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January 10, 2014

VIA ECFS

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

**Re: Notice of Written *Ex Parte* Presentation Regarding Boomerang
Wireless Request for Review; WC Docket Nos. 11-42, 03-109**

Dear Ms. Dortch:

On January 7, 2014, Boomerang Wireless, LLC (“Boomerang”) filed in the above-referenced dockets a Request for Review of Universal Service Administrative Company (“USAC”) findings regarding intra-company duplicates in connection with two in-depth validations of Boomerang’s Low Income Support Mechanism benefits in the states of Iowa and Oklahoma. A courtesy copy was sent by email to Kim Scardino, Radhika Karmarkar and Jonathan Lechter of the Wireline Competition Bureau and David Capozzi with USAC noting that Boomerang is “not only appealing the findings but also is appealing the disconnect and self-help aspects with respect to duplicate pairs for which it has an [independent economic household (“IEH”)] form and for another group of duplicates which would result in Boomerang having to disconnect members of an ethnic minority with similar names who live close by” and explaining further that, as noted in similar appeals, “USAC’s ‘similar name, similar address’ approach to duplicate detection can result in outcomes that could be or could be perceived to be racial profiling or even discrimination.”

On January 8, 2014, the undersigned responded by email to an inquiry from Ms. Scardino asking whether she was “missing something” and seeking to confirm the completeness of the filing as follows:

I do think you are missing something. The Commission's unpredictable decisions to turn some of the IDVs into massive NALs has changed the manner in which ETCs must respond to them.

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WCB instructed USAC to look for "same name and same address" dupes. With one exception, which is not being appealed, USAC did not identify "same name and same address dupes". On pages 5 and 13-15, we set forth that analysis and we attach USAC's spreadsheet. We don't explain how the name and address differ because it does not matter for purposes of this appeal. But the differences are there for you to see. If either differs in any way, then the accounts are not the same and USAC could not have identified the accounts as duplicates. USAC cannot select a standard different from that which WCB provided to it. Am I missing something?

If WCB wanted USAC to identify accounts with "similar names and similar addresses" or "similar name or similar address" as duplicates, then it had to have said so. If the Commission wants to consider anything other than an exact match across all subscriber data fields as a duplicate, then it needs to adopt a rule, so that the industry and consumers can know what definition of duplicate is being applied.

For example, if secondary addresses will be discarded, there should be a public discussion about having limits such as a one-per apartment building or one-per trailer park added to its eligibility rules. If not all secondary addresses are to be discarded, the Commission needs to let ETCs know how to decide which ones are not reliable. Similarly, if there is going to be a rule that has the result of allowing only one person with a particular surname (e.g., Gonzalez or Meh or Smith...) -- or something that looks or sounds like it -- per street or apartment building, the Commission needs to let industry and consumers know. If the Commission would not adopt these rules (it certainly hasn't so far), it surely cannot allow USAC to use them.

The examples presented in this appeal are alarming. If you want DOB and SSN info for these subscribers, we can provide it (though it is irrelevant for purposes of this particular appeal -- it must be granted for any alleged dupe that does not have the same name and same address). We can also provide the IEH forms.

The approach taken by USAC may be well intentioned -- and some good may come from it, but it is not lawful. With the onset of the NALs, USAC's approach has engendered serious consequences (not all intended; not all lawful; not all deserved) for ETCs, certain consumers and the Commission. With respect to ETCs, you understand that the potential consequence is \$25k+ in fines per duplicate. That is a penalty akin to cutting off a limb for not having guessed correctly in a shell game. Among other things, it's cruel and unusual. The Commission should know that the mine field that has been created with the 11 Lifeline NALs has killed investment and jobs -- and has made the Lifeline market less competitive than it otherwise would be -- which works to the detriment of consumers.

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There are other things the Commission should know (that I don't know). Does the Commission know how many IDVs using the similar name, similar address approach have resulted in outcomes that raise concerns regarding potential discrimination like the examples presented in this case? Does the Commission know how many consumers with IEH forms have been disconnected through this process? None of this is consistent with the mandate set forth for the Commission in the statute.

Please let me know, if you have any other questions. I look forward to meeting with you and your team so that we can discuss this appeal further. It and others like it are of uncommon importance. Hopefully, there is something in them that provides a way forward toward a common goal of preserving and protecting the Lifeline program.

The additional information offered is being filed with a request for confidential treatment today. This letter is being filed electronically for inclusion in the public record of the above-referenced proceeding. Please feel free to contact the undersigned with any questions.

Respectfully submitted,



John J. Heitmann

Counsel to Boomerang Wireless, LLC

cc: Kim Scardino, WCB
Radhika Karmarkar, WCB
Jonathan Lechter, WCB
David Capozzi, USAC