

- BEFORE THE PUBLIC SERVICE COMMISSION OF UTAH -

In the Matter of the)
Petition of Blue Jay)
Wireless, LLC, for)
Designations as an Eligible)
Telecommunications Carrier) Docket No. 12-2559-01
for the Purpose of Offering)
Lifeline Service on a)
Wireless Basis.)

HEARING

TAKEN AT: Heber M. Wells Building
 160 East 300 South, Room 451
 Salt Lake City, Utah 84111

DATE: Tuesday, May 7, 2013

TIME: 9:00 a.m. to 9:28 a.m.

REPORTED BY: Michelle Mallonee, RPR

1 APPEARANCES

2 HEARING OFFICER:
Melanie Reif

3

4 For Blue Jay Wireless, LLC:

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15 FOR DIVISION OF PUBLIC UTILITIES:

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20 FOR THE OFFICE OF CONSUMER SERVICES:

21 CHERYL MURRAY
Utility Analyst

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EXHIBIT NO.	MARKED FOR IDENTIFICATION
Applicant's 1 - E-mail from Kira Slawson to the parties, dated Monday, May 6, 2013	15

1 PROCEEDINGS

2 (9:00 a.m.)

3 THE COURT: Good morning, everyone. We're on
4 the record. I'm Melanie Reif, administrative law judge
5 for the Utah Public Service Commission. And this morning
6 is the noticed time and date in Docket 12-2559-01. This
7 matter was scheduled pursuant to the scheduling order
8 issued January 15, 2015 -- excuse me, January 15, 2013,
9 for a hearing today. Initially, that hearing was to hear
10 the application pending before the Commission, which is a
11 request by Blue Jay Wireless, LLC, for designation as an
12 eligible telecommunications carrier in the state of Utah.

13 Since that order was entered -- in fact,
14 yesterday, the Commission received from the Applicant a
15 signed stipulation. And that was received by the
16 Commission on May 6, 2013, at 4:21 p.m.

17 I'd like to take a moment, allow the parties to
18 make their appearances. If you would kindly identify any
19 other parties who are with you, either in the hearing
20 room or on the telephone.

21 Mr. Shaw, I'll start with you. And just to make
22 clarification on the record, is it the intent of the
23 Applicant to have its stipulation heard today?

24 MR. SHAW: Yes, it is, your Honor. David Shaw,
25 from the law firm of Kirton McConkie, appearing on behalf

1 of Blue Jay Wireless. We also have Josh Guyan, counsel
2 for Blue Jay Wireless, as well on the phone, and David
3 Wareikis of Blue Jay Wireless.

4 THE COURT: Okay. Thank you. Mr. Shaw, may I
5 ask you a favor? There is a button on your microphone.
6 Is that possibly off? I didn't hear you real well.

7 MR. SHAW: Yeah. Sorry. Maybe I'll pull it a
8 little closer. The light is on, so.

9 THE COURT: Okay. You might want to talk right
10 into it. And my main concern is it can be really
11 difficult for those on the phone to hear unless you are
12 speaking right into it.

13 MR. SHAW: I will attempt to swallow the
14 microphone.

15 THE COURT: Is that any better? I wasn't
16 getting any sound.

17 MR. SHAW: Let's try it again.

18 THE COURT: Yeah.

19 MR. SHAW: Okay. There we go.

20 THE COURT: You're live.

21 MR. SHAW: There we go.

22 THE COURT: Okay. Thank you very much.

23 MR. SHAW: We can do a replay, if you'd like,
24 your Honor.

25 THE COURT: I don't think that's necessary.

1 Thank you, though.

2 Mr. Jetter.

3 MR. JETTER: Justin Jetter for the Division of
4 Public Utilities. And with me is Casey Coleman with the
5 Division of Public Utilities.

6 MS. MURRAY: Cheryl Murray for the Office of
7 Consumer Services.

8 THE COURT: Thank you, Ms. Murray.

9 Mr. Shaw, this is your application. So I'll let
10 you proceed with the issue of the stipulation.

11 MR. SHAW: Yes, your Honor. The issues
12 pertaining to the application have come pursuant to a
13 settlement conference. In that settlement conference, we
14 did reach terms which are set out in the Stipulation and
15 Settlement Agreement, which was filed with the Commission
16 yesterday. I believe that the Stipulation and Settlement
17 Agreement fairly represents the terms as agreed upon by
18 the parties. And we would tender that to your Honor for
19 consideration.

20 THE COURT: Thank you, Mr. Shaw.

21 Are there any questions of Mr. Shaw?

22 MR. JETTER: No.

23 THE COURT: Okay.

24 Ms. Murray, any questions?

25 MS. MURRAY: No, thank you, your Honor.

1 THE COURT: Okay. Just a couple of things,
2 please, Mr. Shaw.

3 There's a reference on page 3 of the Stipulation
4 in paragraph 7 that URTA, also known as Utah Rural
5 Telecom Association, and Salt Lake Community Action
6 Program were invited to participate in the settlement.
7 That is, indeed, correct?

8 MR. SHAW: Yes. URTA was invited to participate
9 in the settlement. Kira Slawson, counsel to URTA,
10 contacted me as of yesterday via e-mail, indicated that
11 she would not be appearing today but that she had no
12 opposition to the stipulation, but that also URTA would
13 not be signing the stipulation.

14 THE COURT: Very well. Did you, by chance,
15 bring a copy of that e-mail with you?

16 MR. SHAW: I did not, no.

17 THE COURT: Okay. But you are proffering that
18 this is the communication you received from Ms. Slawson?

19 MR. SHAW: That's correct.

20 THE COURT: Okay. Salt Lake City Community
21 Action Program is not an intervenor in this case. How
22 did they become involved with the settlement?

23 MR. SHAW: They were referenced in the
24 settlement conference, although -- correct, they were not
25 a direct intervenor. They were referenced in the

1 conference. So from an abundance of caution, we included
2 that here in the stipulation.

3 THE COURT: Okay. And have you received any
4 word from Salt Lake Community Action Program?

5 MR. SHAW: I have not.

6 THE COURT: Okay. Thank you.

7 As further clarification, the Stipulation and
8 the application itself -- or to be more precise, the
9 application which led to the stipulation, pertains to
10 Blue Jay Wireless and its application for USF funding.
11 Is that correct?

12 MR. SHAW: That's correct. And this would be
13 federal USF funding, not state USF funding.

14 THE COURT: Okay. Thank you for addressing my
15 questions, Mr. Shaw.

16 Just a couple more things. And this addresses
17 specifically the statute that the Commission considers
18 when determining whether a settlement should be approved.

19 Is it the Applicant's position that the
20 settlement proposed is just and reasonable in result?

21 MR. SHAW: It is, your Honor.

22 THE COURT: Okay. And is it also the
23 Applicant's position that the evidence contained and the
24 record supports the finding that the settlement proposal
25 is just and reasonable in result?

1 MR. SHAW: Yes. And the stipulation and
2 settlement agreement is based upon the compliance plan,
3 the exhibits, and direct testimony, which have been
4 previously submitted to the Commission.

5 THE COURT: Okay. And is it your desire to have
6 the Commission take administrative notice of that
7 testimony as well as the application?

8 MR. SHAW: Yes, your Honor.

9 THE COURT: Okay.

10 Is there any objection to that?

11 MR. JETTER: There's no objection.

12 THE COURT: Okay. The Commission does take
13 administrative notice of the application filed, along
14 with all testimony filed by the Applicant in this case.
15 And unless there's anything further, Mr. Shaw, I'll move
16 to Mr. Jetter.

17 MR. SHAW: No. Thank you, your Honor.

18 THE COURT: Okay.

19 Mr. Jetter.

20 MR. JETTER: Thank you, your Honor. We'd like
21 to swear in our witness, Casey Coleman.

22 THE COURT: Mr. Coleman, are you prepared to
23 testify this morning?

24 MR. COLEMAN: Yes.

25 THE COURT: Thank you. And would you please

1 raise your right hand.

2 And do you swear the testimony you are about to
3 give is the truth?

4 MR. COLEMAN: Yes.

5 THE COURT: Thank you.

6 You may proceed, Mr. Jetter.

7 MR. JETTER: Thank you.

8 CASEY COLEMAN,
9 having been first duly sworn,
10 was examined and testified as follows:

11 DIRECT EXAMINATION

12 BY MR. JETTER:

13 Q. Mr. Coleman, could you please state your name
14 and occupation for the record.

15 A. Yeah. My name is Casey J. Coleman. And the
16 occupation, I'm a utility technical consultant for the
17 Division of Public Utilities.

18 Q. Thank you. And have you reviewed the
19 application submitted by the Applicant, along with the
20 testimony submitted by the Applicant and the stipulation
21 that's been agreed to in this docket?

22 A. Yes, I have.

23 Q. And do you believe that approval by the
24 Commission of this stipulation and the terms therein
25 would be just and reasonable in the public interest

1 and -- excuse me -- just and reasonable and in the public
2 interest?

3 A. Yes.

4 Q. Thank you. Are you aware of any opposition to
5 any of the terms of this stipulation or anything that
6 would -- opposition by other parties that would oppose
7 approval by the Commission of this stipulation?

8 A. No, I'm not aware of any.

9 Q. Thank you.

10 THE WITNESS: Just as a note, and I don't know
11 if it's helpful. Ms. Slawson, who is representing URTA,
12 sent out an e-mail to all the parties. So I can print
13 that off and get that to you as the judge, if you'd
14 like -- if that's necessary.

15 THE COURT: If you have it handy, I think we
16 would like to supplement the record with that.

17 THE WITNESS: Okay. I don't have it right now,
18 but I can get it to you.

19 THE COURT: Okay. Thank you.

20 Is there any objection to entering that into the
21 record, Mr. Shaw?

22 MR. SHAW: No objection, your Honor.

23 THE COURT: Okay.

24 MR. JETTER: I have no further questions. Thank
25 you.

1 THE COURT: Okay. Thank you for your testimony
2 today, Mr. Coleman. No further questions.

3 Ms. Murray.

4 MS. MURRAY: Do you want to swear me in?

5 THE COURT: Will you be testifying today?

6 MS. MURRAY: I'll make a brief statement. Does
7 that swear me or not?

8 THE COURT: Well, I'm not entirely sure what
9 your statement will be. So why don't I go ahead and
10 swear you.

11 MS. MURRAY: All right.

12 THE COURT: Do you swear that the testimony you
13 are about to give is the truth?

14 MS. MURRAY: Yes.

15 THE COURT: Thank you. You may proceed.

16 CHERYL MURRAY,
17 having been first duly sworn,
18 testified as follows:

19 TESTIMONY

20 MS. MURRAY: Thank you. My name is Cheryl
21 Murray. I'm a utility analyst with the Office of
22 Consumer Services. The Office is responsible for
23 assessing the impact of utility rate changes and
24 regulatory actions upon residential and small commercial
25 customers. We recognize the need for low-income persons

1 to have access to telephone service and, in general,
2 support the ability to receive that access through
3 wireless telephone service.

4 We analyzed Blue Jay Wireless' application for
5 limited designation as an eligible telecommunications
6 carrier for both the benefits to be provided to
7 low-income customers and the cost to telecommunication
8 customers to fund wireless service.

9 The stipulation that is being presented today
10 incorporates conditions the Office asserts are necessary
11 to the public interest. And in the Office's judgment,
12 the settlement is in the public interest. And we'd
13 recommend Commission approval. That concludes my
14 statement.

15 THE COURT: Thank you, Ms. Murray.

16 Any questions for Ms. Murray?

17 Ms. Murray, just a couple of questions for you,
18 please.

19 CROSS-EXAMINATION

20 BY THE COURT:

21 Q. Are you aware of any objection to the
22 application?

23 A. I am not.

24 Q. And there has been mention that Salt Lake City
25 Action Program was invited to participate in the

1 settlement. Are you aware that Salt Lake City Community
2 Action Program is not an intervenor in this case?

3 A. Yes, I am.

4 Q. Okay. And are you aware of any position that
5 Salt Lake Community Action Program has taken with respect
6 to this docket, even though they're not an intervenor?

7 A. Yes. They were invited to participate because
8 of, typically, their past interest in these types of
9 cases -- and we assume in the future as well, perhaps.
10 But Ms. Betsy Wolf of Salt Lake Community Action Program
11 e-mailed me and said that -- in response to a question I
12 posed to her -- and stating that they weren't
13 intervenors, but they had no objection to the
14 stipulation.

15 Q. Okay. Very good. Thank you very much.

16 THE COURT: Is there anyone here today who
17 wishes to oppose the application?

18 Hearing no opposition, the Commission wishes to
19 note that neither URTA or Salt Lake Community Action
20 Program is present. And we do take note of the
21 representations that have been made with respect to the
22 positions that they have reported to take in this case.

23 Before we go off the record, I would like to,
24 during the hearing, take into evidence a copy of the
25 e-mail from Ms. Slawson from the Utah Rural Telecom. So

1 if we could just take a break, and I'll allow you to make
2 a copy and get that to the Commission.

3 Thank you. We'll be adjourned for just a few
4 minutes.

5 (A break was taken from 9:15 a.m. to 9:25 a.m.)

6 THE COURT: Okay. So we are back on the record.
7 And the Commission has been presented with a copy of an
8 e-mail from Kira Slawson to the parties in this case.
9 And this is dated Monday, May 6, 2013. And it states the
10 following that, "URTA will not be at the hearing. You
11 may represent that we have no objections to the
12 stipulation." And it's signed Kira M. Slawson.

13 Unless there's any objection, I'd like to mark
14 this as an exhibit rather than take judicial notice of
15 it. I assume that's okay with everybody. And if it's
16 not, please let me know. So I'm going to mark this as --
17 even though the Division submitted it, it's really -- do
18 you have a preference as to how we mark it? Applicant's
19 Exhibit No. 1?

20 MR. SHAW: That's fine.

21 THE COURT: Okay.

22 (Applicant's Exhibit 1 was marked and
23 received into the record.)

24 THE COURT: Does the court reporter have a copy
25 of this? I'll make sure you get one at the end of the

1 hearing. In fact, you can have the copy that I've marked
2 so you can make it part of the final record.

3 Just a couple of things before we go off the
4 record today.

5 Ms. Murray, when you were testifying, I meant to
6 ask you, just to clarify, that you are testifying today
7 in a pro se form, meaning that you are not here with
8 counsel. Is that correct?

9 MS. MURRAY: That is correct.

10 THE COURT: Okay. And I am not entirely sure
11 whether I asked you this question already. But in case I
12 haven't -- and I do remind you that you are under oath --
13 are you aware of any objection that has been raised with
14 respect to the Applicant in this case?

15 MS. MURRAY: I'm not aware of any objection.

16 THE COURT: Okay. And is it your testimony that
17 the stipulation is just and reasonable and in the public
18 interest?

19 MS. MURRAY: Yes, it is.

20 THE COURT: Okay. Thank you.

21 Are there any questions before we go off the
22 record today?

23 The Commission will be taking the matter under
24 consideration and issuing an order within a reasonable
25 time, as indicated by the statute. I expect that will be

1 fairly quickly.

2 I want to thank you all for being here today and
3 for helping by providing the information from URTA.
4 That's helpful just to make sure that -- since they
5 didn't actually participate in the stipulation. So thank
6 you for taking the time to get that for the Commission.

7 And given that there are no questions, we'll be
8 adjourned. And an order will be forthcoming. Thank you
9 again.

10 MR. SHAW: Thank you, your Honor.

11 MR. JETTER: Thank you.

12 (The matter concluded at 9:28 a.m.)

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CERTIFICATE

State of Utah)
 ss.

County of Salt Lake)

I, Michelle Mallonee, a Registered
Professional Reporter in and for the State of Utah, do
hereby certify:

That the proceedings of said matter was
reported by me in stenotype and thereafter transcribed
into typewritten form;

That the same constitutes a true and correct
transcription of said proceedings so taken and
transcribed;

I further certify that I am not of kin or
otherwise associated with any of the parties of said
cause of action, and that I am not interested in the
event thereof.

Michelle Mallonee, RPR, CSR