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**BEFORE THE PUBLIC SERVICE COMMISSION OF UTAH**

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In the Matter of the Application of  
Boomerang Wireless, LLC d/b/a enTouch  
Wireless for Designation as an Eligible  
Telecommunications Carrier in the State of  
Utah for the Limited Purpose of Offering  
Lifeline Service to Qualified Low-income  
Households

**DOCKET NO. 16-2590-01**

**BOOMERANG WIRELESS, LLC D/B/A  
ENTOUCH WIRELESS' RESPONSE TO  
REQUEST FOR AN ORDER OF  
DEFAULT AND DISMISSAL**

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**RESPONSE OF BOOMERANG WIRELESS, LLC  
TO OCS REQUEST FOR DISMISSAL**

Boomerang Wireless, LLC d/b/a enTouch Wireless (“Boomerang” or the “Company”), by and through the undersigned counsel, hereby submits to the Utah Public Service Commission (“Commission”) this Response to the Request for an Order of Default and Dismissal (“Request for Dismissal”) filed by the Office of Consumer Services (“OCS”) in this Docket on July 20, 2017. Boomerang respectfully submits that due to extenuating circumstances beyond the control of Boomerang, dismissal is not warranted in this Docket, and as such Boomerang respectfully requests that the Commission deny the Request for Dismissal. Boomerang submits that the Commission should, instead, continue with the procedural path set forth in the Commission’s June 9, 2017 Order in this Docket with a hearing set for September 11, 2017. In support hereof, Boomerang respectfully submits the following information.

Boomerang filed its petition in this Docket on September 29, 2016 for designation by the Commission as an Eligible Telecommunications Carrier (“ETC”). Boomerang filed its

petition through local counsel with the firm of Kirton McConkie, and until recently has interfaced with the OCS and Commission via local counsel. Unfortunately, Boomerang's local counsel has been seriously ill since the filing of the petition in late 2016, including most recently in June, 2017. Due to the serious illness, hospitalization, and unexpected health complications of local counsel certain deadlines were not formally met, unbeknownst to Boomerang until after the fact.

Boomerang has responded timely to all requests, including the submission of Prefiled Testimony in December, 2016 and most recently approval of a proposed Stipulation on June 6, 2017. Unfortunately, due to local counsel's ongoing illness, although Boomerang provided the requested information in a timely manner, the Prefiled Testimony was filed late and the Stipulation was not finalized and filed with the Commission via local counsel. Following the filing by OCS of its Request for Dismissal, Boomerang's outside counsel was informed of the issue and Boomerang has since associated the undersigned Brian W. Burnett, Esq. with the firm of Kirton McConkie as local counsel to assist in the future regarding Boomerang's petition.

Contrary to the OCS' perception outlined in its Request for Dismissal, Boomerang has a robust and documented history of compliance in the 32 States and one U.S. territory where Boomerang has already been designated and serves as an ETC. In addition, Boomerang is particularly concerned with maintaining its reputation of compliance in each of these States and U.S. territory, as well as in Utah where Boomerang is requesting ETC designation. Boomerang has never been denied ETC status in any State where it has sought designation, and Boomerang remains keenly interested in obtaining ETC designation in the State of Utah

where Boomerang's research shows that as of June 1, 2017, some 196,452 Utah residents are Lifeline eligible but unserved.

As evidence of Boomerang's strengths, Boomerang was one of the first companies whose federal Compliance Plan was approved by the Federal Communications Commission on August 8, 2012. Boomerang has since been approved as an ETC in the States and U.S. territory of Arkansas, Arizona, California, Colorado, Georgia, Hawaii, Idaho, Indiana, Iowa, Kansas, Kentucky, Louisiana, Maryland, Michigan, Minnesota, Mississippi, Missouri, Nebraska, Nevada, North Dakota, Ohio, Oklahoma, Oregon, Pennsylvania, Puerto Rico, Rhode Island, South Carolina, South Dakota, Texas, Washington, West Virginia, Wisconsin and Wyoming. In addition, prior to an early 2017 FCC policy change regarding the federal Lifeline Broadband Provider ("LBP") designation process, Boomerang was designated as one of only a handful of federally-designated LBPs with nationwide authority. Both prior and during its LBP status, Boomerang has continued and will continue to seek ETC status in the State of Utah.

In each of the States and U.S. territory where it serves as an ETC, Boomerang offers the following approved voice and broadband bundled plans to qualifying non-tribal Lifeline customers, including a recent "Always-on-Wireless-Data" feature:

**Always on 500 Minute Plan:** This plan offers 500 voice minutes, 100MB of data, unlimited text units, and unlimited Always-on-Wireless-Data per month. Data is 3G/4G based on network availability and device capability. The Always-on-Wireless-Data feature provides access to Wi-Fi, email, and web (at 128K/sec) when 3G/4G data is exhausted.

**Always on 500 MB Plan:** This plan offers 500 MB of data, 250 voice minutes, unlimited text units, and unlimited Always-on-Wireless-Data per month. Data is 3G/4G based

on network availability and device capability. The Always-on-Wireless-Data feature provides access to Wi-Fi, email, and web (at 128K/sec) when 3G/4G data is exhausted.

For both plans, the customer provides his or her own device as neither plan includes a device. Lifeline minutes, texts and data are automatically posted each month on the Lifeline customer's service date. There is no rollover of minutes, texts, or data, and any unused minutes, texts, or data will expire on the next month's monthly service date. Services are for personal use only. All usage is subject to an Acceptable Use Policy and other Terms of Service available at [https://www.entouchwireless.com/pages/cell\\_phone\\_termservice](https://www.entouchwireless.com/pages/cell_phone_termservice).

Boomerang is committed to serving as an ETC in the State of Utah just as it has in 32 States and one U.S. territory. To that end, soon after the filing of the OCS' Request for Dismissal, Boomerang's outside counsel and President Kimberley Lehrman took affirmative steps in reaching out to counsel for OCS. In addition, Ms. Lehrman has been in direct contact with OCS staff and Boomerang is eager to continue fostering these lines of communication to ensure no further delays occur in this Docket. Finally, as noted above, Boomerang has retained the undersigned attorney located in the Salt Lake City office for purposes of shepherding the petition to completion in this Docket.

Boomerang has been and remains ready, willing, and able to meet whatever conditions OCS, the Division of Public Utilities ("Division") and the Commission may reasonably require to be designated as an ETC in the State of Utah. In fact, on June 6, 2017, Boomerang accepted the terms of the proposed Stipulated Settlement that had been prepared by OCS as a resolution to this Docket, and through outside counsel J. Andrew Gipson communicated its acceptance to local counsel. It is regrettable that the Stipulation was never formally executed by local counsel due to his hospitalization and unexpected complications. However, Boomerang

remains willing and agreeable to the Stipulation and hereby communicates same to OCS, the Division and to the Commission.

For the foregoing reasons, and in furtherance of the principle of administrative efficiency, Boomerang respectfully submits that the Request for Dismissal should be denied or withdrawn, and the Commission should maintain the September 11, 2017 hearing schedule previously set by the Commission's June 9, 2017 Order Staying Pre-Hearing Filing Deadlines. This would allow an appropriate window of time for Boomerang to continue to be directly responsive to OCS inquiries, confer as needed with OCS and the Division, and reach the proposed Stipulated Settlement previously agreed to in principle. Boomerang further requests such other relief as may be appropriate or warranted under the circumstances.

RESPECTFULLY submitted this August 3, 2017.

/s/ Brian W. Burnett  
Brian W. Burnett  
Kirton McConkie  
Attorneys for Boomerang Wireless, LLC  
d/b/a enTouch Wireless

## CERTIFICATE OF SERVICE

I hereby certify that on this 3<sup>rd</sup> day of August, 2017, I caused to be served, via email, a true and correct copy of the foregoing BOOMERANG WIRELESS, LLC D/B/A ENTOUCH WIRELESS' RESPONSE TO REQUEST FOR AN ORDER OF DEFAULT AND DISMISSAL on behalf of Boomerang Wireless, LLC d/b/a enTouch Wireless in Docket No. 16-2590-01 to the following:

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