

**BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF SOUTH DAKOTA**

**IN THE MATTER OF THE APPLICATION OF)
BOOMERANG WIRELESS, LLC d/b/a enTOUCH)
WIRELESS FOR DESIGNATION AS AN ELIGIBLE) Docket No. TC15-002
TELECOMMUNICATIONS CARRIER IN CERTAIN)
EXCHANGES WITHIN THE STATE OF SD)**

SDTA Petition to Intervene

The South Dakota Telecommunications Association ("SDTA") hereby petitions the Commission for intervention in the above captioned proceeding pursuant to SDCL 1-26-17.1 and ARSD §§ 20:10:01:15.02, 20:10:01:15.03 and 20:10:01:15.05. In support hereof, SDTA states as follows:

1. SDTA is an incorporated organization representing the interests of numerous cooperative, independent and municipal telephone companies operating throughout the State of South Dakota.

2. On or about January 15, 2015, Boomerang Wireless, LLC d/b/a enTouch Wireless, (hereinafter referenced as "Boomerang") filed an Application with the Commission seeking designation as an Eligible Telecommunications Carrier ("ETC") for the purpose of offering Lifeline Services on a wireless basis in certain rural exchanges within the State of South Dakota. Boomerang has specifically indicated that it does not request ETC designation for the purpose of receiving support from any other federal universal service funds.

3. Boomerang has previously and separately applied for ETC designation (for Lifeline purposes) throughout the non-rural exchange areas of South Dakota in Commission Docket TC13-035.

4. Boomerang claims that it offers its resold wireless services as a "common carrier" and in this Docket is seeking ETC designation for rural telephone company exchanges

included within or extending to the “Pine Ridge, Rosebud, Lower Brule and Crow Creek reservations/tribal lands and areas adjacent thereto.” A document labeled “Exhibit A,” attached to the Application, includes a listing of “Rural Wire Centers” where ETC designation is sought. In regards to this list, it appears that it itemizes “Rate Centers” and not, more specifically, the individual local exchange areas served by each impacted incumbent local exchange carrier. Rate Center designations alone are not an adequate substitute for a listing of local exchange areas. Any single rate center may include multiple exchange areas depending on the local switching configuration and whether any remote switches or concentrators are used within the rate center area.

4. All of the SDTA member companies operate as “rural telephone companies” for purposes of the Federal Telecommunications Act of 1996 and under applicable state laws.

5. Boomerang is seeking ETC designation for the purpose of offering pre-paid wireless Lifeline services in at least four rural telephone company “service areas” or “study areas.” SDTA seeks intervention herein based on the individual interests of each of its affected member ILECs and also based on the common interests of all SDTA member companies in ensuring that the additional public interest protections contained in the federal and state laws pertaining to ETC designations in rural service areas are properly considered and applied.

6. SDTA has concerns with the requested ETC designation. In regards to any Petition for ETC Designation extending to rural service areas the additional “public interest” requirement set forth in 47 U.S.C. § 214(e)(2) and SDCL § 49-31-78 applies and state commission are not obligated to grant multiple ETC designations in such areas. SDTA questions whether granting the additional ETC designation requested by Boomerang would be in the best interest of South Dakota consumers residing in the impacted SDTA

member company rural service areas. As the FCC has appropriately noted, the Lifeline program does play a role in assisting with telecommunications infrastructure deployment in high cost areas and that role has become more critical as rural rate-of-return carriers face greater financial pressures resulting from FCC reforms that have reduced federal high cost funding and inter-carrier compensation revenues.¹ In addition, as this Commission is well aware, at present the FCC has not yet adopted a “Connect America Fund” mechanism for rural carriers allowing such companies to receive support for stand-alone broadband services. High cost funding is only available to rural carriers if wireline “circuit-switched” or “TDM” voice services are subscribed to by the end user customer. This being the case, to the extent any additional ETC designation within a rural carrier service area, even for Lifeline only purposes, causes end user customers to abandon existing wireline voice services, the incumbent rural carrier’s end user revenues and high cost funding revenues are impacted and continued broadband infrastructure deployment is put at risk.

7. Further, it should be noted that even though the FCC has taken action forbearing from the requirement that the service area of a competitive Lifeline ETC conform to the existing rural telephone company service area (eliminating the need to separately obtain a separate service area redefinition as part of the ETC designation process) this Commission’s ability to fully review and consider all facts relevant to the public interest in ruling on Boomerang’s requested ETC designation, as it applies to rural service areas, has not been preempted.² As stated by the FCC, “[t]he Act already requires designating commissions to affirmatively determine that designating a carrier as an ETC within a rural

¹ *Federal-State Joint Board on Universal Service; Promoting Deployment and Subscribership in Unserved and Underserved Areas, Including Tribal and Insular Areas*, CC Docket No. 96-45, Twelfth Report and Order, Memorandum Opinion and Order, and Further Notice of Proposed Rulemaking (released June 30, 2000).

² *In the Matter of Telecommunications Carriers Eligible for Support*, WC Docket No. 09-197, *In the Matter of Lifeline and Link Up Reform*, WC Docket No. 11-42, Memorandum Opinion and Order, FCC13-44 (released April 15, 2013).

service area is in the public interest and that determination is not affected by this grant of forbearance. As a result, any concerns raised by a rural telephone company will be evaluated by the designating authority when considering designating a limited, Lifeline-only ETC.”³

9. Based on all of the foregoing, SDTA alleges that it is an interested party in this matter and would seek intervening party status.

Dated this 3rd day of February, 2015

Respectfully submitted:

SDTA

A handwritten signature in black ink, appearing to read 'Richard D. Coit', written over the printed name below.

Richard D. Coit
Executive Director and General Counsel

³ *Id.* at par. 13, p. 7.