

**BEFORE THE PUBLIC UTILITY COMMISSION
OF OREGON**

UM 1668

In the Matter of

BOOMERANG WIRELESS, LLC, dba
ENTOUCH WIRELESS,

Supplemental Application to Expand
Designated Service Area to Specific Tribal
Lands.

ORDER

DISPOSITION: STAFF'S RECOMMENDATION ADOPTED

This order memorializes our decision, made and effective at the public meeting on May 3, 2016, to adopt Staff's recommendation in this matter. The Staff Report with the recommendation is attached as Appendix A.

Dated this 3 day of May, 2016, at Salem, Oregon.



Susan K. Ackerman
Chair



John Savage
Commissioner



Stephen M. Bloom
Commissioner

A party may request rehearing or reconsideration of this order under ORS 756.561. A request for rehearing or reconsideration must be filed with the Commission within 60 days of the date of service of this order. The request must comply with the requirements in OAR 860-001-0720. A copy of the request must also be served on each party to the proceedings as provided in OAR 860-001-0180(2). A party may appeal this order by filing a petition for review with the Circuit Court for Marion County in compliance with ORS 183.484.

**PUBLIC UTILITY COMMISSION OF OREGON
STAFF REPORT
PUBLIC MEETING DATE: May 3, 2016**

REGULAR _____ CONSENT X EFFECTIVE DATE _____ Upon Approval

DATE: April 22, 2016

TO: Public Utility Commission

FROM: Kay Marinos ^{KM}
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THROUGH: Jason Eisdorfer and Bryan Conway ^{JE}

SUBJECT: BOOMERANG WIRELESS, LLC DBA ENTOUCH WIRELESS:
(Docket No. UM 1668) Supplemental Application to Expand Designated Service Area to Include Specific Tribal Lands.

STAFF RECOMMENDATION:

Staff recommends that the Commission approve the supplemental application of Boomerang Wireless, LLC dba EnTouch Wireless (Boomerang) and grant the company's request to expand its designated service area to include the federally-recognized Tribal Lands of the Confederated Tribes of Siletz Indians (Siletz Tribal Lands) for the purpose of offering Tribal Lifeline services, subject to the conditions set forth in Order No. 15-280.

DISCUSSION:

Issue

Whether the Commission should expand Boomerang's current designated service area as an Eligible Telecommunications Carrier (ETC) to include Siletz Tribal Lands, thereby enabling the company to offer Tribal Lifeline services in that area and to seek reimbursement for such services from the federal universal service fund.

Applicable Law and Orders

Section 214(e)(2) of the federal Communications Act of 1934, as amended, gives state commissions primary responsibility for designating ETCs to receive federal universal service support for high-cost and low-income (Lifeline) purposes. General ETC and Lifeline requirements are reflected in FCC regulations, 47 CFR Part 54.¹

¹ At its public meeting on March 31 of this year, the FCC adopted modifications to its Lifeline program to incorporate high speed internet access services. These changes may affect the Tribal Lifeline program.

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The Commission designated Boomerang as an ETC and an Eligible Telecommunication Provider (ETP), subject to the conditions set forth in that order, for the limited purpose of offering Lifeline services in Docket UM 1668, Order No. 15-280 entered September 16, 2015 (Designation Order). That order specified that the approved designated service area excludes all Tribal Lands; therefore Boomerang is not currently authorized to offer Lifeline services to residents of any Tribal Lands.

The Commission updated its own ETC requirements, consistent with federal regulations, in Order No. 15-382 entered December 1, 2015, in Docket UM 1648 (ETC Order). The Commission's ETC Order includes additional requirements for designation on Tribal Lands which are specified in paragraph 11 of Appendix A of the Order, page 5 of the Appendix. A carrier seeking ETC designation on Tribal Lands must demonstrate in its application that it provided notice of its application to the Tribal government, and that it engaged with the Tribe to address needs and deployment, feasibility and sustainability planning, culturally sensitive marketing, appropriate review processes, and compliance with business licensing. The application must also include evidence of Tribal concurrence to permit the carrier to offer Lifeline services to its Tribal Lands residents.

Discussion and Analysis

On March 21, 2016, Boomerang submitted a supplemental application to expand Boomerang's designated service area to include the Siletz Tribal Lands. This expansion will enable Boomerang to offer Tribal Lifeline services to qualifying persons residing there.

To be eligible for Tribal Lifeline benefits, a person must reside on federally-recognized Tribal Lands and meet income or program requirements determined by the FCC. As the federal subsidy for Tribal Lifeline (up to \$34.25 per month) is greater than for non-Tribal Lifeline (\$9.25 per month), Tribal Lifeline plans provide greater benefits than non-Tribal plans. (OTAP subsidies are not available for Tribal Lifeline service.) Boomerang's proposed Tribal Lifeline offerings are displayed in Exhibit C of its supplemental application. Boomerang will offer qualifying subscribers a Tribal Lifeline plan that includes 1100 units (talk or texts) and 100 MB of data per month, at no cost to the subscriber. Additional units of talk, text and data will be available for purchase.

Boomerang's supplemental application includes all of the required evidence and therefore meets the specific requirements of the ETC Order for designation on the Siletz Tribal Lands. Additionally, Boomerang states that it has substantial experience providing Tribal Lifeline services and is actively serving Tribal Lands in ten states.

However, as those changes will be subject to a reconsideration cycle and new rules must go through the OMB approval process before becoming effective, they are not relevant to the analysis at this time.

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The application also includes a confidential wireless coverage map that demonstrates its ability to provide sufficient levels of service to potential customers in the requested area. The Siletz Tribal Lands are numerous non-contiguous parcels of land situated in Lincoln County.

Boomerang commits to abide by all applicable state and federal requirements for offering Lifeline services on these specific Tribal Lands, consistent with its original designation.

Conclusion

Boomerang's request should be granted for several reasons. First, the supplemental application meets the requirements of relevant Commission orders and federal laws and regulations. Second, Staff contacted the Citizens' Utility Board (CUB), the other party in the docket, and determined that they do not oppose the request. Third, Boomerang has presented evidence of the concurrence of the affected Tribes to permit Boomerang to offer Lifeline service to residents of Siletz Tribal Lands. Lastly, approving the application will serve the public interest by increasing the options for Lifeline service to residents of Siletz Tribal Lands. Staff recommends granting Boomerang's request to expand its ETC designated service area, provided the conditions set forth in the original Designation Order No. 15-280, continue to apply in the expanded designated service area.

PROPOSED COMMISSION MOTION:

Approve Boomerang Wireless LLC's supplemental application and grant the company's request to expand its ETC designated service area to include the Siletz Tribal Lands for the purpose of offering Tribal Lifeline services to eligible residents, subject to the conditions in Order No. 15-280.

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