

BEFORE THE NEBRASKA PUBLIC SERVICE COMMISSION

In the Matter of the)	Application No. C-4448/
Application of Pinpoint)	NUSF-79
Wireless, Inc. d/b/a Blaze)	
Wireless, Cambridge,)	
Nebraska, seeking)	GRANTED
designation as a wireless)	
Eligible Telecommunications)	
Carrier.)	Entered: June 26, 2012

APPEARANCES:

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Background

By Application filed with the Nebraska Public Service Commission ("Commission") on February 22, 2012, Pinpoint Wireless, Inc. d/b/a Blaze Wireless ("Blaze" or "Company"), seeks designation as an Eligible Telecommunications Carrier ("ETC") for purposes of receiving federal and state universal service support pursuant to the Telecommunications Act of 1934, as amended (the "Act"), and provisions of Nebraska Administrative Code, Title 291, Chapter 5 and Chapter 10, ("Commission Rules"). Notice of the Application was published in The Daily Record, Omaha, Nebraska, on February 27, 2012.

On April 3, 2012, a Petition for Formal Intervention timely filed by N.E. Colorado Cellular, Inc., d/b/a Viaero Wireless ("Viaero") was granted by the Hearing Officer. A planning conference was held on April 12, 2012, and a subsequent Hearing Officer Order issued on April 13, 2012, set a procedural schedule and set a hearing on July 11, 2012.

On May 30, 2012, Viaero filed a Motion to Withdraw its Formal Intervention in the above-captioned matter, stating its interests will not be served by continued participation in the docket.

A Hearing Officer Order issued on June 1, 2012, granted Viaero's Motion to withdraw and rescheduled the Hearing.

A Hearing on the Application was held on June 19, 2012, in the Commission Hearing Room, Lincoln, Nebraska, with appearances as shown above.

O P I N I O N A N D F I N D I N G S

Blaze is a Nebraska corporation and is a cellular mobile radio service ("CMRS") provider licensed by the FCC to provide wireless telecommunications services in the Nebraska Basic Trading Area 270. Blaze's FCC-licensed service area covers the city of McCook and surrounding areas in southwestern Nebraska. Blaze will use coverage provided under its FCC licenses to serve customers in the areas where it seeks ETC designation. The non-rural and rural areas in which Blaze seeks ETC designation are identified in Exhibits A and B to its Application, respectively.

Blaze is a wholly-owned subsidiary of Pinpoint Holdings, Inc. ("Pinpoint Holdings") which also owns Pinpoint Communications, Inc. ("Pinpoint"). Pinpoint is a Competitive Local Exchange Carrier in Nebraska under and by virtue of authority heretofore granted by this Commission.¹ Pinpoint has also been previously designated as an ETC and Nebraska ETC ("NETC") by the Commission.²

Blaze seeks designation as an ETC to obtain high-cost support to expand coverage to include unserved and underserved areas, to increase the service quality and reliability of its network, and to speed delivery of advanced wireless services including broadband internet access to Nebraska citizens within Blaze's service area. Further, Blaze seeks designation as an ETC and NETC to offer Lifeline to eligible subscribers.

¹ See Authority No. C-2355 (September 19, 2000).

² See Docket C-4408, (formerly C-2659) (April 23, 2002) and Docket NUSF-31 (March 11, 2003).

Blaze offers voice-grade access to the public switched network, local usage, dual tone multi-frequency signaling or its functional equivalent, single party service, access to emergency service, access to operator service, access to interexchange service, access to directory assistance and toll limitation for qualifying low-income consumers.

Tom Shoemaker, Executive Vice President of Blaze testified at the hearing on behalf of the Company. Mr. Shoemaker testified that Blaze is seeking ETC status for accelerating the build-out of its network in its service territory to provide both voice and broadband data services, especially in rural areas.³ Mr. Shoemaker also stated Blaze plans to participate in the Federal Communications Commission's ("FCC") reverse 901 Auction to receive federal funds to build-out in areas of the state that have been designated unserved by the FCC, some of these areas are located in Blaze's licensed service territory.⁴ He further testified that to participate in the FCC 901 Auction, Blaze must have been designated as an ETC prior to the Auction.⁵ However, Mr. Shoemaker stated that Blaze intended to proceed with the planned build-out in its territory regardless of whether they receive funds in the 901 Auction, and had no plans to relinquish its ETC status based on the 901 Auction results.⁶

ETC Legal Requirements

In 1997, the FCC released its *Universal Service Report and Order* in CC Docket 96-45, FCC 97-157 (released May 8, 1997) ("Universal Service Order"), which implemented several sections of the Act. The FCC's Universal Service Order provides that only eligible telecommunications carriers designated by a state commission shall receive federal universal service support.

³ Application No. C-4448/NUSF-79, Hearing Transcript, 10:14-21 and 11:3-11 (Hereinafter "TR page number:line number").

⁴ See Connect America Fund; A National Broadband Plan for Our Future; Establishing Just and Reasonable Rates for Local Exchange Carriers; High-Cost Universal Service Support; Developing a Unified Intercarrier Compensation Regime; Federal-State Joint Board on Universal Service; Lifeline and Link-Up; Universal Service Reform - Mobility Fund, 76 Fed. Reg. 73830 (2011)(to be codified at 47 C.F.R. pts. 0,1,20,36,51,54,61,64 and 69)("CAF Order").

⁵ TR 10:22 - 11:2.

⁶ TR 15:3-21.

Section 214(e) of the Act delegates to the states the ability to designate a common carrier as an ETC for a service area designated by the State commission. A service area is the geographic area established for the purpose of determining the

universal service obligation and support eligibility of the carrier. The FCC also provided that "competitive neutrality" should be an added universal service principle.

Section 214(e) of the Act sets forth the standards and processes for a state commission to grant carriers the designation of a federal eligible telecommunications carrier. Nebraska Administrative Code, Title 291, Chapter 5, §§ 009.01-009.02C and Chapter 10, § 004.02 of the Commission Rules contain the requirements for Commission designation of ETCs and NETCs. The Commission's rules largely reflect the FCC requirements.

Supported Services

Section 214(e)(1) of the Act provides that an ETC Applicant shall:

[T]hroughout the service area for which such designation is received—

(A) offer the services that are supported by Federal universal service support mechanisms under section 254...; and

(B) advertise the availability of such services and the charges therefore using media of general distribution.

The FCC's supported services are found in 47 C.F.R. §54.101(a) and are as follows:

- a. voice-grade access to the public switched network;
- b. local usage;
- c. dual-tone multi-frequency signaling or its functional equivalent;
- d. single-party service or its functional equivalent;
- e. access to emergency services;
- f. access to operator services;
- g. access to interexchange services;
- h. access to directory assistance; and
- i. toll limitation for qualifying low-income consumers.

The Commission's supported services are found in Chapter 10 § 004.02 of the Commission Rules and defined as basic local exchange service consisting of:

- a. single party service or the functional equivalent;
- b. dual-tone multi-frequency signaling or its functional equivalent;
- c. a standard "white page" or alpha directory listing at the customer's option;
- d. access to directory assistance services;
- e. equal access to emergency 911 or Enhanced 911 services;
- f. Access to operator services;
- g. Toll blocking for qualifying low-income subscribers.

Upon review of the Application and testimony presented, the Commission finds that Blaze is a common carrier for purposes of ETC designation. The Act defines a common carrier as a person engaged as a common carrier on a for-hire basis in interstate communications utilizing either wire or radio technology.⁷ The FCC's Rules also specifically provide that CMRS is a common carrier service.⁸ The Commission further finds that Blaze has the ability and has committed to provide the supported services listed above.

Advertising Supported Services

Section 009.02A3 of the Commission Rules requires an ETC to advertise the availability of supported services and related charges using media of general distribution. ETCs must also publicize the availability of Lifeline or NTAP services in a manner reasonable calculated to reach those that qualify for the service.

Based on the Application, we find Blaze has provided sufficient commitments to advertise the availability of such services and charges using media of general distribution and in a manner that is designed to reach those likely to qualify for such services. Blaze's verified application states that the Company will use a variety of media resources, including point of sale material of various kinds, onsite merchandising,

⁷ 47 U.S.C. § 153(10).

⁸ 47 C.F.R. § 54.20.9(a).

banners, customer direct mail, customer brochures, television, and print media.

Facilities Requirement

Section 009.02A2 of the Commission Rules require an ETC to demonstrate that it will offer the supported services above

using either its own facilities or a combination of its own facilities and resale of another carrier's services.

We find that Blaze has demonstrated the ability and commitment to provide the Supported Services listed above using its own network facilities or a combination of its own facilities and the resale of another carrier's services. Blaze's verified Application states the Company will make service available to consumers using its own network infrastructure, as well as through reliance on resold services.

Additional Requirements

The FCC gave further guidance and established additional requirements Applicants must satisfy to be designated as an ETC.⁹ To implement the federal requirements, the Commission adopted §§ 009.01-009.02C of the Commission Rules requiring Applicants to demonstrate the following:

- a. a commitment and ability to provide the supported services throughout the designated area;
- b. the ability to remain functional in emergency situations;
- c. commitment to satisfy consumer protection and service quality standards;

⁹ See *In the Matter of Federal-State Joint Board on Universal Service, Virginia Cellular, LLC, Petition for Designation as an Eligible Telecommunications Carrier in the Commonwealth of Virginia*, CC Docket 96-45, Memorandum Opinion and Order, FCC 03-338 (rel. Jan 22, 2004) ("Virginia Cellular"); *In the Matter of Federal-State Joint Board on Universal Service, Highland Cellular, Inc. Petition for Designation as an Eligible Telecommunications Carrier in the Commonwealth of Virginia*, CC Docket 96-45, Memorandum Opinion and Order, FCC 04-37 (rel. April 12, 2004) ("Highland Cellular"); and *In the Matter of Federal-State Joint Board on Universal Service*, CC Docket No. 96-45, Report and Order, FCC 05-46 (rel. March 17, 2005) ("March 2005 Order").

- d. offering local usage comparable to that offered by the incumbent LEC; and
- e. an acknowledgement that it may be required to provide equal access if all other ETCs in the designated area relinquish their designation pursuant to Section 214(e)(4) of the Act.¹⁰

Designated Service Areas

We find that Blaze has properly identified the service areas in which it is requesting ETC designation. Blaze seeks to be designated as a competitive ETC throughout each of the non-rural and rural telephone company service areas identified in Exhibits A, B, and C to its Application. For an area served by a non-rural telephone company, each wire center is deemed a separate service area. For an area served by a rural telephone company, Section 214(e)(5) of the Act and 47 C.F.R. § 54.207(b) provide that the service area is equivalent to the rural telephone company's "study area," unless and until the Commission and FCC cooperatively redefine the service area requirement to something less than the entire study area.

We find that Blaze is currently licensed by the FCC to provide the Supported Services throughout the entirety of the non-rural telephone company wire centers and rural telephone company service areas identified in Exhibits A and B attached to its verified Application. Since Blaze has not requested designation for only a portion of any rural telephone company service area, redefinition of the service area requirement is not at issue in this proceeding.

The evidence shows a few instances in which the geographic boundary of a wire center in which Blaze seeks ETC designation extends outside of Nebraska and into a neighboring state. The FCC has determined that when an incumbent telephone company's service area extends across State lines, the Commission's jurisdiction to designate a competitive ETC extends only to the borders of the state.¹¹ The FCC has also determined that the redefinition procedures set forth in 47 C.F.R. § 54.207 are not applicable to any rural telephone company study areas that cross

¹⁰ See March 2005 Order at ¶ 20.

¹¹ *In the Matter of Federal-State Board on Universal Service, Western Wireless Corporation Petition for Designation as an Eligible Telecommunications Carrier in the State of Wyoming*, CC Docket No. 96-45, Memorandum Opinion and Order, DA 00-2896, ¶¶ 23-24 (rel. Dec. 26, 2000) ("Wyoming Order").

state lines.¹² Therefore, we find that the Commission can designate Blaze as a competitive ETC in the portions of a wire center or study area that are located within Nebraska but cross state lines without considering redefinition of the service area requirement.

Section 009.02A5 and 009.02A6 of the Commission's Rules require an ETC to demonstrate its commitment to provide service throughout the designated area by:

- a. committing to provide service throughout its designated area to customers who make reasonable request for service; and
- b. submitting a five-year plan demonstrating how high-cost universal service support will be used to improve its coverage, service quality and capacity throughout the area for which it seeks ETC designation.

Provision of Service to Requesting Customers

As demonstrated by Blaze's signal propagation maps contained in the Revised Confidential Ex. C to the Company's Application, the Company is currently able to provide the Supported Services throughout a large portion of its requested service areas. Following designation, if a potential subscriber is within the Company's designated ETC service area, but outside of Blaze's existing network coverage, the Company is required to follow the graduated service extension process set forth in Section 009.02A5 of the Commission Rules. Under this process, Blaze will evaluate the request and determine whether service can be provided at reasonable cost. If, after completing this evaluation process, Blaze determines that it is unable to provide service, it will report the unfulfilled service request to the Commission. Further, Blaze has committed to complying with § 009.04A3 of the Commission Rules requiring all ETCs to annually report unfulfilled service requests to the Commission.

We find based on the extent of the Company's current signal coverage, and its implementation of appropriate service standards and processes, that Blaze has demonstrated an ability and commitment to satisfy its obligation to provide service upon reasonable request throughout the Company's requested service areas.

¹² *Id.*, ¶ 24 n. 71.

Five Year Service Improvement Plan

Under § 009.02A6 of the Commission Rules, an Applicant is required to submit a five-year plan describing its proposed service improvements or upgrades and further describing how such improvements will enhance signal quality, coverage or capacity. Section 009.02A6 also requires that the applicant provide this information on a wire center-by-wire center basis and that the applicant provide an estimate of the cost, starting and completion dates and population that may benefit from the

projected improvements. Blaze filed its proposed service improvement plan as required as Confidential Exhibit D to the Company's Application.

Every ETC is required to use the universal service support it receives only for the "provision, maintenance, and upgrading of facilities and services for which the support is intended."¹³ Permissible uses of federal universal service support under Section 254(e) generally include capital expenditures, operating expenses and maintenance/repair expenses associated with providing the supported services to consumers within an ETC's designated service areas. The FCC has further clarified that service quality improvements in a five-year plan do not necessarily require additional construction of network facilities.¹⁴ We also recognize that any proposed use of federal universal service support must remain flexible and may change over time depending on consumer demand, fluctuation in universal service support and other factors beyond a carrier's control.¹⁵

Blaze's five-year plan contains information concerning the Company's projected uses of universal service support consistent with the permissible uses of support under 47 U.S.C. § 254(e). The five-year plan details the Company's operations and projected service improvement projections in both non-rural and rural areas of its requested service area, including capital and operating expenditures, maintenance and upgrading expenses, estimated construction schedules and estimates reflecting the

¹³ 47 U.S.C. § 254(e).

¹⁴ March 2005 Order, ¶ 23.

¹⁵ See, e.g., *Virginia Cellular*, ¶ 16; *Highland Cellular*, ¶ 17.

population that would benefit from the proposed service improvements or upgrades.

Mr. Shoemaker testified regarding the additional deployments the Company has already undertaken and its future deployments and build-out projects in its five-year plan. He stated Blaze philosophy is to focus on the core network which is where a large portion of the cost resides. A good portion of the cost is in the last mile of the network to the consumer when building a network to provide both voice and broadband applications, as Blaze intends.¹⁶

We are satisfied that access to universal service support will create an incentive for Blaze to expand service coverage, including coverage in the rural areas. We have previously observed that an ETC will not receive any funds for serving a rural area unless it constructs infrastructure and actually serves customers who have a billing address in that rural area.¹⁷

Designating Blaze as an ETC will impose an obligation that the Company does not have today; that is, to serve all customers within its designated service area upon reasonable request.

The Commission acknowledges that granting ETC designation would give Blaze an obligation to this Commission to be more responsive to requests for service throughout its designated area. Accordingly, we are satisfied that Blaze appreciates it will be required to expand the availability of its service to meet service requests. Further, consistent with § 009.04A1 of Commission Rules, Blaze commits in its Application to file annual progress reports regarding implementation of its five-year plan. We find that Blaze's five-year plan satisfies the requirements of Section 009.02A6 of the Commission Rules.

Ability to Function During Emergencies

Pursuant to § 009.02A7 of the Commission Rules, an applicant must demonstrate an ability to remain functional during emergency situations. We find Blaze satisfies this requirement. As detailed in Blaze's Application, the Company has both fixed and portable back-up power generators at various

¹⁶ TR 11:16 - 13:4.

¹⁷ *In the Matter of the Petition of N.E. Colorado Cellular, Inc., d/b/a Viaero Wireless for designation as an Eligible Telecommunications Carrier*, Docket C-3324, *Granted*, p. 11 (Oct. 18, 2005) ("Viaero Wireless").

locations that can be deployed in emergency situations. These back-up power generators are capable of keeping a cell site up and running until power is restored, until system changes reroute traffic to other sites, or until a Cell Site On Wheels ("COW") is deployed. Blaze tests its back-up power generators regularly to ensure functionality. To manage temporary spikes in network usage during emergency situation, Blaze is capable of rerouting traffic around damaged or out-of-service facilities by changing call routing translations or deploying COWs, as needed. In cases where a longer-term solution is required, the Company will deploy a COW as a temporary cell site.

Pursuant to Commission Rule 009.04A6, Blaze committed in its Application to annually certify to the Commission it is able to function in emergency situations and pursuant to Commission Rule 009.04A2, annually report detailed information regarding any outages meeting certain requirements.

We find this ability to function during emergencies will benefit consumers by ensuring the reliability of Blaze's network throughout its requested ETC service areas, satisfying § 009.02A7 of the Commission Rules.

Applicable Consumer Protection and Service Quality Standards

We next examine Blaze's commitment to service quality. Section 009.02A8 of the Commission Rules requires an ETC applicant to demonstrate that it will satisfy applicable consumer protection and service quality standards. The FCC has determined that a wireless ETC's compliance with the CTIA Consumer Code for Wireless Service ("Consumer Code") demonstrates a sufficient commitment to satisfy applicable consumer protection and service quality standards.¹⁸ In its Application, Blaze committed to abide by the Consumer Code with respect to its ETC service area, as well as all applicable state specific consumer protection and service quality standards.

Accordingly, based on the evidence presented, we find that Blaze has satisfied the requirement to demonstrate it will comply with applicable consumer protection and service quality standards. If Blaze's service quality is inadequate, customers will drop the service, and the Company will not receive

¹⁸ March 2005 Order, ¶ 28.

universal service support for those customers, which gives Blaze an incentive to provide quality service. We also believe that the annual reporting requirements contained in the ETC annual reporting rules provide the Commission with sufficient information to evaluate the Company's service quality in the future.

Local Usage Service Offering

Commission Rule 009.02A9 requires Blaze to demonstrate it will offer a local usage service offering that is comparable to those offered by the incumbent LECs. The FCC stated that usage plans of ETC applicants should be reviewed on a case-by-case basis to ensure compliance with FCC requirements.¹⁹

Previously, this Commission concluded we should review an applicant's local usage plans on a case-by-case basis and consider the total package of available services and features. In this case, after review of Blaze's package of available services and features, we find its currently available service offerings are comparable to the incumbent LECs. Furthermore, if consumers do not find Blaze service offerings provide sufficient value, the Company will lose the customer and the corresponding universal service support. Under the federal funding mechanisms, a competitive ETC will only receive support for customers it serves.²⁰ Granting the Company's Application will therefore provide Blaze with an additional incentive to provide competitive prices, features and services, all to the benefit of Nebraska consumers.²¹ As the FCC has noted:

We also believe that the forces of competition will provide an incentive to maintain affordable rates and quality service to customers. Competitive ETCs will receive universal service support only to the extent that they acquire customers. In order to do so, it is reasonable to assume that competitive ETCs must offer a service package comparable in price and quality to the incumbent carrier.²²

¹⁹ See March 2005 Order at ¶ 33.

²⁰ 47 C.F.R. § 54.307.

²¹ *Viaero Wireless*, p. 9, 11.

²² *Wyoming Order*, ¶ 13.

As detailed in Blaze's verified Application, we find Blaze currently offers a variety of service offerings which include such benefits as mobility and substantially larger local calling areas than the incumbent LECs. A description of Blaze's current rate plans that are available in the areas for which Blaze seeks ETC designation are attached as Exhibit E to its Application. These expanded local calling areas are of great benefit to rural consumers who often have to pay toll charges to reach government offices, health care providers, businesses or family outside of an ILEC local calling area. All of the Company's plans provide unlimited local and long distance calls and unlimited texts to customers within the Blaze network. Most of Blaze's service offerings also include several enhanced services, including voice-mail, caller-ID, 3-way calling, call-forward, call-waiting, etc. Blaze also offers various data plans.

Finally, pursuant to Commission Rule 009.04A7, Blaze committed in its Application to full compliance with the requirement to annually certify to the Commission its local usage plans are comparable to those offered by incumbent LECs in the relevant areas.

Accordingly, we find that Blaze's Application describing its currently available service offerings satisfy the requirements of Section 009.02A9 of the Commission Rules.

Equal Access

Section 009.02A10 of the Commission Rules requires an acknowledgement from the ETC Applicant it may be required to provide equal access to long distance carriers in the event no other ETC in the designated area is providing equal access.²³ We find Blaze's acknowledgment satisfies the requirements of Section 009.02A10 of the Commission's ETC designation rules. Further, Blaze in its certified Application committed to complying with Commission Rule 009.04A8 requirements to file an annual certification acknowledging the fact that it may be required to provide equal access to long distance carriers in the event no other ETC is providing equal access within the service area.

²³ 47 C.F.R. § 54.202(a)(5).

Public Interest

Before designating an ETC, the Commission must determine if the designation is in the public interest. Federal law also requires that before designating a competitive ETC in a rural telephone company service area the Commission find that the designation is in the public interest.²⁴ The FCC has provided that in determining the public interest an ETC application should be analyzed in a manner consistent with the Act's purposes of preserving and advancing universal service, ensuring availability of quality telecommunications at just, reasonable and affordable rates, and promoting deployment of advanced telecommunications and information services in all areas of the nation.²⁵ Specifically in cases where an applicant is seeking ETC designation in rural areas, the public interest test includes consideration of (1) the benefits of increased consumer choice and (2) the unique advantages and disadvantages of the Applicant's service offerings to determine whether designating Blaze as a competitive ETC would serve the public interest. The Commission adopted the FCC requirements in § 009.02A1 and § 009.02B of the Commission Rules.

Consumer Choice

In its Application, Blaze states, in general, designation of competitive ETCs promotes competition and benefits consumers in rural and high-cost areas by increasing customer service option, innovate services, and promoting the deployment of new technologies. We have previously determined that there are many benefits that will come with competition in rural areas, among them the incentive for the incumbent to implement new operating efficiencies, lower prices, and offer better service to its customers.²⁶

As an ETC and NETC, Blaze will be able to use low-income, federal and state universal service support to offer service to subscribers who are eligible for Lifeline or NTAP assistance. We consider wireless service a significant service option for Lifeline consumers. Blaze's mobile service offerings include

²⁴ 47 U.S.C. § 214(e)(6); 47 C.F.R. § 54.202(c).

²⁵ See March 2005 Order at ¶ 41.

²⁶ *Viaero Wireless*, pp. 11-12; *Wyoming Order*, ¶¶ 17, 22.

much larger local calling areas, which could substantially benefit low-income consumers who may otherwise be required to pay long distance service charges to reach family, employers and social service or medical providers.

Advantages and Disadvantages of Blaze's Service Offerings

We next consider the unique advantages and disadvantages related to Blaze's service offerings. As a threshold, Blaze's service offerings will offer consumers the intrinsic benefits of mobility. On that benefit, the FCC has noted:

[T]he mobility of telecommunications assists consumers in rural areas who often must drive significant distances to places of employment, stores, schools, and other critical community locations. In addition, the availability of a wireless universal service offering provides access to emergency services that can mitigate the unique risks of geographic isolation associated with living in rural communities.²⁷

We agree. Mobility is an important part of the public interest analysis. While the benefit of mobility in and of itself may not be a sufficient reason to designate a carrier as an ETC, the Commission also considers Blaze's service offerings, pricing plans, proposed coverage area and other network qualities in its assessment of this Application.

As previously discussed, we find that Blaze offers consumers a variety of service offerings that include varying amounts of local usage; larger local calling areas; free nationwide long distance; unlimited calls to emergency services; unlimited calls to customer care; unlimited "in-network" calling; and unlimited text. We have previously determined that access to these types of services and features will benefit consumers in rural and high-cost portions of Nebraska:

Western Wireless also offers in its application additional benefits to the public interest, including increased choices, an expanded calling area and the benefits of mobility. These benefits are every bit as valuable, if not more so, to the rural customers as to the urban customer.²⁸

²⁷ Virginia Cellular, ¶ 29.

In addition, we find that Blaze offers enhanced services comparable to those provided in more urban areas, including voice-mail, caller-ID, 3-way calling, call-forward, call-waiting, data services, etc.²⁹ The FCC has previously found that such enhanced services tangibly benefit rural consumers.³⁰ Accordingly, we find that the unique advantages of Blaze's service offerings will provide a public interest benefit.

Other Issues

The Commission will also consider whether Blaze's designation as a competitive ETC in this proceeding will result in the funding of duplicative networks. Based on our review, we find that it will not. First, we note that Viaero Wireless, Alltel Wireless, and US Cellular are currently the only wireless carriers certified as eligible to receive federal universal service support in Nebraska. We further note that while US Cellular, Alltel Wireless, and Viaero Wireless are licensed in certain areas, that does not equate to offering service in the entire area. All three companies have areas in the ETC designated areas that they currently are not able to serve. Additionally, Alltel Wireless, US Cellular, Viaero Wireless, and Blaze operate different wireless technologies in different areas of the state. Accordingly, the services are not duplicative of each other. Further, different types of technology with different capabilities starting to branch out from different areas likely will lead to companies serving different areas, even within the same designated service areas. We find that efficient build out from existing facilities by different carriers would result in an even greater public benefit in those instances.

In addition, we find that the federal universal service support mechanisms will limit the duplication of funding. Because competitive ETCs receive funding based on the number of

²⁸ In the Matter of the Application of GCC License Corporation seeking designation as an eligible telecommunications carrier (ETC), Application C-1889, Order Granting ETC Status and Issuing Findings, ¶ 17 (Nov. 21, 2000); Viaero Wireless, pp. 9-10.

²⁹ See Exhibit E of Blaze Verified Application. Hearing Ex. 3.

³⁰ See *In the Matter of Federal-State Joint Board on Universal Service, Advantage Cellular Systems, Inc. Petition for Designation as an Eligible Telecommunications Carrier in the state of Tennessee*, CC Docket 96-45, Order, DA 04-3357, ¶ 20 (rel. Oct. 24, 2004).

subscribers they serve, it is unlikely that the designation of multiple ETCs will duplicate funding. While a particular consumer may choose to take service from both the incumbent LEC and a wireless CETC, we conclude it is unlikely the consumer would also subscribe to the service of a second or third CETC at the same time. As a result, only one CETC will likely receive universal service support for that subscriber.

The Commission is also satisfied that Blaze's designation will not have a significant impact on the federal high-cost universal service fund. The FCC has determined that given the total size of the high-cost fund, the impact of any one CETC on the universal service fund is, at best, "inconclusive."³¹ Moreover, due to the recent enactment of significant reforms and changes to federal universal service by the FCC, the future of

universal service funding and support is uncertain.³² We therefore conclude that granting Blaze's Application will not cause a significant burden on the federal high-cost universal service fund.

Lastly, we consider whether designating Blaze as a competitive ETC will harm consumers or the provision of universal service in Nebraska. In evaluating these issues, we have previously determined that the designation of CETC will benefit consumers and provide market incentives to improve service and operational efficiencies while not impacting the universal service support the incumbent ETC receives.³³

Based on the record before the Commission, we find no reason to believe Blaze's designation as a competitive ETC will harm consumers. Designating Blaze will return that support collected from wireless users in Nebraska to Nebraska for the benefit of consumers in rural and high-cost areas. Thus, we find that designation of Blaze as a competitive ETC in Nebraska is in the public interest.

³¹ *Virginia Cellular*, ¶ 31 n. 96; *Highland Cellular*, ¶ 25 n. 73.

³² See CAF Order.

³³ (*Viaero Wireless*, pp. 11-12).

Creamskimming Analysis

Section 009.02C of the Commission's ETC designation rules requires a creamskimming analysis in instances where an applicant seeks designation below the study area level of a rural telephone company. Rural creamskimming can occur when a competitor seeks to serve only the low-cost, high revenue customers in a rural telephone company's study area. In this case, Blaze requests ETC designation throughout the entire study area of each rural telephone company identified in its Application. Therefore, the Commission finds the Company's designation as a competitive ETC in these study areas does not raise any creamskimming concerns and therefore does not require the Commission to conduct a creamskimming analysis.

Federal and Nebraska ETC Designation

We find Blaze has demonstrated that it satisfies each of the requirements set forth in Section 214(e) of the Act and applicable State and federal regulations for designation as a

federal and Nebraska ETC throughout the Company's requested service areas.

Blaze intends to offer Lifeline or NTAP services, and it is committed to doing so in compliance with the Commission's orders, rules and regulations including those requirements regarding additions and removals of NTAP subscribers from the NTAP program and the semiannual reporting of NTAP customer lists.

In summary, upon review of the application and evidence presented at the hearing, we find Blaze's application for federal ETC and state NETC designation should be approved.

High-Cost Certification

As previously noted, Blaze is obligated under Section 254(e) of the Act and in accordance with Commission Rule 009.01, to use high cost support "only for the provision, maintenance, and upgrading of facilities and services for which support is intended" and is required to annually certify that it is in compliance with this requirement. Blaze has certified to the Commission that all federal high cost support it receives during 2012 will be used consistent with the requirements of Section

254(e) of the Act. Accordingly, pursuant to 47 C.F.R. §§ 54.313 and 54.314, we hereby certify Blaze's use of federal universal service support from the date of this Order through December 31, 2012. Blaze shall file a copy of this Order with the Universal Service Administrative Company ("USAC") and the FCC to ensure that the Company begins receiving support effective as of the date of this Order.

O R D E R

IT IS THEREFORE ORDERED by the Nebraska Public Service Commission that Application No. C-4448/NUSF-79, should be and it is hereby granted and Pinpoint Wireless, Inc. d/b/a Blaze Wireless is designated as a competitive eligible telecommunications carrier in the State of Nebraska for the purpose of receiving federal universal service support as requested in the Application consistent with the findings and conclusions made herein.

IT IS FURTHER ORDERED that Pinpoint Wireless, Inc. d/b/a Blaze Wireless, is hereby declared to be a Nebraska Eligible Telecommunications Carrier for state universal service support.

IT IS FURTHER ORDERED that Pinpoint Wireless, Inc. d/b/a Blaze Wireless shall file its annual report required by Section 009.04 of the Commission's ETC reporting rules (Neb. Admin Code, Title 291, Ch. 5, § 009.04) as provided above on or before October 1, 2012.

IT IS FINALLY ORDERED that Pinpoint Wireless, Inc. d/b/a Blaze Wireless shall file a copy of this Order with the Universal Service Administrative Company ("USAC") and the FCC to commence its receipt of federal universal service support effective as of the date of this Order.

MADE AND ENTERED at Lincoln, Nebraska, this 26th day of
June, 2012.

NEBRASKA PUBLIC SERVICE COMMISSION

COMMISSIONERS CONCURRING:

Chairman

ATTEST:

Executive Director

SECRETARY'S RECORD, NEBRASKA PUBLIC SERVICE COMMISSION

Application No. C-4448/NUSF-79

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MADE AND ENTERED at Lincoln, Nebraska, this 26th day of June, 2012.

NEBRASKA PUBLIC SERVICE COMMISSION

COMMISSIONERS CONCURRING:

Tim Schram

Aune Boyle

David Lutz

//s// Rod Johnson
//s// Frank Landis

Chairman

Rod Johnson

ATTEST:

Melissa

Executive Director