

ORDER NO. 22-155

ENTERED May 09 2022

**BEFORE THE PUBLIC UTILITY COMMISSION
OF OREGON**

UM 1668

In the Matter of

BOOMERANG WIRELESS, LLC dba
ENTOUCH WIRELESS,

Notice of Relinquishment of Eligible
Telecommunications Carriers and Eligible
Telecommunications Provider Designations..

ORDER

DISPOSITION: STAFF'S RECOMMENDATION ADOPTED

At its public meeting on May 5, 2022, the Public Utility Commission of Oregon adopted Staff's recommendation in this matter. The Staff Report with the recommendation is attached as Appendix A.



BY THE COMMISSION:

A handwritten signature in dark ink, appearing to read "Nolan Moser".

Nolan Moser
Chief Administrative Law Judge

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 5, 2022**

REGULAR ____ **CONSENT** **X** **EFFECTIVE DATE** **July 15, 2022**

DATE: April 27, 2022

TO: Public Utility Commission

FROM: Jon Cray

THROUGH: Michael Dougherty **SIGNED**

SUBJECT: BOOMERANG WIRELESS, LLC:
(Docket No. UM 1668)
Notice of Relinquishment of ETC and ETP Designations.

STAFF RECOMMENDATION:

Approve Boomerang Wireless, LLC's (Boomerang Wireless) request to relinquish its Eligible Telecommunications Carrier (ETC) and Eligible Telecommunications Provider (ETP) designations, subject to the six (6) conditions set forth in this Staff Report, effective July 15, 2022.

DISCUSSION:

Issue

Whether the Commission should approve Boomerang Wireless's notice to relinquish its ETC and ETP designations.

Applicable Law

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 Federal Communications Commission (FCC) regulations, 47 CFR Part 54. Specific federal requirements for ETC relinquishment are prescribed in both 47 USC §214(e)(4) and 47 § CFR 54.205(a) and are similar in each case. Federal law requires an ETC to provide advance notice of relinquishment to the state commission that granted its ETC designation. After receiving such notice, the state

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commission shall grant an ETC to relinquish its designation if there will be at least one ETC remaining in the area and all customers of the relinquishing carrier can obtain service from the remaining ETC(s). If this condition cannot be met, the state commission shall require sufficient notice to permit the purchase or construction of adequate facilities by any remaining ETC(s).

There are no Oregon-specific requirements for ETC relinquishment beyond the federal requirements, nor are there any specific Oregon Administrative Rules that govern ETP relinquishment. However, because ETP status requires active federal ETC status, relinquishment of ETC designation effectively terminates ETP designation as well.

Analysis

Background

The Commission granted ETC and ETP designations to Boomerang Wireless on September 16, 2015. The designations enabled Boomerang Wireless to offer prepaid wireless service at no charge to eligible low-income households through participation in the federal Lifeline program and the Oregon Telephone Assistance Program (OTAP), collectively known as Oregon Lifeline, under the enTouch Wireless brand. The Commission did not designate Boomerang Wireless to receive federal high-cost support.

On May 3, 2016, the Commission approved Boomerang Wireless's request to expand its designated service area to include the federally-recognized Tribal lands of the Confederated Tribes of Siletz Indians and other additional zip codes. Designation on federally-recognized Tribal lands enabled Boomerang Wireless to offer additional federal Lifeline support of up to \$25 per month to eligible residents. See Order Nos. 16-170 and 16-171, respectively.

On July 5, 2016, the Commission granted Boomerang Wireless's supplemental application to expand its designated service area to include the federally-recognized Umatilla Indian Reservation. See Order No. 16-250.

On December 20, 2016, the Commission approved Boomerang Wireless's request to expand its designated service area to include the federally-recognized Burns Paiute Indian Colony. See Order No. 16-492.

On December 5, 2017, the Commission granted Boomerang Wireless's motion to amend its designated service area by removing specific zip codes where wireless service coverage was determined to be inadequate due to changes in the networks that Boomerang uses to provide service. See Order No. 17-495.

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Company Ownership

Prior to December 18, 2020, Boomerang Wireless was wholly owned by HH Ventures, LLC (HH Ventures), an Iowa limited liability company. On December 18, 2022, HH Ventures and ViaOne Acquisition Company, LLC (ViaOne), a Delaware limited liability company, entered into a Membership Interest Purchase Agreement in which ViaOne agreed to acquire 49 percent of the membership interests owned by HH Ventures with intent to purchase the remaining 51 percent pending FCC regulatory approval. On January 18, 2022, the FCC approved Boomerang Wireless's revised compliance plan, which included the request for Change of Control. ViaOne acquired 100 percent ownership of Boomerang Wireless on February 28, 2022, upon completion of the transaction.

Notice of Relinquishment

On April 13, 2022, Boomerang Wireless filed Notice of Relinquishment (Notice), of its ETC and ETP designations, pursuant to 47 U.S.C. § 214(e)(4) and 47 § C.F.R. 54.205(a). In its Notice, Boomerang Wireless explained that following the close of the transaction, the Company decided it was not economically viable to maintain designation as an ETC and ETP; therefore, Boomerang Wireless will cease to offer Lifeline-supported service to eligible low-income households in Oregon. Boomerang Wireless demonstrates in its Notice that it meets the federal requirements for ETC relinquishment.

Boomerang Wireless's filing provides the required advance notice of relinquishment to the Commission. Boomerang Wireless's designated service area includes zip codes within wire centers served by incumbent local exchange carriers, all of which are ETCs that offer Oregon Lifeline discounts on voice and broadband internet access service. Therefore, no purchase or construction of facilities will be required because of Boomerang Wireless's relinquishment.

Although Boomerang Wireless meets the basic federal requirements for ETC relinquishment, those requirements do not address potential effects on customers, such as adequate notice periods. Nor do the Commission's own rules for abandonment of service apply to wireless service providers such as Boomerang Wireless. However, Boomerang Wireless addresses the concern in its Notice as it pertains to advance customer notice and acceptance of applications.

Customer Notice and Implications

Customer notice will occur in four (4) total stages. Boomerang Wireless will send a text message at least sixty (60) days, thirty (30) days, and fifteen (15) days before the date of relinquishment. Forty-five (45) days prior to relinquishment, Boomerang Wireless will mail a letter. The notices will inform customers that Boomerang Wireless will cease to

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provide wireless service on July 15, 2022, and refer them to the Commission's Oregon Lifeline webpage for options available to them. Boomerang Wireless's approach provides customers with multiple, sufficient advance notice of impending termination of their Lifeline-supported service. It also affords customers ample time to select and apply for the Oregon Lifeline benefit with another ETC if they so choose.

To minimize the potential for new customer churn and confusion, Staff finds that a relinquishing ETC should be required to stop accepting applications after the Commission approves the relinquishment notice. In this case, Boomerang Wireless will stop accepting Oregon Lifeline applications on May 6, 2022. This approach will prevent a prospective customer from waiting for delivery of a SIM card and activating service with Boomerang Wireless only to be required to find another ETC shortly thereafter.

Approximately 900 customers, none of whom are residents on Tribal lands, will be affected by the relinquishment. However, approximately 200 customers are receiving the Federal Communications Commission's Affordable Connectivity Program benefit¹ in the form of free unlimited data as well as unlimited voice minutes and texts from Boomerang Wireless. Affordable Connectivity Program customers with Boomerang Wireless will least likely experience harm by the relinquishment. However, customers commonly confuse and conflate the Lifeline and Affordable Connectivity programs due to similarity in eligibility criteria and company marketing strategies, e.g., one application for both programs, etc. Staff is concerned about the likelihood that Boomerang Wireless customers who receive both program benefits may not realize that their free Affordable Connectivity Program-supported unlimited service will continue regardless of the notice.

To address and mitigate these concerns, Boomerang Wireless has agreed to the following six (6) conditions.

1. Boomerang Wireless will send text messages with distinct URLs to Lifeline-only and Lifeline and Affordable Connectivity Program customers at least sixty (60) days, thirty (30) days, and fifteen (15) days before the date of relinquishment that alerts customers to an important notice regarding relinquishment.

In text messages to Lifeline-only customers, Boomerang Wireless will include a link to a webpage that:

¹ The enactment of the Infrastructure Investment and Jobs Act, Pub. L. No. 117-58 (2021), available at <https://www.govinfo.gov/content/pkg/BILLS-117hr3684enr/pdf/BILLS-117hr3684enr.pdf> resulted in the creation of the Affordable Connectivity Program in which eligible low-income households receive discounts off the cost of broadband internet access service and connected devices through participating service providers.

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- a. Informs the customer Boomerang Wireless will cease to provide Lifeline-supported wireless service in Oregon, effective July 15, 2022;
- b. Educates customers about the option of applying for or transferring their Affordable Connectivity Program benefit with clear step-by-step instructions on how to apply, enroll, transfer, or seek Company assistance; and
- c. Directs customers to visit the Commission's Oregon Lifeline webpage at www.lifeline.oregon.gov for Lifeline-specific alternatives.

In a separate text message to both Lifeline and Affordable Connectivity Program customers, Boomerang Wireless will include a link to a dedicated webpage that:

- a. First and foremost, informs the Affordable Connectivity Program-enrolled customer that they will continue to receive free wireless service with a description of the plan(s) regardless of the notice;
- b. Informs the customer enTouch Wireless will only cease to provide the Lifeline-supported component of the wireless service, effective July 15, 2022; and
- c. Offers customers the option of visiting the Commission's Oregon Lifeline webpage at www.lifeline.oregon.gov for Lifeline-specific alternatives.

Boomerang Wireless will provide the content of the webpages in plain language and in Spanish. Boomerang Wireless will provide Staff a draft of the text messages and webpage content to review for accuracy and approval.

2. Boomerang Wireless will provide the corresponding enumerated information in the first condition in its letters sent to Lifeline-only and Lifeline and Affordable Connectivity Program customers at least forty-five (45) days prior to relinquishment to customers. Boomerang Wireless will mail the letters in both English and Spanish. Boomerang Wireless will provide Staff a draft of the letters to review for accuracy and approval.
3. Boomerang Wireless will provide the necessary training, tools, and resources to its customer service representatives to appropriately respond to Oregon customer inquiries and concerns about the relinquishment. The customer service representatives will be equipped to address the corresponding enumerated list in the first condition. Boomerang Wireless will provide Staff a draft of the training materials to review for accuracy and approval.

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4. Boomerang Wireless will stop accepting Oregon Lifeline applications on May 6, 2022. Boomerang will submit all pending Oregon Lifeline applications to the Commission for duplicates check and eligibility verification no later than May 16, 2022.
5. Boomerang Wireless will ship SIM cards to all new Commission-approved Lifeline customers no later than May 20, 2022.
6. Boomerang Wireless will be available for daily communications with Staff regarding Oregon Lifeline operational, customer service, and reporting issues, some of which may overlap with Affordable Connectivity Program questions and concerns, through August 31, 2022.

Conclusion

Staff recommends the Commission grant Boomerang Wireless's Notice of Relinquishment of its ETC and ETP designations, subject to the above-listed conditions. Boomerang Wireless demonstrates that it meets the federal requirements for ETC relinquishment, and ETP relinquishment must necessarily follow. The conditions serve to minimize disruption to customers as they navigate the complex implications of Boomerang Wireless's relinquishment.

Boomerang Wireless has had the opportunity to review this memo and has no objection.

PROPOSED COMMISSION MOTION:

Approve Boomerang Wireless's ETC and ETP designation relinquishment notice, effective July 15, 2022, subject to the six (6) conditions set forth in this Staff Report.

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