

STATE OF NORTH DAKOTA
PUBLIC SERVICE COMMISSION

Boomerang Wireless, LLC
Designated Eligible Carrier
Application

Case No. PU-13-203

ORDER ON ELIGIBLE TELECOMMUNICATIONS CARRIER DESIGNATION

October 9, 2013

Preliminary Statement

On May 3, 2013, Boomerang Wireless, LLC d/b/a enTouch Wireless (Boomerang), an Iowa limited liability company with its principal offices located at Hiawatha, Iowa, filed an application for designation as an eligible telecommunications carrier (ETC) for the purpose of receiving federal universal service support for low-income consumers under 47 CFR Part 54 Subpart E. This designation is also known as Lifeline-only ETC designation. Boomerang proposes to provide prepaid Lifeline universal services to qualifying low income customers as a commercial mobile radio service (CMRS) carrier throughout every telephone exchange in North Dakota.

On June 19, 2013, the Commission issued a Notice of Opportunity for Hearing (Notice) providing until July 31, 2013 for comments and requests for hearing. No comments or requests for hearing were received. The Notice identified the issues to be considered in this matter are:

1. Is the applicant qualified under the Telecommunications Act of 1996, Section 214(e) for designation as an ETC eligible to receive federal universal service funding?
2. What ETC universal service support area should be designated?
3. Is designation of the applicant as an ETC in the public interest?

The Notice stated that the Commission can determine the matter without a formal hearing.

On July 15, 2013, the Commission requested additional information and submitted a certification to Boomerang for its signature. On August 2, 2013 the Company provided its responses as well as a signed certification relating to order provisions.

On September 25, 2013, the Commission held an Informal Hearing to discuss the issues with Boomerang.

ETC Designation

The Telecommunications Act of 1996 provides financial support for universal services to common carriers that have been designated as ETCs and that (1) offer the universal services that are supported by Federal universal service support mechanisms under section 254(c), either using its own facilities or a combination of its own facilities and resale of another carrier's services and (2) advertise the universal services, advertise the availability of such services, and advertise the charges for such services, using media of general distribution.

In its *Report and Order and Further Notice of Proposed Rulemaking* released February 6, 2012 in Docket No. FCC 12-11 at paragraph 368, the Federal Communications Commission found that it would forbear from the "own-facilities" requirement contained in section 214(e)(1)(A) for carriers that seek to become, Lifeline-only ETCs, subject to the following conditions: (1) the carrier must comply with certain 911 requirements and (2) the carrier must file, and the FCC must approve, a compliance plan providing specific information regarding the carrier's service offerings and outlining the measures the carrier will take to implement Lifeline service obligations as well as further safeguards against waste, fraud and abuse the FCC may deem necessary.

Under 47 CFR 54.201, a carrier seeking Lifeline-only ETC designation must demonstrate that it is financially and technically capable of providing Lifeline service in compliance with 47 CFR Subpart E. Boomerang is seeking Lifeline-only ETC designation. Boomerang is not seeking high-cost support as part of its ETC Application.

Both federal law and state law give the Commission the authority to designate a common carrier as an ETC. In areas served by a rural telephone company, the Commission must find that ETC designation is in the public interest.

Boomerang, based in Hiawatha, Iowa, was organized and incorporated in the State of Iowa on February 7, 2008. Boomerang is a common carrier and reseller of commercial mobile radio service, and will offer all of the services and functionalities detailed in Section 54.101(a) of the FCC Rules. Boomerang, along with its parent company and sister companies, generates revenues from non-Lifeline services and has access to capital from its investors; and currently provides prepaid wireless services to more than 350,000 subscribers, including more than 50,000 retail customers. Therefore, Boomerang is not solely dependent on reimbursements from the Universal Service Fund. Boomerang is currently authorized as a wireless ETC in 15 states. Boomerang's parent company operates its own network data and switching facilities located in Marion Iowa. Boomerang has not been subject to any enforcement action at the FCC or in any state.

Boomerang has resale agreements with Sprint and Verizon, and will be using their networks, as well as other GSM carriers' networks to provide wireless services in North Dakota.

Boomerang will offer telecommunications services primarily to qualified low-income subscribers.

Boomerang will offer qualified consumers their choice of a 125 or 250 anytime prepaid minutes per month Lifeline Service Plan at no charge as well as a free handset. Minutes do not expire for the 125 minute plan and unused minutes are rolled over to the next month. Unused minutes for the 250 minute plan do not roll over. Both plans offer a deal where one minute equals one text message. In addition, Boomerang will offer qualified customers who are eligible for the tribal subsidy the Tribal Lifeline Service Plan. This will provide eligible customers with 1000 units without rollover where 1 minute equals 1 unit and 1 text equals 1 unit, as well as 10mb of data. Boomerang's wireless Lifeline plan also includes custom calling features at no charge, including Caller ID, Call Waiting, Call Forwarding, 3-Way Calling, Voicemail, and free access to Customer Service via 611 from their Lifeline phone or other designated toll-free access dialing from any other phone.

Boomerang seeks only Lifeline support from the low-income mechanism of the federal Universal Service Fund and does not seek support from the high-cost support mechanism. This program is designed to reduce the monthly cost of telecommunication services for eligible consumers, is distributed on a per-customer basis, and is directly reflected in the price that the eligible customer pays. Because Boomerang does not seek support from the high-cost support mechanism, designation of Boomerang as a Lifeline-only ETC will not pose any adverse effect on the growth in the high-cost portions of the Universal Service Fund (USF), nor will it create or contribute to an erosion of high-cost funding from any rural or nonrural telephone company. Increasing the number of designated Lifeline-only ETCs in North Dakota will provide the opportunity for increased participation by qualified consumers in the Lifeline program.

NDAC § 69-09-05-12(6)(a) requires a full description of available services in the ETC's official telephone directory. Since Boomerang is a CMRS provider, it does not have an official telephone directory in North Dakota and requests a waiver from this requirement pursuant to NDAC §§ 69-09-05-12(2)(c) and (d).

Boomerang filed a Compliance Plan with the FCC on July 26, 2012. The FCC approved Boomerang's Compliance Plan on August 8, 2012, and thereby granted Boomerang forbearance from the statutory requirement that Boomerang provide service using its own facilities in order to be designated as a Lifeline-only ETC.

The Certification Relating to Order Provisions as signed by James T. Balvanz, Chief Financial Officer of Boomerang and filed on August 2, 2013 is incorporated by reference and attached to this order.

Consumers qualifying for the Lifeline discounts offered by Boomerang will receive the benefits of nationwide calling areas and the convenience and security of mobile telephone service. Boomerang will bring increased customer choice and the benefits of competition.

Universal Service Support Area

The Commission must establish a geographic area (service area) for the purpose of determining universal service obligations and support mechanisms for the designated ETC. 47 U.S.C. § 214(e)(5).

The Act defines service area:

SERVICE AREA DEFINED-- The term "service area" means a geographic area established by a State commission for the purpose of determining universal service obligations and support mechanisms. In the case of an area served by a rural telephone company, "service area" means such company's "study area" unless and until the Commission and the States, after taking into account recommendations of a Federal-State Joint Board instituted under section 410(c), establish a different definition of service area for such company.

In its *Memorandum Opinion and Order*, FCC 13-44, released April 15, 2013, the Federal Communications Commission has determined that carriers may be designated as a Lifeline-only ETC in partial rural service areas.

In this proceeding, Boomerang is requesting ETC designation in all North Dakota telephone exchanges, including tribal exchanges.

Boomerang has demonstrated that it is financially and technically capable of providing Lifeline service in compliance with 47 CFR Subpart E.

Based on the evidence in this proceeding, Boomerang is qualified under the Telecommunications Act of 1996, Section 214(e) for designation as an ETC eligible to receive federal universal service support for low-income consumers under 47 CFR Part 54 Subpart E.

It is in the public interest that Boomerang be designated as a Lifeline-only ETC in all North Dakota telephone exchanges.

Boomerang is registered with the Commission to provide commercial mobile radio and long distance services.

Boomerang Wireless, LLC and its trade name enTouch Wireless, are both registered with the Secretary of State of North Dakota and Boomerang Wireless, LLC is in good standing.

Having allowed all interested persons an opportunity to be heard and having heard, reviewed and considered all testimony and evidence presented, the Commission makes the following:

Order

The Commission orders:

1. Boomerang Wireless, LLC is designated an eligible telecommunications carrier for the purpose of receiving federal universal service support for low-income consumers

under 47 CFR Part 54 Subpart E. The designated service area in this proceeding consists of all study areas in North Dakota.

2. Boomerang Wireless, LLC shall comply with the applicable annual reporting requirements set forth in North Dakota Administrative Code §69-09-05-12.1.

3. Under North Dakota Administrative Code §69-09-05-12(2)(c) and (d), Boomerang Wireless, LLC is granted a waiver of the requirements of North Dakota Administrative Code § 69-09-05-12(6)(a) regarding the publication of a full description of its services in an official telephone directory.

4. Until further notice, Boomerang shall file at least annually, or more often if requested by the Public Service Commission, a complete list of Boomerang's customers and waivers, including North Dakota Department of Human Services Department Form SFN 1059, Authorization for Release of Information 449-55-05, for each customer on the list.

PUBLIC SERVICE COMMISSION



Randy Christmann
Commissioner



Brian P. Kalk
Chairman



Julie Fedorchak
Commissioner

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CERTIFICATION

I am James T. Balvanz, a representative of Boomerang Wireless, LLC (Boomerang) with authority to bind Boomerang and I certify that:

1. Boomerang understands and agrees to the conditions and criteria set forth in Chapter 49-21 of the North Dakota Century Code and Chapter 69-09-05 of the North Dakota Administrative Code that pertain to Wireless Lifeline Only Eligible Telecommunications Carriers (ETC), and that Boomerang will be responsible for compliance with this Certification, the Public Service Commission's order designating Boomerang as an ETC, and conditions and criteria set forth in the applicable federal and state laws and rules pertaining to Eligible Telecommunications Carriers offering Lifeline Only services.
2. Boomerang agrees to comply with all statements, processes and procedures set forth in its Application for designation as an ETC in the non-rural and rural wire centers in North Dakota identified in its Application. Boomerang agrees that all statements made and matters set forth in its Application are true and correct to the best of Boomerang's knowledge, information, and belief.
3. Boomerang will use the federal low-income universal service support it receives only for the provision of services for which the support is intended.
4. Boomerang meets all of the prerequisites to be designated as an ETC throughout its proposed ETC Designated Area in the state of North Dakota.
5. Boomerang provides each of the services supported by federal universal service support mechanisms, specified in Federal Communications Commission's (FCC's) rules, 47 C.F.R. § 54.101, and will offer these supported services in North Dakota upon designation as an ETC, including voice grade access, minutes of use for local service at no additional charge, access to emergency services and toll limitation services.
6. Boomerang will provide the supported services on a timely basis to requesting customers within Boomerang's designated service area where Boomerang's underlying carriers' network exists.

7. Boomerang will provide service within a reasonable period of time, if the potential customer is within Boomerang's proposed designated service area but outside its existing network coverage, if service can be provided at reasonable cost by:
 - (a) Modifying or replacing the requesting customer's equipment;
 - (d) Adjusting network or customer facilities; or
 - (e) Reselling services from another carrier's facilities to provide service.
8. Boomerang is not seeking Universal Service Fund high-cost support as part of its Application.
9. Boomerang will use all available means to ensure customers are eligible for the Lifeline program at the time of sign-up and recertification in accordance with the federal default eligibility criteria in 47 C.F.R. § 54.409(2) and the relevant proof documentation specified in 47 C. F. R. § 54.410. Boomerang will check all available databases including the FCC's National Accountability Database and the National Lifeline Eligibility Database when fully functional to prevent duplication and determine eligibility.
10. Boomerang has taken, and will continue to take, steps to work with its underlying carriers to remain functional in emergency situations by: (1) maintaining a reasonable amount of backup power to ensure functionality without an external power source; (2) maintaining the ability to re-route traffic around damaged facilities and to manage traffic spikes resulting from emergency situations; and (3) establishing procedures for employees to follow in an emergency to prevent or minimize interruption or impairment of telecommunications services.
11. Boomerang will meet or exceed applicable consumer protection and quality standards and will comply with the Cellular Telecommunications and Internet Association's (CTIA) Consumer Code for Wireless Service.
12. Boomerang will advertise the availability of the supported services detailed in its Application, and the corresponding rates and charges, in a manner designed to inform the general public within North Dakota. This advertising will occur through a combination of media channels, such as television and radio, newspaper, magazine and other print advertisements, outdoor advertising, direct marketing, and the Internet.
13. Boomerang will offer the services described in its Application.
14. Boomerang understands and agrees that if Boomerang has not advertised its Lifeline services or signed up any North Dakota customers within 12 months of the effective date of Boomerang's designation as a Lifeline-only ETC, the Public Service Commission may revoke Boomerang's ETC designation and Boomerang may reapply to be designated as a Lifeline-only ETC in North

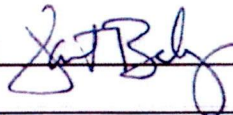
Dakota.

15. Boomerang understands and agrees that it may be required by the FCC to provide equal access to long distance carriers in the event that no other ETC provides equal access within Boomerang's designated ETC service area.
16. Boomerang will comply with all applicable annual reporting requirements associated with being an ETC in North Dakota including filing with the Public Service Commission a copy of each report filed with the FCC, within 30 days of filing with the FCC.
17. Boomerang will file at least annually or more often if requested by the Public Service Commission, a complete list of its customers and waivers, including North Dakota Department of Human Services' Form SFN 1059, Authorization for Release of Information 449-55-05, for each customer on the list.
18. Boomerang understands and agrees that its ability to offer service is subject to suspension or revocation for failure to comply with the Public Service Commission's orders, or applicable statutes, rules, regulations, standards, and other authorizations.
19. Boomerang agrees to maintain the records to demonstrate that Boomerang has complied with the requirements of the Public Service Commission's order(s) and that Boomerang will preserve records demonstrating compliance for Public Service Commission inspection at any reasonable time upon reasonable notice.
20. Boomerang understands and agrees that, to the extent there are any conflicts or inconsistencies between Boomerang's Application and the provisions in this Certification, the Certification provisions control.

Dated this 2 day of August, 2013.

BOOMERANG WIRELESS, LLC

By



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