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*Attorneys for Blue Jay Wireless, LLC*

**BEFORE THE PUBLIC SERVICE COMMISSION OF UTAH**

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<b>Petition of Blue Jay Wireless, LLC</b>	)	
<b>For Designation as an Eligible</b>	)	<b>Docket No. 12-2559-01</b>
<b>Telecommunications Carrier for the</b>	)	
<b>Purpose of Offering Lifeline Service</b>	)	<b>Direct Testimony of</b>
<b>on a Wireless Basis</b>	)	<b>David Wareikis</b>

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**Direct Testimony of  
David Wareikis**

**January 29, 2013**

**DIRECT TESTIMONY OF DAVID WAREIKIS**

1 **Q. WHAT IS YOUR NAME AND BUSINESS ADDRESS**

2 A. My name is David Wareikis and my business address is 5010 Addison Circle, Addison,  
3 TX 75001.

4

5 **Q. ON WHOSE BEHALF ARE YOU TESTIFYING?**

6 A. I am testifying on behalf of Blue Jay Wireless, LLC (“Blue Jay” or the “Company”), the  
7 Petitioner in this proceeding.

8

9 **Q. BY WHOM ARE YOU EMPLOYED AND WHAT POSITION DO YOU HOLD?**

10 A. I am employed by Blue Jay Wireless, LLC and serve as President and Chief Executive  
11 Officer of the Company.

12

13 **Q. PLEASE DESCRIBE YOUR EDUCATIONAL AND EMPLOYMENT  
14 BACKGROUND.**

15 A. I have a Bachelors of Arts in Economics, issued by the University of Pennsylvania in  
16 1998. Cumulatively, I have over fourteen years of professional experience advising,  
17 managing and creating telecommunications companies. Prior to my current position with  
18 Blue Jay, I served as outsourced Chief Financial Officer for Assist Wireless, LLC, a  
19 100,000+ line wireless provider, based in Texas and operating in Oklahoma and several  
20 other states. With Assist, I facilitated a full range of back office and administrative  
21 functions, including enhancement of billing and ordering software, improvements to

22 inventory tracking capabilities, budgeting and financial forecasting, financial and  
23 operational auditing, provisioning and contracts negotiations, training and general  
24 personnel development. Prior to that, I served as Managing Director and Consultant with  
25 Timeless Capital, LLC, a Dallas-based company. In that capacity, I acted as senior  
26 advisor to telecommunications companies, including those engaged in Lifeline  
27 operations, providing financial and operational support and analysis for  
28 telecommunications businesses. Prior to that, I served as Director and Vice President of  
29 Bluffview Capital, a Dallas-based company. In that capacity, I acted as senior advisor to  
30 numerous media and telecommunications companies, including those focused on USAC  
31 operations, providing financial and operational support and analysis for media and  
32 telecommunications businesses. During the prior five years, I worked in various  
33 capacities in the investment banking division of Banc of America focusing on advising  
34 media and telecommunications industry companies.

35 **Q. HAVE YOU PREVIOUSLY TESTIFIED BEFORE ANY REGULATORY**  
36 **COMMISSIONS?**

37 A. Yes. Previous written testimony on behalf of Blue Jay has been submitted before the  
38 Oklahoma Corporation Commission and the Colorado Public Utilities Commission.  
39 Previous verbal testimony has been provided before the Oklahoma Corporation  
40 Commission.

41  
42 **Q. HAVE YOU REVIEWED THE PETITION AND OTHER DOCUMENTS FILED**  
43 **ON BEHALF OF BLUE JAY IN THIS PROCEEDING?**

44 A. Yes.

45

46 **Q. WHAT IS THE PURPOSE OF YOUR TESTIMONY IN THIS PROCEEDING?**

47 A. The purpose of my testimony is to demonstrate that Blue Jay fully satisfies the  
48 requirements for designation as an Eligible Telecommunications Carrier (“ETC”) in the  
49 State of Utah within the service area proposed in the Company’s Petition and, further,  
50 that grant of this designation is in the public interest.

51

52 **Q. PLEASE BRIEFLY DESCRIBE BLUE JAY AND ITS OPERATIONS.**

53 A. Blue Jay is a recently-established Texas limited liability company, headquartered in  
54 Addison, Texas. Blue Jay was formed by experienced telecom industry professionals,  
55 including myself, to provide high-caliber wireless services to consumers across the  
56 United States, including those in Utah. The Company’s business plan is to offer domestic  
57 voice and data services on a resale basis, primarily to low-income consumers. The  
58 Company provides affordable prepaid wireless voice service, enhanced with optional data  
59 services and supported by high quality customer service. Blue Jay initiated operations in  
60 Texas in September 2012 and is finalizing arrangements to enter the wireless market in  
61 additional states.

62

63 **Q. PLEASE BRIEFLY DESCRIBE THE SERVICES THAT BLUE JAY INTENDS**  
64 **TO PROVIDE IN UTAH.**

65 A. Blue Jay expects to offer a menu of prepaid wireless plans to Utah consumers. These  
66 plans will consist of a set number of prepaid minutes per month, with or without rollover,  
67 to make voice calls or texts as the customer prefers. Blue Jay will also offer plans that  
68 include data service. Blue Jay plans to offer its prepaid wireless services to low-income  
69 consumers, including those eligible for the Lifeline program.

70

71 **Q. HOW WILL BLUE JAY'S SERVICE OFFERINGS IN UTAH BE DISTINCT**  
72 **FROM THOSE OFFERED BY OTHER WIRELESS CARRIERS?**

73 A. In addition to traditional prepaid wireless and Lifeline services offered by many carriers  
74 in Utah, Blue Jay will also provide the option for its customers to purchase an upgraded  
75 handset (smartphone) and a data package. Blue Jay will offer among the lowest cost data  
76 plans in the market versus its competitors. Therefore, whether they qualify for Lifeline or  
77 not, low-income consumers can be introduced to the advantages of mobile data.

78

79 **Q. WHAT RELIEF DOES THE COMPANY SEEK IN ITS PETITION?**

80 A. Blue Jay seeks designation as an ETC in the State of Utah for purposes of receiving  
81 federal universal service Lifeline support. The Company does not seek to receive state or  
82 federal high cost fund support or support from any other universal service funds.

83

84 **Q. PLEASE DESCRIBE THE COMPANY'S PROPOSED SERVICE AREA FOR**  
85 **ETC DESIGNATION.**

86 A. As discussed below, Blue Jay operates as a reseller and consequently seeks designation as  
87 an ETC in the geographic area in Utah where its underlying carriers, Sprint and Verizon  
88 Wireless, provide coverage. Towards this end, the Company is submitting concurrently  
89 with this testimony a list of the wire centers and zip codes where Blue Jay proposes to  
90 offer Lifeline services. The list of wire centers and zip codes is attached hereto as  
91 Exhibit A, and incorporated herein by reference. Consistent with federal law, rural  
92 territories are included in this list only if Blue Jay can serve the entirety of the rural  
93 incumbent's study area.

94 **Q. PLEASE DESCRIBE HOW THE COMPANY WILL PROVIDE ITS SERVICES**  
95 **IN UTAH?**

96 A. Blue Jay intends to operate as a wireless reseller, purchasing wireless network  
97 infrastructure and transmission facilities on a wholesale basis from Sprint and Verizon  
98 Wireless. Initially, this arrangement will be effectuated through intermediaries, enabling  
99 Blue Jay to access competitive wholesale pricing not directly available to a start-up  
100 wireless provider. Blue Jay continues to evaluate available industry resources to obtain  
101 the best pricing and service arrangements. At this time, Blue Jay anticipates that it will  
102 use the intermediary services of Telecom Service Bureau, Inc. for its Utah operations.  
103 Blue Jay will apply its own expertise to manage service plan design and pricing,  
104 marketing, and ongoing customer service operations.

105  
106 **Q. WHAT ARE THE REQUIREMENTS FOR DESIGNATION AS AN ETC**  
107 **PURSUANT TO FEDERAL LAW?**

108 A. The primary requirements of Section 214 of the Communications Act of 1934 (“Act”)  
109 with respect to designation as an ETC are that the requesting entity (i) be a common  
110 carrier; (ii) offer the services that are designated for federal universal service support; and  
111 (iii) advertise the availability of these services. Federal law requires that ETCs provide  
112 the supported services using their own facilities or a combination of their own facilities  
113 and resale of other carriers’ facilities unless they are granted forbearance from this  
114 requirement. Notably, however, in early 2012, the FCC issued a decision (discussed  
115 below) which establishes a protocol for grant of blanket forbearance to resellers based  
116 upon satisfaction of specified conditions.<sup>1</sup> Additional conditions for ETC designation  
117 include (i) the applicant’s certification that it will comply with service requirements  
118 applicable to the support it receives; (ii) demonstration that the applicant will be able to  
119 remain functional in emergency situations; (iii) demonstration that the applicant will  
120 satisfy specified consumer protection and service quality standards; and (iv)  
121 demonstration of financial and technical ability to provide the supported services.

122

123 **Q. DOES BLUE JAY SATISFY THESE REQUIREMENTS?**

124 A. Yes.

125 **Q. WILL BLUE JAY BE A COMMON CARRIER, AS DEFINED IN FEDERAL**  
126 **LAW?**

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<sup>1</sup> 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, FCC 12-11, ¶ 368 (Feb. 6, 2012) (“Lifeline Reform Order”).

127 A. Yes. Section 332(c)(1)(A) of the Act specifically provides that providers of commercial  
128 mobile radio services are to be regulated as common carriers and the FCC has clearly  
129 reiterated this point.

130

131 **Q. DOES BLUE JAY COMMIT TO PROVIDE THE SUPPORTED SERVICES**  
132 **IDENTIFIED BY THE FCC'S RULES ?**

133 A. Yes. The FCC's Connect America Fund Order modified Section 54.101 of the FCC's  
134 rules, which defined the list of supported services.<sup>2</sup> The new rule indicates that the  
135 universal service programs will support "voice telephony service," which is defined by  
136 four "supported services": (i) voice grade access to the public switched network; (ii)  
137 local usage; (iii) access to emergency services; and (iv) toll limitation. Following  
138 designation as an ETC, as detailed in Blue Jay's Petition, the Company will provide each  
139 of these services throughout its designated service area.

140

141 **Q. WILL BLUE JAY ADVERTISE THE AVAILABILITY OF THESE SUPPORTED**  
142 **SERVICES USING MEDIA OF GENERAL DISTRIBUTION, AS REQUIRED BY**  
143 **47 U.S.C. § 214(e)(1)(B)?**

144 A. Yes. The Company will advertise the availability of its Lifeline services using methods  
145 reasonably calculated to effectively reach Lifeline-eligible customers in its service area.  
146 Towards this end, Blue Jay expects to advertise its Lifeline services in a variety of ways,

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<sup>2</sup> See *Connect America Fund et al.*, WC Docket No. 10-90 et al., Report and Order and Further Notice of Proposed Rulemaking, 26 FCC Rcd 17663, FCC 11-161 (rel. Nov. 18, 2011), *pets. for review pending sub nom. In re: FCC 11-161, No. 11-9900* (10th Cir. filed Dec. 18, 2011).



147 such as newspapers of general circulation. The Company will expand these outreach  
148 efforts as necessary to ensure that it reaches Lifeline-eligible customers. Further, Blue  
149 Jay will comply with all FCC requirements pertaining to the content of this advertising,  
150 including the disclosures required by Section 54.405(c) of the FCC's rules.

151

152 **Q. HOW DOES BLUE JAY PROPOSE TO COMPLY WITH THE REQUIREMENT**  
153 **THAT ETC CARRIERS PROVIDE SERVICES SUPPORTED BY FEDERAL**  
154 **UNIVERSAL SERVICE SUPPORT MECHANISMS EITHER BY USE OF THEIR**  
155 **OWN FACILITIES OR BY USE OF A COMBINATION OF THEIR OWN**  
156 **FACILITIES AND RESALE?**

157 A. As noted, carriers have always had the option to request forbearance from the "own  
158 facilities" requirement from the FCC. In February of 2012, the FCC gave new life to the  
159 forbearance alternative. Pursuant to the Lifeline Reform Order, resellers are granted  
160 blanket forbearance from the facilities requirement for low-income-only ETC operations  
161 provided they meet specified conditions. These conditions include: (i) provision of 911  
162 and E911 service regardless of activation status or available minutes; (ii) provision of  
163 E911-compliant handsets and replacement of non-compliant handsets to Lifeline  
164 customers; (iii) filing of a compliance plan containing specific information concerning  
165 both the carrier's service offerings and its compliance with ETC obligations as set forth  
166 in the Lifeline Reform Order, including those aimed at preventing waste, fraud and abuse  
167 within the Lifeline program. Blue Jay proposes to operate in Utah and elsewhere  
168 pursuant to the FCC's forbearance of the ETC facilities requirement.

169 **Q. HOW WILL BLUE JAY MEET THE REQUIREMENT TO PROVIDE 911 AND**  
170 **E911 ACCESS TO ITS LIFELINE CUSTOMERS?**

171 A. Blue Jay understands its obligation as an ETC to provide access to emergency services  
172 provided by local government or public safety officials. As explained, the Company will  
173 operate by reselling the facilities-based services of Sprint and Verizon Wireless, both  
174 established national wireless carriers. Blue Jay's customers will be provided the same  
175 access to emergency services that Sprint and Verizon Wireless provide to their own  
176 customers. Calls to 911 emergency services will always be free and emergency service  
177 access will be available regardless of service activation status or the availability of  
178 minutes. Finally, Blue Jay will comply with all FCC and Commission requirements  
179 regarding provision of E911-compatible handsets to ensure customer access to these  
180 critical services.

181 **Q. HAS BLUE JAY SUBMITTED A PROPOSED COMPLIANCE PLAN TO THE**  
182 **FCC?**

183 A. Yes. Blue Jay submitted its proposed Compliance Plan to the FCC on May 5, 2012 and  
184 has revised it subsequently in response to FCC staff feedback. On December 26, 2012,  
185 the FCC approved Blue Jay's Compliance Plan, confirming that the Company's proposed  
186 operations comply with the FCC's rules for Lifeline providers.

187 **Q. DOES BLUE JAY SATISFY THE FCC'S ADDITIONAL ELIGIBILITY**  
188 **CRITERIA FOR ETC DESIGNATION?**

189 A. Yes.

190

191 **Q. SPECIFICALLY, DOES BLUE JAY CERTIFY THAT IT WILL COMPLY WITH**  
192 **ALL SERVICE REQUIREMENTS APPLICABLE TO LIFELINE SUPPORT**  
193 **FUNDING?**

194 A. Yes. Blue Jay certifies that it will comply with the service requirements applicable to the  
195 low-income support it receives as a result of designation as an ETC for the purposes of  
196 providing Lifeline services.

197

198 **Q. DOES BLUE JAY INTEND TO SUBMIT A FIVE-YEAR SERVICE**  
199 **IMPROVEMENT PLAN RELATING TO PLANNED INFRASTRUCTURE**  
200 **IMPROVEMENTS OR UPGRADES?**

201 A. No. This requirement is related to receipt of high-cost funding support and is inapplicable  
202 to carriers seeking ETC designation solely to provide Lifeline services to low-income  
203 consumers.

204

205 **Q. HOW DOES BLUE JAY DEMONSTRATE ITS ABILITY TO REMAIN**  
206 **FUNCTIONAL IN EMERGENCY SITUATIONS?**

207 A. As discussed in this testimony and in the Company's Petition, Blue Jay will utilize the  
208 extensive and well-established Sprint and Verizon Wireless networks and facilities to  
209 provide Blue Jay's mobile services. The Company believes that the Sprint and Verizon  
210 Wireless networks are capable of managing traffic spikes that may occur during  
211 emergency situations and can reroute traffic in the event of damaged facilities. Blue Jay  
212 also understands that each company has sufficient back-up power to ensure functionality

213 if its external power supply is unavailable. Indeed, both companies have repeatedly  
214 certified to the FCC that their networks function in emergency situations.<sup>3</sup> Sprint and  
215 Verizon Wireless will provide the same functionality to Blue Jay and Blue Jay's  
216 customers as these carriers provide to themselves and their own customers.

217

218 **Q. HOW DOES BLUE JAY INTEND TO SATISFY ALL THE CONSUMER**  
219 **PROTECTION AND SERVICE QUALITY STANDARDS APPLICABLE TO ITS**  
220 **PROPOSED ETC OPERATIONS?**

221 A. The FCC has confirmed that a wireless ETC applicant may satisfy this requirement  
222 through a commitment to comply with the CTIA Consumer Code.<sup>4</sup> Blue Jay willingly  
223 commits to comply with the CTIA Consumer Code to ensure that it offers its subscribers  
224 the highest degree of protection and service quality.

225

226 **Q. DOES BLUE JAY HAVE THE REQUISITE FINANCIAL AND TECHNICAL**  
227 **QUALIFICATIONS TO PROVIDE THE PROPOSED SERVICES?**

228 A. Yes it does. The Lifeline Reform Order explains that elements of these carrier  
229 qualifications include (i) prior experience providing Lifeline service; (ii) length of the  
230 carrier's business history; (iii) the degree to which the carrier's operations rely upon  
231 Lifeline revenues; (iv) additional sources of revenue available to the carrier; and (v) the

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<sup>3</sup> 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).

<sup>4</sup> See 47 C.F.R. § 54.202(a)(3).

232 carrier's regulatory history, specifically with respect to any enforcement or ETC  
233 revocation actions. As discussed in its Petition, Blue Jay's principals and affiliates have  
234 developed considerable expertise in marketing, particularly to low-income customers,  
235 arising from operations dating back to 2004. The Company's affiliates have been  
236 delivering customer services for a combined nine years. Their success is reflected in  
237 long-term reliable profitability, generating substantial revenues. Further, on September 7,  
238 2012, Blue Jay began providing non-Lifeline prepaid wireless services in Texas. Blue  
239 Jay also has access to additional financial resources, including substantial cash reserves,  
240 available from its owners. Moreover, the Company will actively market to non-Lifeline  
241 customers and consequently will not rely exclusively on Lifeline reimbursements for its  
242 operating capital. Finally, Blue Jay has no adverse regulatory history and has never been  
243 the subject of enforcement actions or ETC revocation proceedings in any jurisdiction.

244

245 **Q. HAS BLUE JAY APPLIED FOR OR BEEN GRANTED ETC DESIGNATION IN**  
246 **ANY OTHER STATES?**

247 A. Yes. In addition to the Company's Utah Petition, Blue Jay has applications pending in  
248 Arizona, Colorado, Minnesota, Missouri, Nevada, Oklahoma, Pennsylvania, Rhode  
249 Island, South Carolina, Texas, Washington and Wisconsin as well as an application  
250 pending at the FCC for designation in the 10 "federal jurisdiction" states. Blue Jay  
251 continues to prepare applications for filing in a number of additional states within the first  
252 quarter of 2013 and throughout the coming year.

253

254 **Q. PLEASE DESCRIBE THE COMPANY'S PROPOSED LIFELINE SERVICE**  
255 **OFFERINGS FOR UTAH.**

256 A. Of course. As explained in its Petition, the Company will offer two basic Lifeline service  
257 packages throughout its designated service area in Utah, except for Tribal areas. In  
258 addition, Blue Jay will offer two plans that are only available to Tribal residents. The  
259 Company's proposed Lifeline programs are listed below.

- 260 • **125 anytime prepaid minutes per month**, with rollover, and with text  
261 messaging assessed at a rate of one (1) minute per text message for sending and  
262 one (1) minute per text message for receiving text messages. This plan will be  
263 available throughout the Company's Utah service area except in Tribal areas.
- 264 • **250 anytime prepaid minutes per month**, without rollover, and with text  
265 messaging assessed at a rate of one (1) minute per text message for sending and  
266 one (1) minute per text message for receiving text messages. This plan will be  
267 available throughout the Company's Utah service area except in Tribal areas.
- 268 • **Tribal Resident Lifeline Unlimited Plan.** Each month the customer will receive  
269 unlimited anytime voice minutes for \$5.00 per month plus fees and taxes. Text  
270 messaging will not be available with the unlimited talk plan. There are no rollover  
271 minutes with this plan as minutes are unlimited. This plan will only be available  
272 to Tribal residents.
- 273 • **Tribal Resident Lifeline 1000 Plan.** Each month the customer will receive  
274 1,000 anytime voice minutes or 1,000 text messages for \$1.00 per month plus fees  
275 and taxes. Text messaging will be assessed at a rate of one (1) minute per text

276 message for sending and one (1) minute per text message for receiving text  
277 messages. There are no rollover minutes with this plan. Unused minutes will  
278 expire each month on the service expiration date. This plan will only be available  
279 to Tribal residents.

280 Each of these Blue Jay plans will include nationwide domestic long-distance calling at no  
281 extra per minute charge, as well as a basic menu of features, including Caller ID, Voice  
282 Mail, Call Waiting and Three-Way Calling. Moreover, Blue Jay does not charge its  
283 customers for “roaming.” Therefore, Blue Jay’s usage plan is different from but  
284 comparable to one offered by the ILEC in the same designated service area. Both  
285 customer service (611) and emergency (911) calls will be free, regardless of service  
286 activation or availability of minutes, and these calls will not count against a customer’s  
287 airtime. Directory assistance calls (411) also will be free; however, they will count as  
288 airtime minutes of usage. Lifeline customers will be able to purchase additional bundles  
289 of minutes for as low as \$0.05/minute depending on the minute package purchased. As  
290 an example, customers will be able to purchase a 200 minute package for \$10.00. These  
291 additional airtime minutes will be available for purchase at the Company’s retail  
292 locations and on its website.

293 In addition to free voice services, customers will be entitled to select either a free  
294 wireless handset or to purchase an upgraded phone, such as a smartphone. Customers  
295 choosing to upgrade to a smartphone will be able to add data to their phone plan at a very  
296 competitive cost, starting at \$0.10 per megabyte – a price that can be reduced on a “per  
297 megabyte” basis when the customer purchases multiple megabytes of data. (I would note

298 that this is a reduction in the price since Blue Jay began filing its ETC applications in  
299 mid-2012. The Company is continually working to achieve greater operating and  
300 packaging efficiencies so that it can pass the savings through to customers.) Blue Jay  
301 believes that by enabling low-income customers to add affordable data usage to their  
302 Lifeline voice/text minutes, the Company will help support expanded smartphone  
303 utilization, consistent with the FCC's goal of promoting broadband access to all  
304 Americans.

305 Additional information regarding the Company's proposed plans, rates and  
306 services can be found on its website [www.bluejaywireless.com](http://www.bluejaywireless.com).

307

308 **Q. ARE THERE ADDITIONAL TERMS AND CONDITIONS ASSOCIATED WITH**  
309 **BLUE JAY'S LIFELINE SERVICE PLANS?**

310 A. Yes. The Company's Terms and Conditions are provided to customers upon request and  
311 are available on Blue Jay's website at [www.bluejaywireless.com](http://www.bluejaywireless.com). A copy of the  
312 Company's current terms and conditions is appended as Exhibit B to this testimony.

313

314 **Q. WOULD DESIGNATION OF BLUE JAY AS AN ETC IN UTAH SERVE THE**  
315 **PUBLIC INTEREST?**

316 A. Absolutely. Designation of Blue Jay as an ETC for Lifeline purposes in Utah will ensure  
317 that Utah consumers have another choice among carriers. More importantly, it will  
318 ensure the availability of high-quality mobile service to a population that uniquely  
319 benefits from such services. As discussed in Blue Jay's Petition, low-income consumers



320 often work in migratory jobs and may have an above-average frequency of moving  
321 between residences. Wireless service ensures availability of reliable voice and texting  
322 service, even as a customer is “between” homes and/or jobs. Of equal importance,  
323 prepaid wireless such as that offered by Blue Jay protects low-income consumers from  
324 the potentially devastating impact of hidden costs, unexpectedly high monthly charges  
325 and long term contract issues common among the larger carriers. With Blue Jay’s  
326 wireless service packages, customers will enjoy the considerable savings of all-distance  
327 domestic calling, and be spared the burdensome expense of long distance calling charges.  
328 The inclusion of texting service in the Company’s basic service packages will provide  
329 customers with an increasingly essential tool for family coordination and work  
330 management. Data access will also be available, in varying megabyte increments,  
331 affording customers the opportunity to participate in the increasingly on-line aspects of  
332 daily living. Consumers that regularly incur high minutes usage will be able to purchase  
333 ongoing “additional minutes” plans. Those who experience an unexpected sudden need  
334 for more airtime will be easily able to “top-up” minutes on a one-time basis. In a  
335 persistently challenging economy, low-income consumers need all these tools at an  
336 affordable rate. Because Blue Jay does not impose credit checks or collect deposits, the  
337 Company’s services will be readily available to consumers with the greatest need. Blue  
338 Jay’s flexible service offerings will allow these customers to tailor their services to meet  
339 their own individual needs. Blue Jay’s prepaid pricing plans will enable them to  
340 anticipate their monthly expenditures, avoiding the all-too-common experience of cell  
341 service “invoice shock.” Finally, Blue Jay’s offering of these consumer-friendly service

342 packages in the Utah telecommunications market should motivate other carriers to  
343 improve their own competitive offerings, to the benefit of all Utah wireless customers.

344

345 **Q. WILL DESIGNATION OF BLUE JAY AS AN ETC IN UTAH HAVE ANY**  
346 **EFFECTS UPON COMPETITION IN THE STATE?**

347 A. Very likely. As I was just noting, Blue Jay's entry into the Utah market for  
348 telecommunications services should apply a degree of pressure on other providers to  
349 increase the competitive caliber of their service offerings.

350

351 **Q. WILL DESIGNATION OF BLUE JAY AS AN ETC IN UTAH HAVE ANY**  
352 **ADVERSE EFFECT UPON THE UNIVERSAL SERVICE FUND?**

353 A. No, it will not. Blue Jay is seeking reimbursement for federal Lifeline services only,  
354 whereas the vast bulk of federal Universal Service Fund ("Fund") expense arises from the  
355 high cost fund subsidies. The FCC has confirmed that the advantages of adding a  
356 Lifeline-only ETC outweigh any potential disadvantages, including the effect on the  
357 Fund.<sup>5</sup> Further, it warrants mention that Lifeline subsidies are customer-specific and  
358 remain the same regardless which carrier provides the services. While Blue Jay's  
359 presence in the market likely will increase participation in the Lifeline program, a portion  
360 of the reimbursement funding triggered by the Company's operations will simply reflect  
361 customer migration among Lifeline providers. The customers that transfer to Blue Jay's

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<sup>5</sup> See *TracFone Wireless, Inc. Petition for Designation as an Eligible Telecommunications Carrier*, CC Docket No. 96-45, Order, FCC 08-100, ¶16, n. 47 (2008).

362 services will receive a superior service package; however, the Lifeline reimbursement  
363 amount associated with each customer -- and thus the expense to the Fund -- will not  
364 change.

365

366 **Q. WILL BLUE JAY COMPLY WITH THE REQUIREMENTS FOR LIFELINE**  
367 **ELIGIBILITY CERTIFICATION AND VERIFICATION?**

368 A. Absolutely. Blue Jay is committed to full compliance with the requirements of the FCC  
369 and this Commission regarding certification and verification of a customer's qualification  
370 for Lifeline service and has implemented procedures to ensure the requirements are met.  
371 As described in Blue Jay's Compliance Plan (which was submitted as Exhibit A to the  
372 Company's Petition), the Company has developed detailed and comprehensive  
373 procedures to address customer certification and verification requirements as well as the  
374 requirements concerning de-enrollment and duplication of service. These procedures  
375 comply fully with the FCC's recently-revised customer certification and verification  
376 requirements. Blue Jay also commits to comply with the FCC's annual certification  
377 requirement, as well as the FCC's measures to prevent waste, fraud and abuse of Lifeline  
378 services. The Company understands that effective elimination of wasteful and/or  
379 fraudulent drains on limited Lifeline funding can only be achieved through ongoing  
380 coordination with key state agency personnel. For this reason, Blue Jay commits to work  
381 collaboratively with the Department of Human Services to ensure the initial and  
382 continued eligibility of its Utah Lifeline customers.

383

384 **Q. HOW DOES THE COMPANY'S DE-ENROLLMENT PROTOCOL WORK ?**

385 A. As discussed in its Compliance Plan, Blue Jay commits to full compliance with the  
386 FCC's rules requiring de-enrollment of Lifeline customers after 60 days of non-use. The  
387 Company will contact all customers found not to have used their service for 60 days.  
388 These contacts will be made using a combination of first-class mail, text messages and/or  
389 phone calls and will clearly alert the customers that continued failure to use their Lifeline  
390 service within a subsequent 30-day period will result in de-enrollment and loss of service.  
391 Subscribers will be instructed as to the means by which they can "use" the service and  
392 avoid de-enrollment. *See* Compliance Plan at 14-15. In addition, Blue Jay will comply  
393 with the FCC's rules regarding de-enrollment of customers that fail to recertify their  
394 eligibility for Lifeline service on an annual basis. In addition, Blue Jay will de-enroll  
395 subscribers that do not respond to the annual verification or fail to provide the required  
396 certification.<sup>6</sup> Blue Jay will send a single written notice explaining that failure to respond  
397 to the re-certification request within 30 days will result in the subscriber's de-enrollment  
398 from the Lifeline program. If the subscriber does not respond within the 30 days, the  
399 Company will de-enroll the subscriber within five business days. *See* Compliance Plan at  
400 14.

401  
402 **Q. HOW WILL BLUE JAY ENSURE THAT PROSPECTIVE CUSTOMERS**  
403 **COMPLY WITH THE "ONE-PER-HOUSEHOLD" RULE FOR LIFELINE**  
404 **SUPPORT?**

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<sup>6</sup> *See* Lifeline Reform Order, ¶ 142; 47 C.F.R. § 54.405(e)(4).

405 A. As described in full detail in Blue Jay's Compliance Plan, Blue Jay's efforts to ensure  
406 that customers receive only one Lifeline benefit per household more than comply with  
407 the FCC's rules and extend throughout its marketing, enrollment and recertification  
408 processes. First, all Blue Jay marketing materials will include a disclosure stating that  
409 only one Lifeline discount may be received per household, which is consistent with the  
410 requirements of the FCC's new rules. Second, at the outset of the Lifeline enrollment  
411 process applicants are asked if their household currently receives a Lifeline benefit from  
412 any provider, and Blue Jay will provide the specific names of several major Lifeline  
413 providers in the state, which is not required by the FCC's rules. As part of the enrollment  
414 process, customers are informed about the one per household requirement, including the  
415 definition of household. To enroll, applicants must certify that, to the best of their  
416 knowledge, their household is not already receiving a Lifeline service benefit. As part of  
417 the enrollment process, applicant names and addresses will be checked against an internal  
418 Blue Jay database and against an external pooled de-duplication database established by  
419 CGM, LLC to avoid duplicate benefits. Finally, customers are required to again certify  
420 that they are not receiving more than one Lifeline benefit per household as part of the  
421 eligibility recertification process.

422

423 **Q. WILL BLUE JAY COMPLY WITH ALL OTHER FCC AND COMMISSION**  
424 **RULES APPLICABLE TO ETC OPERATIONS IN UTAH?**

425 A. Yes. The Company stands by the commitments asserted in its Petition to comply with the  
426 rules and regulations of the FCC and of this Commission with respect to provision of  
427 Lifeline services in Utah.

428

429 **Q. WILL BLUE JAY TIMELY PAY ALL APPLICABLE FEDERAL, STATE AND**  
430 **LOCAL REGULATORY FEES AND ASSESSMENTS APPLICABLE TO ITS**  
431 **ETC OPERATIONS IN UTAH?**

432 A. Yes, it will. Blue Jay acknowledges and accepts its obligations with respect to payment  
433 of federal, state and local regulatory fees, taxes and assessments (including customer  
434 assessment where required). In particular, Blue Jay acknowledges and accepts its  
435 obligations with respect to the Utah Universal Service Fund surcharge and applicable 911  
436 surcharges.

437

438 **Q. WHEN WILL BLUE JAY BE READY TO OFFER LIFELINE SERVICES IN**  
439 **UTAH?**

440 A. Blue Jay is currently finalizing its arrangements in order to be ready to initiate operations  
441 as soon as the Commission grants the Company's Petition.

442 **Q. DOES THIS CONCLUDE YOUR TESTIMONY?**

443 A. Yes.