

COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

APPLICATION OF HIGHLAND TELEPHONE)	
COOPERATIVE, INC. FOR A CERTIFICATE OF)	CASE NO.
PUBLIC CONVENIENCE AND NECESSITY FOR)	2010-00341
THE CONSTRUCTION OF FIBER-TO-THE-)	
HOME IN MCCREARY COUNTY, KENTUCKY)	

O R D E R

On August 23, 2010, Highland Telephone Cooperative, Inc. (“Highland”) filed an application seeking a Certificate of Public Convenience and Necessity (“CPCN”) for construction of fiber-to-the-home (“FTTH”) in McCreary County, Kentucky.¹ Highland is a cooperative, nonprofit membership corporation with its main office in Sunbright, Tennessee. Highland is authorized to do business in the Commonwealth of Kentucky and provides telephone service in McCreary County, Kentucky and adjoining areas of Tennessee. Specifically, Highland serves two exchanges in McCreary County.

As part of the American Recovery and Reinvestment Act of 2009 signed into law on February 13, 2009, federal funds were provided to enable broadband services to be deployed in rural areas across the country.² On March 29, 2010, Highland submitted a Broadband Initiatives Program application for a combination of a grant and loan with the Rural Utilities Service (“RUS”) to construct a FTTH network throughout Highland’s

¹ The original application was received on August 23, 2010. The application was supplemented and deemed filed on June 24, 2011.

² Pub. L. No. 111-5, 123 Stat. 26 (codified as amended in scattered sections of 26 U.S.C.).

service territories in Kentucky and Northeast Tennessee.³ The application requested funding in the amount of \$66,500,000. The total loan amount was \$16,600,000, and the total grant amount was \$49,900,000. Highland anticipates that the FTTH construction in its Kentucky exchanges will use \$19,300,000 of the total funding. On August 13, 2010, Highland received notice that RUS had approved the loan be funded at the cost of money interest rate over a 25-year term.

Highland states that it does not anticipate any local telephone service rate adjustments as a result of the expenditures associated with the proposed construction. On July 7, 2011, the Commission approved a rate increase submitted by Highland in Case No. 2010-00227.⁴ However, according to Highland, there is no relationship between the proposed rate increase and the proposed construction project outlined in this case; the proposed rate increase is to cover current operating costs and to insure that Highland meets its Times Interest Earned Ratio requirements.⁵

³ The proposed construction is an expansion and replacement of the proposed construction granted in Commission Case No. 2009-00048, Application of Highland Telephone Cooperative, Inc. for a Certificate of Public Convenience and Necessity and Authority to Issue Evidences of Indebtedness (Ky. PSC Apr. 10, 2009). That CPCN was not acted upon because Highland was able to obtain different and more favorable financing for the entire project from RUS. The financing for the proposed construction in Case No. 2009-00048 was for the initial phase only.

⁴ Case No. 2010-00227, Application of Highland Telephone Cooperative, Inc. for an Adjustment of Rates (Ky. PSC Jul. 7, 2011).

⁵ Highland Telephone Cooperative, Inc.'s Responses to Commission Staff's Information Request, filed Nov. 8, 2010.

The FTTH construction in Kentucky will encompass a total of 489.66 route miles and will enable Highland to provide enhanced broadband services to those located within its service territory. Highland plans to offer broadband speeds of up to 20 megabits per second. Highland projects that its number of broadband customers will increase from 1,743 to over 2,179 in the next five years as a result of this proposed construction. Highland believes the proposed construction will create new opportunities in employment, education, and entrepreneurship by providing homes and businesses with facilities that will transmit data at speeds of 10 to 100 times greater than those possible with the current latent copper-based network. As a result, Highland believes the proposed FTTH network will be the economic engine for long-term economic growth in McCreary County. Highland states that while landline telephone service is currently available in a portion of its service territory from lines provided by competitive carriers, none of those facilities are fiber-optic. Thus, there will be no duplication of fiber-optic facilities in the service area due to the proposed construction.⁶

The proposed construction will result in a significant expansion of the services available to subscribers and enhance Highland's ability to maintain its facilities and provision customers. However, the planned construction is extensive with substantial costs and is designed primarily for Highland to support services that may be beyond the

⁶ See Highland's application for CPCN.

jurisdiction of the Commission.⁷ The Commission recognizes that the General Assembly has found that the provision of broadband and other state-of-the-art telecommunications technologies are an “essential element to the Commonwealth’s initiative to improve the lives of Kentucky citizens”⁸ Nevertheless, the Commission remains obligated to ensure that Highland’s ability to offer safe, adequate, and reasonable basic local exchange service is not adversely affected.⁹ Highland should carefully account for the costs associated with the construction of these facilities and properly allocate those costs to jurisdictional and non-jurisdictional services, respectively.¹⁰

The Commission finds that Highland has demonstrated that the proposed construction is necessary to maintain adequate utility service. The Commission, therefore, finds that Highland should be issued a Certificate of Public Convenience and Necessity to construct the proposed facilities as described in this Order and the application.

⁷ KRS 278.5462 provides, in part, that the provision of broadband services is not subject to state administrative regulation. However, the Commission retains authority to investigate and resolve complaints stemming from broadband service and authority to arbitrate and enforce interconnection agreements. Interconnection agreements may include provisions related to remote terminals and central office facilities which may incorporate broadband services.

⁸ KRS 278.546(1).

⁹ KRS 278.542(1)(n).

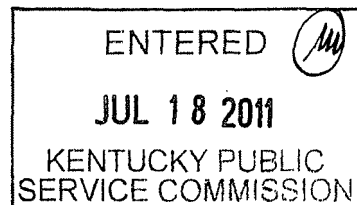
¹⁰ The Commission retains the authority to review the reasonableness of such accounting procedures when considering adjustments of rates for basic local exchange service.

IT IS THEREFORE ORDERED that:

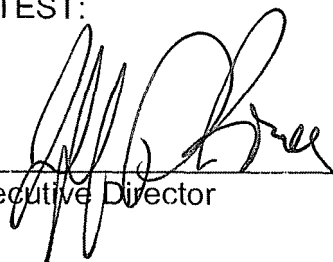
1. Highland be granted a Certificate of Public Convenience and Necessity to construct the proposed facilities as described in this Order and its application.

2. Highland shall notify the Commission, in writing, if the actual costs of the proposed construction exceed the estimated expenditures reported herein by more than ten percent and thoroughly describe the reason for the adjustment.

By the Commission



ATTEST:



Executive Director

F.L. Terry
General Manager
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