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DEPARTMENT OF JUSTICE
GENERAL COUNSEL DIVISION

October 23, 2015

Public Utility Commission of Oregon
Attention: Filing Center
P.O. Box 1088
Salem OR 97308-1088


Re: **UM 1648 ETC Requirements**
Third Partial Stipulation
DOJ File No.: 8601055-GB0226-13

Attention Filing Center:

Enclosed for filing in this matter is the THIRD PARTIAL STIPULATION, including Appendix A.

Thank you for your assistance in this matter.

Sincerely,


for Johanna M. Riemenschneider
Senior Assistant Attorney General
Of Attorneys for Staff of the Public
Utility Commission of Oregon

Enclosures
JMR:mxg/#6885085
(Electronic copy only)
c: UM 1648 Service list

1 designated as telecommunications carriers eligible to receive federal Universal
2 Service Fund support, thus resolving Phase II of this proceeding.

3 BACKGROUND

4 4. In Order No. 06-292, the Commission adopted requirements for the initial designation
5 of telecommunications carriers eligible to receive federal Universal Service Fund
6 (“FUSF”) support from the Federal Communications Commission (“FCC”),
7 commonly referred to as Eligible Telecommunications Carriers (“ETCs”).

8 5. The federal Communications Act of 1934, as amended (“Act”) provides that “only an
9 eligible telecommunications carrier [ETC] designated under section 214(e) shall be
10 eligible to receive specific Federal universal service support” for providing voice
11 telephony services. 47 U.S.C. § 254(e). Pursuant to section 214(e)(1) of the Act, a
12 common carrier may be designated as an ETC and will then be required to offer and
13 advertise the voice services supported by the federal universal service support. State
14 commissions have primary responsibility for designating ETCs under section
15 214(e)(2) of the Act, consistent with the public interest, convenience and necessity.

16 6. The Commission currently requires Oregon ETCs to comply with the application
17 requirements set forth in Appendix A of Order 06-292 and as further described in the
18 Order. These requirements were established based on a prior FCC decision, FCC
19 Order 05-46, and on additional basic eligibility requirements adopted by the
20 Commission.

21 7. Since Order 06-292 was issued, a number of changes have taken place at the federal
22 level. In November 2011, the FCC issued an order that transformed federal universal
23 service high cost funding and modified requirements for applicants seeking FCC
24 designation as an ETC. Report and Order and Further Notice of Proposed
25 Rulemaking, FCC 11-161 (November 18, 2011). In February 2012, the FCC issued
26 an order that reformed the federal lifeline program for low-income support, modified

1 program requirements, and made some changes to the definition of supported
2 services. Report and Order and Further Notice of Proposed Rulemaking, FCC 12-11
3 (February 6, 2012). Numerous subsequent orders and rulemaking expanded on and
4 further implemented these two primary orders. General ETC designation
5 requirements at the federal level, which may inform the state requirements, are
6 currently reflected in FCC regulations, 47 CFR Part 54, Subpart C. Fund-specific
7 ETC obligations are specified in various other subparts of Part 54. *See* 47 CFR Part
8 54, Subparts D-E, J-M.

9 8. The Commission opened this Docket to review and consider changes to the
10 requirements for designation and annual recertification of ETCs. The Docket
11 addresses these issues in two phases, with Phase I designated to address ETC annual
12 reporting requirements and Phase II to address initial requirements of ETC
13 designation. This Third Partial Stipulation sets forth initial requirements for ETC
14 designation and is intended to address Phase II.

15 9. In Phase II, the Parties met to discuss initial application requirements on July 31,
16 2014, September 8, 2014, October 15, 2014, November 4, 2014, November 25, 2014,
17 January 30, 2015 and March 13, 2015.

18 10. In this Third Partial Stipulation, the Stipulating Parties propose a revised set of initial
19 application requirements, attached hereto as the revised Appendix A. These
20 requirements improve upon the existing filing requirements in Appendix A to Order
21 06-292 by updating them to incorporate recent changes to federal universal service
22 fund programs and eligibility requirements implemented since the Commission issued
23 Order 06-292 and adding appropriate modifications.

24 **THIRD PARTIAL STIPULATION**

25 1. The Stipulating Parties agree to request that the Commission modify Order No. 06-
26 292 by adopting the application requirements for initial designation set forth in the

1 revised Appendix A attached to this Stipulation. Except as previously stipulated to by
2 the parties and adopted by the Commission in Order Nos. 13-228 and No. 14-198,
3 the Stipulating Parties do not seek modification of the portions of Order 06-292 and
4 its Appendix A that address ETC reporting requirements following designation.

5 2. The revised Appendix A attached to this Stipulation contains new provisions in
6 sections 1.1, 1.4, 2.1, 4.2, 9.3, 11 and 13. Sections 3, 4.1, 5, 6, and 8 of the revised
7 Appendix A contain modified provisions of the original Appendix A. Sections 2.5
8 and 10.2 of the original Appendix A have been deleted from the revised Appendix A,
9 consistent with the FCC's recent changes. The remaining sections of the revised
10 Appendix A remain substantively unchanged from the original text, though the
11 section numbers may have changed.

12 3. The Stipulating Parties agree that the revised Appendix A application requirements
13 reflect changes related to FCC modifications to the federal USF types of program
14 funding, eligibility requirements, and participant obligations developed by the FCC
15 since the issuance of Order O6-292.

16 4. The Stipulating Parties agree that the revised Appendix A application requirements
17 will apply to any pending application that has not yet been approved by the
18 Commission and to any new application filed following Commission approval.
19 Entities with pending ETC applications may either submit a new application to meet
20 the requirements of the revised Appendix A, supplement the pending application, or
21 otherwise demonstrate compliance with the revised Appendix A to the satisfaction of
22 the Commission.

23 5. The Third Partial Stipulation will be offered into the record of the above-captioned
24 docket pursuant to OAR 860-001-0350. The Stipulating Parties will support the
25 Third Partial Stipulation throughout this proceeding and any appeal, provide
26 witnesses to sponsor the Stipulation at any hearing held in the above-captioned

1 docket, and recommend that the Commission issue an order adopting the settlement
2 contained herein.

3 6. The Stipulating Parties have negotiated the Third Partial Stipulation as an integrated
4 document. If the Commission rejects all or any material portion of the Third Partial
5 Stipulation, or conditions its approval upon the imposition of additional material
6 conditions, any party disadvantaged by such action shall have the rights provided in
7 OAR 860-001-0350 and shall be entitled to seek reconsideration of the Commission's
8 order.

9 7. By entering into this Third Partial Stipulation, no party shall be deemed to have
10 approved, admitted or consented to the facts, principles, methods or theories
11 employed by any other party in arriving at the terms of the Stipulation. No party shall
12 be deemed to have agreed that any part of the Third Partial Stipulation is appropriate
13 for resolving issues arising in any other proceeding.

14 8. The Third Partial Stipulation may be executed in counterparts and each signed
15 counterpart shall constitute an original document.

16
17 The Third Partial Stipulation is entered into by each Party on the date entered below.

18 BOOMERANG WIRELESS, LLC

CITIZENS' UTILITY BOARD OF
19 OREGON

20 Dated: _____

Dated: _____

21 By: _____

By: _____

22
23 PUBLIC UTILITY COMMISSION STAFF

OREGON TELECOMMUNICATIONS
ASSOCIATION

24 Dated: June 5, 2015

Dated: _____

25 By: Johann Pienenschnider

By: _____

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18	BOOMERANG WIRELESS, LLC	CITIZENS' UTILITY BOARD OF
19		OREGON
20	Dated: _____	Dated: _____
21	By: _____	By: _____
22		
23	PUBLIC UTILITY COMMISSION STAFF	OREGON TELECOMMUNICATIONS
24		ASSOCIATION
25	Dated: _____	Dated: <u>June 1st 2015</u>
26	By: _____	By: <u>BA Wolf</u>

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CITIZENS' UTILITY BOARD OF
OREGON

19
20 Dated: _____

Dated: 6/1/15

21 By: _____

By:  _____
Sommer Tempert

22

23 PUBLIC UTILITY COMMISSION STAFF

OREGON TELECOMMUNICATIONS
ASSOCIATION

24

25 Dated: _____

Dated: _____

26 By: _____

By: _____

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17 The Third Partial Stipulation is entered into by each Party on the date entered below.

18 BOOMERANG WIRELESS, LLC

CITIZENS' UTILITY BOARD OF
19 OREGON

20 Dated: June 3, 2015

Dated: _____

21 By: Alan J. Gilbey
22 on behalf of Boomerang Wireless LLC

By: _____

23 PUBLIC UTILITY COMMISSION STAFF

OREGON TELECOMMUNICATIONS
ASSOCIATION

24 Dated: _____

Dated: _____

25 By: _____

By: _____

1 WARM SPRINGS
2 TELECOMMUNICATIONS COMPANY

3 Dated: 9/22/2015

4 By : *Marsha Spellman*
5 *Regulatory Director*
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Appendix A

Revised from Order No. 06-292

Initial Designation – Application Requirements

Requirements apply to all applicants (wireline and wireless) for initial designation as an eligible telecommunications carrier (ETC) in all service areas (rural and non-rural) regardless of type of federal universal service support sought unless specifically noted.

1. Information regarding applicant and its common carrier status
 - 1.1. Name of entity requesting designation and corporate affiliation.
 - 1.2. Demonstration of the applicant's common carrier status.
 - 1.3. Description of the general types of services and geographic area for which the applicant is authorized in the state of Oregon.
 - 1.4. Demonstration that applicant is financially and technically capable of providing the supported services in compliance with FCC and Commission rules.
Relevant considerations include whether applicant previously offered services to non-Lifeline customers, how long the applicant has been in business, whether the applicant intends to rely exclusively on universal service fund (USF) disbursements to operate, whether the applicant receives or will receive revenue from non-USF sources, and whether the applicant has been subject to enforcement action or ETC revocation proceedings in any other jurisdiction.
2. Type of federal universal service support for which designation is requested
 - 2.1. For applicants awarded federal USF support conditional upon grant of ETC status: copies of relevant FCC documentation.
3. Commitment and ability to provide all supported services
 - 3.1. Statement of commitment to offer supported Voice Telephony services and description of each element required in 47 CFR §54.101(a) (voice grade access to the public switched network or its functional equivalent, local usage, access to emergency services, and toll limitation services to qualifying low-income consumers if the applicant's proposed Lifeline service distinguishes between toll and non-toll calls in the pricing of the service).
 - 3.2. Identification of any required supported Voice Telephony services that are not currently offered, and an explanation of when and how such services will be made available.
 - 3.3. Identification and description of each of applicant's voice telephony local service offerings (the name the plan is marketed under, the number of minutes and included calling area, and the price) within the proposed designated service area.
 - 3.4 Description of broadband services to be offered, if such services must be provided as a condition for receiving USF support.
4. Identification and definition of proposed designated service area
 - 4.1. Explicit identification of the proposed designated service area through:
 - 4.1.1. Map showing boundaries of applicant's federally-licensed or state-certificated area within Oregon, or an explanation why such boundaries do not exist, and the boundaries of the requested designated service area. The map must also show the boundaries of the area for each geographic unit, e.g., wire center, census block, zip code, that will comprise the designated service area;
 - 4.1.2. Rationale for selection of the type of geographic unit to define the proposed

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- designated service area;
- 4.1.3. Listing of each and every specific geographic unit, e.g., ILEC wire center (by ILEC name, wire center name and code), census block (by ID number), or zip code (by number), etc., that will be included in the designated service area, with identification of any units for which service will not be provided throughout;
 - 4.1.4. Identification of specific Tribal Lands (as defined in 47 C.F.R. § 54.5 or 47 C.F.R. § 54.400(e) as appropriate) included in proposed designated service area, if any.
- 4.2. Commitment and ability to offer supported services throughout the proposed service area and to provide service to all requesting customers.
- 4.2.1. Statement indicating whether all requesting customers in the proposed service area will be provided services for which USF support is to be received, e.g., voice and/or broadband, upon initial designation.
 - 4.2.2. If applicant is unable to serve all customers in the proposed service area upon initial designation:
 - 4.2.2.1. For each geographic unit in the proposed designated service area with less than full coverage, a description of the extent of coverage and percent of the population that applicant has the present ability to serve, and a public interest rationale for partial coverage.
 - 4.2.2.2. Description of process that applicant will use to determine whether service can be provided to an individual when he/she inquires or makes a request for service.
 - 4.2.2.3. For Lifeline-only ETCs: Commitment to report to the Commission Staff the number of requests for service from potential eligible customers within the designated service area that could not be fulfilled due to lack of adequate service availability. The report must include each such customer's address and must be submitted on a semi-annual basis for the first two calendar years following ETC designation. Network facility owners must also report how they attempted to provide service to each potential customer.
 - 4.2.3. For wireless carriers only, commitment to make available coverage maps in accordance with CTIA-The Wireless Association's Consumer Code for Wireless Service at the point of sale and on the applicant's website upon designation.
5. Types of facilities used to offer supported services
- 5.1. Description of types of network facilities currently used to provide service.
 - 5.2. If applicant resells network facilities of other carriers in the provision of supported services:
 - 5.2.1. A general description of such facilities and the company that owns the facilities.
 - 5.2.2. Commitment to file notice to Commission in designation docket at least thirty days before adding or eliminating an underlying carrier.
 - 5.2.3. Statement of whether the applicant qualifies for FCC forbearance as a reseller for Lifeline-only designation. If so, a copy of the FCC-approved compliance plan and the FCC order approving the compliance plan should be included in the application.
 - 5.3. Map showing extent of current coverage and, explanation of the basis for depiction of coverage.
 - 5.4. Identification of service providers with which applicant has current and relevant

Appendix A

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resale or interconnection agreements.

6. Commitment to use support funds in accordance with FCC and Commission rules
 - 6.1. Affidavit, signed by responsible corporate officer, certifying that universal service support funds received will be used only for the intended purposes.
 - 6.2. Certification that applicant will comply with the service requirements applicable to the support it receives, along with identification of such requirements by reference to specific FCC rules and relevant Orders.
 - 6.3. A five-year plan that describes with specificity proposed improvements or upgrades to applicant's network throughout its proposed service area, including estimates of the area and population that will be served as a result of the improvements. An applicant seeking designation only for the purposes of offering Lifeline services to low-income consumers is not required to submit such a five-year plan.

7. Commitment to advertise high-cost (non-Lifeline) supported services throughout the service area
 - 7.1. Statement of commitment to advertise supported services throughout the service area.
 - 7.2. Brief description of advertising plans for supported services (excluding low-income service offerings).

8. Commitment to offer and advertise Lifeline and OTAP services
 - 8.1. Commitment to offer and advertise Lifeline and OTAP services throughout the designated service area.
 - 8.2. Identification and description of specific service offerings that applicant will provide to qualifying Lifeline and OTAP customers (both on Tribal Lands and on non-Tribal Lands), including associated terms and conditions, applicable rates and charges, and the number of minutes provided in each plan.
 - 8.2.1. For Lifeline services provided at no charge to the customer, applicant's commitment to submit any proposed reductions in minutes, units or other material terms of Lifeline service offerings to the Commission at least 90 days prior to the proposed effective date. Proposed increases in minutes, units or other material terms of Lifeline service offerings must be submitted at least ten days before changes become effective. Once changes become effective, the revised service offerings must be filed in the designation docket within ten days.
 - 8.2.2. For Lifeline services provided at no charge to the customer, applicant's commitment to notify existing customers within ten days following an increase in the minutes, units, or other material terms of Lifeline service offerings and to permit existing customers to immediately subscribe to the increased service offering if the customer does not automatically receive the benefit.
 - 8.3. Description of advertising plans designed to reach the target low-income population that applicant will implement after designation.
 - 8.4. Request for designation as an Eligible Telecommunications Provider (ETP) to participate in the OTAP, and commitment to follow all OTAP and RSPF requirements.
 - 8.5. Documentation showing the applicant's policies and procedures related to the training of third-party representatives and employees on Lifeline and/or OTAP requirements, as well as documentation showing internal quality control measures for actual applications received by the applicant.
 - 8.6. Applicants will file all necessary information with the FCC to fulfill any and all requirements of the Commission under 47 C.F.R. § 54.401(d) after ETC designation is granted by the Commission.

Appendix A

Revised from Order No. 06-292

9. Ability to remain functional in emergencies

- 9.1. Demonstration of ability to remain functional in emergencies specifically addressing:
 - 9.1.1. Amount of backup power available.
 - 9.1.2. Ability to reroute traffic around damaged facilities.
 - 9.1.3. Ability to manage traffic spikes during emergency periods.
- 9.2. Description of current status of E911 deployment and compliance; if full deployment has not been attained, describe plans to achieve full deployment.
- 9.3. Commitment to comply with Oregon's 9-1-1 emergency reporting system tax requirements, currently ORS 403.200 to ORS 403.230.

10. Commitment to meet service quality and consumer protection standards

- 10.1. Commitment to specific, objective measures for service quality and consumer protection, e.g., the CTIA Consumer Code for wireless carriers or the applicable Commission rules for wireline carriers.
- 10.2. Commitment to resolve complaints received by PUC, and designation of specific contact person to work with PUC's Consumer Services Division for complaint resolution.

11. Designation on Tribal Lands

Applicants requesting designation on Tribal Lands must notify and engage appropriate Tribal authorities in the proposed designated service area. Evidence of such notification and engagement must be provided in the application or in a supplemental filing, and include the information required in 11.1, 11.2 and 11.3 below. If the applicant does not submit such information for the relevant Tribal Lands prior to initial designation as an ETC, the applicant may submit a subsequent filing to request expansion of the designated service area to include Tribal Lands or additional Tribal Lands.

- 11.1. Copy of notice to appropriate Tribal government or regulatory entity of filing of ETC application, and identification of specific method and date of delivery. This should include the name of person to whom notice was sent.
- 11.2. Summary of Tribal engagement efforts, e.g., dates and topics of meetings, participants, information shared, etc. and an explanation as to how the applicant addressed the following areas (as applicable):
 1. Needs assessment and deployment planning with a focus on Tribal community anchor institutions;
 2. Feasibility and sustainability planning;
 3. Marketing services in a culturally sensitive manner;
 4. Rights of way processes, land use permitting, facilities siting, environmental and cultural preservation review processes; and
 5. Compliance with Tribal business and licensing requirements. Tribal business and licensing requirements are as described in 47 CFR 54.313(a)(9)(v).
- 11.3. Results of Tribal engagement efforts with evidence that the appropriate Tribal government or regulatory entity either supports or does not oppose applicant's designation as an ETC on the relevant Tribal Lands.

12. Public interest showing

- 12.1. Demonstration that designation would be in the public interest; this must address:
 - 12.1.1. Specific ways in which consumer choices will be increased.
 - 12.1.2. Specific advantages and disadvantages of applicant's service offerings.
 - 12.1.3. Any other specific criteria determined by the Commission.

Appendix A

Revised from Order No. 06-292

13. Commitment to provide reports as required

13.1. Annual ETC reports as required by the Commission.

13.2. Special weekly, monthly, or quarterly reports that Commission Staff finds necessary based on program requirements and the circumstances of each applicant and which the applicant, in good faith, commits to provide to the Commission.