

DECISION MEMORANDUM

TO: COMMISSIONER KJELLANDER
COMMISSIONER RAPER
COMMISSIONER ANDERSON
COMMISSION SECRETARY
COMMISSION STAFF
LEGAL

FROM: SEAN COSTELLO
DEPUTY ATTORNEY GENERAL

DATE: OCTOBER 14, 2016

SUBJECT: BOOMERANG WIRELESS, LLC DBA ENTOUCH WIRELESS' ETC
APPLICATION, CASE NO. BWL-T-16-01

On August 8, 2016, Boomerang Wireless, LLC dba enTouch Wireless (enTouch Wireless or the Company) applied to the Commission for an Order designating it as an eligible telecommunications carrier (ETC), to provide Lifeline and tribal Lifeline services to qualifying Idaho consumers. The Company intends to offer qualifying Lifeline and tribal Lifeline customers a choice of one of three Lifeline Service Plans. *See* Application at 20-23.

The Lifeline program is intended to provide telecommunications service to eligible low-income customers by using Universal Service Fund (USF) revenues to make the services more affordable. Idaho participates in the residential Lifeline program pursuant to *Idaho Code* § 56-901. *See* Order No. 21713.

THE APPLICATION

enTouch Wireless is a wireless carrier and reseller of commercial mobile radio service (CMRS) throughout the country. enTouch is an Iowa limited liability company authorized to do business in Idaho. It sells prepaid wireless telecommunications services through a “diverse network . . . employ[ing] Verizon, Sprint, AT&T as well as other GSM [Global System for Mobile Commissions] carrier networks” Application at 12. The service areas for which the Company requests designation are throughout Idaho, including certain tribal areas, as set forth in Exhibit A to the Company’s Application. *Id.* at Exhibit A at 1-9. enTouch asserts that it meets all of the requirements of Section 214(e)(1) of the Federal Telecommunications Act to be designated as an ETC. 47 U.S.C. § 214(3). The Company notes that it has requested and

been designated as an ETC in 24 states. *Id.* at 2. Additionally, it has pending applications in 17 states. *Id.* at 2-3. The Company states that it has never had a petition for ETC designation denied. *Id.* at 3.

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

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

The Company acknowledges that, under 47 U.S.C. § 214(e)(1)(A) of the federal Telecommunications Act, ETCs must offer services, at least in part, utilizing their own facilities. *Id.* at 15. However, enTouch invokes the FCC’s 2012 Lifeline Reform Order, stating that the

¹ enTouch states that a copy of this Application was sent to affected tribal governments or tribal regulatory authorities as listed in Exhibit G to the Application. *See Id.* at 23.

FCC, on its own motion in that Order, grants “Blanket Forbearance” to “any telecommunications carrier that seeks limited ETC designation to participate in the Lifeline program, conditioned on the ETC’s compliance with certain 911 requirements and the ETC’s filing with and approval by the FCC of a compliance plan describing the ETC’s adherence to certain protections prescribed by the FCC.” *Id.* at 12. The Company has attached its approved Compliance Plan as Exhibit D to the Application and, therefore, seeks to proffer services only through resale of other carrier’s facilities. *Id.* at 2.

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

STAFF RECOMMENDATION

Staff recommends that the Commission process enTouch Wireless’ Application under Modified Procedure with a 21-day comment period.

COMMISSION DECISION

Does the Commission wish to process enTouch Wireless’ Application under Modified Procedure with a 21-day comment period?



Sean Costello
Deputy Attorney General

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