

**BEFORE THE
MISSOURI PUBLIC SERVICE COMMISSION**

IN THE MATTER OF)
)
BOOMERANG WIRELESS, LLC)
D/B/A ENTOUCH WIRELESS FOR)
EXPANDED SERVICE AREA AS A)
WIRELESS ETC IN THE STATE)
OF MISSOURI (LOW INCOME)
ONLY))

DOCKET NO. _____

**APPLICATION OF BOOMERANG WIRELESS, LLC D/B/A ENTOUCH WIRELESS
FOR EXPANDED SERVICE AREA AS A WIRELESS ETC IN THE STATE OF
MISSOURI
(LOW INCOME ONLY)**

COMES NOW Boomerang Wireless, LLC d/b/a enTouch Wireless (“Boomerang” or the “Company”), by and through its undersigned counsel, and pursuant to Section 214(e)(2) of the Telecommunications Act of 1996 (the “1996 Act”), 47 U.S.C. § 214(e)(2), Federal Communications Commission (“FCC”) Universal Service Rules, 47 C.F.R. §§ 54.101 through 54.207 (the “FCC Rules”), and 4 CSR 240-31.130 hereby requests that the Missouri Public Service Commission (the “Commission”) approve an expanded service area in which Boomerang is designated as an Eligible Telecommunications Carrier (“ETC”) in the state of Missouri as set forth in **Exhibit “A”** attached hereto (the “Expanded Service Area”).

By Order dated May 21, 2013, in File No. RA-2013-0115, Boomerang was designated by the Commission as an ETC for the purpose of providing prepaid wireless services in Missouri in the service areas in Southwestern Bell Telephone Company, CenturyLink, Spectra Communications, and Windstream (the “Designation Order”). At the time of the Designation Order, the Company’s underlying carriers included only Sprint and Verizon. Since the date of the Designation Order, the Company has begun utilizing the underlying services of T-Mobile, a

GSM carrier, and has obtained access to the AT&T network via its Mobile Virtual Network Enabler (MVNE). Therefore, the Company has expanded its coverage area throughout the state. Boomerang hereby requests the Commission approve its Expanded Service Area set forth in **Exhibit “A”** for the purpose of receiving federal low-income universal service support for prepaid wireless services, specifically Lifeline.¹ Currently approved and proposed Expanded Service Area (in bold print) are both included in **Exhibit “A.”** Boomerang plans to offer Lifeline service in all areas in Missouri that are served by its underlying carriers Sprint, Verizon, T-Mobile and AT&T; and therefore, it requests designation statewide in all exchanges to the extent that its underlying carriers have facilities and coverage.

Boomerang respectfully requests that the Commission grant this Petition and that it do so expeditiously so that Boomerang may provide wireless service to low income households in the Expanded Service Area as soon as possible. In further support of its Petition, Boomerang states as follows:

I. GENERAL INFORMATION.

1. Boomerang Wireless, LLC is an Iowa limited liability company with its principal offices located at 955 Kacena Road, Suite A, Hiawatha, Iowa 52233. A copy of Boomerang’s Articles of Incorporation are on file with the Commission in File No. RA-2013-0115 and incorporated herein by reference.

2. Correspondence or communications pertaining to this Application and petition should be directed to Boomerang’s attorneys of record:

¹ In File No. RA-2013-0115 the Commission approved Boomerang’s request to provide only Lifeline support from the low-income mechanism of the federal Universal Service Fund (“USF”). Boomerang did not seek support from the high-cost support mechanism. In this application, Boomerang is only requesting approval for an expanded service territory. ETC certification requirements related to the high-cost program are therefore not applicable to Boomerang’s application

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3. Questions concerning the ongoing operations of Boomerang should be directed to:

Kimberley Lehrman, President
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4. The Company has been granted ETC designation in 24 States: Arizona, Arkansas, California, Colorado, Georgia, Indiana, Iowa, Kansas, Kentucky, Louisiana, Maryland, Michigan, Minnesota, Mississippi, Missouri, North Dakota, Ohio, Oklahoma, Oregon, South Carolina, Texas, Washington, West Virginia, and Wisconsin. Boomerang also has applications pending in 16 jurisdictions for designation as an ETC on a wireless basis for federal

support for Lifeline services.² Boomerang has never been denied ETC designation by any state commission or by the FCC in connection with any state.

5. Boomerang was previously designated as an ETC by the Commission and has been operating as a wireless ETC in the State of Missouri since 2013 in compliance with the Commission's conditions. Upon approval of the Expanded Service Area, Boomerang will continue to comply with each of the conditions set forth in the Commission's Order dated May 21, 2013, in File No. RA-2013-0115.

II. BACKGROUND.

6. Section 214(e)(2) of the 1996 Act³ provides that:

A State commission shall upon its own motion or upon request designate a common carrier that meets the requirements of paragraph (1) as an eligible telecommunications carrier for a service area designated by the State commission. Upon request and consistent with the public interest, convenience, and necessity, the State commission may, in the case of an area served by a rural telephone company, and shall, in the case of all other areas, designate more than one common carrier as an eligible telecommunications carrier for a service area designated by the State commission, so long as each additional requesting carrier meets the requirements of paragraph (1). Before designating an additional eligible telecommunications carrier for an area served by a rural telephone company, the State commission shall find that the designation is in the public interest.

Section 214(e)(1) of the 1996 Act⁴ provides:

A common carrier designated as an eligible telecommunications carrier under paragraph (2), (3), or (6) shall be eligible to receive universal service support in accordance with section 254 of this title and shall, throughout the service area for which the designation is received—

(A) offer the services that are supported by Federal universal service support mechanisms under section 254(c) of this title, either using its own facilities or a combination of its own facilities and resale of another carrier's services (including

² Boomerang has ETC applications currently pending before state commissions in Massachusetts, New Jersey, New Mexico, Pennsylvania, and South Dakota. In addition, Boomerang has a pending petition before the FCC for granting ETC designations in Alabama, Connecticut, Delaware, The District of Columbia, Florida, Maine, New Hampshire, New York, North Carolina, Tennessee and Virginia, WC Docket No. 09-197 (filed Dec. 29, 2010).

³ 47 U.S.C. § 214(e)(2).

⁴ 47 U.S.C. § 214(e)(1).

the services offered by another eligible telecommunications carrier); and

(B) advertise the availability of such services and the charges therefor using media of general distribution.

7. Pursuant to 47 U.S.C. § 214(e)(2), the Commission has the statutory authority to designate a common carrier as an ETC that offers the services supported by federal Universal Service Fund support mechanisms and advertises “the availability of such services and the charges therefore using media of general distribution.”⁵ As noted in Section 214(e)(2) of the 1996 Act, the Commission has the authority to designate the service area for each ETC.

III. BOOMERANG HAS ALREADY BEEN GRANTED DESIGNATION AS AN ETC IN THE STATE OF MISSOURI

8. Boomerang was designated by the Commission as an ETC on May 21, 2013, in File No. RA-2013-0115 by Order of the Commission and upon recommendation of the Staff of the Commission. In connection with the Commission’s approval of Boomerang’s Application for Designation as an ETC, the Commission and the Staff considered the facts and matters set forth in the Application, including information regarding the Company’s organization, officers and managerial experience, financial and technical requirements, Boomerang’s FCC-approved Compliance Plan, advertising samples, terms of service, and information regarding handsets provided by Boomerang. In addition, the Commission and the Staff reviewed Boomerang’s commitment to providing the required services, and to complying with Missouri service quality standards and verification and certification procedures, as well as the FCC’s additional eligibility requirements, consumer protection standards, and annual reporting requirements. Boomerang hereby reaffirms its compliance with and commitment to each of the foregoing requirements.

⁵ 47 C.F.R. § 54.201(d)(2).

9. Since the Commission has already determined that the Company meets the requirements of an ETC in Missouri, the present Application is limited to whether Boomerang's service area should be expanded to include the Expanded Service Area attached herewith as **Exhibit "A."** As demonstrated below, Boomerang's Application for Expanded Service Area serves the public interest as outlined by the FCC.⁶

IV. APPROVAL OF THE EXPANDED SERVICE AREA IS IN THE PUBLIC INTEREST OF THE STATE OF MISSOURI AND ITS LOW-INCOME TELECOMMUNICATIONS END-USERS

A. Wireless ETCs *Per Se* Promote the Public Interest in Non-Rural ILEC Areas

10. The FCC has determined that while "[d]esignation of competitive ETCs promotes and benefits consumers...by increasing customer choice," designation must include "an affirmative determination that such designation is in the public interest regardless of whether the applicant seeks designation in an area served by a rural or non-rural carrier."⁷ In areas served by non-rural ILECs, the 1996 Act does not require a separate public interest finding. The FCC has previously held that designating a competitor as an ETC in areas served by non-rural ILECs is *per se* in the public interest.⁸

11. In this Application for Expanded Service Area, Boomerang seeks designation as an ETC in areas served by both rural and non-rural ILECs in Missouri. Although Boomerang is seeking ETC designation in areas typically served by wireline carriers, Boomerang's designation

⁶ See Federal-State Joint Board on Universal Service, *Report and Order*, CC Docket No. 96-45, 20 FCC Rcd 6371, ¶ 40-43 (Rel, March 17, 2005).

⁷ See Federal-State Joint Board on Universal Service, 20 FCC Rcd 6371, ¶ 42 (2005).

⁸ See *Cellco Partnership*, 16 FCC Rcd, at 45.

as an ETC will provide a valuable alternative to the existing telecommunications services currently available in these areas.

B. Approval of Boomerang's Expanded Service Area as an ETC Serves the Public Interest

12. Boomerang submits that the public interest benefits of designating Boomerang as an ETC include 1) a larger local calling area and expanded coverage area via multiple underlying carriers (as compared to traditional wireline carriers and single wireless carriers); 2) the convenience, portability, and security afforded by mobile telephone service; 3) the opportunity for customers to control cost by receiving a pre-set amount of flat-rate monthly airtime; 4) the ability to purchase additional low-cost usage at multiple convenient locations in the event that included usage has been exhausted; 5) the ability of users to use the supported service to send and receive "SMS" or text messages as well as the option to send data and access the public internet; and 6) 911 and, where available, enhanced 911 service in accordance with current FCC requirements. In addition, the inclusion of domestic telephone toll calling as a part of Boomerang's flat-rate wireless offering allows consumers to avoid the risks of becoming burdened with significant and unexpected per-minute charges for domestic telephone toll and overage charges. These per-minute overruns form the basis of a substantial number of consumer complaints to state and federal regulators. Accordingly, Boomerang's offerings will help to reduce this burden on public utility regulatory boards by obviating the cause for such complaints.

C. Grant of Boomerang's ETC Status is Consistent with the FCC's Additional Public Interest Factors

13. The FCC has also identified factors that are to be considered in determining whether designation of additional ETCs will serve the public interest and whether the benefits of an additional ETC would outweigh potential harms. These factors include: 1) the benefits of

increased competitive choice; and 2) the unique advantages of the applicant company's service offerings.⁹ Boomerang affirms that its ETC designation meets these criteria as described below.

1. *The Benefits of Increased Competitive Choice*

14. The FCC has long acknowledged the benefits to consumers of being able to choose from a variety of telecommunications providers and the resulting variety of telecommunications services they provide.¹⁰ This is of particular interest in cases where wireless providers like Boomerang seek to provide service as an alternative to the ILEC. In the *Highland Cellular* case, the FCC recognized and affirmed that some households may not have access to the public switched network as provided by the ILEC.¹¹ The availability of a wireless competitor benefits all consumers. The availability of a wireless competitor benefits consumers who routinely drive long distances to attend work or school or to accomplish everyday tasks such as shopping or attending community and social events. The wireless service offered by Boomerang will provide these consumers with a convenient and affordable alternative to traditional telecommunications service that can be used while at home and away from home.

15. Added together, Boomerang expects these additional competitive advantages to create an atmosphere that will cause many qualified consumers, at their option, to select Boomerang's low-income wireless Lifeline service in lieu of the more traditional wireline or wireless services.

16. Designation of Boomerang as an ETC also creates competitive pressure for other wireline and wireless providers within the proposed Expanded Service Area. In order to remain

⁹ 47 U.S.C. § 54.202(c).

¹⁰ See e.g. *Specialized Common Carrier Services*, 29 FCC2d 870 (1971).

¹¹ Federal-State Joint Bd. on Universal Serv., *Highland Cellular, Inc.*, *Memorandum Opinion and Order*, 19 F.C.C.R. 6422 (2004).

competitive in low-income markets, therefore, all carriers will have greater incentives to improve networks, increase service offerings and lower prices. This results in improved consumer services and, consistent with federal law, benefits consumers by allowing Boomerang to offer the services designated for support at rates that are “just, reasonable, and affordable.”¹²

2. *Unique Advantages of Boomerang’s Service Offerings*

17. Boomerang will offer a unique, easy to use, competitive and highly affordable wireless telecommunications service, which it will make available to qualified consumers who either have no other service alternatives or who choose a wireless prepaid solution in lieu of more traditional services. Boomerang’s standard customer terms and conditions in connection with its wireless service offerings can be found at www.enTouchwireless.com.

18. Boomerang will announce and advertise telecommunications services as an ETC in its Expanded Service Area and will publicize the availability of Lifeline services in a manner reasonably designed to reach those likely to qualify for those services. Accordingly, more low-income Missouri residents will be made aware of the opportunities afforded to them under the Lifeline program and will be able to take advantage of those opportunities by subscribing to Boomerang’s service. An updated sample of Boomerang’s planned advertising in the Expanded Service Area is attached hereto as **Exhibit “B.”**

19. Boomerang will provide universal service as an ETC in all of its Expanded Service Area.

20. Boomerang will provide equal access to long distance carriers, to the extent to which it is able to do so.

¹² 47 U.S.C. § 254(b)(1).

21. Boomerang offers a local usage plan comparable to that offered by the ILEC in the Expanded Service Area for which it seeks designation.

22. Boomerang's Lifeline service is available with no credit check, deposit requirement, minimum service periods, or early termination fees. These services will be an attractive and affordable alternative to all consumers, without regard to age, residency, or credit worthiness.

D. Boomerang's Prepaid Wireless Lifeline Plans

23. Boomerang will offer qualified consumers the Boomerang Wireless Lifeline Service Plans. Qualified Lifeline customers who reside in Missouri will be provided with the following optional plans, built on the base plan, with three options for acquiring a device:

250 Free Minute Plan: This includes 250 units and 10mb of data per month. This plan offers 250 minutes (where 1 minute equals 1 unit and 1 text equals 1 unit) for voice and text. Lifeline free minutes are automatically posted each month on the Lifeline customer's service. There are no rollover of minutes.¹³

Lifeline Upgrade Data Plan: This plan includes 250 units per month (without rollover) in which 1 minute equals 1 unit and 1 text equals 1 unit, as well as 250 MB of data per month. The plan differs depending on the device: (1) for customers who bring their own device, they will pay a \$5 line fee for 90 days of service; (2) for customers who wish to purchase an entry-level smart phone from Boomerang, they can pay \$25 for the phone, and the \$5 fee will be waived for the first 90 days; after the first 90 days, the \$5 fee for 90 days will apply; and (3) for customers who wish to purchase an iPhone 4 or equivalent, they can pay \$50 for the phone, and

¹³ Boomerang is discontinuing offering the 125 minute plan (125 units that rollover where 1 minute equals 1 unit and 1 text equals 1 unit). Demand for this plan has been weak to non-existent in Boomerang's experience. Within the State of Missouri there are no Lifeline customers enrolled in the 125 minute plan.

the \$5 fee will be waived for the first 90 days; after the first 90 days, the \$5 fee for 90 days of service will apply. Should a customer not wish to renew on the 90-day plan for \$5, the plan will convert to the 250 Free Minute plan. The 250 Free Minute plan will provide 250 units per month and 10 MB of data per month.

24. The terms and conditions of its voice telephony service plans offered to Lifeline subscribers are detailed on page 23 of the Compliance Plan on file with the Commission, and in the updated Terms of Service attached hereto as **Exhibit “C.”**

25. If reasonably and fairly required by the Commission to adjust its service plans to achieve comparability in order to meet standards in the public interest, Boomerang commits to making any such adjustment. All low-income universal service support will be used to allow Boomerang to provide the service with no monthly recurring charge, thus ensuring that consumers receive the full benefit of the universal service support funding for which Boomerang will seek reimbursement. In the event that all airtime has been used, Lifeline customers will also have the capability of purchasing additional airtime. Boomerang will not deduct airtime minutes for calls by Lifeline customers with service addresses for Lifeline service in Missouri, to Boomerang’s Customer Service (via 611 or other designated toll-free access dialing) and calls from Boomerang’s Customer Service to such Lifeline customers to address billing, customer care and customer service issues.

26. Boomerang has updated the top-up products available to Boomerang’s customers to supplement the Lifeline benefit by focusing on the Airfair top-ups. The enTouch logo is included on the front and back of the card, making it easier for the consumer to associate this top-up with their Lifeline handset. The bundles reflect consumers’ increasing desire to have data on their handsets. The bundles are easy to find and represent an improved value to consumers. Presently, the top-up plans are as follows:

- 1) For \$5.00, the customer has 30 days from activation of the top-up to use 250 MB of data.
- 2) For \$10.00, the customer has 30 days from activation of the top-up to use 250 anytime voice or text units and 250 MB of data.
- 3) For \$20.00, the customer has 30 days from activation of the top-up to use 500 anytime voice or texts units and 500 MB of data.
- 4) For \$30.00, the customer has 30 days from activation of the top-up to use 1,000anytime voice or texts units and 1 GB of data.
- 5) For \$50.00, the customer has 30 days from activation of the top-up to use unlimited¹⁴ anytime voice or texts units, and 4 GB of data.¹⁵

27. Airtime replenishment cards will be made available at many retail outlets frequented by low-income customers throughout the Expanded Service Area such as CVS, Dollar General, Walgreens, Seven-Eleven, Fred's, Rite Aid, as well as from Boomerang's website.

28. The wireless plan will also include a free handset and the following custom calling features:

- (a) Caller ID;
- (b) Call Waiting;
- (c) Call Forwarding;
- (d) 3-Way Calling; and

¹⁴ Boomerang's Acceptable Use Policy for the services regarding unlimited voice and text is outlined in the Terms of Service available on the website located at <http://www.enTouchwireless.com>. The use of more than 3,000 units in less than 30 days will trigger review of the usage in accordance with the Acceptable Use Policy.

¹⁵ Boomerang's Acceptable Use Policy for data services is outlined in the Terms of Service available on the website located at <http://www.enTouchwireless.com>.

(e) Voicemail.

29. Under Boomerang's proposed low-income wireless offering, each eligible wireless customer will receive a 911 compliant handset at no cost to the subscriber. Attached hereto as **Exhibit "D"** is updated information regarding the handsets issued by Boomerang to its customers. Wireless handsets will be delivered at no charge to qualifying customers, service will be activated, and the requisite number of minutes will be added upon certification of the customer for Lifeline.

E. Approval of Boomerang's Expanded Service Area as an ETC Will Benefit Low Income Consumers in the State of Missouri.

30. Under the FCC Rules, an ETC applicant must demonstrate that it will satisfy applicable consumer protection and service quality standards.¹⁶ Boomerang will satisfy all such standards. As part of its certification requirements for providing local exchange services, Boomerang must abide by the service quality and consumer protection rules. Boomerang in general commits to satisfying all such applicable state and federal requirements related to consumer protection and service quality standards.

31. Under the FCC Rules, an ETC applicant must demonstrate its ability to remain functional in emergency situations.¹⁷ Boomerang is committed to providing and maintaining essential telecommunications services in times of emergency. In particular, Boomerang maintains a reasonable amount of back-up power to ensure the functionality of its service without an external power source, is able to reroute traffic around damaged facilities, and is capable of managing traffic spikes resulting from emergency situations. More specifically, Boomerang's switching facilities are located in an SAS70 Type II certified datacenter facility

¹⁶ 47 C.F.R. §54.202(a)(3), 62 Fed. Reg. 15,978 at Para 28.

¹⁷ 47 C.F.R. § 54.202(a)(2); USF Order at Para 25.

with redundant power and network connectivity and a dedicated diesel generator. In addition, Boomerang relies in combination on certain facilities of its underlying CMRS providers who maintain a reasonable amount of back-up power to ensure the functionality of its service without an external power source. In instances of power outages, priority is set based upon traffic, cell site location and time of day.

32. In addition, designation of the Company as an ETC on a wireless basis will make Lifeline discounts available to many more Missouri residents. This provision of Lifeline discounts is particularly valuable to low-income customers in the wireless field, where, to Boomerang's knowledge, there are a limited number of wireless providers offering USF supported service and even fewer offering the same with absolutely no monthly recurring charge to the end-user. As such, the service for which Boomerang seeks ETC status is unique.

33. Inclusion of Boomerang's wireless service in the Lifeline program will serve the public interest by increasing participation of qualified consumers in those programs, thereby contributing to an overall increase in the number of Missouri residents receiving Lifeline service and an increase to the amount of federal USF dollars benefiting Missouri residents.

34. Finally, inclusion of Boomerang's wireless service in the Lifeline program will serve the public interest by furthering the extensive role that Boomerang believes it will play in the provision of communications service to low-income consumers, transient users, and other consumers who, due to the restrictive credit criteria, deposit requirements, and long-term commitments of traditional service providers, are off network and, without any viable alternative, are likely to remain so.

CONCLUSION

Having demonstrated that this Application satisfies the public and universal service interests of the telecommunications consumers of the State of Missouri, Boomerang respectfully requests that the Commission approve this Application for Expanded Service Area for the provision of Lifeline support on a wireless basis throughout Boomerang's Expanded Service Area as set forth in **Exhibit "A,"** to include all exchanges to the extent that its underlying carriers Sprint, Verizon, T-Mobile and AT&T have facilities and coverage throughout the State of Missouri (Low Income Only).

Respectfully submitted,

By: /s/ Mark W. Comley

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*Attorneys for **BOOMERANG WIRELESS, LLC***

Certificate of Service

I hereby certify that a true and correct copy of the above and foregoing document was sent via e-mail on this 29th day of February, 2016, to General Counsel's Office at staffcounsel@psc.mo.gov; and Office of Public Counsel at opcservice@ded.mo.gov.

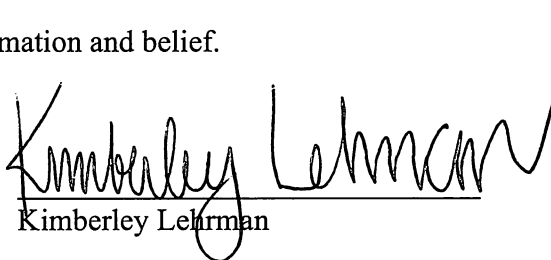
/s/ Mark W. Comley

VERIFICATION

STATE OF IOWA

COUNTY OF LINN

PERSONALLY came and appeared before me, the undersigned party in and for the jurisdiction aforesaid, the within named Kimberley Lehrman who after being duly sworn by me stated under oath as follows: that I am President of Boomerang Wireless, LLC d/b/a enTouch Wireless ("Boomerang"); and that the matters and things set forth in the foregoing Petition are true and correct to the best of my knowledge, information and belief.

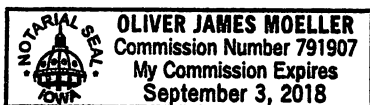

Kimberley Lehrman

SWORN TO AND SUBSCRIBED before me on this the 22 day of February, 2016.


NOTARY PUBLIC

My Commission Expires:

09/03/2018



EXHIBITS

- Exhibit A - Expanded Service Area
- Exhibit B - Sample Advertising
- Exhibit C - Terms of Service
- Exhibit D - Handset Information