

STATE OF MICHIGAN
BEFORE THE MICHIGAN PUBLIC SERVICE COMMISSION

* * * * *

In the matter, on the Commission's own motion,)	
directing BLUE JAY WIRELESS, LLC , to show cause)	
why it should not be found to be in violation of)	Case No. U-20744
federal and state requirements for designation as)	
an eligible telecommunications carrier for purposes)	
of offering Lifeline service on a wireless basis.)	
_____)	

At the June 10, 2020 meeting of the Michigan Public Service Commission in Lansing,
Michigan.

PRESENT: Hon. Sally A. Talberg, Chairman
Hon. Daniel C. Scripps, Commissioner
Hon. Tremaine L. Phillips, Commissioner

SHOW CAUSE ORDER

The Commission Staff (Staff) has determined that Blue Jay Wireless, LLC (Blue Jay) may be in violation of the federal Communications Act of 1934, 47 USC 214(e);¹ the Code of Federal Regulations, 47 CFR 54.400 *et seq.*;² the Michigan Telecommunications Act, MCL 484.2316 and

¹ 47 USC 214(e)(1), provides that, to qualify for universal service fund support, an eligible telecommunications carrier (ETC), must offer the services that are supported by federal universal service support mechanisms, either using its own facilities or a combination of its own facilities and resale of another carrier's services (including the services offered by another ETC), and advertise the availability of such services and the charges therefor using media of general distribution. 47 USC 214(e)(2) provides that states may designate a common carrier as an ETC if the conditions set forth in 47 USC 214(e)(1) are met.

² 47 CFR 54.400 *et seq.*, address a carrier's obligation to offer Lifeline services, the requirements to qualify as an ETC, the consequences for failure to comply with those obligations, and annual certification and record keeping requirements, among other things.

484.2316(a);³ and Case Nos. U-17502, U-18490, U-20357, and U-20064, all of which relate to the statutory and/or regulatory requirements for continued designation as an ETC for purposes of offering Lifeline service⁴ to wireless customers.

On June 6, 2014, in Case No. U-17502 (June 6 order), the Commission, pursuant to 47 USC 214(e)(2), approved Blue Jay's application for designation as an ETC for purposes of wireless Lifeline USF support, subject to Blue Jay's compliance with federal and state requirements that are set forth in the June 6 order as 26 enumerated conditions and four additional conditions. In pertinent part, the June 6 order required the following:

Blue Jay shall provide information to the Commission on a quarterly basis, based on the calendar year, on the number of Lifeline customers it is serving and the amounts paid to individual counties and the State of Michigan for 9-1-1 surcharges in this docket.

Blue Jay shall advertise its Lifeline product in media of general distribution including newspaper, radio, its own website, and other direct advertising methods and provide a copy of the advertisement to the Commission. The advertisement shall include information on monthly service plans, the cost of initiating service, and information needed for the forbearance compliance issues.

Blue Jay shall promptly notify the Commission of any future changes to its rates, terms, and conditions regarding its low income offerings in this docket.

June 6 order, pp. 5-6.

The Staff reports that Blue Jay has not filed timely and appropriate quarterly information regarding the number of Lifeline customers it serves or 9-1-1 surcharges, as required by the June 6 order, since its first quarter filing in February 2018. The Staff notes that Blue Jay untimely filed

³ MCL 484.2316 addresses, among other things, the requirement to notify the public of the availability of Lifeline services. MCL 484.2316(a) addresses the creation of the intrastate Universal Service Fund (USF) and the provision of supported services.

⁴ The Lifeline program is administered by the Universal Service Administrative Company which is responsible for data collection and maintenance, support calculation, and disbursement of funds for the Lifeline program.

2018 second quarter information during the third quarter of 2018 (on July 13, 2018) but the information was filed in an unacceptable format and was unsigned. As of the date of this order, Blue Jay has not filed the required quarterly information in the docket for the second, third, and fourth quarters of 2018; the entirety of 2019; and the first quarter of 2020.

The Staff further reports that, on December 27, 2017, the Commission notified Blue Jay that Case No. U-18490⁵ was opened for the purpose of receiving all required annual filings required by the Federal Communications Commission (FCC) for 2018, i.e., filings pertaining to Lifeline/Tribal Link-Up, High Cost, and Connect America Fund I and II, including FCC Form 481⁶ filings related to the Michigan ETC recertification process; and, on December 17, 2018, the Commission notified Blue Jay that Case No. U-20357⁷ was opened for the purpose of receiving the required 2019 annual filings. As of the date of this order, Blue Jay has not filed the required annual filings for 2018 and 2019, except for having filed FCC Form 555⁸ on February 23, 2018.

In addition, Blue Jay has not filed any notifications or updates of changes to service since September 19, 2017, when it notified the Commission that the company had transferred all its customers to Stand Up Wireless. Despite the transfer of its entire customer base to another telecommunications company, Blue Jay indicated to the Staff that it desired to retain its ETC designation. Even so, the Commission has not recertified Blue Jay's 2018 or 2019 eligibility for the federal USFs that are offered by the FCC as support to the company for the required Lifeline

⁵ See, Case No. U-18490, filing #U-18490-0001.

⁶ FCC Form 481 is the Carrier Annual Reporting Data Collection form required pursuant to 47 CFR 54.422.

⁷ See, Case No. U-20357, filing #U-20357-0001.

⁸ FCC Form 555 is the Annual Lifeline Eligible Telecommunications Carrier Certification

customer discounts because, for more than two years, Blue Jay has not filed the required documentation to qualify, as discussed above.

Further, in the April 18, 2018 order in Case No. U-20064, the Commission ordered Blue Jay to file comments, not later than 5:00 p.m. on June 1, 2018, indicating the company is willing and able to ensure eligible customers served by AT&T Michigan in Blue Jay's service territory will continue to be served with the federal Lifeline discount. As of the date of this order, Blue Jay has not filed the required comments appropriately, having untimely filed an unsigned document from a person not known to be associated with Blue Jay in any capacity. *See*, Case No. U-20064, filing #U-20064-0019.

Accordingly, the Commission finds that it should order Blue Jay to show cause why it should not be found in violation of the above-described statutory and regulatory requirements and Commission orders. Blue Jay is ordered to file a response in this docket by 5:00 p.m., Eastern time (ET), on June 23, 2020. Blue Jay's response shall be accompanied by prefiled direct testimony, exhibits, work papers, and affidavits supporting the veracity of its response prepared by a person or persons with actual knowledge of the circumstances. Blue Jay is also ordered to appear with counsel at a prehearing conference scheduled for 9:30 a.m., ET, on July 1, 2020, before Administrative Law Judge Sharon L. Feldman (ALJ) at the Commission's offices, 7109 W. Saginaw Highway, Lansing, Michigan, 48917. Any interested person may file a petition for leave to intervene by 5:00 p.m., ET, on June 23, 2020. All further proceedings in this matter shall be scheduled by the ALJ.

THEREFORE, IT IS ORDERED that:

A. Blue Jay Wireless, LLC, shall file its response to the allegations set forth in this order to show cause accompanied by supporting documentation in this docket by 5:00 p.m., Eastern time, on June 23, 2020.

B. Petitions for leave to intervene in the matter shall be filed by 5:00 p.m., Eastern time, on June 23, 2020.

C. Blue Jay Wireless, LLC, shall appear with counsel at a prehearing conference scheduled for 9:30 a.m., Eastern time, on July 1, 2020, before Administrative Law Judge Sharon L. Feldman at the Commission's offices, 7109 W. Saginaw Highway, Lansing, Michigan, 48917.

The Commission reserves jurisdiction and may issue further orders as necessary.

Any party desiring to appeal this order must file a claim of appeal in the Michigan Court of Appeals in the appropriate court within 30 days of this order, pursuant to MCL 484.2203(12). To comply with the Michigan Rules of Court's requirement to notify the Commission of an appeal, appellants shall send required notices to both the Commission's Executive Secretary and to the Commission's Legal Counsel. Electronic notifications should be sent to the Executive Secretary at mpscedockets@michigan.gov and to the Michigan Department of the Attorney General - Public Service Division at pungpl@michigan.gov. In lieu of electronic submissions, paper copies of such notifications may be sent to the Executive Secretary and the Attorney General - Public Service Division at 7109 W. Saginaw Hwy., Lansing, MI 48917.

MICHIGAN PUBLIC SERVICE COMMISSION

Sally A. Talberg, Chairman

Daniel C. Scripps, Commissioner

Tremaine L. Phillips, Commissioner

By its action of June 10, 2020.

Lisa Felice, Executive Secretary


PROOF OF SERVICE

STATE OF MICHIGAN)

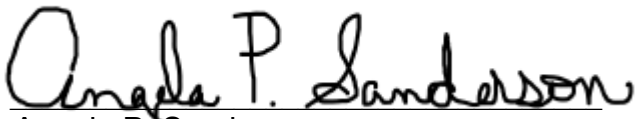
Case No. U-20744

County of Ingham)

Brianna Brown being duly sworn, deposes and says that on June 10, 2020 A.D. she electronically notified the attached list of this **Commission Order via e-mail transmission**, to the persons as shown on the attached service list (Listserv Distribution List).


Brianna Brown

Subscribed and sworn to before me
this 10th day of June 2020.



Angela P. Sanderson
Notary Public, Shiawassee County, Michigan
As acting in Eaton County
My Commission Expires: May 21, 2024

Service List for Case: U-20744

Name

Email Address

Oscar H. Morris Jr.

hmorris@lakecap.com

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Quantum Shift Communications
Quick Communications
Quick Communications, Inc.
Reliant Communications, Inc.
Trinsic Communications, Inc.
United Comm, Inc. dba Call One
Baraga Telephone Company
Carr Telephone Company
Chapin Telephone Company
Climax Telephone Company
Cypress Comm Oper Company,
Hiawatha Telephone Company
IBFA Acquistion Company
Kaleva Telephone Company
Lennon Telephone Company
Ogden Telephone Company
Pigeon Telephone Company
Sand Creek Telephone Company
Springport Telephone Company
Springport Telephone Company
Sprint Communications Company, L.P.
TNCI Operating Company, LLC
U.S. Signal Company, LLC
Waldron Telephone Company
Allband Communications Cooperative
FairPoint Communications Solutions Corp.
New Horizons Comm Corp.
Range Corporation
TruComm Corporation
Jie Cui
CynergyComm.Net, Inc.
DayStarr, LLC
Bell South Long Dist Inc., dba AT&T
RACC Enterprises, LLC
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Lisa Felice
Vicki Goodburne

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Deborah Kuhn, Verizon
France Telecom Corporate Solutions L.L.C.
Birch Telecom of the Great Lakes, Inc.
Level3 Comm
BT Communications Sales LLC
Bingham McCutchen LLP
Lucre, Inc.
Telecom Management, Inc., dba Pioneer Long
Robert McCausland
MetroNet-Telecom, Inc
Metropolitan Telecomm of MI
Ace Telephone Company of Michigan, Inc.
Charter Fiberlink- Michigan, LLC
Fibernet of Michigan
Frontier Communications of Michigan
Local Exchange Carriers of Michigan, Inc.
Chrissie Pearce- MPSC
MiTel NetSolutions
ATI Network,s Inc
Bright House Network
Broadview Networks & A.R.C. Networks,
GVC Networks, LLC
Intellifiber Networks, Inc.
JAS Networks & EagleNet
NextG Networks
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legal.request@elnk.com	No Name Available

PROOF OF SERVICE

STATE OF MICHIGAN)

Case No. U-20744

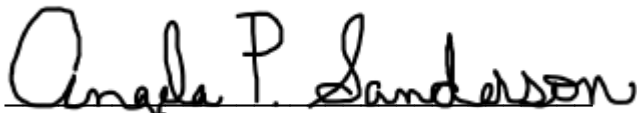
County of Ingham)

Brianna Brown being duly sworn, deposes and says that on June 10, 2020 A.D. she served a copy of the attached Commission order by first class certified mail (7014 0150 0001 0742 7232), postage prepaid, or by inter-departmental mail, to the persons as shown below.

Blue Jay Wireless LLC
Attn: Oscar H. Morris Jr.
8120 N central Expy., Ste. 670
Dallas, TX 75206


Brianna Brown

Subscribed and sworn to before me
this 10th day of June 2020.



Angela P. Sanderson
Notary Public, Shiawassee County, Michigan
As acting in Eaton County
My Commission Expires: May 21, 2024