

BEFORE THE IDAHO PUBLIC UTILITIES COMMISSION

IN THE MATTER OF THE APPLICATION)	
OF BOOMERANG WIRELESS, LLC DBA)	CASE NO. BWL-T-16-01
ENTOUCH WIRELESS FOR DESIGNATION)	
AS AN ELIGIBLE TELECOMMUNICATIONS)	NOTICE OF APPLICATION
CARRIER PURSUANT TO 47 U.S.C. §)	
214(e)(2).)	NOTICE OF
)	MODIFIED PROCEDURE
)	
)	ORDER NO. 33640

On August 8, 2016, Boomerang Wireless, LLC dba enTouch Wireless (enTouch or the Company) filed an Application requesting designation as an “eligible telecommunications carrier” (ETC) throughout the State of Idaho to provide Lifeline and tribal Lifeline services to qualifying Idaho consumers. The Lifeline program is intended to provide telecommunications service to eligible low-income customers by using Universal Service Fund (USF) revenues to make such services more affordable. Idaho participates in the residential Lifeline program pursuant to *Idaho Code* § 56-901. *See* Order No. 21713.

THE APPLICATION

YOU ARE HEREBY NOTIFIED that enTouch is an Iowa limited liability company authorized to conduct business within Idaho. enTouch is a commercial mobile radio services (CMRS) carrier licensed by the Federal Communications Commission (FCC). enTouch sells prepaid wireless telecommunications services through a “diverse network . . . employ[ing] Verizon, Spring, AT&T as well as other GSM [Global System for Mobile Communications].” Application at 12. enTouch states that it will operate throughout Idaho, including certain tribal areas. *See id.* at Exhibit A. enTouch asserts that it meets all of the requirements of Section 214(e)(1) of the federal Telecommunications Act to be designated as an ETC. 47 U.S.C. § 214(3).¹

¹ In December 2011, the FCC amended the list of required services for ETC designation by removing dual tone signaling, single-party service, and access to operator services, interexchange services, and directory assistance. *In the Matter of Lifeline and Link Up Reform and Modernization, Report and Order and Further Notice of Proposed Rulemaking*, 27 F.C.C. Rcd. 6656 at ¶ 365 (Feb. 6, 2012).

YOU ARE FURTHER NOTIFIED that more specifically, enTouch asserts it is entitled to limited ETC designation under 47 U.S.C. § 214(e)(2), which authorizes state commissions to designate wireless ETCs. *Id.* at 15-16. The Company asserts that it: (1) is a common carrier; (2) has the financial and technical capability to provide Lifeline service; (3) commits and is able to provide services supported by federal universal support mechanisms; (4) will advertise the availability of supported services in a manner reasonably designed to reach those likely to qualify; (5) commits to provide service throughout its service area in Idaho; (6) is capable of remaining functional in emergency situations; (7) is committed to consumer protection and service; (8) will comply with all program uniform eligibility requirements; and (8) will comply with requirements imposed by this Commission for ETC status. *Id.* at 7-16. The Company also asserts that, upon designation, it will properly notify qualified tribal consumers who are eligible for plans related to tribal subsidies.² *Id.* at 23.

YOU ARE FURTHER NOTIFIED that the Company further states that granting it ETC designation “is consistent with the public interest, convenience, and necessity” by making Lifeline services available to Idaho consumers at rates that are “just, reasonable, and affordable.” *Id.* at 17 and 19. Specifically it contends that ETC designation is in the public interest because it: (1) will compete with non-rural incumbent local exchange carriers (ILECs), increasing competitive choice and pressure; (2) increase convenience, portability, and security for mobile telephone service, (3) increase convenience of purchasing low-cost usage; (4) allow text capability to users; (5) provide 911 and E911 (where available) according to FCC regulations; (6) provide service to unserved or underserved rural and Native American populations; and (7) provide domestic telephone toll calling, which, the Company asserts, will decrease the burden on state regulators fielding consumer complaints due to unexpectedly large bills. *Id.* at 16-20.

YOU ARE FURTHER NOTIFIED that enTouch intends to offer qualified customers one of three Lifeline Service Plans: (1) 500 Minute Plan; (2) 250 Free Unit Plan; and (3) Tribal 1100 Free Unit Plan. *Id.* at 20. The 500 Minute Plan would provide 500 voice minutes, 100 texts, and 10 MB of data. The 250 Free Unit Plan would include a free handset and would

² enTouch states that a copy of this Application was sent to affected tribal governments or tribal regulatory authorities as listed in Exhibit G to the Application. *See id.* at 23.

provide 250 units (1 voice minute equals 1 unit and 1 text equals one unit) and 10 MB of data.³ The Tribal 1100 Free Unit Plan would include a free handset, with 1100 units that could be utilized for voice and text (where 1 voice minute equals 1 unit and 1 text equals 1 unit). The additional minutes offered under the Tribal plan is due to the additional \$25.00 per month in Lifeline support enTouch would receive based on qualifying low-income customers living on Tribal lands.⁴ *Id.* at 22. The Company notes that all of its proposed plans would enable Lifeline customers the capability of purchasing additional airtime to supplement their Lifeline plans in the various denominations. *Id.* at 24.

YOU ARE FURTHER NOTIFIED that the Company acknowledges that, under 47 U.S.C. § 214(e)(1)(A) of the federal Telecommunications Act, ETCs must offer services, at least in part, utilizing their own facilities. *Id.* at 15. However, enTouch invokes the FCC’s 2012 Lifeline Reform Order, stating that the FCC, on its own motion in that Order, grants “Blanket Forbearance” to “any telecommunications carrier that seeks limited ETC designation to participate in the Lifeline program, conditioned on the ETC’s compliance with certain 911 requirements and the ETC’s filing with and approval by the FCC of a compliance plan describing the ETC’s adherence to certain protections prescribed by the FCC.” *Id.* at 12. The Company attached its approved Compliance Plan as Exhibit D to the Application and, therefore, seeks to proffer services only through resale of other carriers’ facilities. *Id.* at 2.

YOU ARE FURTHER NOTIFIED that finally, enTouch asserts that it is only seeking ETC designation for the sole purpose of offering telecommunications plans and services to qualified low-income consumers and will not seek or accept high-cost support or on a “wireline” basis, and, therefore, believes that “certification requirements related to the high-cost program are . . . not applicable to enTouch Wireless’ application.” *Id.* at 1-2, 25.

NOTICE OF MODIFIED PROCEDURE

YOU ARE FURTHER NOTIFIED that the Commission has determined that the public interest may not require a formal hearing in this matter and will proceed under Modified Procedure pursuant to Rules 201 through 204 of the Idaho Public Utilities Commission’s Rules

³ enTouch states that the 250 Free Unit Plan contains a Lifeline Upgrade Data Plan corollary, which would allow relevant subscribers to add 250 MB of data per month. *See id.* at 22.

⁴ The Tribal Plan also has an upgrade option, from 100 MB of data to 500 MB. *See id.* at 23.

of Procedure, IDAPA 31.01.01.201 through .204. The Commission notes that Modified Procedure and written comments have proven to be an effective means for obtaining public input and participation.

YOU ARE FURTHER NOTIFIED that any person desiring to state a position on this Application may file a written comment in support or opposition with the Commission within twenty-one (21) days from the service date of this Notice. The comment must contain a statement of reasons supporting the comment. Persons desiring a hearing must specifically request a hearing in their written comments. Written comments concerning this Application shall be mailed to the Commission and the Applicant at the addresses reflected below:

Commission Secretary
Idaho Public Utilities Commission
PO Box 83720
Boise, ID 83720-0074

Thorvald A. Nelson
Holland & Hart LLP
6380 S. Fiddlers Green Circle, Suite 500
Greenwood Village, CO 80111
E-mail: tnelson@hollandhart.com

Street Address for Express Mail:

472 W. Washington Street
Boise, ID 83702-5918

J. Andrew Gipson
Jones Walker, LLP
190 E. Capitol Street, Suite 800 (39201)
P.O. Box 427
Jackson, MS 39205-0427
E-mail: agipson@joneswalker.com

These comments should contain the case caption and case number shown on the first page of this document. Persons desiring to submit comments via e-mail may do so by accessing the Commission's home page located at www.puc.idaho.gov. Click the "Case Comment Form" under the "Consumers" tab, and complete the comment form, using the case number as it appears on the front of this document. These comments must also be e-mailed to the Applicant at the e-mail addresses listed above.

YOU ARE FURTHER NOTIFIED that if no written comments or protests are received within the time limit set, the Commission will consider this matter on its merits and enter its Order without a formal hearing. If written comments are received within the time limit set, the Commission will consider them and, in its discretion, may set the same for formal hearing.

YOU ARE FURTHER NOTIFIED that the Application and exhibits have been filed with the Commission and are available for public inspection during regular business hours at the

Commission offices. These documents are also available on the Commission's website at www.puc.idaho.gov. Click on the "File Room" tab at the top of the page, scroll down to "Open Telephone Cases," and then click on the case number BWL-T-16-01.

YOU ARE FURTHER NOTIFIED that all proceedings in this case will be held pursuant to the Commission's jurisdiction under Title 62 of the Idaho Code and specifically *Idaho Code* § 62-610D. The Commission may enter any final Order consistent with its authority under Title 62.

YOU ARE FURTHER NOTIFIED that all proceedings in this matter will be conducted pursuant to the Commission's Rules of Procedure, IDAPA 31.01.01.000 *et seq.*

ORDER

IT IS HEREBY ORDERED that this case be processed under Modified Procedure. Interested persons wishing to file comments must do so within 21 days from the service date of this Order.

DONE by Order of the Idaho Public Utilities Commission at Boise, Idaho this 18th day of November 2016.



PAUL KJELLANDER, PRESIDENT

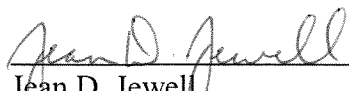


KRISTINE RAPER, COMMISSIONER



ERIC ANDERSON, COMMISSIONER

ATTEST:



Jean D. Jewell
Commission Secretary

O:BWL-T-16-01_sc

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