

**KELLEY DRYE & WARREN LLP**

A LIMITED LIABILITY PARTNERSHIP

**WASHINGTON HARBOUR, SUITE 400**

**3050 K STREET, NW**

**WASHINGTON, D.C. 20007-5108**

(202) 342-8400

NEW YORK, NY  
CHICAGO, IL  
STAMFORD, CT  
PARSIPPANY, NJ

BRUSSELS, BELGIUM

AFFILIATE OFFICES  
MUMBAI, INDIA

FACSIMILE

(202) 342-8451

www.kelleydrye.com

DIRECT LINE: (202) 342-8566

EMAIL: jguyan@kelleydrye.com

August 31, 2015

**BY ECFS**

Marlene H. Dortch  
Secretary  
Federal Communications Commission  
445 12th Street, SW  
Washington, D.C. 20554

Re: **REDACTED – FOR PUBLIC INSPECTION**; WC Docket Nos. 11-42,  
09-197 and 10-90; Comments of Boomerang Wireless, LLC

Dear Ms. Dortch:

Boomerang Wireless, LLC (“Boomerang”), through its attorneys, hereby submits its comments on the Commission’s Second Further Notice of Proposed Rulemaking in the above-referenced dockets.<sup>1</sup>

Pursuant to the Protective Order in this proceeding, with this letter Boomerang is providing the Redacted – Public Version of Boomerang’s comments in this proceeding. The Company also submitted via hand delivery one copy of the Confidential version of its comments and two copies of the Redacted Confidential version of its comments to the Secretary and two copies of the Confidential version of its comments to Jay Schwarz, Telecommunications Access Policy Division, Wireline Competition Bureau, Federal Communications Commission, 445 12th Street, SW, Washington, D.C. 20554.

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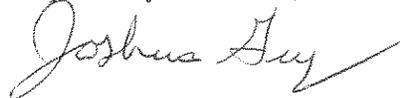
<sup>1</sup> See *Second Further Notice of Proposed Rulemaking in the Matter of Lifeline and Link Up Reform and Modernization*, WC Docket Nos. 11-42, 09-197, 10-90 (rel. June 22, 2015).

KELLEY DRYE & WARREN LLP

Marlene H. Dortch  
August 31, 2015  
Page Two

Please contact the undersigned with any questions.

Respectfully submitted,

A handwritten signature in cursive script, appearing to read "Joshua T. Guyan", with a long horizontal flourish extending to the right.

Joshua T. Guyan

*Counsel to Boomerang Wireless, LLC*

Attachments

**Before the  
Federal Communications Commission  
Washington, D.C. 20554**

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In the Matter of	)	
	)	
Lifeline and Link Up Reform and Modernization	)	WC Docket No. 11-42
	)	
Telecommunications Carriers Eligible for Universal Service Support	)	WC Docket No. 09-197
	)	
Connect America Fund	)	WC Docket No. 10-90
	)	
_____	)	

**COMMENTS OF BOOMERANG WIRELESS, LLC ON THE SECOND FURTHER  
NOTICE OF PROPOSED RULEMAKING TO MODERNIZE AND  
RESTRUCTURE THE LIFELINE PROGRAM**

John J. Heitmann  
Joshua T. Guyan  
Dawn R. Damschen  
KELLEY DRYE & WARREN LLP  
3050 K Street, NW  
Suite 400  
Washington, D.C. 20007  
(202) 342-8544 (voice)  
(202) 342-8451 (facsimile)  
[jheitmann@kelleydrye.com](mailto:jheitmann@kelleydrye.com)

*Counsel for Boomerang Wireless, LLC*

## SUMMARY

Boomerang Wireless, LLC (Boomerang) submits these comments to address the Commission's questions and proposals regarding Lifeline service on Tribal lands. Boomerang is an Eligible Telecommunications Carrier (ETC) committed to providing Lifeline services to eligible low-income consumers, including residents of Tribal lands, so that they can afford the modern wireless communications necessary to connect to jobs and employment opportunities, healthcare, emergency services and family.

Boomerang began providing wireless Lifeline service to eligible residents on Tribal lands in 2012 and has provided service to tens of thousands of Tribal customers in the nine states in which Boomerang is authorized to serve Tribal lands. Boomerang coordinates extensively with each Tribal Nation and is a leader in fostering mutually beneficial relationships with the Tribal Nations to better serve their eligible low-income members. The result is targeted outreach to low-income Americans residing on Tribal lands and providing these consumers with superior wireless service through the enhanced Lifeline benefit.

Boomerang asserts that wireless resellers are critical to providing affordable service on Tribal lands and should remain eligible to receive enhanced Tribal benefits. Boomerang is a wireless reseller that has access to the existing extensive nationwide wireless networks to serve tens of thousands of eligible Lifeline subscribers residing on Tribal lands with enhanced offerings that increase subscribership and make enhanced voice, text and data services accessible and affordable on Tribal lands. To serve Tribal lands, both infrastructure and affordable access to communications services are necessary. The major national wireless carriers have significant coverage over much of Tribal lands, however, these carriers' business models do not address outreach and targeted marketing, or securing the required licenses and authority, necessary to provide service to low-income consumers on Tribal lands. By contrast, Boomerang and other

wireless resellers have made significant investments to develop marketing and outreach expertise so that they can leverage the network coverage of the existing wireless network providers to provide enhanced Tribal Lifeline benefits to Tribal residents. Through these efforts, wireless resellers help achieve the Commission's goals of increased subscribership and affordable access to communications services. Further, the increased subscribership and network usage generate demand that causes the network providers to improve current infrastructure and to deploy more in adjacent areas.

Finally, Boomerang submits that the Commission must improve its National Lifeline Accountability Database (NLAD) third-party identity verification (TPIV) check and dispute resolution processes, which disproportionately impact applicants on Tribal lands, many of whom do not have credit or credit history. Additionally, it should continue to rely on applicant self-certification of Tribal residence because no fully reliable way to verify residence on Tribal lands is available. Finally, the Commission should preserve current programs that trigger enhanced Lifeline eligibility because failing to do so would disproportionately impact Tribal residents electing to participate in Tribal-specific benefits over general federal assistance programs.

Boomerang applauds the Commission's actions to protect and improve the Lifeline program and appreciates the opportunity to participate in this proceeding.

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**Before the  
Federal Communications Commission  
Washington, D.C. 20554**

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In the Matter of )	
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Lifeline and Link Up Reform and )	WC Docket No. 11-42
Modernization )	
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Telecommunications Carriers Eligible for )	WC Docket No. 09-197
Universal Service Support )	
)	
Connect America Fund )	WC Docket No. 10-90
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**COMMENTS OF BOOMERANG WIRELESS, LLC ON THE SECOND  
FURTHER NOTICE OF PROPOSED RULEMAKING TO MODERNIZE AND  
RESTRUCTURE THE LIFELINE PROGRAM**

Boomerang Wireless, LLC (Boomerang or Company), by and through the undersigned counsel, respectfully submits these comments in response to the Commission’s Second Further Notice of Proposed Rulemaking (Second FNPRM) seeking comment on proposals to modernize and restructure the Lifeline program.<sup>1</sup> Boomerang focuses its comments on the Commission’s questions and proposals regarding Lifeline service on Tribal lands.

Boomerang is an Eligible Telecommunications Carrier (ETC) committed to providing Lifeline services, through its enTouch Wireless brand, to eligible low-income consumers, including residents of Tribal lands, so that they can afford the modern wireless communications necessary to connect to jobs and employment opportunities, healthcare, emergency services and

<sup>1</sup> See *In the Matter of Lifeline and Link Up Reform and Modernization, et al.*, WC Docket 11-42, et al., Second Further Notice of Proposed Rulemaking, Order on Reconsideration, Second Report and Order, and Memorandum Opinion and Order, FCC 15-71 (rel. June 22, 2015).

family. Boomerang is a wireless reseller that has access to the four extensive nationwide wireless networks to serve eligible Tribal Lifeline subscribers with enhanced offerings that increase subscribership and make enhanced voice, text and data services accessible and affordable on Tribal lands. Boomerang has offered services to eligible low-income residents in approximately 40 Tribal Nations across nine states.

To serve Tribal lands, both infrastructure and affordable access are necessary. While the Tier 1 wireless carriers provide coverage over much of Tribal lands, they have not demonstrated a desire to invest in the licenses and coordination necessary to provide service directly to low-income consumers on Tribal lands. Boomerang and other wireless resellers have made these investments, so that they can leverage the network coverage of the Tier 1 network providers and the enhanced Tribal Lifeline benefits to increase subscribership and provide affordable access to enhanced voice, text and broadband service offerings to residents of Tribal lands. Further, the increased subscribership and network usage generate demand that causes the network providers to improve current infrastructure and to deploy more facilities in adjacent areas.

Finally, the Commission must improve its National Lifeline Accountability Database (NLAD) third-party identity verification (TPIV) check and dispute resolution processes, which disproportionately impact Tribal applicants who do not have credit or credit history. The Commission should preserve current programs that trigger enhanced Lifeline eligibility, and it should continue to rely on applicant self-certification of Tribal residence because no fully reliable way to verify residence on Tribal lands is available.

**I. Boomerang Has Developed Substantial Expertise Serving Tens of Thousands of Lifeline-Eligible Tribal Residents with Enhanced Voice, Text and Data Offerings**

Boomerang began providing wireless Lifeline service to eligible residents on Tribal lands in 2012 and has provided service to tens of thousands of Tribal customers in the nine states

where Boomerang is authorized to serve Tribal lands. During that time, Boomerang has developed extensive experience and expertise coordinating with Tribal governments and serving Tribal subscribers. The Company currently has coordinated with approximately 40 federally-recognized Tribes to serve its residents.<sup>2</sup> The Commission must understand that these relationships are essential to narrowing the gap in telephone and broadband adoption rates between Tribal and non-Tribal communities.

**A. Boomerang Respects the Sovereignty of Each Tribal Nation and Coordinates Closely with Tribal Governments to Serve Eligible Consumers**

President Obama recently said “There’s no denying that for some Americans, the deck’s been stacked against them, sometimes for generations, and that’s been true of many Native Americans...But if we’re working together, we can make things better.”<sup>3</sup> Boomerang coordinates extensively with each Tribal nation prior to marketing and providing Lifeline services to Tribal residents. The Company is a leader in fostering mutually beneficial relationships with Tribal Nations to better serve their eligible low-income members. A critical component of this relationship is Boomerang’s demonstrated desire to understand the cultural differences and recognize that the Tribes operate as sovereign nations, with sovereign governments. Each Tribal Nation has its own identity, culture, history and unique laws and regulations. In order to be successful, communications service providers must be willing and able to work closely with Tribal governments. Boomerang has invested significant time, effort and resources cultivating these relationships. The result is targeted outreach to low-income

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<sup>2</sup> A detailed breakdown of Boomerang’s Tribal customer base by Tribal Nation is provided as confidential Exhibit A.

<sup>3</sup> Julie Hirschfeld Davis, *North America’s Tallest Peak Will Again Be Called Denali*, N.Y. Times, Aug. 30, 2014, at A9.

Americans residing on Tribal lands and providing these consumers with superior wireless service through the Lifeline program.

In each state where it serves Tribal subscribers, Boomerang first secures the required ETC designation from the state public utility commission to serve Tribal lands.<sup>4</sup> This process requires presenting service offerings for both Tribal and non-Tribal territories and demonstrating the experience, processes and financial resources necessary to provide Lifeline service. To successfully provide Lifeline service on Tribal lands, however, requires many more steps after the requisite state authority is received.

After receiving state authority (and sometimes before), Boomerang contacts the Tribal leadership for each nation to begin the coordination process to ensure a mutually beneficial working relationship.<sup>5</sup> Boomerang has full time staff experienced with Tribal outreach who travel to meet with the Tribes and present information about the company, its management, its Lifeline offerings, the eligibility and regulatory framework and contact information for any questions or concerns. These face-to-face meetings are the first step toward developing a lasting partnership.

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<sup>4</sup> Boomerang filed its federal Petition for Designation as an ETC on December 29, 2010 and has consistently filed update amendments with the latest on August 25, 2015. The application has remained pending without action since 2010. As a result, Boomerang cannot serve Tribal customers in 11 of the federal jurisdiction states. *See Petition of Boomerang Wireless, LLC for Designation as an Eligible Telecommunications Carrier in Alabama, Connecticut, Delaware, D.C., Florida, Maine, New Hampshire, New York, North Carolina, Tennessee and Virginia*, WC Docket No. 09-197 (filed Dec. 29, 2010, later amended April 11, 2013).

<sup>5</sup> Boomerang currently does not compete with any existing tribally-owned carriers. Boomerang recognizes each tribe as a sovereign nation. Therefore, the Company's operations are targeted in areas where no Tribal carrier serves. In many cases, however, the Tribal Nations lack the knowledge and expertise to provide telecommunications services and Boomerang provides wireless voice, text and data services in those areas.

As part of the coordination process, before beginning operations, Boomerang secures the required licenses and any approvals from the Tribe. Some Tribes have sophisticated procedures for vetting new businesses. As one example, the Navajo Nation's Telecommunications Regulatory Commission (NNTRC), has developed a process and application procedure that all new companies must complete in order to do business on the Nation's lands. The application seeks information about the company, the service offerings and proposed operating area. Other Tribes have similar processes, such as requiring submission of an application or securing a business license.

On the other hand, some other Tribes, particularly some of the smallest and poorest Tribal Nations, do not have an official procedure. Regardless, Boomerang reaches out to Tribal representatives to complete any informal requests they may have for the Company prior to commencing operations. After receiving the necessary approval, Boomerang tests its devices and underlying carrier coverage on the Tribal lands. Boomerang addresses any issues in the quality of service identified during the testing with the Tribe to ensure its residents receive the highest quality wireless voice, text and broadband services. Boomerang has access to the four national wireless carrier networks and so it can utilize the network with the best coverage in the area.

Boomerang's partnership with the Tribal government and representatives continues after service begins. Boomerang, like many wireless resellers, serves local low-income communities through mobile enrollment events, which bring the service offerings to the consumers. These mobile in-person enrollment events are particularly important to reach eligible consumers on rural Tribal lands where there are often no retail locations from which to purchase

communications services. Through this in-person process,<sup>6</sup> eligible Tribal residents show proof of eligibility, make the required certifications and receive a smartphone that they can use right away. Boomerang personnel demonstrate to subscribers how to activate the phone and understand how to use it, which is important because, in many instances, it is often the consumer's first wireless phone or first smartphone.

Boomerang seeks guidance from Tribal representatives on the best locations and times for hosting these enrollment events and the best ways to educate residents about the benefits of participation in the Lifeline program. The Company recruits Tribal residents to join the Boomerang team and assist in consumer education efforts to demonstrate the technology and provide local customer support. Through this ongoing partnership with Tribal representatives, Boomerang is able to understand the unique cultural differences and to avoid taking actions that disrespect the Tribal land and residents, such as conducting enrollments on sacred days or inadvertently holding an event on sacred grounds. Boomerang recognizes that successful service to Tribal subscribers begins with cultivating respect and trust with the Tribal customers and their sovereign governments.

**B. Boomerang Provides Enhanced Voice, Text and Data Services to Eligible Residents of Tribal Lands to Promote Subscribership and Affordability**

In the Second FNPRM, the Commission seeks information regarding how enhanced Tribal support is being utilized on Tribal lands and the enhanced benefits that Tribal subscribers receive.<sup>7</sup> Boomerang receives enhanced Tribal Lifeline support for its Tribal member Lifeline

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<sup>6</sup> Boomerang in-person enrollments are supported by a live Internet connection, which allows real-time review of application information and checks of various databases, including address verification, service coverage and the NLAD for duplicate checks.

<sup>7</sup> See *Second FNPRM*, ¶¶ 158, 163.

subscribers.<sup>8</sup> Boomerang uses the enhanced support to provide an enhanced Tribal Lifeline service package of 1000 voice/text units and 10 MB of data per month to eligible residents of Tribal lands.<sup>9</sup> The full details of Boomerang’s comprehensive wireless Tribal service plan is as follows:

<b>FEATURE</b>	<b>DESCRIPTION</b>	<b>COST</b>
Voice/ Text	1000 units/ month (1-to-1 ratio for texts)	Free
Data	10MB/month	Free
Smartphone	Provided with standard offering. Refurbished. Wi-Fi enabled.	Free
Local Calling		Included
Long Distance Calling		Included
Internet Access	3G network in their hand	10MB/month Free
Voicemail		Included
Three-Way Calling		Included
Call Forwarding		Included

<sup>8</sup> As a reseller not participating in the Connect America Fund, the Company does not receive Link Up.

<sup>9</sup> This plan, like those of other wireless resellers serving Tribal lands, includes substantially more service than a non-Tribal Lifeline service offering.

In addition to the standard Tribal plan, Tribal subscribers can purchase additional voice, text and/or data services at any time at any of Boomerang’s 90,000 local retail outlets across the United States.<sup>10</sup> Boomerang offers a broad range of competitive offerings, including:

<b>Consumer Cost</b>	<b>Product</b>
\$5	100 MB Data
\$10	500 MB Data
\$20	1500 Talk/Text Units
\$30	Unlimited Talk & Text Units + 10 MB Data
\$50	Unlimited Talk, Text & Data

Although the enhanced Tribal reimbursement is approximately 3.7 times greater than the standard non-Tribal reimbursement (i.e., \$34.25/enhanced Tribal and \$9.25/standard non-Tribal), Boomerang provides an enhanced service to Tribal customers that is 4 times greater than its non-Tribal offering (e.g., 1000 minutes/enhanced Tribal and 250 minutes/standard non-Tribal). In addition to 4 times the voice minutes, each Tribal customer also receives a Wi-Fi enabled smartphone at the time of enrollment and receives 10 MB of data each month. For most of Boomerang’s Tribal subscribers, it is the first data-enabled mobile device in the household. As one example, Boomerang received a testimonial from a new Tribal customer in Minnesota thanking Boomerang from having an enrollment event in his neighborhood “because I have

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<sup>10</sup> Boomerang works with local outlets to train them on the Airfair top up products and drives the consumers to these locations. The consumer can also call to top up if they have a credit card.

never had a phone before in my life.” The customer went on to say “thank you so much for coming all the way out here to Naytahwaush.” The 10 MB of no-cost data service allows subscribers, for example, to set up an email address and send and receive more than 300 emails each month. The smartphone’s Wi-Fi capability provides Tribal Lifeline subscribers with the ability to connect to any publicly-available Wi-Fi (e.g., at community anchor institutions) and use more data-intensive applications. These enhanced offerings of voice, text and data incentivize eligible Tribal residents to subscribe to communications services, and make the services more affordable for those who already do, which has long been the primary goal of the enhanced benefit.

## **II. Wireless Resellers Play a Vital Role Providing Wireless Lifeline Service to Low-Income Americans Residing on Tribal Lands That Are Otherwise Unserved by the Tier 1 Carriers**

In the Second FNPRM, the Commission has proposed to limit enhanced Tribal Lifeline support to facilities-based Lifeline providers based on a misstatement of the primary goal it previously had adopted for the enhanced Tribal benefit.<sup>11</sup> The Commission’s 2000 Tribal Lifeline Order makes perfectly clear that the primary purpose of the enhanced Tribal benefit is not infrastructure deployment but rather increasing subscribership and improving affordability.<sup>12</sup> The Commission’s proposal ignores wireless resellers’ overwhelming market share in serving the Lifeline subscriber base on Tribal lands and is inconsistent with the universal service goals of providing access to affordable communications services for low-income Americans. Further, it is contrary to Chairman Wheeler’s mantra of “competition,

<sup>11</sup> See *Second FNPRM*, ¶ 167.

<sup>12</sup> See *Federal-State Joint Board on Universal Service et al.*, CC Docket No. 96-45, Twelfth Report and Order, Memorandum Opinion and Order, and Further Notice of Proposed Rulemaking, FCC 00-208, ¶ 44 (2000) (*2000 Tribal Order*).

competition, competition.”<sup>13</sup> While Tier 1 wireless carriers have the network assets and facilities that can be used to serve Tribal subscribers, these carriers have not shown they have a business interest to provide Lifeline service to Tribal residents. Having network coverage is not enough. The carrier has to actually *provide outreach services* to serve low-income consumers residing on Tribal lands. Resellers, like Boomerang, have demonstrated that desire by investing in the licensing, coordination, and marketing outreach efforts needed to serve Tribal customers. Limiting the enhanced Tribal Lifeline benefit to facilities-based providers would severely impact the adoption rate for voice and broadband services among Tribal residents who substantially rely on wireless resellers to offer Lifeline services.

**A. The Primary Goal of the Enhanced Tribal Lifeline Benefit Was to Incentivize Increased Subscribership and Make Communications Services on Tribal Lands Affordable, Not to Fund Deployment of Infrastructure**

In the Second FNPRM, the Commission proposes that, because two-thirds of Tribal Lifeline customers are served by non-facilities-based Lifeline providers (i.e., resellers), enhanced Tribal Lifeline support should be limited to those Lifeline providers with facilities.<sup>14</sup> This does not align with the Commission’s Lifeline policies. The Commission bases its proposal on a misplaced emphasis on infrastructure deployment as “one of the Commission’s original intentions in adopting enhanced Tribal support.”<sup>15</sup> The Commission ignores its statement in the 2000 Tribal Order establishing the enhanced benefit that its “primary goal” was to “reduce the monthly cost of telecommunications services for qualifying low-income individuals on tribal lands so as to encourage those without service to initiate service and better enable those currently

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<sup>13</sup> FCC Chairman Tom Wheeler, Remarks on *The Facts and Future of Broadband Competition*, 1776 Headquarters (Sept. 4, 2014).

<sup>14</sup> See *Second FNPRM*, ¶ 167.

<sup>15</sup> *Second FNPRM*, ¶ 166.

subscribed to maintain service.”<sup>16</sup> In 2000, the Commission recognized that subscribership levels, or adoption rates, were a critical factor in determining the reasonableness and affordability of communications services.<sup>17</sup> The Communications Act’s universal service mandate is for the Commission to ensure that communications services are available at rates that are “just, reasonable and affordable.”<sup>18</sup>

The same primary purpose for the enhanced Lifeline benefit applies today. In an April 2015 speech, Commissioner Clyburn stated, “to truly reach our goal of universal service, we need both (1) access to the facilities **and** (2) access that is affordable.”<sup>19</sup> Wireless resellers, like Boomerang, provide access to the facilities at rates that are affordable.

The Commission has a program designed to address infrastructure deployment on Tribal lands, namely the Tribal Mobility Fund through which the Commission allocated up to \$50 million for Phase I and up to \$100 million annually for Phase II from universal service funds.<sup>20</sup> Phase I support provides a one-time payment to winning auction bidders agreeing to deploy mobile broadband in unserved Tribal lands with specific deployment and connectivity challenges (e.g., remote locations with low populations that only accessible by air, water or snowmobile).<sup>21</sup> Tribally-owned or controlled providers receive a preference in receiving Phase I support. Winning bidders receiving Phase I support are obligated to immediately engage with Tribal

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<sup>16</sup> *2000 Tribal Order*, ¶ 44.

<sup>17</sup> *See id.*, ¶ 24.

<sup>18</sup> 47 U.S.C. §254(i).

<sup>19</sup> *See* Commissioner Mignon Clyburn, Speech to NTCA – The Rural Broadband Association Annual Legislative Conference (April 20, 2015) (emphasis in original).

<sup>20</sup> *See Connect America Fund et al.*, WC Docket No. 10-90, Report and Order and Further Notice of Proposed Rulemaking, FCC 11-161 (2011).

<sup>21</sup> *See id.* ¶¶ 481-82.

governments and to comply with all Tribal obligations before receiving funding.<sup>22</sup> The Commission also adopted an annual budget of up to \$100 million from the general Mobility Fund Phase II to support ongoing mobile broadband deployment on Tribal lands.<sup>23</sup> While these components of the high-cost or Connect America Fund focus on infrastructure deployment, the Lifeline program properly focuses on raising subscribership and improving affordability. It is within these core competencies of the Lifeline program that resellers play an important role as competitors.

**B. The Tier 1 Wireless Network Providers Have Deployed Facilities on Tribal Lands, But Have Not Demonstrated a Commitment to Provide Lifeline Service There**

Tier 1 wireless network providers have expanded their wireless network coverage to cover many rural Tribal populations. These facilities are capable of delivering modern communications services to many Tribal residents today (without the immediate need for additional facilities investments). Meanwhile, the Tribal Mobility Fund will support additional facilities deployment on Tribal lands. However, to Commissioner Clyburn's point, facilities are not enough. Access to the communications services using those facilities must be affordable. As of 2013, an estimated 23 percent of all Native American families earned an income below the poverty line, more than twice the national average of 11.2 percent for U.S. households.<sup>24</sup> This systemic condition is illustrative of the factors that justify the enhanced supplement provided to

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<sup>22</sup> See *id.* ¶ 489.

<sup>23</sup> See *id.* ¶ 1165.

<sup>24</sup> See 2013 American Indian Population and Labor Force Report, available at <http://www.bia.gov/WhatWeDo/Knowledge/Reports/index.htm> (last visited Aug. 26, 2015).

eligible Tribal members. The enhanced discounts made possible by the Lifeline program must be leveraged to make the available communications services affordable.

Unfortunately, with the exception of Sprint, which has a significant Lifeline subscriber base through its subsidiary Virgin Mobile, the Tier 1 providers have not shown interest in engaging in outreach to serve Lifeline eligible low-income subscribers, especially those on Tribal lands. The other wireless network providers generally have not secured the necessary ETC designations to offer wireless Lifeline service. In fact, some Tier 1 providers have submitted notices relinquishing their authority to provide Lifeline services.<sup>25</sup> Leap Wireless, operating under the Cricket Wireless brand, is a primary example. The company held ETC designations in multiple states and provided Lifeline services before it was purchased by AT&T Mobility in July 2013. Within two years, the company submitted applications to relinquish its Lifeline-only ETC designations and exit the Lifeline program.<sup>26</sup>

The chart below identifies Lifeline subscriber totals from 2014 and 2015 and illustrates how few Lifeline subscribers are served by AT&T Mobility, the offloading of Lifeline subscribers by Cricket, and the declining number of Lifeline subscribers served by Verizon

<sup>25</sup> See e.g., *Telecommunications Carriers Eligible for Universal Service Support, T-Mobile USA Relinquishment of ETC Designations*, WC Docket No. 09-197, Order, DA 14-1713 (Nov. 25, 2014).

<sup>26</sup> Cricket Wireless held ETC designations in 29 states. Beginning in November 2014, the company systematically relinquished its ETC designations. The final relinquishment for California will take effect in September 2015. In its notice to consumers, Cricket stated that it is no longer offering Lifeline because, “The Lifeline program is burdensome to support for the consumer with proof of eligibility and continued annual recertification.” See *Cricket Lifeline Credit Overview*, available at <https://www.cricketwireless.com/o/support/account-management/cricket-lifeline-credit/overview.html> (last visited 8/26/15); see also *Telecommunications Carriers Eligible for Universal Service Support, AT&T Services Relinquishment of ETC Designations*, WC Docket No. 09-197, Order, DA 14-1715 (Nov. 25, 2014) (FCC order approving AT&T’s notice of relinquishment of federal ETC on behalf of Cricket Communications, Inc.).

Wireless. T-Mobile does not have any Lifeline subscribers. The network providers’ business model is not aligned with supporting the Lifeline business.

<b>National Carrier</b>	<b>Lifeline Lines- as of 6.2014</b>	<b>Lifeline Lines- as of 5.2015</b>
AT&T	3,210	2,491
Cricket (owned by AT&T)	561,617	38,084
Sprint (dba Assurance)	2,519,461	2,133,206
Verizon	445,220	318,096

On the other hand, as described in Section I, wireless resellers like Boomerang leverage the Tier 1 networks to seek out low-income Tribal customers and provide affordable Lifeline-discounted voice and broadband communications to them. Boomerang urges the Commission to recognize the crucial role of wireless resellers in delivering affordable service to low-income Americans, and particularly to those on Tribal lands, who are unserved by the Tier 1 carriers.

**C. Wireless Resellers Increase Subscribership on Tribal Lands and Drive Deployment of Additional Wireless Network Infrastructure**

While the Tier 1 providers’ business models are not focused on providing retail Lifeline services, they are certainly interested in the wholesale market. Wireless resellers enter into agreements to purchase wholesale minutes to repackage and sell to their subscribers with each of the national Tier 1 network providers. Sprint, which has a substantial retail Lifeline business through a subsidiary, is also active in the wholesale market with partnerships with many resellers like Boomerang that also have a strong commitment to the Lifeline program. The wholesale market provides a win-win for investors and consumers. Tier 1 carriers can increase their revenues and number of subscriber lines and resellers can take advantage of the extensive

nationwide networks to compete to provide service almost anywhere. Boomerang currently has wholesale agreements with the top four Tier 1 carriers.<sup>27</sup>

Notably, the lines served by resellers show demand and increase network traffic, which incentivizes network improvements and build-out in adjacent areas. As Commissioner Clyburn stated, “when everyone is connected to the networks, then the value of those networks increases... Through the universal service fund and the private sector, our nation has invested hundreds of billions of dollars in our voice networks.”<sup>28</sup> Wireless resellers are crucial in connecting additional subscribers to the wireless networks thus spurring improved and additional infrastructure.

As the Commission notes in the Second FNPRM, data from the Lifeline program shows that two-thirds of Tribal subscribers are served by non-facilities based Lifeline providers.<sup>29</sup> Since the facilities-based wireless providers have not focused on serving low-income Tribal residents, the Commission’s proposal to restrict enhanced benefits to facilities-based providers carries the very real possibility that upwards of two-thirds of the Tribal Lifeline subscribers could lose their service. That kind of line loss would also decrease the incentive to improve existing network facilities and build-out more in Tribal areas because the market would reflect significantly reduced demand and network usage. Taking away competitive communications options from an already underserved population is patently inconsistent with the

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<sup>27</sup> Boomerang has access to the four networks through its Mobile Virtual Network Enabler (MVNE), Ready Wireless, LLC.

<sup>28</sup> *See Lifeline and Link-Up Reform and Modernization*, WC Docket No. 11-42; *Lifeline and Link Up*, WC Docket No. 03-109; *Federal-State Joint Board on Universal Service*, CC Docket No. 96-45; *Advancing Broadband Availability Through Digital Literacy Training*, WC Docket No. 12-23, Statement of Commissioner Mignon L. Clyburn Approving in Part, Concurring in Part (2012).

<sup>29</sup> *See Second FNPRM*, ¶ 167.

Communications Act’s universal service mandate and the Commission’s goals for modernizing the Lifeline program. To best serve the Act’s mandate and the Commission’s goals, Boomerang urges the Commission to continue to make enhanced Tribal support available to Tribal subscribers served by wireless resellers.

**III. The Commission Should Improve the Manner In Which the Lifeline Program Serves Consumers Residing on Tribal Lands**

Through its extensive experience serving Lifeline customers both on and off Tribal lands, Boomerang has witnessed how certain Lifeline program rules disproportionately impact Tribal lands residents in a negative way. To address these program shortcomings, Boomerang urges the Commission to take steps that will improve the Lifeline program and allow providers to better serve residents on Tribal lands. Specifically, Boomerang recommends that the Commission: (a) fix the deeply flawed NLAD TPIV check and dispute resolution processes, which disproportionately affects eligible Tribal applicants and can delay or deny Lifeline service to eligible Tribal members; (b) continue to rely on applicants’ self-certification of residency on Tribal lands; and (c) retain the current Tribal-specific programs that trigger enhanced Lifeline eligibility.

**A. The Substantial Flaws in the NLAD TPIV Check Disproportionately Harm Tribal Lifeline Applicants and Fail to Respect Their Dignity**

Perhaps the most important action that the Commission can take to increase subscribership and make voice and broadband communications affordable is to fix the substantial flaws that currently exist in the NLAD TPIV check, which disproportionately harm Tribal Lifeline applicants. The initial check and the dispute resolution process currently in place both contain flaws that work as an affront to the dignity of Tribal Lifeline applicants.

First, many residents of Tribal lands do not have credit or a credit history. The NLAD’s TPIV vendor Lexis Nexis relies on these and other inputs to confirm identity. The fact that these inputs often are missing for Tribal residents results in significantly higher TPIV failure rates for Tribal applicants. Further, the current NLAD TPIV process requires an exact match of all Lexis Nexis data for all applicant information fields rather than matching enough information to confirm the identity (which is what the Lexis Nexis solution is designed to do). This process ignores Lexis Nexis’ ability to match identity with a high degree of accuracy and instead requires a perfect match of information that is not (nor is it intended to be) perfect. Thus, NLAD’s current TPIV process creates substantially more identity check failures than are necessary. This perverse outcome can be magnified by data discrepancies produced by inputs in certain states or geographic areas, including Tribal lands. For example, in select Tribal markets, Boomerang receives TPIV failures in approximately 50 percent of the Tribal Lifeline applications it submits to the NLAD. The Commission should take prompt action to replace the current exact match process with a process that accepts some differences in the data but recognizes enough matches to identify the person, which will result in far fewer TPIV failures, thus reducing the adverse impact on eligible consumers and service providers, especially on Tribal lands.

Second, the TPIV dispute resolution process requires the collection of more documentation than necessary, which imposes burdens unnecessarily on consumers and providers, denies applicants a dignified enrollment process, and can delay or deny Lifeline services for those who are eligible. The current TPIV dispute resolution process requires ETCs to collect proof of all categories of enrollment information, even if only a single piece of information cannot be confirmed. For example, if an applicant’s date-of-birth cannot be confirmed by Lexis Nexis, but other identifying information matches what is in Lexis Nexis, the

current TPIV dispute resolution process requires the ETC to collect documentation to prove not only the date-of-birth (such as a driver's license), but also proof of the applicant's Tribal ID.<sup>30</sup> This is unnecessary and overly burdensome on both ETCs and low-income consumers. Because forcing low-income Tribal residents to bring documentation to prove their Tribal ID number when Lexis Nexis cannot confirm their correct DOB (even though they have a valid driver's or other identification confirming their correct DOB) fails to treat low-income Tribal applicants with dignity and respect and can result in improper denial of service, the Commission should act promptly to create a more rational and less burdensome dispute resolution process.

Third, the current dispute resolution process is largely unworkable because it requires ETCs to provision an active mobile directory number (MDN) (i.e., phone number) to submit the dispute resolution request. This means that the ETC has to essentially initiate service, activate a device, and incur carrier and other costs before USAC can tell the ETC whether the enrollment has been accepted several days later. This process imposes costs and burdens on ETCs needlessly. This process also has a disproportionate impact on Tribal applicants because of the high percentage of initial failures described above and it results in ETCs' inability to serve eligible customers. To fix the problem, the Commission should promptly mandate that USAC permit the use of "dummy" numbers for TPIV dispute resolution. The former process of automatically accepting TPIV dispute resolutions based on documentation collected worked. It would be improved now that NLAD informs ETCs regarding what specific information should

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<sup>30</sup> See National Lifeline Accountability Database: TPIV Failure Resolution, *available at* <http://www.usac.org/li/tools/nlad/dispute-resolution/tpiv-failure-dr.aspx> (last checked Aug. 28, 2015) ("Carriers may submit a dispute resolution request only after reviewing subscriber documentation that verifies first name, last name, last four digits of Social Security number or Tribal ID, and date of birth.").

be confirmed. Boomerang collects the ID documents that strongly support the identity verification process for in-person applications.

**B. Boomerang Is Not Aware of a Fully Reliable Alternative to Self-Certification of Tribal Residency**

In the Second FNPRM, the Commission seeks comment on whether to require additional evidence of residency on Tribal lands beyond self-certification.<sup>31</sup> Boomerang is not aware of a fully reliable method for Tribal subscribers to provide evidence of residence on Tribal lands or for all ETCs to confirm such residency – the available methods each have flaws. Therefore, ETCs should be permitted but not required to implement checks that can reduce the incidence of mistakes or fraud to supplement the applicant’s self-certification.

First, ETCs could in certain circumstances require Tribal applicants to provide a Tribal identification card. However, this should not be mandated because not all Tribes issue identification cards<sup>32</sup> and a perfect correlation between individuals with a Tribal identification and residence on Tribal lands simply does not exist. For example, many Tribal members have Tribal identification cards but do not reside on Tribal lands. These members would have the necessary information to demonstrate eligibility for the enhanced Tribal benefit even though they do not reside on Tribal lands.

Second, ETCs may attempt to confirm that an address is located on Tribal lands through the use of mapping tools. This approach is imperfect because it is based on variable data inputs of variable quality. For example, many Tribal Nations do not have organized street plans or even established zip codes and therefore specific location of addresses can be difficult if not

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<sup>31</sup> See *Second FNPRM*, ¶171.

<sup>32</sup> Some Tribal Nations, particularly the poorest Nations, do not have the sufficient government capabilities to provide Tribal identification cards to its residents.

impossible to confirm. Notably, the Commission has not provided a mapping tool that all ETCs can use for this purpose.

For its part, Boomerang supplements the Tribal applicant’s self-certification with a zip code check. Boomerang conducts its enrollments using a real-time Internet-connected tablet application designed by CGM, LLC, which includes a series of real-time verifications, including NLAD and address validation. Included in this process is a zip code check that will deny enhanced Lifeline benefits to any applicant who resides in an entirely non-Tribal zip code. This voluntary additional layer of review is used by Boomerang to check the self-certification required by the Commission’s rules by screening out those that appear to be clearly inaccurate. However, because this process cannot be utilized to verify all self-certifications, the Commission should not mandate its use.

**C. Tribal-Specific Program Should Continue to be Recognized as Qualifying Programs for Lifeline Benefits**

Finally, Boomerang asserts the Commission should continue to accept Tribal-specific assistance programs to qualify for Lifeline benefits.<sup>33</sup> Failing to recognize Tribal-specific programs will disproportionately impact Tribal subscribers who have elected a Tribal-specific program that is more tailored to their needs rather than an equivalent federal assistance program. The Second FNPRM outlined one example in the case of SNAP and Food Distribution Program on Indian Reservations (FDPIR) where a Tribal resident must choose one and many Tribal members, especially the elderly prefer the Tribal-specific program.<sup>34</sup> Additionally, Tribal consumers may elect to enroll in Tribal-specific programs for a host of reasons, including that

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<sup>33</sup> See *Second FNPRM*, ¶ 113 (The Commission seeks comment on which federal assistance programs should be included as proof of eligibility for the Lifeline program.)

<sup>34</sup> See *id.*

Tribal programs are specifically tailored to address the needs of Tribal Nations and Tribal members may have easier access to these programs than the general federal programs. For example, federally-recognized Tribes can apply for funding to operate their own Temporary Assistance for Needy Families (TANF) program. Through this option, Tribes are able to design the program specifically to their needs. Tribal TANF draws from the same benefit as TANF, it is just administered in a different fashion. Failing to recognize the Tribal TANF program as proper qualification for Lifeline benefits would have a negative impact on Tribal residents that are enrolled in assistance programs specifically developed for their needs.

## **V. Conclusion**

Boomerang has provided Lifeline outreach and service to tens of thousands of eligible low-income residents in approximately 40 Tribal Nations across nine states and has established long-standing mutually beneficial relationships with Tribal governments to facilitate providing its enhanced voice, text and data services to low-income residents of Tribal lands. To serve Tribal lands, both access to infrastructure and affordable rates are necessary. While the Tier 1 wireless carriers provide coverage over much of Tribal lands, they have not demonstrated a desire to invest in the licenses and coordination necessary to provide service to low-income consumers on Tribal lands. Boomerang and other wireless resellers, however, leverage the Tier 1 networks and the enhanced Tribal Lifeline benefits to increase subscribership and provide affordable access to enhanced voice, text and broadband service offerings to residents of Tribal lands. Further, the increased subscribership and network usage can spur network providers to improve current infrastructure and deploy more in adjacent areas. For this reason, the Commission should not adopt its proposal to limit participation in the enhanced Tribal benefits program to facilities-based providers.

Finally, the Commission should take steps that will improve the Lifeline program and allow providers to better serve residents on Tribal lands. The Commission should improve its NLAD TPIV check and dispute resolution processes; continue to rely on applicant self-certification of Tribal residence, and retain the current Tribal-specific eligibility programs.

By:



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John J. Heitmann  
Joshua T. Guyan  
Dawn R. Damschen  
KELLEY DRYE & WARREN LLP  
3050 K Street NW, Suite 400  
Washington, D.C. 20007  
(202) 342-8400 (voice)  
(202) 342-8451 (facsimile)

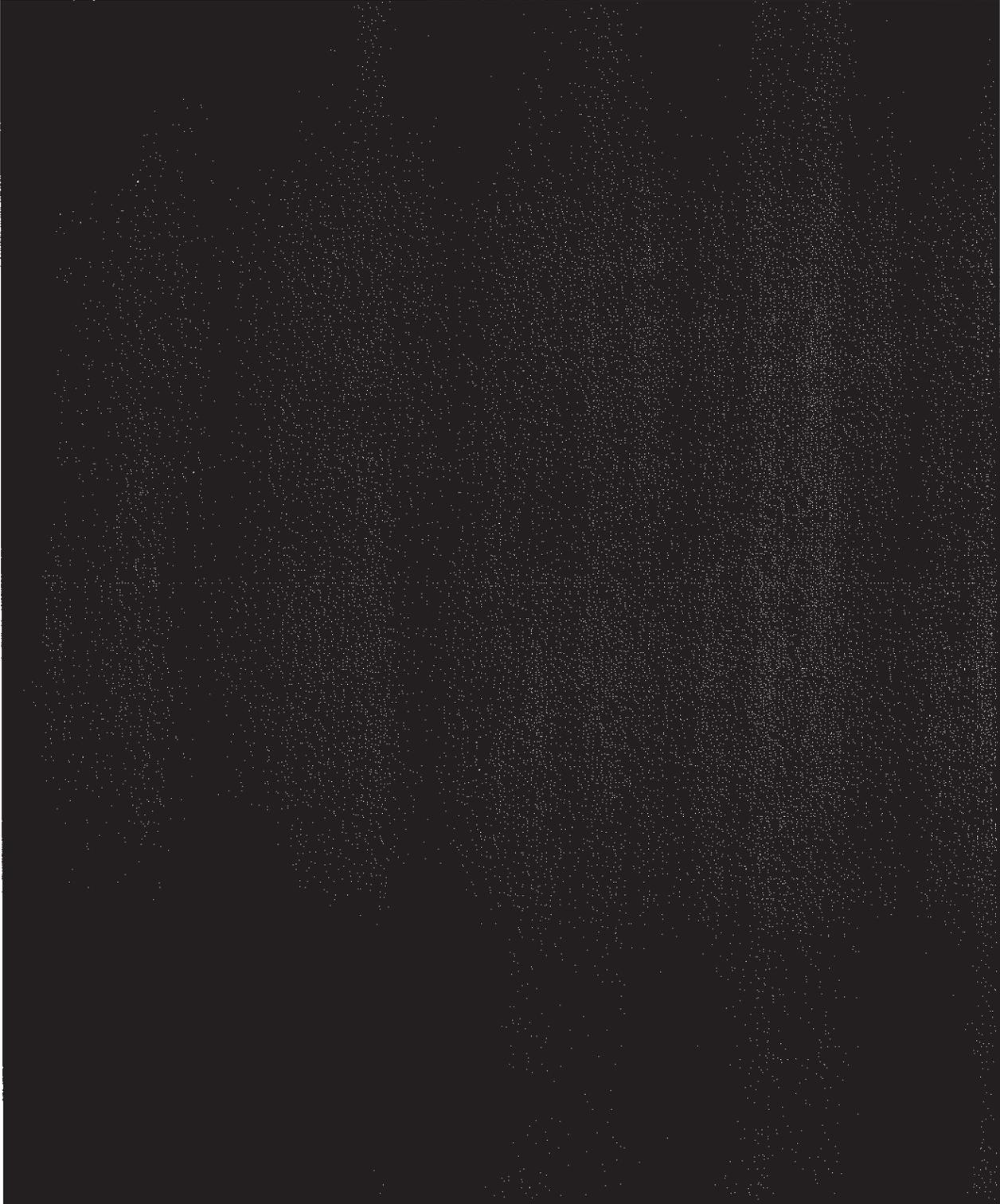
*Counsel to Boomerang Wireless, LLC*

August 31, 2015

**REDACTED – FOR PUBLIC INSPECTION**

**EXHIBIT A**

Boomerang Wireless, LLC's Tribal Lifeline Enrollments by State and by Tribal Nation  
as of July 2015



**REDACTED – FOR PUBLIC INSPECTION**



**REDACTED – FOR PUBLIC INSPECTION**

