Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

In the Matter of	)	
Telecommunications Carriers Eligible to Receive Universal Service Support	)	
Boomerang Wireless, LLC	)	WC Docket No. 09-197
Petition for Limited Designation as An Eligible Telecommunications Carrier in Alabama, Connecticut, Delaware, the District of Columbia, Florida, New Hampshire, New York, North Carolina, Tennessee and Virginia	)	

AMENDED PETITION OF BOOMERANG WIRELESS, LLC FOR DESIGNATION AS AN ELIGIBLE TELECOMMUNICATIONS CARRIER IN ALABAMA, CONNECTICUT, DELAWARE, THE DISTRICT OF COLUMBIA, FLORIDA, NEW HAMPSHIRE, NEW YORK, NORTH CAROLINA, TENNESSEE AND VIRGINIA

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Original filing date: December 29, 2010
Latest filing date: December 18, 2012

Summary

Boomerang Wireless, LLC ("Boomerang" or the "Applicant"), pursuant to Section 214(e)(6) of the Communications Act of 1934, as amended (the "Act")[1] and Sections 54.201-54.207 of the Federal Communications Commission's ("FCC's" or "Commission's") rules,[2] submits this Amended Petition for Designation as an Eligible Telecommunications Carrier ("ETC"). Boomerang requests ETC designation for the limited purpose of offering Lifeline services to end-user customers in the identified states under the brand name enTouch Wireless. On June 6, 2012, Boomerang previously amended its pending request for ETC designation[3] to extend the scope of its original request for ETC designation to include Tribal portions of Boomerang's territory within the identified states and update its request for limited ETC designation consistent with the Commission's rule changes to the Lifeline program and the obligations imposed on Lifeline-only ETCs.[4] Also, as stated in Boomerang's Compliance Plan, originally filed March 1, 2012, last revised on July 26, 2012 and approved by the Wireline Competition Bureau ("Bureau") on August 8, 2012, Boomerang filed the Amended Petition in order to avail itself of the Commission's conditional grant of blanket forbearance from the "own facilities" requirement of Section 214(e)(1) of the Act.[5] Boomerang filed an amended petition on September 18, 2012 to

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1 *See* 47 U.S.C. § 214(e)(6).

2 *See* 47 C.F.R. §§ 54.201-54.207.

3 *See* Petition of Boomerang Wireless, LLC for Designation as an Eligible Telecommunications Carrier in Alabama, Connecticut, Delaware, The District of Columbia, New Hampshire, New York, North Carolina, Tennessee and Virginia, WC Docket No. 09-197 (filed Dec. 29, 2010) ("Petition").

4 *See* Lifeline *and Link Up Reform and Modernization, Lifeline and Link Up, Federal-State Joint Board on Universal Service, Advancing Broadband Availability Through Digital Literacy Training*, WC Docket No. 11-42, WC Docket No. 03-109, CC Docket No. 96-45, WC Docket No. 12-23, Report and Order and Further Notice of Proposed Rulemaking, FCC 12-11 (rel. Feb. 6, 2012) ("*Lifeline Reform Order*").

5 *See id*. ¶ 368.

expand the scope of its petition to include the State of Florida, define its proposed service area by providing a list of study areas, revise its proposed Lifeline service offerings and note that its Compliance Plan has been approved by the Bureau. Boomerang files this Amended Petition to state that Boomerang will ask all Lifeline applicants in the states listed herein whether they or anyone in their household are receiving Lifeline service from any other provider, including from one of the other major Lifeline providers in the state. Further, Boomerang clarifies that only Boomerang employees enroll applicants in its Lifeline service at Boomerang events where phones are distributed and, with regard to other enrollments, a Boomerang employee will be responsible for overseeing and finalizing every Lifeline enrollment.

Boomerang offers affordable and reliable telecommunications services to low-income end user customers. Boomerang's prepaid wireless services combined with low-cost handsets provide a reasonable alternative to traditional post-paid services. Boomerang provides low-income customers who might not otherwise be able to afford traditional services with dependable voice and data services, as well as additional features and functionalities including, for example, call waiting, caller ID and voicemail.

Sections 214(e) and 254 of the Act and the Commission's rules expressly authorize the FCC to designate Boomerang as an ETC. Specifically, Section 214(e)(6) of the Act provides that the FCC may confer ETC status on a common carrier where the carrier's services do not fall subject to the jurisdiction of a state commission.[6] Boomerang provides herewith affirmative statements conclusively proving that the states in which it seeks ETC designation lack jurisdiction to confer ETC status to Boomerang. Further, Boomerang meets the statutory and regulatory requirements for ETC designation. And, finally, consumers will benefit greatly from such

[6] *See* 47 U.S.C. § 214(e)(6).

designation in the form of low-cost, high-quality wireless service and access to a host of add-on features.

As such, grant of this application is in the public interest, and Boomerang respectfully requests that the Commission grant this application on an expedited basis.

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Boomerang Wireless, LLC ("Boomerang" or the "Applicant"), pursuant to Section 214(e)(6) of the Communications Act of 1934, as amended (the "Act")[7] and Sections 54.201-54.207 of the Federal Communications Commission's ("FCC's" or the "Commission's") rules,[8] hereby files this Amended Petition seeking designation as an Eligible Telecommunications Carrier ("ETC"'). Boomerang requests ETC designation for the limited purpose of offering Lifeline services to low-income customers in the identified states.

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7 *See* 47 U.S.C. § 214(e)(6).

8 *See* 47 C.F.R. §§ 52.201-52.207.

I. Changes to the Scope of Boomerang's ETC Petition

Boomerang is hereby amending its pending request for ETC designation[9] to state that Boomerang will inquire of all Lifeline applicants in the states listed herein whether they or anyone in their household are receiving Lifeline service from any other provider, including from one of the other major Lifeline providers in the state. Finally, Boomerang clarifies that only Boomerang employees enroll applicants in its Lifeline service at Boomerang events where phones are distributed and, with regard to other enrollments, a Boomerang employee will be responsible for overseeing and finalizing every Lifeline enrollment.[10]

On September 18, 2012, Boomerang amended its request to extend the scope of its original request for ETC designation to include the State of Florida, define its proposed service area by providing a list of study areas, revise Boomerang's proposed Lifeline service offerings and note the approval of Boomerang's Compliance Plan. On June 6, 2012, Boomerang amended its Petition[11] to include Tribal portions of Boomerang's territory within the identified states and to bring the request for limited ETC designation into compliance with the FCC's rule changes to the Lifeline program and the obligations imposed on Lifeline-only ETCs.[12] Also, Boomerang filed its

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9 *See Petition of Boomerang Wireless, LLC for Designation as an Eligible Telecommunications Carrier in Alabama, Connecticut, Delaware, the District of Columbia, New Hampshire, New York, North Carolina, Tennessee and Virginia,* WC Docket No. 09-197 (filed Dec. 29, 2010) ("Petition").

10 In addition, Boomerang has corrected a typo in the chart showing prices for its top-up minutes in Section II.B. The "Days of Use" for the $7.00 top-up should be seven rather than ten.

11 *See Amended Petition of Boomerang Wireless, LLC for Designation as an Eligible Telecommunications Carrier in Alabama, Connecticut, Delaware, the District of Columbia, New Hampshire, New York, North Carolina, Tennessee and Virginia,* WC Docket No. 09-197 (filed June 6, 2012).

12 *In the Matter of Lifeline and Link Up Reform and Modernization, Lifeline and Link Up, Federal-State Joint Board on Universal Service, Advancing Broadband Availability Through Digital Literacy Training,* WC Docket No. 11-42, WC Docket No. 03-109, CC Docket No. 96-45, WC Docket No. 12- 23, Report and Order and Further Notice of Proposed Rulemaking, FCC 12-11 (rel. Feb. 6, 2012) ("Lifeline Reform Order").

amended Petition in order to avail itself of the Commission's conditional grant of blanket forbearance from the "own facilities" requirement of Section 214(e)(1) of the Act.[13]

Boomerang demonstrates in this Amended Petition and its Compliance Plan,[14] incorporated herein by reference and attached hereto as Exhibit A, that Boomerang satisfies the conditions necessary to benefit from the Commission's conditional grant of blanket forbearance, Boomerang satisfies all requirements necessary to be designated a "Lifeline-only" ETC, and it is in the public interest for the Commission to grant this Amended Petition as Boomerang will be able to provide low-income consumers in these states with reliable and cost-effective wireless services. Boomerang's Compliance Plan was originally filed on March 1, 2012, was last revised on July 26, 2012 and approved by the Wireline Competition Bureau ("Bureau") on August 8, 2012.[15] Accordingly, Boomerang respectfully requests that the Commission grant this application on an expedited basis to designate it as an ETC in all ten "Federal Jurisdiction States" – Alabama, Connecticut, Delaware, the District of Columbia, Florida, New Hampshire, New York, North Carolina, Tennessee and Virginia.

II. Background

A. Company Overview

Boomerang is one of three wholly owned subsidiaries of HH Ventures LLC, an Iowa company. The other two subsidiaries are enMarket, LLC ("enMarket") and Ready Wireless, LLC ("Ready Wireless"). HH Ventures LLC ("HH Ventures") is a profitable, cash flow positive wireless telecommunications holding company, which employs forty full-time employees. The

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13 *See Lifeline Reform Order*, ¶ 368.

14 Boomerang Wireless, LLC Amended Compliance Plan, WC Docket Nos. 09-197, 11-42 (filed July 26, 2012).

15 It is the July 26, 2012 version approved by the Bureau that is included as Exhibit A.

company's core management team includes six senior executives with more than 100 years of combined telecommunications experience.

Boomerang seeks ETC designation in order to provide handsets and domestic voice services to low-income customers under the brand enTouch Wireless. Boomerang also intends to provide Lifeline-only service to residents of Tribal lands. Boomerang has direct, network carrier contracts with Sprint and Verizon Wireless, and has a contract in place to resell service from GSM carriers. The multi-carrier wireless network platform provides robust wireless service coverage across the entire ETC footprint. Boomerang has direct, in-depth experience with building voice, data and broadband products directly with carriers.

HH Ventures formed enMarket in January, 2012 to focus on event marketing and distribution for ETCs. Full time employees create neighborhood events to build awareness of the Lifeline program and to distribute phone services to eligible consumers. Event staff is trained on the program compliance requirements and creates a positive community experience. The company also diligently implements measures to prevent waste, fraud and abuse.

Ready Wireless offers a Mobile Virtual Network Enabler ("MVNE") wholesale platform for ETCs and other non-ETC white label partners as well as for the companies' own retail non-Lifeline brands Ready Mobile, Ready Broadband and Trumpet. The platform integrates technical, infrastructure and business operations in a scalable, reliable environment. Mobile Virtual Network Operator ("MVNO") customers can select the features and capabilities that meet their business needs. Key features include:

- multiple underlying facilities-based wireless carrier networks (Sprint, Verizon Wireless, GSM);
- an integrated operating system, which includes provisioning, inventory management, interactive voice response ("IVR") systems, billing, reporting;
- device certifications, procurement, warehousing, logistics;

- program management and marketing;
- additional features to enhance the user experience, such as free 411 and competitively priced international long distance; and
- access to thousands of reload locations, ensuring that ETC end user customers will be able to purchase additional services to complement their subsidized services.

Ready Mobile is a national brand distributed in over 30,000 retail locations.[16] The expertise developed to meet the rigorous operational demands of publicly traded, chain accounts (*i.e.* Walgreens, CVS, Meijers) is foundational to delivering superior services to ETCs and other white label partners. Boomerang offers two wireless services under the Ready Mobile brand: ReadyMobilePCS and ReadyBroadband. ReadyMobilePCS offers data access to consumers across the country via smart phone technology using recycled, web-enabled phones with broadband data plans. Under the brand ReadyBroadband, the company also provides data access through devices such as laptops, notebooks, tower computers, and a wide array of other equipment. Both smart phones and access devices are provided with national broadband coverage and distributed through national retail chains as well as sold on the e-commerce site (www.readymobile.com).

Boomerang has direct, network carrier contracts with Sprint and Verizon Wireless, and has a contract in place to resell service from GSM carriers. The multi-carrier wireless network platform provides robust wireless service coverage across the entire ETC footprint. HH Ventures and its subsidiaries have direct, in-depth experience with building voice, data and broadband products directly with carriers.

Experienced in providing broadband data access to consumers across the country, Boomerang is already poised to play a part in achieving the Commission's goal of expanding

[16] The history of the Ready Mobile brand goes back to Ready Mobile LLC. Ready Mobile LLC was formed in 2005 and was focused on retail distribution of prepaid wireless products under the Ready Mobile brand name. In May 2007, Titan Global Holdings purchased certain assets from Ready Mobile LLC that included the Ready Mobile branding. Titan operated several other telecommunications ventures. HH Ventures participated in a transaction by which it purchased certain Titan assets, including the Ready Mobile brand on January 17, 2008. None of the Titan owners are part of the HH Ventures ownership.

broadband access to low-income consumers should the Commission decide to support such service as part of the Lifeline program.

Because the Company already has in place nationwide distribution channels and activation processes, it is ready now to offer telecommunications services to low-income consumers. Because of the Company's established multi-channel, multi-partner approach, it has the ability to reach eligible consumers throughout the Federal Jurisdiction States. In addition, Boomerang will advertise the availability and prices of its services through a variety of mediums, including online advertising, direct marketing campaigns, print advertising, event-based distribution, seminars, lectures, pamphlet distribution, and meetings with government agencies.

B. Proposed Lifeline Offering

Boomerang will offer its Lifeline service in the states where it is designated as an ETC and throughout the coverage area of its underlying carriers (Sprint, Verizon Wireless, and other GSM providers). The Company's will offer eligible customers the following two Lifeline plans: (1) 125 units that rollover where 1 minute equals 1 unit and 1 text equals 1 unit, and (2) 250 units without rollover where 1 minute equals 1 unit and 1 text equals 1 unit.

Customers will have the capability of purchasing additional bundles of minutes in the following denominations:

Denomination	$5	$10	$10	$15	$15	$30	$30	$50	$7	$20	$30
Days of Use	10	3	7	7	10	14	30	30	7	30	30
Minutes									100	500	1,000
Peak		Unlmtd	30	Unlmtd	60	Unlmtd	140	Unlmtd			
Minutes											
N/W Miniutes		Unlmtd	Unlmtd	Unlmtd	Unlmtd	Unlmtd	Unlmtd	Unlmtd			
Texts		Unlmtd	.10/text	Unlmtd	.10/text	Unlmtd	.10/text	Unlmtd	200	1,000	1,200
Units (Min+Text)	50										

In addition to free voice services, Boomerang's Lifeline plans will include a free handset and the following features: caller ID, call waiting and voicemail.

As a provider of Lifeline services to residents of Tribal lands, Boomerang will pass through the full Tribal support amount to qualifying residents of Tribal lands, and under no circumstances will it collect from the Universal Service Fund more than the rate charged to Tribal subscribers.

III. ETC Designation

A. The Commission Has the Authority to Perform the Requested Designations

While the authority to designate ETCs traditionally falls on state utility commissions, Sections 214(e) and 254 of the Act authorize the FCC to designate Boomerang as an ETC in the Federal Jurisdiction States. Specifically, Section 214(e)(6) of the Act provides that the Commission may confer ETC status on a common carrier where the carrier's services do not fall subject to the jurisdiction of a state commission. In its original ETC Petition, Boomerang supplied affirmative statements from all the states in which it seeks ETC designation that these states lack the authority to perform the requested designations for wireless carriers. Those statements are attached hereto at Exhibit B.

Specifically, Boomerang submits affirmative statements from state commissions in the identified states showing that each lacks jurisdiction to confer ETC status. Boomerang submits copies of the following orders and correspondence:

The Alabama Public Service Commission issued an order finding that its "jurisdiction to grant Eligible Telecommunications Carrier status for universal service purposes does not extend to providers of cellular services, broadband personal communications services, and commercial radio services," and that "wireless providers seeking ETC status should pursue their designation request with the FCC."

The Connecticut Department of Public Utility Control provided a letter confirming that it lacks jurisdiction over wireless ETC petitions.

The Delaware Public Service Commission issued an order clarifying that as a "federal default state" it does not administer its own ETC program.

The District of Columbia confirmed by letter that it lacks jurisdiction to designate wireless carriers as ETCs.

The Florida Public Service Commission acknowledged by letter that "the revision to Chapter 364, Florida Statutes, changed the Commission's jurisdiction regarding telecommunications companies." The letter confirmed that "the Federal Communications Commission, rather than this Commission is the appropriate agency to consider…[bids] for ETC status."

The General Counsel of the New Hampshire Public Utilities Commission issued a letter confirming that the PUC lacks jurisdiction to consider petitions for ETC status filed by mobile radiocommunication carriers.

The New York Public Service Commission confirmed by letter that it lacks jurisdiction to entertain Boomerang's ETC petition.

The North Carolina Utilities Commission released an Order concluding that "the Commission lacks jurisdiction over CMRS services and the appropriate venue for the designation of ETC status for such services is with the FCC."

The Tennessee Regulatory Authority issued an order finding that its statutory "lack of jurisdiction over CMRS providers" precludes it from processing ETC petitions.

The Virginia State Corporation Commission issued an order stating that it "has not asserted jurisdiction over CMRS carriers" and that wireless ETC applicants "should apply to the Federal Communications Commission."

Also, while not specifically stated in the original petition, Boomerang wishes to clarify that it is seeking designation as an ETC in the Tribal areas throughout its service territory in the identified states.

Accordingly, for each of the above states, Boomerang requests that the Commission exercise its authority under Section 214(e)(6) and determine that it is not subject to a state commission's ETC jurisdiction.

B. Boomerang Satisfies All Requirements Necessary to Be Designated a Lifeline-Only ETC

In order to receive an ETC designation, Section 214(e)(1) of the Act and Section 54.201(d) of the Commission's rules provide that petitioning carriers must:

1. be common carriers;
2. that will offer all of the services supported by federal USF support mechanisms;
3. either using their own facilities or a combination of their own facilities and the resale of another carrier's services, except where the Commission has forborne from the "own facilities" requirement;
4. must advertise the availability and pricing of their universal service support qualifying services; and
5. comply with all of the relevant regulations applicable to ETCs.

1. Boomerang Qualifies as a Common Carrier

Boomerang is a common carrier because it is a company providing interstate and foreign communications by radio[17] and qualifies as a Commercial Mobile Radio Service

[17] The Act defines a common carrier as "any person engaged as a common carrier for hire, in interstate or foreign communications by wire or radio . . . ." 47 U.S.C. § 153(10). The Act further defines a "person" to include "an individual, partnership, association, joint-stock company, trust, or corporation." 47 U.S.C. § 153(32).

("CMRS") provider.[18] In addition, section 332(c)(1)(A) of the Act states that CMRS providers will be regulated as common carriers.[19]

2. Boomerang Offers the Services and Functionalities Supported by the Federal Low-Income Universal Service Program[20]

In its original Petition, Boomerang established that it would offer all of the services and functionalities supported by the federal low-income Universal Service program. The Company seeks designation as an ETC to provide Lifeline service in the rural and non-rural study areas provided in Exhibit C. Boomerang understands that its service area includes the service areas of several rural carriers, however, the public interest factors discussed below and the Commission's precedent in granting ETC designation in such areas justifies this designation as an ETC for purposes only of participation in the Lifeline program.

As set forth in the original petition, Boomerang will provide voice grade access to the public switched telephone network ("PSTN") through its agreements with underlying carriers (Sprint, Verizon Wireless, and other GSM providers) that have executed interconnection agreements with local exchange carriers to provide voice-grade connectivity to the PSTN. As noted above, Boomerang's proposed Lifeline offering will include varying rate plans with different amounts of local usage.

Boomerang will provide its Lifeline subscribers with 911 and E911 access, regardless of activation status and availability of minutes. It will provide its Lifeline subscribers with E911-compliant handsets and replace, at no additional charge to its subscribers, noncompliant handsets of Lifeline-eligible subscribers who obtain Lifeline-supported services.

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18 *See* 47 C.F.R. § 20.3.

19 *See* 47 U.S.C. § 332(c)(1)(A).

20 47 C.F.R. § 54.201(d).

Since Boomerang filed its original ETC Petition, the Commission has changed its definition of "supported services" for purposes of USF reimbursement. ETCs are no longer required to offer toll limitation service to low-income consumers if the Lifeline offering provides a set amount of minutes that does not distinguish between toll and non-toll calls.[21] Boomerang's proposed Lifeline offering meets this requirement and, therefore, Boomerang will not offer toll limitation.

3. Boomerang Will Provide the Supported Services Consistent with the Commission's Grant of Forbearance from Section 214's Facilities Requirements

Boomerang provides domestic and international voice and data services to low-income consumers as an MVNO, and provides a complete wholesale, MVNE platform to several ETCs and other white label partners using its underlying carriers' (Sprint, Verizon Wireless, and other GSM providers) network infrastructure. It purchases capacity on a wholesale basis from these underlying carriers and resells service packages to customers. Thus, it provides its basic voice and data services on a resale basis. Boomerang is not seeking to demonstrate, for purposes of satisfying Section 214(e)(1)(A) of the Act, that it provides the "supported services" described in Section 54.101(a) of the Commission's rules in the identified States via a combination of its own facilities and the resold facilities of other carriers. Accordingly, Boomerang wishes to avail itself of the Commission's conditional grant of blanket forbearance for purposes of providing service as a Lifeline-only carrier in these states. As stated above, Boomerang's Compliance Plan was granted by the Bureau on August 8, 2012 and therefore Boomerang is not required to make a facilities demonstration.

In addition, as Boomerang stated above and in its Compliance Plan, incorporated herein by reference and attached hereto as Exhibit A, Boomerang will provide its Lifeline

[21] *See Lifeline Reform Order*, ¶ 230.

customers with the same access to emergency calling, which is not assessed against service plans, and 911/E911 capable handsets that it currently provides to its existing customers.

4. Boomerang Will Advertise the Availability and Pricing for its Universal Service Qualifying Offerings

Boomerang will advertise both the availability and pricing of its USF-qualifying offerings broadly in a manner reasonably designed to reach those who qualify for the service.[22] Its advertisements will be posted in various retail stores included in its distribution network such as CVS, Walgreens, Rite Aid and Dollar General stores, among others. In addition, Boomerang will advertise the availability and prices of its services through a variety of mediums, including online advertising, direct marketing campaigns, print advertising, event-based distribution, seminars, lectures, pamphlet distribution, and meetings with government agencies. enMarket, Boomerang's sister event marketing and distribution company, will use demographic segmentation information to identify locations of populations with great need. enMarket will organize positive and informative neighborhood events to create a local presence. Boomerang will also be promoting sign up through online outreach. Boomerang will include all required information in its Lifeline marketing materials, including web, print, radio and television advertising.

5. Boomerang Will Satisfy its Statutory Obligations as an ETC

Boomerang will comply with the service requirements applicable to the support that it receives and the services it provides.[23]

Boomerang has the ability to remain functional in emergencies.[24] Boomerang and its underlying carriers have created back-up systems to ensure full functionality in the event of a

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22 *See* 47 C.F.R. § 54.405(b).

23 *See* 47 C.F.R. § 54.202(a)(1)(i).

24 *See* Petition at 12; 47 C.F.R. § 54.202(a)(2).

loss of power or network functionality. Boomerang's facilities are housed in a carrier-class data center with fully redundant power and HVAC, a controlled temperature and humidity environment, fire-threat detection and suppression, year-round critical monitoring and secure access with biometric security. The facility features redundant generators and redundant fiber optic connectivity. The data center is a reinforced concrete building located in a secure area and collocated with the area electrical utility headquarters. It is powered from separate paths independent of any one electrical generation plant. All systems within the facility are implemented on redundant servers, each with redundant data network and power.

Boomerang will satisfy the requirement to comply with consumer protection and service quality standards by complying with the Cellular Telecommunications and Internet Association's Consumer Code for Wireless Service.[25] It will provide service to any customer making a reasonable request for service throughout its designated service areas. Each of Boomerang's rate plans is comparable to those offered by ILECs in the service areas for which it seeks ETC designation. In fact, Boomerang's rate plans are superior in many respects to rate plans offered by ILECs in its service areas because they provide greater flexibility, reliable service, additional functionalities and features, and lower cost alternatives to ILEC providers' services.

Boomerang is financially and technically capable of providing the Lifeline service in compliance with all of the Commission's low-income program rules.[26] Boomerang's parent company, HH Ventures, is a privately held cash-flow-positive wireless telecommunications holding company. HH Ventures has been providing prepaid wireless telecommunications services to non-Lifeline subscribers since 2008. Its core management team includes six senior executives with significant telecommunications experience, and the company employs 40 full time employees.

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[25] *See* Petition at 13; 47 C.F.R. § 54.202(a)(3).

[26] *See* 47 C.F.R. 54.202(a)(4).

Boomerang currently provides prepaid wireless services to more than 350,000 subscribers, including more than 50,000 retail customers. Boomerang does not intend to rely exclusively on USF disbursements to operate, as it receives revenue from providing other services, including managing the platform of its sister company, as described above. For the 2011 calendar year, Boomerang and its sister company received no direct USF reimbursement for Lifeline support; 17 percent of revenue was generated from wireless resale services, 52 percent of revenue was generated from wireless retail services, and 31 percent of revenue was generated from other non-regulated communications services. Boomerang has not been subject to enforcement actions or ETC revocation proceedings in any state.

The terms of Boomerang's proposed Lifeline offering are detailed above in this Amended Petition.

In its original Petition, Boomerang committed to meeting its annual reporting requirements under Section 54.209, now rendered obsolete by the Commission's *Lifeline Reform Order*. Here, Boomerang commits to complying with the certification and reporting requirements contained in sections 54.416 and 54.422.[27]

C. Boomerang Will Guard against Waste, Fraud and Abuse

Boomerang has described in its approved Compliance Plan, incorporated herein by reference and attached hereto as Exhibit A, how it will implement the Commission's new procedures to prevent customers from receiving duplicate service, to ensure customer eligibility, and to re-certify continued customer eligibility. In addition, during enrollment Company personnel will inform each Lifeline applicant that he or she may be receiving Lifeline support under another name, and facilitate the applicant's understanding of what constitutes "Lifeline-supported services," and ability to determine whether he or she is already benefiting from Lifeline support, by

[27] *See* 47 C.F.R. § 54.422.

inquiring of each customer whether they are receiving Lifeline service from one of the other major Lifeline providers in the state (e.g., SafeLink, Assurance).

Finally, only Boomerang employees enroll applicants in its Lifeline service at Boomerang events where phones are distributed. With regard to other enrollments, a Boomerang employee will be responsible for overseeing and finalizing every Lifeline enrollment prior to sending a phone to the customer and including that customer on an FCC Form 497 for reimbursement. Boomerang does not currently enroll customers at retail locations, however, if Boomerang were to do so in the future, Boomerang would not enroll customers at retail locations where Boomerang does not have an agency agreement with the retailer. Boomerang would require an agent retailer to have any employees involved in the enrollment process go through the standard Boomerang training process, same as it would for any other agent. By establishing agency relationships with all of its Company personnel, including retail outlets, Boomerang would meet the "deal directly" requirement adopted in the TracFone Forbearance Order.[28]

The Commission determined in the *Lifeline Reform Order* that ETCs may permit agents or representatives to review documentation of consumer program eligibility for Lifeline because "the Commission has consistently found that '[l]icensees and other Commission regulatees are responsible for the acts and omissions of their employees and independent contractors.'"[29] Because Boomerang would be responsible for the actions of all of its employees and agents, including those enrolling customers in any Boomerang owned or affiliated retail locations, and a Boomerang employee is currently responsible for overseeing and finalizing every Lifeline enrollment prior to including that customer on an FCC Form 497 for reimbursement, the Company

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[28] *See* Petition of TracFone Wireless, Inc. for Forbearance from 47 U.S.C. § 214(e)(1)(A) and 47 C.F.R. § 54.201(i), CC Docket no. 96-45, Order, FCC 05-165, ¶19 (2005).

[29] *Lifeline Reform Order*, ¶ 110.

will always "deal directly" with its customers to certify and verify the customer's Lifeline eligibility.

IV. ETC Designation of Boomerang Will Promote the Public Interest

Section 54.202(b) of the Commission's rules mandates that ETC designations must serve the public interest. In considering whether any designation is in the public interest, "the Commission shall consider the benefits of increased consumer choice, and the unique advantages and disadvantages of the applicant's service offering."[30] First, Boomerang's service offers increased consumer choice and has unique advantages for consumers in the geographical areas served. For example, Boomerang's service provides a low-cost, reliable alternative to traditional rate plans. It allows customers to rely upon the extensive networks of its underlying carriers, while taking advantage of Boomerang's additional features and services provided by its secure facilities.

In addition, Boomerang's service meets the goals of the Act. For example, the Act aimed to "secure lower prices and higher quality services for American telecommunications consumers and encourage the rapid deployment of new telecommunications technologies" to all American consumers.[31] Conferring ETC status upon Boomerang will provide consumers with higher quality services at lower prices in the designated service areas. Boomerang's plans incorporate features specifically designed for lower income individuals in both rural and urban areas.

Further, Boomerang's prepaid services offer flexibility, providing customers with custom plans for voice services. Boomerang's plans allow customers that might not otherwise have access to expensive post-paid plans, to subscribe to voice services without the hurdle of a

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[30] 47 C.F.R. § 54.202(c).

[31] Telecommunications Act of 1996, Pub. L. No. 104-104, 110 Stat. 56.

credit check or the commitment of a contract. And, the service allows customers to purchase minutes on an "as needed" basis.

Designation of Boomerang as an ETC also meets the Commission's stated goals for promoting competition and increasing customer choice. The Commission has determined that "designation of competitive ETCs promotes competition and benefits consumers in rural and high-cost areas by increasing customer choice, innovative services, and new technologies."[32] Boomerang adds competition to the marketplace with the addition of its affordable innovative services. Further, its presence as a competitor to ILECs will incentivize incumbent carriers to improve their services and expand their networks in order to remain competitive.

Finally, because Boomerang will remain compliant with each of its ETC responsibilities, the Commission should designate it as an ETC in the proposed service areas.

V. Anti-Drug Abuse Certification

No party to this Petition is subject to denial of federal benefits pursuant to Section 5301 of the Anti-Drug Abuse Act of 1998, 21 U.S.C. § 862.

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[32] *See Western Wireless Corporation Petition for Designation as an Eligible Telecommunications Carrier in the State of Wyoming*, Memorandum Opinion and Order, CC Docket No. 96-45, 16 FCC Rcd 48, ¶ 17 (2000).

VI. Conclusion

As Boomerang has previously demonstrated, the Commission's grant of this Amended Petition designating Boomerang as a Lifeline-only ETC would promote the public interest. Boomerang requests that the Commission grant this Amended Petition on an expedited basis so that Boomerang may begin providing the benefits of Lifeline service to qualifying low-income consumers.

Respectfully submitted,

John J. Heitmann
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3050 K Street, NW
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(202) 342-8400

Counsel for Boomerang Wireless, LLC

December 18, 2012

DECLARATION

I, James T. Balvanz, Chief Financial Officer of Boomerang Wireless, LLC do hereby affirm under penalty of perjury that I have reviewed all of the factual assertions set forth in the foregoing petition for ETC status and that all such statements made therein are true and correct to the best of my knowledge, information and belief.

To the best of my knowledge, no party to this Petition, nor any of their officers, directors, or persons holding five percent or more of the outstanding stock or shares (voting or non-voting) as specified in Section 1.2002(b) of the Commission's rules are subject to denial of federal benefits, including Commission benefits, pursuant to Section 5301 of the Anti-Drug Abuse Act of 1988, 21 U.S.C. § 862.

Executed on December 18, 2012

James T. Balvanz
Chief Financial Officer

EXHIBIT A

KELLEY DRYE & WARREN LLP

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July 26, 2012

VIA ECFS

Marlene H. Dortch, Secretary
Federal Communications Commission
445 12th Street, S.W.
Washington, DC 20554

Re: Boomerang Wireless, LLC Revised Compliance Plan; WC Docket Nos. 09-197, 11-42

Dear Ms. Dortch:

On March 1, 2012, Boomerang Wireless, LLC ("Boomerang") submitted its Compliance Plan outlining the measures it will take to implement the conditions imposed by the Commission in its *Lifeline Reform Order*.[1] On April 12, 2012, May 22, 2012, June 13, 2012 and June 29, 2012 Boomerang submitted revised Compliance Plans to provide additional details.

Boomerang has further revised its Compliance Plan (p. 18) at the request of FCC Staff to explain that Boomerang's customers may de-enroll from Lifeline supported service at any time by simply calling Boomerang's toll-free customer service line. Boomerang does not require submission of a written request by facsimile or otherwise. In addition, Boomerang is no longer offering a 68 minute Lifeline plan and its Compliance Plan and Lifeline application form have been revised accordingly.

Boomerang hereby re-submits its complete Compliance Plan with the above revisions. Based on the minor nature of these changes, Boomerang reiterates its request for expeditious approval of its Compliance Plan.

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1 *See Lifeline and Link Up Reform and Modernization, Lifeline and Link Up, Federal-State Joint Board on Universal Service, Advancing Broadband Availability Through Digital Literacy Training*, WC Docket No. 11-42, WC Docket No. 03-109, CC Docket No. 96-45, WC Docket No. 12-23, Report And Order and Further Notice Of Proposed Rulemaking, FCC 12-11 (Feb. 6, 2012).

This letter and revised Compliance Plan is being filed electronically for inclusion in the public record of the above-referenced proceedings. Please contact the undersigned with any questions.

Respectfully submitted,

John J. Heitmann
Joshua T. Guyan

Counsel to Boomerang Wireless, LLC

cc: Kim Scardino
Divya Shenoy
Garnet Hanly

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

In the Matter of	)	
	)	
Telecommunications Carriers Eligible To Receive Universal Service Support	)	WC Docket No. 09-197
	)	
Lifeline and Link Up Reform and Modernization	)	WC Docket No. 11-42

BOOMERANG WIRELESS, LLC REVISED COMPLIANCE PLAN

Boomerang Wireless, LLC d/b/a Ready Mobile ("Boomerang" or the "Company") is a prepaid wireless telecommunications carrier seeking designation as an eligible telecommunications carrier ("ETC") for the limited purpose of offering service supported by the Lifeline program.[1] Boomerang seeks to avail itself of the Federal Communications Commission's ("Commission") grant of forbearance from the "own-facilities" requirement contained in Section 214(e)(1)(A),[2] subject to certain conditions set forth in the Commission's Order released February 6, 2012.[3] Specifically, the Commission provided that a carrier seeking to become a Lifeline-only ETC must comply with certain 911 requirements and file a compliance plan "providing specific information regarding the carrier's

[1] Boomerang currently has pending a petition for designation as a Lifeline-only ETC in certain states. *See* Amended Petition of Boomerang Wireless, LLC for Designation as an Eligible Telecommunications Carrier in Alabama, Connecticut, Delaware, the District of Columbia, New Hampshire, New York, North Carolina, Tennessee and Virginia, WC Docket No. 09-197 (filed June 6, 2012) ("Petition"). Boomerang seeks authorization to provide Lifeline-only service to residents of Tribal lands as well. Boomerang respectfully requests to incorporate the commitments made herein into the pending Petition.
[2] 47 U.S.C. § 214(e)(1)(A).
[3] *In the Matter of Lifeline and Link Up Reform and Modernization, Lifeline and Link Up, Federal-State Joint Board on Universal Service, Advancing Broadband Availability Through Digital Literacy Training*, WC Docket No. 11-42, WC Docket No. 03-109, CC Docket No. 96-45, WC Docket No. 12-23, Report and Order and Further Notice of Proposed Rulemaking, FCC 12-11 (rel. Feb. 6, 2012) ("Lifeline Reform Order").

service offerings and outlining the measures the carrier will take to implement the obligations contained in [the] Order."[4]

Boomerang submits this Revised Compliance Plan ("Compliance Plan") to detail the policies, procedures and training programs it has developed to guard against waste, fraud and abuse in the Lifeline program. This Revised Compliance Plan is intended to replace Boomerang's previously filed compliance plan. Boomerang has continued to refine its planned policies and procedures for enrolling eligible Lifeline customers and providing Lifeline services in accordance with the Commission's Lifeline rules, has formed partnerships and has formulated and adopted internal policies, procedures and training materials in line with the Commission's Lifeline reform. This Compliance Plan discusses in more detail Boomerang's plans for qualifying and enrolling eligible customers, includes more specifics about how Boomerang will review eligibility documentation and guard against households receiving duplicate subsidies, and the process for service activation in compliance with the Commission's new rules.

In this Compliance Plan, Boomerang will describe in more detail the mechanisms and partnerships it already has in place to prevent duplicate benefits to the same household. Above and beyond meeting the Commission's requirements for guarding against duplicates, Boomerang will go a step further in its outreach by targeting currently unserved/underserved populations. A substantial market segment has not yet been reached by current ETCs. As a result, millions of eligible citizens need Lifeline-supported services but are not currently served by the program. Boomerang has partnerships and established marketing outreach experience and future plans to target this underserved population. This effort, together with Boomerang's procedures to prevent duplicate subsidies, will serve the important public policy goals of the program to extend critical services to Americans with the greatest needs.

Boomerang's business model, ethos and objectives support the Lifeline program and its goals. Boomerang's commitments to comply with the Commission's Lifeline rules serve the program

[4] Lifeline Reform Order ¶ 368.

and allow the Company to invest its capital in consumers who meet program eligibility requirements now, but who require reliable, innovative, high quality services for the long haul. Boomerang is continuously refining and improving its practices and procedures for satisfying all of the Commission's Lifeline requirements in order to build a successful Lifeline business that serves customers with the greatest needs.

Background

Boomerang is one of three wholly owned subsidiaries of HH Ventures LLC, an Iowa company.[5] The other two subsidiaries are enMarket, LLC ("enMarket") and Ready Wireless, LLC ("Ready Wireless"). HH Ventures LLC ("HH Ventures") is a profitable, cash flow positive wireless telecommunications holding company, which employs forty full-time employees. The company's core management team includes six senior executives with more than 100 years of combined telecom experience.

Boomerang seeks ETC designation in order to provide handsets and domestic and international voice services to low-income customers. Boomerang also intends to provide Lifeline-only service to residents of Tribal lands. Boomerang has direct, network carrier contracts with Sprint and Verizon, and is also negotiating a contract with a national GSM provider. The multi-carrier wireless network platform provides robust wireless service coverage across the entire ETC footprint. Boomerang has direct, in-depth experience with building voice, data and broadband products directly with carriers.

HH Ventures formed enMarket in January 2012 to focus on event marketing and distribution for ETCs. Full time employees create neighborhood events to build awareness of the Lifeline program and to distribute phone services to eligible consumers. Event staff is trained on the program compliance requirements, as detailed more fully below, and creates a positive community experience. The company also diligently implements measures to prevent waste, fraud and abuse.

[5] *See* Exhibit A for HH Holdings structure, ownership and brands.

In addition, the company has a national partnership to participate in Medicaid managed care organization community events in order to reach a population with significant needs for access to services. This unique partnership with organizations who serve Medicaid recipients is designed to reach in person transient consumers and those who otherwise do not have access to the online, telephone, or paper application process unless supported by another person at an in-person event. Again, as detailed below, employees who engage with potential subscribers at these events receive detailed and extensive training in the Commission's Lifeline eligibility, documentation and other requirements, and how to communicate these requirements clearly to potential subscribers.

Ready Wireless offers an MVNE wholesale platform for ETCs and other non-ETC white label partners as well as for the companies' own retail brands Ready Mobile, Ready Broadband and Trumpet. The platform integrates technical, infrastructure and business operations in a scalable, reliable environment. MVNO customers can select the features and capabilities that meet their business needs. Key features include:

- multiple underlying facilities-based wireless carrier networks (Sprint, Verizon, GSM);
- an integrated operating system, which includes provisioning, inventory management, interactive voice response ("IVR") systems, billing, reporting;
- device certifications, procurement, warehousing, logistics;
- program management and marketing;
- additional features to enhance user experience, such as free 411 and competitively priced international long distance; and
- access to thousands of reload locations, ensuring that ETC end user customers will be able to purchase additional services to complement their subsidized services.

Boomerang has direct control over the databases, systems and processes controlling the customer records, usage records, and reporting. This provides us direct ability to implement current Lifeline guidelines as well as evolve to meet future program policy requirements.

Ready Mobile is a national brand distributed in over 30,000 retail locations.[6] The expertise developed to meet the rigorous operational demands of publicly traded, chain accounts (*i.e.* Walgreens, CVS, Meijers) is foundational to delivering superior services to ETC and other white label partners. Boomerang offers two wireless services under the Ready Mobile brand: ReadyMobilePCS and ReadyBroadband. ReadyMobilePCS offers data access to consumers across the country via smart phone technology using recycled, web-enabled phones with broadband data plans. Under the brand ReadyBroadband, the company also provides data access through devices such as laptops, notebooks, tower computers, and a wide array of other equipment. Both smart phones and access devices are provided with national broadband coverage and distributed through national retail chains as well as sold on the e-commerce site (www.readymobile.com).

Boomerang has direct, network carrier contracts with Sprint and Verizon and is negotiating a contract with a national GSM provider as well. The multi-carrier wireless network platform provides robust wireless service coverage across the entire ETC footprint. HH Ventures and its subsidiaries have direct, in-depth experience with building voice, data and broadband products directly with carriers.

Boomerang is experienced in providing broadband data access to consumers across the country. Boomerang is poised to play a part in achieving the Commission's goal of expanding broadband access to low-income consumers. Boomerang understands that low income consumers are not early technology adopters. Accessibility and ease of use of Boomerang's products, services and systems allows low-income consumers to take advantage of the power of wireless technology so that we can close the digital divide. Adding data to phone plans is a growing trend in the low-income base of customers, but as the Commission recognizes, lags behind the national norm.

[6] The history of the Ready Mobile brand goes back to Ready Mobile LLC. Ready Mobile LLC was formed in 2005 and was focused on retail distribution of prepaid wireless products under the Ready Mobile brand name. In May 2007, Titan Global Holdings purchased certain assets from Ready Mobile LLC that included the Ready Mobile branding. Titan operated several other telecommunications ventures. HH Ventures participated in a transaction by which it purchased certain Titan assets, including the Ready Mobile brand on January 17, 2008. None of the Titan owners are part of the HH Ventures ownership.

Boomerang will have data availability turned on in each handset distributed to Lifeline customers that could become the subscriber's daily access to the Internet if they should choose to add data services to their phone.

Because the Company already has in place nationwide distribution channels and activation processes, it is ready to offer broadband access services to low-income consumers. The Company has competitive billing plans for smart phones and other devices, including the ability to bundle data services on smart phones along with voice and text services. Because of the Company's established multi-channel, multi-partner approach, it has the ability to reach eligible consumers throughout the country. In addition, Boomerang will advertise the availability and prices of its services through a variety of mediums, including online advertising, direct marketing campaigns, print advertising, event-based distribution, seminars, lectures, pamphlet distribution, and meetings with government agencies.

Compliance Plan

This Compliance Plan describes the specific measures that Boomerang intends to implement to achieve the objectives of the Commission's Lifeline rules and policies.

I. Policy

Boomerang will comply with all certification and verification requirements for Lifeline eligibility set forth in the Lifeline Reform Order; the Commission's Lifeline rules and policies; the requirements, rules and policies governing the provision of Lifeline service to eligible subscribers residing on reservations or Tribal lands; the provisions of this Compliance Plan; and all laws and regulations governing Boomerang's provision of Lifeline-supported prepaid wireless services to customers throughout the United States.

II. Unrestricted Access to Basic and E911 Services and Certification of Such Access

In the Lifeline Reform Order, the Commission stated that forbearance from the "own-facilities" requirement is conditioned on a carrier seeking limited ETC designation "providing its Lifeline subscribers with 911 and E911 access, regardless of activation status and availability of minutes [and] providing its Lifeline subscribers with E911-compliant handsets and replacing, at no additional charge to the subscriber, noncompliant handsets of Lifeline-eligible subscribers who obtain Lifeline-supported services" starting on the effective date of the order.[7] Moreover, wireless resellers have an independent obligation to provide access to basic and E911 service, to the extent that the underlying facilities-based licensee has deployed the facilities necessary to deliver E911 information to the appropriate Public Safety Answering Point.[8] Resellers also have an independent obligation to ensure that all handsets or other devices offered to their customers for voice communication are location capable.[9]

The Commission and consumers are hereby assured that all Boomerang Lifeline customers will have available access to emergency calling services at the time that Lifeline service is initiated and that such 911 and E911 access will be available from Boomerang handsets regardless of the activation status and availability of minutes. Further, Boomerang will ensure that all handsets used in connection with the Company's Lifeline service offering are E911-compliant. In the event that an existing Boomerang customer does not have an E911-compliant handset, the Company will replace it with a new 911/E911 compliant handset at no charge to the customer. Any new customer who qualifies for and enrolls in the Lifeline program is assured of receiving a 911/E911 compliant handset as well.

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[7] Lifeline Reform Order ¶ 373.
[8] *See* 47 C.F.R. § 20.18(m).
[9] *See id*.

III. Certification and Verification of Lifeline Customers' Eligibility

Boomerang proposes the following Compliance Plan to implement the certification and verification conditions outlined in the Lifeline Reform Order. Boomerang intends to keep these measures in effect until the Commission implements its planned national eligibility database.

A. Policy

Boomerang will comply with all certification and verification requirements for Lifeline eligibility established by states where it is designated as an ETC. In states where there are no state-imposed requirements, no established rules or procedures in place, or in states that do not mandate Lifeline support, Boomerang will obtain certification of eligibility at the outset and will verify consumers' Lifeline eligibility in accordance with the Commission's requirements. Boomerang shares the Commission's concerns about the potential abuse of the Lifeline program and is thus committed to the safeguards stated herein, with the belief that these procedures will prevent Boomerang's customers from engaging in such abuse of the program, inadvertently or intentionally.

B. Certification Procedures

Boomerang will implement certification procedures that enable consumers to demonstrate their eligibility for Lifeline assistance to Boomerang employees or agents by contacting the Company in person or via telephone, facsimile or the Internet. Although the specific process for each means of contact differs slightly, as detailed below, regardless of the means of contact, at the point of sale, consumers will be provided with printed information describing Boomerang's Lifeline program, including eligibility requirements, and with instructions for enrolling. Consumers will be enrolled in person or directed, via company literature, collateral or advertising, to a toll-free number and to the Company's website, which will contain a link to information regarding the Company's Lifeline service plans, including a detailed description of the program and state-specific eligibility criteria. Boomerang's application form will identify that it is a "Lifeline" application. Except in states in which applicants are enrolled through a designated state agency, Boomerang will have direct contact with

all customers applying for Lifeline service, either in person through its employees, agents or representatives, or via the telephone (including facsimile) or mail.

Specifically, at events, Boomerang or enMarket personnel will explain the eligibility requirements for the program, including participation in a qualifying program or earning income below 135% of the Federal Poverty Guidelines and will verify the individual's eligibility. The Boomerang or enMarket employees will also explain the program limitation of one Lifeline service per household. In order to ensure potential customers are fully informed about the Lifeline program and the eligibility process, Boomerang will provide a sufficient number of employees at each event so that, while some individuals are handling the application and eligibility process with applicants, other individuals are available to discuss the requirements with potential customers, answer questions, identify appropriate documents and otherwise assist a customer in preparing for the application/eligibility step. enMarket employees will begin educating potential subscribers as they wait in line at events and explain the application process to prepare them. Employees are instructed that the company has zero tolerance for waste, fraud or abuse, and that they should notify a team lead immediately if they suspect that anyone might be providing false information or attempting to obtain a duplicate Lifeline benefit for themselves or within the same household. At events, when a potential subscriber reaches the front of the line, representatives will again confirm that no member of the individual's household currently receives a Lifeline benefit from another carrier. The representative will mention the name of major ETCs to assist applicants in determining whether they already receive a Lifeline benefit. The representative will reiterate that Lifeline is a government benefit, and that providing false information could subject the applicant to consequences including penalty under perjury. After an applicant has completed the enrollment form, a representative will check the CGM database to determine whether anyone at the same residential address currently receives a Lifeline benefit. If so, the applicant will be asked whether the applicant is a member of a separate household residing at the same address and to complete the form created by USAC to certify that he or she resides in a separate household.

At events, upon completion of the application, representatives will photograph the documentation provided by the customer to prove identity and/or address and program- or income-based eligibility. After this information is reviewed and possibly subject to a compliance audit, described in more detail herein, Boomerang will maintain a record of the type of documentation reviewed to determine eligibility, but will not keep the documentation itself. Finally, representatives will review with the customer instructions in the welcome packet for activating the service or, if the customer explicitly requests, will activate the handset at that time. Boomerang will not seek Lifeline reimbursement until the customer has activated the handset.

Boomerang will also be promoting sign up through online outreach. Boomerang will use search engine optimization and targeted ad placement to reach eligible low-income consumers. To apply for a Boomerang Lifeline service online, a customer will fill out an application, provide the necessary information that all prospective Lifeline customers must provide, and be taken through forms and screens that clearly explain all relevant legal eligibility requirements. If the customer is seeking to qualify for Lifeline service based on their participation in a particular program (or income level), the prospective customer may be able to either upload the forms from scanned documents or print off a Document Submission worksheet and submit the documents to Boomerang where a sales representative will input the prospective customer's information into an eligibility database (if available for the relevant state). However, in most cases, the prospective consumer will fill out the relevant eligibility forms on the computer, and then send copies of the records needed by Boomerang to verify the customer's eligibility to participate in Lifeline.

With the CGM database, all applications will be processed against the only national database compiled with over 2 million current ETC Lifeline subscribers. This real time review will identify two types of duplicate applications: individual duplicate (*i.e.* same SSN, Name, DOB, etc) or duplicate residential addresses. If the entire record is a duplicate, the applicant will receive a message that the application has been rejected. If the residential address is a duplicate, the applicant will receive instructions regarding the definition of household and the opportunity to complete a verification that

the applicant is a member of a unique household at that address that does not currently receive a Lifeline benefit.

For all application processes, Boomerang has an in-house Compliance Officer and compliance metrics to further protect against waste fraud and abuse. This includes real time review of application submissions during events and random sampling of online and paper submissions. Boomerang's internal team will provide another layer of review (*i.e.*, handwriting, submission locations, timing) to identify abuse and carry out disciplinary action.

Once the prospective customer is successfully verified by Boomerang, Boomerang will enroll the customer in the service plan selected by the customer, and then mail the selected handset to the customer. Along with the handset comes a welcome packet with instructions for activating the service. Boomerang will not seek Lifeline reimbursement until the customer has activated the handset by following the instructions detailed herein or by making an outgoing call.

For potential subscribers who avail themselves of the toll-free number to apply for service, the IVR script will emphasize the "one Lifeline benefit per household" restriction through its interaction with the activating customer as well as review the 60 day non-usage rule and Annual Recertification requirements. If a customer wants more information, they will be passed to a live call center operator. Boomerang's sales training materials for call centers will include a discussion of the one benefit per household restriction and the need to ensure that the customer is informed of this restriction.

Boomerang will provide Lifeline-specific training to all personnel, whether employees, agents or representatives, who interact with actual or prospective consumers with respect to obtaining, changing or terminating Lifeline services. The training provides an explanation of the creation and purpose of the Lifeline program, the source of funds to provide access to qualified low-income consumers, program- and income-based eligibility determinations, and a detailed explanation of the one-benefit-per-household limitation. The training emphasizes the importance of clearly explaining the eligibility criteria and limitations to applicants as well as the potential consequences for providing

false information on the application. Trainees learn what documentation is acceptable to verify program- or income-based eligibility and that they must be able to communicate this information clearly to applicants. Trainees are instructed to report to a supervisor if for any reason at all they feel that an individual is trying to abuse the program or falsify eligibility. Trainees must ask an applicant directly if they already have a Lifeline service, and more specifically, mention the names of major Lifeline service providers in the geographic area, such as Safelink, Assurance, or Stand Up Wireless. Trainees are given instruction in checking the available duplicates database to confirm whether anyone else at that residential address is receiving a Lifeline benefit, and if so, to ask the applicant if multiple households reside at the same address. Trainees are also given instruction about when to provide the additional household verification form on which the applicant will certify that his or her household is a separate economic unit and does not already receive a Lifeline benefit. Trainees are instructed on activation procedures and restrictions, including that an account may only be activated by the subscriber or upon the subscriber's express authorization to do so.

Boomerang personnel will take steps to ensure that applicants are eligible to participate in the Lifeline program. All personnel who interact with current or prospective customers will be trained to assist Lifeline applicants in determining whether they are eligible to participate based on state-specific income-based or program-based criteria. These personnel will be trained to answer questions about Lifeline eligibility, and will review required documentation to determine whether it satisfies state-specific eligibility requirements using state-specific checklists. Acceptable documentation of program eligibility includes: (1) the current or prior year's statement of benefits from a qualifying state, federal or Tribal program; (2) a notice letter of participation in a qualifying state, federal or Tribal program; (3) program participation documents (*e.g.*, the consumer's Supplemental Nutrition Assistance Program (SNAP) electronic benefit transfer card or Medicaid participation card (or copy thereof)); or (4) another official document evidencing the consumer's participation in a qualifying state, federal or Tribal program.

Acceptable documentation of income eligibility includes the prior year's state, federal, or Tribal tax return; current income statement from an employer or paycheck stub; a Social Security statement of benefits; a Veterans Administration statement of benefits; a retirement/pension statement of benefits; an Unemployment/Workmen's Compensation statement of benefits; federal or Tribal notice letter of participation in General Assistance; or a divorce decree, child support award, or other official document containing income information for at least three months' time. Boomerang will establish policies and procedures to review such documentation and keep accurate records detailing how the consumer demonstrated his or her eligibility, including collecting information on the enrollment form about what documentation the applicant presented to demonstrate program-based or income-based eligibility. Where Boomerang personnel conclude that proffered documentation is insufficient to establish such eligibility, Boomerang will deny the associated application and inform the applicant of the reason for such rejection. In the event that Boomerang personnel cannot ascertain whether documentation of a specific type is sufficient to establish an applicant's eligibility, the matter will be escalated to supervisory personnel at Boomerang's corporate headquarters.

Consumers who do not complete the application process in person must return the signed application and supporting documentation to the Company by mail, fax, email or other electronic transmission. The Company will accept electronic signatures that meet the requirements of the Electronic Signatures in Global and National Commerce Act, 15 U.S.C. §§ 7001-7006, and any applicable state laws, and may verify consumers' signatures via IVR systems. Processing of consumers' applications, including review of all application forms and relevant documentation, will be performed under the Company's supervision by managers experienced in the administration of the Lifeline program.

The enrollment form will include a place where the applicant must certify by his or her signature under penalty of perjury that the applicant meets the relevant criteria and that the

applicant's representations are true and correct.[10] Applicants will also be required to initial a number of disclosure statements intended to ensure that the applicant understands applicable eligibility requirements—including a statement to the effect that to the best of his or her knowledge, the applicant is not receiving Lifeline-supported service from any other Lifeline provider. Penalties for perjury will be clearly stated on the certification form. The certification will also contain language stating that a violation of the one-per-household requirement constitutes a violation of the Commission's rules and will result in the consumer's de-enrollment from the program, and could result in criminal prosecution by the United States government. Although the exact wording of the disclosure statements described above may vary on a state-by-state basis, depending on state-specific requirements or consultations with relevant state agencies, Boomerang plans for the disclosures to be consistent with the following statements:

> ____The information contained within this application is true and correct. I acknowledge that providing false or fraudulent documentation in order to receive assistance is punishable by law.
>
> ____I understand that Lifeline is only available for one benefit per household, whether landline or wireless. To the best of my knowledge, no one in my household is receiving Lifeline service. I will only receive Lifeline from Boomerang and no other landline or wireless telephone company.
>
> ____I am not currently receiving a Lifeline telephone service from any other landline or wireless telephone company.
>
> ____I will not transfer my service to any other individual, including another eligible low-income consumer.
>
> ____I understand that I may be required to verify my continued eligibility for Boomerang's Lifeline service at any time and that failure to do so will result in termination of Lifeline benefits.
>
> ____I will notify Boomerang immediately if I no longer qualify for Lifeline or if I have a question as to whether I would still qualify.

In accordance with the Lifeline Reform Order, Boomerang will not retain copies of eligibility documentation, but rather will maintain accurate records detailing how the customer demonstrated his or her eligibility. Boomerang will check the eligibility of consumers seeking to enroll in Lifeline

[10] A copy of Boomerang's proposed enrollment and certification form is attached at Exhibit B.

either by accessing electronic eligibility databases, where available, or by reviewing documentation from the consumer demonstrating his or her eligibility for Lifeline service. Where the Company is able to access a state or federal database to make determinations about customer eligibility, the Company or its representative will note in its records what specific data was relied upon to confirm the consumer's initial eligibility for Lifeline. In instances where a state agency or third-party administrator is responsible for the initial determination of consumer eligibility, Boomerang will rely on the state identification or database.

Boomerang personnel will assist applicants in determining whether they are ineligible to participate in the Lifeline program because a member of the applicant's household already is benefiting from a Lifeline discount. Boomerang will establish safeguards to prevent individual subscribers and households from receiving more than one benefit. Boomerang personnel will explain in prominent, plain, easily comprehensible language to all new and potential subscribers that no consumer is permitted to receive more than one Lifeline subsidy. Boomerang will emphasize the one-per-household restriction in its contacts with potential customers. Boomerang personnel also will inform each Lifeline applicant that he or she may be receiving Lifeline support under another name, and facilitate the applicant's understanding of what constitutes "Lifeline-supported service," and ability to determine whether he or she is already benefiting from Lifeline support by identifying the leading wireline and wireless Lifeline offerings in the relevant market by brand name.

Boomerang's Lifeline application forms will require each applicant to provide his or her name and primary residential address and a billing address for the service if the consumer's billing address differs from his or her residential address. The application form will clearly state that Lifeline participants must provide their new address to the Company within 30 days of moving. Boomerang will incorporate this information into its customer information database.

Prior to initiating service for a customer, the Company will check the address of each Lifeline applicant against the CGM compiled database to determine whether or not it is associated with a customer that already receives Boomerang Lifeline service, and will then review the application to

ascertain whether the applicant is attempting to receive Lifeline-supported service for more than one service associated with the address. Boomerang Wireless has aligned with CGM, LLC of Roswell, Georgia, a Lifeline service bureau, to participate in the only national effort to match ETC applications against current ETC participants. This recognized compliance software provider is working across the industry to help minimize duplicate service to eligible households. CGM's growing database currently includes more than two million of the 15 million current ETC subscribers. As of this writing, it is, to Boomerang's knowledge, the largest pooled national database.

Boomerang has contracted with CGM to check each name/address combination against its aggregate duplicate database to confirm that the applicant is not already receiving a Lifeline subsidy from Boomerang or any other CGM client. The database dip is done simultaneously with customer sign-up through an API connection between Boomerang's provisioning platform and CGM. This check ensures that each applicant is not receiving a duplicate subsidy, as well as identifying those customers who share an address with current Boomerang customers and, therefore, may warrant further review. If Boomerang determines that an individual at the applicant's residential address is currently receiving Lifeline-supported service, the Company will take an additional step to ensure that the applicant and the current subscriber are part of different households. In order to make this demonstration, Boomerang will require applicants to complete and submit to the Company a written document developed by USAC consistent with the Commission's directions in the Lifeline Reform Order.[11] Boomerang will deny the Lifeline application of any such individual residing at the same address as a current Lifeline subscriber who is part of the same household and will advise the applicant of the basis for the denial.

Prior to requesting a subsidy, Boomerang, in conjunction with CGM, will process and validate its subsidy data to prevent duplicate same-month Lifeline subsidies. Any household that is already receiving a Lifeline subsidy will automatically be prevented from receiving a second Lifeline subsidy in that same month. Boomerang will immediately de-enroll any subscriber whom Boomerang knows

[11] *See* Lifeline Reform Order ¶ 84.

is receiving Lifeline-supported service from another ETC or knows is no longer eligible. Additionally, each month, CGM will process and validate the Company's subsidy data to prevent: (1) duplicate same-month Lifeline subsidies (Double Dip): any name/address that is already receiving a Lifeline subsidy from the Company will be automatically prevented from receiving a second Lifeline subsidy in that same month; and (2) inactive lines receiving subsidy. CGM's audits also compare all subsidy requests to Boomerang's underlying carrier invoice to ensure that subsidies are requested only for active lines. This process ensures that Boomerang does not request multiple subsidies from the Universal Service Fund.

In addition, prior to requesting a subsidy, Boomerang will ensure that the customer has activated the service in accordance with the Commission's requirements. Boomerang will provide phone activation instructions in a welcome package provided with the handset and, at events, will review these instructions with the customer. The activation process will allow the end user to proactively establish service and have an opportunity to receive additional training on the device and services available.

C. Procedures for Verification of Ongoing Consumer Eligibility

As required by the Commission's Lifeline Reform Order, Boomerang will require every customer enrolled in the Lifeline program to verify on an annual basis that he or she receives Lifeline-supported service only from Boomerang and, to the best of his or her knowledge, no one else in the subscriber's household is receiving a Lifeline-supported service. Boomerang will submit all required information to the relevant Tribal governments, as applicable, including its aggregated re-certification data and annual re-certification results for subscribers residing on reservations or Tribal lands. This re-certification may be done on a rolling basis throughout the year. Where ongoing eligibility cannot be determined through access to a qualifying database either by the Company or the state, and there is no state administrator verifying the continued eligibility of Lifeline subscribers, the Company will recertify the continued eligibility of all of its subscribers by contacting them— either in person, in writing, by phone, by text message, by email, or otherwise

through the Internet—to confirm their continued eligibility. Such certifications may be obtained through a written format, an IVR system, or a text message, in accordance with the Lifeline Reform Order.[12] In states where a state agency or a third party has implemented a database that carriers may query to recertify the consumer's continued eligibility, the Company (or state agency or third party, where applicable) will instead query the database and maintain a record of what specific data was used to re-certify eligibility and the date of recertification.

Boomerang will notify each of its Lifeline consumers by mail that he or she must confirm his or her continued eligibility in accordance with the applicable requirements. The notice will explain the actions the customer must take to retain Lifeline benefits, when Lifeline benefits may be terminated, and how to contact Boomerang. Boomerang will provide written notice of impending service termination to subscribers who do not respond to the annual re-certification within 30 days. Any subscriber who does not respond to the impending termination letter within 30 days to demonstrate that his or her Lifeline service should not be terminated will be de-enrolled from the Company's Lifeline program.

De-Enrollment for Ineligibility. If Boomerang has a reasonable basis to believe that one of its Lifeline subscribers no longer meets the eligibility criteria, Boomerang will notify the subscriber of impending termination in writing and in compliance with any state dispute resolution procedures applicable to Lifeline termination, and give the subscriber 30 days to demonstrate continued eligibility.[13] A demonstration of eligibility must comply with the annual verification procedures found in new rule section 54.410(f), including the submission of a completed and signed certification form. If a customer contacts the Company and states that he or she is not eligible for Lifeline or wishes to de-enroll for any reason, the Company will de-enroll the customer within five business days. Customers can make this request by calling the Company's customer service number and will not be required to submit any documents.

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[12] *See* Lifeline Reform Order ¶¶ 130, 132.

[13] *See* Lifeline Reform Order, ¶ 143; 47 C.F.R. § 54.405(e)(1).

IV. Additional Measures to Prevent Waste, Fraud and Abuse

A. Usage Requirement

Boomerang will implement policies and procedures to ensure that it does not obtain Lifeline support for an inactive subscriber who has failed to use his or her service in the first instance or has discontinued using the service.

Boomerang will not seek universal service support for a qualifying low-income consumer until that individual subscriber uses the supported service to either activate the service or complete an outgoing call. Boomerang will provide phone activation instructions in its event and online or paper product packages. The activation process will allow the end user to proactively activate service and have an opportunity to receive additional training on the device and services available. Specifically, to activate service, customers will be instructed to call the Boomerang IVR, press "2" to activate the phone, and enter a PIN included in the Welcome Instructions the subscriber receives with the phone after the eligibility and enrollment process has been completed as described above. At that point, the IVR will notify the consumer that the Lifeline account is active. The IVR will inform the customer that the customer must use the service in order to keep the account active and provide options through a menu for obtaining additional information about the phone or the service and direct the customer to the Company's website for additional information. At in-person events, Boomerang will assist an individual with account activation upon being expressly authorized by the subscriber to activate the service.

To comply with the Commission's continued usage requirements, Boomerang will implement a non-usage policy whereby it will de-enroll Lifeline customers that have not used the Company's Lifeline service for 60 days. The customer will be given a 30 day cure period before they would be de-enrolled from the Lifeline service. Boomerang will notify its subscribers at service initiation about the non-transferability of the phone service, its usage requirements, and the de-enrollment and deactivation that will result following non-usage in any 60-day period of time. If no usage appears on a Boomerang Lifeline customer's account during any continuous 60-day period, Boomerang will

deactivate Lifeline services for that customer after the 30 day notification & cure period. An account will be considered active if during any 60-day period the authorized subscriber does at least one of the following: makes a monthly payment; purchases minutes from Boomerang to add to an existing pre-paid Lifeline account; completes an outbound call; answers an incoming call from anyone other than Boomerang, its representative, or agent; or affirmatively responds to a direct contact from Boomerang confirming that he or she wants to continue receiving the Lifeline-supported service.

Boomerang will take measures to continue to communicate with the customer to ensure the customer understands the rules and requirements of the benefits. Boomerang has direct control over customer databases and communication tools including: SMS messaging, outbound calling, IVR messaging and direct mail communications. For example, if a customer has 45 days of non-usage, Boomerang can text them to remind them about the non-usage rules.

B. Consumer Education with Respect to Duplicates

As required by the Lifeline Reform Order, Boomerang will establish safeguards to prohibit more than one supported service for each household. In addition to its verification and certification procedures, and to better ensure that customers understand the Lifeline service restrictions with respect to duplicates, Boomerang will implement measures and procedures to prevent duplicate Lifeline benefits being awarded to the same household, including use and development of an appropriate database.

Specifically, Boomerang personnel will emphasize the one-per-household restriction in their direct sales contacts with potential customers. At the point of sale, potential customers will be provided with printed information describing Boomerang's Lifeline program, including eligibility requirements, and instructions for enrolling. As part of these printed materials, Boomerang will also reinforce the one-Lifeline-benefit-per-household limitation. Materials from USAC, that have been or will be developed pursuant to the Lifeline Reform Order, may also be provided at the point of sale as dictated by a customer's responses. Boomerang will likewise reinforce and explain the one-per-household restriction in its marketing materials. The Company will emphasize in plain, easily

comprehensible language that: (1) Lifeline is a federal benefit; (2) Lifeline service is available for only one benefit or subscription per household; (3) a household is defined, for purposes of the Lifeline program, as any individual or group of individuals who live together at the same address and share income and expenses; and (4) a household is not permitted to receive Lifeline benefits from multiple providers. Boomerang will also include in its marketing materials (see Exhibit C) substantially the following language in clear, easily understood language: the offering is a Lifeline-supported service; that Lifeline is a government assistance program; that only eligible consumers may enroll in the program; that documentation is necessary for enrollment; and the program is limited to one benefit per household, consisting of either wireline or wireless service. Finally, Boomerang will disclose the company name under which it does business and the details of its Lifeline service offerings.

C. Internal Audit and Compliance Training for Boomerang Customer Service

In addition to detailed and thorough employee training, Boomerang will impose disciplinary actions on employees who fail to abide by the requirements for determining eligibility for the Lifeline benefit. Beyond the instructions for field and event training, Boomerang with provide its customer service personnel with internal audit and compliance training. For incoming paper applications, Boomerang will have a 100% compliance checklist to check applications for fraud and duplication. The employee must check whether all fields on the certification and enrollment form are complete, whether all necessary eligibility documents are attached, whether the eligibility documents align with the information on the form, whether the handwriting is unique, whether all attestations are initialed, and whether the form is signed.

For in-person and event outreach, in addition to the onsite eligibility determinations, a Boomerang compliance officer will randomly check a representative sample of 3% to 10% of applications as an additional check for errors or omissions or any sign of fraud. If the compliance officer detects potential fraud or abuse in the application process, the affected applications will be denied.

V. Lifeline Offering

Boomerang's marketing efforts will be focused on finding and serving eligible consumers using distribution models designed to reach the target population on a broad geographic basis. Creating a trusted brand and service through community outreach is a primary methodology for educating and soliciting customers. Boomerang will enroll Lifeline customers through several different marketing channels. Boomerang's current business model and plans for providing Lifeline service are based on reaching about 85% of its subscribers in person, through event marketing targeting currently underserved populations. Boomerang anticipates that, while most of its outreach will succeed via direct contact with consumers, potential subscribers will also be able to avail themselves of a toll-free number (inbound telemarketing) or website to obtain enrollment information. Boomerang also has plans to offer its services through retail stores and agents who understand the underserved consumers in communities Boomerang would service as an ETC. National retail chains have expressed interest in partnering with Boomerang to support the Lifeline service and outreach to underserved eligible populations. Boomerang has partnered with retailers to use parking lots as locations for event-based outreach.

enMarket, Boomerang's sister event marketing and distribution company, will use demographic segmentation information to identify locations of populations with great need. The neighborhood marketing program will reach Tier 3 and Tier 4 and smaller communities where the population has not seen an influx of Lifeline service providers. enMarket will organize positive and informative neighborhood events to create a local presence.

The Company has a long history with retail distribution. If Boomerang is granted ETC designation, it is prepared to work with several national companies to explore unique, focused Lifeline program marketing.

Boomerang will offer its Lifeline service in the states where it is designated as an ETC and throughout the coverage area of its underlying carriers. Boomerang has direct underlying agreements with Sprint and Verizon today. Negotiations are underway for the addition of a national

GSM provider. The company will use these network relationships to ensure a good product experience for ETC consumers.

The Company's Lifeline offering will provide eligible customers with the following two Lifeline plans: (1) 125 units that rollover where 1 minute equals 1 unit and 1 text equals 1 unit, and (2) 250 units without rollover where 1 minute equals 1 unit and 1 text equals 1 unit. Customers will have the capability of purchasing additional bundles of minutes in the following denominations:

Denomination	$5.00	$10.00	$10.00	$15.00	$15.00	$30.00	$30.00	$50.00	$7.00	$20.00	$30.00
Days of Use	10	3	7	7	10	14	30	30	10	30	30
Minutes									100	500	1,000
Peak Minutes		Unlmtd	30	Unlmtd	60	Unlmtd	140	Unlmtd			
N/W Miniutes		Unlmtd	Unlmtd	Unlmtd	Unlmtd	Unlmtd	Unlmtd	Unlmtd			
Texts		Unlmtd	.10/text	Unlmtd	.10/text	Unlmtd	.10/text	Unlmtd	200	1,000	1,200
Units (Min+Text)	50										

In addition to free voice services, Boomerang's Lifeline plans will include a free handset and the following features: caller ID, call waiting and voicemail. Boomerang will turn on the data capability for all of our handsets. This will allow customers to add a data plan to their phone service.

As a provider of Lifeline services to residents of Tribal lands, Boomerang will pass through the full Tribal support amount to qualifying residents of Tribal lands, and under no circumstances will it collect from the Universal Service Fund more than the rate charged to Tribal subscribers.

VI. Demonstration of Financial and Technical Ability to Provide Lifeline Services

Revised Commission Rule 54.202 requires carriers seeking designation as a Lifeline-only ETC to demonstrate their technical and financial capacity to provide the supported service. Among the factors that the Commission will consider are whether the applicant previously offered services to non-Lifeline consumers, how long the applicant has been in business, whether the applicant intends to rely exclusively on USF disbursements to operate, whether the applicant receives or will receive

revenue from other sources, and whether it has been subject to enforcement action or ETC revocation proceedings in any state.

Boomerang's parent company, HH Ventures, is a privately held cash-flow-positive wireless telecommunications holding company. HH Ventures has been providing prepaid wireless telecommunications services to non-Lifeline subscribers since 2008. Its core management team includes six senior executives with significant telecommunications experience, and the company employs 40 full time employees.

Boomerang currently provides prepaid wireless services to more than 350,000 subscribers, including more than 50,000 retail customers. The company currently provides a complete wholesale, MVNE platform to several ETCs and other white label partners.

Boomerang does not intend to rely exclusively on USF disbursements to operate, as it receives revenue from providing other services. For the 2011 calendar year, Boomerang and its sister company received no direct USF reimbursement for Lifeline support; 17% of revenue was generated from wireless resale services provided to ETCs,[14] 52% of revenue was generated from wireless retail services, and 31% of revenue was generated from other non-regulated telecom services. Boomerang has not been subject to enforcement actions or ETC revocation proceedings in any state.

Boomerang certifies that it will comply with all of the requirements of newly amended Commission Rule 54.202. Pursuant to Commission Rule 54.202(a)(1)(i) Boomerang certifies that it will comply with the service requirements applicable to the support it receives. Further, Section 54.202 requires that an ETC demonstrate its "ability to remain functional in emergency situations, including a demonstration that it has a reasonable amount of back-up power to ensure functionality without an external power source, is able to reroute traffic around damaged facilities, and is capable of managing traffic spikes resulting from emergency situations."

[14] In 2011, Boomerang only entered into wholesale MVNE arrangements with designated ETCs. This year, Boomerang has entered into arrangements with other, non-ETC, white label partners.

Boomerang will remain functional in emergencies. Back-up systems are in place to ensure full functionality in the event of a loss of power or network functionality. And, Boomerang's switching facilities are housed in a carrier-class data center with fully redundant power and HVAC, a controlled temperature and humidity environment, fire-threat detection and suppression, year-round critical monitoring and secure access with biometric security. The facility features redundant generators and redundant fiber optic connectivity. The data center is a reinforced concrete building located in a secure area and collocated with the area electrical utility headquarters. It is powered from separate paths independent of any one electrical generation plant. All systems within the facility are implemented on redundant servers, each with redundant data network and power.

Direct carrier access with Sprint and Verizon networks provides additional tools to escalate network or hardware issues encountered on a local or regional basis. Contractual arrangements include direct escalation processes for tiered support depending on outage severity and number of customers affected.

Section 54.202 also requires ETC applicants to demonstrate that they will satisfy applicable consumer protection and service quality standards. Boomerang hereby commits to comply with the Cellular Telecommunications and Internet Association's Consumer Code for Wireless Service.

Conclusion

Boomerang's Compliance Plan meets the conditions set forth in the Lifeline Reform Order and promotes public safety by ensuring that Lifeline customers have access to 911 and E911 service. Boomerang requests that the Commission expeditiously approve the Company's Compliance Plan and grant its pending ETC Petition so that Boomerang may begin providing the benefits of Lifeline service to qualifying low-income consumers.

Respectfully submitted,

James T. Balvanz
Chief Financial Officer
Boomerang Wireless, LLC
(319) 743-4606
jbalvanz@readywireless.com

July 26, 2012

Exhibit A

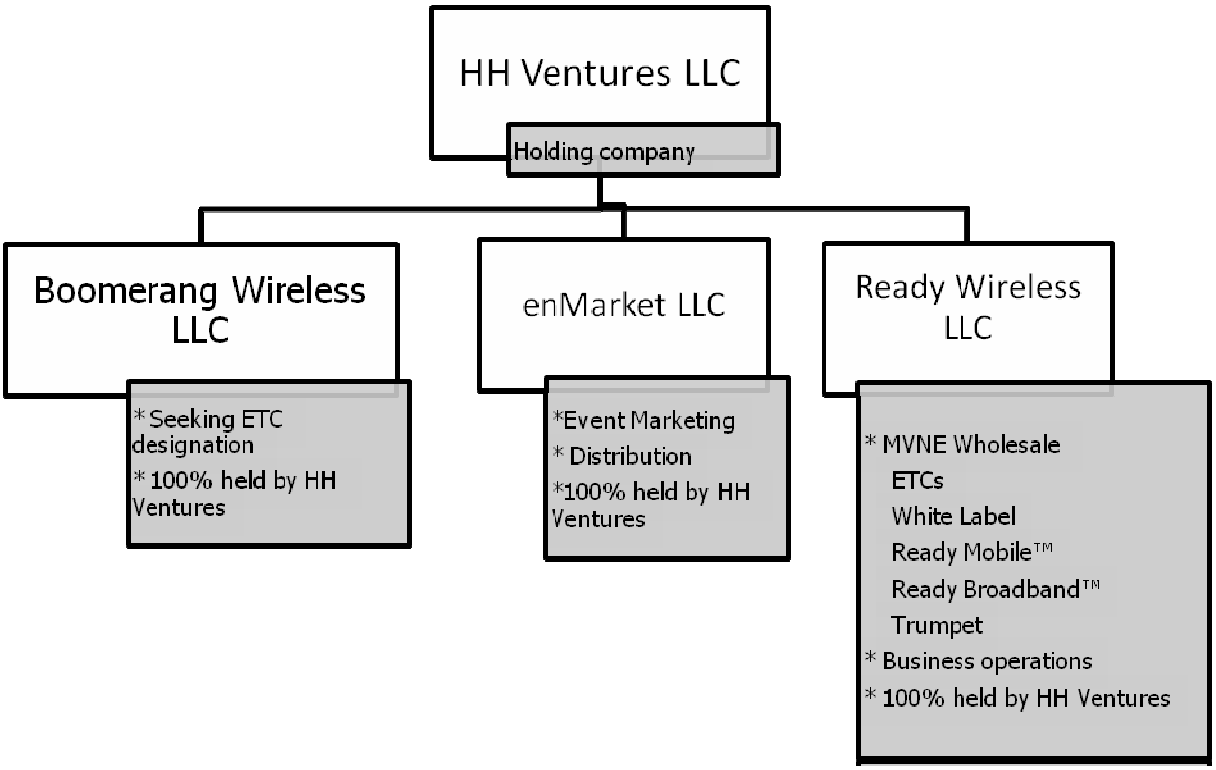
HH Ventures LLC
Holding company
Boomerang Wireless LLC
* Seeking ETC designation
* 100% held by HH Ventures
enMarket LLC
*Event Marketing
* Distribution
*100% held by HH Ventures
Ready Wireless LLC
* MVNE Wholesale
ETCs
White Label
Ready Mobile™
Ready Broadband™
Trumpet
* Business operations
* 100% held by HH Ventures

Exhibit B

955 Kacena Road. Suite A
Hiawatha, IA 52233
www.boomerang-wireless.com

Lifeline Program

Office Use Only
PLACE PHONE ID
STICKER HERE

Lifeline Self-Certification Form

- To enroll in the Lifeline America program you need to complete this form.
- The information is only used to certify with the Federal Communications Commission (FCC) that you are participating in the program with us.

Lifeline Service Disclosure

Lifeline is a government assistance program and willfully making false statements to obtain the benefit can result in fines, imprisonment, de-enrollment or being barred from the program. Only one lifeline benefit is available per household. A household is defined, for purposes of the Lifeline program, as any individual or group of individuals who live together at the same address and share income and expenses. Violation of the one per household limitation constitutes a violation of the Federal Communications Commission's rules and will result in your de-enrollment from the program, and lifeline is a non-transferable benefit and you may not transfer this benefit to any other person, regardless if they qualify for Lifeline.

STEP 1: Applicant Information

USE BLACK OR BLUE INK ONLY

Full Name:			Phone:
Residential Address: Circle one: Permanent Address Temporary Address (No PO Box. Residence of Tribal lands must provide descriptive address.)			Email:
City:			New/ Conv?
State:			New Phone:
Zipcode:			ESN:
Billing Address: (if different) (if different)			Last 4 SSN or Tribal ID number:
City/ State/ Zipcode:			Your birthdate:

____ (init) I acknowledge and consent to Boomerang Wireless divulging my name, telephone number and address to the Universal Service Administrative Company (the administrator of the program) and/or its agents for the purpose of verifying that the subscriber does not receive more than one Lifeline benefit. In the event that USAC identifies me as receiving more than one Lifeline subsidy per household, I acknowledge and understand that all carriers may be notified so that I may select one service and be de-enrolled from the other.

*Applicants living on Tribal lands who lack a social security number may instead provide an official Tribal government identification card number.

STEP 2: Certifications. I participate in the following public assistance programs (check one):

	Supplemental Nutrition Assistance Program (SNAP)		National School Lunch Program (NSL)
	Supplemental Security Income (SSI)		Medicaid
	Low-Income Home Energy Assistance program (LIHEAP)		Food Distribution Program on Indian Reservations
	Section 8 Federal Public Housing Assistance		Tribally administered TANF
	Temporary Assistance for Needy Families (TANF)		Bureau of Indian Affairs General Assistance
			Tribally administered Head Start (meeting the income qualifications of Head Start.)

	My household income is at or below 135% of federal guidelines. I provided documentation confirming my household income level. Number of people in your household:_____ (add $5,346 per additional person above 6 to determine income guidelines)

# Persons in Household	Income	# Persons in Household	Income
1	$15,080	4	$31,118
2	$20,426	5	$36,464
3	$25,772	6	$41,810

_____ (init) I am seeking Tribal lands Lifeline support and certify that I reside on Federally-recognized Tribal lands.

If you do not participate in one of these programs, and someone in your household does:

Relationship to Participant:_____.
Documents Reviewed for Certification:_____.
Name of Person Participating_____.

☐ I certify that person demonstrating program participation is a member of my household.

☐ I certify that the person name on the participation documentation is not already receiving a Lifeline discount.

STEP 3: Choose Your Plan: Choose one of the following plans. This plan will be reloaded to your phone monthly as long as you are eligible & certified.

FEATURE/ DESCRIPTION	☐ 125 FREE MONTHLY MINUTES	☐ 250 FREE MONTHLY MINUTES
• Local Calls	Y	Y
• National Long Distance	Y	
• Voicemail	Y	Y
• Nationwide Text	Y- 1 text=1 minute	Y- 1 text=1 minute
• Free 411	Y	Y
• **Carry Over Minutes Month to Month**	Y	N

Step 4: Signature (read, initial & sign):

_____(init) I meet the income-based or program-based eligibility criteria for receiving Lifeline service and have provided documentation of eligibility if required to do so.
_____(init) I understand that Lifeline is a federal government benefit program and that willfully making false statements in order to obtain this benefit can be punished by fine or imprisonment or I may be barred from the program.
_____(init) My household will receive no more than one Lifeline-supported service. Lifeline service is available for only one subscription per household. A household is defined, for purposes of the Lifeline program, as any individual or group of individuals who live together at the same address and share income and expenses. A household is not permitted to receive Lifeline benefits from multiple providers. I understand that violation of the one-per-household requirement constitutes a violation of the FCC's rules and will result in my de-enrollment from the program, and could result in criminal prosecution by the United States government.
_____ (init) I understand that I must notify Boomerang Wireless and provide my new address within 30 days of moving.
_____(init) If I do not have a permanent address and have supplied instead a temporary address above, I understand that Boomerang Wireless will attempt to verify every 90 days that I continue to rely on that address, and that I must notify Boomerang Wireless within 30 days of my new address after moving. If I do not respond to Boomerang Wireless' address verification attempts within 30 days, I understand that I may be de-enrolled from Boomerang Wireless' Lifeline service.
_____ (init) I understand that I must notify Boomerang Wireless within 30 days if (1) I cease to participate in a federal or state qualifying program or my annual household income exceeds 135 percent of the federal poverty guidelines; (2) I receive more than one Lifeline-supported service; or (3) Another member of my household is receiving a Lifeline benefit or (4) I for any other reason no longer satisfy the criteria for receiving Lifeline support. I understand that I will be subject to penalties if I fail to follow this notification requirement, including being de-enrolled from the Lifeline program.
_____ (init) I understand and acknowledge that Lifeline service is a non-transferable benefit and that I may not transfer my service to any other individual, including another low-income consumer.
_____ (init) I acknowledge that I will be required to re-certify my eligibility for Lifeline benefits annually, and I may be required to re-certify my continued eligibility for Lifeline at any time, and that failure to do so will result in the termination of my Lifeline benefits.

_____ **(init) I attest under penalty of perjury that the information herein is true and correct to the best of my knowledge.**

Applicants Signature._____ Date_____

Exhibit C

BOOMERANG WIRELESS

Eligibility Requirements

Lifeline is a federal benefit. You can receive a discount on your phone service. Documentation of your eligibility for this government assistance program is required.

1) You, or one of your dependents, participates in one of these programs:

Supplemental Nutrition Assistance Program (SNAP)	Temporary Assistance for Needy Families (TANF)
Supplemental Security Income (SSI)	National School Lunch Program (NSL)
Low-Income Heat & Energy Assistance (LIHEAP)	Medicaid
Homestead Act (Public Housing)	Food Distribution Program on Indian Reservations. Bureau of Indian Affairs general assistance. Tribally administered TANF or Head Start (meeting the income-qualifying standards of Head Start)

2) Limit 1 Lifeline benefit per household.
One Lifeline program (wireline or wireless) per household. Household is defined as an individual or group of individuals living together at the same address and share income and expenses. A household is not permitted to receive Lifeline benefits from multiple providers.

3) If I am not in qualifying program, I may participate if income qualified.

# Persons in Household	Income
1	$15,080
2	$20,426
3	$25,772
4	$31,118

4) Must have valid physical address.
Notify Boomerang Wireless of any change of address by calling 800-516-0414.

5) Cannot choose phone model or phone number
You are not able to choose the free handset, trade free handsets, or choose the phone number on the free handset.

6) Recertify annually that you remain eligible for the Lifeline benefits.
Lifeline is a government assistance program. Once you receive the Lifeline benefit, you must complete the annual recertification process. Learn more in your welcome package.

7) Must be truthful in application process.
WARNING: If you make false statements to gain benefits, you can be punished by fine or imprisonment or you can be barred from the Lifeline program.

8) Complete the application.
Be prepared to complete the application truthfully & accurately. You can print the application, submit online or attend one of our neighborhood events. You will need documentation for application process to include: Proof of identity (i.e. Drivers License); Program eligibility documentation: Current statement of benefits from qualifying program, notice letter of participation, program document (i.e. SSI card), Income eligibility documents (i.e. tax return, paycheck stub, VA benefit statements)

EXHIBIT B

Alabama Public Service Commission

Orders

PINE BELT CELLULAR, INC. and PINE BELT PCS, INC.,

Joint Petitioners

PETITION: For ETC status and/or clarification regarding the jurisdiction of the Commission to grant ETC status to wireless carriers.

DOCKET U-4400

ORDER

BY THE COMMISSION:

In a joint pleading submitted on September 11, 2001, Pine Belt Cellular, Inc. and Pine Belt PCS, Inc. (collectively referred to as "Pine Belt") each notified the Commission of their desire to be designated as universal service eligible telecommunications carriers ("ETCs") for purposes of providing wireless ETC service in certain of the non-rural Alabama wireline service territories of BellSouth Telecommunications, Inc. ("BellSouth") and Verizon South, Inc. ("Verizon"). The Pine Belt companies noted their affiliation with Pine Belt Telephone Company, a provider of wireline telephone service in rural Alabama, but clarified that they exclusively provide cellular telecommunications and personal communications (collectively referred to as "CMRS" or "wireless") services in their respective service areas in Alabama in accordance with licenses granted by the Federal Communications Commission ("FCC"). The pivotal issue raised in the joint pleading of Pine Belt companies is whether the Commission will assert jurisdiction in this matter given the wireless status of the Pine Belt companies.

As noted in the filing of the Pine Belt companies, state Commissions have primary responsibility for the designation of eligible telecommunications carriers in their respective jurisdictions for universal service purposes pursuant to 47 USC §214(e). The Commission indeed established guidelines and requirements for attaining ETC status in this jurisdiction pursuant to notice issued on October 31, 1997.

For carriers not subject to state jurisdiction, however, §214(e)(6) of the Telecommunications Act of 1996 provides that the FCC shall, upon request, designate such carriers as ETCs in non-rural

service territories if said carriers meet the requirements of §214(e)(1). In an FCC Public Notice released December 29, 1997 (FCC 97-419) entitled "Procedures for FCC designation of Eligible Telecommunications Carriers pursuant to §214(e)(6) of the Telecommunications Act", the FCC required each applicant seeking ETC designation from the FCC to provide, among other things, "a certification and brief statement of supporting facts demonstrating that the Petitioner is not subject to the jurisdiction of a state Commission."

The Pine Belt companies enclosed with their joint pleading completed ETC application forms as developed by the Commission. In the event the Commission determines that it does not have jurisdiction to act on the Pine Belt request for ETC status, however, the Pine Belt companies seek an affirmative written statement from the Commission indicating that the Commission lacks jurisdiction to grant them ETC status as wireless carriers.

The issue concerning the APSC's jurisdiction over providers of cellular services, broadband personal communications services, and commercial mobile radio services is one that was rather recently addressed by the Commission. The Commission indeed issued a Declaratory Ruling on March 2, 2000, in Docket 26414 which concluded that as the result of certain amendments to the Code of Alabama, 1975 §40-21-120(2) and (1)(a) effectuated in June of 1999, the APSC has no authority to regulate, *in any respect*, cellular services, broadband personal communications services and commercial mobile radio services in Alabama. Given the aforementioned conclusions by the Commission, it seems rather clear that the Commission has no jurisdiction to take action on the Application of the Pine Belt companies for ETC status in this jurisdiction. The Pine Belt companies and all other wireless providers seeking ETC status should pursue their ETC designation request with the FCC as provided by 47 USC §214(e)(6).

IT IS, THEREFORE, ORDERED BY THE COMMISSION, That the Commission's jurisdiction to grant Eligible Telecommunications Carrier status for universal service purposes does not extend to providers of cellular services, broadband personal communications services, and commercial mobile radio services. Providers of such services seeking Eligible Telecommunications Carrier status should accordingly pursue their requests through the Federal Communications Commission.

IT IS FURTHER ORDERED, That this Order shall be effective as of the date hereof.

DONE at Montgomery, Alabama, this 12th day of March, 2002.

ALABAMA PUBLIC SERVICE COMMISSION

Jim Sullivan, President

Jan Cook, Commissioner

George C. Wallace, Jr., Commissioner

ATTEST: A True Copy

Walter L. Thomas, Jr., Secretary

STATE OF CONNECTICUT

DEPARTMENT OF PUBLIC UTILITY CONTROL

May 25, 2012
In reply please refer to:
UR:Undocketed:PAP

John J. Heitmann
Joshua T. Guyan
Kelley Drye & Warren LLP
Washington Harbour, Suite 400
3050 K Street, NW
Washington, D.C. 20007-5108

Re: Request for a Letter Confirming Lack of Jurisdiction Over Wireless Eligible Telecommunications Carrier Petitions

Dear Messrs Heitmann and Guyan:

The Public Utilities Regulatory Authority (Authority) is in receipt of your March 28, 2012 letter concerning the Authority's jurisdiction over wireless mobile carrier services' rates and charges.

The Authority does not regulate or license wireless carrier services' rates and charges per the Federal Omnibus Budget Act of 1993. Therefore, all applications for eligible telecommunications carriers' status for wireless providers should be made to the Federal Communications Commission.

Sincerely,

DEPARTMENT OF ENERGY AND ENVIRONMENTAL PROTECTION
PUBLIC UTILITIES REGULATORY AUTHORITY

K Santopietro (TJ)

Kimberley J. Santopietro
Executive Secretary

Ten Franklin Square • New Britain, Connecticut 06051 • Phone: 860-827-1553 • Fax: 860-827-2613
Email: dpuc.executivesecretary@po.state.ct.us • Internet: www.state.ct.us/dpuc
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BEFORE THE PUBLIC SERVICE COMMISSION

OF THE STATE OF DELAWARE

IN THE MATTER OF THE APPLICATION OF VERIZON DELAWARE INC., TO MODIFY THE LIFELINE SERVICE BY ADDING AN INCOME QUALIFIER TO THE ELIGIBILITY CRITERIA (FILED JUNE 17, 2005)	)))))	PSC DOCKET NO. 05-016T

ORDER NO. 6736

This 11th day of October, 2005, the Commission determines and Orders the following:

1. In the jargon of the federal Lifeline/Link-Up program, Delaware is a "federal default State." Delaware has never, by either state law or state regulation, ordained, nor funded, a stand-alone program to provide discounts on basic telephone services charges for low-income subscribers. Consequently, it was not until 1997, when the Federal Communications Commission ("FCC") revamped the federal Lifeline/Link-Up program, that Delaware subscribers first became eligible for participation in the federal Lifeline program.[1] And given that in a "federal default State" only federally-raised monies are used to reimburse eligible carriers for the Lifeline and Link-Up discounts, it is the FCC, and not the state commission, that gets to call the tune about who should be eligible to receive these federally-subsidized price reductions.

2. Since 1997, Verizon Delaware Inc. ("VZ-DE") has been designated as an "eligible telecommunications carrier" and has offered

[1] See PSC Order No. 4684 (Dec. 16, 1997) (summarizing Delaware history and electing to allow "Tier 2" federal support to eligible Delaware subscribers).

federal Lifeline discounts on the federal list of supported services.[2] And even though in "default" States, Lifeline is almost an exclusively federal program, VZ-DE has, since 1997, filed at the State level, tariff provisions setting forth its Lifeline offerings.[3]

3. In 2004, the FCC changed some of the "eligibility" rules describing which subscribers may participate in the federal Lifeline/Link-Up program.[4] In particular, the 2004 amendments added additional programs to the list of "eligible" programs where participation confers federal default Lifeline/Link-Up eligibility.[5] The 2004 amendments also introduced an additional eligibility criteria premised on the subscriber's household income.[6] Eligible telecommunications carriers, such as VZ-DE, were given one year to implement this new, additional income-based eligibility criteria.[7]

4. To implement these changes prescribed by the FCC, VZ-DE initially filed revisions to the Lifeline and Link-Up portions of its

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[2]See PSC Order No. 4680 (Dec. 17, 1997) ("ETC" designation for VZ-DE). See also PSC Dckt. No. 97-023T (initial Lifeline tariff filing by VZ-DE).

[3]From December 2000 through December 2003, VZ-DE offered, under its state tariff, an "expanded" Lifeline program for Delaware. The discounts under such program exceeded the Tiers 1 & 2 levels normally available in a default State. VZ-DE offered this expanded program to fulfill a condition imposed by the FCC in approving the Bell Atlantic-GTE merger. See PSC Order No. 6317 (Dec. 9, 2003) (explaining content and cause of this expanded Lifeline offering). Whether Delaware remained a "default State" during this period when VZ-DE subsidized the deeper discounts is an issue that need now be explored or resolved. This "expanded" program ended in December 2003.

[4]In the Matter of Lifeline and Link-Up, Report and Order and Further NPRM, 19 FCC Rcd. 8302 (FCC 2004) ("Lifeline Order").

[5]47 C.F.R. §§ 54.409(b) (Lifeline eligibility criteria in "default" State); 54.415(b) (Link-Up eligibility criteria in "default" State).

[6]47 C.F.R. §§ 54.409(b), 54.410 (Lifeline); 54.415(b), 54.416 (Link-Up).

[7]47 C.F.R. §§ 54.410(a)(ii), 54.416.

State tariff. These changes incorporated into the State tariff provisions the expanded list of "eligibility-conferring" programs.[8] At the same time, the Commission Staff began discussions with VZ-DE to determine whether, under the applicable federal default rules, it was appropriate for VZ-DE to continue to include in its State tariff Lifeline provisions language that conditioned Lifeline eligibility on the subscriber foregoing the ability to purchase many optional or vertical services.[9] Eventually, VZ-DE revised its State tariff Lifeline provisions to delete the questioned restrictions.[10] Then in June 2005, VZ-DE filed another Tariff revision to reflect its implementation of the household-income criteria for eligibility for Lifeline and Link-Up discounts.[11] Finally, on September 9, 2005, VZ-DE submitted another set of revised tariff sheets reflecting further textual revisions, as originally suggested by Staff. In part, these final changes sought to make the State tariff's description of how VZ-DE would administer its Lifeline/Link-Up program to more closely parallel the governing federal default rules.[12]

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[8] See PSC Dckt. No. 04-017T (filed July 26, 2004; eff. July 27, 2004).

[9] That restriction - limiting Lifeline subscribers to a small group of designated vertical services - had been a continual part of VZ-DE's state-tariffed Lifeline offerings since 1997. In its Lifeline Order, the FCC expressed its belief that "any restriction on the purchase of vertical services may discourage qualified consumers from enrolling and may serve as a barrier to participation in the [Lifeline] program. Lifeline Order at ¶ 53.

[10] See PSC Dckt. No. 05-008T (filed April 8, 2005; eff. April 16, 2005).

[11] See PSC Dckt. No. 05-016T (filed June 17, 2005; eff. June 22, 2005).

[12] See PSC Dckt. No. 05-016T, amended tariff sheets filed on September 9, 2005 but with effective date of June 22, 2005).

5. The Commission enters this Order not so much to "approve" the various Lifeline filings made by VZ-DE but to recount the course of the filings made since the FCC changed its federal Lifeline/Link-Up program in 2004. Indeed, given that Delaware is a "default" State, VZ-DE's Lifeline/Link-Up offerings are governed more by the federal default rules than by any "approved" State tariff provision. Any State tariff provision that might conflict with a federal default rule would necessarily have to yield. However, the Commission will accept the Lifeline and Link-Up tariff filings lodged by VZ-DE. The Commission believes that VZ-DE's last submission (in September 2005) sets forth a Lifeline and Link-Up offering that is consistent with the federal default rules. However, the filing and acceptance of the State tariff provisions should not be seen as foreclosing any later challenge that VZ-DE's program falls short of the federal directives.

Now, therefore, **IT IS ORDERED:**

1. That, as explained in the body of this Order, the Commission accepts the tariff filings made by Verizon Delaware Inc., to implement its responsibilities to provide federal Lifeline and Link-Up in this "federal default" jurisdiction. In particular, the Commission now accepts the tariff revision filing made September 9, 2005 pertaining to the following leaves in P.S.C.-Del.-No. 1:

Section 20D, Fourteenth Revised Sheet 1 (Link-Up);

Section 20D, Fifth Revised Sheet 2 (Link-Up); and

Section 20E, Eighth Revised Sheet 2 (Lifeline).

2. That the Commission reserves the jurisdiction and authority to enter such further Orders in this matter as may be deemed necessary or proper.

BY ORDER OF THE COMMISSION:

/s/ Arnetta McRae
Chair

Vice Chair

/s/ Joann T. Conaway
Commissioner

/s/ Jaymes B. Lester
Commissioner

/s/ Dallas Winslow
Commissioner

ATTEST:

/s/ Norma J. Sherwood
Acting Secretary

Public Service Commission of the District of Columbia
1333 H Street, N.W., 2nd Floor, West Tower
Washington, D.C. 20005
(202) 626-5100
www.dcpsc.org

March 27, 2012

Via First Class Mail
John J. Heitmann and Joshua T. Guyan
Kelley Drye & Warren LLP
Washington Harbour Suite 400
3050 K Street, NW
Washington, DC 20007-5108

Dear Mr. Heitmann and Mr. Guyan:

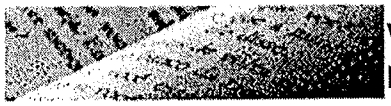
Thank you for your March 23, 2012 letter requesting information on whether the Public Service Commission of the District of Columbia ("Commission") designates wireless telecommunications carriers as eligible telecommunications carriers ("ETC") for the purposes of receiving federal universal service funding. Please be advised that, pursuant to section 34-2006(b) of the District of Columbia Code, the Commission does not have jurisdiction over wireless carriers. Thus, the Commission has no authority to designate wireless telecommunications carriers as ETCs.

Attached please find a copy of the relevant section of the District of Columbia Code for your information. Should you need anything further, please contact Lara Walt at 202-626-9191 or lwalt@psc.dc.gov.

Sincerely,

Richard A. Beverly
General Counsel

Enclosure



Welcome to the online source for the District of Columbia Official Code

DC ST § 34-2006
Formerly cited as DC ST 1981 § 43-1456

DC ST § 34-2006

Formerly cited as DC ST 1981 § 43-1456

District of Columbia Official Code 2001 Edition Currentness
Division V. Local Business Affairs
Title 34. Public Utilities.
Subtitle V. Telecommunications.
Chapter 20. Telecommunications Competition.
§ 34-2006. Exemptions.

(a) This chapter shall not apply to cable television services performed pursuant to an existing cable television franchise agreement with the District of Columbia which is in effect on September 9, 1996. To the extent that a cable television company seeks to provide local exchange services within the District of Columbia, such company shall be regulated under the provisions of this chapter for their local exchange services.

(b) Pursuant to the federal Telecommunications Act of 1996, this chapter shall not apply to licensed or unlicensed wireless services authorized by the Federal Communications Commission operating in the District of Columbia.

(c) This chapter shall not:

(1) Apply to the provision, rates, charges, or terms of service of Voice Over Internet Protocol Service or Internet Protocol-enabled Service;

(2) Alter the authority of the Commission to enforce the requirements as are otherwise provided for, or allowed by, federal law, including the collection of Telecommunications Relay Service fees and universal service fees;

(3) Alter the authority of the Office of Cable Television and Telecommunications with respect to the provision of video services in the District of Columbia; or

(4) Alter the Commission's existing authority over the regulation of circuit-switched local exchange services in the District of Columbia.

CREDIT(S)

(Sept. 9, 1996, D.C. Law 11-154, § 7, 43 DCR 3736; June 5, 2008, D.C. Law 17-165, § 3(c), 55 DCR 5171.)

HISTORICAL AND STATUTORY NOTES

Prior Codifications

1981 Ed., § 43-1456.

Effect of Amendments

D.C. Law 17-165 added subsec. (c).

Legislative History of Laws

For legislative history of D.C. Law 11-154, see Historical and Statutory Notes following § 34-2001.

For Law 17-165, see notes following § 34-403.

References in Text

The federal Telecommunications Act of 1996, referred to in (b), is Pub. L. 104-104, which is codified throughout Title 47 of the United States Code.

DC CODE § 34-2006

Current through January 11, 2012

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STATE OF FLORIDA

GENERAL COUNSEL
S. CURTIS KISER
(850) 413-6199

Public Service Commission

October 24, 2011

Ms. Kasey C. Chow
Lance J.M. Steinhart, P.C.
Attorney At Law
1725 Windward Concourse
Suite 150
Alpharetta, GA 30005

Re: Undocketed – Q Link Wireless LLC's ETC Designation

Dear Ms. Chow:

We received your October 18, 2011 letter advising that Q Link Wireless LLC, a commercial mobile radio service provider, wish to seek designation as an ETC in Florida. You also requested an affirmative statement that the Florida Public Service Commission no longer assert jurisdiction to designate commercial mobile radio service providers as eligible telecommunication carriers in Florida.

This letter acknowledges that the revisions to Chapter 364, Florida Statutes, changed the Commission's jurisdiction regarding telecommunications companies. I direct your attention to Chapter 364, Florida Statutes, for the proposition that the Federal Communications Commission, rather than this Commission is the appropriate agency to consider Q Link Wireless LLC's bid for ETC status.

Sincerely,

S. Curtis Kiser

S. Curtis Kiser
General Counsel

cc: Beth W. Salak, Director, Division of Regulatory Analysis
Robert J. Casey, Public Utilities Supervisor, Division of Regulatory Analysis
Adam J. Teitzman, Attorney Supervisor, Office of the General Counsel
Ann Cole, Commission Clerk, Office of Commission Clerk

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PUBLIC UTILITIES COMMISSION
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Tel. (603) 271-2431

FAX (603) 271-3878

TDD Access: Relay NH
1-800-735-2964

Website:
www.puc.nh.gov

March 28, 2011

RE: ETC Certification in New Hampshire

The federal Universal Service Fund (USF) was created by the Federal Communications Commission (FCC) to promote the availability of quality services at just and reasonable rates to all consumers including low-income customers and those in high cost areas and to increase nationwide access to advanced services in schools, libraries and rural health care facilities. To qualify for universal service funding a carrier must first be certified as an Eligible Telecommunications Carrier (ETC) by the state public utilities commission or, if the state does not assert this authority, by the FCC. *See* 47 U.S.C. §214 (e).

The New Hampshire Public Utilities Commission maintains authority to determine whether landline telecommunications carriers qualify as ETCs. Pursuant to New Hampshire RSA 362:6, the Commission has no jurisdiction over mobile radio communications services. Consequently, the state declines jurisdiction over the certification of wireless carriers as ETCs, leaving that responsibility to the FCC.

Sincerely,

F. Anne Ross
General Counsel
New Hampshire Public Utilities Commission

STATE OF NEW YORK DEPARTMENT OF PUBLIC SERVICE

THREE EMPIRE STATE PLAZA, ALBANY, NY 12223-1350

www.dps.state.ny.us

PUBLIC SERVICE COMMISSION

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JAMES L. LAROCCA
Commissioners

PETER McGOWAN
General Counsel

JACLYN A. BRILLING
Secretary

October 28, 2010

TO WHOM IT MAY CONCERN:

Re: Boomerang Wireless CMRS Jurisdiction

We have received a letter from Boomerang Wireless, LLC d/b/a Ready Mobile (Boomerang Wireless), requesting a statement that the New York State Public Service Commission does not exercise jurisdiction over CMRS providers for the purpose of making determinations regarding Eligible Telecommunications Carrier designations under section 214 (e)(6) of 47 U.S.C. In response to this request, please be advised that section 5 (6)(a) of the New York State Public Service Law provides that:

> Application of the provisions of this chapter to cellular telephone services is suspended unless the commission, no sooner than one year after the effective date of this subdivision, makes a determination, after notice and hearing, that suspension of the application of provisions of this chapter shall cease to the extent found necessary to protect the public interest.

The New York State Public Service Commission has not made a determination as of this date that regulation should be reinstituted under section 5 (6)(a) of the Public Service Law. Consequently, based on the representation by Boomerang Wireless that it provides wireless service in New York over its own facilities and Sprint's network, the company would not be subject to New York State Public Service Commission jurisdiction for the purpose of making an Eligible Telecommunications Carrier designation.

Very truly yours,

Maureen J. McCauley

Maureen J. McCauley
Assistant Counsel

STATE OF NORTH CAROLINA
UTILITIES COMMISSION
RALEIGH

DOCKET NO. P-100, SUB 133c

BEFORE THE NORTH CAROLINA UTILITIES COMMISSION

In the Matter of		
Designation of Carriers Eligible for Universal	)	
Carrier Support	)	ORDER GRANTING PETITION

BY THE COMMISSION: On August 22, 2003, North Carolina RSA3 Cellular Telephone Company, d/b/a Carolina West (Carolina West), a commercial mobile radio service (CMRS) provider, filed a Petition seeking an affirmative declaratory ruling that the Commission lacks jurisdiction to designate CMRS carrier eligible telecommunications carrier (ETC) status for the purposes of receiving federal universal service support.

In support of its Petition, Carolina West stated that it was a CMRS provider authorized by the Federal Communications Commission (FCC) to provide cellular mobile radio telephone service in North Carolina, and that the FCC had clearly recognized that CMRS carriers such as Carolina West may be designated as ETCs. ETC status is necessary for a provider to be eligible to receive universal service support. Section 214(e)(6) of the Telecommunications Act provides that if a state commission determines that it lacks jurisdiction over a class of carriers, the FCC is charged with making the ETC determination. The FCC has stated that, in order for the FCC to consider requests pursuant to this provision, a carrier must provide an "affirmative statement" from the state commission or court of competent jurisdiction that the state lacks jurisdiction to perform the designation. To date, several state commissions have declined to exercise such jurisdiction.

North Carolina has excluded CMRS form the definition of "public utility." See, G.S. 62-3(23)j. Pursuant to this, the Commission issued its Order Concerning Deregulation of Wireless Providers in Docket Nos. P-100, Sub 114 and Sub 124 on August 28, 1995, concluding that the Commission no longer has jurisdiction over cellular services. Accordingly, Carolina West has now requested the Commission to issue an Order stating that it does not have jurisdiction to designate CMRS carriers ETC status for the purposes of receiving federal universal service support.

WHEREUPON, the Commission reaches the following

CONCLUSIONS

After careful consideration, the Commission concludes that it should grant Carolina West's Petition and issue an Order stating that it lacks jurisdiction to designate ETC status

for CMRS carriers. As noted above, in its August 28, 1995, Order in Docket Nos. P-100, Sub 114 and Sub 124, the Commission observed that G.S. 62-3(23)j, enacted on July 29, 1995, has removed cellular services, radio common carriers, personal communications services, and other services then or in the future constituting a mobile radio communications service from the Commission's jurisdiction. 47 USC 3(41) defines a "state commission" as a body which "has regulatory jurisdiction with respect to the intrastate operation of carriers." Pursuant to 47 USC 214(e)(6), if a state commission determines that it lacks jurisdiction over a class of carriers, the FCC must determine which carriers in that class may be designated as ETCs. Given these circumstances, it follows that the Commission lacks jurisdiction over CMRS services and the appropriate venue for the designation of ETC status for such services is with the FCC. Accord., Order Granting Petition, ALLTEL Communications, Inc., June 24, 2003.

IT IS, THEREFORE, SO ORDERED.

ISSUED BY ORDER OF THE COMMISSION.

This the 28th day of August, 2003.

NORTH CAROLINA UTILITIES COMMISSION

Patricia Swenson

Patricia Swenson, Deputy Clerk

pb082503.01

TENNESSEE REGULATORY AUTHORITY

460 James Robertson Parkway
Nashville, Tennessee 37243-0505

November 3, 2010

Ms. Jacqueline Hankins, Esq.
Helein & Marashlian, LLC
The CommLaw Group
1420 Spring Hill Road, Suite 205
McLean, VA 22102

RE: Request for Letter Clarifying Jurisdiction over Wireless ETC Petitions

Dear Ms. Hankins:

Thank you for your letter sent to Mr. David Foster, Utilities Division Chief, dated October 25, 2010, inquiring about the Tennessee Regulatory Authority's ("Authority") jurisdiction to designate a wireless telecommunications carrier, such as Boomerang Wireless, LLC d/b/a Ready Mobile (f/k/a Boomerang Wireless, Inc., for Eligible Telecommunications Carrier ("ETC") certification in Tennessee. Your letter has been forwarded to me for review and response.

As your letter correctly indicates, the Authority does not assert that its state-delegated authority extends to wireless service providers. As a result, wireless carriers that seek ETC certification to provide such services in Tennessee are advised to file such requests with the Federal Communications Commission in accordance with 47 U.S.C.A. § 214(e)(6). The enclosed *Order Refusing Issuance of Declaratory Ruling*, issued on August 2, 2010,[1] provides detailed analysis of the Authority's wireless jurisdiction.

In Docket No. 02-01245, the Authority acknowledged the FCC's authority to perform ETC designations for carriers not subject to its jurisdiction, and announced that its *Order* of April 11, 2003 would serve as an affirmative statement that it lacks jurisdiction to designate ETC certification to wireless carriers.[2] For your convenience, I have enclosed a copy of the Authority's order in that docket. In addition, you may access these and other

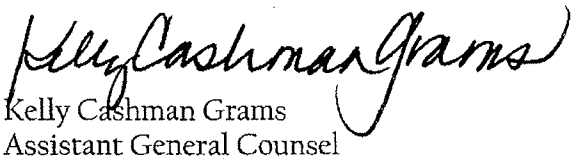
[1] *In re Petition for Declaratory Ruling and Nunc Pro Tunc Designation of Nexus Communications as an Eligible Telecommunications Carrier to Offer Wireless Service in Tennessee*, Docket No. 10-00083, *Order Refusing Issuance of Declaratory Ruling* (August 2, 2010).

[2] *In re Application of Advantage Cellular Systems, Inc. to be Designated as an Eligible Telecommunications Carrier*, Docket No. 02-01245, *Order* (April 11, 2003).

Authority dockets, including all public filings and orders, online via the Tennessee Regulatory Authority's website located at http://www.state.tn.us/tra/.

I trust that you will find the information provided above to be of assistance and appreciate the opportunity to serve you. In the event you have additional questions or concerns, please feel free to contact me.

Sincerely,



Kelly Cashman Grams
Assistant General Counsel

cc: David Foster, Utilities Division Chief

BEFORE THE TENNESSEE REGULATORY AUTHORITY

NASHVILLE, TENNESSEE

April 11, 2003

IN RE:	)	
	)	
APPLICATION OF ADVANTAGE CELLULAR SYSTEMS, INC. TO BE DESIGNATED AS AN ELIGIBLE TELECOMMUNICATIONS CARRIER	)))	**DOCKET NO. 02-01245**

ORDER

This matter came before Chairman Sara Kyle, Director Deborah Taylor Tate and Director Pat Miller of the Tennessee Regulatory Authority (the "Authority"), the voting panel assigned in this docket, at the regularly scheduled Authority Conference held on January 27, 2003, for consideration of the *Application of Advantage Cellular Systems, Inc. To Be Designated As An Eligible Telecommunications Carrier* ("*Application*") filed on November 21, 2002.

Background

Advantage Cellular Systems, Inc. ("Advantage") is a commercial mobile radio service provider ("CMRS") seeking designation as an Eligible Telecommunications Carrier ("ETC") by the Authority pursuant to 47 U.S.C. §§ 214 and 254. In its *Application,* Advantage asserts that it seeks ETC status for the entire study area of Dekalb Telephone Cooperative, Inc., a rural cooperative telephone company. Advantage maintains that it meets all the necessary requirements for ETC status and therefore is eligible to receive universal service support throughout its service area.

The January 27, 2003 Authority Conference

During the regularly scheduled Authority Conference on January 27, 2003, the panel of Directors assigned to this docket deliberated Advantage's *Application.* Of foremost consideration was the issue of the Authority's jurisdiction. The panel unanimously found that the Authority lacked

jurisdiction over Advantage for ETC designation purposes.[1]

This conclusion was implicitly premised on Tenn. Code Ann. § 65-4-104, which provides that:

> The Authority has general supervisory and regulatory power, jurisdiction and control over all public utilities and also over their property, property rights, facilities, and franchises, so far as may be necessary for the purpose of carrying out the provisions of this chapter.

For purposes of Tenn. Code Ann. § 65-4-104, the definition of public utilities specifically excludes, with certain exceptions not relevant to this case, "[a]ny individual, partnership, copartnership, association, corporation or joint stock company offering domestic public cellular radio telephone service authorized by the federal communications commission."

The Authority's lack of jurisdiction over CMRS providers implicates 47 U.S.C. § 214(e), which addresses the provision of universal service. Where common carriers seeking universal service support are not subject to a state regulatory commission's jurisdiction, 47 U.S.C. § 214(e)(6) authorizes the Federal Communications Commission ("FCC") to perform the ETC designation.[2]

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[1] This finding is not inconsistent with the Authority's decision in *In re: Universal Service Generic Contested Case*, Docket 97-00888, *Interim Order on Phase I of Universal Service*, pp. 53-57 (May 20, 1998), in which the Authority required intrastate telecommunications carriers to contribute to the intrastate Universal Service Fund including telecommunications carriers not subject to authority of the TRA. The decision in Docket No. 97-00888 was based primarily on 47 U.S.C. § 254(f) which authorizes states to adopt regulations not inconsistent with the Federal Communications Commission's rules on Universal Service and specifically requires every telecommunications carrier that provides intrastate telecommunications services to contribute to the preservation and advancement of universal service in that state. The *Interim Order* was issued prior to the effective date of 47 U.S.C. § 214(e)(6).

[2] 47 U.S.C. §214(e)(6) states:

(6) Common carriers not subject to state commission jurisdiction

> In the case of a common carrier providing telephone exchange service and exchange access that is not subject to the jurisdiction of a State commission, the Commission shall upon request designate such a common carrier that meets the requirements of paragraph (1) as an eligible telecommunications carrier for a service area designated by the Commission consistent with applicable Federal and State law. Upon request and consistent with the public interest, convenience and necessity, the Commission may, with respect to 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 under this paragraph, 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 Commission shall find that the designation is in the public interest.

As a matter of "state-federal comity," the FCC requires that carriers seeking ETC designation "first consult with the state commission to give the state commission an opportunity to interpret state law."[3] Most carriers that are not subject to a state regulatory commission's jurisdiction seeking ETC designation must provide the FCC "with an affirmative statement from a court of competent jurisdiction or the state commission that it lacks jurisdiction to perform the designation."[4]

The panel noted that the FCC is the appropriate forum for Advantage to pursue ETC status pursuant to 47 U.S.C. § 214(e)(6). This Order shall serve as the above mentioned affirmative statement required by the FCC.

IT IS THEREFORE ORDERED THAT:

The *Application of Advantage Cellular Systems, Inc. To Be Designated As An Eligible Telecommunications Carrier* is dismissed for lack of subject matter jurisdiction.

Sara Kyle, Chairman

Deborah Taylor Tate, Director

Pat Miller, Director

[3] *In the Matter of Federal-State Joint Bd. on Universal Service*, CC Docket No. 96-45, *Twelfth Report and Order, Memorandum Opinion and Order, and Further Notice of Proposed Rulemaking*, 15 F.C.C.R. 12208, 12264, ¶ 113 (June 30, 2000).

[4] *See id.* (The "affirmative statement of the state commission may consist of any duly authorized letter, comment, or state commission order indicating that it lacks jurisdiction to perform designations over a particular carrier.")

BEFORE THE TENNESSEE REGULATORY AUTHORITY

NASHVILLE, TENNESSEE

August 2, 2010

IN RE:	)	
	)	
PETITION FOR DECLARATORY RULING AND NUNC PRO TUNC DESIGNATION OF NEXUS COMMUNICATIONS AS AN ELIGIBLE TELECOMMUNICATIONS CARRIER TO OFFER WIRELESS SERVICE IN TENNESSEE	)	**DOCKET NO. 10-00083**

ORDER REFUSING ISSUANCE OF DECLARATORY RULING

This matter came before Chairman Sara Kyle, Director Kenneth C. Hill and Director Mary W. Freeman of the Tennessee Regulatory Authority ("Authority" or "TRA"), the voting panel assigned to this docket, at a regularly scheduled Authority Conference held on May 24, 2010, for consideration of the *Petition for Declaratory Ruling and Nunc Pro Tunc Designation of Nexus Communications as an Eligible Telecommunications Carrier to Offer Wireless Service in Tennessee* ("*Petition*") filed by Nexus Communications, Inc. ("Nexus") on April 28, 2010.

BACKGROUND & PROCEDURAL HISTORY

On October 18, 2007, Nexus filed with the Authority an application for a Certificate of Public Convenience and Necessity ("CCN") to provide competing facilities-based and resold local telecommunications services in Tennessee.[1] In its application, among other things, Nexus stated that it would be providing service through an interconnection/resale agreement with

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[1] *See In re: Application of Nexus Communications, Inc. for a CCN to Provide Competing Local Exchange and Interexchange Telecommunications Services in Tennessee,* Docket No. 07-00241, *Application of Nexus Communications, Inc. for Authority to Provide Competing Local Exchange & Interexchange Service* (October 18, 2007).

BellSouth Telecommunications, Inc. d/b/a AT&T Tennessee ("AT&T Tennessee") and had no plans to install facilities.[2] Nexus further agreed to adhere to all Authority policies, rules, and orders and to submit wireline activity reports as required.[3] The application, however, makes no mention of Nexus providing wireless service in Tennessee. In an Order dated January 8, 2008, the TRA granted Nexus' application for a CCN, authorizing Nexus to provide competing facilities-based and resold local telecommunications services in Tennessee as described in its application.[4]

On July 11, 2008, Nexus filed an application for designation as an eligible telecommunications carrier ("ETC") with the Authority in Docket No. 08-00119.[5] In its ETC application, Nexus stated that it was applying for designation in the service territory of AT&T Tennessee and provided a list of the wire centers for which it requested ETC status.[6] In addition, Nexus stated that it was seeking designation only for low-income support[7] and affirmed that it satisfied all statutory requirements for designation.[8] Consistent with its CCN application, Nexus' ETC application also omitted any mention that Nexus provided wireless service or that it intended to provide wireless service as an ETC.

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[2] *Id.* at 1 and 7.

[3] *Id.* at 11 and 13.

[4] *See In re: Application of Nexus Communications, Inc. for a CCN to Provide Competing Local Exchange and Interexchange Telecommunications Services in Tennessee,* Docket No. 07-00241, *Initial Order Granting Certificate of Public Convenience and Necessity* (January 8, 2008).

[5] *See In re: Application of Nexus Communications, Inc. for Designation as an Eligible Telecommunications Carrier,* Docket No. 08-00119, *Application for Designation as an Eligible Telecommunications Carrier* (July 11, 2008).

[6] *Id.*

[7] Lifeline and Link Up are two components of the Low Income Program of the Universal Service Fund. The Fund, administered by the Universal Service Administration Company ("USAC"), is designed to ensure that quality telecommunications services are available to low-income customers at just, reasonable and affordable rates. Lifeline support lowers the monthly charge of basic telephone service for eligible consumers. Link Up support reduces the cost of initiating new telephone service. The Federal Communications Commission's rules concerning Lifeline and Link Up are codified at 47 C.F.R. § 54.400-417. See, *Assessment of Payments Made Under the Universal Service Fund's Low Income Program,* 2008 WL 5205212 (2008).

[8] *See In re: Application of Nexus Communications, Inc. for Designation as an Eligible Telecommunications Carrier,* Docket No. 08-00119, *Application for Designation as an Eligible Telecommunications Carrier* (July 11, 2008).

Thereafter, the Authority conducted a review of Nexus' qualifications in accordance with the information provided by Nexus in its ETC application. On October 27, 2008, finding the statutory requirements satisfied, the TRA granted Nexus' ETC application and, based thereon, issued an Order designating Nexus as an ETC in the Tennessee service area footprint of AT&T Tennessee.[9] As designated by a state commission, like the TRA, Nexus' ETC designation enables it to receive federal low-income universal service support funding in accordance with, and subject to, the authority of the state commission to grant such designation under both state and federal law.[10]

Subsequently, on March 23, 2009, Nexus filed a petition requesting that the TRA amend its ETC Order to describe Nexus' services in Tennessee as "wireline and wireless."[11] Nexus' request for modification of the ETC Order revealed for the first time that Nexus serves its customers using both wireline and wireless technologies. On June 7, 2009, the TRA declined to amend the language of the ETC Order as Nexus requested and instead amended its ETC Order to definitively state that Nexus had ETC designation for "wireline local exchange services."[12]

On November 25, 2009, Steven Fenker, President of Nexus, filed a letter in Docket No. 08-00119 indicating that, based on the TRA's orders, Nexus applied for and was assigned two Study Area Codes enabling it to receive federal universal service low-income funding for the

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[9] *See In re: Application of Nexus Communications, Inc. for Designation as an Eligible Telecommunications Carrier,* Docket No. 08-00119, *Order Designating Nexus Communications, Inc. as an Eligible Telecommunications Carrier* ("ETC Order") (October 27, 2008).

[10] 47 U.S.C.A. §§ 254(e) and §214(e)(2) and (6).

[11] *See In re: Application of Nexus Communications, Inc. for Designation as an Eligible Telecommunications Carrier,* Docket No. 08-00119, *Petition of Nexus Communications, Inc. for Clarification of Final Order ("Petition for Clarification")* (March 23, 2009).

[12] *See In re: Application of Nexus Communications, Inc. for Designation as an Eligible Telecommunications Carrier,* Docket No. 08-00119, *Order Granting Petition for Clarification and Issuance of Amended Order,* p. 2, and attached thereto, *Amended Order Designating Nexus Communications, Inc. as an Eligible Telecommunications Carrier* ("Amended ETC Order"), p. 3 ¶ 3 (June 7, 2009).

provision of Lifeline service using both wireline and wireless technologies.[13] In his letter, Mr. Fenker asserted that such action was consistent with Nexus' interpretation of Federal Communications Commission ("FCC") Rule 54.201(h), which directs state commissions to designate ETC status to qualified carriers regardless of the technology used to provide service. Moreover, Nexus contended that FCC rule § 54.201(h) broadly authorizes a state-designated ETC to provide service to, and receive federal universal service support funding for, low-income customers using any technology the carrier wishes to offer.[14] In addition, Mr. Fenker stated that Nexus, as a "certified carrier," is subject to TRA enforcement of Lifeline and Link Up regulations as to both wireline and wireless service. Yet, Nexus also stated that it "voluntarily submits" to the TRA's jurisdiction and would comply with TRA rulings enforcing state and federal Lifeline and Link Up regulations "irrespective of the technology Nexus uses to provide service."[15]

THE *PETITION*

Subsequent to its notification from USAC that certain universal service support payments made to Nexus for wireless ETC service were not authorized,[16] Nexus filed on April 28, 2010, a *Petition* urging the Authority to declare that the TRA has jurisdiction under federal and state law to designate Nexus as a wireless ETC, and further, to declare *nunc pro tunc* that Nexus' ETC designation includes authority to provide a wireless low-income offering, *i.e.*, Lifeline and/or Link Up service, in Tennessee.[17] In its *Petition*, Nexus acknowledges that neither the initial ETC

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[13] *See In re: Application of Nexus Communications, Inc. for Designation as an Eligible Telecommunications Carrier,* Docket No. 08-00119, Letter from Steven Fenker, President, Nexus Communications, Inc. (November 25, 2009).
[14] *Id.*
[15] *Id.*
[16] As referenced in the *Petition,* p. 4 ¶ 13, a letter dated April 16, 2010, from USAC indicated that because Nexus did not appear to be authorized or designated by the TRA to provide wireless ETC service, disbursement of subsidies to Nexus for wireless low-income program subscribers would be discontinued and further, USAC might seek reimbursement from Nexus of monies previously paid to it for such unauthorized services.
[17] *Petition for Declaratory Ruling and Nunc Pro Tunc Designation of Nexus Communications as an Eligible Telecommunications Carrier to Offer Wireless Service in Tennessee ("Petition")* (April 28, 2010).

Order nor the Amended ETC Order mentioned or specifically granted authority to Nexus to provide wireless ETC services.[18] Despite this admission, Nexus reiterates its earlier contentions that based on the TRA's orders designating Nexus as an ETC and Nexus' interpretation of FCC Rules, specifically 47 C.F.R. § 54.201(h), it is justified in applying for and obtaining two Study Area Codes to provide federally-subsidized service to low-income customers using wireline[19] and wireless technologies.[20]

In its *Petition,* Nexus further asserts that the Authority is empowered to authorize Nexus to provide federally subsidized low-income wireless service not only under federal law, but also under state law.[21] At paragraph 17, Nexus proffers its interpretation of Tenn. Code Ann. § 65-4-101(6)(F) concerning the limits of regulation upon providers of "domestic public cellular radio telephone service," commonly known as commercial mobile radio service ("CMRS") or wireless telephone service, and the statute's classification of providers of such services as "nonutilities." According to Nexus, Tenn. Code Ann. § 65-4-101(6)(F) does not preclude but, instead, preserves, the exercise of TRA jurisdiction over the wireless service of a certificated carrier that is subject to regulation under Chapter 5 of Title 65.[22]

Nexus asserts that Tenn. Code Ann. § 65-4-101(6)(F) distinguishes between a CMRS provider that exclusively offers wireless service in competition with another CMRS provider and a CMRS provider that is classified as a public utility due to also furnishing services regulated by

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[18] *Petition,* pp. 2-3, ¶¶ 2 and 7 (April 28, 2010).

[19] *Petition,* p. 3, ¶¶ 8-9 and footnote 2 (April 28, 2010) ("Nexus applied for a wireline code on July 24, 2009, and received it two days later on July 31, 2009."); see also, *Affidavit of Steven Fenker* attached to *Petition,* ¶ 16 (April 28, 2010) ("On July 29, 2009 Nexus submitted to USAC a Study Area Code ("SAC Code") request form for technology type 'wireline.' USAC after only a two day review of the Original Order issued Nexus a separate 'wireline' SAC Code on July 31, 2009.").

[20] *Petition,* p. 3 (April 28, 2010) ("Two months later, on August 21, 2009, USAC issued Nexus a wireless code for Tennessee."); see also, *Affidavit of Steven Fenker* attached to *Petition,* ¶ 15 (April 28, 2010) ("USAC after a two month review of the application and an analysis of both Orders, finally issued Nexus a separate "wireless" SAC Code on August 21, 2009.").

[21] *Petition,* p. 5, ¶¶ 16-17.

[22] *Petition,* pp. 5-6, ¶ 17(a-g).

the TRA. Further, Nexus contends that because it is subject to TRA jurisdiction for its wireline/landline services, it is likewise subject to TRA regulation as a CMRS provider for its wireless service, at least insofar as concerns designation of ETC.[23]

On May 11, 2010, Nexus filed an *Amendment to Petition* supplementing its interpretation of the statutory provision at issue and inserting an additional argument in support of its assertion that the TRA's jurisdiction currently includes wireless telephone service. In its *Amendment to Petition,* Nexus asserts that the language of Tenn. Code Ann. § 65-4-101(6)(F) acts to deregulate only certain entities that provide wireless service, and not the service itself.[24] To illustrate its point, Nexus offers its comparative analysis of the language of the subject statute with language found in Tenn. Code Ann. § 65-5-203 (2006), which prohibits the exercise of TRA jurisdiction over broadband services. Based on its comparison of the statutes, Nexus contends that the regulatory exemption found in Tenn. Code Ann. § 65-4-101(6)(F) is not for uniform application. Rather, Nexus surmises that had the legislature intended to exempt wireless service from the TRA's jurisdiction, it could have done so using the language of the later-enacted broadband statute.[25] In other words, because Tenn. Code Ann. § 65-4-101(6)(F)[26] does not utilize language identical to the 2006 broadband statute, this somehow evidences an intent to provide, and not to remove, TRA jurisdiction for particular entities only, *i.e.,* that providers of wireless service that also offer a service that the TRA has jurisdiction to regulate, should be subject to TRA regulation for services that it provides that the TRA would not otherwise have jurisdiction.

Finally, Nexus contends that because it purports to supply landline telephone service and does not exclusively provide wireless telephone services and, thus, "is not one of those entities"

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[23] *Petition,* p. 6, ¶ 17(d-f).
[24] *Amendment to Petition* (May 11, 2010).
[25] *Id.*
[26] Tenn. Code Ann. § 65-4-101(6)(F) was enacted prior to 1995, while the Tennessee Public Service Commission ("TPSC") was still in existence. In 1995, the 99th General Assembly abolished the TPSC and thereafter created the TRA in its stead to effectively govern and regulate public utilities in the state of Tennessee.

to which, under its interpretation of the statute, the regulatory exemption applies.[27] That is, because the TRA has jurisdiction over Nexus' landline service, it follows that the TRA also has jurisdiction and authority over Nexus' wireless service - but only to the extent necessary to designate it eligible to receive federal subsidies for wireless service to qualified low-income consumers. In short, Nexus claims that as a certificated competing local exchange carrier ("CLEC"), and therefore a public utility subject to TRA jurisdiction, it is and remains a public utility, if not for all of its services, then at least for the limited purpose of receiving wireless ETC designation.

FINDINGS AND CONCLUSIONS

In this docket, Nexus asks the TRA to declare that it has jurisdiction under federal and state law to designate Nexus as a wireless ETC provider, and further, to declare *nunc pro tunc* that the ETC designation for wireline services granted to Nexus by the TRA on October 27, 2008, included authority to provide wireless Lifeline and Link Up services in Tennessee, thereby, making Nexus eligible as of that date to receive federal universal support funding for provision of wireless services.

To preserve and advance universal telecommunications service, the United States Congress has made federal funding, or subsidies, available to telecommunications carriers that meet certain minimum requirements.[28] The Authority agrees with Nexus insofar as that, under federal law, state commissions, such as the TRA, hold relatively broad power to designate as ETCs telecommunications carriers that meet those requirements, thereby enabling such carriers to receive federal universal service subsidies.[29] In addition, under 47 C.F.R. § 54.201(h), a state commission that determines that a carrier has satisfied the prerequisites for ETC designation is

[27] *Id.*
[28] 47 U.S.C.A. § 254(e).
[29] 47 U.S.C.A. § 214(e)(2).

not restricted from granting, nor permitted to deny, ETC designation due to such carrier's chosen method of distributing service.[30] The TRA further recognizes that when a carrier seeking ETC designation is not subject to the jurisdiction of a state commission, whether due to the nature or geographical location of its service, federal law directs that the FCC perform the designation.[31]

Notwithstanding the potential authority that the TRA may have under federal law, ultimately, the TRA is a legislatively created body of the state and empowered only to exercise the jurisdiction, power, and authority delegated to it by the Tennessee General Assembly.[32] In *BellSouth Advertising & Publishing Corp. v. TRA,* the Supreme Court of Tennessee stated, "In defining the authority of the TRA, this Court has held that '[a]ny authority exercised by the TRA must be the result of an express grant of authority by statute or arise by necessary implication from the expressed statutory grant of power.'"[33] The General Assembly has charged the TRA with "general supervisory and regulatory power, jurisdiction and control over all ***public utilities***" within Tennessee.[34]

While "public utility" is defined broadly within Tenn. Code Ann. § 65-4-101, the General Assembly has expressly excluded "nonutilities" from the TRA's jurisdiction.[35] "Nonutilities" has been defined to include any entity "offering domestic public cellular radio telephone service" (*i.e.,* CMRS and wireless service providers):[36]

> (6) . . ."Public utility" as defined in this section shall not be construed to include the following *nonutilities*:
>
> (F) Any individual, partnership, copartnership, association, corporation or joint stock company offering *domestic public cellular radio telephone service* authorized by the federal communications commission . . .[37]

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[30] 47 C.F.R. § 54.201(h).
[31] 47 U.S.C.A. § 214(e)(6).
[32] *BellSouth Advertising & Publishing Corp. v. Tennessee Regulatory Auth.,* 79 S.W.3d 506, 512 (Tenn. 2002); *Tennessee Pub. Serv. Comm'n v. Southern Ry. Co.,* 554 S.W.2d 612, 613 (Tenn. 1977).
[33] *Id.*
[34] Tenn. Code Ann. § 65-4-104 *(emphasis added).*
[35] Tenn. Code Ann. § 65-4-101(6).
[36] Tenn. Code Ann. § 65-4-101(6)(F).
[37] Tenn. Code Ann. § 65-4-101(6)(F) *(emphasis added).*

In addition, the statute provides a regulatory exception to the complete removal of regulatory authority over such providers so long as competition is restricted to one CMRS provider in the same cellular geographical area. Even then, the TRA has limited jurisdiction to review only the customer rates of such providers:

> . . . until at least two (2) entities, each independent of the other, are authorized by the federal communications commission to offer domestic public cellular radio telephone service in the same cellular geographic area within the state, the *customer rates* ***only*** *of a company offering domestic public cellular radio telephone service shall be subject to review by the Tennessee Regulatory Authority* pursuant to §§ 65-5-101 – 65-5-104. . .[38]

The TRA's delegated authority over wireless service providers is limited to rates, conditioned on and extending only until the FCC has authorized two wireless providers to offer service in the same cellular geographical area of the state. Expressly set out within the statutory provision itself is the triggering event that rescinds the TRA's limited grant of jurisdiction over wireless providers:

> . . .*Upon existence* in a cellular geographical area *of the conditions set forth* in the preceding sentence, *domestic public cellular radio telephone service in such area [where the FCC has authorized two providers], <u>for all purposes</u>, shall automatically cease to be treated as a public utility*. . . . The [TRA's] authority . . . is *expressly limited* [to the absence of two authorized providers] and the authority shall have no authority over resellers of domestic public cellular radio telephone service. . . . This subdivision (6)(F) does not affect, modify or lessen the regulatory authority's authority over public utilities that are subject to regulation pursuant to chapter 5 of this title.[39]

The TRA has long recognized the plain language of Tenn. Code Ann. § 65-4-101(6)(F) limits, and removes, the TRA's authority over wireless service providers. Thus, the TRA has consistently acknowledged its lack of state-delegated authority over CMRS providers in both the

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[38] *Id.*
[39] *Id.*

broad sense[40] and specifically as to ETC designation.[41] As set forth extensively above, Nexus sought a ruling on the issue of wireless ETC designation previously when it filed its *Petition for Clarification* with the Authority in Docket No. 08-00119.[42] Consistent with its previous rulings on matters involving wireless service, the Authority finds that it does not have jurisdiction over wireless providers based on the express definition of "nonutilities" found in Tenn. Code Ann. § 65-4-101(6)(F), and therefore, specifically does not have subject matter jurisdiction over the precise issue upon which the Company seeks a declaratory ruling.

Tenn. Code Ann. § 4-5-223[43] provides that a state agency, upon petition for a declaratory order, must either convene a contested case hearing and issue a declaratory order or refuse to issue a declaratory order within sixty days of receipt of the petition. In the case of *Hughley v. State*, the Tennessee Supreme Court found that the lack of a contested case hearing on the

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[40] *See In re: Sprint Communications Company, L.P.*, Docket No. 96-01411, *Final Order of Arbitration Awards* (March 26, 1997), PUR Slip Copy, 1997 WL 233027 *5 (during an Arbitration Conference held on March 26, 1997, the Authority acknowledged its lack of jurisdictional authority to regulate cellular wireless providers when, in ruling on a dispute between Sprint and BellSouth concerning the placement of combined traffic types (local, toll, and wireless) on the same trunk groups, and despite ultimately voting two to one on the specific issue, the Authority panel members all agreed that the Authority lacked jurisdiction over wireless.)

[41] *See In re: Application of Advantage Cellular Systems, Inc. to be Designated as an Eligible Telecommunications Carrier,* Docket No. 02-01245, *Order* (April 11, 2003) (dismissing the application of Advantage Cellular Systems, Inc. for designation as an ETC because, as Advantage Cellular was a CMRS provider, the TRA lacked subject matter jurisdiction because the definition of public utilities under Tenn. Code Ann. § 65-4-101 specifically excludes CMRS providers. In addition the panel noted that under 47 U.S.C.A. § 214(e)(6), the FCC is authorized to perform ETC designations for carriers that are not subject to TRA jurisdiction and that its *Order* serves as an affirmative statement that it lacks jurisdiction to perform the ETC designation as to CMRS carriers.)

[42] *See In re: Application of Nexus Communications, Inc. for Designation as an Eligible Telecommunications Carrier,* Docket No. 08-00119, *Petition of Nexus Communications, Inc. for Clarification of Final Order* (March 23, 2009).

[43] Tenn. Code Ann. § 4-5-223(a) provides:

> (a) Any affected person may petition an agency for a declaratory order as to the validity or applicability of a statute, rule, or order within the primary jurisdiction of the agency. The agency shall:
>
> (1) Convene a contested case hearing pursuant to the provisions of this chapter and issue a declaratory order, which shall be subject to review in the chancery court of Davidson County, unless otherwise specifically provided by statute, in the manner provided for the review of decisions in contested cases; or
>
> (2) Refuse to issue a declaratory order, in which event the person petitioning the agency for a declaratory order may apply for a declaratory judgment as provided in § 4-5-225.

Tenn. Code Ann. § 4-5-223(c) states, "[i]f an agency has not set a petition for declaratory order for a contested case hearing within sixty (60) days after receipt of the petition, the agency shall be deemed to have denied the petition and to have refused to issue a declaratory order."

petition constitutes refusal to issue a declaratory order under Tenn. Code Ann. § 4-5-223(a)(2), even when the agency provides a decision with reasons that may go to the merits of the petition.[44] Accordingly, for the above stated reasons, the panel voted unanimously to refuse to issue a declaratory order pursuant to Tenn. Code Ann. § 4-5-223(a)(2).

IT IS THEREFORE ORDERED THAT:

In accordance with Tenn. Code Ann. § 4-5-223(a)(2), the Tennessee Regulatory Authority refuses to issue a declaratory order on the *Petition for Declaratory Ruling and Nunc Pro Tunc Designation of Nexus Communications as an Eligible Telecommunications Carrier to Offer Wireless Service in Tennessee* filed by Nexus Communications, Inc.

Sara Kyle, Chairman

Kenneth C. Hill, Director

Mary W. Freeman, Director

[44] *Hughley v. State*, 208 S.W.3d 388 (Tenn. 2006) (holding that a letter of denial from the Department of Correction, issued without a hearing in response to a petition for declaratory order, is not equivalent to a "final order" in a contested case proceeding even when such response is issued after research and analysis of petitioner's grounds for seeking same and purports to deny petitioner's claims on the merits, and accordingly, the sixty-day statute of limitations established in Tenn. Code Ann. § 4-5-322(b)(1) is not applicable.).

COMMONWEALTH OF VIRGINIA

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November 17, 2010

Ms. Jacqueline Hankins
Helein & Marashlian, LLC
The CommLaw Group
1420 Spring Hill Road, Suite 205
McLean, Virginia 22102

Dear Ms. Hankins:

This is in response to your October 25, 2010 letter to me on behalf of Boomerang Wireless LLC, d/b/a Ready Mobile ("Boomerang") requesting clarification of the Virginia State Corporation Commission's ("Commission") jurisdiction over the designation of wireless Eligible Telecommunications Carriers ("ETC") in Virginia.

Only one wireless carrier, Virginia Cellular LLC, has sought designation as an ETC in Virginia. In that instance (Case No. PUC010263), by order dated April 9, 2002, the Commission determined, pursuant to Section 214 (e) (6) of the Telecommunications Act of 1996, that Virginia Cellular LLC should apply to the Federal Communications Commission for ETC designation because it had not asserted jurisdiction over CMRS carriers. A copy of this order is enclosed.

Very truly yours,

William Irby

William Irby

WI/ctj

Enclosure

COMMONWEALTH OF VIRGINIA

STATE CORPORATION COMMISSION

AT RICHMOND, APRIL 9, 2002

COMMONWEALTH OF VIRGINIA, ex rel.

At the relation of the

STATE CORPORATION COMMISSION — CASE NO. PUC970135

Ex Parte, in re: Implementation of Requirements of § 214(e) of the Telecommunications Act of 1996

IN RE:

APPLICATION OF VIRGINIA CELLULAR LLC — CASE NO. PUC010263

For designation as an eligible telecommunications provider under 47 U.S.C. § 214(e)(2)

ORDER

On September 15, 1997, the State Corporation Commission ("Commission") established the docket in Case No. PUC970135 to consider the requests of local exchange carriers ("LECs") to be designated as eligible telecommunications carriers ("ETC designation") to receive universal service support pursuant to § 214(e) of the Telecommunications Act of 1996, 47 U.S.C. § 251 et seq., ("Act") and associated Federal Regulations.[1] The Commission's exercise of its jurisdiction under § 214(e)(2) of the Act has been to establish a simple and streamlined process for telecommunications carriers to certify their eligibility with a minimum of regulatory burden placed upon each applicant.

[1] 47 C.F.R. § 54.201-207.

All Virginia carriers receiving an ETC designation have merely been required to file an affidavit which, among other matters, certifies that all requirements of the Act for designation are met.[2]

Until the above-captioned Application was filed in Case No. PUC010263 by Virginia Cellular LLC ("Virginia Cellular" or "Applicant") for ETC designation, these proceedings have been uncontested. This is the first application by a Commercial Mobile Radio Service ("CMRS") carrier for ETC designation.[3] Pursuant to the Order Requesting Comments, Objections, or Requests for Hearing, issued by the Commission on January 24, 2002, the Virginia Telecommunications Industry Association ("VTIA") and NTELOS Telephone Inc. ("NTELOS") filed their respective comments and requests for hearing on February 20, 2002. Virginia Cellular filed Reply Comments on March 6, 2002.[4]

The comments of NTELOS and VTIA both contest the sufficiency of the Application and claim Virginia Cellular has

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[2] See Order issued November 21, 1997, in Case No. PUC970135, pp. 2-4 ("November 21, 1997, Order"). Also, the annual certification procedure to comply with 47 C.F.R. §§ 54.313 and 314 has been reduced to filing a form affidavit approved by the Commission in a Preliminary Order, issued August 29, 2001, in Case No. PUC010172.

[3] Virginia Cellular is a CMRS carrier as defined in 47 U.S.C. § 153(27) and is authorized as the "A-band" cellular carrier for the Virginia 6 Rural Service Area, serving the counties of Rockingham, Augusta, Nelson, and Highland and the cities of Harrisonburg, Staunton, and Waynesboro.

[4] On March 4, 2002, Virginia Cellular filed a Consent Motion requesting until March 6, 2002, to file Reply Comments. There being no objection, we now grant the Consent Motion.

failed to demonstrate how the public interest will be served.[5] NTELOS and VTIA each allude in their comments to other expected applications for ETC designation by wireless and CLEC carriers to follow this case of first impression. For that reason, we are asked by VTIA and NTELOS to convene a hearing and establish certain standards for the provisioning of the nine services specified in 47 C.F.R. § 54.101.[6] Each applicant is required to provide these nine services to be eligible for ETC designation.

VTIA further comments that "[i]t is not clear how the designation of Virginia Cellular as an ETC will affect the distribution of Universal Funds to the existing carriers in any given rural exchange area." Virginia Cellular replies that this "macroeconomic concern" need not be addressed with this Application. Rather, the Federal Communications Commission ("FCC") and the Federal State Joint Board on Universal Service

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[5] § 214(e)(2) of the Act requires that an ETC designation in areas served by a rural telephone company be based upon a finding that the designation is in the public interest. The Commission did recognize in its November 21, 1997, Order that any carrier seeking ETC designation in a rural area would have the burden of proving that such designation is in the public interest if challenged. Virginia Cellular is seeking ETC designation in the service territories of the following rural telephone companies: Shenandoah Telephone Company ("Shenandoah"), Clifton Forge Waynesboro Telephone Company ("NTELOS"), New Hope Telephone Company, North River Cooperative, Highland Telephone Cooperative, and Mountain Grove-Williamsville Telephone Company ("MGW").

[6] The nine services required to be offered include: voice grade access to the public switched network; local usage; dual tone multi-frequency signaling or its functional equivalent; single-party service or its functional equivalent; access to emergency services; access to operator services; access to interexchange service; access to directory assistance; and toll limitation for qualifying low-income consumers. Also, the services must be advertised in appropriate media sources. See In Re: Federal-State Joint Board of Universal Service, Report and Order, CC Docket No. 96-45, ¶ 145 (May 8, 1997) ("Universal Service Report & Order").

are reported by Virginia Cellular to be conducting ongoing proceedings to ensure the solvency of the high-cost support fund.[7] Presumably, VTIA views any public interest served by Virginia Cellular's ETC designation to depend upon whether there would be a consequent diminution of universal service funds.

Virginia Cellular cites the authority of § 214(e)(6) of the Act for this Commission to send Applicant to the FCC for ETC designation if this Commission declines to act on its Application.[8] In its Reply Comments, Virginia Cellular reports that the "FCC has been actively processing ETC applications on behalf of states which have declined to exercise jurisdiction [over CMRS carriers]. Its internal processing time has been six months, and it has met that timeline in almost all of its proceedings [and] . . . most, if not all of the issues raised by the commenters have been previously addressed by the FCC in its prior orders involving applications for ETC status."[9]

The Commission finds that § 214(e)(6) of the Act is applicable to Virginia Cellular's Application as this Commission has not asserted jurisdiction over CMRS carriers and that the

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[7] Reply Comments at p. 5.

[8] Pursuant to § 332(c)(3), 47 U.S.C. § 332(c)(3), state regulation of the entry of or the rates charged by any commercial mobile service or any private mobile service is preempted. The Commission has deregulated all Virginia radio common carriers and cellular mobile radio communications carriers. See Final Order issued October 23, 1995, Case No. PUC950062.

[9] Reply Comments at p. 3.

Applicant should apply to the FCC for ETC designation.[10] The Applicant points out that if Virginia Cellular is designated as an ETC carrier, then the Commission must redefine the service areas of NTELOS and Shenandoah, pursuant to 47 C.F.R. § 54.207(c).[11] The Applicant has indicated a willingness to propose a plan to redefine these companies' service areas and may submit such a plan with its application to the FCC for ETC designation.

If necessary, this Commission will participate with the FCC and Federal-State Joint Board in redefining the service areas of NTELOS and Shenandoah for "the purpose of determining universal service obligations and support mechanisms." (47 C.F.R. § 54.207(a))[12] Although the FCC will make the final determination on Virginia Cellular's requests, we need to leave this docket open in case there is additional action we must take with respect to defining the service areas of NTELOS and Shenandoah.[13]

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[10] The action is similar to that taken by the Commission in Case No. PUC010172 in its August 29, 2001, Order that required cooperatives to certify directly with the FCC.

[11] The Commission believes that the service area of MGW does not necessarily need to be redefined if Virginia Cellular is designated as an ETC in that territory. However, if the FCC determines otherwise, the Commission will consider additional action if necessary.

[12] Pursuant to 47 C.F.R. § 54.207(c), if the Applicant proposes to redefine these two companies' service areas, the FCC's procedures require the Commission's agreement on the definitions.

[13] At this juncture, it is unclear whether the Commission will need to address the redefinitions once disaggregation plans are filed at the FCC pursuant to 47 C.F.R. § 54.315(a).

NOW UPON CONSIDERATION of all the pleadings of record and the applicable law, the Commission is of the opinion that Virginia Cellular should request the FCC to grant the requested ETC designation, pursuant to 47 U.S.C. § 214(e)(6).

Accordingly, IT IS ORDERED THAT Case No. PUC010263 will remain open for further order of the Commission.

AN ATTESTED COPY hereof shall be sent by the Clerk of the Commission to: all LECs certified in the Commonwealth of Virginia, as set out in Appendix A of this Order; David A. LaFuria, Esquire, Lukas Nace Gutierrez & Sachs, 1111 Nineteenth Street, N.W., Suite 1200, Washington, D.C. 20036; C. Meade Browder, Jr., Senior Assistant Attorney General, Division of Consumer Counsel, Office of Attorney General, 900 East Main Street, Second Floor, Richmond, Virginia 23219; William F. Caton, Acting Secretary, Federal Communications Commission, Office of the Secretary, 445 12th Street, S.W., Washington, D.C. 20554; and the Commission's Office of General Counsel and Division of Communications.

EXHIBIT C

State	SAC	Study Area Name	Rural or Non-Rural
AL	255181	SO CENTRAL BELL-AL	Non-rural
AL	259788	CENTURYTEL-AL-SOUTH	Non-rural
AL	259789	CENTURYTEL-AL-NORTH	Non-rural
AL	250282	BLOUNTSVILLE TEL CO	Rural
AL	250283	BRINDLEE MOUNTAIN	Rural
AL	250284	BUTLER TEL CO	Rural
AL	250285	CASTLEBERRY TEL CO	Rural
AL	250286	NATIONAL OF ALABAMA	Rural
AL	250290	FARMERS TELECOM COOP	Rural
AL	250295	GRACEBA TOTAL COMM	Rural
AL	250298	GULF TEL CO - AL	Rural
AL	250299	HAYNEVILLE TEL CO	Rural
AL	250300	HOPPER TELECOM.CO	Rural
AL	250301	FRONTIER-LAMAR CNTY	Rural
AL	250302	WINDSTREAM AL	Rural
AL	250304	MILLRY TEL CO	Rural
AL	250305	MON-CRE TEL COOP	Rural
AL	250306	FRONTIER COMM.-AL	Rural
AL	250307	MOUNDVILLE TEL CO	Rural
AL	250308	NEW HOPE TEL COOP	Rural
AL	250311	OAKMAN TEL CO (TDS)	Rural
AL	250312	OTELCO TELEPHONE LLC	Rural
AL	250314	PEOPLES TEL CO	Rural
AL	250315	PINE BELT TEL CO	Rural
AL	250316	RAGLAND TEL CO	Rural
AL	250317	ROANOKE TEL CO	Rural
AL	250318	FRONTIER COMM-SOUTH	Rural
AL	250322	UNION SPRINGS TEL CO	Rural
CT	132454	THE WOODBURY TEL CO	Rural
CT	135200	SOUTHERN NEW ENGLAND	Non-rural
DC	575020	VERIZON WA, DC INC.	Non-rural
DE	565010	VERIZON DELAWARE INC	Non-rural
FL	210328	VERIZON FLORIDA	Non-rural
FL	210291	GTC, INC.	Rural
FL	210318	FRONTIER COMM-SOUTH	Rural
FL	210329	GTC, INC.	Rural
FL	210330	SMART CITY TEL LLC	Rural
FL	210331	ITS TELECOMM. SYS.	Rural
FL	210335	NORTHEAST FLORIDA	Rural
FL	210336	WINDSTREAM FL	Rural
FL	210338	QUINCY TEL CO-FL DIV	Rural
FL	210339	GTC, INC.	Rural
FL	210341	EMBARQ FLORIDA INC. FKA SPRINT	Rural
NC	230479	FRONTIER COMMUNICATIONS OF THE CAROLINAS, INC.	Non-rural
NC	230509	FRONTIER COMMUNICATIONS OF THE CAROLINAS, INC.	Non-rural

State	SAC	Study Area Name	Rural or Non-Rural
NC	230864	VERIZON SOUTH INC. DBA NORTH CAROLINA	Non-rural
NC	235193	SOUTHERN BELL-NC	Non-rural
NC	230468	ATLANTIC MEMBERSHIP	Rural
NC	230469	BARNARDSVILLE TEL CO	Rural
NC	230470	CAROLINA TEL & TEL	Rural
NC	230471	CENTEL OF NC	Rural
NC	230473	CITIZENS TEL CO	Rural
NC	230474	CONCORD TEL CO	Rural
NC	230476	WINDSTREAM NC	Rural
NC	230478	ELLERBE TEL CO	Rural
NC	230483	LEXCOM TELEPHONE CO.	Rural
NC	230485	MEBTEL, INC.	Rural
NC	230491	N.ST. DBA N. ST.COMM	Rural
NC	230494	PINEVILLE TEL CO	Rural
NC	230495	RANDOLPH TEL CO	Rural
NC	230496	RANDOLPH MEMBERSHIP	Rural
NC	230497	PIEDMONT MEMBERSHIP	Rural
NC	230498	SALUDA MOUNTAIN TEL	Rural
NC	230500	SERVICE TEL CO	Rural
NC	230501	SKYLINE MEMBERSHIP	Rural
NC	230502	STAR MEMBERSHIP CORP	Rural
NC	230503	SURRY MEMBERSHIP	Rural
NC	230505	TRI COUNTY TEL MEMBR	Rural
NC	230510	WILKES MEMBERSHIP	Rural
NC	230511	YADKIN VALLEY TEL	Rural
NH	125113	NORTHERN NEW ENGLAND TELEPHONE OPERATIONS LLC	Non-rural
NH	120038	BRETTON WOODS TEL CO	Rural
NH	120039	GRANITE STATE TEL	Rural
NH	120042	DIXVILLE TEL CO	Rural
NH	120043	DUNBARTON TEL CO	Rural
NH	120045	KEARSARGE TEL CO	Rural
NH	120047	MERRIMACK COUNTY TEL	Rural
NH	120049	UNION TEL CO	Rural
NH	120050	WILTON TEL CO - NH	Rural
NH	123321	MCTA, INC.	Rural
NY	150121	FRONTIER-ROCHESTER	Non-rural
NY	155130	VERIZON NEW YORK	Non-rural
NY	150071	ARMSTRONG TEL CO-NY	Rural
NY	150072	FRONTIER-AUSABLE VAL	Rural
NY	150073	BERKSHIRE TEL CORP	Rural
NY	150076	CASSADAGA TEL CORP	Rural
NY	150077	CHAMPLAIN TEL CO	Rural
NY	150078	CHAUTAUQUA & ERIE	Rural
NY	150079	CHAZY & WESTPORT	Rural
NY	150081	CITIZENS HAMMOND NY	Rural

State	SAC	Study Area Name	Rural or Non-Rural
NY	150084	TACONIC TEL CORP	Rural
NY	150085	CROWN POINT TEL CORP	Rural
NY	150088	DELHI TEL CO	Rural
NY	150089	DEPOSIT TEL CO	Rural
NY	150091	DUNKIRK & FREDONIA	Rural
NY	150092	EDWARDS TEL CO	Rural
NY	150093	EMPIRE TEL CORP	Rural
NY	150095	FISHERS ISLAND TEL	Rural
NY	150097	GERMANTOWN TEL CO	Rural
NY	150099	HANCOCK TEL CO	Rural
NY	150100	FRONTIER COMM OF NY	Rural
NY	150104	MARGARETVILLE TEL CO	Rural
NY	150105	MIDDLEBURGH TEL CO	Rural
NY	150106	WINDSTREAM NY-FULTON	Rural
NY	150107	NEWPORT TEL CO	Rural
NY	150108	NICHOLVILLE TEL CO	Rural
NY	150109	WINDSTREAM-JAMESTOWN	Rural
NY	150110	OGDEN TEL DBA FRNTER	Rural
NY	150111	ONEIDA COUNTY RURAL	Rural
NY	150112	ONTARIO TEL CO, INC.	Rural
NY	150113	WINDSTREAM RED JACKT	Rural
NY	150114	ORISKANY FALLS TEL	Rural
NY	150116	PATTERSONVILLE TEL	Rural
NY	150118	PORT BYRON TEL CO	Rural
NY	150121	FRONTIER-ROCHESTER	Rural
NY	150122	FRONTIER-SENECA GORH	Rural
NY	150125	STATE TEL CO	Rural
NY	150128	FRONTIER-SYLVAN LAKE	Rural
NY	150129	TOWNSHIP TEL CO	Rural
NY	150131	TRUMANSBURG TEL CO.	Rural
NY	150133	VERNON TEL CO	Rural
NY	150135	WARWICK VALLEY-NY	Rural
NY	154532	CITIZENS-FRONTIER-NY	Rural
NY	154533	CITIZENS-FRONTIER-NY	Rural
NY	154534	CITIZENS-FRONTIER-NY	Rural
TN	290280	ARDMORE TEL CO	Rural
TN	290552	CENTURYTEL-ADAMSVILL	Rural
TN	290553	BEN LOMAND RURAL	Rural
TN	290554	BLEDSOE TEL COOP	Rural
TN	290557	CENTURY-CLAIBORNE	Rural
TN	290559	CONCORD TEL EXCHANGE	Rural
TN	290561	CROCKETT TEL CO	Rural
TN	295185	SO. CENTRAL BELL -TN	Non-rural
TN	290562	DEKALB TEL COOP	Rural
TN	290565	HIGHLAND TEL COOP-TN	Rural

State	SAC	Study Area Name	Rural or Non-Rural
TN	290566	HUMPHREY'S COUNTY	Rural
TN	290567	UNITED INTER-MT-TN	Rural
TN	290570	LORETTO TEL CO	Rural
TN	290571	MILLINGTON TEL CO	Rural
TN	290573	NORTH CENTRAL COOP	Rural
TN	290574	CENTURYTEL-OOLTEWAH	Rural
TN	290575	TENNESSEE TEL CO	Rural
TN	290576	PEOPLES TEL CO	Rural
TN	290578	TELLICO TEL CO	Rural
TN	290579	TWIN LAKES TEL COOP	Rural
TN	290580	CTZENS-FRNTR-VOL ST	Rural
TN	290581	UTC OF TN	Rural
TN	290583	WEST TENNESSEE TEL	Rural
TN	290584	YORKVILLE TEL COOP	Rural
TN	290598	WEST KENTUCKY RURAL TELEPHONE	Rural
TN	294336	CITIZENS-FRONTIER-TN	Rural
VA	195040	VERIZON VIRGINIA INC	Non-rural
VA	190233	VERIZON S-VA(CONTEL)	Non-rural
VA	190217	AMELIA TEL CORP	Rural
VA	190219	BUGGS ISLAND COOP	Rural
VA	190220	BURKE'S GARDEN TEL	Rural
VA	190225	CITIZENS TEL COOP	Rural
VA	190226	NTELOS, INC.	Rural
VA	190237	HIGHLAND TEL COOP	Rural
VA	190238	MGW TEL. CO. INC.	Rural
VA	190239	NEW HOPE TEL COOP	Rural
VA	190243	PEMBROKE TEL COOP	Rural
VA	190244	PEOPLES MUTUAL TEL	Rural
VA	190248	SCOTT COUNTY COOP	Rural
VA	190249	ROANOKE & BOTETOURT	Rural
VA	190250	SHENANDOAH TEL CO	Rural
VA	190253	VIRGINIA TEL CO	Rural
VA	190254	CENTEL OF VIRGINIA	Rural
VA	190479	VERIZON SOUTH-VA	Rural
VA	190567	UNITED INTER-MT-VA	Rural
VA	193029	NEW CASTLE TEL. CO.	Rural
VA	197251	SHENANDOAH TELEPHONE COMPANY - NR	Rural