

Rober J. Munnely, Jr.

March 31, 2017

VIA HAND DELIVERY AND E-FILING (*dtc.efiling@massmail.state.ma.us*)

Sara J. Clark, Secretary
Department of Telecommunications & Cable
1000 Washington Street, Suite 820
Boston, MA 02118-6500

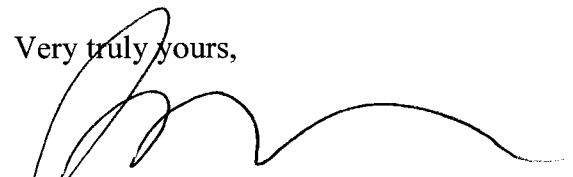
Re: Application Of Boomerang Wireless, LLC For Designation As An ETC On A Wireless Basis (Low-Income Only), Docket No. 12-6 - Motion For Expedited Grant Of Its Request For Designation As An ETC Or Grant Of Designation As An ETC On An Interim Basis

Dear Ms. Clark:

On behalf of Boomerang Wireless, LLC ("Boomerang"), enclosed for filing please find additional materials relevant to the above pending motion, specifically, (1) a Federal Communications Commission ("FCC") Order dated March 29, 2017 granting an extension until June 5, 2017 for Boomerang to notify, de-enroll, and transition subscribers currently receiving a Lifeline-supported broadband Internet access service ("BIAS") in service areas where Boomerang's only eligible telecommunications carrier ("ETC") designation is a Lifeline Broadband Provider (LBP) designation, including the Commonwealth of Massachusetts; and (2) a Statement of FCC Chairman Pai concerning his intention to return control over BIAS providers from the FCC to the states in the near future.

Please contact the undersigned if you have any questions.

Very truly yours,



Robert J. Munnely, Jr.

RJM/jmc
Enclosures

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

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

ORDER

Adopted: March 29, 2017

Released: March 29, 2017

By the Acting Chief, Wireline Competition Bureau:

I. INTRODUCTION

1. In this Order, we extend the deadline for Boomerang Wireless LLC (Boomerang) to notify, de-enroll, and transition subscribers currently receiving a Lifeline-supported broadband Internet access service (BIAS) in service areas where Boomerang's only eligible telecommunications carrier (ETC) designation is a Lifeline Broadband Provider (LBP) designation.¹ We find that granting this extension is in the public interest and necessary to prevent service disruption and hardship for the current Boomerang subscribers.

II. BACKGROUND

2. On February 3, 2017, the Wireline Competition Bureau (Bureau) reconsidered the grant of LBP designation to nine carriers, including Boomerang.² The Bureau revoked the providers' LBP designations, returned the petitions for LBP designation to their status as petitions pending before the Bureau, and removed them from streamlined treatment in light of waste, fraud, and abuse concerns, violations of section 54.202(c) of the Commission's rules, and the fact that the Bureau had improperly granted two of the designations prior to the comment period deadline.³

3. In the *LBP Reconsideration Order*, the Bureau set out a transition period for impacted Boomerang subscribers.⁴ We delayed the revocation of Boomerang's LBP designation until April 4, 2017 (60 days after the effective date of the *LBP Reconsideration Order*).⁵ We directed Boomerang to notify, in writing, any of its customers who will be unable to receive a Lifeline discount on their broadband Internet access service as a result of that order by March 5, 2017 (30 days from the order's effective date).⁶ Finally, we granted a waiver of section 54.411⁷ for the impacted subscribers for 12 months

¹ See *Telecommunications Carriers Eligible for Universal Service Support et al.*, Order on Reconsideration, WC Docket No. 09-197, *et al.*, DA 17-128 (WCB 2016) (*LBP Reconsideration Order*).

² *Id.*

³ *Id.* at 3-5, paras. 6-13.

⁴ *Id.* at 6-7, paras. 15-16.

⁵ *Id.* at 6, para. 15.

⁶ *Id.*

following the effective date of the order.⁸

4. After the *LBP Reconsideration Order* was adopted, Boomerang requested a longer transition period for impacted subscribers.⁹ Boomerang currently serves a non-trivial number of subscribers in service areas where Boomerang was only authorized to provide Lifeline-supported service pursuant to its LBP designation.¹⁰ Boomerang argues the current transition period imposes a significant burden on the company and its subscribers.¹¹ Further, marketplace conditions and everyday realities (for example, winter conditions in South Dakota and Massachusetts) likely prevent the in-person enrollment efforts required to effectively notify and transition these subscribers.¹²

III. DISCUSSION

5. We find good cause to extend the transition period outlined in the *LBP Reconsideration Order* for an additional 60 days following the original transition period.¹³ We find that Boomerang has demonstrated good cause that justifies granting the requested extension, and that doing so is consistent with the public interest. We continue to direct Boomerang to act expeditiously in notifying its affected subscribers to allow ample time for the subscribers to obtain a new Lifeline service provider prior to losing the benefit with Boomerang.

6. *Waiver Standard.* Generally, the Commission's rules may be waived under section 1.3 of our rules for "good cause shown."¹⁴ The Commission may exercise its discretion to waive a rule where the particular facts make strict compliance inconsistent with the public interest, which may be demonstrated by showing that (a) special circumstances warrant a deviation from the general rule; and (b) such deviation will serve the public interest.¹⁵ In making these determinations, the Commission may consider evidence of hardship, equity, and more effective implementation of overall policy on an individual basis.¹⁶

7. *Transition of Subscribers Currently Being Served by Boomerang Wireless.* We find good cause to further extend, until June 5, 2017, Boomerang's LBP designation and return of its petition

(Continued from previous page)

⁷ Section 54.411 of the rules, otherwise known as the port freeze rule, prevents a Lifeline provider from seeking or receiving support for a subscriber who has enrolled with another Lifeline provider within the previous 12 months for BIAS and the previous 60 days for voice service.

⁸ *LBP Reconsideration Order*, at 7, para. 16.

⁹ See Letter from John J. Heitmann, Counsel, Boomerang Wireless, to Marlene Dortch, Secretary, FCC, WC Docket No. 09-197 *et al.*, at 2 (filed Feb. 7, 2017); Letter from John J. Heitmann, Counsel, Boomerang Wireless, to Marlene Dortch, Secretary, FCC, WC Docket No. 09-197 *et al.*, at 2-3 (filed Feb. 15, 2017) (*Boomerang Petition for Extension of Transition Deadlines*).

¹⁰ *Boomerang Petition for Extension of Transition Deadlines*, at 2. Boomerang claims that 17,538 customers are impacted. *Id.*

¹¹ *Id.* at 2-3.

¹² *Id.*

¹³ For the reasons discussed herein and as requested by Boomerang in its *Petition for Extension of Transition Deadlines*, we also find that modifying the *LBP Reconsideration Order* as it applies to Boomerang by extending the transition period is a proper exercise of our authority under Section 1.113(c) of our rules. We further note that the extension of the transition deadlines and rule waiver granted herein applies solely to Boomerang, and is based on the need to prevent service disruptions to Boomerang's customers. This order does not apply to any other carrier whose LBP designation was impacted by the *LBP Reconsideration Order*.

¹⁴ 47 CFR § 1.3; *Ne. Cellular Tel. Co. v. FCC*, 897 F.2d 1164, 1166 (D.C. Cir. 1990) (*Ne. Cellular*).

¹⁵ *Ne. Cellular*, 897 F.2d at 1166.

¹⁶ *WAIT Radio v. FCC*, 418 F.2d 1153, 1159 (D.C. Cir. 1969); *Ne. Cellular*, 897 F.2d at 1166.

to pending status before the Bureau.¹⁷ We believe the extension is necessary to prevent service disruption and hardship for subscribers. This brief extension serves the public interest by ensuring subscribers receive notice of the impending change in service and allows sufficient time for subscribers to locate a replacement Lifeline service offering from another Lifeline provider. In the Appendix to this Order, we have provided a list of providers that are eligible to participate in the Lifeline program in those states encompassing the areas where Boomerang serves Lifeline customers solely pursuant to its LBP designation.

8. We also extend the subscriber notification period until April 19, 2017. During this extended transition period, Boomerang must provide written notice to all impacted subscribers no later than April 19, 2017. This notice must inform customers that they will no longer receive the Lifeline discount on their current Lifeline-supported BIAS beginning June 5, 2017, but that they have the option of transferring their Lifeline benefits to another Lifeline provider.

9. For those subscribers who do not seek to transfer their Lifeline benefit to another service provider, Boomerang must de-enroll these subscribers from the Lifeline program by June 5, 2017. We expect that any impacted customers who continue to receive the same BIAS offering from Boomerang after Boomerang can no longer seek Lifeline reimbursement as an LBP will see their monthly bills increase by no more than \$9.25.¹⁸ We decline to grant Boomerang's requested extension "until either Boomerang's ETC designation is granted by the state (or the Commission) or 60 days after Boomerang's ETC designation is denied by the state (or the Commission)," because doing so is not necessary to promote the special circumstances that justify this waiver—namely, the near-term need to prevent service disruption and hardship for consumers.¹⁹ Moreover, an extension of that additional length would not serve the Bureau's stated purpose of reconsidering and revoking LBP designations based, in part, on our ongoing concerns of waste, fraud, and abuse in the Lifeline program.²⁰

10. We also extend the *LBP Reconsideration Order's* waiver of section 54.411 of the Commission's rules for Boomerang's impacted subscribers for good cause.²¹ While section 54.411(c)(2) would apply to subscribers served by LBPs,²² good cause exists to extend the waiver of the port freeze rule to facilitate the extended transition period granted in this Order. This waiver shall be effective for 12 months after the effective date of this Order.

IV. ORDERING CLAUSES

11. Accordingly, IT IS ORDERED that, pursuant to sections 1 through 4, 214(e)(6), 254, and 403 of the Communications Act of 1934, 47 U.S.C. §§ 151-154, 214(e)(6), 254, and 403, and sections 0.91, 0.201(d), 0.291, 1.3 and 1.113 of the Commission's rules, 47 CFR §§ 0.91, 0.201(d), 0.291 1.3 and 1.113, and *Procedures for FCC Designation of Eligible Telecommunications Carriers Pursuant to Section 214(e)(6) of the Communications Act*, Public Notice, 12 FCC Rcd 22947, 22947-48 (1997) the *Petition for Extension of Transition Deadlines* of the February 3, 2017 Lifeline Broadband Provider Reconsideration Order filed by Boomerang Wireless, LLC IS GRANTED IN PART AND DENIED IN PART.

12. IT IS FURTHER ORDERED that pursuant to section 1.102(b)(1) of the Commission's

¹⁷ *LBP Reconsideration Order*, at 6-7, paras. 15-16.

¹⁸ See 47 CFR § 54.403(a)(1) (requiring ETCs to pass through the full amount of the \$9.25 discount to qualifying low-income consumers).

¹⁹ See *Boomerang Petition for Extension of Transition Deadlines* at 3.

²⁰ See *LBP Reconsideration Order*, at 3-4, paras. 7-8.

²¹ *LBP Reconsideration Order*, at 7, paras. 16, 18.

²² 47 CFR § 54.411(c)(2). This exception to the rules described in sections 54.411(a) and (b) provides for reimbursement when "the subscriber's current provider ceases operations or otherwise fails to provide service."

rules, 47 CFR § 1.102(b)(1), this Order SHALL BE EFFECTIVE upon release.

FEDERAL COMMUNICATIONS COMMISSION

Kris Anne Monteith
Acting Chief
Wireline Competition Bureau

APPENDIX

Florida Lifeline Providers	Contact Number	Broadband Available
Access Wireless	888-900-5899	Yes
Assurance Wireless	888-898-4888	Yes
AT&T (voice)	855-301-0355	No
AT&T (broadband)	855-220-5211	Yes
CenturyLink	800-407-5411	Yes
Cox Communications	800-305-7763	No
FairPoint Communications	800-400-5568	Yes
Frontier Communications	800-921-8101	No
Global Connection of America	877-511-3009	No
ITS Telecom	888-888-6242	Yes
Knology	855-496-9929	No
NEFCOM	904-259-2261	No
Phone Club Corporation	800-505-1545	No
Safelink Wireless	800-723-3546	Yes
Smart City Telecommunications	407-828-6700	No
TDS Telecom/Quincy Telephone Company	888-225-5837	Yes
T-Mobile	800-937-8997	Yes
Verizon	800-837-4966	Yes
Windstream Communications	800-347-1991	Yes

Georgia Lifeline Providers	Contact Number	Broadband Available
Access Wireless	888-900-5899	Yes
Alma Telephone Company	877-217-2842	No
Amerimex Communications Corporation	800-704-6169	No
Assurance Wireless	888-898-4888	Yes
AT&T (voice)	800-377-9450	No
AT&T (broadband)	855-220-5211	Yes
Brantley Telephone Company	912-462-5111	No
Budget Mobile	888-777-4007	No
Bulloch Telephone Cooperative	912-865-1100	No
CenturyLink	800-201-4137	Yes
Chickamauga Telephone Corporation	706-375-3195	No
Citizens Telephone Company	866-341-3050	No
Cox Communications	478-784-8000	No
Darien Telephone Company, Inc.	912-437-4111	No
Ellijay Telephone	800-660-6826	No
FairPoint Communications	877-524-8293	Yes
Frontier Communications	800-921-8101	No
Glenwood Telephone Company	912-523-5111	No

Georgia Lifeline Providers	Contact Number	Broadband Available
Global Connection of America	877-511-3009	No
Hart Telephone Company	800-276-3925	No
Interstate Telephone Company	706-645-8630	No
Life Wireless	888-543-3620	Yes
Pembroke Telephone Co	912-653-4389	Yes
Pineland Telephone Cooperative	800-247-1266	No
Plant Telephone Company	229-528-4777	No
Planters Rural Telephone Cooperative	912-857-4415	No
Progressive Rural Telephone Cooperative	478-984-4201	No
Public Service Telephone Company	478-847-4111	No
Q LINK WIRELESS LLC	855-754-6543	Yes
Ringgold Telephone Company	706-965-1234	No
Safelink Wireless	800-723-3546	Yes
SouthernLINC Wireless	800-818-5462	No
Stand Up Wireless	800-544-4441	No
Valley Telephone Company	706-645-8630	No
Waverly Hall Telephone LLC	706-582-3333	No
Wilkes Telephone and Electric Company	706-678-2121	No
Windstream Communications	800-347-1991	Yes

Hawaii Lifeline Providers	Contact Number	Broadband Available
Blue Jay Wireless	855-425-8529	Yes
Budget Mobile	888-777-4007	No
Hawaiian Telcom, Inc.	808-643-3456	No
Mobi PCS	808-723-1111	Yes
Safelink Wireless	800-723-3546	Yes
Tempo Telecom, LLC	877-822-8501	Yes

Massachusetts Lifeline Providers	Contact Number	Broadband Available
Assurance Wireless	888-898-4888	Yes
Budget Mobile	888-777-4007	No
FairPoint Communications	877-524-8293	Yes
Global Connection of America	877-511-3009	No
Richmond Telephone	413-698-2255	No
Safelink Wireless	800-723-3546	Yes
The Granby Telephone	413-467-9911	Yes
Verizon	800-837-4966	No

Maine Lifeline Providers	Contact Number	Broadband Available
Assurance Wireless	888-898-4888	Yes
Budget Mobile	888-777-4007	No

Maine Lifeline Providers	Contact Number	Broadband Available
Cintex	877-304-9183	No
FairPoint Communications-China Telephone Company	877-524-8293	No
FairPoint Communications-Community Service Telephone Company	877-524-8294	No
FairPoint Communications-Maine Telephone Company	877-524-8293	No
FairPoint Communications-NNE (Northern New England Telephone Operations LLC)	866-984-2001	No
FairPoint Communications-Sidney Telephone Company	877-524-8296	No
FairPoint Communications-Standish Telephone Company	877-524-8293	No
Life Wireless	888-543-3620	Yes
Lincolntonville Telephone Company	207-563-9911	Yes
Mid-Maine Communications	800-835-5453	Yes
Oxford Telephone Company	207-333-6900	No
Pine Tree Networks	866-746-3873	Yes
Q Link Wireless	855-754-6543	Yes
Saco River Telegraph and Telephone Company (OTT)	207-688-8811	Yes
Safelink Wireless	800-723-3546	Yes
Tag Mobile	866-959-4918	Yes
TDS Telecom/Cobboseecontee Telephone Company	888-225-5837	Yes
TDS Telecom/Hampden Telephone Company	888-225-5837	Yes
TDS Telecom/Hartland & St. Albans Telephone Company	888-225-5837	Yes
TDS Telecom/Somerset Telephone Company	888-225-5837	Yes
TDS Telecom/The Island Telephone Company	888-225-5837	Yes
TDS Telecom/The West Penobscot Telephone and Telegraph Company	888-225-5837	Yes
TDS Telecom/Warren Telephone Company	888-225-5837	Yes
U.S. Cellular	800-447-1339	No
Union River Telephone Company	207-584-9911	No
UniTel	207-948-3900	No
YourTel America	855-299-9990	No

South Dakota Lifeline Providers	Contact Number	Broadband Available
Alliance Communications	800-701-4978	Yes
AT&T Mobility	800-377-9450	No

South Dakota Lifeline Providers	Contact Number	Broadband Available
Beresford Municipal Telephone	605-763-2500	Yes
Budget Mobile	888-777-4007	No
C.R.S.T. Telephone Authority	605-964-2600	Yes
CenturyLink	800-244-1111	Yes
City of Faith Municipal Telephone Company	605-967-2261	No
Golden West Telecommunications	855-888-7777	Yes
ITC Telecom	800-417-8667	Yes
James Valley Telecommunications	800-556-6525	No
James Valley Wireless	800-556-6525	No
Jefferson Telephone Company	712-271-4000	No
Kennebec Telephone Company	605-869-2220	Yes
Midcontinent Communications	800-888-1300	Yes
Midstate Communications	605-778-6221	Yes
Midstate Telecom, Inc	888-214-1431	Yes
Mt. Rushmore Telephone Company	605-666-4411	No
Northern Valley Communications	888-919-8945	No
RC Communications, Inc.	800-256-6854	No
Santel Communications	888-978-7777	No
SS Telecom	605-676-6000	No
Standing Rock Telecom	701-854-7098	No
Swiftel Communications	605-692-6211	No
TrioTel Communications, Inc.	800-242-1925	No
Valley Telecommunications Cooperative Association	605-437-2615	Yes
Vast Broadband	888-745-2888	No
Venture Communications	800-824-7282	No
West River Telecom	800-748-7220	Yes
Western Telephone Company	800-824-7282	No

Utah Lifeline Providers	Contact Number	Broadband Available
Access Wireless	888-900-5899	Yes
All West Communications	435-783-4361	No
Assurance Wireless	888-898-4888	Yes
Bear Lake Communications	435-946-3663	No
Beehive Telephone Company	435-837-6000	Yes
Blue Jay Wireless	855-425-8529	Yes
Budget Mobile	888-777-4007	No
CellularOne	800-730-2351	Yes
Central Utah Telephone	800-427-8449	No
CenturyLink	800-244-1111	Yes
CHOICE WIRELESS	800-246-4239	Yes

Utah Lifeline Providers	Contact Number	Broadband Available
Citizens Telecommunications Company / Frontier	800-921-8097	No
Direct Communications Cedar Valley	801-789-2800	No
Emery, Carbon, & Hanksville Telcom Companies	435-748-2223	No
Gunnison Telephone Co.	435-528-7236	No
Life Wireless	888-543-3620	Yes
Manti Telephone Company	435-835-3391	No
Ntua Wireless, Inc	800-246-4234	Yes
Q Link Wireless	855-754-6543	Yes
Safelink Wireless	800-723-3546	Yes
Skyline Telecom	888-383-4132	No
South Central Utah Telephone Association	435-826-4211	No
StandUp Wireless	800-544-4441	No
Tempo Telecom, LLC	877-822-8501	Yes
UBTA-UBET Communications	435-622-5007	Yes

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For Immediate Release

STATEMENT OF FCC CHAIRMAN AJIT PAI
On the Future of Broadband in the Lifeline Program

WASHINGTON, March 29, 2017 - Federal Communications Commission Chairman Ajit Pai issued the following statement today:

“I support including broadband in the Lifeline program to help provide affordable, high-speed Internet access for our nation’s poorest families. Indeed, I worked hard to get a bipartisan agreement in place last year that would have expanded Lifeline to include broadband, but the agreement was undone by those who preferred a party-line vote.

“Going forward, I want to make it clear that broadband will remain in the Lifeline program so long as I have the privilege of serving as Chairman. And we will continue to look for ways to make the program work even better.

“Right now, over 3.5 million Americans are receiving subsidized broadband service through the Lifeline program from one of 259 different Eligible Telecommunications Carriers (ETCs). And according to the latest available figures, the number of customers receiving subsidized broadband service has increased by over 16 percent during my Chairmanship.

“But as we implement the Lifeline program—as with any program we administer—we must follow the law. And the law here is clear: Congress gave state governments, not the FCC, the primary responsibility for approving which companies can participate in the Lifeline program under Section 214 of the Communications Act. This is how the program worked over two decades, over three Administrations, and over eight Chairmanships.

“However, the FCC last year rejected this bipartisan consensus, snatching this legal responsibility away from states and deciding to create its own federal ‘Lifeline Broadband Provider’ designation process. At the time, I explained why the Commission lacked the authority to do this.

“Twelve states, from Vermont to Wisconsin, are currently challenging the legality of the FCC’s order in the U.S. Court of Appeals for the District of Columbia Circuit. In my view, it would be a waste of judicial and administrative resources to defend the FCC’s unlawful action in court. I am therefore instructing the Office of General Counsel to ask the D.C. Circuit to send this case back to the Commission for further consideration. And the FCC will soon begin a proceeding to eliminate the new federal designation process.

“In the meantime, we must consider the Lifeline Broadband Provider applications that are pending at the FCC. In last year’s order, the Commission delegated to the Wireline Competition Bureau the authority to address such applications.

“I do not believe that the Bureau should approve these applications. Here’s why.

“Hundreds of companies have been approved to participate in the Lifeline program through a lawful process. Indeed, over 99.6 percent of Americans currently participating in the broadband portion of the program receive service from one of those companies. New companies can enter the program using this process, and I encourage them to continue to do so. Given this context, it would be irresponsible for the Bureau to allow companies to sign up customers for subsidized broadband service through an unlawful federal authorization process that will soon be withdrawn. This would force many consumers to switch broadband providers in a relatively short period of time, which wouldn’t be fair to them.

“Congress established our universal service programs as a joint federal-state partnership. And through the years, many states have helped consumers and protected taxpayers by enforcing the rules of the road. As Senator Tom Udall (D-N.M.) recently observed in introducing bipartisan Lifeline legislation with Senator Deb Fischer (R-Neb.), we need to ‘return the role of state utility commissions in determining Lifeline eligibility. State utility commissions are key to policing against fraud and harmonizing federal and state initiatives that will help us close the digital divide.’ By letting states take the lead on certification as envisioned by Congress, we will strengthen the Lifeline program and put the implementation of last year’s order on a solid legal footing. This will benefit all Americans, including those participating in the program.”

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This is an unofficial announcement of Commission action. Release of the full text of a Commission order constitutes official action. See MCI v. FCC, 515 F.2d 385 (D.C. Cir. 1974).