

COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

AN INQUIRY INTO THE STATE UNIVERSAL) CASE NO.
SERVICE FUND) 2016-00059

MOTION FOR CONFIDENTIAL PROTECTION

Boomerang Wireless LLC (“Boomerang”), through counsel, moves for confidential protection pursuant to 807 KAR 5:001, Section 13 and KRS 61.878(1) to grant confidential protection for the information described herein, which Boomerang seeks to provide in response to Item No. 5 of the Commission’s Order of May 11, 2020. In support of its Motion, Boomerang states:

1. Under the Kentucky Open Records Act, the Commission is entitled to withhold from public disclosure commercially sensitive information to the extent that open disclosure would permit an unfair commercial advantage to competitors of the entity disclosing the information to the Commission. See KRS 61.878(1)(c). Public disclosure of the information identified herein would, in fact, prompt such a result for the reasons set forth below.

2. Item No. 5 of the Commission Order of May 11, 2020 requests that Boomerang state its willingness to provide additional data in Kentucky if the Kentucky Universal Service Fund provided additional support for that additional data and the amount and cost of such data. In its response, Boomerang has stated its willingness to provide additional data, the conditions under which it would provide that data, and the amount of such data. This information provides sensitive information about Boomerang’s costs and how it prices its services.

3. The information for which Boomerang seeks confidential treatment is not known outside of Boomerang and its counsel. It is not disseminated within Boomerang except to those

employees with a legitimate business need to know and act upon the information, and is generally recognized as confidential and proprietary information in the telecommunications industry.

4. Commercial Mobile Radio Services (“CMRS”) is perhaps the most competitive segment of the modern telecommunications business. Potential customers often have several carriers from which to choose. This reality is acknowledged by Kentucky law, which states the provision of CMRS in Kentucky is market-based and not subject to regulation. *See* KRS 278.54611(1). As the market is, without question, highly competitive, disclosure of information regarding Boomerang’s costs and pricing strategies would likely cause significant competitive injury to Boomerang as its competitors could use such information to develop marketing and pricing strategies that undercut Boomerang and make its services and prices appear less attractive.

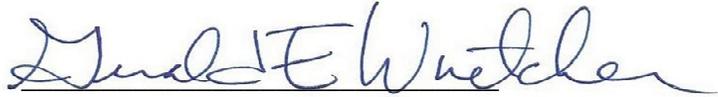
5. If the Commission disagrees with this request for confidential protection, it must hold an evidentiary hearing (a) to protect Boomerang’s due process rights and (b) to supply the Commission with a complete record to enable it to reach a decision with regard to this matter. Utility Regulatory Commission v. Kentucky Water Service Company, Inc., Ky. App., 642 S.W.2d 591, 592-94 (1982).

6. Boomerang requests that the information be kept confidential for at least five years from the date of this filing as that is the amount of time necessary before the confidential information becomes dated to the point that the need for protection no longer exists.

WHEREFORE, Boomerang respectfully requests that the Commission grant confidential protection for the information described herein.

Dated: May 22, 2020

Respectfully submitted,

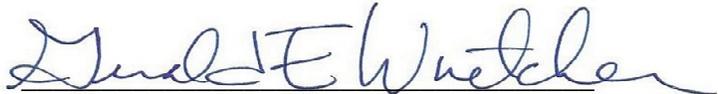


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Counsel for Boomerang Wireless LLC

CERTIFICATE OF SERVICE

In accordance with 807 KAR 5:001, Section 8, I certify that Boomerang Wireless LLC's electronic filing of this Motion is a true and accurate copy of the same document being filed in paper medium; that the electronic filing was transmitted to the Public Service Commission on May 22, 2020; that there are currently no parties that the Public Service Commission has excused from participation by electronic means in this proceeding; and that within 30 days following the end of the state of emergency announced in Executive Order 2020-215 this Response in paper medium will be delivered to the Public Service Commission.



Counsel for Boomerang Wireless LLC