

- BEFORE THE PUBLIC SERVICE COMMISSION OF UTAH -

In the Matter of the Petition of Blue Jay)
Wireless, LLC for Designation as an) DOCKET NO. 12-2559-01
Eligible Telecommunications Carrier for the) ORDER APPROVING SETTLEMENT
Purpose of Offering Lifeline Service on a) STIPULATION
Wireless Basis)

ISSUED: May 20, 2013

By The Commission:

BACKGROUND

On January 3, 2013, Blue Jay Wireless, LLC (“Blue Jay”) filed an application for designation as an eligible telecommunications carrier. On January 15, 2013, the Commission held a duly-noticed scheduling conference and set the schedule for this docket, including an intervention deadline. Utah Rural Telecom Association (“URTA”) requested and was granted permission to intervene. Thereafter, the parties held a settlement conference and, on March 12, 2013, the Commission entered an order suspending the scheduling order in this docket pending filing of a settlement agreement.

On May 6, 2013, Blue Jay filed an executed settlement stipulation (“Settlement Stipulation” or “Stipulation”), a copy which is attached hereto as Exhibit #1. See Exhibit #1. The Settlement Stipulation clarifies that “Blue Jay seeks ETC designation for the limited purpose of providing universal service low-income Lifeline service in Utah. Blue Jay will not be seeking universal service high-cost support in its service area, nor will Blue Jay seek to provide universal service low-income Link Up service.” Id. at 4, ¶ 2. “Blue Jay is not currently seeking any Utah USF funding. If Blue Jay seeks Utah USF funding in the future, Blue Jay will file a separate application requesting such state support.” Id. at 6, ¶¶ 13(B)-(C). The Settlement Stipulation is

signed by Blue Jay, the Division of Public Utilities (“Division”), and the Office of Consumer Services (“Office”).

On May 7, 2013, the Commission held a duly-noticed hearing. At the hearing, the Division offered into evidence an e-mail from URTA regarding the Stipulation, which states: “URTA will not be at the hearing. You may represent that [URTA] ha[s] no objections to the Stipulation.” See Applicant’s Exhibit #1 (E-mail from Kira Slawson, to the Parties (May 6, 2013; 6:13 PM)). Cheryl Murray of the Office represented that Salt Lake Community Action Program (“SLCAP”), even though not an intervener in this docket, did not object either. See Transcript of Hearing at 14, lines 4-14. Neither SLCAP nor URTA appeared at the hearing. The Administrative Law Judge for the Commission took judicial notice of the Stipulation. David J. Shaw, counsel for Blue Jay, represented the Stipulation is just and reasonable in result. See id. at 8, lines 19-21. Both the Division and Office testified the Stipulation is just and reasonable in result, and they each recommended the Commission approve it. See Transcript of Hearing at 10, lines 23-25; id. at 11, lines 1-3; id. at 13, lines 9-13, and id. at 16, lines 16-19. “[A]ll of the [p]arties [to the Stipulation] agree that this Stipulation as a whole is just and reasonable in result and in the public interest.” Exhibit #1 at 7, ¶ 2. No one opposed the Stipulation.

FINDINGS, CONCLUSIONS AND ORDER

As set forth by statute and as previously noted by the Commission in other orders, settlements of matters before the Commission are encouraged at any stage of the proceedings.¹

¹ See Utah Code Ann. § 54-7-1 (2010). See also *In the Matter of the Notice of Rocky Mountain Power of Intent to File a General Rate Case*, Docket No. 11-035-200 (Report and Order; Sept. 19, 2012), at 26; and *In the Matter of the Application of Questar Gas Company to Adjust Rates for Natural Gas Service in Utah*, Docket No. 04-057-04 (Report and Order; Feb. 6, 2006), at 26.

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The Commission may approve a settlement proposal after considering the interests of the public and other affected persons, if it finds the settlement proposal in the public interest.² With this background in mind, and based on our consideration of the evidence before us, the testimony and recommendations of the parties, and the applicable legal standards, we find approval of the Settlement Stipulation to be in the public interest. Accordingly, the Commission approves the Stipulation.

DATED at Salt Lake City, Utah, this 20th day of May, 2013.

/s/ Melanie A. Reif
Administrative Law Judge

Approved and confirmed this 20th day of May, 2013, as the Order Approving Settlement Stipulation of the Public Service Commission of Utah.

/s/ Ron Allen, Chairman

/s/ David R. Clark, Commissioner

/s/ Thad LeVar, Commissioner

Attest:

/s/ Gary L. Widerburg
Commission Secretary
D#244165

² See Utah Code Ann. § 54-7-1(2)(a). See also *Utah Dept. of Admin. Services v. Public Service Comm'n*, 658 P.2d 601, 613-14 (Utah 1983).

Notice of Opportunity for Agency Review or Rehearing

Pursuant to Utah Code Ann. §§ 63G-4-301 and 54-7-15, a party may seek agency review or rehearing of this order by filing a request for review or rehearing with the Commission within 30 days after the issuance of the order. Responses to a request for agency review or rehearing must be filed within 15 days of the filing of the request for review or rehearing. If the Commission fails to grant a request for review or rehearing within 20 days after the filing of a request for review or rehearing, it is deemed denied. Judicial review of the Commission's final agency action may be obtained by filing a Petition for Review with the Utah Supreme Court within 30 days after final agency action. Any Petition for Review must comply with the requirements of Utah Code Ann. §§ 63G-4-401, 63G-4-403, and the Utah Rules of Appellate Procedure.

CERTIFICATE OF SERVICE

I CERTIFY that on the 20th day of May, 2013, a true and correct copy of the foregoing was served upon the following as indicated below:

By Electronic-Mail:

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Administrative Assistant

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Exhibit #1