

**BEFORE THE  
SOUTH DAKOTA PUBLIC UTILITIES COMMISSION**

**APPLICATION OF BOOMERANG )  
WIRELESS, LLC FOR DESIGNATION AS )  
AN ELIGIBLE TELECOMMUNICATIONS )  
CARRIER ON A WIRELESS BASIS (LOW- )  
INCOME ONLY )  
)**

**Docket No. TC13-035**

**BOOMERANG WIRELESS, LLC D/B/A ENTOUCH WIRELESS MOTION FOR  
EXPEDITED GRANT OF ITS REQUEST FOR DESIGNATION AS AN ELIGIBLE  
TELECOMMUNICATIONS CARRIER OR GRANT OF DESIGNATION AS AN  
ELIGIBLE TELECOMMUNICATIONS CARRIER ON AN INTERIM BASIS**

Boomerang, Wireless, LLC d/b/a enTouch Wireless (“Boomerang” or the “Company”), by and through the undersigned counsel, hereby submits to the South Dakota Public Utilities Commission (“Commission”) this Motion for Expedited Grant of its Request for Designation as an Eligible Telecommunications Carrier (ETC) or Grant of Designation as an ETC on an Interim Basis (Motion) and, for the reasons set forth below, respectfully requests that the Commission grant the Motion and approve Boomerang’s ETC designation application or grant the Company an interim ETC designation no later than March 3, 2017.

On January 22, 2015, Boomerang filed a petition for ETC designation in the State of South Dakota. In its petition, Boomerang is seeking authority to provide Lifeline-supported voice and broadband service throughout the service territory of its underlying carriers. Boomerang’s proposed Lifeline service offering would provide either 500 minutes, 100 texts and 10 MB of data, or 500 MB of data and 100 units of talk or text (where 1 unit = 1 voice minute or 1 text message), as well as the option of a free handset. Since filing its petition, Boomerang has cooperated with Commission staff to provide additional information about the Company and its proposed Lifeline service offerings in the State of South Dakota.

Following the submission of Boomerang’s ETC petition to the Commission, on March 31, 2016, the Federal Communications Commission (FCC) adopted an order which, in part, established a new FCC-based process for designating ETCs for the purpose of providing Lifeline-supported broadband Internet access service (BIAS).<sup>1</sup> Specifically, the Lifeline Modernization Order states that “[a] broadband provider’s petition for ETC designation as a Lifeline Broadband Provider [(LBP)] for the limited purpose of receiving Lifeline support for BIAS will be subject to expedited review and will be deemed granted within 60 days of the submission of a completed filing [if the applicant meets certain criteria].”<sup>2</sup>

Boomerang did not advocate for this streamlined LBP designation process prior to the FCC’s adoption of the Lifeline Modernization Order. However, as a means of enhancing its Lifeline service offering nationwide, Boomerang submitted a petition for LBP designation to the FCC on October 5, 2016.<sup>3</sup> The LBP Petition requested that Boomerang be designated as an LBP in 49 states, including South Dakota, as well as the District of Columbia and the Commonwealth of Puerto Rico.<sup>4</sup> On December 1, 2016, the FCC’s Wireline Competition Bureau issued an order approving Boomerang’s LBP Petition.<sup>5</sup> Boomerang did not intend to use the FCC’s streamlined LBP designation process for purposes of avoiding ETC designation in South Dakota, as evidenced by the fact that Boomerang did not withdraw its ETC petition and continued to engage with Commission staff regarding the petition. It has always been Boomerang’s intent to provide

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<sup>1</sup> *Lifeline and Link Up Reform and Modernization et al.*, WC Docket No. 11-42 et al., Third Report and Order, Further Report and Order, and Order on Reconsideration, FCC 16-38 (rel. Apr. 27, 2016) (Lifeline Modernization Order).

<sup>2</sup> *Id.*, ¶ 278.

<sup>3</sup> *See* Boomerang Wireless, LLC d/b/a enTouch Wireless Petition for Streamlined Designation as a Lifeline Broadband Provider Eligible Telecommunications Carrier, WC Docket No. 09-197 (filed Oct. 5, 2016) (LBP Petition).

<sup>4</sup> *See id.* at 2.

<sup>5</sup> *See Telecommunications Carriers Eligible for Universal Service Support et al.*, WC Docket No. 09-197 et al., Order, DA 16-1325 (WCB Dec. 1, 2016) (LBP Designation Order).

both voice and broadband Lifeline services to low-income consumers in South Dakota. The LBP ETC designation allowed Boomerang to provide Lifeline broadband service, but not Lifeline voice service. Therefore, Boomerang had always intended to pursue its ETC designation in South Dakota and thereby follow the ETC rules and requirements in South Dakota.

In reliance on the FCC's LBP designation process, Boomerang entered into agreements with Budget PrePay, Inc. and Total Call Mobile, LLC to transfer customers from those companies to Boomerang.<sup>6</sup> As a result of these transactions, Boomerang acquired approximately 1,741 Lifeline subscribers in South Dakota. Because the Commission has not yet approved Boomerang's ETC application, since December 1, 2016, the Company has been serving these subscribers, along with 15,762 other Lifeline broadband subscribers, pursuant to the LBP Designation Order. These subscribers are enrolled in a bundled plan that includes 500 MB of data and 250 voice/text units each month, at no cost to the subscriber.

On February 3, 2017, the new Acting Chief of the FCC's Wireline Competition Bureau issued an order to set aside the LBP Designation Order and return Boomerang's LBP Petition to a non-streamlined "pending" status, along with all eight of the other LBP designations that had been granted.<sup>7</sup> The LBP Reconsideration Order directs Boomerang to notify all customers being served pursuant to Boomerang's LBP designation within 30 days of the Order "that they will not

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<sup>6</sup> Boomerang voluntarily undertook a vigorous review of the Total Call Mobile customers that were being transferred to Boomerang in order to avoid potential ineligible or duplicate subscriber enrollments. This review process was approved by staff in the FCC's Wireline Competition Bureau.

<sup>7</sup> See *Telecommunications Carriers Eligible for Universal Service Support et al.*, WC Docket No. 09-197 et al., Order on Reconsideration, DA 17-128 (WCB Feb. 3, 2017) (LBP Reconsideration Order). It is unclear at this time whether or when the FCC, under its new leadership, will consider the pending petitions for LBP designation.

receive the Lifeline discount on their current Lifeline-supported BIAS beginning 60 days after the effective date of [the] Order.”<sup>8</sup>

Boomerang submits that the LBP Reconsideration Order has the potential to cause harmful service disruption for the 1,741 subscribers in South Dakota that currently receive Lifeline-supported broadband service and voice service included in the bundled plan from Boomerang. As such, Boomerang respectfully requests that the Commission grant the Company’s pending ETC petition no later than March 3, 2017. Boomerang submits that it has adequately demonstrated that it meets the requirements for ETC designation in South Dakota. Moreover, grant of Boomerang’s petition would serve the public interest by allowing the Company to continue to provide essential voice and broadband services to these subscribers without interruption. Alternatively, Boomerang requests that the Commission grant an interim ETC designation no later than March 3, 2017 that will allow the Company to continue to serve the affected customers while the Commission completes its review of Boomerang’s ETC petition.

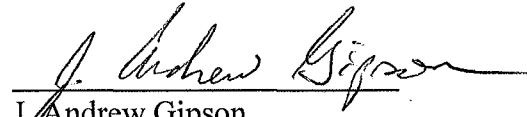
To be clear, Boomerang has done nothing wrong. It began serving 1,741 Lifeline customers in South Dakota pursuant to an FCC-granted LBP ETC designation while it continued to pursue an ETC designation from this Commission. The FCC’s new leadership has decided to reverse course on granting LBP ETC designations, which pushes the ETC designation responsibility in full back to the states. Therefore, to avoid disrupting critical Lifeline service for

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<sup>8</sup> *Id.*, ¶ 15.

1,741 low-income consumers in South Dakota. Boomerang requests grant of its ETC designation, or at least an interim ETC designation, by March 3, 2017.

Respectfully submitted,



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