

ORDER NO. 22-328

ENTERED Sep 08 2022

**BEFORE THE PUBLIC UTILITY COMMISSION
OF OREGON**

UM 1668

In the Matter of

BOOMERANG WIRELESS, LLC dba
ENTOUCH WIRELESS,

Request to Modify Order No. 22-155.

ORDER

DISPOSITION: STAFF'S RECOMMENDATION ADOPTED

At its public meeting on September 6, 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 blue 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: September 6, 2022**

REGULAR _____ **CONSENT** X **EFFECTIVE DATE** October 15, 2022

DATE: August 30, 2022

TO: Public Utility Commission

FROM: Jon Cray

THROUGH: Michael Dougherty and Melissa Nottingham **SIGNED**

SUBJECT: BOOMERANG WIRELESS, LLC:
(Docket No. UM 1668)
Request to Modify Order No. 22-155.

STAFF RECOMMENDATION:

Modify Order No. 22-155 to reflect an effective date of October 15, 2022, for relinquishment of Boomerang Wireless, LLC's (Boomerang Wireless) Eligible Telecommunications Carrier (ETC) and Eligible Telecommunications Provider (ETP) designations and amend the conditions for relinquishment as set forth below.

DISCUSSION:

Issue

Whether the Commission should modify Order No. 22-155 to reflect an effective date of October 15, 2022, for relinquishment of Boomerang Wireless's ETC and ETP designations and amendments to conditions for relinquishment set forth in this Staff Report.

Applicable Law

Under ORS 756.568, the Commission may rescind, suspend, or amend an order it has issued at any time.

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

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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 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 OARs 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, at the May 5, 2022, public meeting, adopted Staff's recommendation to approve Boomerang Wireless's ETC and ETP designation relinquishment notice, effective July 15, 2022, subject to six (6) conditions.

On July 20, 2022, Boomerang Wireless reported to the Oregon Department of Justice (Staff counsel on this docket) that, due to an issue with merging two systems, approximately 200 Oregon Lifeline customers did not receive notice of the Company's relinquishment. The Company has continued to provide service to these customers and engaged with Staff on next steps to correct the notice issue.

Customer Notice and Implications

Because the conditions in Order No. 22-155 were not fulfilled for all Oregon Lifeline customers, the original relinquishment date of July 15, 2022, was not effective. Therefore, Staff proposes amendments to the conditions to ensure that the affected customers are afforded the same opportunity to receive multiple, sufficient advance notice of impending termination of their wireless service. It also ensures they have ample time to select and apply for the Oregon Lifeline benefit with another ETC if they so choose.

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If the proposed amendments are approved, customer notice will still 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 these customers that Boomerang Wireless will cease to provide Lifeline-supported service on October 15, 2022, and refer them to the Commission's Oregon Lifeline webpage for options available to them. It is Staff's understanding that the 60-day text messages have been sent to the remaining customers, consistent with the October 15, 2022, timeline.

Of the 200 customers, 20 customers are receiving the Federal Communications Commission's Affordable Connectivity Program benefit in the form of free unlimited data as well as unlimited voice minutes and texts from Boomerang Wireless. The Company provided Staff with a list of all affected customers and identified those receiving the Affordable Connectivity Program benefit. If the customer contacts the Commission, Staff will be prepared to inform the customer that their free Affordable Connectivity Program-supported unlimited service will continue regardless of the notice, assuming the customer has not been de-enrolled for any reason.

As noted in the Staff Report that the Commission adopted in Order No. 22-155, customers commonly confuse and conflate the Lifeline and Affordable Connectivity programs. As a result, Staff expends a significant amount of time and effort to clarify and educate customers. Shortly before the original relinquishment date, Staff learned that Boomerang Wireless was:

1. Inadvertently issuing correspondence to Affordable Connectivity Program applicants that incorrectly stated the applicant was applying for or receiving Lifeline benefits,
2. Inadvertently requiring the applicant to write or enter their initials agreeing to Lifeline-specific terms and conditions for enrollment, and
3. Inadvertently continuing to show the Company as a Lifeline participating service provider in Oregon on maps displayed on the enTouch Wireless website, despite having removed Oregon from the list of states.

To remedy the Company's failure to provide notice to customers that had been inadvertently left out of the initial round of notices, and ensure those remaining Lifeline customers receive notice with accurate information concerning relinquishment, Staff proposes the following amendments to the conditions of relinquishment, represented in bold:

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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. **For the majority of Oregon customers, the original “date of relinquishment” was July 15, 2022. For customers that did not receive the initial test messages, the date of relinquishment is October 15, 2022.**

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

- a. Informs the customer Boomerang Wireless will cease to provide Lifeline-supported wireless service in Oregon, effective July 15, 2022; **Or, for customers who did not receive initial notice, informs the customer Boomerang Wireless will cease to provide Lifeline-supported service in Oregon, effective October 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; **or, for customers who did not receive initial notice, informs the customer enTouch Wireless will only cease to provide the Lifeline-supported component of the service, effective October 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

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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 **the relevant relinquishment date** 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.
4. 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 **November 15, 2022**.¹
5. **Boomerang Wireless will continue to provide service through October 15, 2022, but will not request nor seek federal Lifeline or OTAP support for the customers who did not receive the initial notice for service provided between July 15, 2022, and October 15, 2022.**²
6. **As an Affordable Connectivity Program participating service provider in Oregon, Boomerang Wireless will:**
 - a. **Remove or amend any references to Lifeline that incorrectly states the customer is applying for or receiving Lifeline benefits in any and all Affordable Connectivity Program-related correspondence;**
 - b. **Remove or amend any references to Lifeline that incorrectly state that the customer is applying for or will receive Lifeline benefits in Affordable Connectivity Program enrollment forms, regardless of the format in which the enrollment form is available, e.g., online, etc.;**

¹ Condition #4 supersedes condition #6 in Order No. 22-155.

² Conditions #5 and #6 are new.

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- c. Eliminate the requirement that Affordable Connectivity Program applicants write or enter their initials agreeing to any Lifeline-specific terms and conditions; and**
- d. Remove the blue indicator that the Company participates in Lifeline in Oregon on the map of the United States at <https://entouchwireless.com/states/>.**

Boomerang has reviewed this memo and has no objections.

Conclusion

Staff recommends the Commission modify Order No. 22-155, subject to the above-listed amended conditions to ensure all remaining Lifeline customers receive proper notice. The conditions also ensure the Company provides accurate information about the Affordable Connectivity Program to the Oregon public.

PROPOSED COMMISSION MOTION:

Modify Order No. 22-155 to reflect a relinquishment date of October 15, 2022, subject to the six (6) amended conditions set forth in this Staff Report.

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