

ENTERED: **MAR 20 2017**

**BEFORE THE PUBLIC UTILITY COMMISSION
OF OREGON**

UM 1668

In the Matter of

BOOMERANG WIRELESS, LLC, dba
ENTOUCH WIRELESS,

Application for Limited Designation as
an Eligible Telecommunications Carrier
and Eligible Telecommunications
Provider.

ORDER

DISPOSITION: JOINT MOTION GRANTED; ORDER NO. 15-280
AMENDED

I. SUMMARY

In this order, we grant a joint motion filed by the parties and adopt an amendment to the stipulation adopted in Order No. 15-280. The amendment to the stipulation removes the requirement that the applicant provide a free handset to new Lifeline customers, except those Lifeline customers on Tribal plans.

II. BACKGROUND

By Order No. 15-280, entered September 16, 2015, we approved the application filed by Boomerang Wireless, LLC, dba EnTouch Wireless for designation as an Eligible Telecommunications Carrier (ETC) and designation as an Eligible Telecommunications Provider, enabling it to receive federal Universal Service Fund Support. In so doing, we adopted a stipulation, affixed as Appendix A to the order, between Boomerang, the Citizens' Utility Board of Oregon (CUB)¹ and the Commission Staff, (parties) who constituted all the participants in the proceeding.

Although not required by either the Federal Rules, the Oregon Revised Statutes or our rules, the stipulation included the following provision as paragraph 38:

Boomerang will provide applicants approved for Boomerang's Lifeline service at no charge with the option to receive a free handset. All handsets will have immediate E911 functionality. The cost of the free handset is borne by Boomerang. No portion of the handset costs is subsidized either by the federal

¹ Now known as the Oregon Citizens' Utility Board.

Universal Service Fund or the RSPF.² Boomerang will provide one free phone per a twelve-month period to replace a handset that is reported lost or stolen as long as the customer is an active Boomerang customer approved by the Commission for Lifeline service.

On April 27, 2016, the Federal Communications Commission (FCC) issued its 2016 Lifeline Modernization Order³ which imposed new broadband service standards and voice minute requirements as conditions for receiving support.⁴ Despite these increased obligations for Lifeline support, the associated federal subsidy did not increase from its currently capped \$9.25 per month for customers on non-Tribal lands. Furthermore, under the FCC Order, Lifeline support is slated to be phased down to zero for voice-only service over time.⁵ The FCC Order also adopted additional requirements for handsets, should they be offered for Lifeline-supported broadband service by an ETC such as Boomerang: the device had to be Wi-Fi enabled and certain devices had to have hotspot capabilities.

III. THE JOINT MOTION

On February 8, 2017, the parties filed a joint motion asking that our order adopting the stipulation be amended by allowing paragraph 38 of the stipulation to be modified to read as follows:

38. Boomerang *may* provide applicants approved for Boomerang's Lifeline service at no charge with the option to receive a free handset. All handsets offered will have immediate E911 functionality. The cost of the free handset is borne by Boomerang. No portion of the handset costs is subsidized either by the federal Universal Service Fund or the RSPF. For customers that received a free phone from Boomerang prior to December 2, 2016, Boomerang will provide one free phone to replace a handset that is reported lost or stolen through December 2, 2017, as long as the customer is an active Boomerang customer approved by the Commission for Lifeline service.

In support of the amendment, the parties state that the changes described above substantially alter the economics of the Lifeline program in a way that was not envisioned when the stipulation was entered into and that Boomerang has concluded that it is no longer economical to bear the cost of offering a free handset to each new customer or providing free replacement handsets every twelve months to those who have had their

² Residential Service Protection Fund.

³ *In re Lifeline & Linkup Reform & Modernization et al.*, WC Docket No. 11-42 *et al.*, 31 FCC Rcd. 3962, released April 27, 2016 ("FCC Order").

⁴ As of December 2, 2016, Lifeline-supported mobile broadband service plans had to include at least 500MB of data per month at 3G speeds and Lifeline-supported voice-only plans had to include at least 500 minutes per month. Those numbers were to increase on December 1, 2017, to 1GB per month and 750 minutes per month and on December 1, 2018 to 2GB and 1000 minutes per month, respectively. *Id.* at ¶93.

⁵ *Id.* at ¶¶114, 117.

phones lost or stolen. Eliminating these costs would allow Boomerang to meet the new FCC standards in an economically rational way.⁶

IV. DISCUSSION

The joint motion to amend Order No. 15-280 is granted. The changes caused by the FCC Order were neither contemplated by the parties at the time they entered into the stipulation, nor were they reasonably foreseeable. Both the Commission Staff and CUB, by their concurrence in the motion, acknowledge the reasonableness of Boomerang's assessment of the economic impact of the new federal requirements. We find that adopting the modification to paragraph 38 of the stipulation is in the public interest.

V. ORDER

IT IS ORDERED that:

1. The Joint Motion to Amend Order filed by Boomerang Wireless, LLC, dba EnTouch Wireless, the Staff of the Public Utility Commission of Oregon, and the Citizens' Utility Board of Oregon is granted.
2. The stipulation attached as Appendix A to Order 15-280, as modified with respect to paragraph 38, as described above, is adopted.

MAR 20 2017

Made, entered, and effective _____.

Lisa D. Hardie

Lisa D. Hardie
Chair



John Savage

John Savage
Commissioner

Stephen M. Bloom

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 Court of Appeals in compliance with ORS 183.480 through 183.484.

⁶ Joint Motion at 3.