

State of Florida



Public Service Commission

CAPITAL CIRCLE OFFICE CENTER • 2540 SHUMARD OAK BOULEVARD
TALLAHASSEE, FLORIDA 32399-0850

-M-E-M-O-R-A-N-D-U-M-

DATE: June 6, 2024

TO: Office of Commission Clerk (Teitzman)

FROM: Office of Industry Development and Market Analysis (Deas, Day, Fogleman, Mallow)^{CH}
Office of the General Counsel (Imig, Farooqi)^{AEH}

RE: Docket No. 20240066-TP – Petition for designation as eligible telecommunications carrier in the State of Florida, by Boomerang Wireless, LLC d/b/a enTouch Wireless.
Proposed Agency Action 6/6/24

AGENDA: 06/18/24 – Regular Agenda – Interested Persons May Participate

COMMISSIONERS ASSIGNED: All Commissioners

PREHEARING OFFICER: Clark

CRITICAL DATES: None

SPECIAL INSTRUCTIONS: None

Case Background

On April 17, 2024, Boomerang Wireless d/b/a enTouch Wireless's (Boomerang or Company) filed a petition with the Florida Public Service Commission (FPSC or Commission) seeking designation as an eligible telecommunications carrier (ETC) for the sole purpose of providing Lifeline service to qualifying consumers throughout Florida. Boomerang is a provider of commercial mobile radio service (CMRS) and offers prepaid wireless telecommunications services to consumers as a reseller. Specifically, Boomerang uses the network infrastructure and wireless transmission facilities of T-Mobile USA, Inc. (T-Mobile) to operate as a Mobile Virtual Network Operator. Boomerang is currently designated as an ETC providing Lifeline service in 37 other states.

As a CMRS provider, Boomerang is regulated as a common carrier pursuant to 47 U.S.C. § 153(11).¹ Boomerang is an Iowa limited liability company (LLC) authorized to do business as a foreign LLC in the state of Florida. The company asserts in Florida it will be operating under its authorized fictitious name “enTouch”. Boomerang is wholly owned by ViaOne Acquisitions Company, LLC.

Boomerang asserts that it meets all applicable federal requirement for designation as a Lifeline only ETC in Florida pursuant to 47 U.S.C. § 214(e) and 47 C.F.R. § 54.201. Boomerang acknowledges and asserts that, if approved, it will comply with Sections 364.10 and 364.105, Florida Statutes (F.S.), and Rule 25-4.0665, Florida Administrative Code (F.A.C.), which govern Lifeline service and provide for a transitional discount for customers who no longer qualify for Lifeline. In addition to the federal rules and statutes discussed above, the Commission has jurisdiction in this matter pursuant to Section 364.10, F.S.

Section 214(e)(2) of the Telecommunications Act of 1996 (the Act) provides state public utility commissions with “primary responsibility” for the designation of ETCs. The Commission initially exercised this authority to designate both wireline and wireless carriers as ETCs. In 2011, the Florida Legislature removed the FPSC authority to designate wireless ETC providers.² However, the Florida Legislature amended Section 364.10, F.S., in 2024 to specifically grant the Commission jurisdiction to address wireless ETC petitions for Lifeline purposes only.³

¹ 47 U.S.C. § 153(11) (defining 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. §332(c)(1)(A) (treating commercial mobile service providers as common carriers).

² House Bill 1231 (2011), effective July 1, 2011.

³ Senate Bill 478 (2024), effective April 15, 2024.

Discussion of Issues

Issue 1: Should Boomerang be granted an ETC designation to provide Lifeline service throughout the State of Florida?

Recommendation: Yes. Boomerang should be granted an ETC designation to provide Lifeline service throughout the State of Florida. Staff also recommends that if there is a future change of Company ownership, the new owners should be required to file a petition with the Commission and demonstrate that it is in the public interest to maintain the Company's ETC designation. (Deas, Day, Mallow, Fogleman)

Staff Analysis: ETC designation is necessary for telecommunications companies to participate in the federal Lifeline program.⁴ Section 364.10, F.S. allows the Commission to approve wireless Lifeline ETC petitions for requesting carriers. Specifically, paragraphs 364.10(1)(a) and (3)(a) F.S., provide the Commission with the authority to designate a CMRS provider as an ETC for the limited purpose of providing Lifeline service.

Federal rules outline the requirements for ETC designation.⁵ To obtain ETC designation to provide Lifeline services, federal rules require that carriers:

- 1) Be a common carrier;
- 2) Offer the services that are supported by the federal universal support mechanisms either using its own facilities or a combination of its own facilities and resale of another carrier's services;
- 3) Advertise the availability of its Lifeline service through a media of general distribution;
- 4) Provide voice grade access to the public switch network or its functional equivalent;
- 5) Offer minutes of use for local service at no additional charge to end users;
- 6) Provide access to the emergency services available by local government or other public safety organizations;
- 7) Provide Broadband Internet Access Service;⁶

⁴ 47 C.F.R. § 254(e)

⁵ 47 U.S.C. § 214(e)(1), 47 C.F.R. § 54.101, 47 C.F.R. § 54.201, and 47 C.F.R. § 54.401; While Section 47 C.F.R. § 54.101(a) also includes requirements addressing toll limitation services to qualifying low-income consumers, the FCC in its 2012 Lifeline and Link Up Reform Order (FCC 12-11) stated that: "ETCs are not required to offer toll limitation service to low-income consumers if the Lifeline offering provides a set amount of minutes that do not distinguish between toll and non-toll calls."

⁶ Broadband Internet Access Service (BIAS) is defined as a mass-market retail service that provides the capability to transmit and receive data, but excluding dial-up service.

- 8) Demonstrate that it is financially and technically capable of providing the supported Lifeline service. and
- 9) Not charge Lifeline customers a monthly number-portability charge.

In addition, Florida law requires the following for ETC designation:

- 1) Offer a discounted transitional basic telecommunications service.⁷
- 2) Participate in the Lifeline Promotion Process.⁸

Forbearance of Facilities Requirements

Boomerang plans to offer all of the supported services enumerated under Section 254(c) of the Act through its wireless resale agreement with T-Mobile. Therefore, it sought forbearance of the facilities requirement from the FCC. On August 8, 2012, the FCC approved Boomerang's compliance plan as a condition of obtaining forbearance from the facilities requirement for the provision of Lifeline service. As part of its compliance plan Boomerang committed to do the following:

- 1) Provide the supported services throughout the carrier's designated areas;
- 2) Remain functional in emergency situations;
- 3) Comply with the Cellular Telecommunications and Internet Association's Consumer Code for Wireless Service;
- 4) Demonstrate that it is financially and technically capable of providing the Lifeline service in compliance with federal rules; and
- 5) Describe the terms and conditions of the broadband Internet access service plans offered to Lifeline subscribers.

Because Boomerang will offer the supported services and is compliant with the FCC requirements pursuant to 47 U.S.C. 214(e) and 47 C.F.R. 54.201, as well as the Florida specific requirements, Boomerang is eligible for designation as a Lifeline only ETC in Florida.

Financial, Managerial, and Technical Capabilities

As noted in its petition, Boomerang has offered service since 2008 and has not filed for any form of bankruptcy relief. The company has operated as an ETC in 37 states and has not been subject

⁷ Section 364.105, F.S states that each ETC shall offer a residential basic local telecommunications service at 70 percent of the residential local telecommunications service rate for any Lifeline subscriber who no longer qualifies for Lifeline for a period of 1 year after the date the subscriber ceases to qualify for Lifeline .

⁸ Rule 25-4.0665(3), F.A.C. The Lifeline Promotion Process is an electronic system developed in collaboration with the Florida Department of Children and Families, ETCs and the FPSC. This system helps assist ETCs and the FPSC in providing information on how to apply for Lifeline assistance to eligible customers.

to any enforcement actions or ETC revocation proceedings. The Company has over 15 years of technical and managerial experience, and it does not rely exclusively on Lifeline reimbursements for its operating revenues. As Boomerang will be providing resold wireless service, it will also rely upon the managerial and technical expertise of its underlying carrier.

Public Interest

State commissions are required to find that ETC designation is in the public interest.⁹ Boomerang asserts granting its ETC designation will bring Lifeline eligible consumers more choice in providers without creating an additional burden on the federal high-cost programs. In Florida, consumers are currently limited to three wireless Lifeline providers. These three companies represent 98 percent of the Lifeline market in Florida.¹⁰ However, the FPSC's estimated Lifeline participation rate for the last two years has hovered around 18 percent.¹¹ The increase in carriers servicing this market may increase participation through additional marketing and would serve the public interest.

Conclusion

Staff has reviewed Boomerang's petition for ETC designation in Florida. Boomerang meets all the requirements for designation as an ETC. Additionally, the Company has demonstrated sufficient financial, managerial, and technical capabilities. Therefore, staff recommends Boomerang should be granted an ETC designation throughout the State of Florida as identified in Attachment A of this recommendation. Staff further recommends that if there is a future change of Company ownership, the new owners should be required to file a petition with the Commission to demonstrate that it is in the public interest to maintain the Company's ETC designation.

⁹ 47 U.S.C. 214(e)(2)

¹⁰ 2023 Florida Lifeline Assistance Report, December 2023, Appendix C, p 24.

¹¹ Ibid, p 13.

Issue 2: Should this docket be closed?

Recommendation: Yes. If no person whose substantial interests are affected by the proposed agency action files a protest within 21 days of the issuance of the Proposed Agency Action Order, this docket should be closed upon the issuance of a consummating order. (Imig)

Staff Analysis: At the conclusion of the protest period, if no protest is filed, this docket should be closed upon the issuance of a consummating order.

**Boomerang Wireless d/b/a enTouch Wireless
Florida Coverage Area Zip Codes**

32003	32055	32095	32131	32173
32004	32056	32096	32132	32174
32006	32058	32097	32133	32175
32007	32059	32102	32135	32176
32008	32060	32105	32136	32177
32009	32062	32110	32137	32178
32011	32063	32111	32138	32179
32013	32064	32112	32139	32180
32024	32065	32113	32140	32181
32025	32066	32114	32141	32183
32026	32068	32115	32142	32185
32030	32071	32116	32143	32187
32033	32072	32117	32145	32189
32034	32073	32118	32147	32190
32035	32079	32119	32148	32192
32038	32080	32120	32149	32193
32040	32081	32121	32157	32195
32041	32082	32122	32158	32198
32042	32083	32123	32159	32201
32043	32084	32124	32160	32202
32044	32085	32125	32162	32203
32046	32086	32126	32163	32204
32050	32087	32127	32164	32205
32052	32091	32128	32168	32206
32053	32092	32129	32169	32207
32054	32094	32130	32170	32208

32209	32239	32311	32350	32424
32210	32240	32312	32351	32425
32211	32241	32313	32353	32426
32212	32244	32314	32355	32427
32215	32245	32315	32356	32428
32216	32246	32316	32357	32430
32217	32247	32317	32358	32431
32218	32250	32318	32359	32432
32219	32254	32321	32361	32433
32220	32255	32322	32362	32434
32221	32256	32323	32395	32435
32222	32257	32326	32401	32437
32223	32258	32327	32402	32438
32224	32259	32328	32403	32439
32225	32260	32329	32404	32440
32226	32266	32331	32405	32444
32227	32267	32332	32406	32445
32228	32277	32333	32407	32446
32229	32290	32334	32408	32447
32230	32301	32336	32409	32448
32231	32302	32337	32410	32449
32232	32303	32340	32411	32452
32233	32304	32341	32412	32454
32234	32305	32343	32413	32455
32235	32307	32345	32417	32456
32236	32308	32346	32420	32457
32237	32309	32347	32421	32459
32238	32310	32348	32422	32460

32461	32535	32578	32625	32692
32462	32536	32579	32626	32693
32463	32537	32580	32627	32694
32465	32538	32583	32628	32696
32466	32539	32588	32631	32697
32501	32540	32590	32633	32701
32502	32541	32591	32634	32702
32503	32542	32592	32635	32703
32504	32544	32601	32640	32704
32505	32547	32602	32641	32706
32506	32548	32603	32643	32707
32507	32549	32604	32644	32708
32508	32550	32605	32653	32709
32509	32559	32606	32654	32710
32511	32560	32607	32655	32712
32512	32561	32608	32656	32713
32513	32562	32609	32658	32714
32514	32563	32610	32662	32715
32516	32564	32611	32663	32716
32521	32565	32613	32664	32718
32522	32566	32614	32666	32719
32523	32567	32615	32667	32720
32524	32568	32616	32668	32721
32526	32569	32617	32669	32722
32530	32570	32618	32680	32723
32531	32571	32619	32681	32724
32533	32572	32621	32683	32725
32534	32577	32622	32686	32726

32727	32771	32805	32835	32898
32728	32772	32806	32836	32899
32730	32773	32807	32837	32901
32732	32774	32808	32839	32902
32733	32775	32809	32853	32903
32735	32776	32810	32854	32904
32736	32777	32811	32855	32905
32738	32778	32812	32856	32906
32739	32779	32814	32857	32907
32744	32780	32815	32858	32908
32745	32781	32816	32859	32909
32746	32782	32817	32860	32910
32747	32783	32818	32861	32911
32750	32784	32819	32862	32912
32751	32789	32820	32867	32920
32752	32790	32821	32868	32922
32753	32791	32822	32869	32923
32754	32792	32824	32872	32924
32756	32793	32825	32877	32925
32757	32794	32826	32878	32926
32759	32795	32827	32885	32927
32762	32796	32828	32886	32931
32763	32798	32829	32887	32932
32764	32799	32830	32890	32934
32765	32801	32831	32891	32935
32766	32802	32832	32893	32936
32767	32803	32833	32896	32937
32768	32804	32834	32897	32940

32941	33008	33036	33074	33128
32948	33009	33037	33075	33129
32949	33010	33039	33076	33130
32950	33011	33040	33077	33131
32951	33012	33041	33081	33132
32952	33013	33042	33082	33133
32953	33014	33043	33083	33134
32954	33015	33045	33084	33135
32955	33016	33050	33090	33136
32956	33017	33051	33092	33137
32957	33018	33052	33093	33138
32958	33019	33054	33097	33139
32959	33020	33055	33102	33140
32960	33021	33056	33106	33141
32962	33022	33060	33107	33142
32963	33023	33061	33109	33143
32964	33024	33062	33110	33144
32965	33025	33063	33111	33145
32966	33026	33064	33112	33146
32967	33027	33065	33114	33147
32968	33028	33066	33116	33148
32970	33029	33067	33119	33149
32971	33030	33068	33121	33150
32976	33031	33069	33122	33151
32978	33032	33070	33124	33152
33001	33033	33071	33125	33153
33002	33034	33072	33126	33154
33004	33035	33073	33127	33155

33156	33185	33265	33322	33403
33157	33186	33266	33323	33404
33158	33187	33269	33324	33405
33159	33188	33280	33325	33406
33160	33189	33283	33326	33407
33161	33190	33296	33327	33408
33162	33191	33299	33328	33409
33163	33192	33301	33329	33410
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33436	33471	33523	33569	33608
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33438	33473	33525	33571	33610
33439	33474	33526	33572	33611
33440	33475	33527	33573	33612
33441	33476	33530	33574	33613
33442	33477	33534	33575	33614
33443	33478	33537	33576	33615
33444	33480	33539	33578	33616
33445	33481	33540	33579	33617
33446	33482	33541	33583	33618
33447	33483	33542	33584	33619
33449	33484	33543	33585	33620
33454	33486	33544	33587	33621
33455	33487	33545	33592	33622
33458	33488	33547	33593	33623
33459	33493	33548	33594	33624
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33462	33498	33556	33597	33629
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33464	33503	33559	33601	33631
33465	33508	33563	33602	33633
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33467	33510	33565	33604	33635
33468	33511	33566	33605	33637

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33674	33714	33766	33812	33853
33675	33715	33767	33813	33854
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33679	33729	33770	33820	33856
33680	33731	33771	33823	33857
33681	33732	33772	33825	33858
33682	33733	33773	33826	33859
33684	33734	33774	33827	33860
33685	33736	33775	33830	33862
33686	33737	33776	33831	33863
33687	33738	33777	33834	33865
33688	33740	33778	33835	33868
33689	33741	33779	33836	33870
33690	33742	33780	33837	33871
33694	33743	33781	33838	33872
33701	33744	33782	33839	33873

33875	33918	33957	34110	34215
33876	33919	33960	34112	34216
33880	33920	33965	34113	34217
33881	33921	33966	34114	34218
33882	33922	33967	34116	34219
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33885	33928	33972	34120	34222
33890	33929	33973	34133	34223
33896	33930	33974	34134	34224
33897	33931	33975	34135	34228
33898	33932	33976	34136	34229
33900	33935	33980	34142	34230
33901	33936	33981	34143	34231
33903	33938	33982	34145	34232
33904	33944	33983	34146	34233
33905	33945	33990	34201	34234
33907	33946	33991	34202	34235
33908	33947	33993	34203	34236
33909	33948	33994	34204	34237
33910	33949	34102	34205	34238
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33912	33951	34104	34207	34240
33913	33952	34105	34208	34241
33914	33953	34106	34209	34242
33915	33954	34107	34210	34243
33916	33955	34108	34211	34249
33917	33956	34109	34212	34250

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34265	34429	34476	34637	34698
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34269	34432	34480	34652	34712
34270	34433	34481	34653	34713
34272	34434	34482	34654	34714
34274	34436	34483	34655	34715
34275	34441	34484	34656	34731
34276	34442	34487	34660	34734
34277	34445	34488	34661	34736
34278	34446	34489	34667	34737
34280	34447	34491	34668	34739
34281	34448	34492	34669	34740
34282	34449	34498	34673	34741
34284	34450	34601	34674	34742
34285	34451	34602	34677	34743
34286	34452	34603	34680	34744
34287	34453	34604	34682	34745
34288	34460	34605	34683	34746
34289	34461	34606	34684	34747
34290	34464	34607	34685	34748
34291	34465	34608	34688	34749
34292	34470	34609	34689	34753
34293	34471	34610	34690	34755
34295	34472	34611	34691	34756
34420	34473	34613	34692	34758

34759	34778	34948	34972	34991
34760	34785	34949	34973	34992
34761	34786	34950	34974	34994
34762	34787	34951	34981	34995
34769	34788	34952	34982	34996
34770	34789	34953	34983	34997
34771	34797	34954	34984	
34772	34945	34956	34986	
34773	34946	34957	34987	
34777	34947	34958	34990	