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## STAFF MEMORANDUM

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**TO:** COMMISSIONERS AND ADVISORS

**FROM:** BRITTANY MEHLHAFF, AMANDA REISS, AND LOGAN SCHAEFBAUER

**RE:** TC23-048 – In the Matter of the Application of Boomerang Wireless LLC dba enTouch Wireless Seeking Partial Relinquishment of Designation as an Eligible Telecommunications Carrier on a Wireless Basis (Low-Income Only) in a Certain Service Area Previously Served by Underlying Carrier Verizon Wireless and Removal of Verizon Wireless as an Underlying Carrier

**DATE:** DECEMBER 15, 2023

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### **Background**

On April 28, 2017, the South Dakota Public Utilities Commission (Commission) issued an order designating Boomerang Wireless, LLC d/b/a enTouch Wireless (Boomerang) as a lifeline only eligible telecommunications carrier (ETC) for certain non-rural areas of South Dakota<sup>1</sup>. By this Order, Boomerang was designated as an ETC in certain wire centers served by its underlying carriers including Sprint, Verizon Wireless, AT&T, and T-Mobile. AT&T terminated its services shortly after Boomerang became an ETC and no customers utilized that network. All of Boomerang’s service area continued to be covered by the other carriers at the time.

On October 17, 2023, the Commission received an application from Boomerang seeking partial relinquishment of its ETC designation. Boomerang’s Petition states that, as a result of a new Mobile Virtual Network Enablers (MVNE) arrangement, Boomerang no longer utilizes the Verizon Wireless network as one of their underlying carriers.

The new MVNE arrangement results in the full relinquishment of 5 wire centers. Boomerang does not have any subscribers located in any of the 5 wire centers. The new MVNE arrangement also results in potential change of providers for subscribers who utilize the Verizon network in Boomerang’s remaining service area in South Dakota. Boomerang currently serves 42 subscribers in South Dakota. 14 of these subscribers utilize the Verizon network in South Dakota and are therefore impacted by this change. Although Boomerang is no longer utilizing the Verizon network, these 14 subscribers reside in areas in which there is an alternate underlying carrier. This means that Boomerang can still provide Lifeline services to these subscribers through the alternate underlying carrier.

Boomerang explained the two options that these subscribers have to maintain their services: the first option is for subscribers to remain with Boomerang by porting their current services and phone numbers from Verizon to T-Mobile, Boomerang’s alternate underlying carrier<sup>2</sup>. In response to Staff Data Request 1-3, Boomerang states that subscribers who choose this option “will retain their Boomerang

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<sup>1</sup> Refer to Docket TC13-035

<sup>2</sup> Refer to Boomerang’s response to Staff Data Request 1-3

service offering, service dates, pricing, etc” and that there would be no interruption to the subscriber’s Lifeline program.

The other option is for subscribers to transfer their service to another Lifeline service provider in the area where the customer resides. Boomerang states that they do not impose any notice requirements or termination penalties for subscribers who choose to transfer services to a different provider, but a subscriber wishing to transfer services may have to complete applications and/or additional documentation for USAC and the new service provider.

If an impacted subscriber does not choose one of these options, Boomerang will terminate their service upon Commission approval.

As stated in Boomerang’s Petition, Boomerang has provided multiple notices to the impacted subscribers that Boomerang intends to discontinue their service and the steps subscribers must take to continue their Lifeline service. As of December 1, 2023, 6 of the 14 impacted subscribers have contacted Boomerang to port their services to Boomerang Wireless. 1 of the 14 subscribers no longer receives services from Boomerang. 7 of the 14 subscribers have not responded to Boomerang’s notices or outreach efforts<sup>3</sup>.

### **Analysis**

47 U.S.C. § 214(e)(4) and 47 C.F.R. § 54.205 along with SDCL 49-31-78 and ARSD 20:10:32:48 require the Commission to permit a carrier to relinquish its ETC designation if certain conditions are met. ARSD 20:10:32:48 provides:

A telecommunications company may relinquish its eligible telecommunications carrier designation and accompanying universal service obligations as provided for below:

- (1) A telecommunications company seeking to relinquish its eligible telecommunications carrier designation shall file a petition with the commission specifying the service area for which it seeks to relinquish its designation and the identity of any other eligible telecommunications carrier serving the service area. At the time of filing, a copy of the petition shall also be provided to each local service provider serving the area for which the petitioner seeks to relinquish its eligible telecommunications carrier designation;
- (2) The commission may permit a telecommunications company to relinquish its eligible telecommunications carrier designation if at least one other eligible telecommunications carrier serves the area for which the relinquishment is sought;
- (3) The petitioning telecommunications company shall continue to meet its eligible telecommunications carrier obligations for the entire area for which it seeks to relinquish those obligations until the date specified in the commission’s order approving the relinquishment; and
- (4) Prior to permitting a telecommunications company designated as an eligible telecommunications carrier to cease providing universal service in an area served by more than one eligible telecommunications carrier, the commission shall ensure that each customer served by the relinquishing carrier continues to be served, and shall require sufficient notice to permit the purchase or construction of adequate facilities by any remaining eligible

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<sup>3</sup> Refer to Boomerang’s response to Staff Data Request 1-1.

telecommunications carrier. The commission shall establish a time, not to exceed one year after the commission approves such relinquishment, within which such purchase or construction shall be completed.

ARSD 20:10:32:48(1)

This rule requires three pieces of information. 1) The company must specify the areas for service for which it seeks relinquishment, 2) identify any other ETC serving the service area, and 3) at the time of the filing, a copy of the petition shall be provided to each local service provider in the area for which the company seeks relinquishment in.

For part 1, the Company stated in the petition that it requests relinquishment of the zip codes listed in Exhibit B. However, in Docket TC13-035 the Commission granted Boomerang ETC designation in the non-rural CenturyLink areas in South Dakota. In response to Staff Data Request 1-9, Boomerang stated that it “remains committed to complying with each State’s filing requirements, including South Dakota’s submission of the coverage area by wire center as required by the Commission.” Attachment 5b to Boomerang’s Responses to Staff’s Data Request provides the list of wire centers to be relinquished. Furthermore, Boomerang submitted maps identifying its current coverage area, which is where the CenturyLink service area overlaps the non-rural zip code areas, and the areas it seeks to relinquish.

For part 2, in Exhibit C, Boomerang identified nine alternative ETC providers still offering Lifeline services in the area. Boomerang compiled this list of providers by using USAC’s “Companies Near Me” tool to find companies offering lifeline service in the zip codes it seeks to relinquish. By searching by zip code, some rural companies were identified as providers in the area. However, Boomerang is not authorized to serve in these rural service areas and only has ETC designation in non-rural CenturyLink areas. Only ETCs offering Lifeline service in the wire centers identified in Attachment 5b should be identified. Staff questions whether the following companies should be identified as alternative ETC providers as Boomerang is not serving in these rural service territories<sup>4</sup>: CRST Telephone Authority, Santel Communications, Venture Communications, James Valley Cooperative, and Western Telephone Company. In addition, in Boomerang’s Responses to Staff’s Data Request 1-10, Boomerang identified that there are two zip codes that appear to have an alternative mobile service provider, Feelsafe Wireless by Airvoice and Centex. The Commission has not granted ETC designation to either one of these wireless companies at this time.

For part 3, in response to Staff’s Data Request 1-12, Boomerang confirmed “service providers in the proposed relinquishment areas have been noticed” and provided a listing of all the companies notified of the relinquishment in Attachment 6 to Boomerang’s Responses to Staff’s Data Request. It is Staff’s opinion that the requirements of this rule have been met by Boomerang if the service providers identified in Attachment 6 are the only local exchange service providers serving in the relinquished areas. However, Staff notes that there are additional Competitive Local Exchange Companies (CLECs) approved by the Commission to provide service in the relinquishment areas who do not appear to have received notice. Nevertheless, a CLEC must be an ETC to provide lifeline service. In order for a Boomerang customer to continue to receive service under the lifeline program, the customer would need to choose another ETC as its provider. For this reason and given that there are not any customers affected in the relinquishment area, and only 14 customers affected in Boomerang’s entire service area,

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<sup>4</sup> See Boomerang’s response to Staff’s data request 1-10.

Staff is agreeable to the Commission waiving the notice requirement for any other CLEC companies serving the area.

ARSD 20:10:32:48(2)

This rule allows the Commission to relinquish the ETC permit if at least one other ETC serves in the area where relinquishment is being requested. CenturyLink is an ETC serving all of the proposed relinquished areas. There are also some CLECs that are ETCs available to serve some of the proposed relinquished areas as well. Midcontinent Communications, Clarity Telecom, and Northern Valley Communications are CLECs identified as alternative ETC providers on Boomerang's Exhibit C. It is Staff's opinion that the requirement of this rule has been met by Boomerang.

ARSD 20:10:32:48(3)

This rule requires the petitioner to continue to meet its ETC obligations for the entire area it is seeking relinquishment for until the date relinquishment is allowed. Boomerang confirmed in an email inquiry to Staff, attached to this memo, that they will comply with this rule and continue to meet its ETC obligations until the relinquishment date. It is Staff's opinion that Boomerang has met the requirements of this rule.

ARSD 20:10:32:48(4)

This rule requires three parts as well. 1) The Commission shall ensure that each customer served by the relinquishing ETC continues to be served, 2) require sufficient notice to permit purchase or construction of adequate facilities by any remaining ETC, and 3) establish a time, not to exceed one year after a commission approved relinquishment, within which the purchase or construction shall be completed.

For part 1 of this rule, each customer will continue to have the option to be served by Boomerang through another underlying carrier, or by another ETC providing service in the area. Staff does not and will not recommend any specific company for business but will provide customers with names of companies offering Lifeline in the area if a customer contacts the PUC about Lifeline service providers.

For part 2 of the rule, as noted in the application, Boomerang does not believe any purchase or construction of additional facilities to continue providing the customers of Boomerang will be required. For part 3 of this rule, since no facilities will need to be constructed or purchased, this section would be inapplicable in this case. It is Staff's opinion that all requirements of this rule have been met as well.

**Staff Recommendation**

Staff recommends the Commission grant Boomerang's request for relinquishment of its designation as an eligible telecommunications carrier for the specified wire centers, effective December 19, 2023. Additionally, Staff recommends the Commission grant a waiver of ARSD 20:10:32:48(1) as it relates to service of the petition on each local service provider in the area in which Boomerang seeks relinquishment.