

**DISSENTING STATEMENT OF  
COMMISSIONER KEVIN J. MARTIN**

*Re: Federal-State Joint Board on Universal Service; Highland Cellular, Inc. Petition for Designation as an Eligible Telecommunications Carrier In the Commonwealth of Virginia*

Today's decision designates Highland Cellular, Inc. (Highland Cellular) as an eligible telecommunications carrier (ETC) in areas served by two rural telephone companies and one non-rural telephone company in the Commonwealth of Virginia. The Commission finds the designation of Highland Cellular as an ETC to be in the public interest and furthers the goals of universal service by providing greater mobility and a choice of providers in high-cost and rural areas of Virginia. I object to this Order's finding that the goals of universal service are to provide greater mobility and a choice of providers in rural areas. Rather, I believe the main goals of the universal service program are to ensure that all consumers—including those in high cost areas have access at affordable rates.

During the past two years, I have continued to express my concerns with the Commission's policy of using universal service support as a means of creating "competition" in high cost areas.<sup>1</sup> As I have stated previously, I am hesitant to subsidize multiple competitors to serve areas in which costs are prohibitively expensive for even one carrier. The Commission's policy may make it difficult for any one carrier to achieve the economies of scale necessary to serve all of the customers in rural areas.

I am troubled by today's decision because we fail to require ETCs to provide the same type and quality of services throughout the same geographic service area as a condition of receiving universal service support. In my view, competitive ETCs seeking universal service support should have the same "carrier of last resort" obligations as incumbent service providers in order to receive universal service support. Adopting the same "carrier of last resort" obligation for all ETCs is fully consistent with the Commission's existing policy of competitive and technological neutrality amongst service providers.

Today's decision also fails to require CETCs to provide equal access. Equal access provides a direct, tangible consumer benefit that allows individuals to decide which long distance plan, if any, is most appropriate for their needs. As I have stated previously, I believe an equal access requirement would allow ETCs to continue to offer

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<sup>1</sup> Separate Statement of Commissioner Kevin J. Martin, *Multi-Association Group (MAG) Plan for Regulation of Interstate Services of Non-Price Cap Incumbent Local Exchange Carriers and Interexchange Carriers, Second Report and Order and Further Notice of Proposed Rulemaking*, CC Docket (No. 00-256)(rel. October, 11, 2002).

bundled local and long distance service packages, while also empowering consumers with the ability to choose the best calling plan for their needs.<sup>2</sup>

The Commission also redefines the service area of United Telephone where Highland Cellular's proposed service area does not cover the entire service area of the incumbent rural telephone company. I am concerned with the redefining of service areas of incumbent rural telephone companies. I am also concerned that the Commission did not sufficiently consider the cost data to verify whether or not Highland Cellular is serving only low-cost, high revenue customers in the rural telephone company's area.

Finally, I remain concerned that the Commission's recent decisions on pending CETC applications may prejudice the Commission's upcoming decision regarding the framework for high-cost universal service support. These decisions now provide a template for approving the numerous CETC applications currently pending at the Commission, and I believe may ultimately push the Commission to take more aggressive steps to slow the growth of the universal service fund such as primary line restrictions and caps on the amount of universal service support available for service providers in rural America.

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<sup>2</sup> Separate Statement of Commissioner Kevin J. Martin, *Federal-State Joint Board on Universal Service*, CC Docket No.96-45, (rel. July 10, 2002); Separate Statement of Commissioner Kevin J. Martin, *Federal-State Joint Board on Universal Service, FCC 03-170*, CC Docket No. 96-45, (rel. July 14, 2003).