

ORDER NO. 16 250

ENTERED JUL 05 2016

**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 Include the
Umatilla Reservation.

ORDER

DISPOSITION: STAFF'S RECOMMENDATION ADOPTED

This order memorializes our decision, made and effective at our July 5, 2016 Regular Public Meeting, to adopt Staff's recommendation in this matter. The Staff Report with the recommendation is attached as Appendix A.

Dated this ____ day of July, 2016, at Salem, Oregon.

Lisa D. Hardie
Chair

John Savage
Commissioner



COMMISSIONER BLOOM WAS
UNAVAILABLE FOR SIGNATURE

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.

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ITEM NO. CA3

PUBLIC UTILITY COMMISSION OF OREGON
STAFF REPORT
PUBLIC MEETING DATE: July 5, 2016

REGULAR _____ CONSENT X EFFECTIVE DATE Upon Approval

DATE: June 22, 2016

TO: Public Utility Commission

FROM: Kay Marinos *KM*

THROUGH: *I* Jason Eisdorfer and Bryan Conway *BAC*

SUBJECT: BOOMERANG WIRELESS, LLC DBA ENTOUCH WIRELESS:
(Docket No. UM 1668) Supplemental Application to Expand Designated
Service Area to Include the Umatilla Indian Reservation.

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 Umatilla Indian Reservation (Umatilla Reservation) 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 the Umatilla Indian Reservation, 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 Telecommunications Provider (ETP) for the limited purpose of offering federal and Oregon Lifeline services in Docket No. UM 1668, Order No. 15-280 entered September 16, 2015, (Designation Order), subject to conditions set forth in the order. The order specified that the approved designated service area excludes all Tribal Lands, but it did allow for future requests to expand the area to include Tribal Lands. In Order No. 16-170, entered May 3, 2016, the Commission approved a request from Boomerang to add the Tribal Lands of the Confederated Tribes of the Siletz Indians to its designated service area.

The Commission updated its own ETC requirements, consistent with federal regulations, in Order No. 15-382 entered December 1, 2015, in Docket No. 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 May 20, 2016, Boomerang submitted a supplemental application to expand Boomerang's designated service area to include the Umatilla Reservation. 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.

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

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 Umatilla Reservation is largely situated in Umatilla County, but partly extends south into Union 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, the Citizens' Utility Board (CUB), the other party in the docket, has indicated 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 the Umatilla Reservation. Lastly, approving the application will serve the public interest by increasing the options for Lifeline service to residents of the Umatilla Reservation. 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 Umatilla Indian Reservation for the purpose of offering Tribal Lifeline services to eligible residents, subject to the conditions in Order No. 15-280.

Boomerang Umatilla