

**BEFORE THE PUBLIC UTILITY COMMISSION  
OF OREGON**

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In the Matter of )  
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Boomerang Wireless, LLC d/b/a enTouch Wireless )  
 )  
Application for Limited Designation as an Eligible )  
Telecommunications Carrier and Eligible )  
Telecommunications Provider for the Purpose )  
of Offering Lifeline Service, and Request for )  
Waiver Pursuant to 860-033-0001(2) )  
\_\_\_\_\_ )

**APPLICATION FOR LIMITED DESIGNATION AS AN ELIGIBLE  
TELECOMMUNICATIONS CARRIER AND ELIGIBLE TELECOMMUNICATIONS  
PROVIDER FOR THE PURPOSE OF OFFERING LIFELINE SERVICE, AND  
REQUEST FOR WAIVER PURSUANT TO OAR 860-033-0001(2)**

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August 2, 2013

## SUMMARY

Boomerang Wireless, LLC d/b/a enTouch Wireless (“Boomerang” or the “Company”) respectfully submits this Application for Limited Designation as an Eligible Telecommunications Carrier (“ETC”) in the State of Oregon, pursuant to Section 214(e)(2) of the Federal Communications Act of 1934, as amended (the “Act”), the implementing rules of the Federal Communications Commission (“FCC”), and the requirements of the Oregon Public Utility Commission (the “Commission”) as set forth in Order No. 06-292 in docket UM 1217 (“ETC Order”),<sup>1</sup> for purposes of offering prepaid wireless services supported by the Universal Service Fund’s (“USF”) Lifeline program. Boomerang also seeks designation as an Eligible Telecommunications Provider (“ETP”) pursuant to the Commission’s RSPF Rules,<sup>2</sup> for the purpose of offering Oregon Telephone Assistance Program (“OTAP”) services. Pursuant to OAR 860-033-0001(2), Boomerang also seeks waiver of certain requirements in the Commission’s ETC Order and the RSPF rules.

As discussed in this Application, Boomerang meets all of the necessary requirements for ETC designation under Section 214(e)(2) of the Act. Boomerang also satisfies the Commission’s ETC requirements delineated in Appendix A to the ETC Order and the ETP requirements, with certain exceptions detailed herein. Boomerang seeks a waiver of those requirements as described in Section V, below.

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<sup>1</sup> In the Matter of Public Utility Commission of Oregon Staff Investigation to Establish Requirements for Initial Designation and Recertification of Telecommunications Carriers Eligible to Receive Federal Universal Service Support, Docket UM 1217, Order No. 06-292 (entered June 13, 2006) (“ETC Order”).

<sup>2</sup> OAR Chapter 860, Division 033; Residential Service Protection Fund (the “RSPF Rules”).

## INTRODUCTION

Boomerang, pursuant to Section 214(e)(2) of the Act,<sup>3</sup> the FCC Rules,<sup>4</sup> and the requirements of the Commission,<sup>5</sup> hereby submits this Application for Limited Designation as an Eligible Telecommunications Carrier in the State of Oregon and files herewith its Eligible Telecommunications Provider Application to provide Oregon Telephone Program Services (“ETP Application”), attached hereto as Exhibit “A”.

Boomerang requests that the Commission designate Boomerang as an ETC throughout the wire centers within the State of Oregon identified in Exhibit “G” (the “Designated Service Area”) for the purpose of receiving federal low-income universal service support for prepaid wireless services, specifically Lifeline. Boomerang does not currently seek ETC designation (1) for the purpose of receiving federal universal service support for providing service to high-cost areas or (2) on a wireline basis.<sup>6</sup>

As detailed below, Boomerang satisfies the requirements for designation as an ETC and ETP in the State of Oregon, except where noted and waiver is sought. Boomerang respectfully requests that the Commission grant this Application and that it do so expeditiously so that Boomerang may begin providing wireless Lifeline service to qualified low-income households at the earliest practicable time. In further support of its Application, Boomerang states as follows:

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<sup>3</sup> 47 U.S.C. §214(e)(2).

<sup>4</sup> The FCC has promulgated rules governing ETC designations, set forth at 47 C.F.R. § 54.101, §§ 54.201-203, and §§ 54.205-207 (the “FCC Rules”) to establish various requirements for carriers to obtain ETC status.

<sup>5</sup> See the ETC Order and RSPF Rules

<sup>6</sup> Boomerang seeks only Lifeline support from the low-income mechanism of the federal USF and is not seeking support from the high-cost support mechanism. ETC certification requirements related to the high-cost program are therefore not applicable to Boomerang’s Application.

## BACKGROUND

### A. Boomerang Wireless, LLC

Boomerang Wireless, LLC d/b/a enTouch Wireless is an Iowa limited liability company with its principal offices located at 955 Kacena Road, Suite A, Hiawatha, Iowa 52233. Boomerang's is registered in Oregon as a Foreign Limited Liability Company, authorized to business in the state. Boomerang's Registration as a Foreign Limited Liability Company and its Iowa Certificate of Existence are attached hereto as Exhibit "B".

The Company has been granted ETC designation in 17 states.<sup>7</sup> Boomerang is also pursuing pending applications in 20 jurisdictions for designation as an ETC on a wireless basis for federal support for Lifeline services.<sup>8</sup> Boomerang has never been denied ETC designation by any state commission or by the FCC in connection with any state.

Correspondence or communications pertaining to this Application should be directed to Boomerang's attorneys of record:

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<sup>7</sup> Boomerang is an ETC in Arkansas, Colorado, Indiana, Iowa, Kansas, Kentucky, Louisiana, Maryland, Michigan, Minnesota, Missouri, Ohio, Oklahoma, South Carolina, Texas, West Virginia and Wisconsin.

<sup>8</sup> Boomerang is currently pursuing pending applications in Arizona, California, Georgia, Massachusetts, Mississippi, New Jersey, New Mexico, North Dakota, South Dakota, Washington and the FCC states (Alabama, Connecticut, Delaware, District of Columbia, Florida, New Hampshire, New York, North Carolina, Tennessee and Virginia).

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Questions concerning the ongoing operations of Boomerang following certification should be directed to:

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## **B. Designation of Eligible Telecommunications Carriers**

The Commission has the statutory authority to designate a common carrier as an ETC.<sup>9</sup> Pursuant to this authority the Commission has granted ETC status to wireless service providers.<sup>10</sup> For non-rural areas, such as those within which Boomerang seeks designation, Section 214(e)(2) requires that a state public utility commission with jurisdictional authority “shall” designate a common carrier an ETC if the carrier satisfies the requirements of § 214(e)(1).<sup>11</sup>

Boomerang is a common carrier and reseller of commercial mobile radio service, and as detailed below, meets the requirements of §214(e)(1) and the Commission’s ETC Order. Boomerang will offer the voice telephony services designated for support in Section 54.101(a) of

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<sup>9</sup> 47 U.S.C. § 214(e)(2); 47 C.F.R. § 54.201(d)(2).

<sup>10</sup> *E.g.*, LCW Wireless, LLC d/b/a Cricket (LCW) in UM 1456, TracFone Wireless, Inc. in UM 1437, and Virgin Mobile USA, L.P. in UM 1522.

<sup>11</sup> 47 U.S.C. § 214(e)(2).

the FCC Rules, and will provide competitive wireless services throughout its Designated Service Area through resale of other carrier's services. The provision of services through resale of other carrier's services will ensure that Boomerang can provide services to customers throughout the Designated Service Area.<sup>12</sup> As discussed in subsequent sections of this Application, the FCC has approved Boomerang's Compliance Plan. Additionally, Boomerang will advertise the availability of such services and the charges for these services using media of general distribution and commits to continue to advertise the availability of its Lifeline program.

Further, as shown herein, Boomerang meets the additional requirements set forth in the FCC Rules for obtaining ETC designation for purposes of receiving Lifeline funding support:<sup>13</sup>

- a) In satisfaction of Section 54.202(a)(1)(i) of the FCC Rules, Boomerang hereby certifies that it will comply with the service requirements applicable to the support that it receives. Because it seeks only Lifeline support, Boomerang need not submit a five-year plan under § 54.202(a)(1)(ii);
- b) In satisfaction of Section 54.202(a)(2), Boomerang is able to remain functional in emergency situations, with a reasonable amount of back-up power to ensure functionality without an external power source, and ability to reroute traffic around damaged facilities, and capability of managing traffic spikes resulting from emergency situations;
- c) In satisfaction of Section 54.202(a)(3), as demonstrated herein, Boomerang satisfies the applicable consumer protection and service quality standards by

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<sup>12</sup> 47 C.F.R. § 54.101(a).

<sup>13</sup> 47 C.F.R. § 54.202.

committing to comply with all applicable portions of the CTIA Consumer Code for Wireless Service;<sup>14</sup>

- d) In satisfaction of Section 54.202(a)(4), as demonstrated herein, Boomerang has the financial and technical capability of providing the Lifeline service in compliance with subpart E of the FCC's rules and regulations.<sup>15</sup>
- e) In satisfaction of Section 54.202(a)(5), Boomerang submits herein information describing the terms and conditions of any voice telephony service plans offered to Lifeline subscribers, including details on the number of minutes provided as part of the plan, additional charges, if any, for toll calls, and rates for each such plan; and
- f) In satisfaction of Section 54.202(b), and as demonstrated herein, designation of Boomerang as an ETC in Oregon is in the public interest and in the interests of low-income telecommunications end-users.

**BOOMERANG MEETS THE REQUIREMENTS FOR DESIGNATION AS AN ETC TO SERVE DESIGNATED NON-RURAL AREAS IN OREGON**

**C. Boomerang is a Common Carrier (Application Requirement 1.1)**

Section 214(e)(1) of the Act<sup>16</sup> and requirement 1.1 in Appendix A of the Commission's ETC Order require an applicant for ETC designation be a common carrier that will offer all of the services supported by the USF, either using its own facilities or a combination of its own facilities and the resale of another carrier's services. Section 153 of the Act defines a common carrier as "any person engaged as a common carrier for hire, in interstate or foreign

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<sup>14</sup> Under 47 C.F.R. § 54.202(3), a commitment to comply with the CTIA code fulfills the required demonstration concerning applicable consumer protection and service quality standards.

<sup>15</sup> 47 C.F.R. §§ 54.400 to 422.

<sup>16</sup> 47 U.S.C. § 214(e)(1).

communication by wire or radio...”<sup>17</sup> Wireless carriers are common carriers and shall be treated as such for regulatory purposes.<sup>18</sup> Boomerang is a common carrier and is therefore eligible for designation as an ETC.

**D. Description of Boomerang’s Authorized Services and Area (Application Requirement 1.2)**

As a wireless carrier, Boomerang is not required to obtain a Certificate of Authority from the Commission to provide telecommunications services.<sup>19</sup> The Company is registered with the Oregon Secretary of State to do business in Oregon.<sup>20</sup> Boomerang will provide wireless service through resale. Under Section 214(e)(1)(A) of the Act, an ETC must offer the services supported by federal universal service support mechanisms throughout its Designated Service Area “either using its own facilities or a combination of its own facilities and resale of another carrier’s services.”<sup>21</sup> In its Lifeline Reform Order,<sup>22</sup> the FCC decided to forbear, on its own motion, from applying the facilities requirement of Section 214(e)(1)(A) to any telecommunications carrier that seeks limited ETC designation to participate in the Lifeline program, conditioned on the ETC’s compliance with certain 911 requirements and the ETC’s filing with and approval by the

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<sup>17</sup> 47 U.S.C. § 153(11). The Act further defines a “person” to include “an individual, partnership, association, joint-stock company, trust, or corporation.” 47 U.S.C. § 153(39).

<sup>18</sup> See 47 U.S.C. § 332(c)(1)(A).

<sup>19</sup> See ORS 759.020 (requiring certificates only for providers of “telecommunications services”) and 759.005(8)(a) (excluding “[s]ervices provided by radio common carrier” from definition of “telecommunications services”).

<sup>20</sup> Oregon Secretary of State registration number 857417-92.

<sup>21</sup> 47 U.S.C. § 214(e)(1)(A).

<sup>22</sup> In the Matter of Lifeline and Link Up Reform and Modernization, Lifeline and Link Up, Federal-State Joint Board on Universal Service, Advancing Broadband Availability Through Digital Literacy Training, WC Docket No. 11-42, WC Docket No. 03-109, CC Docket No. 96-45, WC Docket No. 12-23, Report and Order and Further Notice of Proposed Rulemaking, FCC 12-11 (rel. Feb. 6, 2012) (“Lifeline Reform Order”).



FCC of a compliance plan describing the ETC's adherence to certain protections prescribed by the FCC ("Blanket Forbearance").

Boomerang seeks limited ETC designation in Oregon to participate in the Lifeline program and has opted to pursue Blanket Forbearance. On August 8, 2012, the FCC approved Boomerang's Compliance Plan ("Compliance Plan"). A copy of the approved Compliance Plan is attached hereto as Exhibit "C".

Boomerang has developed and implemented a diverse network that delivers all of the services required by the federal Lifeline guidelines, and utilizes the networks of Verizon and Sprint, as well as other GSM carrier networks to ensure ubiquitous coverage. Additionally, Boomerang operates a network data facility located in Marion, Iowa, which is on-line with Boomerang's remote call authorization array located at 630 E. Government Street, Pensacola, Florida 32502, and its network switch platform located at 5500 REC Drive, Marion, Iowa 52302. All wireless voice traffic is monitored through, and gains network authorization/access from, Boomerang's call authorization platform on a per call basis. This same intelligent calling platform is used to transmit calls to the underlying carrier network for call completion, as well as communication to Boomerang's IVR platform. International long distance, operator services, and directory services traffic passes through the Boomerang network system. The call authorization equipment manages account balances and also tracks and reports usage activity by line in real time.

Through its service arrangements, Boomerang is able to offer all of the services and functionalities supported by the universal service program under Section 54.101(a) of the FCC Rules, throughout its Designated Service Area.

**E. Boomerang Will Offer the Services and Functionalities Supported by the Federal Low-Income Universal Services Program [Application Requirements 2.1 and 2.2]**

Boomerang will offer all required services and functionalities. Section 214(e)(1)(A) of the Act<sup>23</sup> requires an ETC to offer the services that are supported by federal universal service support mechanisms under section 254(c). Effective December 29, 2011, pursuant to the USF/ICC Transformation Order,<sup>24</sup> as further clarified by the USF/ICC Order on Reconsideration,<sup>25</sup> the FCC eliminated its former list of nine supported services and amended section 54.101(a) of its rules to specify that “voice telephony service” is supported by the federal universal service mechanisms. The amended Section 54.101(a) and its list of supported services reads as follows:

§ 54.101 Supported services for rural, insular and high cost areas.

(a) Services designated for support. Voice telephony service shall be supported by federal universal service support mechanisms. The functionalities of eligible voice telephony services include voice grade access to the public switched

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<sup>23</sup> 47 U.S.C. § 214(e)(1).

<sup>24</sup> In the Matter of Connect America Fund, A National Broadband Plan for Our Future, Establishing Just and Reasonable Rates for Local Exchange Carriers, High-Cost Universal Service Support, Developing an Unified Intercarrier Compensation Regime, Federal-State Joint Board on Universal Service, Lifeline and Link-Up, Universal Service Reform – Mobility Fund, WC Docket No. 10-90, GN Docket No. 09-51, WC Docket No. 07-135, WC Docket No. 05-337, CC Docket No. 01-92, CC Docket No. 96-45, WC Docket No. 03-109, WT Docket No. 10-208, Report and Order and Further Notice of Proposed Rulemaking, FCC 11-161 (rel. Nov. 18, 2011) (“USF/ICC Transformation Order”).

<sup>25</sup> In the Matter of Connect America Fund, A National Broadband Plan for Our Future, Establishing Just and Reasonable Rates for Local Exchange Carriers, High-Cost Universal Service Support, Developing an Unified Intercarrier Compensation Regime, Federal-State Joint Board on Universal Service, Lifeline and Link-Up, Universal Service Reform – Mobility Fund, WC Docket No. 10-90, GN Docket No. 09-51, WC Docket No. 07-135, WC Docket No. 05-337, CC Docket No. 01-92, CC Docket No. 96-45, WC Docket No. 03-109, WT Docket No. 10-208, Order on Reconsideration, FCC 11-189 (rel. Dec. 23, 2011) (“USF/ICC Order on Reconsideration”).

network or its functional equivalent; minutes of use for local service provided at no additional charge to end users; access to the emergency services provided by local government or other public safety organizations, such as 911 and enhanced 911, to the extent the local government in an eligible carrier's service area has implemented 911 or enhanced 911 systems; and toll limitation for qualifying low-income consumers (as described in subpart E of this part).

Upon designation as an ETC in Oregon, and consistent with state and federal policies favoring universal service, Boomerang will offer voice telephony services as described in the amended Section 54.101 of the FCC Rules.<sup>26</sup> To the extent that the Commission continues to require ETCs to provide those services supported by federal universal service support mechanisms previously enumerated in 47 C.F.R. § 54.101(a), Boomerang commits to continue to satisfy state voice service requirements.<sup>27</sup>

The Company also will provide access to emergency services provided by local government or public safety officials, including 911 and enhanced 911 ("E911") where available and will comply with any Commission requirements regarding E911-compatible handsets (see Exhibit "E"). As discussed above, the Company will comply with the Commission's forbearance grant conditions relating to the provision of 911 and E911 services and handsets. Boomerang also commits to remit 911 revenues to local authorities. The Company commits to pay in a timely manner all applicable federal, state and local regulatory fees, including but not limited to universal service and E911 fees.<sup>28</sup>

Boomerang will not provide toll limitation service ("TLS"), which allows low-income consumers to avoid unexpected toll charges. However, since the Company is a prepaid service

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<sup>26</sup> 47 C.F.R. §§ 54.101(a).

<sup>27</sup> USF/ICC Transformation Order at ¶ 82.

<sup>28</sup> See TracFone Wireless, Inc. Petition to Rescind State 911/E911 Condition, FCC Docket No. 96-45 (May 3, 2010).

provider, customers cannot be disconnected for failure to pay toll charges, nor are there additional charges for exceeding their minutes. Further, the Company, like most wireless carriers, does not differentiate domestic long distance toll usage from local usage and all usage is paid for in advance. Pursuant to the Lifeline Reform Order, subscribers to such services are not considered to have voluntarily elected to receive TLS.<sup>29</sup>

Additionally, Boomerang offers its customers access to operator services, interexchange service and directory assistance through Boomerang's own facilities.<sup>30</sup>

## **F. Description of Boomerang's Lifeline Service Offering [Application Requirement 2.3]**

### **1. Non-Tribal Plans**

Boomerang will offer qualified non-Tribal consumers who reside in Oregon the option of selecting either a rollover or non-rollover plan, each featuring free anytime local and long distance minutes:

1. 125 units that rollover<sup>31</sup> where 1 minute equals 1 unit and 1 text equals 1 unit; and
2. 250 units without rollover where 1 minute equals 1 unit and 1 text equals 1 unit.<sup>32</sup>

In addition to free voice services, each eligible wireless customer will receive a 911

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<sup>29</sup> Lifeline Reform Order at ¶ 230.

<sup>30</sup> Prior to the FCC's issuance of the USF/ICC Transformation Order and USF/ICC Order on Reconsideration, Boomerang offered access to operator services, interexchange service and directory assistance in compliance with 47 C.F.R. §§ 54.101(a)(1)-(9) and Section 214 of the Telecommunications Act. Boomerang recognizes that following issuance of the USF/ICC Transformation Order and USF/ICC Order on Reconsideration, offering access to these services is no longer sufficient to meet the "own facilities" requirement. Boomerang has made the business decision to continue to offer these services to its customers.

<sup>31</sup> Rollover minutes not used in the initial month will carry over to the next month, although such minutes expire 60 days after being issued.

<sup>32</sup> Boomerang is a party to Docket 1648, which is investigating the eligibility and annual reporting requirements for ETCs. If the Commission establishes fair and reasonable calling plan requirements in that Docket that require Boomerang to adjust its service plans, Boomerang commits to making any such adjustment.

compliant handset at no cost to the subscriber. Wireless handsets will be delivered at no charge to qualifying customers, service will be activated, and the requisite number of minutes will be added upon certification of the customer for Lifeline. Boomerang's Lifeline plans will also include the following features: Caller ID, Call Waiting, Call Forwarding, 3-way Calling, Basic Voice Mail.

## **2. Tribal Plans**

Eligible Tribal Lifeline Subscribers may elect one (1) of the following options, each of which includes a free 911-compliant "smartphone" handset, local and long distance calling, 10 MB of Data (website and email), and selected custom calling features (Caller ID, Call Waiting, Call Forwarding, 3-way Calling, Basic Voice Mail),. Qualified Tribal customers may choose from the following plans:

1. 1000 Plus Bundle Plan. This plan offers 1000 minutes per month for voice and text. The text rate is one text per minute; 1 minute equals 1 unit and 1 text equals 1 unit. There is no roll over of free Lifeline minutes. The plan includes all custom calling features at no cost to the Subscriber each month the customer remains eligible for Lifeline service; or
2. Unlimited Voice Plan. This plan offers unlimited minutes for voice calls each month. The subscriber will not be able to text. The rate is 1 minute equals 1 unit. There is no rollover of free Lifeline minutes. The plan includes all custom calling features at no cost to the Subscriber each month the customer remains eligible for Lifeline service.

For both Tribal and non-Tribal plans, no credit check or deposit is required, and there is no minimum term of service. All low-income universal service support will be used to allow

Boomerang to provide the service with no monthly recurring charge, thus ensuring that consumers receive the full benefit of the universal service support funding for which Boomerang will seek reimbursement.

Company Lifeline Subscribers will be able to supplement their Lifeline plan minutes by purchasing additional airtime for non-Lifeline plan top up cards at authorized retail outlets located throughout the Designated Service Area in denominations as indicated in Section II.B of its Compliance Plan, attached hereto as Exhibit “C”. Boomerang Lifeline customers will also have the option of purchasing additional airtime in the following denominations: \$5, \$10, \$20, \$30, and \$50. Boomerang will not deduct airtime minutes for calls by Lifeline customers with service addresses for Lifeline service in Oregon, to Boomerang’s Customer Service (via 611 or other designated toll-free access dialing) and calls from Boomerang’s Customer Service to such Lifeline customers to address billing, customer care and customer service issues.

Airtime replenishment cards will be made available at many retail outlets frequented by low-income customers throughout the Designated Service Area such as Walgreens, Seven-Eleven, and Rite-Aid, as well as from Boomerang’s website.

The terms and conditions of Boomerang’s voice telephony service plans offered to Lifeline subscribers are detailed on page 23 of the Compliance Plan attached hereto as Exhibit “C” and on the Terms of Service attached hereto as Exhibit “D”.

**G. Boomerang Offers a Local Usage Plan that is Comparable to the Basic Local Service Offerings of the ILEC [Application Requirement 2.4]**

Boomerang meets the Commission’s requirement of demonstrating that it offers a local usage plan comparable to that of an ILEC. Although the FCC no longer requires such a

demonstration,<sup>33</sup> the FCC has previously determined that the local usage requirements are met by a carrier that offers rate plans containing varying amounts of local usage.<sup>34</sup> Boomerang offers a local usage plan that compares favorably to those of ILECs in the Designated Service Area. Boomerang customers will have the option of large blocks of minutes or texts free of charge – a feature not found in ILEC plans. Moreover, Boomerang’s offerings have a nationwide “local” calling area that exceeds that of some ILEC plans. Boomerang’s Lifeline customers will benefit from access to supported 911 and E911 services wherever they go – one of the many benefits inherent to mobile service that is not offered by traditional wireline ILEC plans.

**H. Acknowledgement Regarding Equal Access [Application Requirement 2.5]**

Boomerang certifies its acknowledgement that the Commission may require the Company to provide equal access if it is the only remaining ETC in an area within the Service Area.

**I. Boomerang Will Provide the Supported Services Throughout the Service Area [Application Requirements 3.1-3.2]**

Boomerang requests that the Commission designate Boomerang as an ETC in portions of the State of Oregon comprising the Service Area. Boomerang, through its underlying carriers is able to serve the entire Designated Service Area pursuant to licenses held by its underlying carriers.<sup>35</sup> In satisfaction of Application Requirement 3.1.1, attached hereto as Exhibit “F” are

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<sup>33</sup> See 47 C.F.R. § 54.202(a); Lifeline Reform Order, ¶¶ 46-47.

<sup>34</sup> See, e.g., Federal-State Board on Universal Service, Farmers Cellular Telephone, Inc. Petition for Designation as an Eligible Telecommunications Carrier, 18 FCC Rcd 3848, 3852 (2003).

<sup>35</sup> Underlying carrier Verizon Wireless is licensed to provide wireless telephone service throughout Oregon pursuant to FCC licenses KNKA212, KNKA446, KNKA465, KNKN332 (leased), KNKN393, KNKN411, KNKN413, KNKQ393 (leased), KNLF812, KNLF896, KNLG652, KNLG653, KNLG654, KNLH374, KNLH377, KNLH656, KNLH657, KNLH662, KNLH664, KNLH674, KNLH678, KNLH685, KNLH695, KNLH703, L000006903, L000006917, L000006918, WPOI242, WPQN806, WPZS607, WPZS608, WQAM303,

(1) a map showing the proposed Designated Service Area, the licensed area of Boomerang's underlying carriers, and (2) confidential maps showing the coverage of Boomerang's underlying carriers, Verizon Wireless and Sprint Nextel in each wire center.<sup>36</sup> As required by requirement 3.1.2, a list of each exchange in Boomerang's Service Area is attached hereto as Exhibit "G". As a wireless carrier, Boomerang's coverage area does not correspond exactly with each ILEC's wire center. The wire centers listed on Exhibit "G" include those in which Boomerang provides substantial coverage.

Pursuant to Application Requirement 3.2, Boomerang commits to offer the supported services throughout its Service Area, and to follow the six-step process set forth in 54.202(a)(1)(i), in conjunction with its underlying carriers, when responding to service requests within the Designated Service Area, but outside its existing network coverage.

**J. Boomerang Has Received Forbearance from the "Own Facilities" Requirement [Application Requirement 4.1-4.3]**

As discussed in Section D, above, Boomerang has been granted Blanket Forbearance from the "Own Facilities" Requirement. Those facilities that Boomerang does operate have been described in Section D, above.

As a reseller of wireless services, Boomerang does not have access to the coverage maps of its underlying wholesale carriers, and thus in Section V below, it is seeking a partial waiver of

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WQAM304 (leased), WQCS427, WQCS439, WQGB227, WQGB228, WQGB229, WQGB230, WQJQ694 (leased), WQKI612, WQPW444, WQPZ960, WQPZ964, WQPZ965 (leased), held by Cellco Partnership, RCC Minnesota, Inc., Rural Cellular Corp., and Verizon Wireless Telecom, Inc. Underlying carrier Sprint is licensed to provide service throughout Oregon pursuant to FCC licenses KNLF260, KNLF284 (leased), KNLF272, WQKS978, WQKT247, WQKT255, WQKT256, and WQKT257 held by WirelessCo, L.P., Nextel License Holdings 4, Inc., and Nextel of California, Inc. Accordingly, the Oregon coverage map provided also serves to identify the respective licensed areas of Verizon Wireless and Sprint Nextel.

<sup>36</sup> ETC Order, Appendix A, at 1.



Application Requirement 4.2, with respect to mapping signal strength. A map showing coverage of Boomerang's underlying wholesale carriers (without signal strength levels) is attached hereto as Exhibit "F".

With respect to Application Requirement 4.3, Boomerang resells services from Verizon, Sprint through agreements with Ready Wireless, LLC. At this time Boomerang has no other resale agreements.

**K. Boomerang Will Use Support Funds Only for Their Intended Purposes [Application Requirements 5.1-5.3]**

Boomerang reiterates that it is applying for ETC designation solely for the purpose of providing Lifeline discounts to qualified low-income consumers and to seek reimbursement for the same and will not seek or accept high-cost support. For this reason, Boomerang is exempt from Application Requirements 5.1-5.3 and their subparts.

**L. Boomerang Will Advertise the Availability of and Charges for Its Universal Service Qualifying Offerings [Application Requirements 6.1 and 6.2]**

Boomerang will advertise the availability of the supported services throughout the Service Area. The FCC adopted specific requirements for Lifeline advertising in its Lifeline Reform Order with which the Company will comply.<sup>37</sup> Consistent with the Lifeline Reform Order, the Company will include the following information regarding its Lifeline service on all marketing materials describing the service: (1) enTouch Wireless is a Lifeline service, (2) Lifeline is a government assistance program, (3) the service is non-transferable, (4) only eligible consumers may enroll in the program, (5) the program is limited to one discount per household; (6) documentation necessary for enrollment; (7) the service is provided by Boomerang Wireless LLC d/b/a enTouch Wireless (the ETC); and (8) notice that consumers who willfully make a

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<sup>37</sup> Lifeline Reform Order at ¶¶ 275-82.

false statement in order to obtain the Lifeline benefit can be punished by fine or imprisonment or can be barred from the program.<sup>38</sup> These statements will be included in all print, audio, video and web materials (including social networking media) used to describe or enroll customers in the Company's Lifeline service offering, as well as the Company's application forms and certification forms.<sup>39</sup> This specifically includes the Company's website and outdoor signage.<sup>40</sup>

Boomerang will advertise the availability of its services throughout its Service Area using media of general distribution.<sup>41</sup> Boomerang further commits that it will also publicize the availability of Lifeline service in a manner reasonably designed to reach those likely to qualify for the service.<sup>42</sup> Boomerang advertises the availability and prices of its services through a variety of media including its extensive retail distribution network, which includes 297 retail locations in Oregon, as well as from Boomerang's website and other online outlets. In total, more than 75,000 outlets nationwide will carry Boomerang's service, which will soon be expanded to over 255,000 locations nationwide. Accordingly, more low-income Oregon residents will be made aware of the opportunities afforded to them under the Lifeline program and will be able to take advantage of those opportunities by subscribing to Boomerang's service. A sample of Boomerang d/b/a enTouch's planned advertising is attached hereto as Exhibit "H".

**M. Commitment to Offer and Advertise Lifeline and OTAP Services [Application Requirement 7]**

**1. Commitment to Offer OTAP Services [Application Requirement 7.1]**

Boomerang commits to offer and advertise the availability of the supported services

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<sup>38</sup> Lifeline Reform Order at ¶ 275.

<sup>39</sup> Id.

<sup>40</sup> Id.

<sup>41</sup> 47 C.F.R. § 54.201(d)(2).

<sup>42</sup> 47 C.F.R. §§ 54.405(b).

detailed above (*i.e.* Lifeline and OTAP), consistent with both Oregon established and FCC floor eligibility criteria.

**2. Identification and Description of Specific Lifeline Services [Application Requirement 7.2]**

Boomerang has described its Lifeline plans in Section F, above.

**3. Advertising to Low-Income Population [Application Requirement 7.3]**

Boomerang has described its advertising plan in Section L, above.

**N. Ability to Remain Functional in Emergencies [Application Requirements 8.1-8.2]**

Under Application Requirement 8.1 and the FCC Rules, an ETC applicant must demonstrate its ability to remain functional in emergency situations. Boomerang is committed to providing and maintaining essential telecommunications services in times of emergency. With respect to its own facilities, Boomerang maintains a reasonable amount of back-up power to ensure the functionality of its services without an external power source, is able to reroute traffic around damaged facilities, and is capable of managing traffic spikes resulting from emergency situations. More specifically, Boomerang's own switching facilities, have battery backup power and a dedicated diesel generator. Boomerang's network operation center has protected power and diverse network feeds to protect against electric and/or phone company outage.

In addition, because Boomerang is providing service to its customers through the use of facilities obtained from other carriers, it is able to provide to its customers the same ability to remain functional in emergency situations as currently provided by the carriers to their own customers, including access to a reasonable amount of back-up power to ensure functionality without an external power source, re-routing of traffic around damaged facilities, and the

capability of managing traffic spikes resulting from emergency situations. In instances of power outages, priority is set based upon traffic, cell site location and time of day.

Boomerang, as well as its underlying carriers, Verizon and Sprint, have created back-up systems to ensure full functionality in the event of a loss of power or network functionality. And, Boomerang's switching facilities are housed in a carrier-class data center with fully redundant power and HVAC, a controlled temperature and humidity environment, fire-threat detection and suppression, year-round critical monitoring and secure access with biometric security. The facility features redundant generators and redundant fiber optic connectivity. The data center is a reinforced concrete building located in a secure area and collocated with the area electrical utility headquarters. It is powered from separate paths independent of any one electrical generation plant. All systems within the facility are implemented on redundant servers, each with redundant data network and power.

As a result of the measures implemented by Boomerang, and by virtue of its relationship to Verizon and Sprint as a reseller, Boomerang's access to E911 is fully deployed and in compliance with all applicable E911 rules.

**O. Commitment to Meet Service Quality and Consumer Protection Standards [Application Requirements 9.1-9.2]**

- 1. Customer Proprietary Network Information** - Boomerang will satisfy all consumer privacy protection standards as provided in 47 C.F.R. § 64, Subpart U as applicable and will protect Customer Proprietary Network Information ("CPNI") as required by state and federal law and will certify compliance with the same on an annual basis.
- 2. Consumer Code for Wireless Service** - Boomerang certifies that it will comply with the Cellular Telecommunications and Internet Association's ("CTIA") Consumer Code for Wireless Service as required by 47 C.F.R. § 54.202(a)(3).
- 3. Customer Complaints** – Boomerang commits to use its best efforts to resolve complaints received by the Commission, and designates the

following contact person to work with Commission Staff to resolve any complaints or other compliance matters:

Scott Randklev  
Boomerang Wireless, LLC  
955 Kacena Road, Suite A  
Hiawatha, Iowa 52233  
Email: srandklev@readywireless.com  
Tel: 319-743-4627  
Fax: (319) 294-6081

**P. Public Interest Showing [Application Requirements 10.1-10.2]**

Application Requirement 10.1 asks for a “[d]emonstration that designation would be in the public interest,” specifically addressing increase in consumer choice (10.1.1), advantages and disadvantages of the applicant’s service offering (10.1.2), and any other specific criteria determined by the Commission (10.1.3). As demonstrated below, designation of Boomerang as an ETC would be in the public interest, and satisfies Application Requirement 10.1 and Section 214(e)(2) of the Act.<sup>43</sup>

In addition, Boomerang complies with the standards established by the FCC for determining whether applicants for ETC status serve the public interest.<sup>44</sup> The FCC has determined that while “[d]esignation of competitive ETCs promotes and benefits consumers...by increasing customer choice,” designation must include “an affirmative determination that such designation is in the public interest regardless of whether the applicant seeks designation in an area served by a rural or non-rural carrier.”<sup>45</sup> However, in areas served by non-rural ILECs, the

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<sup>43</sup> 47 U.S.C. § 214(e)(2).

<sup>44</sup> See In the Matter of Federal-State Joint Board on Universal Service, Report and Order, CC Docket No. 96-45, 20 FCC Rcd 6371, ¶ 40-43 (released March 17, 2005).

<sup>45</sup> See id., ¶ 42 (2005).

Act does not require a separate public interest finding.<sup>46</sup> The FCC has determined that applications for ETC status in “non-rural” areas are *per se* consistent with the public interest.<sup>47</sup>

The public interest benefits of designating Boomerang as an ETC include: 1) a larger local calling area and expanded coverage area via multiple underlying carriers (as compared to traditional wireline carriers and single wireless carriers); 2) the convenience, portability, and security afforded by mobile telephone service; 3) the opportunity for customers to control cost by receiving a pre-set amount of flat-rate monthly airtime; 4) the ability to purchase additional low-cost usage at multiple convenient locations in the event that included usage has been exhausted; 5) the ability of users to use the supported service to send and receive “SMS” or text messages as well as the option to send data and access the public Internet; and 6) 911 and, where available, enhanced 911 service in accordance with current FCC requirements. In addition, the inclusion of domestic telephone toll calling as a part of Boomerang’s flat-rate wireless offering allows consumers to avoid the risks of becoming burdened with significant and unexpected per-minute charges for domestic telephone toll and overage charges. These per-minute overruns form the basis of a substantial number of consumer complaints to state and federal regulators.

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<sup>46</sup> Although 47 C.F.R. § 54.202(b) requires that “[p]rior to designating an eligible telecommunications carrier pursuant to section 214(e)(6), the Commission determines that such designation is in the public interest,” that provision does not extend to designation by state commissions under 47 U.S.C. § 214(e)(2).

<sup>47</sup> In the Matter of Federal-State Joint Board on Universal Service, Report and Order, CC Docket No. 96-45, 20 FCC Rcd 6371, ¶ 42 (2005); Cellco Partnership d/b/a Bell Atlantic Mobile Petition for Designation as an Eligible Telecommunications Carrier, Memorandum Opinion and Order, CC Docket No. 96-45, 16 FCC Rcd 39, 45, ¶ 14 (Rel. Dec. 26, 2000) (hereinafter “Cellco Partnership”) (“For those areas served by non-rural telephone companies, such as the state of Delaware, we believe that designation of an additional ETC based upon a demonstration that the requesting carrier complies with the statutory eligibility obligations of section 214(e)(1) is **consistent per se with the public interest**. The carrier need make **no further showing** to satisfy this requirement.”) (emphasis added).

Accordingly, Boomerang's offerings will help to reduce this burden on public utility regulatory boards by obviating the cause for such complaints.

**1. Increase in Consumer Choices [Application Requirement 10.1.1]**

The FCC has long acknowledged the benefits to consumers of being able to choose from a variety of telecommunications providers and the resulting variety of telecommunications services they provide.<sup>48</sup> This is of particular interest in cases where wireless providers like Boomerang seek to provide service as an alternative to the ILEC. In the *Highland Cellular* case, the FCC recognized and affirmed that some households may not have access to the public switched network as provided by the ILEC.<sup>49</sup> The availability of a wireless competitor benefits all consumers. The availability of a wireless competitor benefits consumers who routinely drive long distances to attend work or school or to accomplish everyday tasks such as shopping or attending community and social events. The wireless service offered by Boomerang will provide these consumers with a convenient and affordable alternative to traditional telecommunications service that can be used while at home and away from home.

Added together, Boomerang expects these additional competitive advantages to cause many qualified consumers to select Boomerang's low-income wireless Lifeline service in lieu of the more traditional wireline or wireless services.

Designation of Boomerang as an ETC also creates competitive pressure for other wireline and wireless providers within the proposed service areas. In order to remain competitive in low-

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<sup>48</sup> See, e.g., In re Establishment of Policies and Procedures for Consideration of Application to Provide Specialized Common Carrier Services in the Domestic Public Point-to-Point Microwave Radio Service, 29 F.C.C.2d 870 (1971).

<sup>49</sup> Highland Cellular, Inc. Petition for Designation as an Eligible Telecommunications Carrier for the Commonwealth of Virginia, CC Docket No. 96-45, Memorandum Opinion and Order, 19 F.C.C.R. 6422 (2004).

income markets, therefore, all carriers will have greater incentives to improve networks, increase service offerings and lower prices. This results in improved consumer services and, consistent with federal law, benefits consumers by allowing Boomerang to offer the services designated for support at rates that are “just, reasonable, and affordable.”<sup>50</sup>

**2. Unique Advantages of Boomerang’s Service Offerings [Application Requirement 10.1.2]**

Boomerang will offer a unique, easy to use, competitive and highly affordable wireless telecommunications service, which it will make available to qualified consumers who either have no other service alternatives or who choose a wireless prepaid solution in lieu of more traditional services. Boomerang’s standard customer terms and conditions in connection with its wireless service offering can be found at [www.enTouchwireless.com](http://www.enTouchwireless.com).

Designation of Boomerang as an ETC benefits the public interest of low-income consumers throughout Boomerang’s Service Area. Approval of Boomerang’s ETC Application will serve the public interest by increasing participation of qualified consumers in the Lifeline program in the State of Oregon. It will also increase the number of carriers eligible for federal USF support, thereby proportionately increasing the amount of federal USF dollars available to Oregon consumers. Granting ETC status to Boomerang will contribute to more Oregon residents receiving Lifeline, thereby increasing the amount of federal USF dollars flowing into and thereby benefiting Oregon residents. In short, Oregon residents will get more of their money back.

The Lifeline service offered by Boomerang also provides important benefits that are especially needed by low-income Oregon residents in this time of economic downturn. The availability of a mobile telephone will be critical to the efforts of the unemployed as they search

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<sup>50</sup> 47 U.S.C. § 254(b)(1).



for other employment opportunities. Boomerang’s service will also increase the availability of state-of-the-art communications services to other consumers who, due to the restrictive credit criteria, deposit requirements, or long-term commitments of wireline and traditional wireless service providers. Lifeline mobile service from Boomerang can allow children to reach their parents wherever they may be, can allow a person seeking employment the ability to be contacted by potential employers, and can provide customers with the ability to contact emergency services. Granting Boomerang ETC designation will increase the awareness and availability of a critical communications link that would otherwise escape the grasp of low-income Oregonians.

**3. Boomerang Satisfies Any Other Public Interest Criteria Determined by the Commission [Application Requirement 10.1.3]**

*a. Designation Will Not Burden the Federal USF*

Boomerang’s designation will not burden the USF. Boomerang only is seeking low-income funds in the form of Lifeline benefits, and as such Boomerang will impose a burden on the federal USF that can be characterized as negligible. The FCC reaffirmed this position when it stated that “the potential growth of the fund associated with high-cost support distributed to competitive ETCs” is not relevant to carriers seeking support associated with the low-income program.<sup>51</sup> The FCC also recognized that the total effect of additional low-income-only ETC designations would have a minimal impact on the fund when it stated that “any increase in the size of the fund would be minimal and would be outweighed by the benefit of increasing eligible

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<sup>51</sup> Petition of TracFone Wireless, Inc. for Forbearance from 47 U.S.C. § 214(e)(1)(A) and 47 C.F.R. § 54.201(i), CC Docket No. 96-45, Order, 20 FCC Rcd 15095 (2005) (“TracFone Forbearance Order”) at ¶ 17.

participation in the Lifeline program, furthering the statutory goal of providing access to low-income consumers.”<sup>52</sup>

It is also vital to recognize that in the case of Lifeline support, an ETC receives USF support *only* for the customers it obtains. In the scenario where a competitive ETC obtains a Lifeline customer from another ETC, only the “capturing” ETC provides Lifeline discounts and as a result, only the “capturing” ETC receives support reimbursement.

In addition, all providers are required to contribute a portion of the interstate revenues received from their customers to the Universal Service Fund. In accordance with current federal regulations, Boomerang will make contributions based on that portion of its revenue that is determined to be interstate. As such, approving Boomerang as an ETC will actually create contributions to the USF that were previously non-existent.

***b. Boomerang Customers Will Receive Full Lifeline Benefits***

All low-income universal service support will be used to allow Boomerang to provide the service with no monthly recurring charge, thus ensuring that the consumer receives 100% of all universal service support funding for which Boomerang will seek reimbursement.

***c. Boomerang Provided Handset***

Under Boomerang’s proposed low-income wireless offering, each eligible wireless customer will receive a 911 compliant handset at no cost to the subscriber. Attached hereto as Exhibit “E” is information regarding the handsets issued by Boomerang to its customers.

**Q. No Cream-Skimming Analysis is Required [Application Requirement 10.2]**

Boomerang notes that it is not seeking designation below the study area level of a rural telephone company, and therefore, there is no need for the Commission to conduct a “cream-

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<sup>52</sup> TracFone Forbearance Order, at ¶ 17.

skimming” analysis under said rule.<sup>53</sup>

**R. Annual Recertification Requirements**

Boomerang will comply with the Annual Recertification Requirements set forth in Appendix A of the ETC Order, except as may be inapplicable to a Lifeline-only ETC, and except as may be waived pursuant to the requests in Section V, herein.

Additionally, Boomerang will provide the Commission with copies of reports pertaining to Oregon that are filed in compliance with the FCC’s annual reporting requirements as set forth in 47 C.F.R. § 54.422 (effective April 2, 2012).

**S. Boomerang has the Financial and Technical Capability to Provide Lifeline Service**

Boomerang has the financial and technical capability to provide Lifeline service. As part of the Lifeline Reform Order, the FCC amended its rules to require a carrier seeking designation as a Lifeline-only ETC to demonstrate that it is financially and technically capable of providing the supported Lifeline service in compliance with all of the low-income program rules. Boomerang satisfies these criteria.

Boomerang’s sister company, Ready Wireless, generates substantial revenues from non-Lifeline services derived from more than 350,000 subscribers, including more than 50,000 retail customers. Boomerang and Ready Wireless are 100 percent wholly-owned by HH Ventures, and Boomerang has access to capital from its HH Ventures’ investors. Consequently, the Company has not relied, and will not be relying exclusively on Lifeline reimbursement for its operating revenues. The Company has not been subject to enforcement sanctions or ETC revocation

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<sup>53</sup> See In the Matter of Virgin Mobile USA, L.P. Petition for Forbearance from 47 U.S.C. § 214(e)(1)(A), CC Docket No. 96-45, Order 09-18, ¶ 39 n. 101 (March 5, 2009) (explaining that “we need not perform a creamskimming analysis because Virgin Mobile is seeking eligibility for Lifeline support only”).

proceedings in any state.

**BOOMERANG SATISFIES THE STATUTORY AND REGULATORY  
PREREQUISITES FOR DESIGNATION AS AN ETP IN OREGON**

The Oregon requirements for ETC designation were established by the Commission in Order No. 06-0292 in Docket UM 1217. Application Requirement 7 requires a carrier seeking ETC designation to offer Lifeline and OTAP services. In order to offer Lifeline and OTAP services in Oregon, an ETC must also receive designation as an ETP. Boomerang has submitted its application for ETP designation in this docket in conjunction with this Application. The ETP Application is attached hereto as Exhibit “A”.

ETP requirements are found in the RSPF Rules, OAR 860-033-0005 *et seq.* There are three broad requirements which must be met before a common carrier may be certified by order of the Commission as an ETP:

First, OAR 860-033-0005(7)(a) defines an ETP as a carrier offering services “under 47 C.F.R. § 54.101 (2008) using either its own facilities or a combination of its own facilities and resale of another carrier’s services.” The FCC has granted Boomerang forbearance from this requirement for purposes of 47 U.S.C. § 214. Accordingly, Boomerang requests waiver of this requirement in Section V, below.

Next, an ETP must advertise the availability of and the charges for such services using media of general distribution. As set forth in Section F, above, Boomerang will meet this requirement.

Third, an ETP must demonstrate that it will comply with OAR 860-033-0005 through 860-033-0100. Boomerang commits to comply with all the regulatory requirements, with limited exceptions as set forth in Section V, below, for which Boomerang seeks waiver. Specifically, Boomerang will comply with the Commission’s certification and verification

procedures for all customers eligible under OTAP requirements. To the extent it may be necessary to comply with federal law to offer federal Lifeline support to customers that are not eligible under OTAP, Boomerang will certify and verify consumer eligibility to participate in the Lifeline program in accordance with FCC rules and orders and any other requirements the Commission may reasonably impose.

**T. Boomerang Will Participate in the RSPF, Will Collect and Remit RSPF Surcharges, and Will Meet Other Reasonable Conditions Specific to Boomerang’s Oregon Application, and the Commission’s Prior Lifeline ETC Order(s).**

Boomerang is willing to voluntarily commit to additional conditions as may be requested by Staff, consistent with the nature of Boomerang’s application and proposed operations in Oregon and prior Commission Orders, including:

1. Boomerang has attached as Exhibit “F” a map of Boomerang’s ETC and ETP proposed Designated Service Area, which is consistent with Exhibit “G” and satisfies Application Requirement 3.1.1.
2. Boomerang will meet all Oregon Administrative Rules related to ETP designation requirements as set forth in OAR 860-033-0005 *et seq.*, as recently revised,<sup>54</sup> with the exception of those included in the waiver requests in Section V, below.
3. Boomerang will participate in the Residential Service Protection Fund (“RSPF”) and will pay the surcharge to the Commission for each of its enrolled Oregon Lifeline customers on behalf of those customers. The surcharge currently is \$0.12 per month per instrument.

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<sup>54</sup> See In the Matter of Temporary Rule Amendments to Define Low-Income Eligibility Requirements for the Oregon Telephone Assistance Program (OTAP), Docket No. AR 573, Order 13-242 (entered June 27, 2013) (revising OAR 860-033-0006). Although Boomerang expects that the temporary rules implemented in Order 13-242 will become permanent rules, Boomerang respectfully reserves the right to request additional waiver of the final rules if necessary.

4. Boomerang will make the payments described in the preceding paragraph and related reports according to the time frames and processes set forth in OAR 860-033-0006, including the recently-adopted time limits on submitting revised reports.
5. Each applicant for Lifeline service from Boomerang will complete and submit the OTAP application to the Commission. Staff will revise the OTAP application in order to: (1) allow for the applicant's name to be on the phone account, rather than the phone bill in cases where no bill is rendered; and (2) ensure that the applicant does not currently have telephone service from his or her desired ETC at the time of the application. Staff will perform the eligibility verification functions and report the results to Boomerang in a reasonable period of time as is expected by the other ETPs.
6. Boomerang agrees to cooperate with Office of Emergency Management to support legislation that would establish competitively neutral and non-discriminatory means for collection of the 911 tax from consumers of non-billed services such as prepaid wireless services. Pending passage of such legislation, Boomerang will collect and remit the 911 tax.
7. Attached as Exhibit I is Boomerang's certification to the PUC and Office of Emergency Management that all handsets it offers to customers are E911-capable. Further, Boomerang certifies that its underlying carriers, Sprint and Verizon are able to provide to PSAPs the information specified under the FCC's Phase I and Phase II E911 rules.
8. Boomerang will ensure that it makes available adequate personnel for daily communications with Staff regarding Lifeline questions and concerns and Lifeline-reporting issues. Boomerang will also make available adequate personnel for raising issues to appropriate levels of authority above the customer service representative level

for resolution, including but not limited to issues related to loss prevention. The personnel made available will have the authority to deactivate a customer's phone. Boomerang's designated contact is listed above in Section O.

9. Boomerang agrees that its Lifeline customers will be able to make customer service calls by dialing 611 from their company Lifeline phones without deducting any of their allotted free minutes.
10. When the Commission notifies Boomerang of customers who meet eligibility criteria, Boomerang agrees to report to the OTAP manager weekly the customers' names, addresses, Boomerang-assigned phone numbers and Commission-assigned OTAP identification numbers in an electronic format accessible by the Commission. The report will list any discrepancy, as required by OAR 860-033-0046(4), that prevents a customer from receiving Lifeline service (e.g., undeliverable shipment of activated handset, etc.).
11. Pursuant to OAR 860-033-0046(2), Boomerang agrees to report on a monthly basis (a) all customers receiving OTAP benefits in a given month (the "Active OTAP Customer Report"), including all customers' names, addresses, phone numbers and Commission-assigned OTAP identification numbers. Pursuant to OAR 860-033-0046(3), Boomerang further agrees to report customers who were disconnected or de-enrolled for failure to use the Lifeline service, and, upon request of the Commission, shall report the addresses, phone numbers or plans have changed in Boomerang's records.
12. With respect to OAR 860-033-050(2), because Boomerang does not plan to charge an activation fee to Tribal customers in Oregon, Boomerang therefore will not offer Tribal Link Up in Oregon. Accordingly, Boomerang asks for a waiver of the weekly reporting requirements of OAR 860-033-050(2). In the event that Boomerang offers Tribal Link

Up in the future, it will comply with OAR 860-033-050(2) by submitting, on a weekly basis and in an accessible electronic format, each new and existing Tribal Link Up recipient's full name, residential address, date of birth, social security number or Tribal identification number, if the subscriber is a member of a Tribal nation and does not have a social security number, the telephone number associated with the Link Up support and the date of service activation.

13. As stated above, Boomerang does not plan to charge an activation fee to Tribal customers in Oregon, and will therefore not offer Tribal Link Up to Oregon customers. Accordingly, Boomerang asks for a waiver of the consent requirements of OAR 860-033-050(3). In the event that Boomerang offers Tribal Link Up in the future, it will comply with OAR 860-033-050(3) by obtaining consent to transmit the information as specified OAR 860-033-050(2) from each new and existing subscriber in Oregon, and shall do so using plain language to describe the specific information being submitted, that the information is being submitted to the Commission to ensure proper administration of the Tribal Link Up program, and that failure to provide consent will result in the subscriber being denied the Link Up benefit.
14. Although Boomerang has no plans to offer Link Up service, pursuant to OAR 860-033-050(4), if the Commission notifies Boomerang that a prospective subscriber has received a Link Up benefit at the residential address provided by the subscriber, Boomerang will not seek universal service support reimbursement for Tribal Link Up for that customer.
15. Boomerang agrees to provide Staff a copy of any reports that may be reasonably required by the Commission as a result of the proceedings in UM 1648, to which Boomerang is a party.



## **BOOMERANG REQUESTS WAIVER OF CERTAIN COMMISSION REQUIREMENTS THAT ARE INAPPLICABLE TO ITS REQUEST**

Boomerang is willing and able to meet all of the requirements of Order 06-292 and OAR 860-033-0005 *et seq.* that are applicable to ETPs, except as specified throughout this Application and summarized below. The Commission is authorized to grant these waiver requests, for good cause shown, under OAR 860-033-0001(2).<sup>55</sup> In addition, with respect to the ETC requirements established in Order No. 06-292, Appendix A, but not established through formal rulemaking, the Commission's inherent authority allows waiver of the requirements at issue. By virtue of the fact that Boomerang is a prepaid wireless service provider that utilizes resale, it cannot reasonably meet certain requirements as discussed herein, and therefore asks the Commission to waive those requirements as discussed below.

### **U. Waiver of Certain Application Requirements**

Boomerang will meet all requirements of Order 06-292, as delineated in Appendix A except as outlined in this Application. Boomerang's business model consists of prepaid wireless service through resale of the services of underlying carriers. As such, Boomerang should not be required to:

1. Comply with Appendix A, Application Requirement 4.2, to the extent it requires Boomerang to show signal strengths.
2. Comply with Appendix A, Recertification Requirement 2.1.1, sub-requirement to describe how it complies with 47 C.F.R. § 54.202(a)(1)(i).
3. Comply with Appendix A, Recertification Requirement 5.2. To the extent

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<sup>55</sup> See also In the Matter of In the Matter of a Rulemaking to Update Waiver Provisions in the Commission's Administrative Rules, Docket AR 554, Order No. 11-346, at 4 (entered Sept. 08, 2011) (explaining necessity for allowing case-by-case waiver of Commission's rules).

Boomerang cannot provide outage data by itself, it will request that its underlying carriers provide to the Oregon Commission the same data for Oregon outages that the underlying carriers submit to the FCC.

4. Comply with Appendix A, Recertification Requirement 6.2, sub-requirement to report service troubles by wireless switch. Boomerang agrees to provide trouble reports by each of the four categories required in Order No. 06-292 for Lifeline customers in Oregon.

Accordingly, Boomerang requests that the Commission waive the foregoing four requirements.

**V. Waiver of Certain Provisions of OAR 860-033-0005 *et seq.***

Boomerang is willing and able to meet all of the requirements of OAR 860-033-0005 *et seq.* that are applicable to ETPs, except for those that are inapplicable due to the nature of Boomerang's services:

First, strict compliance with OAR 860-033-0006(3)(b) would require Boomerang to collect the Residential Service Protection Fund ("RSPF") surcharge from its customers. Boomerang proposes to remit the RSPF surcharge applicable to its Oregon customers from Boomerang funds, in lieu of collecting from its customers, and for that reason requests a partial waiver of this rule. Boomerang simply cannot collect surcharges from its customers because it is a prepaid carrier that does not issue invoices. Moreover, Boomerang's basic Lifeline plan requires no financial contribution from customers. Waiver of this requirement would have no financial impact upon the RSPF and would allow Boomerang to offer a Lifeline product that is in the public interest as discussed in Section P, above.

The second waiver is for OAR 860-033-0006(3)(c) which would require Boomerang to identify the RSPF surcharge on each customer's bill. As discussed above, Boomerang is a

prepaid wireless service provider and therefore does not issue bills to its Lifeline customers, rendering compliance impossible as a practical matter. Good cause exists for waiver of this disclosure rule, particularly in conjunction with a waiver of OAR 860-033-0006(3)(b), as a result of which the Company, not the customer, would pay the RSPF surcharge.

Third, Boomerang seeks waiver of the requirement of OAR 860-033-0005(7)(a) to offer services using its own facilities. The FCC has granted Boomerang forbearance from this requirement. Similarly, the Commission recently designated TracFone as an ETP based on its FCC forbearance order.<sup>56</sup> The same rationale supports a waiver for Boomerang.

### CONCLUSION

For the reasons stated herein, Boomerang respectfully requests that the Commission promptly grant this Application and designate Boomerang Wireless, LLC d/b/a enTouch Wireless as a wireless eligible telecommunications carrier and an Eligible Telecommunications Provider.

Respectfully Submitted,

By: 

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<sup>56</sup> See In the Matter of TracFone Wireless, Inc. Application for Designation as an Eligible Telecommunications Carrier, Docket No. UM 1437, Order No. 12-149 (entered May 2, 2102).

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*Attorneys for Boomerang Wireless, LLC*

**BEFORE THE PUBLIC UTILITY COMMISSION  
OF OREGON**

**UM \_\_\_\_\_**

In the Matter of )  
 )  
 Boomerang Wireless, LLC )  
 )  
 Application for Limited Designation as an Eligible )  
 Telecommunications Carrier and Eligible )  
 Telecommunications Provider for the Purpose )  
 of Offering Lifeline Service, and Request for )  
 Waiver Pursuant to 860-033-0001(2) )  
 \_\_\_\_\_ )

**INDEX OF EXHIBITS**

<b>Exhibit</b>	<b>Description</b>
“A”	Oregon Telephone Assistance Program (OTAP) Application for Eligible Telecommunications Provider (ETP)
“B”	Registration as a Foreign Limited Liability Company and Certificate of Existence
“C”	FCC-Approved Compliance Plan
“D”	Terms of Service
“E”	Handsets
“F”	Maps of Designated Service Area and Licensed Area of Underlying Carriers, and Confidential Coverage Maps
“G”	Wire Centers
“H”	Sample Advertisements
“I”	Certification of E911 Compliance

**EXHIBIT “A”**

**Oregon Telephone Assistance Program (OTAP) Application  
for Eligible Telecommunications Provider (ETP)**

**EXHIBIT “B”**

**Registration as a Foreign Limited Liability Company  
and Certificate of Existence**

**EXHIBIT “C”**

**FCC-Approved Compliance Plan**



**EXHIBIT “D”**  
**Terms of Service**

**EXHIBIT “E”**

**Handsets**

**EXHIBIT “F”**

**Maps of Designated Service Area and  
Licensed Area of Underlying Carriers,  
and Confidential Coverage Maps**

**Part 2: Confidential Coverage Maps**

**CONFIDENTIAL**

**EXHIBIT “G”**

**Wire Centers**

**EXHIBIT "H"**

**Sample Advertisements**

**EXHIBIT "I"**  
**CERTIFICATION OF E911 COMPLIANCE**

Oregon Telephone Assistance Program (OTAP) Application  
for Eligible Telecommunications Provider (ETP) to provide OTAP Services

Part I. Application Information and Service Plan

1. Contact information pertaining to your designated staff who would be handling OTAP communications:

Name: Julia Redman Carter, Regulatory and Compliance Officer  
Address: 955 Kacena Road, Suite A  
City: Hiawatha            State: IA            Zip: 52233  
Phone number: 319-743-4640            Fax: 319-294-6081  
E-Mail' [jrcarter@readywireless.com](mailto:jrcarter@readywireless.com)

2. The number of residential, business and tribal basic service customers served by the applicant as of December 31, of the most recent calendar year.

Boomerang had no customers in Oregon as of the end of 2012.

Part II. Conditions to Provide OTAP Services to Qualifying Oregonians

These conditions apply in addition to the general conditions of certification. Violating these conditions, or misrepresenting information provided to PUC in the course of administering the OTAP programs may result in cancellation of your authority to provide OTAP Services and/or an order requiring you to refund with interest and penalties of any OTAP support distributed under false information.

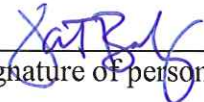
1. The applicant agrees to offer reduced residential rates with all service offerings that include basic telephone or cellular service to eligible low-income customers pursuant to the Oregon Telephone Assistance program (OTAP).
2. The applicant understands that only PUC may approve OTAP benefits for the consumer and provide benefits to OTAP consumers after PUC has notified the applicant of their eligibility. A telecommunication provider who grants OTAP benefits to ineligible customers will have the total amount of the OTAP benefits that were given to those customers deducted from the monthly or quarterly OTAP reimbursement invoices that the telecommunications provider submits to the Commission.
3. The applicant agrees that they will ensure the consumer will see their OTAP credit within 30 days from the date that the applicant has been notified of the consumer's eligibility status, and to remove consumers within 30 days after they no longer qualify for OTAP benefits.
4. The applicant agrees that they will submit reports for reimbursement quarterly (if they have less than 1,000 OTAP consumers) or monthly (if they have more than 1,000 OTAP consumers). Reports are expected to be submitted even if there are zero consumers.
5. An OTAP recipient is required to be the named subscriber to the local telecommunication service in order for that household to qualify for OTAP benefits.




PUC may waive this requirement if it determines that good cause exists. Applicant agrees to comply with reimbursing OTAP consumers who are not named subscribers at the Commission's request.

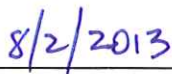
6. The applicant agrees to apply Commission assigned OTAP identification numbers to its OTAP customers' accounts.
7. Based upon accounting procedures approved by the Commission, the applicant agrees to maintain accounting records so that costs associated with OTAP can be separately identified. Records must be provided to the Commission upon request.
  - a. **Active OTAP Customer Report:** The applicant agrees to submit an Active OTAP Customer Report listing the names of all customers with the Commission assigned identification number receiving the OTAP benefits. Applicants with 1,000 or more OTAP customers must submit the report monthly to the Commission Applicants with fewer than 1,000 OTAP customers must submit the report quarterly to the Commission.
  - b. **Order Activity Report:** The applicant agrees to submit an Order Activity Report listing the names of all OTAP customers with the Commission assigned identification number whose service was disconnected. The applicant is aware that the Commission may require additional information such as a listing of all OTAP customers whose telephone numbers or addresses have changed.
  - c. **No Match Report:** The applicant agrees to notify the Commission of any discrepancy that prevents a customer from receiving the OTAP benefit after the Commission has notified the applicant of customers who meet eligibility criteria on a weekly basis.
8. The applicant agrees to ensure that confidential information (including phone number, addresses, contact information, etc.) of OTAP recipients is protected (OAR 860-033-0010). The applicant agrees to maintain a written policy to ensure that the applicant's staff does not breach the confidentiality of OTAP consumers, and to do background checks on employees who have access to customer records.
9. The applicant agrees to have in place database encryption and firewall technologies to protect customer service information stored electronically.

APPLICANT UNDERSTANDS ALL OF THE ABOVE CONDITIONS AND AGREES TO ABIDE BY ALL APPLICABLE COMMISSION RULES, STATE LAW AND THE CONDITIONS OF CERTIFICATION. PLEASE INITIAL BOX AT LEFT.

  
\_\_\_\_\_  
Signature of person authorized to represent applicant

  
\_\_\_\_\_  
Title

  
\_\_\_\_\_  
Printed Name

  
\_\_\_\_\_  
Date



## Business Name Search

[New Search](#) [Printer Friendly](#)

### Business Entity Data

07-30-2013  
13:41

Registry Nbr	<a href="#">Entity Type</a>	<a href="#">Entity Status</a>	<a href="#">Jurisdiction</a>	Registry Date	Next Renewal Date	Renewal Due?
857417-92	FLLC	ACT	IOWA	05-18-2012	05-18-2014	
<b>Entity Name</b>	BOOMERANG WIRELESS, LLC					
<b>Foreign Name</b>						

[New Search](#) [Printer Friendly](#)

### Associated Names

<b>Type</b>	PPB	PRINCIPAL PLACE OF BUSINESS			
<b>Addr 1</b>	955 KACENA RD STE A				
<b>Addr 2</b>					
<b>CSZ</b>	HIAWATHA	IA	52233	<b>Country</b>	UNITED STATES OF AMERICA

Please click [here](#) for general information about registered agents and service of process.

<b>Type</b>	AGT	REGISTERED AGENT	<b>Start Date</b>	05-18-2012	<b>Resign Date</b>	
<b>Of Record</b>	<a href="#">158720-88</a>	CORPORATION SERVICE COMPANY				
<b>Addr 1</b>	285 LIBERTY ST NE					
<b>Addr 2</b>						
<b>CSZ</b>	SALEM	OR	97301	<b>Country</b>	UNITED STATES OF AMERICA	

<b>Type</b>	MAL	MAILING ADDRESS			
<b>Addr 1</b>	955 KACENA RD STE A				
<b>Addr 2</b>					
<b>CSZ</b>	HIAWATHA	IA	52233	<b>Country</b>	UNITED STATES OF AMERICA

<b>Type</b>	MEM	MEMBER		<b>Resign Date</b>	
<b>Name</b>	DENNIS		HENDERSON		
<b>Addr 1</b>	955 KACENA RD STE A				
<b>Addr 2</b>					

CSZ	HIAWATHA	IA	52233	Country	UNITED STATES OF AMERICA
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[New Search](#) [Printer Friendly](#) **Name History**

Business Entity Name	Name Type	Name Status	Start Date	End Date
BOOMERANG WIRELESS, LLC	EN	CUR	05-18-2012	

Please [read](#) before ordering [Copies](#).

[New Search](#) [Printer Friendly](#) **Summary History**

Image Available	Action	Transaction Date	Effective Date	Status	Name/Agent Change	Dissolved By
	AMENDED ANNUAL REPORT	04-09-2013		FI		
	APPLICATION FOR AUTHORITY	05-18-2012		FI	Agent	

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32/712



Application for Authority to Transact Business - Foreign Limited Liability Company  
Secretary of State - Corporation Division - 255 Capitol St. NE, Suite 151 - Salem, OR 97310-1327 - http://www.FilingInOregon.com - Phone (503) 986-2200

FILED

MAY 18 2012

OREGON  
SECRETARY OF STATE

REGISTRY NUMBER: 857417-92  
For office use only

In accordance with Oregon Revised Statute 192.410-192.490, the information on this application is public record. We must release this information to all parties upon request and it will be posted on our website.

For office use only

Please Type or Print Legibly in Black Ink. Attach Additional Sheet if Necessary.

1) NAME: BOOMERANG WIRELESS, LLC

NOTE: (Must contain the words "Limited Liability Company" or the abbreviations "LLC" or "L.L.C.") Must be identical to the name of record in home jurisdiction.

2) REGISTRY NUMBER IN HOME JURISDICTION 357573

OR: CERTIFICATE OF EXISTENCE  (ATTACHED)

(Please provide a web-verifiable registry number from the entity's home jurisdiction. Certain states, such as Delaware and New Jersey, do not provide status information online. Entities from such places must instead attach an official certificate of existence, current within 60 days of delivery to this office.)

7) REGISTERED AGENT'S PUBLICLY AVAILABLE ADDRESS:

(Must be an Oregon Street Address, which is identical to the registered agent's business office.)

285 Liberty Street NE

Salem, OR 97301

3) DATE OF ORGANIZATION: 01/18/2008 DURATION, IF NOT PERPETUAL:

8) ADDRESS OF PRINCIPAL OFFICE OF THE BUSINESS:

955 Kacena Road, Suite A, Hiwatha, IA 52233

4) STATE OR COUNTRY OF ORGANIZATION:

IA

9) ADDRESS WHERE THE DIVISION MAY MAIL NOTICES:

285 Liberty Street NE, Salem, OR 97301

5) THIS FOREIGN LIMITED LIABILITY COMPANY SATISFIES THE REQUIREMENTS OF ORS 63.714(3).

10) HOW WILL THIS LIMITED LIABILITY COMPANY BE MANAGED?

6) NAME OF OREGON REGISTERED AGENT:

Corporation Service Company

This LLC will be member-managed by one or more members.

This LLC will be manager-managed by one or more managers.

11) EXECUTION: (At least one member or manager must sign.)

By my signature, I declare as an authorized authority, that this filing has been examined by me and is, to the best of my knowledge and belief, true, correct, and complete. Making false statements in this document is against the law and may be penalized by fines, imprisonment or both.

Signature:

Dennis Henderson

Printed Name:

Dennis Henderson

Title:

MEMBER

CONTACT NAME: (To resolve questions)

**BOOMERANG WIRELESS, LLC**



85741792-13531462

NEWAUT

<b>FEES</b>
Required Processing Fee \$275
Processing Fees are non-refundable. Please make check payable to "Corporation Division."
Free copies are available at <a href="http://FilingInOregon.com">FilingInOregon.com</a> , using the Business Name Search program.

Application for Authority to Transact Business - Foreign Limited Liability Company (03/12)

857417-92

Certificate of Standing

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Print margins of no larger than 1 inch are recommended

**IOWA SECRETARY OF STATE  
MATT SCHULTZ**



**CERTIFICATE OF EXISTENCE**

Date: 5/17/2012

Name: BOOMERANG WIRELESS, LLC (489DLC - 357573)  
Date of Incorporation: 1/18/2008  
Duration: PERPETUAL

I, Matt Schultz, Secretary of State of the State of Iowa, custodian of the records of incorporations, certify the following for the limited liability company named on this certificate:

- a. The entity is in existence and duly incorporated under the laws of Iowa.
- b. All fees, taxes and penalties required under the Revised Uniform Limited Liability Company Act and other laws due the Secretary of State have been paid.
- c. The most recent biennial report required has been filed with the Secretary of State.
- d. The Secretary of State has not administratively dissolved the limited liability company.
- e. The Secretary of State has not filed either a statement of dissolution or statement of termination.

Certificate ID: **CS67618**

To validate certificates visit:  
[sos.iowa.gov/ValidateCertificate](http://sos.iowa.gov/ValidateCertificate)

A handwritten signature in black ink, appearing to read "Matt Schultz".

Matt Schultz, Iowa Secretary of State

**Before the  
FEDERAL COMMUNICATIONS COMMISSION  
Washington, D.C. 20554**

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In the Matter of	)	
	)	
Telecommunications Carriers Eligible to	)	
Receive Universal Service Support	)	
	)	
Boomerang Wireless, LLC	)	WC Docket No. 09-197
	)	
Petition for Limited Designation as	)	
An Eligible Telecommunications	)	
Carrier in Alabama, Connecticut, Delaware,	)	
the District of Columbia, Florida,	)	
New Hampshire, New York, North Carolina,	)	
Tennessee and Virginia	)	
	)	

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**AMENDED PETITION OF BOOMERANG WIRELESS, LLC FOR DESIGNATION  
AS AN ELIGIBLE TELECOMMUNICATIONS CARRIER IN ALABAMA,  
CONNECTICUT, DELAWARE, THE DISTRICT OF COLUMBIA, FLORIDA, NEW  
HAMPSHIRE, NEW YORK, NORTH CAROLINA, TENNESSEE AND VIRGINIA**

John J. Heitmann  
Joshua T. Guyan  
Kelley Drye & Warren LLP  
3050 K Street, NW  
Suite 400  
Washington, D.C. 20007  
(202) 342-8400

*Counsel to Boomerang Wireless, LLC*

Original filing date: December 29, 2010  
Latest filing date: December 18, 2012

## Summary

Boomerang Wireless, LLC (“Boomerang” or the “Applicant”), pursuant to Section 214(e)(6) of the Communications Act of 1934, as amended (the “Act”)<sup>1</sup> and Sections 54.201-54.207 of the Federal Communications Commission’s (“FCC’s” or “Commission’s”) rules,<sup>2</sup> submits this Amended Petition for Designation as an Eligible Telecommunications Carrier (“ETC”). Boomerang requests ETC designation for the limited purpose of offering Lifeline services to end-user customers in the identified states under the brand name enTouch Wireless. On June 6, 2012, Boomerang previously amended its pending request for ETC designation<sup>3</sup> to extend the scope of its original request for ETC designation to include Tribal portions of Boomerang’s territory within the identified states and update its request for limited ETC designation consistent with the Commission’s rule changes to the Lifeline program and the obligations imposed on Lifeline-only ETCs.<sup>4</sup> Also, as stated in Boomerang’s Compliance Plan, originally filed March 1, 2012, last revised on July 26, 2012 and approved by the Wireline Competition Bureau (“Bureau”) on August 8, 2012, Boomerang filed the Amended Petition in order to avail itself of the Commission’s conditional grant of blanket forbearance from the “own facilities” requirement of Section 214(e)(1) of the Act.<sup>5</sup> Boomerang filed an amended petition on September 18, 2012 to

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<sup>1</sup> See 47 U.S.C. § 214(e)(6).

<sup>2</sup> See 47 C.F.R. §§ 54.201-54.207.

<sup>3</sup> See Petition of Boomerang Wireless, LLC for Designation as an Eligible Telecommunications Carrier in Alabama, Connecticut, Delaware, The District of Columbia, New Hampshire, New York, North Carolina, Tennessee and Virginia, WC Docket No. 09-197 (filed Dec. 29, 2010) (“Petition”).

<sup>4</sup> See *Lifeline and Link Up Reform and Modernization, Lifeline and Link Up, Federal-State Joint Board on Universal Service, Advancing Broadband Availability Through Digital Literacy Training*, WC Docket No. 11-42, WC Docket No. 03-109, CC Docket No. 96-45, WC Docket No. 12-23, Report and Order and Further Notice of Proposed Rulemaking, FCC 12-11 (rel. Feb. 6, 2012) (“*Lifeline Reform Order*”).

<sup>5</sup> See *id.* ¶ 368.

expand the scope of its petition to include the State of Florida, define its proposed service area by providing a list of study areas, revise its proposed Lifeline service offerings and note that its Compliance Plan has been approved by the Bureau. Boomerang files this Amended Petition to state that Boomerang will ask all Lifeline applicants in the states listed herein whether they or anyone in their household are receiving Lifeline service from any other provider, including from one of the other major Lifeline providers in the state. Further, Boomerang clarifies that only Boomerang employees enroll applicants in its Lifeline service at Boomerang events where phones are distributed and, with regard to other enrollments, a Boomerang employee will be responsible for overseeing and finalizing every Lifeline enrollment.

Boomerang offers affordable and reliable telecommunications services to low-income end user customers. Boomerang's prepaid wireless services combined with low-cost handsets provide a reasonable alternative to traditional post-paid services. Boomerang provides low-income customers who might not otherwise be able to afford traditional services with dependable voice and data services, as well as additional features and functionalities including, for example, call waiting, caller ID and voicemail.

Sections 214(e) and 254 of the Act and the Commission's rules expressly authorize the FCC to designate Boomerang as an ETC. Specifically, Section 214(e)(6) of the Act provides that the FCC may confer ETC status on a common carrier where the carrier's services do not fall subject to the jurisdiction of a state commission.<sup>6</sup> Boomerang provides herewith affirmative statements conclusively proving that the states in which it seeks ETC designation lack jurisdiction to confer ETC status to Boomerang. Further, Boomerang meets the statutory and regulatory requirements for ETC designation. And, finally, consumers will benefit greatly from such

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<sup>6</sup> See 47 U.S.C. § 214(e)(6).



designation in the form of low-cost, high-quality wireless service and access to a host of add-on features.

As such, grant of this application is in the public interest, and Boomerang respectfully requests that the Commission grant this application on an expedited basis.

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**Before the  
Federal Communications Commission  
Washington, D.C. 20554**

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In the Matter of	)	
	)	
	)	
Telecommunications Carriers Eligible to	)	
Receive Universal Service Support	)	
	)	
Boomerang Wireless, LLC	)	WC Docket No. 09-197
	)	
Petition for Limited Designation as	)	
An Eligible Telecommunications	)	
Carrier in Alabama, Connecticut, Delaware,	)	
the District of Columbia, Florida,	)	
New Hampshire, New York, North Carolina,	)	
Tennessee and Virginia	)	
	)	

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**AMENDED PETITION OF BOOMERANG WIRELESS, LLC FOR DESIGNATION  
AS AN ELIGIBLE TELECOMMUNICATIONS CARRIER IN ALABAMA,  
CONNECTICUT, DELAWARE, THE DISTRICT OF COLUMBIA, FLORIDA, NEW  
HAMPSHIRE, NEW YORK, NORTH CAROLINA, TENNESSEE, AND VIRGINIA**

Boomerang Wireless, LLC (“Boomerang” or the “Applicant”), pursuant to Section 214(e)(6) of the Communications Act of 1934, as amended (the “Act”)<sup>7</sup> and Sections 54.201-54.207 of the Federal Communications Commission’s (“FCC’s” or the “Commission’s”) rules,<sup>8</sup> hereby files this Amended Petition seeking designation as an Eligible Telecommunications Carrier (“ETC”). Boomerang requests ETC designation for the limited purpose of offering Lifeline services to low-income customers in the identified states.

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<sup>7</sup> See 47 U.S.C. § 214(e)(6).

<sup>8</sup> See 47 C.F.R. §§ 52.201-52.207.

## I. Changes to the Scope of Boomerang's ETC Petition

Boomerang is hereby amending its pending request for ETC designation<sup>9</sup> to state that Boomerang will inquire of all Lifeline applicants in the states listed herein whether they or anyone in their household are receiving Lifeline service from any other provider, including from one of the other major Lifeline providers in the state. Finally, Boomerang clarifies that only Boomerang employees enroll applicants in its Lifeline service at Boomerang events where phones are distributed and, with regard to other enrollments, a Boomerang employee will be responsible for overseeing and finalizing every Lifeline enrollment.<sup>10</sup>

On September 18, 2012, Boomerang amended its request to extend the scope of its original request for ETC designation to include the State of Florida, define its proposed service area by providing a list of study areas, revise Boomerang's proposed Lifeline service offerings and note the approval of Boomerang's Compliance Plan. On June 6, 2012, Boomerang amended its Petition<sup>11</sup> to include Tribal portions of Boomerang's territory within the identified states and to bring the request for limited ETC designation into compliance with the FCC's rule changes to the Lifeline program and the obligations imposed on Lifeline-only ETCs.<sup>12</sup> Also, Boomerang filed its

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<sup>9</sup> See *Petition of Boomerang Wireless, LLC for Designation as an Eligible Telecommunications Carrier in Alabama, Connecticut, Delaware, the District of Columbia, New Hampshire, New York, North Carolina, Tennessee and Virginia*, WC Docket No. 09-197 (filed Dec. 29, 2010) ("Petition").

<sup>10</sup> In addition, Boomerang has corrected a typo in the chart showing prices for its top-up minutes in Section II.B. The "Days of Use" for the \$7.00 top-up should be seven rather than ten.

<sup>11</sup> See *Amended Petition of Boomerang Wireless, LLC for Designation as an Eligible Telecommunications Carrier in Alabama, Connecticut, Delaware, the District of Columbia, New Hampshire, New York, North Carolina, Tennessee and Virginia*, WC Docket No. 09-197 (filed June 6, 2012).

<sup>12</sup> *In the Matter of Lifeline and Link Up Reform and Modernization, Lifeline and Link Up, Federal-State Joint Board on Universal Service, Advancing Broadband Availability Through Digital Literacy Training*, WC Docket No. 11-42, WC Docket No. 03-109, CC Docket No. 96-45, WC Docket No. 12-23, Report and Order and Further Notice of Proposed Rulemaking, FCC 12-11 (rel. Feb. 6, 2012) ("Lifeline Reform Order").

amended Petition in order to avail itself of the Commission's conditional grant of blanket forbearance from the "own facilities" requirement of Section 214(e)(1) of the Act.<sup>13</sup>

Boomerang demonstrates in this Amended Petition and its Compliance Plan,<sup>14</sup> incorporated herein by reference and attached hereto as Exhibit A, that Boomerang satisfies the conditions necessary to benefit from the Commission's conditional grant of blanket forbearance, Boomerang satisfies all requirements necessary to be designated a "Lifeline-only" ETC, and it is in the public interest for the Commission to grant this Amended Petition as Boomerang will be able to provide low-income consumers in these states with reliable and cost-effective wireless services. Boomerang's Compliance Plan was originally filed on March 1, 2012, was last revised on July 26, 2012 and approved by the Wireline Competition Bureau ("Bureau") on August 8, 2012.<sup>15</sup> Accordingly, Boomerang respectfully requests that the Commission grant this application on an expedited basis to designate it as an ETC in all ten "Federal Jurisdiction States" – Alabama, Connecticut, Delaware, the District of Columbia, Florida, New Hampshire, New York, North Carolina, Tennessee and Virginia.

## **II. Background**

### **A. Company Overview**

Boomerang is one of three wholly owned subsidiaries of HH Ventures LLC, an Iowa company. The other two subsidiaries are enMarket, LLC ("enMarket") and Ready Wireless, LLC ("Ready Wireless"). HH Ventures LLC ("HH Ventures") is a profitable, cash flow positive wireless telecommunications holding company, which employs forty full-time employees. The

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<sup>13</sup> See *Lifeline Reform Order*, ¶ 368.

<sup>14</sup> Boomerang Wireless, LLC Amended Compliance Plan, WC Docket Nos. 09-197, 11-42 (filed July 26, 2012).

<sup>15</sup> It is the July 26, 2012 version approved by the Bureau that is included as Exhibit A.

company's core management team includes six senior executives with more than 100 years of combined telecommunications experience.

Boomerang seeks ETC designation in order to provide handsets and domestic voice services to low-income customers under the brand enTouch Wireless. Boomerang also intends to provide Lifeline-only service to residents of Tribal lands. Boomerang has direct, network carrier contracts with Sprint and Verizon Wireless, and has a contract in place to resell service from GSM carriers. The multi-carrier wireless network platform provides robust wireless service coverage across the entire ETC footprint. Boomerang has direct, in-depth experience with building voice, data and broadband products directly with carriers.

HH Ventures formed enMarket in January, 2012 to focus on event marketing and distribution for ETCs. Full time employees create neighborhood events to build awareness of the Lifeline program and to distribute phone services to eligible consumers. Event staff is trained on the program compliance requirements and creates a positive community experience. The company also diligently implements measures to prevent waste, fraud and abuse.

Ready Wireless offers a Mobile Virtual Network Enabler ("MVNE") wholesale platform for ETCs and other non-ETC white label partners as well as for the companies' own retail non-Lifeline brands Ready Mobile, Ready Broadband and Trumpet. The platform integrates technical, infrastructure and business operations in a scalable, reliable environment. Mobile Virtual Network Operator ("MVNO") customers can select the features and capabilities that meet their business needs. Key features include:

- multiple underlying facilities-based wireless carrier networks (Sprint, Verizon Wireless, GSM);
- an integrated operating system, which includes provisioning, inventory management, interactive voice response ("IVR") systems, billing, reporting;
- device certifications, procurement, warehousing, logistics;

- program management and marketing;
- additional features to enhance the user experience, such as free 411 and competitively priced international long distance; and
- access to thousands of reload locations, ensuring that ETC end user customers will be able to purchase additional services to complement their subsidized services.

Ready Mobile is a national brand distributed in over 30,000 retail locations.<sup>16</sup> The expertise developed to meet the rigorous operational demands of publicly traded, chain accounts (*i.e.* Walgreens, CVS, Meijers) is foundational to delivering superior services to ETCs and other white label partners. Boomerang offers two wireless services under the Ready Mobile brand: ReadyMobilePCS and ReadyBroadband. ReadyMobilePCS offers data access to consumers across the country via smart phone technology using recycled, web-enabled phones with broadband data plans. Under the brand ReadyBroadband, the company also provides data access through devices such as laptops, notebooks, tower computers, and a wide array of other equipment. Both smart phones and access devices are provided with national broadband coverage and distributed through national retail chains as well as sold on the e-commerce site ([www.readymobile.com](http://www.readymobile.com)).

Boomerang has direct, network carrier contracts with Sprint and Verizon Wireless, and has a contract in place to resell service from GSM carriers. The multi-carrier wireless network platform provides robust wireless service coverage across the entire ETC footprint. HH Ventures and its subsidiaries have direct, in-depth experience with building voice, data and broadband products directly with carriers.

Experienced in providing broadband data access to consumers across the country, Boomerang is already poised to play a part in achieving the Commission's goal of expanding

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<sup>16</sup> The history of the Ready Mobile brand goes back to Ready Mobile LLC. Ready Mobile LLC was formed in 2005 and was focused on retail distribution of prepaid wireless products under the Ready Mobile brand name. In May 2007, Titan Global Holdings purchased certain assets from Ready Mobile LLC that included the Ready Mobile branding. Titan operated several other telecommunications ventures. HH Ventures participated in a transaction by which it purchased certain Titan assets, including the Ready Mobile brand on January 17, 2008. None of the Titan owners are part of the HH Ventures ownership.

broadband access to low-income consumers should the Commission decide to support such service as part of the Lifeline program.

Because the Company already has in place nationwide distribution channels and activation processes, it is ready now to offer telecommunications services to low-income consumers. Because of the Company’s established multi-channel, multi-partner approach, it has the ability to reach eligible consumers throughout the Federal Jurisdiction States. In addition, Boomerang will advertise the availability and prices of its services through a variety of mediums, including online advertising, direct marketing campaigns, print advertising, event-based distribution, seminars, lectures, pamphlet distribution, and meetings with government agencies.

**B. Proposed Lifeline Offering**

Boomerang will offer its Lifeline service in the states where it is designated as an ETC and throughout the coverage area of its underlying carriers (Sprint, Verizon Wireless, and other GSM providers). The Company’s will offer eligible customers the following two Lifeline plans: (1) 125 units that rollover where 1 minute equals 1 unit and 1 text equals 1 unit, and (2) 250 units without rollover where 1 minute equals 1 unit and 1 text equals 1 unit.

Customers will have the capability of purchasing additional bundles of minutes in the following denominations:

Denomination	\$5	\$10	\$10	\$15	\$15	\$30	\$30	\$50	\$7	\$20	\$30
Days of Use	10	3	7	7	10	14	30	30	7	30	30
Minutes									100	500	1,000
Peak		Unlmtd	30	Unlmtd	60	Unlmtd	140	Unlmtd			
Minutes											
N/W Minutes		Unlmtd	Unlmtd	Unlmtd	Unlmtd	Unlmtd	Unlmtd	Unlmtd			
Texts		Unlmtd	.10/text	Unlmtd	.10/text	Unlmtd	.10/text	Unlmtd	200	1,000	1,200
Units (Min+Text)	50										



In addition to free voice services, Boomerang's Lifeline plans will include a free handset and the following features: caller ID, call waiting and voicemail.

As a provider of Lifeline services to residents of Tribal lands, Boomerang will pass through the full Tribal support amount to qualifying residents of Tribal lands, and under no circumstances will it collect from the Universal Service Fund more than the rate charged to Tribal subscribers.

### **III. ETC Designation**

#### **A. The Commission Has the Authority to Perform the Requested Designations**

While the authority to designate ETCs traditionally falls on state utility commissions, Sections 214(e) and 254 of the Act authorize the FCC to designate Boomerang as an ETC in the Federal Jurisdiction States. Specifically, Section 214(e)(6) of the Act provides that the Commission may confer ETC status on a common carrier where the carrier's services do not fall subject to the jurisdiction of a state commission. In its original ETC Petition, Boomerang supplied affirmative statements from all the states in which it seeks ETC designation that these states lack the authority to perform the requested designations for wireless carriers. Those statements are attached hereto at Exhibit B.

Specifically, Boomerang submits affirmative statements from state commissions in the identified states showing that each lacks jurisdiction to confer ETC status. Boomerang submits copies of the following orders and correspondence:

The Alabama Public Service Commission issued an order finding that its "jurisdiction to grant Eligible Telecommunications Carrier status for universal service purposes does not extend to providers of cellular services, broadband personal communications services, and commercial radio services," and that "wireless providers seeking ETC status should pursue their designation request with the FCC."

The Connecticut Department of Public Utility Control provided a letter confirming that it lacks jurisdiction over wireless ETC petitions.

The Delaware Public Service Commission issued an order clarifying that as a “federal default state” it does not administer its own ETC program.

The District of Columbia confirmed by letter that it lacks jurisdiction to designate wireless carriers as ETCs.

The Florida Public Service Commission acknowledged by letter that “the revision to Chapter 364, Florida Statutes, changed the Commission’s jurisdiction regarding telecommunications companies.” The letter confirmed that “the Federal Communications Commission, rather than this Commission is the appropriate agency to consider...[bids] for ETC status.”

The General Counsel of the New Hampshire Public Utilities Commission issued a letter confirming that the PUC lacks jurisdiction to consider petitions for ETC status filed by mobile radiocommunication carriers.

The New York Public Service Commission confirmed by letter that it lacks jurisdiction to entertain Boomerang’s ETC petition.

The North Carolina Utilities Commission released an Order concluding that “the Commission lacks jurisdiction over CMRS services and the appropriate venue for the designation of ETC status for such services is with the FCC.”

The Tennessee Regulatory Authority issued an order finding that its statutory “lack of jurisdiction over CMRS providers” precludes it from processing ETC petitions.

The Virginia State Corporation Commission issued an order stating that it “has not asserted jurisdiction over CMRS carriers” and that wireless ETC applicants “should apply to the Federal Communications Commission.”

Also, while not specifically stated in the original petition, Boomerang wishes to clarify that it is seeking designation as an ETC in the Tribal areas throughout its service territory in the identified states.

Accordingly, for each of the above states, Boomerang requests that the Commission exercise its authority under Section 214(e)(6) and determine that it is not subject to a state commission's ETC jurisdiction.

**B. Boomerang Satisfies All Requirements Necessary to Be Designated a Lifeline-Only ETC**

In order to receive an ETC designation, Section 214(e)(1) of the Act and Section 54.201(d) of the Commission's rules provide that petitioning carriers must:

1. be common carriers;
2. that will offer all of the services supported by federal USF support mechanisms;
3. either using their own facilities or a combination of their own facilities and the resale of another carrier's services, except where the Commission has forbore from the "own facilities" requirement;
4. must advertise the availability and pricing of their universal service support qualifying services; and
5. comply with all of the relevant regulations applicable to ETCs.

**1. Boomerang Qualifies as a Common Carrier**

Boomerang is a common carrier because it is a company providing interstate and foreign communications by radio<sup>17</sup> and qualifies as a Commercial Mobile Radio Service

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<sup>17</sup> The Act defines a common carrier as "any person engaged as a common carrier for hire, in interstate or foreign communications by wire or radio . . . ." 47 U.S.C. § 153(10). The Act further defines a "person" to include "an individual, partnership, association, joint-stock company, trust, or corporation." 47 U.S.C. § 153(32).

(“CMRS”) provider.<sup>18</sup> In addition, section 332(c)(1)(A) of the Act states that CMRS providers will be regulated as common carriers.<sup>19</sup>

## **2. Boomerang Offers the Services and Functionalities Supported by the Federal Low-Income Universal Service Program<sup>20</sup>**

In its original Petition, Boomerang established that it would offer all of the services and functionalities supported by the federal low-income Universal Service program. The Company seeks designation as an ETC to provide Lifeline service in the rural and non-rural study areas provided in Exhibit C. Boomerang understands that its service area includes the service areas of several rural carriers, however, the public interest factors discussed below and the Commission’s precedent in granting ETC designation in such areas justifies this designation as an ETC for purposes only of participation in the Lifeline program.

As set forth in the original petition, Boomerang will provide voice grade access to the public switched telephone network (“PSTN”) through its agreements with underlying carriers (Sprint, Verizon Wireless, and other GSM providers) that have executed interconnection agreements with local exchange carriers to provide voice-grade connectivity to the PSTN. As noted above, Boomerang’s proposed Lifeline offering will include varying rate plans with different amounts of local usage.

Boomerang will provide its Lifeline subscribers with 911 and E911 access, regardless of activation status and availability of minutes. It will provide its Lifeline subscribers with E911-compliant handsets and replace, at no additional charge to its subscribers, noncompliant handsets of Lifeline-eligible subscribers who obtain Lifeline-supported services.

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<sup>18</sup> See 47 C.F.R. § 20.3.

<sup>19</sup> See 47 U.S.C. § 332(c)(1)(A).

<sup>20</sup> 47 C.F.R. § 54.201(d).

Since Boomerang filed its original ETC Petition, the Commission has changed its definition of “supported services” for purposes of USF reimbursement. ETCs are no longer required to offer toll limitation service to low-income consumers if the Lifeline offering provides a set amount of minutes that does not distinguish between toll and non-toll calls.<sup>21</sup> Boomerang’s proposed Lifeline offering meets this requirement and, therefore, Boomerang will not offer toll limitation.

**3. Boomerang Will Provide the Supported Services Consistent with the Commission’s Grant of Forbearance from Section 214’s Facilities Requirements**

Boomerang provides domestic and international voice and data services to low-income consumers as an MVNO, and provides a complete wholesale, MVNE platform to several ETCs and other white label partners using its underlying carriers’ (Sprint, Verizon Wireless, and other GSM providers) network infrastructure. It purchases capacity on a wholesale basis from these underlying carriers and resells service packages to customers. Thus, it provides its basic voice and data services on a resale basis. Boomerang is not seeking to demonstrate, for purposes of satisfying Section 214(e)(1)(A) of the Act, that it provides the “supported services” described in Section 54.101(a) of the Commission’s rules in the identified States via a combination of its own facilities and the resold facilities of other carriers. Accordingly, Boomerang wishes to avail itself of the Commission’s conditional grant of blanket forbearance for purposes of providing service as a Lifeline-only carrier in these states. As stated above, Boomerang’s Compliance Plan was granted by the Bureau on August 8, 2012 and therefore Boomerang is not required to make a facilities demonstration.

In addition, as Boomerang stated above and in its Compliance Plan, incorporated herein by reference and attached hereto as Exhibit A, Boomerang will provide its Lifeline

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<sup>21</sup> See *Lifeline Reform Order*, ¶ 230.

customers with the same access to emergency calling, which is not assessed against service plans, and 911/E911 capable handsets that it currently provides to its existing customers.

#### **4. Boomerang Will Advertise the Availability and Pricing for its Universal Service Qualifying Offerings**

Boomerang will advertise both the availability and pricing of its USF-qualifying offerings broadly in a manner reasonably designed to reach those who qualify for the service.<sup>22</sup> Its advertisements will be posted in various retail stores included in its distribution network such as CVS, Walgreens, Rite Aid and Dollar General stores, among others. In addition, Boomerang will advertise the availability and prices of its services through a variety of mediums, including online advertising, direct marketing campaigns, print advertising, event-based distribution, seminars, lectures, pamphlet distribution, and meetings with government agencies. enMarket, Boomerang's sister event marketing and distribution company, will use demographic segmentation information to identify locations of populations with great need. enMarket will organize positive and informative neighborhood events to create a local presence. Boomerang will also be promoting sign up through online outreach. Boomerang will include all required information in its Lifeline marketing materials, including web, print, radio and television advertising.

#### **5. Boomerang Will Satisfy its Statutory Obligations as an ETC**

Boomerang will comply with the service requirements applicable to the support that it receives and the services it provides.<sup>23</sup>

Boomerang has the ability to remain functional in emergencies.<sup>24</sup> Boomerang and its underlying carriers have created back-up systems to ensure full functionality in the event of a

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<sup>22</sup> See 47 C.F.R. § 54.405(b).

<sup>23</sup> See 47 C.F.R. § 54.202(a)(1)(i).

<sup>24</sup> See Petition at 12; 47 C.F.R. § 54.202(a)(2).

loss of power or network functionality. Boomerang's facilities are housed in a carrier-class data center with fully redundant power and HVAC, a controlled temperature and humidity environment, fire-threat detection and suppression, year-round critical monitoring and secure access with biometric security. The facility features redundant generators and redundant fiber optic connectivity. The data center is a reinforced concrete building located in a secure area and collocated with the area electrical utility headquarters. It is powered from separate paths independent of any one electrical generation plant. All systems within the facility are implemented on redundant servers, each with redundant data network and power.

Boomerang will satisfy the requirement to comply with consumer protection and service quality standards by complying with the Cellular Telecommunications and Internet Association's Consumer Code for Wireless Service.<sup>25</sup> It will provide service to any customer making a reasonable request for service throughout its designated service areas. Each of Boomerang's rate plans is comparable to those offered by ILECs in the service areas for which it seeks ETC designation. In fact, Boomerang's rate plans are superior in many respects to rate plans offered by ILECs in its service areas because they provide greater flexibility, reliable service, additional functionalities and features, and lower cost alternatives to ILEC providers' services.

Boomerang is financially and technically capable of providing the Lifeline service in compliance with all of the Commission's low-income program rules.<sup>26</sup> Boomerang's parent company, HH Ventures, is a privately held cash-flow-positive wireless telecommunications holding company. HH Ventures has been providing prepaid wireless telecommunications services to non-Lifeline subscribers since 2008. Its core management team includes six senior executives with significant telecommunications experience, and the company employs 40 full time employees.

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<sup>25</sup> See Petition at 13; 47 C.F.R. § 54.202(a)(3).

<sup>26</sup> See 47 C.F.R. 54.202(a)(4).

Boomerang currently provides prepaid wireless services to more than 350,000 subscribers, including more than 50,000 retail customers. Boomerang does not intend to rely exclusively on USF disbursements to operate, as it receives revenue from providing other services, including managing the platform of its sister company, as described above. For the 2011 calendar year, Boomerang and its sister company received no direct USF reimbursement for Lifeline support; 17 percent of revenue was generated from wireless resale services, 52 percent of revenue was generated from wireless retail services, and 31 percent of revenue was generated from other non-regulated communications services. Boomerang has not been subject to enforcement actions or ETC revocation proceedings in any state.

The terms of Boomerang's proposed Lifeline offering are detailed above in this Amended Petition.

In its original Petition, Boomerang committed to meeting its annual reporting requirements under Section 54.209, now rendered obsolete by the Commission's *Lifeline Reform Order*. Here, Boomerang commits to complying with the certification and reporting requirements contained in sections 54.416 and 54.422.<sup>27</sup>

**C. Boomerang Will Guard against Waste, Fraud and Abuse**

Boomerang has described in its approved Compliance Plan, incorporated herein by reference and attached hereto as Exhibit A, how it will implement the Commission's new procedures to prevent customers from receiving duplicate service, to ensure customer eligibility, and to re-certify continued customer eligibility. In addition, during enrollment Company personnel will inform each Lifeline applicant that he or she may be receiving Lifeline support under another name, and facilitate the applicant's understanding of what constitutes "Lifeline-supported services," and ability to determine whether he or she is already benefiting from Lifeline support, by

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<sup>27</sup> See 47 C.F.R. § 54.422.



inquiring of each customer whether they are receiving Lifeline service from one of the other major Lifeline providers in the state (e.g., SafeLink, Assurance).

Finally, only Boomerang employees enroll applicants in its Lifeline service at Boomerang events where phones are distributed. With regard to other enrollments, a Boomerang employee will be responsible for overseeing and finalizing every Lifeline enrollment prior to sending a phone to the customer and including that customer on an FCC Form 497 for reimbursement. Boomerang does not currently enroll customers at retail locations, however, if Boomerang were to do so in the future, Boomerang would not enroll customers at retail locations where Boomerang does not have an agency agreement with the retailer. Boomerang would require an agent retailer to have any employees involved in the enrollment process go through the standard Boomerang training process, same as it would for any other agent. By establishing agency relationships with all of its Company personnel, including retail outlets, Boomerang would meet the “deal directly” requirement adopted in the TracFone Forbearance Order.<sup>28</sup>

The Commission determined in the *Lifeline Reform Order* that ETCs may permit agents or representatives to review documentation of consumer program eligibility for Lifeline because “the Commission has consistently found that ‘[I]censees and other Commission regulatees are responsible for the acts and omissions of their employees and independent contractors.’”<sup>29</sup> Because Boomerang would be responsible for the actions of all of its employees and agents, including those enrolling customers in any Boomerang owned or affiliated retail locations, and a Boomerang employee is currently responsible for overseeing and finalizing every Lifeline enrollment prior to including that customer on an FCC Form 497 for reimbursement, the Company

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<sup>28</sup> See Petition of TracFone Wireless, Inc. for Forbearance from 47 U.S.C. § 214(e)(1)(A) and 47 C.F.R. § 54.201(i), CC Docket no. 96-45, Order, FCC 05-165, ¶19 (2005).

<sup>29</sup> *Lifeline Reform Order*, ¶ 110.

will always “deal directly” with its customers to certify and verify the customer’s Lifeline eligibility.

#### **IV. ETC Designation of Boomerang Will Promote the Public Interest**

Section 54.202(b) of the Commission’s rules mandates that ETC designations must serve the public interest. In considering whether any designation is in the public interest, “the Commission shall consider the benefits of increased consumer choice, and the unique advantages and disadvantages of the applicant’s service offering.”<sup>30</sup> First, Boomerang’s service offers increased consumer choice and has unique advantages for consumers in the geographical areas served. For example, Boomerang’s service provides a low-cost, reliable alternative to traditional rate plans. It allows customers to rely upon the extensive networks of its underlying carriers, while taking advantage of Boomerang’s additional features and services provided by its secure facilities.

In addition, Boomerang’s service meets the goals of the Act. For example, the Act aimed to “secure lower prices and higher quality services for American telecommunications consumers and encourage the rapid deployment of new telecommunications technologies” to all American consumers.<sup>31</sup> Conferring ETC status upon Boomerang will provide consumers with higher quality services at lower prices in the designated service areas. Boomerang’s plans incorporate features specifically designed for lower income individuals in both rural and urban areas.

Further, Boomerang’s prepaid services offer flexibility, providing customers with custom plans for voice services. Boomerang’s plans allow customers that might not otherwise have access to expensive post-paid plans, to subscribe to voice services without the hurdle of a

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<sup>30</sup> 47 C.F.R. § 54.202(c).

<sup>31</sup> Telecommunications Act of 1996, Pub. L. No. 104-104, 110 Stat. 56.

credit check or the commitment of a contract. And, the service allows customers to purchase minutes on an “as needed” basis.

Designation of Boomerang as an ETC also meets the Commission’s stated goals for promoting competition and increasing customer choice. The Commission has determined that “designation of competitive ETCs promotes competition and benefits consumers in rural and high-cost areas by increasing customer choice, innovative services, and new technologies.”<sup>32</sup>

Boomerang adds competition to the marketplace with the addition of its affordable innovative services. Further, its presence as a competitor to ILECs will incentivize incumbent carriers to improve their services and expand their networks in order to remain competitive.

Finally, because Boomerang will remain compliant with each of its ETC responsibilities, the Commission should designate it as an ETC in the proposed service areas.

#### **V. Anti-Drug Abuse Certification**

No party to this Petition is subject to denial of federal benefits pursuant to Section 5301 of the Anti-Drug Abuse Act of 1998, 21 U.S.C. § 862.

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<sup>32</sup> See *Western Wireless Corporation Petition for Designation as an Eligible Telecommunications Carrier in the State of Wyoming*, Memorandum Opinion and Order, CC Docket No. 96-45, 16 FCC Rcd 48, ¶ 17 (2000).

## VI. Conclusion

As Boomerang has previously demonstrated, the Commission's grant of this Amended Petition designating Boomerang as a Lifeline-only ETC would promote the public interest. Boomerang requests that the Commission grant this Amended Petition on an expedited basis so that Boomerang may begin providing the benefits of Lifeline service to qualifying low-income consumers.

Respectfully submitted,



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Joshua T. Guyan  
Kelley Drye & Warren LLP  
3050 K Street, NW  
Suite 400  
Washington, D.C. 20007  
(202) 342-8400

*Counsel for Boomerang Wireless, LLC*

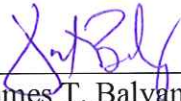
December 18, 2012

## DECLARATION

I, James T. Balvanz, Chief Financial Officer of Boomerang Wireless, LLC do hereby affirm under penalty of perjury that I have reviewed all of the factual assertions set forth in the foregoing petition for ETC status and that all such statements made therein are true and correct to the best of my knowledge, information and belief.

To the best of my knowledge, no party to this Petition, nor any of their officers, directors, or persons holding five percent or more of the outstanding stock or shares (voting or non-voting) as specified in Section 1.2002(b) of the Commission's rules are subject to denial of federal benefits, including Commission benefits, pursuant to Section 5301 of the Anti-Drug Abuse Act of 1988, 21 U.S.C. § 862.

Executed on December 18, 2012

  
\_\_\_\_\_  
James T. Balvanz  
Chief Financial Officer

# **EXHIBIT A**

**KELLEY DRYE & WARREN LLP**

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July 26, 2012

**VIA ECFS**

Marlene H. Dortch, Secretary  
Federal Communications Commission  
445 12th Street, S.W.  
Washington, DC 20554

Re: Boomerang Wireless, LLC Revised Compliance Plan; WC Docket Nos. 09-197, 11-42

Dear Ms. Dortch:

On March 1, 2012, Boomerang Wireless, LLC (“Boomerang”) submitted its Compliance Plan outlining the measures it will take to implement the conditions imposed by the Commission in its *Lifeline Reform Order*.<sup>1</sup> On April 12, 2012, May 22, 2012, June 13, 2012 and June 29, 2012 Boomerang submitted revised Compliance Plans to provide additional details.

Boomerang has further revised its Compliance Plan (p. 18) at the request of FCC Staff to explain that Boomerang’s customers may de-enroll from Lifeline supported service at any time by simply calling Boomerang’s toll-free customer service line. Boomerang does not require submission of a written request by facsimile or otherwise. In addition, Boomerang is no longer offering a 68 minute Lifeline plan and its Compliance Plan and Lifeline application form have been revised accordingly.

Boomerang hereby re-submits its complete Compliance Plan with the above revisions. Based on the minor nature of these changes, Boomerang reiterates its request for expeditious approval of its Compliance Plan.

<sup>1</sup> See *Lifeline and Link Up Reform and Modernization, Lifeline and Link Up, Federal-State Joint Board on Universal Service, Advancing Broadband Availability Through Digital Literacy Training*, WC Docket No. 11-42, WC Docket No. 03-109, CC Docket No. 96-45, WC Docket No. 12-23, Report And Order and Further Notice Of Proposed Rulemaking, FCC 12-11 (Feb. 6, 2012).

KELLEY DRYE & WARREN LLP

Marlene H. Dortch, Secretary  
July 26, 2012  
Page Two

This letter and revised Compliance Plan is being filed electronically for inclusion in the public record of the above-referenced proceedings. Please contact the undersigned with any questions.

Respectfully submitted,



John J. Heitmann  
Joshua T. Guyan

*Counsel to Boomerang Wireless, LLC*

cc: Kim Scardino  
Divya Shenoy  
Garnet Hanly



**Before the  
Federal Communications Commission  
Washington, D.C. 20554**

In the Matter of	)	
	)	
Telecommunications Carriers Eligible To Receive Universal Service Support	)	WC Docket No. 09-197
	)	
Lifeline and Link Up Reform and Modernization	)	WC Docket No. 11-42
	)	

**BOOMERANG WIRELESS, LLC REVISED COMPLIANCE PLAN**

Boomerang Wireless, LLC d/b/a Ready Mobile (“Boomerang” or the “Company”) is a prepaid wireless telecommunications carrier seeking designation as an eligible telecommunications carrier (“ETC”) for the limited purpose of offering service supported by the Lifeline program.<sup>1</sup> Boomerang seeks to avail itself of the Federal Communications Commission’s (“Commission”) grant of forbearance from the “own-facilities” requirement contained in Section 214(e)(1)(A),<sup>2</sup> subject to certain conditions set forth in the Commission’s Order released February 6, 2012.<sup>3</sup> Specifically, the Commission provided that a carrier seeking to become a Lifeline-only ETC must comply with certain 911 requirements and file a compliance plan “providing specific information regarding the carrier’s

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<sup>1</sup> Boomerang currently has pending a petition for designation as a Lifeline-only ETC in certain states. *See* Amended Petition of Boomerang Wireless, LLC for Designation as an Eligible Telecommunications Carrier in Alabama, Connecticut, Delaware, the District of Columbia, New Hampshire, New York, North Carolina, Tennessee and Virginia, WC Docket No. 09-197 (filed June 6, 2012) (“Petition”). Boomerang seeks authorization to provide Lifeline-only service to residents of Tribal lands as well. Boomerang respectfully requests to incorporate the commitments made herein into the pending Petition.

<sup>2</sup> 47 U.S.C. § 214(e)(1)(A).

<sup>3</sup> *In the Matter of Lifeline and Link Up Reform and Modernization, Lifeline and Link Up, Federal-State Joint Board on Universal Service, Advancing Broadband Availability Through Digital Literacy Training*, WC Docket No. 11-42, WC Docket No. 03-109, CC Docket No. 96-45, WC Docket No. 12-23, Report and Order and Further Notice of Proposed Rulemaking, FCC 12-11 (rel. Feb. 6, 2012) (“Lifeline Reform Order”).

service offerings and outlining the measures the carrier will take to implement the obligations contained in [the] Order.”<sup>4</sup>

Boomerang submits this Revised Compliance Plan (“Compliance Plan”) to detail the policies, procedures and training programs it has developed to guard against waste, fraud and abuse in the Lifeline program. This Revised Compliance Plan is intended to replace Boomerang’s previously filed compliance plan. Boomerang has continued to refine its planned policies and procedures for enrolling eligible Lifeline customers and providing Lifeline services in accordance with the Commission’s Lifeline rules, has formed partnerships and has formulated and adopted internal policies, procedures and training materials in line with the Commission’s Lifeline reform. This Compliance Plan discusses in more detail Boomerang’s plans for qualifying and enrolling eligible customers, includes more specifics about how Boomerang will review eligibility documentation and guard against households receiving duplicate subsidies, and the process for service activation in compliance with the Commission’s new rules.

In this Compliance Plan, Boomerang will describe in more detail the mechanisms and partnerships it already has in place to prevent duplicate benefits to the same household. Above and beyond meeting the Commission’s requirements for guarding against duplicates, Boomerang will go a step further in its outreach by targeting currently unserved/underserved populations. A substantial market segment has not yet been reached by current ETCs. As a result, millions of eligible citizens need Lifeline-supported services but are not currently served by the program. Boomerang has partnerships and established marketing outreach experience and future plans to target this underserved population. This effort, together with Boomerang’s procedures to prevent duplicate subsidies, will serve the important public policy goals of the program to extend critical services to Americans with the greatest needs.

Boomerang’s business model, ethos and objectives support the Lifeline program and its goals. Boomerang’s commitments to comply with the Commission’s Lifeline rules serve the program

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<sup>4</sup> Lifeline Reform Order ¶ 368.

and allow the Company to invest its capital in consumers who meet program eligibility requirements now, but who require reliable, innovative, high quality services for the long haul. Boomerang is continuously refining and improving its practices and procedures for satisfying all of the Commission's Lifeline requirements in order to build a successful Lifeline business that serves customers with the greatest needs.

### **Background**

Boomerang is one of three wholly owned subsidiaries of HH Ventures LLC, an Iowa company.<sup>5</sup> The other two subsidiaries are enMarket, LLC ("enMarket") and Ready Wireless, LLC ("Ready Wireless"). HH Ventures LLC ("HH Ventures") is a profitable, cash flow positive wireless telecommunications holding company, which employs forty full-time employees. The company's core management team includes six senior executives with more than 100 years of combined telecom experience.

Boomerang seeks ETC designation in order to provide handsets and domestic and international voice services to low-income customers. Boomerang also intends to provide Lifeline-only service to residents of Tribal lands. Boomerang has direct, network carrier contracts with Sprint and Verizon, and is also negotiating a contract with a national GSM provider. The multi-carrier wireless network platform provides robust wireless service coverage across the entire ETC footprint. Boomerang has direct, in-depth experience with building voice, data and broadband products directly with carriers.

HH Ventures formed enMarket in January 2012 to focus on event marketing and distribution for ETCs. Full time employees create neighborhood events to build awareness of the Lifeline program and to distribute phone services to eligible consumers. Event staff is trained on the program compliance requirements, as detailed more fully below, and creates a positive community experience. The company also diligently implements measures to prevent waste, fraud and abuse.

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<sup>5</sup> See Exhibit A for HH Holdings structure, ownership and brands.

In addition, the company has a national partnership to participate in Medicaid managed care organization community events in order to reach a population with significant needs for access to services. This unique partnership with organizations who serve Medicaid recipients is designed to reach in person transient consumers and those who otherwise do not have access to the online, telephone, or paper application process unless supported by another person at an in-person event. Again, as detailed below, employees who engage with potential subscribers at these events receive detailed and extensive training in the Commission's Lifeline eligibility, documentation and other requirements, and how to communicate these requirements clearly to potential subscribers.

Ready Wireless offers an MVNE wholesale platform for ETCs and other non-ETC white label partners as well as for the companies' own retail brands Ready Mobile, Ready Broadband and Trumpet. The platform integrates technical, infrastructure and business operations in a scalable, reliable environment. MVNO customers can select the features and capabilities that meet their business needs. Key features include:

- multiple underlying facilities-based wireless carrier networks (Sprint, Verizon, GSM);
- an integrated operating system, which includes provisioning, inventory management, interactive voice response ("IVR") systems, billing, reporting;
- device certifications, procurement, warehousing, logistics;
- program management and marketing;
- additional features to enhance user experience, such as free 411 and competitively priced international long distance; and
- access to thousands of reload locations, ensuring that ETC end user customers will be able to purchase additional services to complement their subsidized services.

Boomerang has direct control over the databases, systems and processes controlling the customer records, usage records, and reporting. This provides us direct ability to implement current Lifeline guidelines as well as evolve to meet future program policy requirements.

Ready Mobile is a national brand distributed in over 30,000 retail locations.<sup>6</sup> The expertise developed to meet the rigorous operational demands of publicly traded, chain accounts (*i.e.* Walgreens, CVS, Meijers) is foundational to delivering superior services to ETC and other white label partners. Boomerang offers two wireless services under the Ready Mobile brand: ReadyMobilePCS and ReadyBroadband. ReadyMobilePCS offers data access to consumers across the country via smart phone technology using recycled, web-enabled phones with broadband data plans. Under the brand ReadyBroadband, the company also provides data access through devices such as laptops, notebooks, tower computers, and a wide array of other equipment. Both smart phones and access devices are provided with national broadband coverage and distributed through national retail chains as well as sold on the e-commerce site ([www.readymobile.com](http://www.readymobile.com)).

Boomerang has direct, network carrier contracts with Sprint and Verizon and is negotiating a contract with a national GSM provider as well. The multi-carrier wireless network platform provides robust wireless service coverage across the entire ETC footprint. HH Ventures and its subsidiaries have direct, in-depth experience with building voice, data and broadband products directly with carriers.

Boomerang is experienced in providing broadband data access to consumers across the country. Boomerang is poised to play a part in achieving the Commission's goal of expanding broadband access to low-income consumers. Boomerang understands that low income consumers are not early technology adopters. Accessibility and ease of use of Boomerang's products, services and systems allows low-income consumers to take advantage of the power of wireless technology so that we can close the digital divide. Adding data to phone plans is a growing trend in the low-income base of customers, but as the Commission recognizes, lags behind the national norm.

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<sup>6</sup> The history of the Ready Mobile brand goes back to Ready Mobile LLC. Ready Mobile LLC was formed in 2005 and was focused on retail distribution of prepaid wireless products under the Ready Mobile brand name. In May 2007, Titan Global Holdings purchased certain assets from Ready Mobile LLC that included the Ready Mobile branding. Titan operated several other telecommunications ventures. HH Ventures participated in a transaction by which it purchased certain Titan assets, including the Ready Mobile brand on January 17, 2008. None of the Titan owners are part of the HH Ventures ownership.

Boomerang will have data availability turned on in each handset distributed to Lifeline customers that could become the subscriber's daily access to the Internet if they should choose to add data services to their phone.

Because the Company already has in place nationwide distribution channels and activation processes, it is ready to offer broadband access services to low-income consumers. The Company has competitive billing plans for smart phones and other devices, including the ability to bundle data services on smart phones along with voice and text services. Because of the Company's established multi-channel, multi-partner approach, it has the ability to reach eligible consumers throughout the country. In addition, Boomerang will advertise the availability and prices of its services through a variety of mediums, including online advertising, direct marketing campaigns, print advertising, event-based distribution, seminars, lectures, pamphlet distribution, and meetings with government agencies.

### **Compliance Plan**

This Compliance Plan describes the specific measures that Boomerang intends to implement to achieve the objectives of the Commission's Lifeline rules and policies.

#### **I. Policy**

Boomerang will comply with all certification and verification requirements for Lifeline eligibility set forth in the Lifeline Reform Order; the Commission's Lifeline rules and policies; the requirements, rules and policies governing the provision of Lifeline service to eligible subscribers residing on reservations or Tribal lands; the provisions of this Compliance Plan; and all laws and regulations governing Boomerang's provision of Lifeline-supported prepaid wireless services to customers throughout the United States.

## **II. Unrestricted Access to Basic and E911 Services and Certification of Such Access**

In the Lifeline Reform Order, the Commission stated that forbearance from the “own-facilities” requirement is conditioned on a carrier seeking limited ETC designation “providing its Lifeline subscribers with 911 and E911 access, regardless of activation status and availability of minutes [and] providing its Lifeline subscribers with E911-compliant handsets and replacing, at no additional charge to the subscriber, noncompliant handsets of Lifeline-eligible subscribers who obtain Lifeline-supported services” starting on the effective date of the order.<sup>7</sup> Moreover, wireless resellers have an independent obligation to provide access to basic and E911 service, to the extent that the underlying facilities-based licensee has deployed the facilities necessary to deliver E911 information to the appropriate Public Safety Answering Point.<sup>8</sup> Resellers also have an independent obligation to ensure that all handsets or other devices offered to their customers for voice communication are location capable.<sup>9</sup>

The Commission and consumers are hereby assured that all Boomerang Lifeline customers will have available access to emergency calling services at the time that Lifeline service is initiated and that such 911 and E911 access will be available from Boomerang handsets regardless of the activation status and availability of minutes. Further, Boomerang will ensure that all handsets used in connection with the Company’s Lifeline service offering are E911-compliant. In the event that an existing Boomerang customer does not have an E911-compliant handset, the Company will replace it with a new 911/E911 compliant handset at no charge to the customer. Any new customer who qualifies for and enrolls in the Lifeline program is assured of receiving a 911/E911 compliant handset as well.

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<sup>7</sup> Lifeline Reform Order ¶ 373.

<sup>8</sup> See 47 C.F.R. § 20.18(m).

<sup>9</sup> See *id.*

### **III. Certification and Verification of Lifeline Customers' Eligibility**

Boomerang proposes the following Compliance Plan to implement the certification and verification conditions outlined in the Lifeline Reform Order. Boomerang intends to keep these measures in effect until the Commission implements its planned national eligibility database.

#### **A. Policy**

Boomerang will comply with all certification and verification requirements for Lifeline eligibility established by states where it is designated as an ETC. In states where there are no state-imposed requirements, no established rules or procedures in place, or in states that do not mandate Lifeline support, Boomerang will obtain certification of eligibility at the outset and will verify consumers' Lifeline eligibility in accordance with the Commission's requirements. Boomerang shares the Commission's concerns about the potential abuse of the Lifeline program and is thus committed to the safeguards stated herein, with the belief that these procedures will prevent Boomerang's customers from engaging in such abuse of the program, inadvertently or intentionally.

#### **B. Certification Procedures**

Boomerang will implement certification procedures that enable consumers to demonstrate their eligibility for Lifeline assistance to Boomerang employees or agents by contacting the Company in person or via telephone, facsimile or the Internet. Although the specific process for each means of contact differs slightly, as detailed below, regardless of the means of contact, at the point of sale, consumers will be provided with printed information describing Boomerang's Lifeline program, including eligibility requirements, and with instructions for enrolling. Consumers will be enrolled in person or directed, via company literature, collateral or advertising, to a toll-free number and to the Company's website, which will contain a link to information regarding the Company's Lifeline service plans, including a detailed description of the program and state-specific eligibility criteria. Boomerang's application form will identify that it is a "Lifeline" application. Except in states in which applicants are enrolled through a designated state agency, Boomerang will have direct contact with



all customers applying for Lifeline service, either in person through its employees, agents or representatives, or via the telephone (including facsimile) or mail.

Specifically, at events, Boomerang or enMarket personnel will explain the eligibility requirements for the program, including participation in a qualifying program or earning income below 135% of the Federal Poverty Guidelines and will verify the individual's eligibility. The Boomerang or enMarket employees will also explain the program limitation of one Lifeline service per household. In order to ensure potential customers are fully informed about the Lifeline program and the eligibility process, Boomerang will provide a sufficient number of employees at each event so that, while some individuals are handling the application and eligibility process with applicants, other individuals are available to discuss the requirements with potential customers, answer questions, identify appropriate documents and otherwise assist a customer in preparing for the application/eligibility step. enMarket employees will begin educating potential subscribers as they wait in line at events and explain the application process to prepare them. Employees are instructed that the company has zero tolerance for waste, fraud or abuse, and that they should notify a team lead immediately if they suspect that anyone might be providing false information or attempting to obtain a duplicate Lifeline benefit for themselves or within the same household. At events, when a potential subscriber reaches the front of the line, representatives will again confirm that no member of the individual's household currently receives a Lifeline benefit from another carrier. The representative will mention the name of major ETCs to assist applicants in determining whether they already receive a Lifeline benefit. The representative will reiterate that Lifeline is a government benefit, and that providing false information could subject the applicant to consequences including penalty under perjury. After an applicant has completed the enrollment form, a representative will check the CGM database to determine whether anyone at the same residential address currently receives a Lifeline benefit. If so, the applicant will be asked whether the applicant is a member of a separate household residing at the same address and to complete the form created by USAC to certify that he or she resides in a separate household.

At events, upon completion of the application, representatives will photograph the documentation provided by the customer to prove identity and/or address and program- or income-based eligibility. After this information is reviewed and possibly subject to a compliance audit, described in more detail herein, Boomerang will maintain a record of the type of documentation reviewed to determine eligibility, but will not keep the documentation itself. Finally, representatives will review with the customer instructions in the welcome packet for activating the service or, if the customer explicitly requests, will activate the handset at that time. Boomerang will not seek Lifeline reimbursement until the customer has activated the handset.

Boomerang will also be promoting sign up through online outreach. Boomerang will use search engine optimization and targeted ad placement to reach eligible low-income consumers. To apply for a Boomerang Lifeline service online, a customer will fill out an application, provide the necessary information that all prospective Lifeline customers must provide, and be taken through forms and screens that clearly explain all relevant legal eligibility requirements. If the customer is seeking to qualify for Lifeline service based on their participation in a particular program (or income level), the prospective customer may be able to either upload the forms from scanned documents or print off a Document Submission worksheet and submit the documents to Boomerang where a sales representative will input the prospective customer's information into an eligibility database (if available for the relevant state). However, in most cases, the prospective consumer will fill out the relevant eligibility forms on the computer, and then send copies of the records needed by Boomerang to verify the customer's eligibility to participate in Lifeline.

With the CGM database, all applications will be processed against the only national database compiled with over 2 million current ETC Lifeline subscribers. This real time review will identify two types of duplicate applications: individual duplicate (*i.e.* same SSN, Name, DOB, etc) or duplicate residential addresses. If the entire record is a duplicate, the applicant will receive a message that the application has been rejected. If the residential address is a duplicate, the applicant will receive instructions regarding the definition of household and the opportunity to complete a verification that

the applicant is a member of a unique household at that address that does not currently receive a Lifeline benefit.

For all application processes, Boomerang has an in-house Compliance Officer and compliance metrics to further protect against waste fraud and abuse. This includes real time review of application submissions during events and random sampling of online and paper submissions. Boomerang's internal team will provide another layer of review (*i.e.*, handwriting, submission locations, timing) to identify abuse and carry out disciplinary action.

Once the prospective customer is successfully verified by Boomerang, Boomerang will enroll the customer in the service plan selected by the customer, and then mail the selected handset to the customer. Along with the handset comes a welcome packet with instructions for activating the service. Boomerang will not seek Lifeline reimbursement until the customer has activated the handset by following the instructions detailed herein or by making an outgoing call.

For potential subscribers who avail themselves of the toll-free number to apply for service, the IVR script will emphasize the "one Lifeline benefit per household" restriction through its interaction with the activating customer as well as review the 60 day non-usage rule and Annual Recertification requirements. If a customer wants more information, they will be passed to a live call center operator. Boomerang's sales training materials for call centers will include a discussion of the one benefit per household restriction and the need to ensure that the customer is informed of this restriction.

Boomerang will provide Lifeline-specific training to all personnel, whether employees, agents or representatives, who interact with actual or prospective consumers with respect to obtaining, changing or terminating Lifeline services. The training provides an explanation of the creation and purpose of the Lifeline program, the source of funds to provide access to qualified low-income consumers, program- and income-based eligibility determinations, and a detailed explanation of the one-benefit-per-household limitation. The training emphasizes the importance of clearly explaining the eligibility criteria and limitations to applicants as well as the potential consequences for providing

false information on the application. Trainees learn what documentation is acceptable to verify program- or income-based eligibility and that they must be able to communicate this information clearly to applicants. Trainees are instructed to report to a supervisor if for any reason at all they feel that an individual is trying to abuse the program or falsify eligibility. Trainees must ask an applicant directly if they already have a Lifeline service, and more specifically, mention the names of major Lifeline service providers in the geographic area, such as Safelink, Assurance, or Stand Up Wireless. Trainees are given instruction in checking the available duplicates database to confirm whether anyone else at that residential address is receiving a Lifeline benefit, and if so, to ask the applicant if multiple households reside at the same address. Trainees are also given instruction about when to provide the additional household verification form on which the applicant will certify that his or her household is a separate economic unit and does not already receive a Lifeline benefit. Trainees are instructed on activation procedures and restrictions, including that an account may only be activated by the subscriber or upon the subscriber's express authorization to do so.

Boomerang personnel will take steps to ensure that applicants are eligible to participate in the Lifeline program. All personnel who interact with current or prospective customers will be trained to assist Lifeline applicants in determining whether they are eligible to participate based on state-specific income-based or program-based criteria. These personnel will be trained to answer questions about Lifeline eligibility, and will review required documentation to determine whether it satisfies state-specific eligibility requirements using state-specific checklists. Acceptable documentation of program eligibility includes: (1) the current or prior year's statement of benefits from a qualifying state, federal or Tribal program; (2) a notice letter of participation in a qualifying state, federal or Tribal program; (3) program participation documents (*e.g.*, the consumer's Supplemental Nutrition Assistance Program (SNAP) electronic benefit transfer card or Medicaid participation card (or copy thereof)); or (4) another official document evidencing the consumer's participation in a qualifying state, federal or Tribal program.

Acceptable documentation of income eligibility includes the prior year's state, federal, or Tribal tax return; current income statement from an employer or paycheck stub; a Social Security statement of benefits; a Veterans Administration statement of benefits; a retirement/pension statement of benefits; an Unemployment/Workmen's Compensation statement of benefits; federal or Tribal notice letter of participation in General Assistance; or a divorce decree, child support award, or other official document containing income information for at least three months' time. Boomerang will establish policies and procedures to review such documentation and keep accurate records detailing how the consumer demonstrated his or her eligibility, including collecting information on the enrollment form about what documentation the applicant presented to demonstrate program-based or income-based eligibility. Where Boomerang personnel conclude that proffered documentation is insufficient to establish such eligibility, Boomerang will deny the associated application and inform the applicant of the reason for such rejection. In the event that Boomerang personnel cannot ascertain whether documentation of a specific type is sufficient to establish an applicant's eligibility, the matter will be escalated to supervisory personnel at Boomerang's corporate headquarters.

Consumers who do not complete the application process in person must return the signed application and supporting documentation to the Company by mail, fax, email or other electronic transmission. The Company will accept electronic signatures that meet the requirements of the Electronic Signatures in Global and National Commerce Act, 15 U.S.C. §§ 7001-7006, and any applicable state laws, and may verify consumers' signatures via IVR systems. Processing of consumers' applications, including review of all application forms and relevant documentation, will be performed under the Company's supervision by managers experienced in the administration of the Lifeline program.

The enrollment form will include a place where the applicant must certify by his or her signature under penalty of perjury that the applicant meets the relevant criteria and that the

applicant's representations are true and correct.<sup>10</sup> Applicants will also be required to initial a number of disclosure statements intended to ensure that the applicant understands applicable eligibility requirements—including a statement to the effect that to the best of his or her knowledge, the applicant is not receiving Lifeline-supported service from any other Lifeline provider. Penalties for perjury will be clearly stated on the certification form. The certification will also contain language stating that a violation of the one-per-household requirement constitutes a violation of the Commission's rules and will result in the consumer's de-enrollment from the program, and could result in criminal prosecution by the United States government. Although the exact wording of the disclosure statements described above may vary on a state-by-state basis, depending on state-specific requirements or consultations with relevant state agencies, Boomerang plans for the disclosures to be consistent with the following statements:

\_\_\_\_The information contained within this application is true and correct. I acknowledge that providing false or fraudulent documentation in order to receive assistance is punishable by law.

\_\_\_\_I understand that Lifeline is only available for one benefit per household, whether landline or wireless. To the best of my knowledge, no one in my household is receiving Lifeline service. I will only receive Lifeline from Boomerang and no other landline or wireless telephone company.

\_\_\_\_I am not currently receiving a Lifeline telephone service from any other landline or wireless telephone company.

\_\_\_\_I will not transfer my service to any other individual, including another eligible low-income consumer.

\_\_\_\_I understand that I may be required to verify my continued eligibility for Boomerang's Lifeline service at any time and that failure to do so will result in termination of Lifeline benefits.

\_\_\_\_I will notify Boomerang immediately if I no longer qualify for Lifeline or if I have a question as to whether I would still qualify.

In accordance with the Lifeline Reform Order, Boomerang will not retain copies of eligibility documentation, but rather will maintain accurate records detailing how the customer demonstrated his or her eligibility. Boomerang will check the eligibility of consumers seeking to enroll in Lifeline

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<sup>10</sup> A copy of Boomerang's proposed enrollment and certification form is attached at Exhibit B.

either by accessing electronic eligibility databases, where available, or by reviewing documentation from the consumer demonstrating his or her eligibility for Lifeline service. Where the Company is able to access a state or federal database to make determinations about customer eligibility, the Company or its representative will note in its records what specific data was relied upon to confirm the consumer's initial eligibility for Lifeline. In instances where a state agency or third-party administrator is responsible for the initial determination of consumer eligibility, Boomerang will rely on the state identification or database.

Boomerang personnel will assist applicants in determining whether they are ineligible to participate in the Lifeline program because a member of the applicant's household already is benefiting from a Lifeline discount. Boomerang will establish safeguards to prevent individual subscribers and households from receiving more than one benefit. Boomerang personnel will explain in prominent, plain, easily comprehensible language to all new and potential subscribers that no consumer is permitted to receive more than one Lifeline subsidy. Boomerang will emphasize the one-per-household restriction in its contacts with potential customers. Boomerang personnel also will inform each Lifeline applicant that he or she may be receiving Lifeline support under another name, and facilitate the applicant's understanding of what constitutes "Lifeline-supported service," and ability to determine whether he or she is already benefiting from Lifeline support by identifying the leading wireline and wireless Lifeline offerings in the relevant market by brand name.

Boomerang's Lifeline application forms will require each applicant to provide his or her name and primary residential address and a billing address for the service if the consumer's billing address differs from his or her residential address. The application form will clearly state that Lifeline participants must provide their new address to the Company within 30 days of moving. Boomerang will incorporate this information into its customer information database.

Prior to initiating service for a customer, the Company will check the address of each Lifeline applicant against the CGM compiled database to determine whether or not it is associated with a customer that already receives Boomerang Lifeline service, and will then review the application to

ascertain whether the applicant is attempting to receive Lifeline-supported service for more than one service associated with the address. Boomerang Wireless has aligned with CGM, LLC of Roswell, Georgia, a Lifeline service bureau, to participate in the only national effort to match ETC applications against current ETC participants. This recognized compliance software provider is working across the industry to help minimize duplicate service to eligible households. CGM's growing database currently includes more than two million of the 15 million current ETC subscribers. As of this writing, it is, to Boomerang's knowledge, the largest pooled national database.

Boomerang has contracted with CGM to check each name/address combination against its aggregate duplicate database to confirm that the applicant is not already receiving a Lifeline subsidy from Boomerang or any other CGM client. The database dip is done simultaneously with customer sign-up through an API connection between Boomerang's provisioning platform and CGM. This check ensures that each applicant is not receiving a duplicate subsidy, as well as identifying those customers who share an address with current Boomerang customers and, therefore, may warrant further review. If Boomerang determines that an individual at the applicant's residential address is currently receiving Lifeline-supported service, the Company will take an additional step to ensure that the applicant and the current subscriber are part of different households. In order to make this demonstration, Boomerang will require applicants to complete and submit to the Company a written document developed by USAC consistent with the Commission's directions in the Lifeline Reform Order.<sup>11</sup> Boomerang will deny the Lifeline application of any such individual residing at the same address as a current Lifeline subscriber who is part of the same household and will advise the applicant of the basis for the denial.

Prior to requesting a subsidy, Boomerang, in conjunction with CGM, will process and validate its subsidy data to prevent duplicate same-month Lifeline subsidies. Any household that is already receiving a Lifeline subsidy will automatically be prevented from receiving a second Lifeline subsidy in that same month. Boomerang will immediately de-enroll any subscriber whom Boomerang knows

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<sup>11</sup> See Lifeline Reform Order ¶ 84.



is receiving Lifeline-supported service from another ETC or knows is no longer eligible. Additionally, each month, CGM will process and validate the Company's subsidy data to prevent: (1) duplicate same-month Lifeline subsidies (Double Dip): any name/address that is already receiving a Lifeline subsidy from the Company will be automatically prevented from receiving a second Lifeline subsidy in that same month; and (2) inactive lines receiving subsidy. CGM's audits also compare all subsidy requests to Boomerang's underlying carrier invoice to ensure that subsidies are requested only for active lines. This process ensures that Boomerang does not request multiple subsidies from the Universal Service Fund.

In addition, prior to requesting a subsidy, Boomerang will ensure that the customer has activated the service in accordance with the Commission's requirements. Boomerang will provide phone activation instructions in a welcome package provided with the handset and, at events, will review these instructions with the customer. The activation process will allow the end user to proactively establish service and have an opportunity to receive additional training on the device and services available.

### **C. Procedures for Verification of Ongoing Consumer Eligibility**

As required by the Commission's Lifeline Reform Order, Boomerang will require every customer enrolled in the Lifeline program to verify on an annual basis that he or she receives Lifeline-supported service only from Boomerang and, to the best of his or her knowledge, no one else in the subscriber's household is receiving a Lifeline-supported service. Boomerang will submit all required information to the relevant Tribal governments, as applicable, including its aggregated re-certification data and annual re-certification results for subscribers residing on reservations or Tribal lands. This re-certification may be done on a rolling basis throughout the year. Where ongoing eligibility cannot be determined through access to a qualifying database either by the Company or the state, and there is no state administrator verifying the continued eligibility of Lifeline subscribers, the Company will recertify the continued eligibility of all of its subscribers by contacting them— either in person, in writing, by phone, by text message, by email, or otherwise

through the Internet—to confirm their continued eligibility. Such certifications may be obtained through a written format, an IVR system, or a text message, in accordance with the Lifeline Reform Order.<sup>12</sup> In states where a state agency or a third party has implemented a database that carriers may query to recertify the consumer’s continued eligibility, the Company (or state agency or third party, where applicable) will instead query the database and maintain a record of what specific data was used to re-certify eligibility and the date of recertification.

Boomerang will notify each of its Lifeline consumers by mail that he or she must confirm his or her continued eligibility in accordance with the applicable requirements. The notice will explain the actions the customer must take to retain Lifeline benefits, when Lifeline benefits may be terminated, and how to contact Boomerang. Boomerang will provide written notice of impending service termination to subscribers who do not respond to the annual re-certification within 30 days. Any subscriber who does not respond to the impending termination letter within 30 days to demonstrate that his or her Lifeline service should not be terminated will be de-enrolled from the Company’s Lifeline program.

De-Enrollment for Ineligibility. If Boomerang has a reasonable basis to believe that one of its Lifeline subscribers no longer meets the eligibility criteria, Boomerang will notify the subscriber of impending termination in writing and in compliance with any state dispute resolution procedures applicable to Lifeline termination, and give the subscriber 30 days to demonstrate continued eligibility.<sup>13</sup> A demonstration of eligibility must comply with the annual verification procedures found in new rule section 54.410(f), including the submission of a completed and signed certification form. If a customer contacts the Company and states that he or she is not eligible for Lifeline or wishes to de-enroll for any reason, the Company will de-enroll the customer within five business days. Customers can make this request by calling the Company's customer service number and will not be required to submit any documents.

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<sup>12</sup> See Lifeline Reform Order ¶¶ 130, 132.

<sup>13</sup> See Lifeline Reform Order, ¶ 143; 47 C.F.R. § 54.405(e)(1).

#### **IV. Additional Measures to Prevent Waste, Fraud and Abuse**

##### **A. Usage Requirement**

Boomerang will implement policies and procedures to ensure that it does not obtain Lifeline support for an inactive subscriber who has failed to use his or her service in the first instance or has discontinued using the service.

Boomerang will not seek universal service support for a qualifying low-income consumer until that individual subscriber uses the supported service to either activate the service or complete an outgoing call. Boomerang will provide phone activation instructions in its event and online or paper product packages. The activation process will allow the end user to proactively activate service and have an opportunity to receive additional training on the device and services available. Specifically, to activate service, customers will be instructed to call the Boomerang IVR, press "2" to activate the phone, and enter a PIN included in the Welcome Instructions the subscriber receives with the phone after the eligibility and enrollment process has been completed as described above. At that point, the IVR will notify the consumer that the Lifeline account is active. The IVR will inform the customer that the customer must use the service in order to keep the account active and provide options through a menu for obtaining additional information about the phone or the service and direct the customer to the Company's website for additional information. At in-person events, Boomerang will assist an individual with account activation upon being expressly authorized by the subscriber to activate the service.

To comply with the Commission's continued usage requirements, Boomerang will implement a non-usage policy whereby it will de-enroll Lifeline customers that have not used the Company's Lifeline service for 60 days. The customer will be given a 30 day cure period before they would be de-enrolled from the Lifeline service. Boomerang will notify its subscribers at service initiation about the non-transferability of the phone service, its usage requirements, and the de-enrollment and deactivation that will result following non-usage in any 60-day period of time. If no usage appears on a Boomerang Lifeline customer's account during any continuous 60-day period, Boomerang will

deactivate Lifeline services for that customer after the 30 day notification & cure period. An account will be considered active if during any 60-day period the authorized subscriber does at least one of the following: makes a monthly payment; purchases minutes from Boomerang to add to an existing pre-paid Lifeline account; completes an outbound call; answers an incoming call from anyone other than Boomerang, its representative, or agent; or affirmatively responds to a direct contact from Boomerang confirming that he or she wants to continue receiving the Lifeline-supported service.

Boomerang will take measures to continue to communicate with the customer to ensure the customer understands the rules and requirements of the benefits. Boomerang has direct control over customer databases and communication tools including: SMS messaging, outbound calling, IVR messaging and direct mail communications. For example, if a customer has 45 days of non-usage, Boomerang can text them to remind them about the non-usage rules.

#### **B. Consumer Education with Respect to Duplicates**

As required by the Lifeline Reform Order, Boomerang will establish safeguards to prohibit more than one supported service for each household. In addition to its verification and certification procedures, and to better ensure that customers understand the Lifeline service restrictions with respect to duplicates, Boomerang will implement measures and procedures to prevent duplicate Lifeline benefits being awarded to the same household, including use and development of an appropriate database.

Specifically, Boomerang personnel will emphasize the one-per-household restriction in their direct sales contacts with potential customers. At the point of sale, potential customers will be provided with printed information describing Boomerang's Lifeline program, including eligibility requirements, and instructions for enrolling. As part of these printed materials, Boomerang will also reinforce the one-Lifeline-benefit-per-household limitation. Materials from USAC, that have been or will be developed pursuant to the Lifeline Reform Order, may also be provided at the point of sale as dictated by a customer's responses. Boomerang will likewise reinforce and explain the one-per-household restriction in its marketing materials. The Company will emphasize in plain, easily

comprehensible language that: (1) Lifeline is a federal benefit; (2) Lifeline service is available for only one benefit or subscription per household; (3) a household is defined, for purposes of the Lifeline program, as any individual or group of individuals who live together at the same address and share income and expenses; and (4) a household is not permitted to receive Lifeline benefits from multiple providers. Boomerang will also include in its marketing materials (see Exhibit C) substantially the following language in clear, easily understood language: the offering is a Lifeline-supported service; that Lifeline is a government assistance program; that only eligible consumers may enroll in the program; that documentation is necessary for enrollment; and the program is limited to one benefit per household, consisting of either wireline or wireless service. Finally, Boomerang will disclose the company name under which it does business and the details of its Lifeline service offerings.

### **C. Internal Audit and Compliance Training for Boomerang Customer Service**

In addition to detailed and thorough employee training, Boomerang will impose disciplinary actions on employees who fail to abide by the requirements for determining eligibility for the Lifeline benefit. Beyond the instructions for field and event training, Boomerang will provide its customer service personnel with internal audit and compliance training. For incoming paper applications, Boomerang will have a 100% compliance checklist to check applications for fraud and duplication. The employee must check whether all fields on the certification and enrollment form are complete, whether all necessary eligibility documents are attached, whether the eligibility documents align with the information on the form, whether the handwriting is unique, whether all attestations are initialed, and whether the form is signed.

For in-person and event outreach, in addition to the onsite eligibility determinations, a Boomerang compliance officer will randomly check a representative sample of 3% to 10% of applications as an additional check for errors or omissions or any sign of fraud. If the compliance officer detects potential fraud or abuse in the application process, the affected applications will be denied.

## **V. Lifeline Offering**

Boomerang's marketing efforts will be focused on finding and serving eligible consumers using distribution models designed to reach the target population on a broad geographic basis. Creating a trusted brand and service through community outreach is a primary methodology for educating and soliciting customers. Boomerang will enroll Lifeline customers through several different marketing channels. Boomerang's current business model and plans for providing Lifeline service are based on reaching about 85% of its subscribers in person, through event marketing targeting currently underserved populations. Boomerang anticipates that, while most of its outreach will succeed via direct contact with consumers, potential subscribers will also be able to avail themselves of a toll-free number (inbound telemarketing) or website to obtain enrollment information. Boomerang also has plans to offer its services through retail stores and agents who understand the underserved consumers in communities Boomerang would service as an ETC. National retail chains have expressed interest in partnering with Boomerang to support the Lifeline service and outreach to underserved eligible populations. Boomerang has partnered with retailers to use parking lots as locations for event-based outreach.

enMarket, Boomerang's sister event marketing and distribution company, will use demographic segmentation information to identify locations of populations with great need. The neighborhood marketing program will reach Tier 3 and Tier 4 and smaller communities where the population has not seen an influx of Lifeline service providers. enMarket will organize positive and informative neighborhood events to create a local presence.

The Company has a long history with retail distribution. If Boomerang is granted ETC designation, it is prepared to work with several national companies to explore unique, focused Lifeline program marketing.

Boomerang will offer its Lifeline service in the states where it is designated as an ETC and throughout the coverage area of its underlying carriers. Boomerang has direct underlying agreements with Sprint and Verizon today. Negotiations are underway for the addition of a national

GSM provider. The company will use these network relationships to ensure a good product experience for ETC consumers.

The Company’s Lifeline offering will provide eligible customers with the following two Lifeline plans: (1) 125 units that rollover where 1 minute equals 1 unit and 1 text equals 1 unit, and (2) 250 units without rollover where 1 minute equals 1 unit and 1 text equals 1 unit. Customers will have the capability of purchasing additional bundles of minutes in the following denominations:

Denomination	\$5.00	\$10.00	\$10.00	\$15.00	\$15.00	\$30.00	\$30.00	\$50.00	\$7.00	\$20.00	\$30.00
Days of Use	10	3	7	7	10	14	30	30	10	30	30
Minutes									100	500	1,000
Peak Minutes		Unlmt	30	Unlmt	60	Unlmt	140	Unlmt			
N/W Miniutes		Unlmt	Unlmt	Unlmt	Unlmt	Unlmt	Unlmt	Unlmt			
Texts		Unlmt	.10/text	Unlmt	.10/text	Unlmt	.10/text	Unlmt	200	1,000	1,200
Units (Min+Text)	50										

In addition to free voice services, Boomerang’s Lifeline plans will include a free handset and the following features: caller ID, call waiting and voicemail. Boomerang will turn on the data capability for all of our handsets. This will allow customers to add a data plan to their phone service.

As a provider of Lifeline services to residents of Tribal lands, Boomerang will pass through the full Tribal support amount to qualifying residents of Tribal lands, and under no circumstances will it collect from the Universal Service Fund more than the rate charged to Tribal subscribers.

**VI. Demonstration of Financial and Technical Ability to Provide Lifeline Services**

Revised Commission Rule 54.202 requires carriers seeking designation as a Lifeline-only ETC to demonstrate their technical and financial capacity to provide the supported service. Among the factors that the Commission will consider are whether the applicant previously offered services to non-Lifeline consumers, how long the applicant has been in business, whether the applicant intends to rely exclusively on USF disbursements to operate, whether the applicant receives or will receive

revenue from other sources, and whether it has been subject to enforcement action or ETC revocation proceedings in any state.

Boomerang's parent company, HH Ventures, is a privately held cash-flow-positive wireless telecommunications holding company. HH Ventures has been providing prepaid wireless telecommunications services to non-Lifeline subscribers since 2008. Its core management team includes six senior executives with significant telecommunications experience, and the company employs 40 full time employees.

Boomerang currently provides prepaid wireless services to more than 350,000 subscribers, including more than 50,000 retail customers. The company currently provides a complete wholesale, MVNE platform to several ETCs and other white label partners.

Boomerang does not intend to rely exclusively on USF disbursements to operate, as it receives revenue from providing other services. For the 2011 calendar year, Boomerang and its sister company received no direct USF reimbursement for Lifeline support; 17% of revenue was generated from wireless resale services provided to ETCs,<sup>14</sup> 52% of revenue was generated from wireless retail services, and 31% of revenue was generated from other non-regulated telecom services. Boomerang has not been subject to enforcement actions or ETC revocation proceedings in any state.

Boomerang certifies that it will comply with all of the requirements of newly amended Commission Rule 54.202. Pursuant to Commission Rule 54.202(a)(1)(i) Boomerang certifies that it will comply with the service requirements applicable to the support it receives. Further, Section 54.202 requires that an ETC demonstrate its "ability to remain functional in emergency situations, including a demonstration that it has a reasonable amount of back-up power to ensure functionality without an external power source, is able to reroute traffic around damaged facilities, and is capable of managing traffic spikes resulting from emergency situations."

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<sup>14</sup> In 2011, Boomerang only entered into wholesale MVNE arrangements with designated ETCs. This year, Boomerang has entered into arrangements with other, non-ETC, white label partners.



Boomerang will remain functional in emergencies. Back-up systems are in place to ensure full functionality in the event of a loss of power or network functionality. And, Boomerang's switching facilities are housed in a carrier-class data center with fully redundant power and HVAC, a controlled temperature and humidity environment, fire-threat detection and suppression, year-round critical monitoring and secure access with biometric security. The facility features redundant generators and redundant fiber optic connectivity. The data center is a reinforced concrete building located in a secure area and collocated with the area electrical utility headquarters. It is powered from separate paths independent of any one electrical generation plant. All systems within the facility are implemented on redundant servers, each with redundant data network and power.

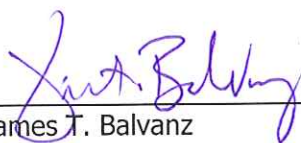
Direct carrier access with Sprint and Verizon networks provides additional tools to escalate network or hardware issues encountered on a local or regional basis. Contractual arrangements include direct escalation processes for tiered support depending on outage severity and number of customers affected.

Section 54.202 also requires ETC applicants to demonstrate that they will satisfy applicable consumer protection and service quality standards. Boomerang hereby commits to comply with the Cellular Telecommunications and Internet Association's Consumer Code for Wireless Service.

## Conclusion

Boomerang's Compliance Plan meets the conditions set forth in the Lifeline Reform Order and promotes public safety by ensuring that Lifeline customers have access to 911 and E911 service. Boomerang requests that the Commission expeditiously approve the Company's Compliance Plan and grant its pending ETC Petition so that Boomerang may begin providing the benefits of Lifeline service to qualifying low-income consumers.

Respectfully submitted,

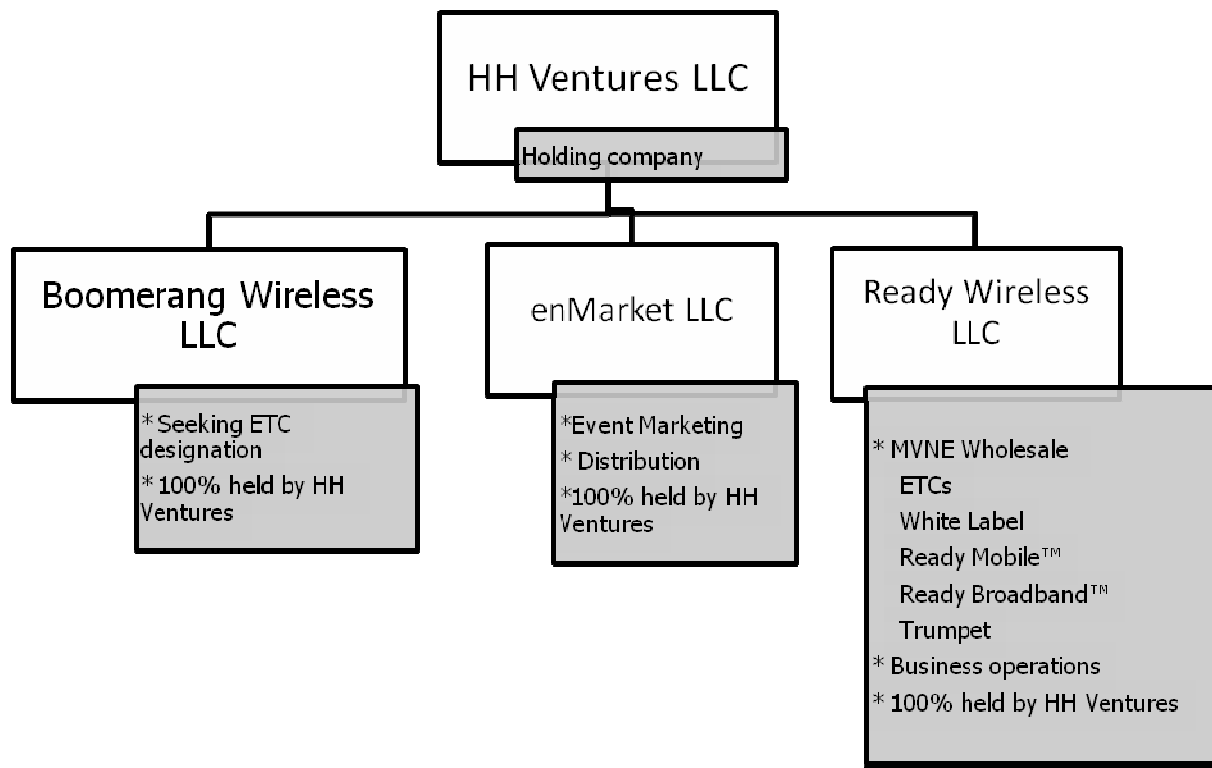


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James T. Balvanz  
Chief Financial Officer  
Boomerang Wireless, LLC  
(319) 743-4606  
[jbalvanz@readywireless.com](mailto:jbalvanz@readywireless.com)

July 26, 2012

**Exhibit A**



**Exhibit B**



955 Kacena Road. Suite A  
 Hiawatha, IA 52233  
[www.boomerang-wireless.com](http://www.boomerang-wireless.com)

## Lifeline Program

Office Use Only  
 PLACE PHONE ID  
 STICKER HERE

### Lifeline Self-Certification Form

- To enroll in the Lifeline America program you need to complete this form.
- The information is only used to certify with the Federal Communications Commission (FCC) that you are participating in the program with us.

### Lifeline Service Disclosure

Lifeline is a government assistance program and willfully making false statements to obtain the benefit can result in fines, imprisonment, de-enrollment or being barred from the program. Only one lifeline benefit is available per household. A household is defined, for purposes of the Lifeline program, as any individual or group of individuals who live together at the same address and share income and expenses. Violation of the one per household limitation constitutes a violation of the Federal Communications Commission's rules and will result in your de-enrollment from the program, and lifeline is a non-transferable benefit and you may not transfer this benefit to any other person, regardless if they qualify for Lifeline.

### **STEP 1: Applicant Information**

**USE BLACK OR BLUE INK ONLY**

Full Name:		Phone:
Residential Address: Circle one: Permanent Address Temporary Address (No PO Box. Residence of Tribal lands must provide descriptive address.)		Email:
City:		New/ Conv?
State:		New Phone:
Zipcode:		ESN:
Billing Address: (if different)	(if different)	Last 4 SSN or Tribal ID number:
City/ State/ Zipcode:		Your birthdate:

\_\_\_\_ (init) I acknowledge and consent to Boomerang Wireless divulging my name, telephone number and address to the Universal Service Administrative Company (the administrator of the program) and/or its agents for the purpose of verifying that the subscriber does not receive more than one Lifeline benefit. In the event that USAC identifies me as receiving more than one Lifeline subsidy per household, I acknowledge and understand that all carriers may be notified so that I may select one service and be de-enrolled from the other.

\*Applicants living on Tribal lands who lack a social security number may instead provide an official Tribal government identification card number.

### **STEP 2: Certifications.** I participate in the following public assistance programs (check one):

Supplemental Nutrition Assistance Program (SNAP)	National School Lunch Program (NSL)
Supplemental Security Income (SSI)	Medicaid
Low-Income Home Energy Assistance program (LIHEAP)	Food Distribution Program on Indian Reservations
Section 8 Federal Public Housing Assistance	Tribally administered TANF
Temporary Assistance for Needy Families (TANF)	Bureau of Indian Affairs General Assistance
	Tribally administered Head Start (meeting the income qualifications of Head Start.)

My household income is at or below 135% of federal guidelines. I provided documentation confirming my household income level. Number of people in your household: _____ (add \$5,346 per additional person above 6 to determine income guidelines)			
# Persons in Household	Income	# Persons in Household	Income
1	\$15,080	4	\$31,118
2	\$20,426	5	\$36,464
3	\$25,772	6	\$41,810

\_\_\_\_ (init) I am seeking Tribal lands Lifeline support and certify that I reside on Federally-recognized Tribal lands.

If you do not participate in one of these programs, and someone in your household does:

Relationship to Participant: \_\_\_\_\_  
 Documents Reviewed for Certification: \_\_\_\_\_  
 Name of Person Participating \_\_\_\_\_

- I certify that person demonstrating program participation is a member of my household.
- I certify that the person name on the participation documentation is not already receiving a Lifeline discount.



**STEP 3: Choose Your Plan:** Choose one of the following plans. This plan will be reloaded to your phone monthly as long as you are eligible & certified.

FEATURE/ DESCRIPTION	☑ 125 FREE MONTHLY MINUTES	☑ 250 FREE MONTHLY MINUTES
• Local Calls	Y	Y
• National Long Distance	Y	
• Voicemail	Y	Y
• Nationwide Text	Y- 1 text=1 minute	Y- 1 text=1 minute
• Free 411	Y	Y
• Carry Over Minutes Month to Month	Y	N

**Step 4: Signature (read, initial & sign):**

\_\_\_\_\_(init) I meet the income-based or program-based eligibility criteria for receiving Lifeline service and have provided documentation of eligibility if required to do so.

\_\_\_\_\_(init) I understand that Lifeline is a federal government benefit program and that willfully making false statements in order to obtain this benefit can be punished by fine or imprisonment or I may be barred from the program.

\_\_\_\_\_(init) My household will receive no more than one Lifeline-supported service. Lifeline service is available for only one subscription per household. A household is defined, for purposes of the Lifeline program, as any individual or group of individuals who live together at the same address and share income and expenses. A household is not permitted to receive Lifeline benefits from multiple providers. I understand that violation of the one-per-household requirement constitutes a violation of the FCC's rules and will result in my de-enrollment from the program, and could result in criminal prosecution by the United States government.

\_\_\_\_\_(init) I understand that I must notify Boomerang Wireless and provide my new address within 30 days of moving.

\_\_\_\_\_(init) If I do not have a permanent address and have supplied instead a temporary address above, I understand that Boomerang Wireless will attempt to verify every 90 days that I continue to rely on that address, and that I must notify Boomerang Wireless within 30 days of my new address after moving. If I do not respond to Boomerang Wireless' address verification attempts within 30 days, I understand that I may be de-enrolled from Boomerang Wireless' Lifeline service.

\_\_\_\_\_(init) I understand that I must notify Boomerang Wireless within 30 days if (1) I cease to participate in a federal or state qualifying program or my annual household income exceeds 135 percent of the federal poverty guidelines; (2) I receive more than one Lifeline-supported service; or (3) Another member of my household is receiving a Lifeline benefit or (4) I for any other reason no longer satisfy the criteria for receiving Lifeline support. I understand that I will be subject to penalties if I fail to follow this notification requirement, including being de-enrolled from the Lifeline program.

\_\_\_\_\_(init) I understand and acknowledge that Lifeline service is a non-transferable benefit and that I may not transfer my service to any other individual, including another low-income consumer.

\_\_\_\_\_(init) I acknowledge that I will be required to re-certify my eligibility for Lifeline benefits annually, and I may be required to re-certify my continued eligibility for Lifeline at any time, and that failure to do so will result in the termination of my Lifeline benefits.

\_\_\_\_\_(init) I attest under penalty of perjury that the information herein is true and correct to the best of my knowledge.

Applicants Signature. \_\_\_\_\_

Date \_\_\_\_\_

**Exhibit C**

# Eligibility Requirements

Lifeline is a federal benefit. You can receive a discount on your phone service. Documentation of your eligibility for this government assistance program is required.

**1) You, or one of your dependents, participates in one of these programs:**

Supplemental Nutrition Assistance Program (SNAP)	Temporary Assistance for Needy Families (TANF)
Supplemental Security Income (SSI)	National School Lunch Program (NSL)
Low-Income Heat & Energy Assistance (LIHEAP)	Medicaid
Homestead Act (Public Housing)	Food Distribution Program on Indian Reservations. Bureau of Indian Affairs general assistance. Tribally administered TANF or Head Start (meeting the income-qualifying standards of Head Start)

**2) Limit 1 Lifeline benefit per household.**

*One Lifeline program (wireline or wireless) per household. Household is defined as an individual or group of individuals living together at the same address and share income and expenses. A household is not permitted to receive Lifeline benefits from multiple providers.*

**3) If I am not in qualifying program, I may participate if income qualified.**

# Persons in Household	Income
1	\$15,080
2	\$20,426
3	\$25,772
4	\$31,118

**4) Must have valid physical address.**

*Notify Boomerang Wireless of any change of address by calling 800-516-0414.*

**5) Cannot choose phone model or phone number**

*You are not able to choose the free handset, trade free handsets, or choose the phone number on the free handset.*

**6) Recertify annually that you remain eligible for the Lifeline benefits.**

*Lifeline is a government assistance program. Once you receive the Lifeline benefit, you must complete the annual recertification process. Learn more in your welcome package.*

**7) Must be truthful in application process.**

*WARNING: If you make false statements to gain benefits, you can be punished by fine or imprisonment or you can be barred from the Lifeline program.*

**8) Complete the application.**

*Be prepared to complete the application truthfully & accurately. You can print the application, submit online or attend one of our neighborhood events. You will need documentation for application process to include: Proof of identity ( i.e. Drivers License); Program eligibility documentation: Current statement of benefits from qualifying program, notice letter of participation, program document (i.e. SSI card), Income eligibility documents (i.e. tax return, paycheck stub, VA benefit statements)*



# **EXHIBIT B**

# Alabama Public Service Commission

## Orders

**PINE BELT CELLULAR, INC. and PINE  
BELT PCS, INC.,**

**Joint Petitioners**

**PETITION: For ETC status and/or  
clarification regarding the jurisdiction of  
the Commission to grant ETC status to  
wireless carriers.**

**DOCKET U-4400**

### ORDER

#### **BY THE COMMISSION:**

In a joint pleading submitted on September 11, 2001, Pine Belt Cellular, Inc. and Pine Belt PCS, Inc. (collectively referred to as "Pine Belt") each notified the Commission of their desire to be designated as universal service eligible telecommunications carriers ("ETCs") for purposes of providing wireless ETC service in certain of the non-rural Alabama wireline service territories of BellSouth Telecommunications, Inc. ("BellSouth") and Verizon South, Inc. ("Verizon"). The Pine Belt companies noted their affiliation with Pine Belt Telephone Company, a provider of wireline telephone service in rural Alabama, but clarified that they exclusively provide cellular telecommunications and personal communications (collectively referred to as "CMRS" or "wireless") services in their respective service areas in Alabama in accordance with licenses granted by the Federal Communications Commission ("FCC"). The pivotal issue raised in the joint pleading of Pine Belt companies is whether the Commission will assert jurisdiction in this matter given the wireless status of the Pine Belt companies.

As noted in the filing of the Pine Belt companies, state Commissions have primary responsibility for the designation of eligible telecommunications carriers in their respective jurisdictions for universal service purposes pursuant to 47 USC §214(e). The Commission indeed established guidelines and requirements for attaining ETC status in this jurisdiction pursuant to notice issued on October 31, 1997.

For carriers not subject to state jurisdiction, however, §214(e)(6) of the Telecommunications Act of 1996 provides that the FCC shall, upon request, designate such carriers as ETCs in non-rural

service territories if said carriers meet the requirements of §214(e)(1). In an FCC Public Notice released December 29, 1997 (FCC 97-419) entitled "Procedures for FCC designation of Eligible Telecommunications Carriers pursuant to §214(e)(6) of the Telecommunications Act", the FCC required each applicant seeking ETC designation from the FCC to provide, among other things, "a certification and brief statement of supporting facts demonstrating that the Petitioner is not subject to the jurisdiction of a state Commission."

The Pine Belt companies enclosed with their joint pleading completed ETC application forms as developed by the Commission. In the event the Commission determines that it does not have jurisdiction to act on the Pine Belt request for ETC status, however, the Pine Belt companies seek an affirmative written statement from the Commission indicating that the Commission lacks jurisdiction to grant them ETC status as wireless carriers.

The issue concerning the APSC's jurisdiction over providers of cellular services, broadband personal communications services, and commercial mobile radio services is one that was rather recently addressed by the Commission. The Commission indeed issued a Declaratory Ruling on March 2, 2000, in Docket 26414 which concluded that as the result of certain amendments to the Code of Alabama, 1975 §40-21-120(2) and (1)(a) effectuated in June of 1999, the APSC has no authority to regulate, *in any respect*, cellular services, broadband personal communications services and commercial mobile radio services in Alabama. Given the aforementioned conclusions by the Commission, it seems rather clear that the Commission has no jurisdiction to take action on the Application of the Pine Belt companies for ETC status in this jurisdiction. The Pine Belt companies and all other wireless providers seeking ETC status should pursue their ETC designation request with the FCC as provided by 47 USC §214(e)(6).

IT IS, THEREFORE, ORDERED BY THE COMMISSION, That the Commission's jurisdiction to grant Eligible Telecommunications Carrier status for universal service purposes does not extend to providers of cellular services, broadband personal communications services, and commercial mobile radio services. Providers of such services seeking Eligible Telecommunications Carrier status should accordingly pursue their requests through the Federal Communications Commission.

IT IS FURTHER ORDERED, That this Order shall be effective as of the date hereof.

DONE at Montgomery, Alabama, this 12<sup>th</sup> day of March, 2002.

ALABAMA PUBLIC SERVICE COMMISSION

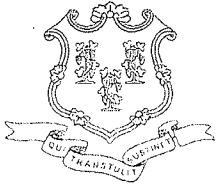
Jim Sullivan, President

Jan Cook, Commissioner

George C. Wallace, Jr., Commissioner

ATTEST: A True Copy

Walter L. Thomas, Jr., Secretary



STATE OF CONNECTICUT  
DEPARTMENT OF PUBLIC UTILITY CONTROL

May 25, 2012  
In reply please refer to:  
UR:Undocketed:PAP

John J. Heitmann  
Joshua T. Guyan  
Kelley Drye & Warren LLP  
Washington Harbour, Suite 400  
3050 K Street, NW  
Washington, D.C. 20007-5108

Re: Request for a Letter Confirming Lack of Jurisdiction Over Wireless Eligible  
Telecommunications Carrier Petitions

Dear Messrs Heitmann and Guyan:

The Public Utilities Regulatory Authority (Authority) is in receipt of your March 28, 2012 letter concerning the Authority's jurisdiction over wireless mobile carrier services' rates and charges.

The Authority does not regulate or license wireless carrier services' rates and charges per the Federal Omnibus Budget Act of 1993. Therefore, all applications for eligible telecommunications carriers' status for wireless providers should be made to the Federal Communications Commission.

Sincerely,

DEPARTMENT OF ENERGY AND ENVIRONMENTAL PROTECTION  
PUBLIC UTILITIES REGULATORY AUTHORITY

A handwritten signature in black ink, appearing to read "K. Santopietro (f.s.)".

Kimberley J. Santopietro  
Executive Secretary

**BEFORE THE PUBLIC SERVICE COMMISSION  
OF THE STATE OF DELAWARE**

IN THE MATTER OF THE APPLICATION OF        )  
VERIZON DELAWARE INC., TO MODIFY THE     )  
LIFELINE SERVICE BY ADDING AN INCOME     )       PSC DOCKET NO. 05-016T  
QUALIFIER TO THE ELIGIBILITY CRITERIA    )  
(FILED JUNE 17, 2005)                     )

**ORDER NO. 6736**

This 11<sup>th</sup> day of October, 2005, the Commission determines and Orders the following:

1. In the jargon of the federal Lifeline/Link-Up program, Delaware is a "federal default State." Delaware has never, by either state law or state regulation, ordained, nor funded, a stand-alone program to provide discounts on basic telephone services charges for low-income subscribers. Consequently, it was not until 1997, when the Federal Communications Commission ("FCC") revamped the federal Lifeline/Link-Up program, that Delaware subscribers first became eligible for participation in the federal Lifeline program.<sup>1</sup> And given that in a "federal default State" only federally-raised monies are used to reimburse eligible carriers for the Lifeline and Link-Up discounts, it is the FCC, and not the state commission, that gets to call the tune about who should be eligible to receive these federally-subsidized price reductions.

2. Since 1997, Verizon Delaware Inc. ("VZ-DE") has been designated as an "eligible telecommunications carrier" and has offered

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<sup>1</sup>See PSC Order No. 4684 (Dec. 16, 1997) (summarizing Delaware history and electing to allow "Tier 2" federal support to eligible Delaware subscribers).

federal Lifeline discounts on the federal list of supported services.<sup>2</sup> And even though in "default" States, Lifeline is almost an exclusively federal program, VZ-DE has, since 1997, filed at the State level, tariff provisions setting forth its Lifeline offerings.<sup>3</sup>

3. In 2004, the FCC changed some of the "eligibility" rules describing which subscribers may participate in the federal Lifeline/Link-Up program.<sup>4</sup> In particular, the 2004 amendments added additional programs to the list of "eligible" programs where participation confers federal default Lifeline/Link-Up eligibility.<sup>5</sup> The 2004 amendments also introduced an additional eligibility criteria premised on the subscriber's household income.<sup>6</sup> Eligible telecommunications carriers, such as VZ-DE, were given one year to implement this new, additional income-based eligibility criteria.<sup>7</sup>

4. To implement these changes prescribed by the FCC, VZ-DE initially filed revisions to the Lifeline and Link-Up portions of its

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<sup>2</sup>See PSC Order No. 4680 (Dec. 17, 1997) ("ETC" designation for VZ-DE). See also PSC Dckt. No. 97-023T (initial Lifeline tariff filing by VZ-DE).

<sup>3</sup>From December 2000 through December 2003, VZ-DE offered, under its state tariff, an "expanded" Lifeline program for Delaware. The discounts under such program exceeded the Tiers 1 & 2 levels normally available in a default State. VZ-DE offered this expanded program to fulfill a condition imposed by the FCC in approving the Bell Atlantic-GTE merger. See PSC Order No. 6317 (Dec. 9, 2003) (explaining content and cause of this expanded Lifeline offering). Whether Delaware remained a "default State" during this period when VZ-DE subsidized the deeper discounts is an issue that need now be explored or resolved. This "expanded" program ended in December 2003.

<sup>4</sup>In the Matter of Lifeline and Link-Up, Report and Order and Further NPRM, 19 FCC Rcd. 8302 (FCC 2004) ("Lifeline Order").

<sup>5</sup>47 C.F.R. §§ 54.409(b) (Lifeline eligibility criteria in "default" State); 54.415(b) (Link-Up eligibility criteria in "default" State).

<sup>6</sup>47 C.F.R. §§ 54.409(b), 54.410 (Lifeline); 54.415(b), 54.416 (Link-Up).

<sup>7</sup>47 C.F.R. §§ 54.410(a)(ii), 54.416.

State tariff. These changes incorporated into the State tariff provisions the expanded list of "eligibility-conferring" programs.<sup>8</sup> At the same time, the Commission Staff began discussions with VZ-DE to determine whether, under the applicable federal default rules, it was appropriate for VZ-DE to continue to include in its State tariff Lifeline provisions language that conditioned Lifeline eligibility on the subscriber foregoing the ability to purchase many optional or vertical services.<sup>9</sup> Eventually, VZ-DE revised its State tariff Lifeline provisions to delete the questioned restrictions.<sup>10</sup> Then in June 2005, VZ-DE filed another Tariff revision to reflect its implementation of the household-income criteria for eligibility for Lifeline and Link-Up discounts.<sup>11</sup> Finally, on September 9, 2005, VZ-DE submitted another set of revised tariff sheets reflecting further textual revisions, as originally suggested by Staff. In part, these final changes sought to make the State tariff's description of how VZ-DE would administer its Lifeline/Link-Up program to more closely parallel the governing federal default rules.<sup>12</sup>

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<sup>8</sup>See PSC Dckt. No. 04-017T (filed July 26, 2004; eff. July 27, 2004).

<sup>9</sup>That restriction - limiting Lifeline subscribers to a small group of designated vertical services - had been a continual part of VZ-DE's state-tariffed Lifeline offerings since 1997. In its Lifeline Order, the FCC expressed its belief that "any restriction on the purchase of vertical services may discourage qualified consumers from enrolling and may serve as a barrier to participation in the [Lifeline] program. Lifeline Order at ¶ 53.

<sup>10</sup>See PSC Dckt. No. 05-008T (filed April 8, 2005; eff. April 16, 2005).

<sup>11</sup>See PSC Dckt. No. 05-016T (filed June 17, 2005; eff. June 22, 2005).

<sup>12</sup>See PSC Dckt. No. 05-016T, amended tariff sheets filed on September 9, 2005 but with effective date of June 22, 2005).



5. The Commission enters this Order not so much to "approve" the various Lifeline filings made by VZ-DE but to recount the course of the filings made since the FCC changed its federal Lifeline/Link-Up program in 2004. Indeed, given that Delaware is a "default" State, VZ-DE's Lifeline/Link-Up offerings are governed more by the federal default rules than by any "approved" State tariff provision. Any State tariff provision that might conflict with a federal default rule would necessarily have to yield. However, the Commission will accept the Lifeline and Link-Up tariff filings lodged by VZ-DE. The Commission believes that VZ-DE's last submission (in September 2005) sets forth a Lifeline and Link-Up offering that is consistent with the federal default rules. However, the filing and acceptance of the State tariff provisions should not be seen as foreclosing any later challenge that VZ-DE's program falls short of the federal directives.

Now, therefore, **IT IS ORDERED:**

1. That, as explained in the body of this Order, the Commission accepts the tariff filings made by Verizon Delaware Inc., to implement its responsibilities to provide federal Lifeline and Link-Up in this "federal default" jurisdiction. In particular, the Commission now accepts the tariff revision filing made September 9, 2005 pertaining to the following leaves in P.S.C.-Del.-No. 1:

Section 20D, Fourteenth Revised Sheet 1 (Link-Up);

Section 20D, Fifth Revised Sheet 2 (Link-Up); and

Section 20E, Eighth Revised Sheet 2 (Lifeline).

2. That the Commission reserves the jurisdiction and authority to enter such further Orders in this matter as may be deemed necessary or proper.

BY ORDER OF THE COMMISSION:

/s/ Arnetta McRae  
Chair

\_\_\_\_\_  
Vice Chair

/s/ Joann T. Conaway  
Commissioner

/s/ Jaymes B. Lester  
Commissioner

/s/ Dallas Winslow  
Commissioner

ATTEST:

/s/ Norma J. Sherwood  
Acting Secretary



**Public Service Commission of the District of Columbia**  
1333 H Street, N.W., 2nd Floor, West Tower  
Washington, D.C. 20005  
(202) 626-5100  
www.dcpsc.org

March 27, 2012

**Via First Class Mail**

John J. Heitmann and Joshua T. Guyan  
Kelley Drye & Warren LLP  
Washington Harbour Suite 400  
3050 K Street, NW  
Washington, DC 20007-5108

Dear Mr. Heitmann and Mr. Guyan:

Thank you for your March 23, 2012 letter requesting information on whether the Public Service Commission of the District of Columbia ("Commission") designates wireless telecommunications carriers as eligible telecommunications carriers ("ETC") for the purposes of receiving federal universal service funding. Please be advised that, pursuant to section 34-2006(b) of the District of Columbia Code, the Commission does not have jurisdiction over wireless carriers. Thus, the Commission has no authority to designate wireless telecommunications carriers as ETCs.

Attached please find a copy of the relevant section of the District of Columbia Code for your information. Should you need anything further, please contact Lara Walt at 202-626-9191 or [lwalt@psc.dc.gov](mailto:lwalt@psc.dc.gov).

Sincerely,

A handwritten signature in black ink that reads "Richard A. Beverly".

Richard A. Beverly  
General Counsel

Enclosure

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## Welcome to the online source for the District of Columbia Official Code

### DC ST § 34-2006

Formerly cited as DC ST 1981 § 43-1456

DC ST § 34-2006

Formerly cited as DC ST 1981 § 43-1456

District of Columbia Official Code 2001 Edition [Currentness](#)

Division V. Local Business Affairs

Title 34. Public Utilities.

▾ [Subtitle V. Telecommunications.](#)

▾ [Chapter 20. Telecommunications Competition.](#)

➔ **§ 34-2006. Exemptions.**

(a) This chapter shall not apply to cable television services performed pursuant to an existing cable television franchise agreement with the District of Columbia which is in effect on September 9, 1996. To the extent that a cable television company seeks to provide local exchange services within the District of Columbia, such company shall be regulated under the provisions of this chapter for their local exchange services.

(b) Pursuant to the federal Telecommunications Act of 1996, this chapter shall not apply to licensed or unlicensed wireless services authorized by the Federal Communications Commission operating in the District of Columbia.

(c) This chapter shall not:

(1) Apply to the provision, rates, charges, or terms of service of Voice Over Internet Protocol Service or Internet Protocol-enabled Service;

(2) Alter the authority of the Commission to enforce the requirements as are otherwise provided for, or allowed by, federal law, including the collection of Telecommunications Relay Service fees and universal service fees;

(3) Alter the authority of the Office of Cable Television and Telecommunications with respect to the provision of video services in the District of Columbia; or

(4) Alter the Commission's existing authority over the regulation of circuit-switched local exchange services in the District of Columbia.

CREDIT(S)

(Sept. 9, 1996, D.C. Law 11-154, § 7, 43 DCR 3736; June 5, 2008, D.C. Law 17-165, § 3(c), 55 DCR 5171.)

HISTORICAL AND STATUTORY NOTES

Prior Codifications

1981 Ed., § 43-1456.

Effect of Amendments

D.C. Law 17-165 added subsec. (c).

Legislative History of Laws

For legislative history of D.C. Law 11-154, see Historical and Statutory Notes following § 34-2001.

For Law 17-165, see notes following § 34-403.

References in Text

The federal Telecommunications Act of 1996, referred to in (b), is Pub. L. 104-104, which is codified throughout Title 47 of the United States Code.

DC CODE § 34-2006

Current through January 11, 2012

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GENERAL COUNSEL  
S. CURTIS KISER  
(850) 413-6199

## Public Service Commission

October 24, 2011

Ms. Kasey C. Chow  
Lance J.M. Steinhart, P.C.  
Attorney At Law  
1725 Windward Concourse  
Suite 150  
Alpharetta, GA 30005

**Re: Undocketed – Q Link Wireless LLC's ETC Designation**

Dear Ms. Chow:

We received your October 18, 2011 letter advising that Q Link Wireless LLC, a commercial mobile radio service provider, wish to seek designation as an ETC in Florida. You also requested an affirmative statement that the Florida Public Service Commission no longer assert jurisdiction to designate commercial mobile radio service providers as eligible telecommunication carriers in Florida.

This letter acknowledges that the revisions to Chapter 364, Florida Statutes, changed the Commission's jurisdiction regarding telecommunications companies. I direct your attention to Chapter 364, Florida Statutes, for the proposition that the Federal Communications Commission, rather than this Commission is the appropriate agency to consider Q Link Wireless LLC's bid for ETC status.

Sincerely,

A handwritten signature in cursive script that reads "S. Curtis Kiser".

S. Curtis Kiser  
General Counsel

cc: Beth W. Salak, Director, Division of Regulatory Analysis  
Robert J. Casey, Public Utilities Supervisor, Division of Regulatory Analysis  
Adam J. Teitzman, Attorney Supervisor, Office of the General Counsel  
Ann Cole, Commission Clerk, Office of Commission Clerk

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Concord, N.H. 03301-2429

Tel. (603) 271-2431

FAX (603) 271-3878

TDD Access: Relay NH  
1-800-735-2964

Website:  
[www.puc.nh.gov](http://www.puc.nh.gov)

March 28, 2011

**RE: ETC Certification in New Hampshire**

The federal Universal Service Fund (USF) was created by the Federal Communications Commission (FCC) to promote the availability of quality services at just and reasonable rates to all consumers including low-income customers and those in high cost areas and to increase nationwide access to advanced services in schools, libraries and rural health care facilities. To qualify for universal service funding a carrier must first be certified as an Eligible Telecommunications Carrier (ETC) by the state public utilities commission or, if the state does not assert this authority, by the FCC. *See* 47 U.S.C. §214 (e).

The New Hampshire Public Utilities Commission maintains authority to determine whether landline telecommunications carriers qualify as ETCs. Pursuant to New Hampshire RSA 362:6, the Commission has no jurisdiction over mobile radio communications services. Consequently, the state declines jurisdiction over the certification of wireless carriers as ETCs, leaving that responsibility to the FCC.

Sincerely,

A handwritten signature in black ink, appearing to read "F. Anne Ross".

F. Anne Ross

General Counsel

New Hampshire Public Utilities Commission

STATE OF NEW YORK DEPARTMENT OF PUBLIC SERVICE

THREE EMPIRE STATE PLAZA, ALBANY, NY 12223-1350

www.dps.state.ny.us

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*General Counsel*

JACLYN A. BRILLING

*Secretary*

October 28, 2010

TO WHOM IT MAY CONCERN:

Re: Boomerang Wireless CMRS Jurisdiction

We have received a letter from Boomerang Wireless, LLC d/b/a Ready Mobile (Boomerang Wireless), requesting a statement that the New York State Public Service Commission does not exercise jurisdiction over CMRS providers for the purpose of making determinations regarding Eligible Telecommunications Carrier designations under section 214 (e)(6) of 47 U.S.C. In response to this request, please be advised that section 5 (6)(a) of the New York State Public Service Law provides that:

Application of the provisions of this chapter to cellular telephone services is suspended unless the commission, no sooner than one year after the effective date of this subdivision, makes a determination, after notice and hearing, that suspension of the application of provisions of this chapter shall cease to the extent found necessary to protect the public interest.

The New York State Public Service Commission has not made a determination as of this date that regulation should be reinstated under section 5 (6)(a) of the Public Service Law. Consequently, based on the representation by Boomerang Wireless that it provides wireless service in New York over its own facilities and Sprint's network, the company would not be subject to New York State Public Service Commission jurisdiction for the purpose of making an Eligible Telecommunications Carrier designation.

Very truly yours,

*Maureen J. McCauley*  
Maureen J. McCauley  
Assistant Counsel



**STATE OF NORTH CAROLINA  
UTILITIES COMMISSION  
RALEIGH**

DOCKET NO. P-100, SUB 133c

BEFORE THE NORTH CAROLINA UTILITIES COMMISSION

In the Matter of  
Designation of Carriers Eligible for Universal    )  
Carrier Support    )    ORDER GRANTING PETITION

BY THE COMMISSION: On August 22, 2003, North Carolina RSA3 Cellular Telephone Company, d/b/a Carolina West (Carolina West), a commercial mobile radio service (CMRS) provider, filed a Petition seeking an affirmative declaratory ruling that the Commission lacks jurisdiction to designate CMRS carrier eligible telecommunications carrier (ETC) status for the purposes of receiving federal universal service support.

In support of its Petition, Carolina West stated that it was a CMRS provider authorized by the Federal Communications Commission (FCC) to provide cellular mobile radio telephone service in North Carolina, and that the FCC had clearly recognized that CMRS carriers such as Carolina West may be designated as ETCs. ETC status is necessary for a provider to be eligible to receive universal service support. Section 214(e)(6) of the Telecommunications Act provides that if a state commission determines that it lacks jurisdiction over a class of carriers, the FCC is charged with making the ETC determination. The FCC has stated that, in order for the FCC to consider requests pursuant to this provision, a carrier must provide an "affirmative statement" from the state commission or court of competent jurisdiction that the state lacks jurisdiction to perform the designation. To date, several state commissions have declined to exercise such jurisdiction.

North Carolina has excluded CMRS from the definition of "public utility." See, G.S. 62-3(23)j. Pursuant to this, the Commission issued its Order Concerning Deregulation of Wireless Providers in Docket Nos. P-100, Sub 114 and Sub 124 on August 28, 1995, concluding that the Commission no longer has jurisdiction over cellular services. Accordingly, Carolina West has now requested the Commission to issue an Order stating that it does not have jurisdiction to designate CMRS carriers ETC status for the purposes of receiving federal universal service support.

WHEREUPON, the Commission reaches the following

CONCLUSIONS

After careful consideration, the Commission concludes that it should grant Carolina West's Petition and issue an Order stating that it lacks jurisdiction to designate ETC status

for CMRS carriers. As noted above, in its August 28, 1995, Order in Docket Nos. P-100, Sub 114 and Sub 124, the Commission observed that G.S. 62-3(23)j, enacted on July 29, 1995, has removed cellular services, radio common carriers, personal communications services, and other services then or in the future constituting a mobile radio communications service from the Commission's jurisdiction. 47 USC 3(41) defines a "state commission" as a body which "has regulatory jurisdiction with respect to the intrastate operation of carriers." Pursuant to 47 USC 214(e)(6), if a state commission determines that it lacks jurisdiction over a class of carriers, the FCC must determine which carriers in that class may be designated as ETCs. Given these circumstances, it follows that the Commission lacks jurisdiction over CMRS services and the appropriate venue for the designation of ETC status for such services is with the FCC. Accord., Order Granting Petition, ALLTEL Communications, Inc., June 24, 2003.

IT IS, THEREFORE, SO ORDERED.

ISSUED BY ORDER OF THE COMMISSION.

This the 28th day of August, 2003.

NORTH CAROLINA UTILITIES COMMISSION



Patricia Swenson, Deputy Clerk

pb082503.01

# TENNESSEE REGULATORY AUTHORITY



460 James Robertson Parkway  
Nashville, Tennessee 37243-0505

November 3, 2010

Ms. Jacqueline Hankins, Esq.  
Helein & Marashlian, LLC  
The CommLaw Group  
1420 Spring Hill Road, Suite 205  
McLean, VA 22102

RE: Request for Letter Clarifying Jurisdiction over Wireless ETC Petitions

Dear Ms. Hankins:

Thank you for your letter sent to Mr. David Foster, Utilities Division Chief, dated October 25, 2010, inquiring about the Tennessee Regulatory Authority's ("Authority") jurisdiction to designate a wireless telecommunications carrier, such as Boomerang Wireless, LLC d/b/a Ready Mobile (f/k/a Boomerang Wireless, Inc., for Eligible Telecommunications Carrier ("ETC") certification in Tennessee. Your letter has been forwarded to me for review and response.

As your letter correctly indicates, the Authority does not assert that its state-delegated authority extends to wireless service providers. As a result, wireless carriers that seek ETC certification to provide such services in Tennessee are advised to file such requests with the Federal Communications Commission in accordance with 47 U.S.C.A. § 214(e)(6). The enclosed *Order Refusing Issuance of Declaratory Ruling*, issued on August 2, 2010,<sup>1</sup> provides detailed analysis of the Authority's wireless jurisdiction.

In Docket No. 02-01245, the Authority acknowledged the FCC's authority to perform ETC designations for carriers not subject to its jurisdiction, and announced that its *Order of April 11, 2003* would serve as an affirmative statement that it lacks jurisdiction to designate ETC certification to wireless carriers.<sup>2</sup> For your convenience, I have enclosed a copy of the Authority's order in that docket. In addition, you may access these and other

<sup>1</sup> *In re Petition for Declaratory Ruling and Nunc Pro Tunc Designation of Nexus Communications as an Eligible Telecommunications Carrier to Offer Wireless Service in Tennessee*, Docket No. 10-00083, *Order Refusing Issuance of Declaratory Ruling* (August 2, 2010).

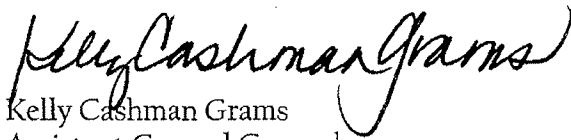
<sup>2</sup> *In re Application of Advantage Cellular Systems, Inc. to be Designated as an Eligible Telecommunications Carrier*, Docket No. 02-01245, *Order* (April 11, 2003).

Ms. Jacqueline Hankins, Esq.  
Letter Clarifying Wireless Jurisdiction  
November 1, 2010  
Page 2

Authority dockets, including all public filings and orders, online via the Tennessee Regulatory Authority's website located at <http://www.state.tn.us/tra/>.

I trust that you will find the information provided above to be of assistance and appreciate the opportunity to serve you. In the event you have additional questions or concerns, please feel free to contact me.

Sincerely,



Kelly Cashman Grams  
Assistant General Counsel

cc: David Foster, Utilities Division Chief

BEFORE THE TENNESSEE REGULATORY AUTHORITY

NASHVILLE, TENNESSEE

April 11, 2003

IN RE:

APPLICATION OF ADVANTAGE CELLULAR  
SYSTEMS, INC. TO BE DESIGNATED AS AN  
ELIGIBLE TELECOMMUNICATIONS CARRIER

)  
)  
)  
)  
)

DOCKET NO.  
02-01245

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ORDER

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This matter came before Chairman Sara Kyle, Director Deborah Taylor Tate and Director Pat Miller of the Tennessee Regulatory Authority (the "Authority"), the voting panel assigned in this docket, at the regularly scheduled Authority Conference held on January 27, 2003, for consideration of the *Application of Advantage Cellular Systems, Inc. To Be Designated As An Eligible Telecommunications Carrier* ("Application") filed on November 21, 2002.

**Background**

Advantage Cellular Systems, Inc. ("Advantage") is a commercial mobile radio service provider ("CMRS") seeking designation as an Eligible Telecommunications Carrier ("ETC") by the Authority pursuant to 47 U.S.C. §§ 214 and 254. In its *Application*, Advantage asserts that it seeks ETC status for the entire study area of Dekalb Telephone Cooperative, Inc., a rural cooperative telephone company. Advantage maintains that it meets all the necessary requirements for ETC status and therefore is eligible to receive universal service support throughout its service area.

**The January 27, 2003 Authority Conference**

During the regularly scheduled Authority Conference on January 27, 2003, the panel of Directors assigned to this docket deliberated Advantage's *Application*. Of foremost consideration was the issue of the Authority's jurisdiction. The panel unanimously found that the Authority lacked

jurisdiction over Advantage for ETC designation purposes.<sup>1</sup>

This conclusion was implicitly premised on Tenn. Code Ann. § 65-4-104, which provides that:

The Authority has general supervisory and regulatory power, jurisdiction and control over all public utilities and also over their property, property rights, facilities, and franchises, so far as may be necessary for the purpose of carrying out the provisions of this chapter.

For purposes of Tenn. Code Ann. § 65-4-104, the definition of public utilities specifically excludes, with certain exceptions not relevant to this case, “[a]ny individual, partnership, copartnership, association, corporation or joint stock company offering domestic public cellular radio telephone service authorized by the federal communications commission.”

The Authority’s lack of jurisdiction over CMRS providers implicates 47 U.S.C. § 214(e), which addresses the provision of universal service. Where common carriers seeking universal service support are not subject to a state regulatory commission’s jurisdiction, 47 U.S.C. § 214(e)(6) authorizes the Federal Communications Commission (“FCC”) to perform the ETC designation.<sup>2</sup>

<sup>1</sup> This finding is not inconsistent with the Authority’s decision in *In re: Universal Service Generic Contested Case*, Docket 97-00888, *Interim Order on Phase I of Universal Service*, pp. 53-57 (May 20, 1998), in which the Authority required intrastate telecommunications carriers to contribute to the intrastate Universal Service Fund including telecommunications carriers not subject to authority of the TRA. The decision in Docket No. 97-00888 was based primarily on 47 U.S.C. § 254(f) which authorizes states to adopt regulations not inconsistent with the Federal Communications Commission’s rules on Universal Service and specifically requires every telecommunications carrier that provides intrastate telecommunications services to contribute to the preservation and advancement of universal service in that state. The *Interim Order* was issued prior to the effective date of 47 U.S.C. § 214(e)(6).

<sup>2</sup> 47 U.S.C. §214(e)(6) states:

(6) Common carriers not subject to state commission jurisdiction

In the case of a common carrier providing telephone exchange service and exchange access that is not subject to the jurisdiction of a State commission, the Commission shall upon request designate such a common carrier that meets the requirements of paragraph (1) as an eligible telecommunications carrier for a service area designated by the Commission consistent with applicable Federal and State law. Upon request and consistent with the public interest, convenience and necessity, the Commission may, with respect to an area served by a rural telephone company, and shall, in the case of all other areas, designate more than one common carrier as an eligible telecommunications carrier for a service area designated under this paragraph, so long as each additional requesting carrier meets the requirements of paragraph (1). Before designating an additional eligible telecommunications carrier for an area served by a rural telephone company, the Commission shall find that the designation is in the public interest.

As a matter of "state-federal comity," the FCC requires that carriers seeking ETC designation "first consult with the state commission to give the state commission an opportunity to interpret state law."<sup>3</sup> Most carriers that are not subject to a state regulatory commission's jurisdiction seeking ETC designation must provide the FCC "with an affirmative statement from a court of competent jurisdiction or the state commission that it lacks jurisdiction to perform the designation."<sup>4</sup>

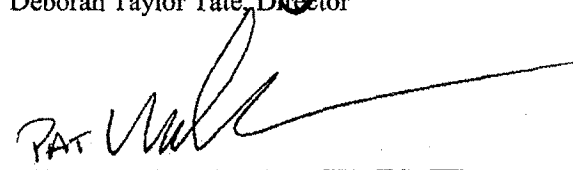
The panel noted that the FCC is the appropriate forum for Advantage to pursue ETC status pursuant to 47 U.S.C. § 214(e)(6). This Order shall serve as the above mentioned affirmative statement required by the FCC.

**IT IS THEREFORE ORDERED THAT:**

The *Application of Advantage Cellular Systems, Inc. To Be Designated As An Eligible Telecommunications Carrier* is dismissed for lack of subject matter jurisdiction.

  
Sara Kyle, Chairman

  
Deborah Taylor Tate, Director

  
Pat Miller, Director

<sup>3</sup> *In the Matter of Federal-State Joint Bd. on Universal Service, CC Docket No. 96-45, Twelfth Report and Order, Memorandum Opinion and Order, and Further Notice of Proposed Rulemaking*, 15 F.C.C.R. 12208, 12264, ¶ 113 (June 30, 2000).

<sup>4</sup> *See id.* (The "affirmative statement of the state commission may consist of any duly authorized letter, comment, or state commission order indicating that it lacks jurisdiction to perform designations over a particular carrier.")

BEFORE THE TENNESSEE REGULATORY AUTHORITY

NASHVILLE, TENNESSEE

August 2, 2010

IN RE:	)	
	)	
PETITION FOR DECLARATORY RULING	)	DOCKET NO.
AND NUNC PRO TUNC DESIGNATION OF	)	10-00083
NEXUS COMMUNICATIONS AS AN ELIGIBLE	)	
TELECOMMUNICATIONS CARRIER TO	)	
OFFER WIRELESS SERVICE IN TENNESSEE	)	

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ORDER REFUSING ISSUANCE OF DECLARATORY RULING

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This matter came before Chairman Sara Kyle, Director Kenneth C. Hill and Director Mary W. Freeman of the Tennessee Regulatory Authority (“Authority” or “TRA”), the voting panel assigned to this docket, at a regularly scheduled Authority Conference held on May 24, 2010, for consideration of the *Petition for Declaratory Ruling and Nunc Pro Tunc Designation of Nexus Communications as an Eligible Telecommunications Carrier to Offer Wireless Service in Tennessee* (“*Petition*”) filed by Nexus Communications, Inc. (“Nexus”) on April 28, 2010.

**BACKGROUND & PROCEDURAL HISTORY**

On October 18, 2007, Nexus filed with the Authority an application for a Certificate of Public Convenience and Necessity (“CCN”) to provide competing facilities-based and resold local telecommunications services in Tennessee.<sup>1</sup> In its application, among other things, Nexus stated that it would be providing service through an interconnection/resale agreement with

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<sup>1</sup> See *In re: Application of Nexus Communications, Inc. for a CCN to Provide Competing Local Exchange and Interexchange Telecommunications Services in Tennessee*, Docket No. 07-00241, *Application of Nexus Communications, Inc. for Authority to Provide Competing Local Exchange & Interexchange Service* (October 18, 2007).



BellSouth Telecommunications, Inc. d/b/a AT&T Tennessee (“AT&T Tennessee”) and had no plans to install facilities.<sup>2</sup> Nexus further agreed to adhere to all Authority policies, rules, and orders and to submit wireline activity reports as required.<sup>3</sup> The application, however, makes no mention of Nexus providing wireless service in Tennessee. In an Order dated January 8, 2008, the TRA granted Nexus’ application for a CCN, authorizing Nexus to provide competing facilities-based and resold local telecommunications services in Tennessee as described in its application.<sup>4</sup>

On July 11, 2008, Nexus filed an application for designation as an eligible telecommunications carrier (“ETC”) with the Authority in Docket No. 08-00119.<sup>5</sup> In its ETC application, Nexus stated that it was applying for designation in the service territory of AT&T Tennessee and provided a list of the wire centers for which it requested ETC status.<sup>6</sup> In addition, Nexus stated that it was seeking designation only for low-income support<sup>7</sup> and affirmed that it satisfied all statutory requirements for designation.<sup>8</sup> Consistent with its CCN application, Nexus’ ETC application also omitted any mention that Nexus provided wireless service or that it intended to provide wireless service as an ETC.

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<sup>2</sup> *Id.* at 1 and 7.

<sup>3</sup> *Id.* at 11 and 13.

<sup>4</sup> See *In re: Application of Nexus Communications, Inc. for a CCN to Provide Competing Local Exchange and Interexchange Telecommunications Services in Tennessee*, Docket No. 07-00241, *Initial Order Granting Certificate of Public Convenience and Necessity* (January 8, 2008).

<sup>5</sup> See *In re: Application of Nexus Communications, Inc. for Designation as an Eligible Telecommunications Carrier*, Docket No. 08-00119, *Application for Designation as an Eligible Telecommunications Carrier* (July 11, 2008).

<sup>6</sup> *Id.*

<sup>7</sup> Lifeline and Link Up are two components of the Low Income Program of the Universal Service Fund. The Fund, administered by the Universal Service Administration Company (“USAC”), is designed to ensure that quality telecommunications services are available to low-income customers at just, reasonable and affordable rates. Lifeline support lowers the monthly charge of basic telephone service for eligible consumers. Link Up support reduces the cost of initiating new telephone service. The Federal Communications Commission’s rules concerning Lifeline and Link Up are codified at 47 C.F.R. § 54.400-417. See, *Assessment of Payments Made Under the Universal Service Fund’s Low Income Program*, 2008 WL 5205212 (2008).

<sup>8</sup> See *In re: Application of Nexus Communications, Inc. for Designation as an Eligible Telecommunications Carrier*, Docket No. 08-00119, *Application for Designation as an Eligible Telecommunications Carrier* (July 11, 2008).

Thereafter, the Authority conducted a review of Nexus' qualifications in accordance with the information provided by Nexus in its ETC application. On October 27, 2008, finding the statutory requirements satisfied, the TRA granted Nexus' ETC application and, based thereon, issued an Order designating Nexus as an ETC in the Tennessee service area footprint of AT&T Tennessee.<sup>9</sup> As designated by a state commission, like the TRA, Nexus' ETC designation enables it to receive federal low-income universal service support funding in accordance with, and subject to, the authority of the state commission to grant such designation under both state and federal law.<sup>10</sup>

Subsequently, on March 23, 2009, Nexus filed a petition requesting that the TRA amend its ETC Order to describe Nexus' services in Tennessee as "wireline and wireless."<sup>11</sup> Nexus' request for modification of the ETC Order revealed for the first time that Nexus serves its customers using both wireline and wireless technologies. On June 7, 2009, the TRA declined to amend the language of the ETC Order as Nexus requested and instead amended its ETC Order to definitively state that Nexus had ETC designation for "wireline local exchange services."<sup>12</sup>

On November 25, 2009, Steven Fenker, President of Nexus, filed a letter in Docket No. 08-00119 indicating that, based on the TRA's orders, Nexus applied for and was assigned two Study Area Codes enabling it to receive federal universal service low-income funding for the

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<sup>9</sup> See *In re: Application of Nexus Communications, Inc. for Designation as an Eligible Telecommunications Carrier*, Docket No. 08-00119, *Order Designating Nexus Communications, Inc. as an Eligible Telecommunications Carrier* ("ETC Order") (October 27, 2008).

<sup>10</sup> 47 U.S.C.A. §§ 254(e) and §214(e)(2) and (6).

<sup>11</sup> See *In re: Application of Nexus Communications, Inc. for Designation as an Eligible Telecommunications Carrier*, Docket No. 08-00119, *Petition of Nexus Communications, Inc. for Clarification of Final Order* ("Petition for Clarification") (March 23, 2009).

<sup>12</sup> See *In re: Application of Nexus Communications, Inc. for Designation as an Eligible Telecommunications Carrier*, Docket No. 08-00119, *Order Granting Petition for Clarification and Issuance of Amended Order*, p. 2, and attached thereto, *Amended Order Designating Nexus Communications, Inc. as an Eligible Telecommunications Carrier* ("Amended ETC Order"), p. 3 ¶ 3 (June 7, 2009).

provision of Lifeline service using both wireline and wireless technologies.<sup>13</sup> In his letter, Mr. Fenker asserted that such action was consistent with Nexus' interpretation of Federal Communications Commission ("FCC") Rule 54.201(h), which directs state commissions to designate ETC status to qualified carriers regardless of the technology used to provide service. Moreover, Nexus contended that FCC rule § 54.201(h) broadly authorizes a state-designated ETC to provide service to, and receive federal universal service support funding for, low-income customers using any technology the carrier wishes to offer.<sup>14</sup> In addition, Mr. Fenker stated that Nexus, as a "certified carrier," is subject to TRA enforcement of Lifeline and Link Up regulations as to both wireline and wireless service. Yet, Nexus also stated that it "voluntarily submits" to the TRA's jurisdiction and would comply with TRA rulings enforcing state and federal Lifeline and Link Up regulations "irrespective of the technology Nexus uses to provide service."<sup>15</sup>

**THE PETITION**

Subsequent to its notification from USAC that certain universal service support payments made to Nexus for wireless ETC service were not authorized,<sup>16</sup> Nexus filed on April 28, 2010, a *Petition* urging the Authority to declare that the TRA has jurisdiction under federal and state law to designate Nexus as a wireless ETC, and further, to declare *nunc pro tunc* that Nexus' ETC designation includes authority to provide a wireless low-income offering, *i.e.*, Lifeline and/or Link Up service, in Tennessee.<sup>17</sup> In its *Petition*, Nexus acknowledges that neither the initial ETC

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<sup>13</sup> See *In re: Application of Nexus Communications, Inc. for Designation as an Eligible Telecommunications Carrier*, Docket No. 08-00119, Letter from Steven Fenker, President, Nexus Communications, Inc. (November 25, 2009).

<sup>14</sup> *Id.*

<sup>15</sup> *Id.*

<sup>16</sup> As referenced in the *Petition*, p. 4 ¶ 13, a letter dated April 16, 2010, from USAC indicated that because Nexus did not appear to be authorized or designated by the TRA to provide wireless ETC service, disbursement of subsidies to Nexus for wireless low-income program subscribers would be discontinued and further, USAC might seek reimbursement from Nexus of monies previously paid to it for such unauthorized services.

<sup>17</sup> *Petition for Declaratory Ruling and Nunc Pro Tunc Designation of Nexus Communications as an Eligible Telecommunications Carrier to Offer Wireless Service in Tennessee ("Petition")* (April 28, 2010).

Order nor the Amended ETC Order mentioned or specifically granted authority to Nexus to provide wireless ETC services.<sup>18</sup> Despite this admission, Nexus reiterates its earlier contentions that based on the TRA's orders designating Nexus as an ETC and Nexus' interpretation of FCC Rules, specifically 47 C.F.R. § 54.201(h), it is justified in applying for and obtaining two Study Area Codes to provide federally-subsidized service to low-income customers using wireline<sup>19</sup> and wireless technologies.<sup>20</sup>

In its *Petition*, Nexus further asserts that the Authority is empowered to authorize Nexus to provide federally subsidized low-income wireless service not only under federal law, but also under state law.<sup>21</sup> At paragraph 17, Nexus proffers its interpretation of Tenn. Code Ann. § 65-4-101(6)(F) concerning the limits of regulation upon providers of "domestic public cellular radio telephone service," commonly known as commercial mobile radio service ("CMRS") or wireless telephone service, and the statute's classification of providers of such services as "nonutilities." According to Nexus, Tenn. Code Ann. § 65-4-101(6)(F) does not preclude but, instead, preserves, the exercise of TRA jurisdiction over the wireless service of a certificated carrier that is subject to regulation under Chapter 5 of Title 65.<sup>22</sup>

Nexus asserts that Tenn. Code Ann. § 65-4-101(6)(F) distinguishes between a CMRS provider that exclusively offers wireless service in competition with another CMRS provider and a CMRS provider that is classified as a public utility due to also furnishing services regulated by

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<sup>18</sup> *Petition*, pp. 2-3, ¶¶ 2 and 7 (April 28, 2010).

<sup>19</sup> *Petition*, p. 3, ¶¶ 8-9 and footnote 2 (April 28, 2010) ("Nexus applied for a wireline code on July 24, 2009, and received it two days later on July 31, 2009."); see also, *Affidavit of Steven Fenker* attached to *Petition*, ¶ 16 (April 28, 2010) ("On July 29, 2009 Nexus submitted to USAC a Study Area Code ("SAC Code") request form for technology type 'wireline.' USAC after only a two day review of the Original Order issued Nexus a separate 'wireline' SAC Code on July 31, 2009.").

<sup>20</sup> *Petition*, p. 3 (April 28, 2010) ("Two months later, on August 21, 2009, USAC issued Nexus a wireless code for Tennessee."); see also, *Affidavit of Steven Fenker* attached to *Petition*, ¶ 15 (April 28, 2010) ("USAC after a two month review of the application and an analysis of both Orders, finally issued Nexus a separate "wireless" SAC Code on August 21, 2009.").

<sup>21</sup> *Petition*, p. 5, ¶¶ 16-17.

<sup>22</sup> *Petition*, pp. 5-6, ¶ 17(a-g).

the TRA. Further, Nexus contends that because it is subject to TRA jurisdiction for its wireline/landline services, it is likewise subject to TRA regulation as a CMRS provider for its wireless service, at least insofar as concerns designation of ETC.<sup>23</sup>

On May 11, 2010, Nexus filed an *Amendment to Petition* supplementing its interpretation of the statutory provision at issue and inserting an additional argument in support of its assertion that the TRA's jurisdiction currently includes wireless telephone service. In its *Amendment to Petition*, Nexus asserts that the language of Tenn. Code Ann. § 65-4-101(6)(F) acts to deregulate only certain entities that provide wireless service, and not the service itself.<sup>24</sup> To illustrate its point, Nexus offers its comparative analysis of the language of the subject statute with language found in Tenn. Code Ann. § 65-5-203 (2006), which prohibits the exercise of TRA jurisdiction over broadband services. Based on its comparison of the statutes, Nexus contends that the regulatory exemption found in Tenn. Code Ann. § 65-4-101(6)(F) is not for uniform application. Rather, Nexus surmises that had the legislature intended to exempt wireless service from the TRA's jurisdiction, it could have done so using the language of the later-enacted broadband statute.<sup>25</sup> In other words, because Tenn. Code Ann. § 65-4-101(6)(F)<sup>26</sup> does not utilize language identical to the 2006 broadband statute, this somehow evidences an intent to provide, and not to remove, TRA jurisdiction for particular entities only, *i.e.*, that providers of wireless service that also offer a service that the TRA has jurisdiction to regulate, should be subject to TRA regulation for services that it provides that the TRA would not otherwise have jurisdiction.

Finally, Nexus contends that because it purports to supply landline telephone service and does not exclusively provide wireless telephone services and, thus, "is not one of those entities"

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<sup>23</sup> *Petition*, p. 6, ¶ 17(d-f).

<sup>24</sup> *Amendment to Petition* (May 11, 2010).

<sup>25</sup> *Id.*

<sup>26</sup> Tenn. Code Ann. § 65-4-101(6)(F) was enacted prior to 1995, while the Tennessee Public Service Commission ("TPSC") was still in existence. In 1995, the 99<sup>th</sup> General Assembly abolished the TPSC and thereafter created the TRA in its stead to effectively govern and regulate public utilities in the state of Tennessee.

to which, under its interpretation of the statute, the regulatory exemption applies.<sup>27</sup> That is, because the TRA has jurisdiction over Nexus' landline service, it follows that the TRA also has jurisdiction and authority over Nexus' wireless service - but only to the extent necessary to designate it eligible to receive federal subsidies for wireless service to qualified low-income consumers. In short, Nexus claims that as a certificated competing local exchange carrier ("CLEC"), and therefore a public utility subject to TRA jurisdiction, it is and remains a public utility, if not for all of its services, then at least for the limited purpose of receiving wireless ETC designation.

#### FINDINGS AND CONCLUSIONS

In this docket, Nexus asks the TRA to declare that it has jurisdiction under federal and state law to designate Nexus as a wireless ETC provider, and further, to declare *nunc pro tunc* that the ETC designation for wireline services granted to Nexus by the TRA on October 27, 2008, included authority to provide wireless Lifeline and Link Up services in Tennessee, thereby, making Nexus eligible as of that date to receive federal universal support funding for provision of wireless services.

To preserve and advance universal telecommunications service, the United States Congress has made federal funding, or subsidies, available to telecommunications carriers that meet certain minimum requirements.<sup>28</sup> The Authority agrees with Nexus insofar as that, under federal law, state commissions, such as the TRA, hold relatively broad power to designate as ETCs telecommunications carriers that meet those requirements, thereby enabling such carriers to receive federal universal service subsidies.<sup>29</sup> In addition, under 47 C.F.R. § 54.201(h), a state commission that determines that a carrier has satisfied the prerequisites for ETC designation is

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<sup>27</sup> *Id.*

<sup>28</sup> 47 U.S.C.A. § 254(e).

<sup>29</sup> 47 U.S.C.A. § 214(e)(2).

not restricted from granting, nor permitted to deny, ETC designation due to such carrier's chosen method of distributing service.<sup>30</sup> The TRA further recognizes that when a carrier seeking ETC designation is not subject to the jurisdiction of a state commission, whether due to the nature or geographical location of its service, federal law directs that the FCC perform the designation.<sup>31</sup>

Notwithstanding the potential authority that the TRA may have under federal law, ultimately, the TRA is a legislatively created body of the state and empowered only to exercise the jurisdiction, power, and authority delegated to it by the Tennessee General Assembly.<sup>32</sup> In *BellSouth Advertising & Publishing Corp. v. TRA*, the Supreme Court of Tennessee stated, "In defining the authority of the TRA, this Court has held that '[a]ny authority exercised by the TRA must be the result of an express grant of authority by statute or arise by necessary implication from the expressed statutory grant of power.'"<sup>33</sup> The General Assembly has charged the TRA with "general supervisory and regulatory power, jurisdiction and control over all *public utilities*" within Tennessee.<sup>34</sup>

While "public utility" is defined broadly within Tenn. Code Ann. § 65-4-101, the General Assembly has expressly excluded "nonutilities" from the TRA's jurisdiction.<sup>35</sup> "Nonutilities" has been defined to include any entity "offering domestic public cellular radio telephone service" (*i.e.*, CMRS and wireless service providers).<sup>36</sup>

(6) . . . "Public utility" as defined in this section shall not be construed to include the following *nonutilities*:

(F) Any individual, partnership, copartnership, association, corporation or joint stock company offering *domestic public cellular radio telephone service* authorized by the federal communications commission . . .<sup>37</sup>

<sup>30</sup> 47 C.F.R. § 54.201(h).

<sup>31</sup> 47 U.S.C.A. § 214(e)(6).

<sup>32</sup> *BellSouth Advertising & Publishing Corp. v. Tennessee Regulatory Auth.*, 79 S.W.3d 506, 512 (Tenn. 2002); *Tennessee Pub. Serv. Comm'n v. Southern Ry. Co.*, 554 S.W.2d 612, 613 (Tenn. 1977).

<sup>33</sup> *Id.*

<sup>34</sup> Tenn. Code Ann. § 65-4-104 (*emphasis added*).

<sup>35</sup> Tenn. Code Ann. § 65-4-101(6).

<sup>36</sup> Tenn. Code Ann. § 65-4-101(6)(F).

<sup>37</sup> Tenn. Code Ann. § 65-4-101(6)(F) (*emphasis added*).

In addition, the statute provides a regulatory exception to the complete removal of regulatory authority over such providers so long as competition is restricted to one CMRS provider in the same cellular geographical area. Even then, the TRA has limited jurisdiction to review only the customer rates of such providers:

*... until at least two (2) entities, each independent of the other, are authorized by the federal communications commission to offer domestic public cellular radio telephone service in the same cellular geographic area within the state, the customer rates **only** of a company offering domestic public cellular radio telephone service shall be subject to review by the Tennessee Regulatory Authority pursuant to §§ 65-5-101 – 65-5-104. . .*<sup>38</sup>

The TRA's delegated authority over wireless service providers is limited to rates, conditioned on and extending only until the FCC has authorized two wireless providers to offer service in the same cellular geographical area of the state. Expressly set out within the statutory provision itself is the triggering event that rescinds the TRA's limited grant of jurisdiction over wireless providers:

*... Upon existence in a cellular geographical area of the conditions set forth in the preceding sentence, domestic public cellular radio telephone service in such area [where the FCC has authorized two providers], for all purposes, shall automatically cease to be treated as a public utility. . . . The [TRA's] authority . . . is expressly limited [to the absence of two authorized providers] and the authority shall have no authority over resellers of domestic public cellular radio telephone service. . . . This subdivision (6)(F) does not affect, modify or lessen the regulatory authority's authority over public utilities that are subject to regulation pursuant to chapter 5 of this title.*<sup>39</sup>

The TRA has long recognized the plain language of Tenn. Code Ann. § 65-4-101(6)(F) limits, and removes, the TRA's authority over wireless service providers. Thus, the TRA has consistently acknowledged its lack of state-delegated authority over CMRS providers in both the

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<sup>38</sup> *Id.*

<sup>39</sup> *Id.*



broad sense<sup>40</sup> and specifically as to ETC designation.<sup>41</sup> As set forth extensively above, Nexus sought a ruling on the issue of wireless ETC designation previously when it filed its *Petition for Clarification* with the Authority in Docket No. 08-00119.<sup>42</sup> Consistent with its previous rulings on matters involving wireless service, the Authority finds that it does not have jurisdiction over wireless providers based on the express definition of “nonutilities” found in Tenn. Code Ann. § 65-4-101(6)(F), and therefore, specifically does not have subject matter jurisdiction over the precise issue upon which the Company seeks a declaratory ruling.

Tenn. Code Ann. § 4-5-223<sup>43</sup> provides that a state agency, upon petition for a declaratory order, must either convene a contested case hearing and issue a declaratory order or refuse to issue a declaratory order within sixty days of receipt of the petition. In the case of *Hughley v. State*, the Tennessee Supreme Court found that the lack of a contested case hearing on the

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<sup>40</sup> See *In re: Sprint Communications Company, L.P.*, Docket No. 96-01411, *Final Order of Arbitration Awards* (March 26, 1997), PUR Slip Copy, 1997 WL 233027 \*5 (during an Arbitration Conference held on March 26, 1997, the Authority acknowledged its lack of jurisdictional authority to regulate cellular wireless providers when, in ruling on a dispute between Sprint and BellSouth concerning the placement of combined traffic types (local, toll, and wireless) on the same trunk groups, and despite ultimately voting two to one on the specific issue, the Authority panel members all agreed that the Authority lacked jurisdiction over wireless.)

<sup>41</sup> See *In re: Application of Advantage Cellular Systems, Inc. to be Designated as an Eligible Telecommunications Carrier*, Docket No. 02-01245, *Order* (April 11, 2003) (dismissing the application of Advantage Cellular Systems, Inc. for designation as an ETC because, as Advantage Cellular was a CMRS provider, the TRA lacked subject matter jurisdiction because the definition of public utilities under Tenn. Code Ann. § 65-4-101 specifically excludes CMRS providers. In addition the panel noted that under 47 U.S.C.A. § 214(e)(6), the FCC is authorized to perform ETC designations for carriers that are not subject to TRA jurisdiction and that its *Order* serves as an affirmative statement that it lacks jurisdiction to perform the ETC designation as to CMRS carriers.)

<sup>42</sup> See *In re: Application of Nexus Communications, Inc. for Designation as an Eligible Telecommunications Carrier*, Docket No. 08-00119, *Petition of Nexus Communications, Inc. for Clarification of Final Order* (March 23, 2009).

<sup>43</sup> Tenn. Code Ann. § 4-5-223(a) provides:

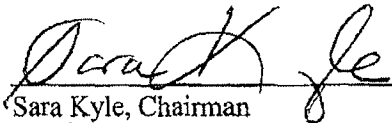
- (a) Any affected person may petition an agency for a declaratory order as to the validity or applicability of a statute, rule, or order within the primary jurisdiction of the agency. The agency shall:
  - (1) Convene a contested case hearing pursuant to the provisions of this chapter and issue a declaratory order, which shall be subject to review in the chancery court of Davidson County, unless otherwise specifically provided by statute, in the manner provided for the review of decisions in contested cases; or
  - (2) Refuse to issue a declaratory order, in which event the person petitioning the agency for a declaratory order may apply for a declaratory judgment as provided in § 4-5-225.

Tenn. Code Ann. § 4-5-223(c) states, “[i]f an agency has not set a petition for declaratory order for a contested case hearing within sixty (60) days after receipt of the petition, the agency shall be deemed to have denied the petition and to have refused to issue a declaratory order.”

petition constitutes refusal to issue a declaratory order under Tenn. Code Ann. § 4-5-223(a)(2), even when the agency provides a decision with reasons that may go to the merits of the petition.<sup>44</sup> Accordingly, for the above stated reasons, the panel voted unanimously to refuse to issue a declaratory order pursuant to Tenn. Code Ann. § 4-5-223(a)(2).

**IT IS THEREFORE ORDERED THAT:**

In accordance with Tenn. Code Ann. § 4-5-223(a)(2), the Tennessee Regulatory Authority refuses to issue a declaratory order on the *Petition for Declaratory Ruling and Nunc Pro Tunc Designation of Nexus Communications as an Eligible Telecommunications Carrier to Offer Wireless Service in Tennessee* filed by Nexus Communications, Inc.

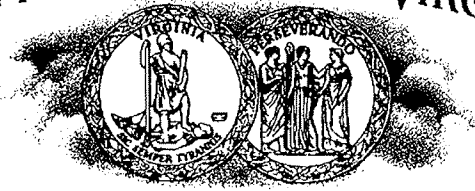
  
Sara Kyle, Chairman

  
Kenneth C. Hill, Director

  
Mary W. Freeman, Director

<sup>44</sup> *Hughley v. State*, 208 S.W.3d 388 (Tenn. 2006) (holding that a letter of denial from the Department of Correction, issued without a hearing in response to a petition for declaratory order, is not equivalent to a “final order” in a contested case proceeding even when such response is issued after research and analysis of petitioner’s grounds for seeking same and purports to deny petitioner’s claims on the merits, and accordingly, the sixty-day statute of limitations established in Tenn. Code Ann. § 4-5-322(b)(1) is not applicable.).

# COMMONWEALTH OF VIRGINIA



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## STATE CORPORATION COMMISSION DIVISION OF COMMUNICATIONS

November 17, 2010

Ms. Jacqueline Hankins  
Helein & Marshlian, LLC  
The CommLaw Group  
1420 Spring Hill Road, Suite 205  
McLean, Virginia 22102

Dear Ms. Hankins:

This is in response to your October 25, 2010 letter to me on behalf of Boomerang Wireless LLC, d/b/a Ready Mobile ("Boomerang") requesting clarification of the Virginia State Corporation Commission's ("Commission") jurisdiction over the designation of wireless Eligible Telecommunications Carriers ("ETC") in Virginia.

Only one wireless carrier, Virginia Cellular LLC, has sought designation as an ETC in Virginia. In that instance (Case No. PUC010263), by order dated April 9, 2002, the Commission determined, pursuant to Section 214 (e) (6) of the Telecommunications Act of 1996, that Virginia Cellular LLC should apply to the Federal Communications Commission for ETC designation because it had not asserted jurisdiction over CMRS carriers. A copy of this order is enclosed.

Very truly yours,

William Irby

WI/ctj

Enclosure

COMMONWEALTH OF VIRGINIA  
STATE CORPORATION COMMISSION

AT RICHMOND, APRIL 9, 2002

COMMONWEALTH OF VIRGINIA, ex rel.<sup>1</sup>

At the relation of the

STATE CORPORATION COMMISSION

CASE NO. PUC970135

Ex Parte, in re: Implementation  
of Requirements of § 214(e) of the  
Telecommunications Act of 1996

IN RE:

APPLICATION OF VIRGINIA CELLULAR LLC

CASE NO. PUC010263

For designation as an eligible  
telecommunications provider under  
47 U.S.C. § 214(e) (2)

ORDER

On September 15, 1997, the State Corporation Commission ("Commission") established the docket in Case No. PUC970135 to consider the requests of local exchange carriers ("LECs") to be designated as eligible telecommunications carriers ("ETC designation") to receive universal service support pursuant to § 214(e) of the Telecommunications Act of 1996, 47 U.S.C. § 251 et seq., ("Act") and associated Federal Regulations.<sup>1</sup> The Commission's exercise of its jurisdiction under § 214(e) (2) of the Act has been to establish a simple and streamlined process for telecommunications carriers to certify their eligibility with a minimum of regulatory burden placed upon each applicant.

<sup>1</sup> 47 C.F.R. § 54.201-207.

All Virginia carriers receiving an ETC designation have merely been required to file an affidavit which, among other matters, certifies that all requirements of the Act for designation are met.<sup>2</sup>

Until the above-captioned Application was filed in Case No. PUC010263 by Virginia Cellular LLC ("Virginia Cellular" or "Applicant") for ETC designation, these proceedings have been uncontested. This is the first application by a Commercial Mobile Radio Service ("CMRS") carrier for ETC designation.<sup>3</sup> Pursuant to the Order Requesting Comments, Objections, or Requests for Hearing, issued by the Commission on January 24, 2002, the Virginia Telecommunications Industry Association ("VTIA") and NTELOS Telephone Inc. ("NTELOS") filed their respective comments and requests for hearing on February 20, 2002. Virginia Cellular filed Reply Comments on March 6, 2002.<sup>4</sup>

The comments of NTELOS and VTIA both contest the sufficiency of the Application and claim Virginia Cellular has

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<sup>2</sup> See Order issued November 21, 1997, in Case No. PUC970135, pp. 2-4 ("November 21, 1997, Order"). Also, the annual certification procedure to comply with 47 C.F.R. §§ 54.313 and 314 has been reduced to filing a form affidavit approved by the Commission in a Preliminary Order, issued August 29, 2001, in Case No. PUC010172.

<sup>3</sup> Virginia Cellular is a CMRS carrier as defined in 47 U.S.C. § 153(27) and is authorized as the "A-band" cellular carrier for the Virginia 6 Rural Service Area, serving the counties of Rockingham, Augusta, Nelson, and Highland and the cities of Harrisonburg, Staunton, and Waynesboro.

<sup>4</sup> On March 4, 2002, Virginia Cellular filed a Consent Motion requesting until March 6, 2002, to file Reply Comments. There being no objection, we now grant the Consent Motion.

failed to demonstrate how the public interest will be served.<sup>5</sup> NTELOS and VTIA each allude in their comments to other expected applications for ETC designation<sup>1</sup> by wireless and CLEC carriers to follow this case of first impression. For that reason, we are asked by VTIA and NTELOS to convene a hearing and establish certain standards for the provisioning of the nine services specified in 47 C.F.R. § 54.101.<sup>6</sup> Each applicant is required to provide these nine services to be eligible for ETC designation.

VTIA further comments that "[i]t is not clear how the designation of Virginia Cellular as an ETC will affect the distribution of Universal Funds to the existing carriers in any given rural exchange area." Virginia Cellular replies that this "macroeconomic concern" need not be addressed with this Application. Rather, the Federal Communications Commission ("FCC") and the Federal State Joint Board on Universal Service

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<sup>5</sup> § 214(e)(2) of the Act requires that an ETC designation in areas served by a rural telephone company be based upon a finding that the designation is in the public interest. The Commission did recognize in its November 21, 1997, Order that any carrier seeking ETC designation in a rural area would have the burden of proving that such designation is in the public interest if challenged. Virginia Cellular is seeking ETC designation in the service territories of the following rural telephone companies: Shenandoah Telephone Company ("Shenandoah"), Clifton Forge Waynesboro Telephone Company ("NTELOS"), New Hope Telephone Company, North River Cooperative, Highland Telephone Cooperative, and Mountain Grove-Williamsville Telephone Company ("MGW").

<sup>6</sup> The nine services required to be offered include: voice grade access to the public switched network; local usage; dual tone multi-frequency signaling or its functional equivalent; single-party service or its functional equivalent; access to emergency services; access to operator services; access to interexchange service; access to directory assistance; and toll limitation for qualifying low-income consumers. Also, the services must be advertised in appropriate media sources. See In Re: Federal-State Joint Board of Universal Service, Report and Order, CC Docket No. 96-45, ¶ 145 (May 8, 1997) ("Universal Service Report & Order").

are reported by Virginia Cellular to be conducting ongoing proceedings to ensure the solvency of the high-cost support fund.<sup>7</sup> Presumably, VTIA views any public interest served by Virginia Cellular's ETC designation to depend upon whether there would be a consequent diminution of universal service funds.

Virginia Cellular cites the authority of § 214(e)(6) of the Act for this Commission to send Applicant to the FCC for ETC designation if this Commission declines to act on its Application.<sup>8</sup> In its Reply Comments, Virginia Cellular reports that the "FCC has been actively processing ETC applications on behalf of states which have declined to exercise jurisdiction [over CMRS carriers]. Its internal processing time has been six months, and it has met that timeline in almost all of its proceedings [and] . . . most, if not all of the issues raised by the commenters have been previously addressed by the FCC in its prior orders involving applications for ETC status."<sup>9</sup>

The Commission finds that § 214(e)(6) of the Act is applicable to Virginia Cellular's Application as this Commission has not asserted jurisdiction over CMRS carriers and that the

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<sup>7</sup> Reply Comments at p. 5.

<sup>8</sup> Pursuant to § 332(c)(3), 47 U.S.C. § 332(c)(3), state regulation of the entry of or the rates charged by any commercial mobile service or any private mobile service is preempted. The Commission has deregulated all Virginia radio common carriers and cellular mobile radio communications carriers. See Final Order issued October 23, 1995, Case No. PUC950062.

<sup>9</sup> Reply Comments at p. 3.

Applicant should apply to the FCC for ETC designation.<sup>10</sup> The Applicant points out that if Virginia Cellular is designated as an ETC carrier, then the Commission must redefine the service areas of NTELOS and Shenandoah, pursuant to 47 C.F.R.

§ 54.207(c).<sup>11</sup> The Applicant has indicated a willingness to propose a plan to redefine these companies' service areas and may submit such a plan with its application to the FCC for ETC designation.

If necessary, this Commission will participate with the FCC and Federal-State Joint Board in redefining the service areas of NTELOS and Shenandoah for "the purpose of determining universal service obligations and support mechanisms." (47 C.F.R.

§ 54.207(a))<sup>12</sup> Although the FCC will make the final determination on Virginia Cellular's requests, we need to leave this docket open in case there is additional action we must take with respect to defining the service areas of NTELOS and Shenandoah.<sup>13</sup>

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<sup>10</sup> The action is similar to that taken by the Commission in Case No. PUC010172 in its August 29, 2001, Order that required cooperatives to certify directly with the FCC.

<sup>11</sup> The Commission believes that the service area of MGW does not necessarily need to be redefined if Virginia Cellular is designated as an ETC in that territory. However, if the FCC determines otherwise, the Commission will consider additional action if necessary.

<sup>12</sup> Pursuant to 47 C.F.R. § 54.207(c), if the Applicant proposes to redefine these two companies' service areas, the FCC's procedures require the Commission's agreement on the definitions.

<sup>13</sup> At this juncture, it is unclear whether the Commission will need to address the redefinitions once disaggregation plans are filed at the FCC pursuant to 47 C.F.R. § 54.315(a).



NOW UPON CONSIDERATION of all the pleadings of record and the applicable law, the Commission is of the opinion that Virginia Cellular should request the FCC to grant the requested ETC designation, pursuant to 47 U.S.C. § 214(e)(6).

Accordingly, IT IS ORDERED THAT Case No. PUC010263 will remain open for further order of the Commission.

AN ATTESTED COPY hereof shall be sent by the Clerk of the Commission to: all LECs certified in the Commonwealth of Virginia, as set out in Appendix A of this Order; David A. LaFuria, Esquire, Lukas Nace Gutierrez & Sachs, 1111 Nineteenth Street, N.W., Suite 1200, Washington, D.C. 20036; C. Meade Browder, Jr., Senior Assistant Attorney General, Division of Consumer Counsel, Office of Attorney General, 900 East Main Street, Second Floor, Richmond, Virginia 23219; William F. Caton, Acting Secretary, Federal Communications Commission, Office of the Secretary, 445 12th Street, S.W., Washington, D.C. 20554; and the Commission's Office of General Counsel and Division of Communications.

# **EXHIBIT C**

State	SAC	Study Area Name	Rural or Non-Rural
AL	255181	SO CENTRAL BELL-AL	Non-rural
AL	259788	CENTURYTEL-AL-SOUTH	Non-rural
AL	259789	CENTURYTEL-AL-NORTH	Non-rural
AL	250282	BLOUNTSVILLE TEL CO	Rural
AL	250283	BRINDLEE MOUNTAIN	Rural
AL	250284	BUTLER TEL CO	Rural
AL	250285	CASTLEBERRY TEL CO	Rural
AL	250286	NATIONAL OF ALABAMA	Rural
AL	250290	FARMERS TELECOM COOP	Rural
AL	250295	GRACEBA TOTAL COMM	Rural
AL	250298	GULF TEL CO - AL	Rural
AL	250299	HAYNEVILLE TEL CO	Rural
AL	250300	HOPPER TELECOM.CO	Rural
AL	250301	FRONTIER-LAMAR CNTY	Rural
AL	250302	WINDSTREAM AL	Rural
AL	250304	MILLRY TEL CO	Rural
AL	250305	MON-CRE TEL COOP	Rural
AL	250306	FRONTIER COMM.-AL	Rural
AL	250307	MOUNDEVILLE TEL CO	Rural
AL	250308	NEW HOPE TEL COOP	Rural
AL	250311	OAKMAN TEL CO (TDS)	Rural
AL	250312	OTELCO TELEPHONE LLC	Rural
AL	250314	PEOPLES TEL CO	Rural
AL	250315	PINE BELT TEL CO	Rural
AL	250316	RAGLAND TEL CO	Rural
AL	250317	ROANOKE TEL CO	Rural
AL	250318	FRONTIER COMM-SOUTH	Rural
AL	250322	UNION SPRINGS TEL CO	Rural
CT	132454	THE WOODBURY TEL CO	Rural
CT	135200	SOUTHERN NEW ENGLAND	Non-rural
DC	575020	VERIZON WA, DC INC.	Non-rural
DE	565010	VERIZON DELAWARE INC	Non-rural
FL	210328	VERIZON FLORIDA	Non-rural
FL	210291	GTC, INC.	Rural
FL	210318	FRONTIER COMM-SOUTH	Rural
FL	210329	GTC, INC.	Rural
FL	210330	SMART CITY TEL LLC	Rural
FL	210331	ITS TELECOMM. SYS.	Rural
FL	210335	NORTHEAST FLORIDA	Rural
FL	210336	WINDSTREAM FL	Rural
FL	210338	QUINCY TEL CO-FL DIV	Rural
FL	210339	GTC, INC.	Rural
FL	210341	EMBARQ FLORIDA INC. FKA SPRINT	Rural
NC	230479	FRONTIER COMMUNICATIONS OF THE CAROLINAS, INC.	Non-rural
NC	230509	FRONTIER COMMUNICATIONS OF THE CAROLINAS, INC.	Non-rural

State	SAC	Study Area Name	Rural or Non-Rural
NC	230864	VERIZON SOUTH INC. DBA NORTH CAROLINA	Non-rural
NC	235193	SOUTHERN BELL-NC	Non-rural
NC	230468	ATLANTIC MEMBERSHIP	Rural
NC	230469	BARNARDSVILLE TEL CO	Rural
NC	230470	CAROLINA TEL & TEL	Rural
NC	230471	CENDEL OF NC	Rural
NC	230473	CITIZENS TEL CO	Rural
NC	230474	CONCORD TEL CO	Rural
NC	230476	WINDSTREAM NC	Rural
NC	230478	ELLERBE TEL CO	Rural
NC	230483	LEXCOM TELEPHONE CO.	Rural
NC	230485	MEBTEL, INC.	Rural
NC	230491	N.ST. DBA N. ST.COMM	Rural
NC	230494	PINEVILLE TEL CO	Rural
NC	230495	RANDOLPH TEL CO	Rural
NC	230496	RANDOLPH MEMBERSHIP	Rural
NC	230497	PIEDMONT MEMBERSHIP	Rural
NC	230498	SALUDA MOUNTAIN TEL	Rural
NC	230500	SERVICE TEL CO	Rural
NC	230501	SKYLINE MEMBERSHIP	Rural
NC	230502	STAR MEMBERSHIP CORP	Rural
NC	230503	SURRY MEMBERSHIP	Rural
NC	230505	TRI COUNTY TEL MEMBR	Rural
NC	230510	WILKES MEMBERSHIP	Rural
NC	230511	YADKIN VALLEY TEL	Rural
NH	125113	NORTHERN NEW ENGLAND TELEPHONE OPERATIONS LLC	Non-rural
NH	120038	BRETTON WOODS TEL CO	Rural
NH	120039	GRANITE STATE TEL	Rural
NH	120042	DIXVILLE TEL CO	Rural
NH	120043	DUNBARTON TEL CO	Rural
NH	120045	KEARSARGE TEL CO	Rural
NH	120047	MERRIMACK COUNTY TEL	Rural
NH	120049	UNION TEL CO	Rural
NH	120050	WILTON TEL CO - NH	Rural
NH	123321	MCTA, INC.	Rural
NY	150121	FRONTIER-ROCHESTER	Non-rural
NY	155130	VERIZON NEW YORK	Non-rural
NY	150071	ARMSTRONG TEL CO-NY	Rural
NY	150072	FRONTIER-AUSABLE VAL	Rural
NY	150073	BERKSHIRE TEL CORP	Rural
NY	150076	CASSADAGA TEL CORP	Rural
NY	150077	CHAMPLAIN TEL CO	Rural
NY	150078	CHAUTAUQUA & ERIE	Rural
NY	150079	CHAZY & WESTPORT	Rural
NY	150081	CITIZENS HAMMOND NY	Rural

State	SAC	Study Area Name	Rural or Non-Rural
NY	150084	TACONIC TEL CORP	Rural
NY	150085	CROWN POINT TEL CORP	Rural
NY	150088	DELHI TEL CO	Rural
NY	150089	DEPOSIT TEL CO	Rural
NY	150091	DUNKIRK & FREDONIA	Rural
NY	150092	EDWARDS TEL CO	Rural
NY	150093	EMPIRE TEL CORP	Rural
NY	150095	FISHERS ISLAND TEL	Rural
NY	150097	GERMANTOWN TEL CO	Rural
NY	150099	HANCOCK TEL CO	Rural
NY	150100	FRONTIER COMM OF NY	Rural
NY	150104	MARGARETVILLE TEL CO	Rural
NY	150105	MIDDLEBURGH TEL CO	Rural
NY	150106	WINDSTREAM NY-FULTON	Rural
NY	150107	NEWPORT TEL CO	Rural
NY	150108	NICHOLVILLE TEL CO	Rural
NY	150109	WINDSTREAM-JAMESTOWN	Rural
NY	150110	OGDEN TEL DBA FRNTER	Rural
NY	150111	ONEIDA COUNTY RURAL	Rural
NY	150112	ONTARIO TEL CO, INC.	Rural
NY	150113	WINDSTREAM RED JACKT	Rural
NY	150114	ORISKANY FALLS TEL	Rural
NY	150116	PATTERSONVILLE TEL	Rural
NY	150118	PORT BYRON TEL CO	Rural
NY	150121	FRONTIER-ROCHESTER	Rural
NY	150122	FRONTIER-SENECA GORH	Rural
NY	150125	STATE TEL CO	Rural
NY	150128	FRONTIER-SYLVAN LAKE	Rural
NY	150129	TOWNSHIP TEL CO	Rural
NY	150131	TRUMANSBURG TEL CO.	Rural
NY	150133	VERNON TEL CO	Rural
NY	150135	WARWICK VALLEY-NY	Rural
NY	154532	CITIZENS-FRONTIER-NY	Rural
NY	154533	CITIZENS-FRONTIER-NY	Rural
NY	154534	CITIZENS-FRONTIER-NY	Rural
TN	290280	ARDMORE TEL CO	Rural
TN	290552	CENTURYTEL-ADAMSVILL	Rural
TN	290553	BEN LOMAND RURAL	Rural
TN	290554	BLED SOE TEL COOP	Rural
TN	290557	CENTURY-CLAIBORNE	Rural
TN	290559	CONCORD TEL EXCHANGE	Rural
TN	290561	CROCKETT TEL CO	Rural
TN	295185	SO. CENTRAL BELL -TN	Non-rural
TN	290562	DEKALB TEL COOP	Rural
TN	290565	HIGHLAND TEL COOP-TN	Rural

State	SAC	Study Area Name	Rural or Non-Rural
TN	290566	HUMPHREY'S COUNTY	Rural
TN	290567	UNITED INTER-MT-TN	Rural
TN	290570	LORETTO TEL CO	Rural
TN	290571	MILLINGTON TEL CO	Rural
TN	290573	NORTH CENTRAL COOP	Rural
TN	290574	CENTURYTEL-OOLTEWAH	Rural
TN	290575	TENNESSEE TEL CO	Rural
TN	290576	PEOPLES TEL CO	Rural
TN	290578	TELLICO TEL CO	Rural
TN	290579	TWIN LAKES TEL COOP	Rural
TN	290580	CTZENS-FRNTR-VOL ST	Rural
TN	290581	UTC OF TN	Rural
TN	290583	WEST TENNESSEE TEL	Rural
TN	290584	YORKVILLE TEL COOP	Rural
TN	290598	WEST KENTUCKY RURAL TELEPHONE	Rural
TN	294336	CITIZENS-FRONTIER-TN	Rural
VA	195040	VERIZON VIRGINIA INC	Non-rural
VA	190233	VERIZON S-VA(CONTEL)	Non-rural
VA	190217	AMELIA TEL CORP	Rural
VA	190219	BUGGS ISLAND COOP	Rural
VA	190220	BURKE'S GARDEN TEL	Rural
VA	190225	CITIZENS TEL COOP	Rural
VA	190226	NTELOS, INC.	Rural
VA	190237	HIGHLAND TEL COOP	Rural
VA	190238	MGW TEL. CO. INC.	Rural
VA	190239	NEW HOPE TEL COOP	Rural
VA	190243	PEMBROKE TEL COOP	Rural
VA	190244	PEOPLES MUTUAL TEL	Rural
VA	190248	SCOTT COUNTY COOP	Rural
VA	190249	ROANOKE & BOTETOURT	Rural
VA	190250	SHENANDOAH TEL CO	Rural
VA	190253	VIRGINIA TEL CO	Rural
VA	190254	CENDEL OF VIRGINIA	Rural
VA	190479	VERIZON SOUTH-VA	Rural
VA	190567	UNITED INTER-MT-VA	Rural
VA	193029	NEW CASTLE TEL. CO.	Rural
VA	197251	SHENANDOAH TELEPHONE COMPANY - NR	Rural

## Terms Of Service

### **enTouch Wireless Terms and Conditions for Communication Services**

Effective as of May 6, 2013 until replaced.

Thank you for choosing enTouch Wireless powered by Boomerang Wireless (“enTouch Wireless”). These terms and conditions are part of your agreement with enTouch Wireless for Mobile Services. For the most current version of the terms and conditions, please visit our website at [www.enTouchwireless.com](http://www.enTouchwireless.com) or call Customer Service at 1.866.488.8719. The terms and conditions included with your Mobile phone may not be the most current version. If you activated Mobile Services before the effective date of these terms and conditions, these terms and conditions replace and supersede any previous terms and conditions. If you have questions about your enTouch Wireless Services, call enTouch Wireless Customer Service at 1.866.488.8719 or visit our website at [www.enTouchwireless.com](http://www.enTouchwireless.com)

Your agreement ("Agreement") with enTouch Wireless powered by Boomerang Wireless and any of its affiliates doing business as enTouch Wireless providing mobile phone services ("Services") to you is made up of these terms and conditions of service ("Terms"). We use the words "we," "us" or "our" to refer to enTouch Wireless powered by Boomerang Wireless and its affiliates doing business as enTouch Wireless in these Terms. When you activate Services or attempt to use our Services (including, without limitation, attempting to place a call) you accept the Agreement.

**Provision of Service:** Your free phone or purchased digital mobile phone or other equipment does not mean that we must provide Services to you. We may decide not to provide Services to you for any lawful reason. We may request that you provide us with any information we reasonably require to determine whether you qualify or are eligible under federal guidelines for Services. Services in some areas are managed and provided under contract with enTouch Wireless by independent affiliates to our network provider. Some Services may not be available or may operate differently in certain affiliate markets.

**Changes to Agreement:** We may change this Agreement at any time. Any changes to the Terms are effective when we publish the revised Terms. If you use our Services or make any payment to us on or after the effective date of the changes, you accept the changes. If you do not accept the changes, you may terminate Services. For purposes of the Agreement, "use" includes keeping the right to access the enTouch Wireless Coverage Area by not terminating Services. You may not modify the Agreement.

**Use of Services and Equipment; Availability:** Services and equipment may not be used for any unlawful, fraudulent or abusive purpose. EnTouch Wireless service is for personal use only. By requesting Services, you agree that you will not use Services and equipment in any unlawful, fraudulent or abusive manner. This service may not be used in a manner that interferes with other EnTouch Wireless customer's use of the service. Service levels of other customers may be impaired when users place abnormally high numbers of calls, send or receive very high numbers of messages, or repeatedly make calls of abnormally long duration compared with other EnTouch Wireless customers. Atypical usage of this type suggests that a mobile phone is being

used for other than personal usage and in violation of the EnTouch Wireless Terms of Service. Services are strictly for live dialog between individuals. Services may not be used for monitoring services, data transmissions or other connections that do not consist of live dialog between two individuals. Services are available within the operating range of the EnTouch Wireless Coverage Area. Coverage and quality of Services may be affected by conditions within or beyond our control, including atmospheric, geographic, or topographic conditions. We do not guarantee that there will be no interruptions or delays in Services. Your EnTouch Wireless phone will not accept the services of any wireless provider other than EnTouch Wireless.

**Phone Number:** We assign telephone numbers and other personal identifiers in connection with the Services. Unless we provide you advance notice, you have no proprietary right to any such identifiers, and we reserve the right to change them upon notice to you. You do not have any property right to your phone number. It may be changed or reassigned. In the event that you become entitled to transfer a personal identifier to another party to obtain any Services we provide you, we reserve the right, prior to honoring the request for transfer, to charge a fee for the transfer and to collect any money owed by you for Services and Equipment.

**Charges:** You will receive free airtime as part of your EnTouch Wireless service. Airtime is used in one-minute increments and any fraction of a minute is rounded up and charged at the full minute rate; calls are measured from the time the network begins to process the call (before the phone rings or the call is answered) through the termination of the call. You may also choose to add Airtime through a Top Up card or other commerce channel. This airtime may be invalidated if not paid for by the retailer. Directory assistance calls are free to you, but you will be billed for normal airtime. Any rollover minutes associated with a plan offering expire after 60 days from the date the minutes were issued. For most forms of wireless Service, your usage will be charged from the time you first initiate contact between your phone or other wireless device and the network until the network connection is broken, whether or not you are successful in connecting with the service with which you seek to connect, even if the connection is later broken or dropped. Your account is not charged for voice calls that are not completed. You are charged for completed calls to your Number from the time shortly before the phone starts ringing until the call is terminated by either party.

**Lifeline Activity Alerts and Other Text Messages:** EnTouch Wireless will use text messaging to keep in touch with you for things like:

- Balance Alerts
- Activation Status
- Product Offers
- Reload Specials

When you sign up for Lifeline Services with EnTouch Wireless you are asked to OPT IN to receive these messages. You can also choose to not receive these messages. If you choose to OPT OUT of text messages, then the only text messages you will receive are the Lifeline notifications required by the FCC, such as the 30-day non-usage notice, the recertification notices, etc. The customer cannot opt out of the required FCC notifications.



If you choose to OPT IN for these messages, they will be delivered to you based on your phone usage. You must use your phone every 60-days to maintain your Lifeline benefits. (See ‘SERVICES, Prepaid Services’ for more information on maintaining an active account.) You must also recertify annually that you are eligible for Lifeline services.

**~Shortcode 9127 from your Sprint powered phone:** At any time, you may stop receiving EnTouch Wireless Lifeline Activity Alerts. Text **STOP** to 9127 about any message received to discontinue receiving that message. You can also call 866.488.8719 to OPT OUT of EnTouch Wireless messaging or send an email to [support@enTouchwireless.com](mailto:support@enTouchwireless.com). The customer cannot opt out of the required FCC notifications.

To receive SMS HELP dial 611 on your phone, or from another phone call 866.488.8719. You can also email us at [support@enTouchwireless.com](mailto:support@enTouchwireless.com).

**~Shortcodes 2560 and 2561 from your Verizon powered phone:** At any time, you may STOP receiving EnTouch Wireless Lifeline Activity Alerts. Text **STOP** to 2560 or 2561 about any message received to discontinue receiving that message. You can also call 866.488.8719 to OPT OUT of EnTouch Wireless messaging or send an email to [support@enTouchwireless.com](mailto:support@enTouchwireless.com). The customer cannot opt out of the required FCC notifications.

To receive SMS HELP dial 611 on your phone, or from another phone call 866.488.8719. You can also email us at [support@enTouchwireless.com](mailto:support@enTouchwireless.com).

**~Shortcodes 37046 or 40262 from any phone:** At any time, you may STOP receiving EnTouch Wireless Lifeline Activity Alerts. Text **STOP** to 37046 or 40262 about any message received to discontinue receiving that message. You can also call 866.488.8719 to OPT OUT of EnTouch Wireless messaging or send an email to [support@enTouchwireless.com](mailto:support@enTouchwireless.com). The customer cannot opt out of the required FCC notifications.

To receive SMS HELP dial 611 on your phone, or from another phone call 866.488.8719. You can also email us at [support@enTouchwireless.com](mailto:support@enTouchwireless.com).

**Notices:** You may get our current address for written notice by calling EnTouch Wireless Customer Service. Written notice is deemed delivered 3 days after deposit in the U.S. mail, postage prepaid, and properly addressed. Unless required by this Agreement or Applicable Laws, (1) you may notify us by calling EnTouch Wireless Customer Service, and (2) we may notify you by leaving a message for you on your EnTouch Wireless Phone, answering machine or with your answering service. Notice addresses may be changed by giving notice as provided in this section.

**Phones and Other Equipment:** Phones and other equipment may be provided at no charge to you as part of the EnTouch Wireless offering. Phones, which are refurbished, and other equipment may also be purchased and returned as provided in the purchase documents. We are not the manufacturer of the phones or other equipment. The only warranties on the phones or other equipment are any limited warranties extended by the manufacturers. We have no liability in connection with the phones and other equipment or for the manufacturers' acts or omissions.

**Lost or Stolen Equipment:** If your phone or other equipment is lost or stolen, you must notify us by calling EnTouch Wireless Customer Service. You are responsible for all charges for Services provided to the Number for the lost or stolen equipment. We will deactivate Services to the Number upon notification to us of any loss or theft. If the equipment is later found, we may require that you exchange it for another phone or other equipment before we reactivate Services (if we do reactivate Services), as well as require you to pay a reactivation or replacement fee of \$25.00. You will need to send a money order or prepay via credit card before we reactivate or send a replacement phone. We will deactivate Services to any Number without prior notice to you if we suspect any unlawful or fraudulent use of the Number. You agree to cooperate reasonably with us in investigating suspected unlawful or fraudulent use.

**Caller ID:** Caller ID display on incoming calls to your Number depends on receiving the information from the calling party.

**Pay-Per-Call Service:** EnTouch Wireless will not complete calls from your Number to 900, 976 and similar numbers for pay-per-call services.

**Limitation of Liability:** Except as otherwise provided in this section, our sole liability to you for any loss or damage arising out of providing or failing to provide Services (including mistakes, omissions, interruptions, delays, errors, or defects) does not exceed (1) in cases related to a specific piece of equipment, the prorated Services to the piece of equipment during the affected period, or (2) in cases not related to a specific piece of equipment, the prorated Services to you during the affected period.

Neither we nor our vendors, suppliers or licensors are liable for any damage arising out of or in connection with:

- any act or omission of any telecommunications service or other service provider other than us;
- any directory listing;
- any dropped calls or inability to place or receive calls;
- any interruption of Services, including interruptions caused by equipment or facilities failure or shortages, transmission limitations or system capacity limitations;
- traffic or other accidents, or any health-related claims allegedly arising from the use of Services, phones, equipment or accessories used in connection with the Services;
- any late or failed message delivery;

- any interruption or failure of 911 or E911 emergency services or identification of the Number, address or name associated with any person accessing or attempting to access emergency services from your phone;
- the installation or repair of any products or equipment by parties who are not our authorized employees or agents;
- events due to factors beyond our control, including acts of God (including, without limitation, weather-related phenomena, fire or earthquake), war, riot, strike, or orders of governmental authority;
- any act or omission of any third party or independent contractor that offers products or services in conjunction with or through the Services; or
- your negligent or intentional act or omission.
- **NO CONSEQUENTIAL OR OTHER DAMAGES: UNDER NO CIRCUMSTANCES ARE WE LIABLE FOR ANY INCIDENTAL, CONSEQUENTIAL, PUNITIVE OR SPECIAL DAMAGES OF ANY NATURE WHATSOEVER ARISING OUT OF OR IN CONNECTION WITH PROVIDING OR FAILING TO PROVIDE SERVICES, PHONES OR OTHER EQUIPMENT USED IN CONNECTION WITH THE SERVICES, INCLUDING, WITHOUT LIMITATION, LOST PROFITS, LOSS OF BUSINESS, OR COST OF REPLACEMENT PRODUCTS AND SERVICES. THIS SECTION SURVIVES TERMINATION OF THIS AGREEMENT.**

**Indemnification:** You indemnify and defend us, our partners, directors, officers, employees and agents from and against any claim, action, damage, liability and expense arising out of or in connection with: (1) your acts or omissions that occur in connection with your use of the Services or equipment used in connection with the Services, and (2) any communications you make or receive using the Services. This indemnification extends to and includes any attorney's fees and costs incurred by us arising from any actions or claims to which this indemnification applies, or from the contesting of the applicability of this provision. This section survives termination of this Agreement.

**Governing law:** For the state of Minnesota:

For services provided pursuant to the Lifeline program, this Agreement is governed by and must be construed under federal law and the laws of the State of Minnesota, without regard to choice of law principles. You agree to submit yourself to the personal jurisdiction of the courts in the State of Minnesota.

For services other than those provided pursuant to the Lifeline program, equipment, and top-up cards, which are not a part of the Lifeline program, this Agreement is governed by and must be construed under federal law and the laws of the State of Iowa, without regard to choice of law principles. You agree to submit yourself to the personal jurisdiction of the courts in the State of Iowa.

**Governing law:** For all states except for Minnesota:

This Agreement is governed by and must be construed under federal law and the laws of the State of Iowa, without regard to choice of law principles. You agree to submit yourself to the person jurisdiction of the courts in the state of Minnesota.

**General:** If either of us does not enforce any right or remedy available under this Agreement, that failure is not a waiver of the right or remedy for any other breach or failure by the other party. Our waiver of any requirement in any one instance is not a general waiver of that requirement and does not amend this Agreement. If any part of this Agreement is held invalid or unenforceable, that part is interpreted consistent with applicable laws as nearly as possible to reflect the original intentions of the parties and the rest of this Agreement remains in full force and effect. You may not assign this Agreement to any other person or entity without our prior written approval. This Agreement (including any referenced documents and attachments) makes up the entire agreement between you and us and replaces all prior written or spoken agreements, representations, promises or understandings between you and us. The provisions of this Agreement that are contemplated to be enforceable after the termination of this Agreement survive termination of this Agreement.

**Copyright and Trademark:** Trademarks, product names, and company names and logos appearing on EnTouch Wireless are the property of their respective owners. Users must obtain permission from EnTouch Wireless before copying or using the owner's trademarks, product names and company names and logos.

**SERVICE, Prepaid Services:** Upon certification of eligibility, and continuing eligibility, you will receive free voice services. This positive account balance will be applied every 30 days on the anniversary of your service activation. You must maintain an ACTIVE ACCOUNT every 60 days: by having usage (inbound or outbound), by buying additional product, by responding affirmatively to our queries regarding your desire to continue to receive services. You may also elect to purchase additional services, including additional voice minutes, text plans, etc. When purchasing prepaid services, you are responsible for prepaying all charges for using the service. The balance in your prepaid account is reduced by the charges attributable to your use of the service. You must keep a positive balance in your prepaid account to continue using the service. Anyone who purchases or uses the service, with or without the purchaser's consent is considered a user and subject to the terms and conditions.

**Service Limits and Coverage Maps:** Service is available to your handset only when it is within the range of our system or of an operator with which we have an applicable agreement. Coverage maps you may have viewed are only estimates; actual service coverage and service quality may vary, and are not guaranteed under the terms and conditions.

**Misuse of Service:** You have certified your eligibility to receive free services under the federally funded Lifeline program. If your eligibility to participate in this program changes, you agree to immediately notify EnTouch Wireless at 1.866.488.8719. You agree not to use the service or modify your handset in any fraudulent, unlawful, harassing, or abusive purpose, or in such a way as to create damage or risk to our business. Service is provided at our discretion and if terms and conditions are violated we can terminate your wireless service without any further notification or obligation to you. All rates and fees are subject to change without notice. Service provided is

subject to our business policies, which can change without notice. Visit [www.enTouchwireless.com](http://www.enTouchwireless.com) for current rates and information. For Customer Care, call 1.866.488.8719. To dispute charges you must notify us within 15 days of the date of the disputed call. Terms and conditions can be modified without notice; visit [www.enTouchwireless.com](http://www.enTouchwireless.com) for current terms and conditions.

**Exchange Policy:** Defective handsets or other defective equipment provided at no cost to you may be eligible for exchange. This policy does not apply to breakage caused by customer negligence or water damage. Note that the exchange policy, including the number of days for exchange, may be changed without notice and the policy may not apply to certain products. To exchange a defective handset, please call Customer Service at 1.866.488.8719 to obtain a Return Authorization and shipping instructions. You must return the product at your expense, complete with all accessories that came with the handset, in the original box with all materials and package inserts within 30 days of receiving the handset. Phones returned after 30 days will require a replacement fee of \$25.00 before the replacement phone is mailed. The replacement fee may be paid by sending a money order or prepaying via credit card. Upon EnTouch Wireless' receipt of the returned product, EnTouch Wireless will ship you the replacement handset. Any other disputes should be handled by Customer Service. If you do not dispute any charge on your account prior to its going inactive or within 30 days of the date of the receipt, whichever comes first, you give up your right to dispute.

**Concerns, Complaints or Disputes:** If you have questions, concerns, comments or complaints, please contact EnTouch Wireless at [www.enTouchwireless.com](http://www.enTouchwireless.com) or call Customer Care by dialing 611 from your cell phone (does not use your Lifeline minutes) or dialing 1-866-488-8719 from another phone.

**~Applicable Time Frames:** If disputing charges, you must notify EnTouch Wireless within 15 days of the date of the disputed call. If you do not dispute any charge on your account prior to the account going inactive or within 30 days of the date of the charge or the date of receipt a replacement phone, whichever comes first, you give up your right to dispute.

**~State Commission Contact:** After contacting EnTouch Customer Service and before proceeding to Arbitration, you may also contact the applicable state commission who are also committed to addressing customer concerns and complaints.

**Colorado Public Utilities Commission**

Consumer Affairs,  
1560 Broadway, Suite 250  
Denver, Colorado 80202

- **Phone:** 303-894-2070
- **Toll Free:** 800-456-0858
- **Fax:** 303-894-2532
- **E-mail:** [dora\\_puc\\_complaints@state.co.us](mailto:dora_puc_complaints@state.co.us)
- **Link:** <http://www.dora.state.co.us/PUC./consumerassistance.htm>

**Kansas Corporation Commission,**  
Office of Public Affairs and Consumer Protection,  
1500 SW Arrowhead Road,  
Topeka, KS 66604,

- **in Topeka:** (785) 271-3140
- **Toll Free:** (800) 662-0027
- **Hearing or speech impaired at TDD Kansas Relay Center:** (800) 766-3777
- **Link:** <http://www.kcc.state.ks.us/pi/index.htm>

**Minnesota Public Utilities Commission**  
121 7th Place E., Suite 350  
Saint Paul, MN 55101-2147

- **Consumer Assistance:** 651.296.0406
- **Administration:** 651.296.7124
- **Toll Free:** 800.657.3782
- **Fax:** 651.297.7073
- **Link:** <http://www.puc.state.mn.us/puc/consumers/index.html>

**Arbitration:** Any dispute arising out of the Agreement or relating to the Services and Equipment must be settled by arbitration administered by the American Arbitration Association in Des Moines, Iowa. Information regarding this procedure may be found at [www.adr.org](http://www.adr.org). Each party will bear the cost of preparing and prosecuting its case. We will reimburse you for any filing or hearing fees to the extent they exceed what your court costs would have been if your claim had been resolved in a state court having jurisdiction. The arbitrator has no power or authority to alter or modify the Agreement, including the foregoing Limitation of Liability section. All claims must be arbitrated individually, and there will be no consolidation or class treatment of any claims. This provision is subject to the Federal Arbitration Act.

**No Warranties by EnTouch Wireless:** ENTOUCH WIRELESS MAKES NO EXPRESS REPRESENTATIONS OR WARRANTIES ABOUT ITS SERVICES AND DISCLAIMS ANY IMPLIED WARRANTIES, INCLUDING, BUT NOT LIMITED TO, IMPLIED WARRANTIES OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE. ENTOUCH WIRELESS DOES NOT AUTHORIZE ANYONE TO MAKE A WARRANTY OF ANY KIND ON ITS BEHALF AND USER MAY NOT RELY ON ANY STATEMENT OF WARRANTY.

**Limitation of Liability:** Neither EnTouch Wireless nor any of its affiliates, nor the directors, employees or other representatives of any of them are liable for damages arising out of or in connection with the use of the products or services. This is a comprehensive limitation of liability that applies to all damages of any kind, including compensatory, direct, indirect or consequential damages, loss of data, income or profit, loss of or damage to property and claims of third parties.

**Termination of Access:** EnTouch Wireless may terminate your access without notice, for any conduct that EnTouch Wireless, in its sole discretion, believes to be harmful to individual users, EnTouch Wireless or any of its affiliates, or any rights of EnTouch Wireless or any third party, or to violate applicable laws.

**Change in User Agreement:** EnTouch Wireless may modify this User Agreement at any time by posting the revised agreement on the website. Any revised User Agreement is effective upon the user accessing the website.

# SAMSUNG A870

Manufacture: SAMSUNG

Model: A870

Notes: This CDMA phone sports a clamshell design, Bluetooth, and a Video Graphic Array camera with flash. Other features include dual color display and speakerphone.



## SPECIFICATIONS

Feature	Description	Notes
<i>Modes</i>	<b>CDMA 850/1900</b>	850 is CDMA technology operating in the Cellular (850 MHz) frequency band
<i>Location Options</i>	<b>GPS/Location Type:A-GPS</b>	Assisted GPS. A type of handset-based position location technology.
<i>Display</i>	<b>LCD Color External Display</b>	Resolution 128x160 pixels 96x96 pixels
<i>Web Browser</i>	<b>WAP/Web Browser</b>	Also known as "Wireless Internet", "Wireless Web", or "Mobile Web". WAP 2.0
<i>Messaging Options</i>	<b>Picture Messaging  Text Messaging MMS</b>	Send pictures through a message  SMS short messaging MMS extends text messaging to include longer text, graphics, photos, audio clips, or video clips.
<i>Camera</i>	<b>Resolution: 176x220 pixels</b>	LED Flash/ self-timer, white balance control
<i>Productivity Tools</i>	<b>Calendar Predictive Text Entry Voice Memos  Calculator Alarm</b>	Daily, Monthly, Yearly calendar Technology T9 Voice Memo lets you record and store short voice messages that you can play back at any time. Multi-function tip calculator Multi-function alarm
<i>Other Functions</i>	<b>English,Spanish  USB Storage Capability  Bluetooth  Ringtones</b>	Language versatility allows non-English speaking users easier phone use USB is an industry-standard type of plug-in connection that is used to connect devices, including phones, to desktop or laptop computers. Bluetooth is a short-range wireless technology used to create Personal Area Networks with other devices and your own. This allows user to create or receive polyphonic or custom ringtones.



Phone features are available on the hardware. The feature may not be available on all service plans. Please review with your Account Manager.



# MOTOROLA WH385

Manufacture: MOTOROLA

Model: WH385

Notes: This basic CDMA phone combines elements of RAZR styling with features such as Bluetooth, GPS, a Video Graphics Array camera, and advanced voice dialing.



## SPECIFICATIONS

Feature	Description	Notes
<i>Modes</i>	<b>CDMA 850/1900</b>	850 is CDMA technology operating in the Cellular (850 MHz) frequency band
<i>Location Options</i>	<b>GPS/Location Type:A-GPS</b>	Assisted GPS. A type of handset-based position location technology.
<i>Display</i>	<b>LCD Color 1.8" diagonal</b>	Resolution 128x160 pixels
<i>Web Browser</i>	<b>WAP/Web Browser</b>	Also known as "Wireless Internet", "Wireless Web", or "Mobile Web".
<i>Messaging Options</i>	<b>Picture Messaging</b> <b>Text Messaging</b> <b>MMS</b>	Send pictures through a message SMS short messaging MMS extends text messaging to include longer text, graphics, photos, audio clips, or video clips.
<i>Camera</i>	<b>Resolution: VGA 640x480</b>	1+ megapixel/ self-timer, night mode functions / brightness, white balance controls
<i>Productivity Tools</i>	<b>Calendar</b> <b>Predictive Text Entry</b> <b>Voice Memos</b>  <b>Calculator</b> <b>Alarm</b>	Daily, Monthly, Yearly calendar Technology T9 Voice Memo lets you record and store short voice messages that you can play back at any time. Multi-function tip calculator Multi-function alarm
<i>Other Functions</i>	<b>English,Spanish</b> <b>External Display</b>  <b>USB Storage Capability</b>  <b>Bluetooth</b>  <b>Ringtones</b>	Language versatility allows non-English speaking users easier phone use Monochrome LCD 96x32 pixels USB is an industry-standard type of plug-in connection that is used to connect devices, including phones, to desktop or laptop computers. Bluetooth is a short-range wireless technology used to create Personal Area Networks with other devices and your own. This allows user to create or receive polyphonic or custom ringtones.



Phone features are available on the hardware. The feature may not be available on all service plans. Please review with your Account Manager.

# LG WVX8300

Manufacture: LG

Model: WVX8300

Notes: Sports a stereo Bluetooth and a customizable Flash interface. 3G high speed data, a megapixel camera, and dual color display.



## SPECIFICATIONS

Feature	Description	Notes
<i>Modes</i>	<b>AMPS 850, CDMA 850/1900</b>	850 is CDMA technology operating in the Cellular (850 MHz) frequency band
<i>Location Options</i>	<b>GPS/Location</b>	This will allow operators to immediately receive your location when you call 911
<i>Display</i>	<b>LCD Color</b>	Resolution 128x128 pixels
<i>Messaging Options</i>	<b>Picture Messaging</b>	Send pictures through a message
	<b>Text Messaging</b>	SMS short messaging
<i>Camera</i>	<b>Resolution: 128x128 pixels</b>	LED flash / CMOS type / self-timer, multi-shot functions / brightness, white balance controls
<i>Productivity Tools</i>	<b>Calendar</b>	Daily, Monthly, Yearly calendar
	<b>Voice Memos</b>	Voice Memo lets you record and store short voice messages that you can play back at any time.
	<b>Calculator</b>	Multi-function tip calculator
	<b>Alarm</b>	Multi-function alarm
<i>Other Functions</i>	<b>English, Spanish</b>	Language versatility allows non-English speaking users easier phone use
	<b>USB Storage Capability</b>	USB is an industry-standard type of plug-in connection that is used to connect devices, including phones, to desktop or laptop computers.
	<b>Ringtones</b>	This allows user to create or receive polyphonic or custom ringtones.



*Phone features are available on the hardware. The feature may not be available on all service plans. Please review with your Account Manager.*

# LG WVX3300

Manufacture: LG

Model: WVX3300

Notes: Features include color display, speakerphone, and Enhanced Messaging System



## SPECIFICATIONS

Feature	Description	Notes
<i>Modes</i>	<b>CDMA 850/1900</b>	CDMA 850 is CDMA technology operating in the Cellular (850 MHz) frequency band
<i>Location Options</i>	<b>GPS/Location</b>	This will allow operators to immediately receive your location when you call 911
<i>Display</i>	<b>LCD Color</b>	Resolution 128 x 128 pixels
<i>Web</i>	<b>WAP Interface</b>	WAP Interface allows user to access websites compatible with phones through their mobile phone
<i>Messaging Options</i>	<b>Picture Messaging</b>	Send pictures through a message
	<b>Text Messaging</b>	SMS short messaging
<i>Productivity Tools</i>	<b>Calendar</b>	Daily, Monthly, Yearly calendar
	<b>Voice Memos</b>	Voice Memo lets you record and store short voice messages that you can play back at any time.
	<b>Calculator</b> <b>Alarm</b>	Multi-function tip calculator Set alarms with this multifunction tool
<i>Other Functions</i>	<b>English,Spanish</b>	Language versatility allows non-English speaking users easier phone use
	<b>USB Storage Capability</b>	USB is an industry-standard type of plug-in connection that is used to connect devices, including phones, to desktop or laptop computers.
	<b>Ringtones</b>	This allows user to create or receive polyphonic or custom ringtones.



Phone features are available on the hardware. The feature may not be available on all service plans. Please review with your Account Manager.

WIRE CENTER	EXCHANGE NAME	CLLI	COMPANY NAME	TYPE
BEAVER CREEK	BEAVER CREEK	BVCKORXA	BEAVER CREEK COOPERATIVE TELEPHONE CO. COOPERATIVE TELEPHONE CO.	ILEC
CANBY	CANBY-NEEDY	CNBYORXA	CANBY TELEPHONE ASSOCIATION	ILEC
NEEDY	CANBY-NEEDY	NEDYORXA	CANBY TELEPHONE ASSOCIATION	ILEC
CORBETT	CORBETT	CRBTORXC	CASCADE UTILITIES, INC.	ILEC
ESTACADA/MT. HOOD MEADOWS	ESTACADA	ESCDORXX	CASCADE UTILITIES, INC.	ILEC
AURORA	AURORA	AURRORXA	CENTURYTEL OF OREGON, INC. DBA CENTURYLINK	ILEC
BOARDMAN	BOARDMAN	BDMNORXA	CENTURYTEL OF OREGON, INC. DBA CENTURYLINK	ILEC
BROWNSVILLE	BROWNSVILLE	BWVLORXX	CENTURYTEL OF OREGON, INC. DBA CENTURYLINK	ILEC
CHARBONNEAU	CHARBONNEAU	CHBUORXA	CENTURYTEL OF OREGON, INC. DBA CENTURYLINK	ILEC
CHILOQUIN	CHILOQUIN	CHLQORXA	CENTURYTEL OF OREGON, INC. DBA CENTURYLINK	ILEC
CAMAS VALLEY	CAMAS VALLEY	CMVYORXA	CENTURYTEL OF OREGON, INC. DBA CENTURYLINK	ILEC
CRESWELL	CRESWELL	CRWLORXA	CENTURYTEL OF OREGON, INC. DBA CENTURYLINK	ILEC
DEPOE BAY	DEPOE BAY	DPBYORXX	CENTURYTEL OF OREGON, INC. DBA CENTURYLINK	ILEC
DRAIN	DRAIN	DRANORXA	CENTURYTEL OF OREGON, INC. DBA CENTURYLINK	ILEC
DURKEE	DURKEE	DURKORXA	CENTURYTEL OF OREGON, INC. DBA CENTURYLINK	ILEC
ECHO	ECHO	ECHOORXA	CENTURYTEL OF OREGON, INC. DBA CENTURYLINK	ILEC
FORT KLAMATH	FORT KLAMATH	FTKLORXX	CENTURYTEL OF OREGON, INC. DBA CENTURYLINK	ILEC
GLENEDEN BEACH	GLENEDEN BEACH	GLNNORXA	CENTURYTEL OF OREGON, INC. DBA CENTURYLINK	ILEC
HUNTINGTON	HUNTINGTON	HNTNORXA	CENTURYTEL OF OREGON, INC. DBA CENTURYLINK	ILEC
JEWELL	JEWELL	JEWLORXA	CENTURYTEL OF OREGON, INC. DBA CENTURYLINK	ILEC
KNAPPA	KNAPPA	KNPPORXA	CENTURYTEL OF OREGON, INC. DBA CENTURYLINK	ILEC
LEBANON	LEBANON	LBNNORXB	CENTURYTEL OF OREGON, INC. DBA CENTURYLINK	ILEC
LEXINGTON	LEXINGTON	LXTNORXA	CENTURYTEL OF OREGON, INC. DBA CENTURYLINK	ILEC
MALIN	MALIN	MALNORXA	CENTURYTEL OF OREGON, INC. DBA CENTURYLINK	ILEC
MERRILL	MERRILL	MRRLORXA	CENTURYTEL OF OREGON, INC. DBA CENTURYLINK	ILEC
NORTH HARNEY	NORTH HARNEY	NHRCORXA	CENTURYTEL OF OREGON, INC. DBA	ILEC

COUNTY	COUNTY		CENTURYLINK	
NORTH POWDER	NORTH POWDER	NPWRORXA	CENTURYTEL OF OREGON, INC. DBA CENTURYLINK	ILEC
NORTH UMPQUA	NORTH UMPQUA	NRUPORXA	CENTURYTEL OF OREGON, INC. DBA CENTURYLINK	ILEC
PAULINA	PAULINA	PALNORXX	CENTURYTEL OF OREGON, INC. DBA CENTURYLINK	ILEC
PINE GROVE	PINE GROVE	PNGVORXX	CENTURYTEL OF OREGON, INC. DBA CENTURYLINK	RBOC
PAISLEY	PAISLEY	PSLYORXX	CENTURYTEL OF OREGON, INC. DBA CENTURYLINK	ILEC
SCAPPOOSE	SCAPPOOSE	SCPPORXA	CENTURYTEL OF OREGON, INC. DBA CENTURYLINK	ILEC
SHEDD	SHEDD	SHDDORXA	CENTURYTEL OF OREGON, INC. DBA CENTURYLINK	ILEC
SILVER LAKE	SILVER LAKE	SLLKORXX	CENTURYTEL OF OREGON, INC. DBA CENTURYLINK	ILEC
SPRAGUE RIVER	SPRAGUE RIVER	SRRVORXA	CENTURYTEL OF OREGON, INC. DBA CENTURYLINK	ILEC
COTTAGE GROVE	YONCALLA	YNCLORXA	CENTURYTEL OF OREGON, INC. DBA CENTURYLINK	ILEC
REDLAND	REDLAND	RDLDORXX	CLEAR CREEK MUTUAL TELEPHONE CO.	ILEC
ALOHA	BEAVERTON	ALHORXX	FRONTIER COMMUNICATIONS NORTHWEST, INC. - OR	ILEC
AMITY	AMITY	AMTYORXX	FRONTIER COMMUNICATIONS NORTHWEST, INC. - OR	ILEC
AUMSVILLE	AUMSVILLE/TURNE R	AMVLORXX	FRONTIER COMMUNICATIONS NORTHWEST, INC. - OR	ILEC
BROOKINGS	BROOKINGS	BKNGORXX	FRONTIER COMMUNICATIONS NORTHWEST, INC. - OR	ILEC
BANDON	BANDON	BNDNORXX	FRONTIER COMMUNICATIONS NORTHWEST, INC. - OR	ILEC
BANKS	FOREST GROVE	BNKSORXX	FRONTIER COMMUNICATIONS NORTHWEST, INC. - OR	ILEC
BEAVERTON	BEAVERTON	BVTNORXB	FRONTIER COMMUNICATIONS NORTHWEST, INC. - OR	ILEC
CLATSKANIE	CLATSKANIE	CLTSORXA	FRONTIER COMMUNICATIONS NORTHWEST, INC. - OR	ILEC
COVE	COVE	COVEORXX	FRONTIER COMMUNICATIONS NORTHWEST, INC. - OR	ILEC
COQUILLE	COQUILLE	CQLLORXX	FRONTIER COMMUNICATIONS NORTHWEST, INC. - OR	ILEC
DAYTON	DAYTON	DYTNORXA	FRONTIER COMMUNICATIONS NORTHWEST, INC. - OR	ILEC
ELGIN	ELGIN	ELGNORXX	FRONTIER COMMUNICATIONS NORTHWEST, INC. - OR	ILEC
COOS BAY (EMPIRE)	COOS BAY (EMPIRE)	EMPRORXX	FRONTIER COMMUNICATIONS NORTHWEST, INC. - OR	ILEC
FOREST GROVE	FOREST GROVE	FRGVORXX	FRONTIER COMMUNICATIONS NORTHWEST, INC. - OR	ILEC
GRAND ISLAND	GRAND ISLAND	GDISORXX	FRONTIER COMMUNICATIONS NORTHWEST,	ILEC

			INC. - OR	
GOLD BEACH	GOLD BEACH	GLBHORXX	FRONTIER COMMUNICATIONS NORTHWEST, INC. - OR	ILEC
GRESHAM	GRESHAM	GRHMORXB	FRONTIER COMMUNICATIONS NORTHWEST, INC. - OR	ILEC
HILLSBORO	HILLSBORO	HLBOORXB	FRONTIER COMMUNICATIONS NORTHWEST, INC. - OR	ILEC
IMBLER	IMBLER	IMBLORXX	FRONTIER COMMUNICATIONS NORTHWEST, INC. - OR	ILEC
LA GRANDE	LA GRANDE	LAGRORXB	FRONTIER COMMUNICATIONS NORTHWEST, INC. - OR	ILEC
LAKESIDE	LAKESIDE	LKSDORXX	FRONTIER COMMUNICATIONS NORTHWEST, INC. - OR	ILEC
LANGLOIS	LANGLOIS	LNGLORXX	FRONTIER COMMUNICATIONS NORTHWEST, INC. - OR	ILEC
MCMINNVILLE	MCMINNVILLE	MMVLORXX	FRONTIER COMMUNICATIONS NORTHWEST, INC. - OR	ILEC
MURPHY	MURPHY/PROVOLT	MRPHORXX	FRONTIER COMMUNICATIONS NORTHWEST, INC. - OR	ILEC
MYRTLE POINT	MYRTLE POINT	MYPNORXX	FRONTIER COMMUNICATIONS NORTHWEST, INC. - OR	ILEC
NORTH BEND	COOS BAY/NORTH BEND	NBNDORXX	FRONTIER COMMUNICATIONS NORTHWEST, INC. - OR	ILEC
ORIENT	GRESHAM	ORNTORXA	FRONTIER COMMUNICATIONS NORTHWEST, INC. - OR	ILEC
PORT ORFORD	PORT ORFORD	PTORORXX	FRONTIER COMMUNICATIONS NORTHWEST, INC. - OR	ILEC
REEDSPORT	REEDSPORT	RDPTORXX	FRONTIER COMMUNICATIONS NORTHWEST, INC. - OR	ILEC
SCHOLLS	SCHOLLS	SCHLORXX	FRONTIER COMMUNICATIONS NORTHWEST, INC. - OR	ILEC
SHERWOOD	SHERWOOD	SHWDORXA	FRONTIER COMMUNICATIONS NORTHWEST, INC. - OR	ILEC
SILVERTON	SILVERTON	SLTNORXA	FRONTIER COMMUNICATIONS NORTHWEST, INC. - OR	ILEC
SOMERSET WEST	BEAVERTON	SMRWORXA	FRONTIER COMMUNICATIONS NORTHWEST, INC. - OR	ILEC
SANDY	SANDY	SNDYORXA	FRONTIER COMMUNICATIONS NORTHWEST, INC. - OR	ILEC
SUNNYSIDE	SUNNYSIDE	SNSDORXX	FRONTIER COMMUNICATIONS NORTHWEST, INC. - OR	ILEC
STAFFORD	STAFFORD	STFRORXX	FRONTIER COMMUNICATIONS NORTHWEST, INC. - OR	ILEC
TIGARD	TIGARD	TGRDORXA	FRONTIER COMMUNICATIONS NORTHWEST, INC. - OR	ILEC
BULL MTN (TIGARD)	TIGARD	TGRDORXC	FRONTIER COMMUNICATIONS NORTHWEST, INC. - OR	ILEC
TURNER	AUMSVILLE / TURNER	TRNRORXA	FRONTIER COMMUNICATIONS NORTHWEST, INC. - OR	ILEC
TUALATIN	STAFFORD	TULTORXA	FRONTIER COMMUNICATIONS NORTHWEST, INC. - OR	ILEC

VERNONIA	VERNONIA	VRNNORXX	FRONTIER COMMUNICATIONS NORTHWEST, INC. - OR	ILEC
VALLEYVIEW	GRESHAM	VYVWORXA	FRONTIER COMMUNICATIONS NORTHWEST, INC. - OR	ILEC
WILSONVILLE	STAFFORD	WIVLORXA	FRONTIER COMMUNICATIONS NORTHWEST, INC. - OR	ILEC
YAMHILL	YAMHILL	YMHORXA	FRONTIER COMMUNICATIONS NORTHWEST, INC. - OR	ILEC
COOS BAY	COOS BAY/NORTH BEND	CSBYORXX	FRONTIER COMMUNICATIONS NORTHWEST, INC. - OR	ILEC
NEWBERG	NEWBERG	NWBRORXA	FRONTIER COMMUNICATIONS NORTHWEST, INC. - OR	ILEC
GERVAIS	GERVAIS	GRVSORXX	GERVAIS TELEPHONE CO.	ILEC
MEACHAM	MEACHAM	MCHMORXB	HELIX TELEPHONE CO.	ILEC
COLTON	MONITOR	MNTRORXA	MONITOR COOPERATIVE TELEPHONE CO.	ILEC
MONROE	MONROE	MONRORXB	MONROE TELEPHONE CO.	ILEC
MOUNT ANGEL	MOUNT ANGEL	MTANORXA	MT. ANGEL TELEPHONE CO.	ILEC
LYONS	LYONS	LYNSORXA	PEOPLE'S TELEPHONE COOPERATIVE, INC.	ILEC
BELLFOUNTAIN	BELLFOUNTAIN	BLFNORXX	PIONEER TELEPHONE COOPERATIVE	ILEC
ADAIR	CORVALLIS	ADAROR21	QWEST CORPORATION DBA CENTURYLINK	RBOC
ALBANY	ALBANY	ALBYOR63	QWEST CORPORATION DBA CENTURYLINK	RBOC
ASTORIA	ASTORIA	ASTROR64	QWEST CORPORATION DBA CENTURYLINK	RBOC
ATHENA / WESTON	ATHENA / WESTON	ATHNOR56	QWEST CORPORATION DBA CENTURYLINK	RBOC
BEND	BEND	BENDOR24	QWEST CORPORATION DBA CENTURYLINK	RBOC
BURLINGTON (PORTLAND)	BURLINGTON (PORTLAND)	BURLOR62	QWEST CORPORATION DBA CENTURYLINK	RBOC
CULVER	CULVER	CLVROR01	QWEST CORPORATION DBA CENTURYLINK	RBOC
CANNON BEACH	CANNON BEACH	CNBHOR64	QWEST CORPORATION DBA CENTURYLINK	RBOC
CENTRAL POINT	CENTRAL POINT	CNPOR29	QWEST CORPORATION DBA CENTURYLINK	RBOC
CORVALLIS	CORVALLIS	CRVSOR65	QWEST CORPORATION DBA CENTURYLINK	RBOC
COTTAGE GROVE	COTTAGE GROVE	CTGVOR53	QWEST CORPORATION DBA CENTURYLINK	RBOC
DALLAS	DALLAS	DLLSOR58	QWEST CORPORATION DBA CENTURYLINK	RBOC
EUGENE-RIVER ROAD	EUGENE/SPRINGFIELD	EUGNOR28	QWEST CORPORATION DBA CENTURYLINK	RBOC
EUGENE-10TH AVE	EUGENE/SPRINGFIELD	EUGNOR53	QWEST CORPORATION DBA CENTURYLINK	RBOC
FALLS CITY	FALLS CITY	FLCYOR58	QWEST CORPORATION DBA CENTURYLINK	RBOC
GOLD HILL	GOLD HILL	GLHLOR55	QWEST CORPORATION DBA CENTURYLINK	RBOC
GRANTS PASS	GRANTS PASS	GRPSOR29	QWEST CORPORATION DBA CENTURYLINK	ILEC
HERMISTON	HERMISTON	HMTNOR56	QWEST CORPORATION DBA CENTURYLINK	RBOC
INDEPENDENCE /MONMOUTH	INDEPENDENCE/MONMOUTH	INDPOR58	QWEST CORPORATION DBA CENTURYLINK	RBOC

JEFFERSON	JEFFERSON	JFSNOR63	QWEST CORPORATION DBA CENTURYLINK	RBOC
JUNCTION CITY	JUNCTION CITY/HARRISBURG	JNCYOR51	QWEST CORPORATION DBA CENTURYLINK	RBOC
KLAMATH FALLS	KLAMATH FALLS/HAYMAKER?	KLFLOR54	QWEST CORPORATION DBA CENTURYLINK	RBOC
LA PINE	LA PINE	LAPIOR52	QWEST CORPORATION DBA CENTURYLINK	RBOC
LEABURG	LEABURG	LEBGOR54	QWEST CORPORATION DBA CENTURYLINK	RBOC
LAKE OSWEGO	LAKE OSWEGO	LKOSOR62	QWEST CORPORATION DBA CENTURYLINK	RBOC
MEDFORD	MEDFORD	MDFDOR33	QWEST CORPORATION DBA CENTURYLINK	RBOC
MADRAS	MADRAS	MDRSOR52	QWEST CORPORATION DBA CENTURYLINK	RBOC
MILWAUKIE	OAK GROVE/MILWAUKIE	MLWKOR17	QWEST CORPORATION DBA CENTURYLINK	RBOC
NORTH PLAINS	NORTH PLAINS	NPLNOR62	QWEST CORPORATION DBA CENTURYLINK	RBOC
NEWPORT	NEWPORT	NWPTOR35	QWEST CORPORATION DBA CENTURYLINK	RBOC
OREGON CITY	OREGON CITY	ORCYOR18	QWEST CORPORATION DBA CENTURYLINK	RBOC
OREGON SLOPE	OREGON SLOPE	ORSLORXC	QWEST CORPORATION DBA CENTURYLINK	RBOC
PHOENIX	PHOENIX/TALENT	PHNXOR55	QWEST CORPORATION DBA CENTURYLINK	RBOC
PENDLETON	PENDLETON	PNTNOR56	QWEST CORPORATION DBA CENTURYLINK	RBOC
PRINEVILLE	PRINEVILLE	PRVLOR53	QWEST CORPORATION DBA CENTURYLINK	RBOC
CYPRESS (PORTLAND)	PORTLAND	PTLDOR02	QWEST CORPORATION DBA CENTURYLINK	RBOC
HAROLD (PORTLAND)	PORTLAND	PTLDOR08	QWEST CORPORATION DBA CENTURYLINK	RBOC
ALPINE (PORTLAND)	PORTLAND	PTLDOR11	QWEST CORPORATION DBA CENTURYLINK	RBOC
ATLANTIC (PORTLAND)	PORTLAND	PTLDOR12	QWEST CORPORATION DBA CENTURYLINK	RBOC
BELMONT (PORTLAND)	PORTLAND	PTLDOR13	QWEST CORPORATION DBA CENTURYLINK	RBOC
BUTLER (PORTLAND)	PORTLAND	PTLDOR14	QWEST CORPORATION DBA CENTURYLINK	RBOC
CHERRY (PORTLAND)	PORTLAND	PTLDOR17	QWEST CORPORATION DBA CENTURYLINK	RBOC
PROSPECT (PORTLAND)	PORTLAND	PTLDOR18	QWEST CORPORATION DBA CENTURYLINK	RBOC
CAPITOL (PORTLAND)	PORTLAND	PTLDOR69	QWEST CORPORATION DBA CENTURYLINK	RBOC
RAINIER	RAINIER	RANROR01	QWEST CORPORATION DBA CENTURYLINK	RBOC
REDMOND	REDMOND	RDMDOR01	QWEST CORPORATION DBA CENTURYLINK	RBOC
ROSEBURG	ROSEBURG	RSBGOR57	QWEST CORPORATION DBA CENTURYLINK	RBOC
SALEM (MAIN)	SALEM (MAIN)	SALMOR58	QWEST CORPORATION DBA CENTURYLINK	RBOC
SALEM/KEIZER (10TH AVE)	SALEM (10TH AVE)	SALMOR59	QWEST CORPORATION DBA CENTURYLINK	RBOC
SEASIDE	SEASIDE	SESDOR64	QWEST CORPORATION DBA CENTURYLINK	RBOC



SILETZ	SILETZ	SLTZOR66	QWEST CORPORATION DBA CENTURYLINK	RBOC
SPRINGFIELD	EUGENE/SPRINGFIELD	SPFDOR01	QWEST CORPORATION DBA CENTURYLINK	RBOC
SPRING RIVER ROAD	SPRING RIVER ROAD	SPRVOR02	QWEST CORPORATION DBA CENTURYLINK	RBOC
SISTERS	SISTERS	SSTROR01	QWEST CORPORATION DBA CENTURYLINK	RBOC
STANFIELD	STANFIELD	STFDOR56	QWEST CORPORATION DBA CENTURYLINK	RBOC
SAINT HELENS	SAINT HELENS	STHNOR40	QWEST CORPORATION DBA CENTURYLINK	RBOC
OAKLAND/SUTHERLIN	OAKLAND/SUTHERLIN	STHROR58	QWEST CORPORATION DBA CENTURYLINK	RBOC
TOLEDO	TOLEDO	TOLDOR66	QWEST CORPORATION DBA CENTURYLINK	RBOC
UMATILLA	UMATILLA	UMTLOR57	QWEST CORPORATION DBA CENTURYLINK	RBOC
VENETA	VENETA	VENTOR54	QWEST CORPORATION DBA CENTURYLINK	RBOC
WOODBURN	WOODBURN/HUBBARD	WDBNOR59	QWEST CORPORATION DBA CENTURYLINK	RBOC
WINSTON	WINSTON	WNTNOR57	QWEST CORPORATION DBA CENTURYLINK	RBOC
WARM SPRINGS	WARM SPRINGS	WRSPOR52	QWEST CORPORATION DBA CENTURYLINK	RBOC
WARRENTON	WARRENTON	WRTNOR64	QWEST CORPORATION DBA CENTURYLINK	RBOC
WESTPORT	WESTPORT	WSPTOR64	QWEST CORPORATION DBA CENTURYLINK	RBOC
NYSSA	NYSSA	NYSSORXC	QWEST CORPORATION DBA CENTURYLINK (MALHEUR HOME TELEPHONE CO.)	RBOC
ONTARIO	ONTARIO	ONTRORXC	QWEST CORPORATION DBA CENTURYLINK (MALHEUR HOME TELEPHONE CO.)	RBOC
HALSEY	HALSEY	HLSYORXB	ROOME TELECOMMUNICATIONS, INC.	ILEC
SCIO	SCIO	SCIOORXA	SCIO MUTUAL TELEPHONE ASSOCIATION	ILEC
ST PAUL	ST PAUL	STPLORXX	ST PAUL COOPERATIVE TELEPHONE ASSOCIATION	ILEC
STAYTON	STAYTON	STTNORXA	STAYTON COOPERATIVE TELEPHONE CO.	ILEC
ANTELOPE	ANTELOPE	ANTPORXA	TRANS - CASCADES TELEPHONE CO.	ILEC
ARLINGTON	ARLINGTON	ARTNORXA	UNITED TELEPHONE CO. OF THE NORTHWEST DBA CENTURYLINK	ILEC
BEAVER	BEAVER	BEVRORXA	UNITED TELEPHONE CO. OF THE NORTHWEST DBA CENTURYLINK	ILEC
BONANZA	BONANZA	BNNZORXA	UNITED TELEPHONE CO. OF THE NORTHWEST DBA CENTURYLINK	ILEC
BAY CITY	BAY CITY	BYCYORXA	UNITED TELEPHONE CO. OF THE NORTHWEST DBA CENTURYLINK	ILEC
CLOVERDALE	CLOVERDALE	CODLORXA	UNITED TELEPHONE CO. OF THE NORTHWEST DBA CENTURYLINK	ILEC
CARLTON	CARLTON	CRTORXA	UNITED TELEPHONE CO. OF THE NORTHWEST DBA CENTURYLINK	ILEC
CASCADE LOCKS	CASCADE LOCKS	CSLCORXA	UNITED TELEPHONE CO. OF THE NORTHWEST DBA CENTURYLINK	ILEC
FISH LAKE	FISH LAKE	FSLKORXA	UNITED TELEPHONE CO. OF THE NORTHWEST DBA CENTURYLINK	ILEC
GRAND RONDE	GRAND RONDE	GRRNORXA	UNITED TELEPHONE CO. OF THE NORTHWEST DBA CENTURYLINK	ILEC

HOOD RIVER	HOOD RIVER	HDRVORXA	UNITED TELEPHONE CO. OF THE NORTHWEST DBA CENTURYLINK	ILEC
MORO	MORO	MOROORXA	UNITED TELEPHONE CO. OF THE NORTHWEST DBA CENTURYLINK	ILEC
MOSIER	MOSIER	MOSRORXX	UNITED TELEPHONE CO. OF THE NORTHWEST DBA CENTURYLINK	ILEC
PACIFIC CITY	PACIFIC CITY	PCCYORXX	UNITED TELEPHONE CO. OF THE NORTHWEST DBA CENTURYLINK	ILEC
ROCKAWAY	ROCKAWAY	RKWYORXA	UNITED TELEPHONE CO. OF THE NORTHWEST DBA CENTURYLINK	ILEC
RUFUS	RUFUS	RUFSORXA	UNITED TELEPHONE CO. OF THE NORTHWEST DBA CENTURYLINK	ILEC
SHERIDAN	SHERIDAN	SHRDORXA	UNITED TELEPHONE CO. OF THE NORTHWEST DBA CENTURYLINK	ILEC
THE DALLES	THE DALLES	THDLORXA	UNITED TELEPHONE CO. OF THE NORTHWEST DBA CENTURYLINK	ILEC
WASCO	WASCO	WASCORXA	UNITED TELEPHONE CO. OF THE NORTHWEST DBA CENTURYLINK	ILEC
WHITE CITY	WHITE CITY	WHCYORXX	UNITED TELEPHONE CO. OF THE NORTHWEST DBA CENTURYLINK	ILEC
WILLAMINA	WILLAMINA	WLMNORXB	UNITED TELEPHONE CO. OF THE NORTHWEST DBA CENTURYLINK	ILEC

# FREE



**FREE PHONE SERVICE • FREE MINUTES MONTHLY**

*Service supported by Lifeline, a government assistance program.*



## FREE PHONE

**Boomerang Wireless will provide a FREE PHONE**  
*(Not a Lifeline supported benefit)*

*Examples of phones. Phone models subject to availability.*

**YOU MAY BE  
ELIGIBLE FOR THIS  
BENEFIT IF YOU  
PARTICIPATE IN:**

- FOOD STAMPS
- MEDICAID
- FREE LUNCH
- PUBLIC HOUSING
- SSI
- OR MEET INCOME REQUIREMENTS

One per household.  
Non-transferable.  
Only eligible consumers  
can participate.



**DATE:** \_\_\_\_\_

**TIME:** \_\_\_\_\_

**PLACE:** \_\_\_\_\_



POWERED BY BOOMERANG WIRELESS

[www.entouchwireless.com](http://www.entouchwireless.com)

*Stop by and see us!*

# FREE

FREE PHONE SERVICE • FREE MINUTES MONTHLY

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*(Not a Lifeline supported benefit)*

*Examples of phones. Phone models subject to availability.*

**YOU MAY BE ELIGIBLE FOR THIS BENEFIT IF YOU PARTICIPATE IN:**

- FOOD STAMPS
- MEDICAID
- FREE LUNCH
- PUBLIC HOUSING
- SSI
- OR MEET INCOME REQUIREMENTS

One per household.  
Non-transferable.  
Only eligible consumers can participate.



**DATE:** \_\_\_\_\_

**TIME:** \_\_\_\_\_

**PLACE:** \_\_\_\_\_



POWERED BY BOOMERANG WIRELESS

[www.entouchwireless.com](http://www.entouchwireless.com)

*Stop by and see us!*

Exhibit H - Page 2 of 3

## EXHIBIT "I"

### CERTIFICATION OF E911 COMPLIANCE

**TO:** Oregon Public Utility Commission

**AND TO:** Oregon Emergency Management Division

I, James T. Balvanz, do hereby declare under penalty of perjury under the laws of the state of Oregon, as follows:

1. I am the Chief Financial Officer of Boomerang Wireless, LLC ("Boomerang"), an Iowa limited liability company with its principal offices located at 955 Kacena Road, Suite A, Hiawatha, Iowa 52233, and am authorized to execute this certification.

2. Based on an agreement with Ready Wireless, LLC, Boomerang's underlying providers of wireless network service in Oregon are Verizon and Sprint. Verizon and Sprint have each certified to Boomerang that customers who receive their underlying wireless network service via Verizon and Sprint, as the case may be, have access to 911 and E911. Further, Verizon and Sprint have each certified to Boomerang that it routes 911 and E911 calls from such Boomerang customers in the same manner as it routes 911 and E911 calls from its own retail customers.

3. Based on Verizon's and Sprint's certifications to Boomerang and my personal knowledge of the routing of Boomerang's calls and the capabilities of the handsets that Boomerang provides to its customers, I certify that: a) all handsets Boomerang offers to customers are E911-capable and, b) that Boomerang's underlying wholesale carriers, Verizon and Sprint, are able to provide to PSAPs the information specified under the FCC's Phase I and Phase II E911 rules.

**EXHIBIT "I"**

**CERTIFICATION OF E911 COMPLIANCE (CONTINUED)**

*I hereby declare that the above statement is true to the best of my knowledge and belief, and that I understand it is made for use as evidence in court and is subject to penalty for perjury.*

Executed at Hiawatha, IA on this 2 day of August, 2013.

  
\_\_\_\_\_  
James T. Balvanz, Chief Financial Officer  
Boomerang Wireless, LLC



Suite 2400  
1300 SW Fifth Avenue  
Portland, OR 97201-5630

Alan J. Galloway  
503.778.5219 tel  
503.778.5299 fax

alangalloway@dwt.com

August 2, 2013

**VIA UPS OVERNIGHT MAIL**

Attn: Filing Center  
Oregon Public Utilities Commission  
550 Capitol Street NE, Room 215  
Salem, OR 97301-2576

Re: Boomerang Wireless LLC d/b/a enTouch Wireless - Application for Limited Designation as an Eligible Telecommunications Provider for the Purpose of Offering Lifeline Service and Request for Waiver Pursuant to OAR 860-033-0001(2)

Dear Sir/Madam:

Enclosed for filing in the above-referenced matter, please find an original and three copies of Boomerang Wireless LLC d/b/a enTouch Wireless' Application for Limited Designation as and Eligible Telecommunications Provider for the Purpose of Offering Lifeline Service and Request for Waiver Pursuant to OAR 860-033-0001(2), which was electronically filed by email on the above date with the Oregon Public Utilities Commission. A portion of Exhibit F to the Application is confidential and being sent via UPS overnight mail to the Commission.

Please let me know if you have any questions or concerns with respect to this filing.

Very truly yours,

Davis Wright Tremaine LLP

Alan J. Galloway  
Of Attorneys for Boomerang Wireless LLC d/b/a/ enTouch Wireless

AJG/cap  
Enclosures  
Cc: Julia Redman Carter (by email)

DWT 22374702v1 0096578-000001

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