

**BEFORE THE PUBLIC UTILITIES COMMISSION  
OF THE STATE OF SOUTH DAKOTA**

**IN THE MATTER OF THE PETITION OF )  
BLUE JAY WIRELESS, LLC FOR DESIGNATION AS )  
AN ELIGIBLE TELECOMMUNICATIONS CARRIER ) Docket No. TC14-019  
FOR THE PURPOSE OF OFFERING LIFELINE )  
SERVICE ON A WIRELESS BASIS )**

**SDTA Petition to Intervene**

The South Dakota Telecommunications Association ("SDTA") hereby petitions the Commission for intervention in the above captioned proceeding pursuant to SDCL 1-26-17.1 and ARSD §§ 20:10:01:15.02, 20:10:01:15.03 and 20:10:01:15.05. In support hereof, SDTA states as follows:

1. SDTA is an incorporated organization representing the interests of numerous cooperative, independent and municipal telephone companies operating throughout the State of South Dakota.

2. On or about May 23, 2014, Blue Jay Wireless, LLC (hereinafter referenced as "Blue Jay") filed a Petition with the Commission seeking designation as an Eligible Telecommunications Carrier ("ETC") for the purpose of offering Lifeline Services on a wireless basis. Blue Jay has specifically indicated that it does not request ETC designation for the purpose of receiving support from any other federal universal service funds.

3. Blue Jay claims that it offers its resold wireless services as a "common carrier" and is seeking ETC designation throughout most areas of the State, including within many rural telephone company exchange areas. A document labeled a "List of Relevant Exchanges Included in Coverage Area for which Designation is Sought" is attached to the filed Petition as "Exhibit E." In regards to this list, it appears that it itemizes "Rate Centers" and not, more specifically, the individual local exchange areas served by each impacted

incumbent local exchange carrier. Rate Center designations alone are not an adequate substitute for a listing of local exchange areas. Any single rate center may include multiple exchange areas depending on the local switching configuration and whether any remote switches or concentrators are used within the rate center area.

4. All of the SDTA member companies operate as “rural telephone companies” for purposes of the Federal Telecommunications Act of 1996 and under applicable state laws.

5. It is clear that Blue Jay is seeking ETC designation for the purpose of offering pre-paid wireless Lifeline services in numerous rural telephone company “service areas” or “study areas.” Accordingly, many of the SDTA member local exchange carriers (LECs) have an interest in and stand to be impacted by this proceeding. SDTA seeks intervention herein based on the individual interests of each of these member ILECs and also based on their common interests to ensure that the additional public interest protections contained in the federal and state laws pertaining to ETC designations in rural service areas are properly considered and applied.

6. SDTA has concerns with the requested ETC designation. In regards to any Petition for ETC Designation which extends to rural service areas the additional “public interest” requirement set forth in 47 U.S.C. § 214(e)(2) and SDCL § 49-31-78 applies and state commission are not obligated to grant multiple ETC designations in such areas. SDTA questions whether granting the additional ETC designation requested by Blue Jay would be in the best interest of South Dakota consumers residing in SDTA member company rural service areas. As the FCC has appropriately noted, the Lifeline program does play a role in assisting with telecommunications infrastructure deployment in high cost areas and that role has become more critical as rural rate-of-return carriers face greater financial pressures resulting from FCC reforms that have reduced federal high cost funding and

inter-carrier compensation revenues.<sup>1</sup> In addition, as this Commission is well aware, at present the FCC has not yet adopted a “Connect America Fund” mechanism for rural carriers allowing such companies to receive support for stand-alone broadband services. High cost funding is only available to rural carriers if wireline “circuit-switched” or “TDM” voice services are subscribed to by the end user customer. This being the case, to the extent any additional ETC designation within a rural carrier service area, even for Lifeline only purposes, causes end user customers to abandon existing wireline voice services, the incumbent rural carrier’s end user revenues and high cost funding revenues are impacted and continued broadband infrastructure deployment is put at risk.

7. Further, it should be noted that even though, as indicated in the Blue Jay Petition, the FCC has taken action forbearing from the requirement that the service area of a competitive Lifeline ETC conform to the existing rural telephone company service area, eliminating the need to separately obtain a separate service area redefinition as part of the ETC designation process, this Commission’s ability to fully review and consider all facts relevant to the public interest in reviewing Blue Jay’s requested ETC designation, as it applies to rural service areas, has not been preempted.<sup>2</sup> As stated by the FCC, “[t]he Act already requires designating commissions to affirmatively determine that designating a carrier as an ETC within a rural service area is in the public interest and that determination is not affected by this grant of forbearance. As a result, any concerns raised by a rural

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<sup>1</sup> *Federal-State Joint Board on Universal Service; Promoting Deployment and Subscribership in Unserved and Underserved Areas, Including Tribal and Insular Areas*, CC Docket No. 96-45, Twelfth Report and Order, Memorandum Opinion and Order, and Further Notice of Proposed Rulemaking (released June 30, 2000).

<sup>2</sup> *In the Matter of Telecommunications Carriers Eligible for Support*, WC Docket No. 09-197, *In the Matter of Lifeline and Link Up Reform*, WC Docket No. 11-42, Memorandum Opinion and Order, FCC13-44 (released April 15, 2013).

telephone company will be evaluated by the designating authority when considering designating a limited, Lifeline-only ETC.”<sup>3</sup>

9. Based on all of the foregoing, SDTA alleges that it is an interested party in this matter and would seek intervening party status.

Dated this 13<sup>th</sup> day of June, 2014

Respectfully submitted:  
SDTA

A handwritten signature in black ink, appearing to read "Richard D. Coit", written over a horizontal line.

Richard D. Coit  
Executive Director and General Counsel

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<sup>3</sup> *Id.* at par. 13, p. 7.