

**BEFORE THE MISSOURI
PUBLIC SERVICE COMMISSION**

Application of Blue Jay Wireless, LLC)
For Designation as an Eligible)
Telecommunications Carrier for the) **Docket No.** _____
Purpose of Offering Lifeline Service)
on a Wireless Basis)

APPLICATION OF BLUE JAY WIRELESS, LLC

Blue Jay Wireless, LLC (“Blue Jay” or the “Company”), by its counsel, respectfully submits this Application for Designation as an Eligible Telecommunications Carrier (“ETC”) pursuant to Section 214(e)(2) of the Communications Act of 1934, as amended (the “Act”), Section 54.201 *et seq.* of the Rules of the Federal Communications Commission (“FCC”), and the Missouri Code of State Regulations (“CSR”) Title 4, Sections 240-3.570 and 240-31.050.

Blue Jay requests that the Missouri Public Service Commission (“Commission”) grant it designation as a wireless ETC in Missouri for the sole purpose of receiving federal universal service Lifeline support in the geographic areas specified in this Application. Blue Jay does not request ETC status for the purpose of receiving support from any of the other Universal Service Funds (“USF”).

As discussed in more detail below, Blue Jay meets the statutory and regulatory requirements for designation as an ETC and is able and prepared to offer Lifeline-supported services throughout its designated service area in Missouri. Granting ETC status to Blue Jay will benefit the public interest by making the Company’s services available to a broad range of low-income consumers. Because the availability of Blue Jay’s services so clearly serves the interests

of Missouri consumers, Blue Jay respectfully requests that the Commission grant this Application as quickly as possible.

In support of this Application, Blue Jay provides the following information:

I. OVERVIEW OF APPLICANT AND SERVICE OFFERINGS.

1. Blue Jay is a Texas limited liability company with principal offices at 5010 Addison Circle, Addison, TX 75001.¹ The Company is in the process of registering with the Missouri Secretary of State to obtain authority as a foreign limited liability company to operate in Missouri, and will submit such authorization as an amendment to this Application. Blue Jay does not provide service to customers in Missouri at present.

2. Blue Jay has applications pending for ETC designation in the following states: Arizona, Colorado, Hawaii, Minnesota, Oklahoma, Pennsylvania, Utah, Wisconsin and Washington. In addition, Blue Jay is awaiting designation as an ETC by the FCC in the states of Alabama, Connecticut, Delaware, Florida, New Hampshire, New York, North Carolina, Tennessee, and Virginia, as well as the District of Columbia. Further, the Company is preparing to file applications for ETC designation in additional states. None of Blue Jay's applications for ETC designation have been denied.

3. Blue Jay has no pending action or final unsatisfied judgments or decisions against it from any state or federal agency or court which involve customer service or rates, which has

¹ The members of Blue Jay are: (1) Marc Sparks: Chairman and Member (Manager); (2) David Wareikis: CEO and Member; (3) Joseph Wood: Member; and (4) Ajax Partners II, LLC: Member. Additional Blue Jay officers are (1) Jeff Johnson, VP, Sales & Customer Care, and (2) Brian Steeg, Chief Financial Officer. Affiliated companies include: Link Distributors, LLC, Cardinal Wireless Distributors, LLC, Timber Creek Wireless Fund I, LLC, Splash Media, LP, Agency Matrix, LLC, Drivers Insurance Group, LLC, Cobalt Real Estate Services, LLC, P.C. Processing, Inc., Team Systems, LLC, LeadStart, LLC, CenCal Holdings, LLC, Timber Creek Capital, LP, Timber Creek Ranch, LP and Ajax Partners II, LLC. None of these affiliates is a regulated public utility.

occurred within the past three years. No matter has been brought in the last ten years by any state or federal regulatory or law enforcement agency against Blue Jay, any person or entity that holds more than a 10% ownership interest in it, or 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 its 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, including 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. Blue Jay's affiliates have never received funds from the federal universal service fund or any state universal service fund.

4. Blue Jay has no annual report of assessment fees that are overdue.

5. Blue Jay operates as a common carrier, providing wireless mobile phone services to consumers in Texas and will provide this common carrier service in many states, including Missouri. Blue Jay will provide domestic and international voice and data services, primarily to low-income consumers. As a reseller of wireless services, Blue Jay will purchase wireless network infrastructure and wireless transmission facilities from Sprint and Verizon Wireless on a wholesale basis and resell these services to its customers.² Blue Jay will provide affordable prepaid mobile phone service, including calling and text messaging, along with user-friendly handsets and high quality customer service. Blue Jay's products and plans will be specially geared toward serving lower income communities, and its service models and pricing plans will reflect this mission. The Company will not require service contracts from its

² Blue Jay will purchase the services of Sprint and Verizon Wireless through an intermediary such as Natel Networks, LLC.

customers and it will always ensure competitively low pricing for its services and products. By providing affordable service, Blue Jay can reach out to those who are often ignored by traditional carriers.

6. Blue Jay will manage all aspects of the customer experience, including setting service pricing, handset selection, marketing materials, and live customer service. The Company's prepaid, budget-friendly pricing will give many low-income consumers the option of having basic mobile phone service without the burden of hidden costs, varying monthly charges, or contractual commitments. Customers will be able to customize their mobile phone service to suit their needs with Blue Jay's pay-as-you-go rechargeable mobile phone plans.

7. Blue Jay's customer base likely will be low-income consumers and the majority are unlikely to have phone service of any kind prior to enrollment. Blue Jay's customers will depend on and benefit greatly from Blue Jay's inexpensive and flexible pricing plans. Blue Jay will not impose credit checks nor will it require any deposits or contractual commitments. Most of Blue Jay's customers likely will turn to Blue Jay because they cannot afford the postpaid services provided by traditional wireless carriers. Blue Jay will affirmatively reach out to the low-income sector of the consumer base to offer attractive and affordable communications options. As such, Blue Jay will contribute to the expansion of mobile wireless services for low-income consumers and is seeking ETC designation in Missouri and additional states and territories so that it may continue to expand the service options for these consumers.

II. BLUE JAY SATISFIES THE COMMISSION'S AND THE FCC'S REQUIREMENTS FOR ETC DESIGNATION.

8. Section 214(e)(2) of the Act provides that, upon request and consistent with the public interest, convenience and necessity, the Commission may designate more than one common carrier as an ETC in areas served by a rural telephone company and shall do so with

respect to all other areas, provided that the requesting carrier (i) offers services that are supported by federal universal service support mechanisms and (ii) advertises the availability of such services.³ FCC and Commission rules impose additional requirements on a carrier requesting ETC designation.⁴ Blue Jay addresses each of these requirements below.

1. Blue Jay Will Operate as a Common Carrier.

9. Blue Jay will operate as a common carrier as defined in 47 U.S.C. § 153(10) in Missouri and thus is eligible for designation as an ETC. The FCC has consistently held that providers of wireless services are to be treated as common carriers for regulatory purposes. Moreover, Blue Jay is a CMRS provider. Section 332(c)(1)(A) of the Act states that CMRS providers will be regulated as common carriers.⁵

2. Blue Jay Will Provide the Services Designated for Lifeline Support.

10. The FCC has determined that “voice telephony services” shall be supported by the federal USF program.⁶ Eligible voice telephony services must provide:

- voice grade access to the public switched network;
- local usage;
- access to emergency services; and
- toll limitation for qualifying low-income consumers.

Blue Jay will provide all of these services in each state in which it receives ETC designation, and will provide each of these required services throughout its designated service area, as described in more detail below. However, because the FCC no longer requires Lifeline-only ETC applicants to provide certain other services listed in 4 CSR 240-3.570(3)(C), Blue Jay

³ 47 U.S.C. §214(e)(2); *see also* 47 C.F.R. § 54.201(d).

⁴ *See* 4 CSR 240-31.050 and 47 C.F.R. § 54.202.

⁵ *See* 47 U.S.C. § 332(c)(1)(A).

⁶ 47 C.F.R. § 54.101(a).

respectfully requests a waiver of those requirements to the extent they are not addressed in the four service categories listed above.

11. Blue Jay's Lifeline service offerings will be provided pursuant to the Company's established rates, as provided in this Application, and its terms and conditions of service, which are available at Blue Jay's website at <http://www.bluejaywireless.com/terms/>. Blue Jay will offer Lifeline subscribers attractive voice telephony service plans. The Company's Lifeline subscribers will be eligible to receive the same service plans that Blue Jay generally will make available to the public.

3. Means of providing Lifeline service.

12. The Company will provide service via resale of underlying carrier services provided by Verizon Wireless and Sprint. Section 214(e)(1)(A) of the Act provides that an ETC must provide services "using its own facilities or a combination of its own facilities and resale of another carrier's services."⁷ Pursuant to the FCC's *Lifeline Reform Order*, however, resellers are granted blanket forbearance from this facilities requirement, subject to conditions, in connection with limited ETC designation to participate in the Lifeline program.⁸ The FCC conditioned blanket forbearance on the reseller's compliance with certain ETC obligations, including providing 911 and E911 service regardless of activation status and prepaid minutes availability, providing E911-compliant handsets, and replacing E911 non-compliant handsets at no charge to the Lifeline customer.⁹ In addition, the reseller must adhere to an FCC-approved compliance plan that includes specific information about the reseller's service offerings and that outlines the

⁷ 47 U.S.C. § 214(e)(1)(A).

⁸ See *Lifeline and Link Up Reform and Modernization, Lifeline and Link Up, Federal-State Joint Board on Universal Service, Advancing Broadband Availability Through Digital Literacy Training*, WC Docket No. 11-42, WC Docket No. 03-109, CC Docket No. 96-45, WC Docket No. 12-23, Report And Order and Further Notice Of Proposed Rulemaking, 27 FCC Rcd 6656, ¶ 368 (2012) ("*Lifeline Reform Order*").

⁹ See *id.*, at ¶ 373.

measures that the reseller will take to implement the obligations established in the *Lifeline Reform Order*.¹⁰

13. Blue Jay commits to compliance with all of the foregoing conditions. To this end, on May 11, 2012, Blue Jay submitted to the FCC a compliance plan that meets the requirements of the *Lifeline Reform Order*. On August 14, 2012, Blue Jay most recently filed a revised compliance plan with the FCC. A copy of this revised plan (“Compliance Plan”) is appended as **Exhibit A**. Upon FCC approval of its Compliance Plan, Blue Jay will not be required to meet the “own facilities” requirement of Section 214(e)(1)(A). Consequently, the Company’s proposal to operate as an ETC in Missouri using resold services will be entirely compliant with FCC requirements.

14. Pursuant to its ETC designation, Blue Jay will provide supported services as follows:

A. Voice Grade Access.

15. The FCC has stated that voice-grade access consists of the ability for a user to make and receive telephone calls within a specified bandwidth.¹¹ Blue Jay will provide this service via resale of Verizon Wireless and Sprint mobile services to low-income customers in its designated service area.

B. Local Usage.

16. The FCC’s rules and 4 CSR 240-3.570(2)(A)10 require an applicant for ETC designation to demonstrate that its proposed local usage plan is comparable to one offered by the incumbent local exchange carrier (“ILEC”) in the same designated service area. The

¹⁰ See *id.*, at ¶ 368.

¹¹ See *Federal-State Joint Board on Universal Service*, CC Docket No. 96-45, First Report and Order, 12 FCC Rcd 8776, 8810-11 (1997).

determination of comparability requires a case-by-case review, taking into account value-added capabilities and services included within a service plan.

17. The Company will offer two basic Lifeline service packages throughout its designated service area in Missouri. The Company's two Lifeline programs are listed below.

- **125 anytime prepaid minutes per month**, with rollover, and with text messaging assessed at a rate of one (1) minute per text message for sending text messages and one (1) minute per text message for receiving text messages.
- **250 anytime prepaid minutes per month**, without rollover, and with text messaging assessed at a rate of one (1) minute per text message for sending text messages and one (1) minute per text message for receiving text messages.

18. All plans will include nationwide domestic long-distance at no extra per-minute charge, as well as caller ID, voice mail, call waiting and three-way calling. Therefore, Blue Jay's usage plan is different from, but comparable to, one offered by the respective ILEC in the same designated service area. Blue Jay will provide Lifeline discounts at rates, terms and conditions comparable to the respective ILEC in the same designated service area.

19. With these plans, customer service (611) and emergency (911) calls will be free, regardless of service activation or availability of minutes, and will not count against the customer's airtime. Directory assistance calls (411) will be free; however, they will count as airtime minutes of usage. Lifeline customers can purchase additional bundles of minutes for as low as \$0.05/minute depending on the minute package purchased. For example, customers can purchase a 200-minute package for \$10.00. Airtime "top-up" minutes will be available for purchase at the Company's retail locations and on its website.

20. In addition to free voice services, customers can select either a free wireless handset or purchase an upgraded phone, such as a smartphone. For those customers choosing to upgrade to a smartphone, data can be added to any phone plan starting at \$0.10 per megabyte – a price that can be reduced on a "per megabyte" basis when the customer purchases multiple

megabytes of data. In this manner, the Company will enable low-income customers to add affordable data usage to their free voice/text minutes, thereby supporting greater smartphone utilization, consistent with the Commission's goal of promoting broadband access to all Americans.

21. Additional information regarding the Company's plans, rates and services can be found on its website, <http://www.bluejaywireless.com>.

C. Access to emergency services.

22. The Company will provide access to emergency services provided by local government or public safety officials, including 911 and E911 where available. As noted, calls to 911 emergency services will always be free and will be available regardless of service activation status or availability of minutes. In addition, Blue Jay will comply with any FCC or Commission requirements regarding customer access to 911 and E911 services as well as the provision of E911-compatible handsets, specifically including those obligations imposed as part of the FCC's forbearance grant conditions.

D. Toll limitation for qualifying low-income consumers.

23. In its initial operations, Blue Jay will not provide toll limitation service ("TLS"). Like most wireless carriers, Blue Jay does not differentiate domestic long distance usage from local usage and all usage is paid for in advance. Pursuant to the *Lifeline Reform Order*, subscribers to such "all-distance" services are not considered to have voluntarily elected to receive TLS.¹² If, in future, Blue Jay should offer a Lifeline service which differentiates between local usage and long distance usage, the Company commits to provide TLS to customers of that service.

¹² See *Lifeline Reform Order*, ¶ 230.

E. Access to telecommunications relay services by dialing 711

24. All Blue Jay customers are able to access telecommunications relay services by dialing 711.

F. Service area.

25. Sections 214(e)(2) and 214(e)(5) of the Act provide that ETC designations shall be made for a “service area,” defined as a geographic area established by the state commission. The Company seeks certification to operate as an ETC in the geographic service areas throughout Missouri where its underlying carriers, Sprint and Verizon Wireless, provide coverage.¹³ Additional detail for these service areas will be provided through a supplement to this Application upon confirmation of the exchanges and/or wire centers included in the coverage area.

G. Equal access requirement

26. Blue Jay acknowledges that 4 CSR 240-3.570(2)(A)9 requires equal access under 4 CSR 240-32.100(3) and (4) in the event that all other ETCs in the Designated Service Area relinquish their designations pursuant to section 214(e) of the Telecommunications Act of 1996. The FCC’s rules (47 C.F.R. § 54.202(a)) do not impose an equal access requirement on ETC applications at this time, and such a requirement is unnecessary for wireless resellers such as Blue Jay that provide a set number of minutes that can be used interchangeably for local and domestic long distance. To the extent that the Commission’s rules require equal access, Blue Jay respectfully requests a waiver of that requirement.

¹³ Consistent with FCC holdings, there is no need for a “creamskimming” analysis in connection with Blue Jay’s Application because the Company is seeking ETC designation only for purposes of receiving federal low-income support. *See, e.g., Virgin Mobile USA, L.P.*, Order, 24 FCC Rcd 3381, ¶ 39 n. 101 (2009).

H. Network improvement plan

27. Pursuant to 4 CSR 240-3.570(2)(A)1-3, each request for ETC designation shall include: the intended use of the high-cost support; including a two year plan to demonstrate the proper use of high-cost support. Under FCC guidelines, an ETC applicant must submit a five-year plan that describes with specificity proposed improvements or upgrades to the applicant's network on a wire-center-by-wire-center basis throughout its proposed designated service area. This guideline is not applicable where an applicant's requested ETC serving territory would qualify it to receive no "high cost" USF support, but only "low income" USF support.

28. Because Blue Jay seeks ETC designation solely for purposes of reimbursement for provision of subsidized Lifeline services to eligible customers, submission of a Five-Year Network Improvement Plan is not required, and the provisions of 4 CSR 240-3.570(2)(A)1-3 and (C) are not applicable to Blue Jay. Based upon the foregoing, Blue Jay respectfully requests a waiver of 4 CSR 240-3.570(2)(A)1-3 and (C). Since Lifeline support is designated to reduce the monthly cost of telecommunications services for eligible consumers, is distributed on a per-household basis, and is directly reflected in the price that the eligible customer pays, it is assured that all support received by the carrier is used to provide Lifeline services to consumers, thus promoting Lifeline and the availability of telephone service to low income users, which is clearly in the public interest.

4. Blue Jay Will Advertise its Lifeline Service Offerings.

29. Blue Jay will advertise the availability of its services and charges in a manner reasonably designed to reach Lifeline-eligible consumers, as required by Section 54.201(d)(2)

and 54.405(b) of the FCC Rules and 4 CSR 240-3.570(2)(A)7.¹⁴ The Company intends to advertise its Lifeline services using media of general distribution.¹⁵ Moreover, Blue Jay will expand its advertising efforts as necessary to ensure that Lifeline-eligible customers are aware of the Company's service offerings.¹⁶

30. In addition, Blue Jay will comply with the FCC's revised rules regarding information to be included in marketing materials, including FCC revised rule section 54.405(c). Specifically, Blue Jay's marketing materials will state, in easily understood language, that: (i) the service is a Lifeline service; (ii) Lifeline is a government assistance program; (iii) the service may not be transferred to someone else; (iv) consumers must meet certain eligibility requirements before enrolling in the Lifeline program; (v) the Lifeline program permits only one Lifeline discount per household; (vi) documentation is necessary for enrollment; and (vii) Blue Jay is the provider of the services. Moreover, Blue Jay's Lifeline application/certification form¹⁷ will state that Lifeline is a federal benefit and that consumers who willfully make a false statement in order to obtain the Lifeline benefit can be punished by fine or imprisonment or can be barred from the program. Blue Jay's Compliance Plan (**Exhibit A**) contains an example of the type of advertising materials that Blue Jay intends to use in Missouri and a comprehensive description of the certification and verification process for Lifeline customers.

¹⁴ 47 C.F.R. §§ 54.201(d)(2), 54.405(b); 4 CSR 240-3.570(2)(A)7.

¹⁵ See 47 U.S.C. § 214(e)(1)(B) and 47 C.F.R. § 54.201(d)(2).

¹⁶ See 47 C.F.R. § 54.405(b).

¹⁷ See *Lifeline and Link Up Reform and Modernization, Lifeline and Link Up, Federal-State Joint Board on Universal Service, Advancing Broadband Availability Through Digital Literacy Training*, WC Docket No. 11-42, WC Docket No. 03-109, CC Docket No. 96-45, WC Docket No. 12-23, Erratum, ¶ 63 (rel. May 16, 2012).

5. Blue Jay Complies with the Commission's and the FCC's Additional Obligations for ETCs.

A. Blue Jay certifies that it will comply with the applicable FCC service requirements.

31. Per the requirements of 47 CFR § 54.202(a)(1)(i), Blue Jay certifies that it will comply with the service requirements applicable to the low-income support it receives as a result of designation as an ETC for the purposes of receiving Lifeline support.

B. Blue Jay has the ability to remain functional in emergency situations.¹⁸

32. Blue Jay's Lifeline services will remain functional in emergency situations. As discussed herein, Blue Jay will utilize the extensive and well-established Sprint and Verizon Wireless networks and facilities to provide Blue Jay's mobile services. The Company understands that the Sprint and Verizon Wireless networks are capable of managing traffic spikes that may occur during emergency situations and can reroute traffic in the event of damaged facilities. Blue Jay also understands that each carrier has sufficient back-up power to ensure functionality if its external power supply is unavailable. Indeed, both companies have repeatedly certified to the FCC that their networks function in emergency situations.¹⁹ Sprint and Verizon Wireless will provide the same functionality to Blue Jay and Blue Jay's customers as these carriers provide to themselves and their own customers.

C. Blue Jay will satisfy applicable consumer protection and service quality standards.

33. The FCC's rules require the applicant to demonstrate that it satisfies applicable consumer protection and service quality standards. The FCC has stated that a wireless

¹⁸ See, e.g., 47 C.F.R. § 54.202(a)(2).

¹⁹ See, e.g., *Sprint Nextel Corporation Verified Filing in Compliance with 47 C.F.R. § 54.209*, CC Docket No. 96-45, at 6 (filed Sept. 30, 2011); *Alltel Communications, LLC d/b/a Verizon Wireless 2011 Eligible Telecommunications Carrier Certification and Annual Report for the State of Georgia / Study Area Code (SAC) 229004*, WC Docket No. 09-197, at 7-9 (filed Sept. 30, 2011).

applicant's commitment to comply with the Cellular Telecommunications and Internet Association's Consumer Code for Wireless Service ("CTIA Consumer Code") will satisfy this requirement. Blue Jay commits to comply with the CTIA Consumer Code to ensure that the Company offers its subscribers the highest level of protection and quality service.²⁰ A copy of the consumer code for wireless service currently recognized by CTIA is attached to this application as **Exhibit B**.

34. Blue Jay's pledge to provide quality service and to comply with the CTIA Consumer Code evidences Blue Jay's commitment to satisfy all of the consumer protection and service quality standards applicable to Lifeline services. The Company will make every effort to resolve expeditiously complaints received by the Commission and will designate a specific contact person to work with Commission staff to resolve any complaints or other compliance issues.

35. Moreover,²¹ the Company will comply with 4 CSR 240-3.570(2)(A)8, which requires a carrier applying for ETC designation to provide a statement that it will satisfy consumer privacy protection standards as provided in 47 CFR 64 Subpart U and service quality standards as applicable. Blue Jay will comply with the FCC's applicable requirements with respect to customer proprietary network information ("CPNI") and has addressed CPNI in its terms and conditions.

²⁰ See, e.g., 47 C.F.R. § 54.202(a)(3); 4 CSR 240-3.570(2)(A)8. Blue Jay has not obtained certification of its compliance with the CTIA Consumer Code from CTIA. To the best of Blue Jay's knowledge, CTIA does not presently certify carrier compliance with the CTIA Consumer Code.

²¹ See Blue Jay Wireless Terms and Conditions, available at <http://www.bluejaywireless.com/terms/> (last visited Nov. 6, 2012).

D. Blue Jay is financially and technically capable of providing Lifeline services in compliance with the FCC's rules.

36. The FCC's rules, as revised,²² require ETC applicants to demonstrate financial and technical capability to comply with the FCC's Lifeline service requirements.²³ Among the factors to be considered are: a carrier's prior offering of service to non-Lifeline subscribers, the length of time the carrier has been in business, whether the carrier relies exclusively on Lifeline reimbursement to operate, whether the carrier receives revenues from other sources; and whether the carrier has been the subject of an enforcement action or ETC revocation proceeding.

37. Through its affiliates, Blue Jay has provided marketing services, including those directed to low-income customers, since 2004. One of the Company's affiliates, Splash Media, LP, is among the largest providers of full-service social media marketing services in the world. Another affiliate, Link Distributors, LLC, is a leading distributor of wireless handsets and Lifeline enrollment for ETCs. Both businesses have substantial revenues with long-term profitability, are in good standing with all of their vendors and have been providing customers with services for a combined total of nine (9) years. As a core part of its marketing strategy, Blue Jay will be actively marketing to non-Lifeline customers, targeting the prepaid, credit challenged and under-banked sector. In fact, on September 7, 2012, Blue Jay began selling non-Lifeline prepaid wireless service in Texas. Consequently, Blue Jay will not be relying exclusively on Lifeline reimbursement for the Company's operating revenues. Blue Jay also has access to other financial resources including substantial cash reserves from its owners. The Company has not been subject to enforcement sanctions or ETC revocation proceedings in any state.

²² See, e.g., revised 47 C.F.R. § 54.202(a)(4).

²³ *Lifeline Reform Order*, ¶¶ 387-388 (revising 47 C.F.R. § 54.202(a)(4)).

E. Blue Jay will comply with FCC requirements for certification and verification.

38. Blue Jay is aware of the FCC's current requirements regarding certification and verification of a customer's qualification for Lifeline service and has implemented procedures to ensure these requirements are met. As described in Blue Jay's Compliance Plan, the Company has set in place detailed and comprehensive procedures to address customer certification and verification requirements as well as requirements concerning de-enrollment and duplication of service. These procedures comply with the FCC's recently-revised customer certification and verification requirements and, in fact, go beyond those requirements.²⁴ Blue Jay also will comply with both the FCC's annual certification and reporting requirements and the FCC's measures to prevent waste, fraud and abuse of Lifeline services.²⁵ In particular, Section I.E. of Blue Jay's Compliance Plan discusses steps that the Company will take to ensure activation of service and to implement de-enrollment in the event of inactivity for a period of 60 days.

F. Blue Jay will comply with Commission and FCC requirements for fees, charges, and reports.

39. Blue Jay will comply with all applicable Commission and FCC requirements with respect to fees, charges, and reports. The Company will not collect service deposits for its plans and will not charge a number-portability fee for Lifeline accounts.²⁶

40. Blue Jay will timely pay all applicable federal, state, and local regulatory fees, including universal service and E911 fees. Furthermore, Blue Jay will comply with the FCC's

²⁴ See 47 C.F.R. § 54.410.

²⁵ See 47 C.F.R. §§ 54.416, 54.422; See also *In re: Telecommunications Carriers Eligible for Universal Service Support; Virgin Mobile USA, L.P. Petition for Designation as an Eligible Telecommunications Carrier in the State of Alabama, et al.*, 25 FCC Rcd 17797, ¶ 24 (2010).

²⁶ See 47 C.F.R. § 54.401(c), (e).

annual reporting requirements for ETCs as set forth in Section 54.422 of the FCC's Rules,²⁷ and with the Commission's annual reporting requirements, as set forth in 4 CSR 240.3.570(4), or hereafter amended. Blue Jay seeks waiver of annual reporting requirements that pertain solely to high cost fund support recipients.

G. Blue Jay will comply with Commission and FCC requirements on relinquishment of ETC designation.

41. If at some point in the future, Blue Jay seeks to relinquish its ETC designation, Blue Jay will comply with the requirements of 47 C.F.R. § 54.205 and any applicable state requirements.

H. Blue Jay will comply with all other regulations imposed by the Commission

42. By this Application, Blue Jay hereby asserts its willingness and ability to comply with all the rules and regulations that the Commission may lawfully impose upon the Company's provision of service contemplated by this Application. Blue Jay certifies that all federal USF funding received will be used for Lifeline support and will be flowed through to the direct benefit of eligible low income consumers. Blue Jay will likewise pay into the federal and state USF and emergency services fund for its Lifeline customers.

43. Blue Jay will comply with the Commission's requirements set forth in 4 CSR 240-3.570. Blue Jay will comply with 4 CSR 240-3.570(3)(A) and (B) for any bills issued to customers. However, the Company does not currently plan to issue bills to its customers receiving a no-cost Lifeline plan, and therefore requests waivers of 4 CSR 240-3.570(3)(A) and (B) for such customers. Within 30 days of receiving ETC status, Blue Jay will make an informational filing describing all service offerings, pursuant to 4 CSR 240-3.570(3)(D). Blue

²⁷

See 47 C.F.R. § 54.422.

Jay commits to maintain a record of customer complaints, pursuant to 4 CSR 240-3.570(3)(E). Blue Jay will notify the Commission of any changes to contact information, pursuant to 4 CSR 240-3.570(3)(F). Upon Commission request, Blue Jay is prepared to answer questions or present additional testimony or other evidence about its services within the state.

III. DESIGNATED CONTACT INFORMATION.

44. The legal name, address and telephone number of the Company and its designated contact person is:

Blue Jay Wireless, LLC
5010 Addison Circle
Addison, TX 75001
(972) 788-8860

Designated contact person: David Wareikis, Chief Executive Officer

45. The names, address and telephone number of the Company's attorneys are:

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IV. GRANT OF THIS APPLICATION WILL SERVE THE PUBLIC INTEREST.

46. Designation of Blue Jay as an ETC for Lifeline purposes will further the Commission's universal service goals and thus benefit Missouri consumers. Specifically, the Company will offer prepaid low cost wireless service to low-income consumers, thereby

increasing consumer choice. In addition, increasing customer choice will spur wireless ETC providers to compete for eligible customers by providing the highest value (*e.g.*, higher quality handsets, superior customer service). Further, grant of the Application will provide consumers with access to high quality service and the benefits of a mobile service.²⁸ The mobility of the service will be particularly attractive to Lifeline-eligible consumers who may frequently change residences or work in migratory jobs. Wireless service offers a stable contact method where traditional landline service would be unavailable or not a viable option. Blue Jay's prepaid wireless service is an especially attractive option for low-income consumers because it alleviates customer concerns regarding hidden costs, varying monthly charges and long term contract issues.

47. Many consumers in Missouri are faced with making difficult choices about how to allocate and spend their limited resources. The ability to meet their communications needs while at the same time anticipating and controlling the associated costs is critical. Blue Jay's prepaid service offerings and rechargeable mobile phone plans will enable customers to tailor their wireless services to their needs and budgets. The prepaid nature of the service also will provide an alternative for "unbanked" consumers. Further, Blue Jay will not require credit checks, thereby providing an alternative for those low-income consumers unable to obtain credit for post-paid services provided by traditional carriers.

48. Blue Jay's prepaid mobile calling service packages will provide low-income consumers in Missouri with a generous number of anytime minutes at low cost as well as 911 emergency calling. These low-cost minutes and services are an invaluable resource for cash-strapped consumers who may be seeking employment and need a means to contact potential

²⁸ As discussed above, Blue Jay will comply with the Consumer Code for Wireless Service of CTIA – The Wireless Association, and applicable Missouri consumer protection and service quality standards.

employers. The packages are also useful for those consumers that need to stay in touch with children or other family members and ensure access to 911 emergency services when needed. Blue Jay's services will provide consumers with a valuable alternative for obtaining telephone service. This competition, in turn, could spur other service providers to improve their service options.

49. Blue Jay does not believe that rule 4 CSR 240-4.020(2) would require it to provide 60 days advance notice of the intent to file this Application, but to the extent the Commission disagrees, Blue Jay requests a waiver of that requirement.

50. Blue Jay is not aware of any public utility that would be affected by any of the waivers it has requested in this Application.

WHEREFORE, Blue Jay respectfully requests that the Commission as expeditiously as possible issue an order designating the Company as an ETC in Missouri throughout the service area specified above for the purpose of receiving federal Lifeline support and reimbursement for provision of low-income communications services on a wireless basis to qualified low-income customers, and to grant such other and further relief as the Commission deems appropriate including waiver of the application of the following rules:

- 4 CSR 240-3.570(2)(A)1-3 and (C)
- 4 CSR 240-3.570(2)(A)9
- 4 CSR 240-3.570(3)(C) (to the extent inconsistent with FCC requirements)
- 4 CSR 240.3.570(4) (to extent pertain solely to high cost fund support recipients)
- 4 CSR 240-4.020(2) (if applicable)

BLUE JAY WIRELESS, LLC

/s/ Carl J. Lumley

By

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Attorneys for Blue Jay Wireless, LLC

Date: November 13, 2012

CERTIFICATE OF SERVICE

The undersigned does hereby certify that a copy of the foregoing has been served by forwarding the same by electronic mail and/or first class mail, postage prepaid this 13th day of November, 2012 to the following:

Office of the Public Counsel
PO Box 2230
Jefferson City, Missouri 65102
opcservice@ded.mo.gov

Office of General Counsel
Missouri Public Service Commission
PO Box 360
Jefferson City, Missouri 65102
gencounsel@psc.mo.gov

/s/ Carl J. Lumley _____

VERIFICATION

STATE OF TEXAS)
) ss.
County of Dallas)

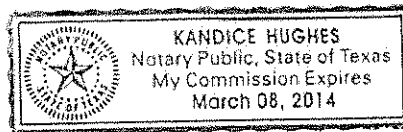
I, David A. Wareikis, being first duly sworn upon oath, depose and say that I am the Chief Executive Officer of Blue Jay Wireless, LLC, and as such am authorized to make this verification on its behalf; that I have read the foregoing Application; that I know the contents thereof; and that the facts set forth in the foregoing Application are true and correct to the best of my knowledge, information and belief.

David A. Wareikis

Subscribed and sworn to before me this 12 day of November, 2012.

Kandice Hughes

Notary Public



My Commission expires: 3-8-14