

ORDER NO. 16 171

ENTERED MAY 03 2016

**BEFORE THE PUBLIC UTILITY COMMISSION
OF OREGON**

UM 1668

In the Matter of

BOOMERANG WIRELESS, LLC, dba
ENTOUCH WIRELESS,

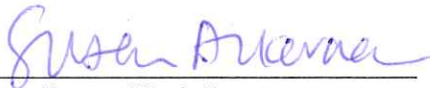
Request to Modify Designated Service Area.

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.

ITEM NO. CA4

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*

THROUGH: Jason Eisdorfer and Bryan Conway *ME*

SUBJECT: BOOMERANG WIRELESS, LLC DBA ENTOUCH WIRELESS:
(Docket No. UM 1668) Notice of Expansion of Coverage and Request to
Modify Designated Service Area.

STAFF RECOMMENDATION:

Staff recommends that the Commission grant the request of Boomerang Wireless, LLC dba EnTouch Wireless (Boomerang) to modify its designated service area to include additional zip code areas for purposes of offering Lifeline/OTAP services, subject to the same conditions as set forth in Order No. 15-280, and to modify its quarterly report form as proposed.

DISCUSSION:

Issue

Whether the Commission should expand Boomerang's current designated service area to reflect increased service area coverage related to the use of additional wireless facilities and to modify its quarterly report accordingly.

Applicable Law and Commission Orders

Section 214(e)(2) of the federal Communications Act of 1934, as amended, gives state commissions primary responsibility for designating federal Eligible Telecommunications Carriers (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 The Commission updated its own ETC

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. However, as those changes will be subject to a

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requirements, consistent with current federal regulations, in Order No. 15-382 entered December 1, 2015, in Docket UM 1648 (ETC Order). The ETC Order adopts Appendix A, setting forth the Initial Designation Application Requirements.

The Commission designated Boomerang as an ETC and an Eligible Telecommunication Provider (ETP) for the limited purpose of offering Lifeline/OTAP services in Docket UM 1668, Order No. 15-280 entered September 16, 2015 (Designation Order). In that order, the designated service area was based on the network coverage provided by two wireless facility providers, Sprint and Verizon Wireless, which Boomerang proposed to use to provide its Lifeline services. Boomerang does not own facilities, but leases the facilities of other wireless carriers. If Boomerang expands coverage through the use of additional underlying wireless facilities, it must notice the Commission at least thirty days prior to the network change. (See Designation Order Stipulation at paragraph 12.) After notice is filed, Staff is to perform a review and may recommend that the Commission modify Boomerang's designated service area as appropriate.

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

Discussion and Analysis

The designated service area is the area in which an ETC/ETP is authorized to offer Lifeline/OTAP services to qualifying customers. In its filing submitted on April 11, 2016, Boomerang notified the Commission that it is now authorized to use the networks of two additional carriers, AT&T and T-Mobile. Based on the resulting expanded coverage, Boomerang requests that it be permitted to add eighty-two additional zip code areas to its previously-approved designated service area that includes approximately three hundred zip code areas. The additional areas are generally adjacent to portions of the current designated service area and will help to fill in several gaps that currently exist.

Consistent with Paragraph 4 of the Initial Designation Application Requirements in the Commission's ETC Order, Boomerang's filing includes a list of proposed additional zip codes, with identification of those that have incomplete coverage (Exhibit A), a map of proposed additional areas (Exhibit B), and a map of updated wireless coverage (Exhibit C). Boomerang specifies that the expanded area will exclude any Tribal Lands that may lie within the additional zip code areas.²

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.

² On March 21, 2016, Boomerang submitted a separate filing to request designation on the Siletz Reservation. See Supplemental Application to Expand Boomerang Wireless, LLC's Designated Service Area to Include Specific Tribal Lands filed in docket UM 1668.

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Boomerang provided Staff with detailed confidential coverage maps for each of the proposed additional zip code areas to aid in its determination of whether coverage in these areas is adequate. Some of the zip code areas do not have complete coverage throughout, but the portions without coverage generally have very low population density or encompass state or national parks or forest lands. Based on the information provided, Staff concludes that coverage is sufficient in the proposed additional areas, and that inclusion will serve to benefit the vast majority of the residents in those areas.

With the addition of more areas and expansion of its network, Boomerang proposes to modify the quarterly report form approved as Exhibit G under Paragraph 42 in Appendix A, the stipulation adopted in the Designation Order. The proposed modified form is displayed in Exhibit D of Boomerang's filing. The modification would expand the categories of handsets in item 2(d) of the report in order to reflect the addition of the networks of AT&T and T-Mobile. This report item is intended to capture the number of times that a customer "swaps" handsets because the network used by the handset initially assigned is spotty or weak in the customer's area. The handsets are specific to individual underlying networks. Boomerang will try to assign the network that appears suitable for each customer's location, but it does not always have complete information for each specific location. Staff supports the change and appreciates Boomerang's initiative in offering to report more detailed information.

Boomerang commits to abide by all applicable state and federal requirements for offering Lifeline services throughout its expanded service area, consistent with its original designation.

Conclusion

Boomerang's request should be granted for several reasons. First, the filing meets the Commission's requirements in the ETC Order, and in Boomerang's Designation Order and the associated stipulation. Second, information provided by Boomerang sufficiently demonstrates that the wireless coverage in the additional areas is sufficient. Third, the Citizens' Utility Board (CUB), the only intervening party in the docket, indicated to Staff that it has no objection to the request. Fourth, the proposed modification to the quarterly report form, Exhibit G to the Stipulation adopted in the Designation Order, will capture useful information related to the expanded networks. Lastly, approving the application will serve the public interest by increasing the options for Lifeline service to a significant number of residents in areas outside of Boomerang's initial designated service area. Staff supports expansion of the designated service area, subject to the conditions established in the Designation Order, and modification of the quarterly report form.

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PROPOSED COMMISSION MOTION:

Approve Boomerang's request to expand its ETC/ETP designated service area to include the areas of the zip codes listed in Exhibit A of Boomerang's filing, subject to the conditions established in Order No. 15-280, and to modify Exhibit G to the stipulation approved in Boomerang's Designation Order to reflect the quarterly report form shown in Exhibit D of its filing.

Boomerang CA4 final