

**BEFORE THE PUBLIC SERVICE COMMISSION
OF THE STATE OF MISSOURI**

Application of Blue Jay Wireless, LLC for)
Designation as an Eligible Telecommunications) **File No. TA-2013-0272**
Carrier for the Purpose of Offering Lifeline)
Service as a Wireless Basis)

STAFF RECOMMENDATION

COMES NOW the Staff of the Missouri Public Service Commission and for its Recommendation, states as follows:

1. On November 1, 2013, Blue Jay Wireless, LLC (“the Company”) requested designation by the Missouri Public Service Commission (“Commission”) as an eligible telecommunications carrier (“ETC”) for the purpose of providing prepaid wireless services in Missouri supported by the federal Universal Service Fund’s Lifeline program.

2. For the reasons set forth more fully in the attached Memorandum, the Staff believes it appropriate to grant the requested ETC status, but to condition the ETC designation by the Commission, as follows:

A. Until the following disclosure requirement in the Staff’s proposed comprehensive amendments to the Commission’s ETC rules is in place, the Staff would require this condition for all new and renewing ETC applicants, to wit: The Company shall notify the Staff within 30 days of any event that falls within the following:

Please provide the details of any matter brought in the last ten years by any state or federal regulatory or law enforcement agency against the ETC, any person or entity that holds more than a 10% ownership interest in the ETC, any affiliated company (any company under common management ownership or control or that, by contract or other agreement performs any of the functions necessary to the ETC’s Lifeline Service) that involves any aspect of the provision of Lifeline Service or any aspect of state or federal Universal Service funds, or any matter involving fraud,

deceit, perjury, stealing or the omission or misstatement of material fact in connection with a commercial transaction. Such matters include formal or informal notices of investigation, indictment, the filing of a complaint, a civil lawsuit, revocation or suspension proceeding, action for penalties or damages, or criminal charges. Such details include, but are not limited to, copies of complaints or other such pleadings and the filed responses thereto, as well as any orders, decisions or other determinations of culpability, including those that exonerate the subject of any wrongdoing.

B. The Company may only use the MoUSF Board-approved form when enrolling Lifeline subscribers in Missouri.

C. The Company will use the full name under which it is registered with the Missouri Secretary of State and under which it is granted ETC status when enrolling Lifeline subscribers in Missouri.

3. The Company has an obligation to update its application with new information when any statement therein becomes untrue or could mislead the reader to an inference that is untrue.

WHEREFORE, the Staff recommends that the Company be granted ETC designation, on the condition that it adheres to the above-listed conditions, as well as any other conditions in the Commission's rules concerning the provision of wireless Lifeline Service to low-income customers.

Respectfully submitted,



Colleen M. Dale
Senior Counsel
Missouri Bar No. 31624
Attorney for the Staff of the
Missouri Public Service Commission
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Jefferson City, MO 65102
(573) 751-4255 (Telephone)
cully.dale@psc.mo.gov

CERTIFICATE OF SERVICE

I hereby certify that copies of the foregoing have been mailed, hand-delivered, transmitted by facsimile or electronically mailed to all counsel of record this 16th day of April, 2013.

A handwritten signature in black ink, appearing to be "All the Day".

M E M O R A N D U M

To: Official Case File
Case No. TA-2013-0272
Company Name: Blue Jay Wireless, LLC

From: Dana Parish
Telecommunications Unit

John Van Eschen (4/15/13) Cully Dale (4/15/13)
Telecommunications Unit Staff Counsel's Office

Subject: Staff's Recommendation to Grant ETC Status

Date: April 15, 2013

Date ETC application was filed:	11/1/2012
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Full name of Applicant:	Blue Jay Wireless, LLC
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The Commission Staff (Staff) has reviewed the Company's ETC application and responses to Staff data requests.

Basic Information Regarding Applicant <i>(check as appropriate)</i>				
Applicant's technology is:	Landline	<input type="checkbox"/>	Wireless	<input checked="" type="checkbox"/>
Applicant meets facility-based requirements?	Facility-Based	<input type="checkbox"/>	Reseller	<input checked="" type="checkbox"/>
If reseller, FCC has approved Lifeline compliance plan?	Yes	<input checked="" type="checkbox"/>	Not applicable	<input type="checkbox"/>
Applicant's Lifeline service fees:	Monthly Fee	<input type="checkbox"/>	Free	<input checked="" type="checkbox"/>

In Staff's opinion the Company has adequately met all ETC application requirements identified in Attachment A. Staff recommends the Commission grant ETC status to the Company, applicable only to the full name of the applicant as indicated above. The Staff further recommends the Commission's order also indicate the ETC designation is subject to the following information

Purpose for Receiving ETC Status	<i>(check "X" as appropriate)</i>
Solely for the purpose of receiving Lifeline support.	<input checked="" type="checkbox"/>
Purpose of receiving Lifeline and high-cost support.	<input type="checkbox"/>

Proposed Service Area	
State-wide	<input type="checkbox"/>
Other <i>(describe)</i>	<input checked="" type="checkbox"/>
<i>Various exchanges as identified in Exhibit F of the company's March 25, 2013 Motion for Leave to Amend Application. (These exchanges reflect the Missouri wireless service areas of Sprint and Verizon Wireless.)</i>	

If ETC status is granted should applicant be authorized by the MoUSF Board to receive MoUSF support?	Yes	<input type="checkbox"/>	No	<input checked="" type="checkbox"/>
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Checklist Items		Citation																												
Basic Application Requirements	<p>Complies with application requirements in 4 CSR 240-2.060 specifically:</p> <ul style="list-style-type: none"> • Proper authorization from Missouri Secretary of State. • Contact information. • Provides statement indicating whether applicant has any pending action of final unsatisfied judgments against them by a state or federal agency or court involving customer service or rates within past 3 years. • Signed affidavit that verifies all information is true, accurate & correct in the application. 	Application																												
	<p>Is the applicant already certificated or registered by the Missouri PSC to provide local voice service in Missouri? (check "X" in appropriate box below)</p>																													
	<table border="1"> <tr> <td></td> <td> <p>Yes. If yes, the applicant must be compliant in:</p> <ul style="list-style-type: none"> • Paying MoUSF assessment. • Paying MoPSC assessment. • Paying Relay MO assessment. • Annual report submissions. </td> </tr> <tr> <td>X</td> <td>No, the applicant is not certificated or registered by the Missouri PSC.</td> </tr> </table>		<p>Yes. If yes, the applicant must be compliant in:</p> <ul style="list-style-type: none"> • Paying MoUSF assessment. • Paying MoPSC assessment. • Paying Relay MO assessment. • Annual report submissions. 	X	No, the applicant is not certificated or registered by the Missouri PSC.																									
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Disciplinary History	<p>Identifies any individual or entity having a 10% or more ownership interest in the applicant, and all managers, officers and directors or any person exerting managerial control over applicant's day-to-day operations, policies, service offerings and rates.</p>	DR 0001, #15																												
	<p>Does the Applicant share common ownership or management with other companies? (check appropriate box below)</p>																													
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	<ul style="list-style-type: none"> Ajax Partners II, LLC 	<ul style="list-style-type: none"> No 										
	<p>Have any matters been brought forth within the last ten years by any state, federal regulatory or law enforcement agency against the applicant or against any person or entity that holds more than 10% ownership interest in the applicant? <i>(check appropriate box below)</i></p> <table border="1" data-bbox="159 457 1325 680"> <tr> <td data-bbox="159 457 302 529" style="text-align: center;">X</td> <td data-bbox="302 457 1325 529">No.</td> </tr> <tr> <td data-bbox="159 529 302 680"></td> <td data-bbox="302 529 1325 680"> <p>Yes. If yes, provide below the following information for each matter (date, agency and general description of the matter):</p> <ul style="list-style-type: none"> </td> </tr> </table>		X	No.		<p>Yes. If yes, provide below the following information for each matter (date, agency and general description of the matter):</p> <ul style="list-style-type: none"> 	<p>Application pg. 3</p>					
X	No.											
	<p>Yes. If yes, provide below the following information for each matter (date, agency and general description of the matter):</p> <ul style="list-style-type: none"> 											
<p>Service Provisioning</p>	<p>Adequately explains the applicant's proposed service. Basic service characteristics:</p> <table border="1" data-bbox="289 827 1055 982"> <tr> <td data-bbox="289 827 613 903"><i>(check applicable boxes)</i></td> <td data-bbox="613 827 841 903" style="text-align: center;">Wireless</td> <td data-bbox="841 827 1055 903" style="text-align: center;">Landline</td> </tr> <tr> <td data-bbox="289 903 613 940">No charge</td> <td data-bbox="613 903 841 940" style="text-align: center;">X</td> <td data-bbox="841 903 1055 940"></td> </tr> <tr> <td data-bbox="289 940 613 982">Monthly Fee</td> <td data-bbox="613 940 841 982"></td> <td data-bbox="841 940 1055 982"></td> </tr> </table> <p>If applicant intends to offer a free wireless Lifeline service the applicant has adequately explained:</p> <ul style="list-style-type: none"> How the company will ensure USF is not received until the subscriber activates the service. How the company will ensure support will only be received if the subscriber has used the service sometime during a 60 consecutive day time period. Subscriber will be de-enrolled if fails to use the service for 60 consecutive days. 		<i>(check applicable boxes)</i>	Wireless	Landline	No charge	X		Monthly Fee			<p>Application pg. 8 DR 0001, #18 Compliance Plan pgs. 14-15</p>
<i>(check applicable boxes)</i>	Wireless	Landline										
No charge	X											
Monthly Fee												
	<p>Applicant's proposed service area is adequately described.</p>		<p>Application pg. 10 DR 0001.2, #2 & Exhibit 2</p>									
	<p>Does the applicant qualify as a facility-based provider?</p> <table border="1" data-bbox="159 1575 1325 1768"> <tr> <td data-bbox="159 1575 302 1650"></td> <td data-bbox="302 1575 1325 1650">Yes. If yes, describe general facilities:</td> </tr> <tr> <td data-bbox="159 1650 302 1768" style="text-align: center;">X</td> <td data-bbox="302 1650 1325 1768"> <p>No. If no then ensure:</p> <ul style="list-style-type: none"> FCC has <u>approved</u> company's compliance plan. Applicant has ensured customers will have access to 911 services. </td> </tr> </table>			Yes. If yes, describe general facilities:	X	<p>No. If no then ensure:</p> <ul style="list-style-type: none"> FCC has <u>approved</u> company's compliance plan. Applicant has ensured customers will have access to 911 services. 	<p>EFIS 1/3/13 & Application pg. 9</p>					
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X	<p>No. If no then ensure:</p> <ul style="list-style-type: none"> FCC has <u>approved</u> company's compliance plan. Applicant has ensured customers will have access to 911 services. 											
	<p>Advertising commitments.</p> <ul style="list-style-type: none"> Provides a statement certifying the company will advertise the availability of its supported service. 		<p>Application, pgs. 11-12 Exhibit A,</p>									

	<ul style="list-style-type: none"> Provides reasonable explanation of how the applicant will advertise. If advertising by direct mail the company has provided a reasonable explanation of how it will target these mailings. Were Missouri-specific advertising examples provided? <table border="1"> <tr> <td></td> <td>Yes</td> </tr> <tr> <td>X</td> <td>No</td> </tr> </table>		Yes	X	No	Attach. C & Amended Application		
	Yes							
X	No							
	Demonstrates can remain functional in emergency situations.	Application pg. 13						
	Provides statement will satisfy applicable consumer protection, consumer privacy and service quality standards and provides a reasonable list of applicable standards. (<i>Wireless applicants must agree to comply with Cellular and Internet Assoc.'s Consumer Code for Wireless Service.</i>)	Application pgs. 13-14 & Exhibit B						
	Will applicant maintain information about service provisioning and rates in a (<i>check appropriate box below</i>): <table border="1"> <tr> <td>Tariff</td> <td></td> </tr> <tr> <td>Informational Filing</td> <td></td> </tr> <tr> <td>Website (<i>indicate website</i>)</td> <td>X www.bluejaywireless.com</td> </tr> </table>	Tariff		Informational Filing		Website (<i>indicate website</i>)	X www.bluejaywireless.com	Application pg. 6 & Amended Application
Tariff								
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Website (<i>indicate website</i>)	X www.bluejaywireless.com							
	Provides a reasonable explanation of: <ul style="list-style-type: none"> How the applicant intends to provide service throughout the proposed service area, including whereby the applicant lacks facilities or network coverage. How service will be provided in a timely manner to requesting customers. 	Application pgs. 6-7						
	Commits to maintain a record of complaints, including an agreement to make such records available upon request to the commission staff.	Application pgs. 18-20						
	Commits to remit required, collected 911 revenues to local authorities.	Application pg. 16						
	Provides a reasonable demonstration the applicant is financially viable and technically capable of providing voice telephony service.	Application pg. 15						
	Does the applicant intend to provide access to directory assistance services, operator services and interexchange services? <table border="1"> <tr> <td>X</td> <td>Yes</td> </tr> <tr> <td></td> <td>No</td> </tr> </table>	X	Yes		No	DR 0001, #14		
X	Yes							
	No							
Lifeline/Disabled Program Compliance	Certifies all Lifeline funding will flow through to the subscriber.	Application pg. 17						
	Commits to conduct business only through the name identified in the application and will not use any additional service or brand names. (<i>If company's name includes a d/b/a name then the company can either use the company's full name and/or the d/b/a name. For instance "ABC Company d/b/a Company W" can use that full name or simply "Company W". The company cannot solely use the parent name "ABC Company" or a name different from d/b/a name.</i>)	DR 0001, #19 & DR 0001.1, #34						
	Commits to comply with all requirements associated with the Lifeline program contained in 47 CFR Part 54 Subpart E.	DR 0001, #20						
	Commits to comply with all Lifeline requirements established by the Missouri PSC even if	DR 0001,						

solely funded by federal USF.		#21
Will the applicant seek support from the MoUSF? <i>(check appropriate box below)</i>		
	Yes. If yes, ensure applicant only seeks MoUSF for landline service.	DR 0001, #22
X	No.	
Does applicant intend to participate in the Disabled program? <i>(check appropriate box below)</i>		
	Yes. If yes, ensure applicant only seeks MoUSF for landline service.	DR 0001, #22
X	No.	
Adequately demonstrates how the applicant will ensure that the full amount of Lifeline or Disabled support will be passed through to the qualifying low-income consumer.		DR 0001, #23
Commits to use only a board approved Lifeline or Disabled application form.		DR 0001, #24
Adequately explains how the applicant will initiate Lifeline or Disabled service to a subscriber. Explanation should include how company will ensure: <ul style="list-style-type: none"> • The subscriber meets eligibility requirements. • The subscriber's identity and address are correct. • Only one Lifeline or Disabled discount is provided to a household. 		Compliance Plan pgs. 5-19
Adequately explains how the applicant intends to annually verify a customer's continued eligibility for the Lifeline or Disabled program, including what action will be taken if a subscriber fails to adequately respond or is no longer eligible for support.		Compliance Plan pgs. 13-14
Use of independent contractors to sign-up Lifeline subscribers <i>(check appropriate box below):</i>		
Intends to use independent contractors to sign-up Lifeline subscribers. If so then applicant also commits to take full responsibility for these contractors.	X	DR 0001.2 #3 & #4
Does not intend to use independent contractors.		
Adequately demonstrates how it will monitor its employees, agents or contractor to ensure they comply with all applicable laws and rules concerning Lifeline or Disabled Programs.		Compliance Plan pgs. 15-18
Commits to notify the commission of any changes to company contact information.		Application pg. 18
Provides statement the applicant complies with all reporting and assessment requirements (if certificated or registered with the commission).		Application pgs. 16-17
Provides statement the applicant is compliant with contribution obligations to the FUSF.		DR 0001, #31
FCC waivers <i>(check appropriate box below):</i>		
Applicant has obtained waivers from FCC of certain ETC requirements and provided a copy of the FCC's decision.		DR 0001, #32
Applicant has not sought any waivers from the FCC regarding ETC requirements.	X	