

**BEFORE THE IDAHO PUBLIC UTILITIES COMMISSION**

<b>IN THE MATTER OF THE APPLICATION</b>	)	
<b>OF BOOMERANG WIRELESS, LLC DBA</b>	)	<b>CASE NO. BWL-T-16-01</b>
<b>ENTOUCH WIRELESS' APPLICATION FOR</b>	)	
<b>DESIGNATION AS AN ELIGIBLE</b>	)	
<b>TELECOMMUNICATIONS CARRIER</b>	)	<b>ORDER NO. 33685</b>
<b>PURSUANT TO 47 U.S.C. § 214(e)(2).</b>	)	

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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. Application at 1.

On November 18, 2016, the Commission issued a Notice of Application and Notice of Modified Procedure that set a 21-day comment period. *See* Order No. 33640. The Commission Staff submitted the only comments and supported the Company’s Application.

Having reviewed the record, we issue this Order approving the Application as follows.

**THE APPLICATION**

In its Application, enTouch states that it is an Iowa limited liability company authorized to conduct business within Idaho. It states that it is a commercial mobile radio services (CMRS) carrier licensed by the Federal Communications Commission (FCC) to sell 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 also 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).

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 asserted 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. *Id.* at 23.

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 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.

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 provide 250 units (1 voice minute equals 1 unit and 1 text equals one unit) and 10 MB of data. 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. *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.

In its Application 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 contends that 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 carrier’s facilities. *Id.* at 2.

Finally, enTouch asserts that it is 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.

#### **STAFF COMMENTS**

Staff reviewed the Company’s Application and opined that it complies with the federal Telecommunications Act of 1996, the *Lifeline Reform Order*, and Commission Order No. 29841. Staff’s comments are summarized below.

##### ***A. Public Interest Considerations***

Staff states that the Company’s Application serves the public interest. Staff analyzed whether the Company’s ETC Application serves the public interest by asking whether: (1) the Company contributes to Idaho Funds; and (2) the Company’s Application raises “cream skimming” concerns.<sup>1</sup> Staff notes that enTouch confirmed that if approved as an ETC in Idaho, the Company would participate in the appropriate Idaho programs, specifically the Idaho Lifeline program and the 9-1-1 program and any future reporting requirements deemed appropriate for competitive telecommunications providers. *See* Order No. 32383 at 3 and e-mail from Emanuel T. Cocian, Holland & Hart LLP. Further, Staff notes that the cream skinning analysis is unnecessary because the Company requests ETC designation for the entire wire centers. *See* Staff Comments at Exh. A. Therefore, Staff believes enTouch satisfies the requisite public interest considerations.

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<sup>1</sup> Where an applicant asks to be designated as an ETC for part of a rural telephone company’s study area, concerns arise that the applicant intends to “cream skim” in the rural study area by serving only the low-cost, high revenue customers in the rural telephone company’s study area. *See* Order No. 29541 at 16.

### ***B. Network Improvement Plan***

Staff concurs with the Company that its ETC Application need not include a network improvement plan. The Commission does not require a network improvement plan when an ETC only seeks Lifeline (low-income) support. *See* CRI-T-11-01, Order No. 32501. As the FCC explains: Lifeline-only ETCs do not receive funds to improve or extend their networks; thus, there is “little purpose in requiring such plans as part of the ETC designation process.” *See Lifeline Reform Order* p. 163, ¶ 386. Here, the Company requests only low-income USF support. Therefore, Staff agrees that the Company’s Application need not include a network improvement plan. Staff Comments at 4-5.

### ***C. Ability to Remain Functional in Emergencies***

Staff believes that the Company can function in an emergency as required by the Idaho ETC Order and Section 54.202(a)(2) of the FCC’s Rules. *See* 47 C.F.R. § 54.202(a)(2). Staff notes that the Company uses its own redundant facilities, and, therefore, in emergencies the Company’s customers will be able to access reasonable amounts of backup power during external power outages, and the Company can re-route traffic around damaged facilities and manage traffic spikes. The emergency functionality requirement is, therefore, satisfied. Staff Comments at 5.

### ***D. Other ETC Designation Requirements.***

Staff confirms that the Company meets the other ETC requirements from Appendix 1 of Order No. 29841. Specifically, the Company: (1) is a common carrier as defined in U.S.C. Title 47; (2) will provide the supported services listed in Sections 54.101 and 54.202(a) of the FCC’s Rules (47 C.F.R. § 54.101(a) and 47 C.F.R. § 54.202(a)); (3) will advertise the availability and rates for its services described in the Application through media of general distribution; (4) will provide the supported services; (5) commits to satisfying all applicable state and federal consumer protection requirements and service quality standards; (6) will offer rate plans that will provide local usage consistent with Section 54.101(a)(2); and (7) will provide tribal notifications. Staff Comments at 4-5. Therefore, Staff believes that the Company meets all applicable requirements for designation as a Lifeline-only ETC. Staff Comments at 5-6.

## **DISCUSSION**

We have reviewed the record, including the Company’s Application and Staff’s comments. Based on the information provided, we find the Company has the requisite technical,

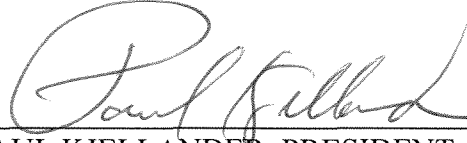
financial and managerial expertise to be an ETC in Idaho. We further find that the Company is committed to fulfilling the obligations of an Idaho ETC, namely: The Company will provide all universal services supported by the federal USF throughout its service territory; it has addressed all of the public interest questions that accompany an ETC application; its compliance plan has been approved by the FCC; and it will provide multiple pricing plans which will increase consumer choice for low-income telephone service in Idaho. Therefore, we find that the Company's Application for designation as an ETC is in the public interest and approve it.

**ORDER**

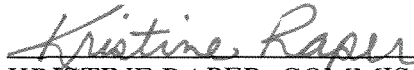
IT IS HEREBY ORDERED that Boomerang Wireless, LLC dba enTouch Wireless's Application for ETC designation is approved.

THIS IS A FINAL ORDER. Any person interested in this Order may petition for reconsideration within twenty-one (21) days of the service date of this Order. Within seven (7) days after any person has petitioned for reconsideration, any other person may cross-petition for reconsideration. *See Idaho Code* § 61-626.

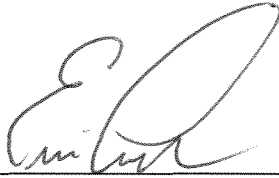
DONE by Order of the Idaho Public Utilities Commission at Boise, Idaho this <sup>4<sup>th</sup></sup>  
day of January 2017.



PAUL KJELLANDER, PRESIDENT



KRISTINE RAPER, COMMISSIONER



ERIC ANDERSON, COMMISSIONER

ATTEST:



Diane M. Hanian  
Commission Secretary

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