p. 1.
3. On June 28, 2002, the Commission reopened Case No. 01-1129-T-GI and certified to the FCC and the USAC that Highland was eligible to continue to receive federal universal service support beginning in the fourth quarter of calendar year 2002, based upon the verified statement submitted to the Commission. Comm'n Order p. 3, GI re: Certification of the Disposition of Universal Service Funds, Case No. 01-1129-T-GI (June 28, 2002).
4. On January 20, 2004, Highland filed a petition to reopen this proceeding for the limited purpose of certifying that it should be eligible for receipt of universal service funding from the time of the Commission's grant of ETC status to Highland on May 30, 2002, in Case No. 01-1604-T-PC.
5. On March 5, 2004, Staff recommended this matter be reopened and the relief requested be granted.

## CONCLUSION OF LAW

Highland was granted status as an ETC by this Commission on May 30, 2002. Subsequent to the granting of ETC status to Highland, on June 28, 2002, the Commission issued an Order and certified that Highland shall use universal service fund support only for the provision, maintenance and upgrading of facilities and services for which support is necessary, consistent with Section 254(e) of the Telecommunications Act of 1996. Given the appropriate waivers by the FCC of applicable regulations and based on the records of this Commission, Highland would be eligible to receive federal universal service support as of May 30, 2002.

## ORDER

IT IS, THEREFORE, ORDERED that this case is reopened.

IT IS FURTHER ORDERED that Highland Cellular, Inc. shall only use universal service fund support for the provision, maintenance and upgrading of facilities and services for which support is necessary, consistent with Section 254(e) of the Telecommunications Act of 1996.

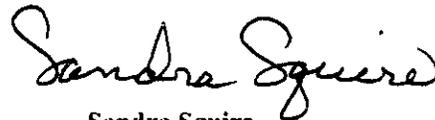
IT IS FURTHER ORDERED that it is appropriate to certify to the FCC and USAC that Highland Cellular, Inc. would be eligible, given the appropriate FCC waivers of applicable regulations, to receive federal universal service support beginning on May 30, 2002, based on the verified statement submitted to the Commission.

IT IS FURTHER ORDERED that, upon entry hereof, this proceeding shall be removed from the Commission's active docket of cases.

IT IS FURTHER ORDERED that the Commission's Executive Secretary serve a copy of this order upon all parties of record by United States First Class Mail and upon Commission Staff by hand delivery.

TBS/ljm  
011129cd.wpd

A True Copy, Teste:



Sandra Squire  
Executive Secretary

Public Service Commission  
Of West Virginia

201 Brooks Street, P. O. Box 812  
Charleston, West Virginia 25323

James D. Williams  
Chairman



June 28, 2002

**VIA OVERNIGHT DELIVERY**

Ms. Marlene H. Dortch, Secretary  
Federal Communications Commission  
Office of the Secretary  
9300 East Hampton Drive  
Capitol Heights, MD 20743

01-1129-T-GI

**Re: CC Docket No. 96-45: Certification Under 47 U.S.C. § 254(e).**

Dear Secretary Dortch:

The Public Service Commission of West Virginia (WVPSC) hereby submits its certification in accordance with 47 C.F.R. §§ 54.313 & 314. These sections of the Commission's rules require state certification in order to allow incumbent local exchange carriers (incumbent LECs or ILECs) and competitive LECs that have been designated as eligible telecommunications carriers (ETCs), to receive federal universal service support pursuant to 47 C.F.R. §§ 54.301 to 314.

As required by 47 C.F.R. §§ 54.313(a) & 314(a), the WVPSC certifies that the following carriers in West Virginia are eligible to receive federal support during October 1, 2002 to December 31, 2002: Highland Cellular, Inc. By recommended decision entered May 10, 2002, which became a final order of the WVPSC on May 20, 2002. Highland Cellular, Inc.

Ms. Marlene H. Dortch, Secretary

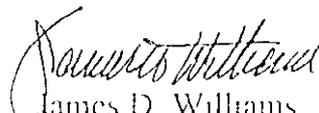
June 28, 2002

Page Two

commercial mobile radio services provider (CMRS) – was designated an ETC by the WVPSC. See “Recommended Decision,” Highland Cellular, Inc., Case No. 01-1604-T-PC (May 10, 2002, Final May 30, 2002). The WVPSC further certifies that Highland will use federal universal service support only for the provision, maintenance and upgrading of facilities and services for which the support is intended, consistent with Section 254(e) of the Communications Act of 1934, as amended. This certification is the product of formal proceedings before the WVPSC. See “Commission Order,” Petition to Initiate a General Investigation Re Certification of the Disposition of Federal Universal Service Funding for Calendar Year 2002, Case No. 01-1129-F-PC (June 28, 2002) (copy attached).<sup>1</sup>

On behalf of the people of West Virginia, the WVPSC expresses its appreciation for the Commission’s efforts in arriving at a mechanism to provide support that will reduce monthly rates for the bulk of consumers and make those rates more comparable to rates paid by consumers in other parts of the Nation.

Very truly yours,

  
James D. Williams  
Chairman

JDW/raf

Enclosures

cc Irene Flannery, Universal Service Administrative Company  
2120 L Street, NW  
Suite 600  
Washington, DC 20037  
Via Fax (202) 776-0080

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<sup>1</sup>WVPSC orders and decisions can also be viewed or downloaded from the following link on the Commission’s Internet website: <http://www.psc.state.wv.us/orders>