

November 21, 2014



Mr. Darrell Nitschke
Executive Secretary
North Dakota Public Service Commission
600 East Boulevard Avenue, Dept. 408
Bismarck, ND 58505-0480

*Re: In the Matter of the Application of Blue Jay Wireless, LLC
for Designation as an Eligible Telecommunications Carrier
Case No. PU-14-720
Our File No. 15-693-001*

Dear Mr. Nitschke:

Enclosed for filing are the following two Applications:

1. Application to Protect Information (training materials); and
2. Application to Protect Information (financial documents).


On November 21, 2014, Blue Jay Wireless, LLC ("Blue Jay") submitted financial documents and training materials in a sealed envelope with its Applications to Protect Information. Blue Jay requests that the protected information be incorporated into the record, and that the protected information is used when evaluating Blue Jay's Application for Designation as an Eligible Telecommunications Carrier.

Also enclosed for filing are Blue Jay's Responses to The North Dakota Public Service Commission's Questions One through Six in Letter dated October 13, 2014; with Certification from David Wareikis.

If you have any questions or need any additional information, please contact me at your earliest convenience. Thank you.

Sincerely,

CROWLEY FLECK PLLP



Stephanie Dassinger

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Enc.

**BEFORE THE PUBLIC SERVICE COMMISSION
OF THE STATE OF NORTH DAKOTA**

In the matter of the Application of)	
Blue Jay Wireless, LLC)	Case No. PU- 14-720
For Designation as an)	
Eligible Telecommunications Carrier)	

APPLICATION TO PROTECT INFORMATION

Applicant Blue Jay Wireless, LLC (“Blue Jay”) submits this application to protect from disclosure certain trade secret information being provided at the request of this Commission. Specifically, Blue Jay wishes to protect its agent compliance training materials, and agent recertification training materials (collectively “training materials”) provided in response to question 4 of the Commission’s request for additional information made in a letter dated October 13, 2014. The limited information for which protection is sought is eligible for protection under this Commission’s rules for trade secret protection set forth in N.D.A.C. chap. 69-02-09 and therefore is entitled to protection from disclosure. Consistent with this Commission’s guidelines for an application to protect information, Blue Jay has filed with this application a confidential version of the training materials in a sealed envelope labeled “TRADE SECRET – PRIVATE.” *See* N.D.A.C. § 69-02-09-02.

Under North Dakota’s open records law, “all records of a public entity are public records” unless an exception applies. N.D.C.C. § 44-04-18. Trade secret information is exempt from disclosure under North Dakota’s open records law. *See* N.D.C.C. § 44-14-18.4. In recognition of that fact, this Commission’s regulations provide a process by which an applicant may request trade secret protection for its filings. *See* N.D.A.C. chap. 69-02-09. The Commission will protect information that qualifies for the definition of “trade secret” under N.D.C.C. § 47-25.1-01. *See* N.D.A.C. § 69-02-09-03. That definition provides:

"Trade secret" means information, including a formula, pattern, compilation, program, device, method, technique, or process, that:

- a. Derives independent economic value, actual or potential, from not being generally known to, and not being readily ascertainable by proper means by, other persons who can obtain economic value from its disclosure or use; and
- b. Is the subject of efforts that are reasonable under the circumstances to maintain its secrecy.

N.D.C.C. § 47-25.1-01(4).

The training materials submitted with this application qualify for trade secret protection under N.D.A.C. § 69-02-09. Below is an explanation of why the training materials satisfy each of the six requirements for protection set forth in N.D.A.C. § 69-02-09-01:¹

1. The training materials detail Blue Jay's process for training its agents to identify duplicate accounts and prevent fraud.
2. The information derives actual independent economic value because it describes the process by which Blue Jay trains its agents to identify duplicate accounts and prevent fraud in order to comply with the law and avoid fines. The information derives actual independent economic value because other companies would be

¹ Pursuant to N.D.A.C. § 69-02-09-01, an application for trade secret protection must include:

1. A general description of the nature of the information sought to be protected;
2. An explanation of why the information derives independent economic value, actual or potential, from not being generally known to other persons;
3. An explanation of why the information is not readily ascertainable by proper means by other persons;
4. A general description of the persons or entities that would obtain economic value from disclosure or use of the information;
5. A specific description of known competitors and competitors' goods and services that are pertinent to the tariff or rate filing; and
6. A description of the efforts used to maintain the secrecy of the information.

able to duplicate Blue Jay's agent training and recertification process and better compete with Blue Jay in the Lifeline market.

3. The information in the training materials is not readily ascertainable by proper means by other persons because it is only distributed to Blue Jay's agents during the training and recertification process. The training materials are maintained in a confidential manner by Blue Jay.
4. Blue Jay's competitors in the Lifeline market would obtain economic value from disclosure or use of the training materials, because their use of Blue Jay's training process would permit them to train their agents without having to go to the significant time and expense of creating training materials themselves.
5. This is not a tariff or rate filing, so the requirement set forth in N.D.A.C. § 69-02-09-01(5) does not apply.
6. The training materials were created internally at Blue Jay in order to train its agents to identify duplicate accounts. The training materials are only distributed to agents during the training process, and are otherwise kept confidential within the company.

Accordingly, Blue Jay respectfully requests that the Commission grant its application to protect information, allow the relevant information to be filed confidentially, and enter an appropriate protective order limiting disclosure of the information.

Dated this 21st day of November, 2014.



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