

**BEFORE THE PUBLIC SERVICE COMMISSION
OF THE STATE OF MISSOURI**

**IN THE MATTER OF THE)
APPLICATION OF EASY TELEPHONE)
SERVICE COMPANY D/B/A EASY) Case No. TA-2011-0164
WIRELESS FOR DESIGNATION AS AN)
ELIGIBLE TELECOMMUNICATIONS)
CARRIER ON A WIRELESS BASIS)
(LOW INCOME ONLY))**

**IN THE MATTER OF THE APPLICATION)
OF GLOBAL CONNECTION INC. OF)
AMERICA D/B/A STAND UP WIRELESS) Case No. RA-2011-0299
FOR DESIGNATION AS AN ELIGIBLE)
TELECOMMUNICATIONS CARRIER ON)
A WIRELESS BASIS (LOW INCOME)
ONLY))**

**IN THE MATTER OF THE APPLICATION)
OF ASSURANCE HOME PHONE)
SERVICES, INC., D/B/A SURETY)
WIRELESS FOR DESIGNATION AS AN)
ELIGIBLE TELECOMMUNICATIONS) Case No. RA-2011-0298
CARRIER ON A WIRELESS BASIS (LOW)
INCOME ONLY))**

RESPONSE TO STAFF MOTION FOR INDEFINITE CONTINUANCE

Come now Easy Telephone Service Company (“Easy Telephone”), Global Connection, Inc. of America dba Stand Up Wireless (“Stand Up”), and Assurance Home Phone Services, Inc., dba Surety Wireless (“Surety”) (collectively “Applicants”), and pursuant to 4 CSR 240-2.080, responds to Staff’s Motion for Indefinite Continuance in the referenced dockets:

1. Each of the Applicants has filed an Application for designation as a wireless Eligible Telecommunications Carrier (“ETC”) for low income federal universal service fund (“FUSF”) purposes. None of these carriers is seeking any Missouri universal service fund

support or support from the high-cost portion of the FUSF. Persons eligible for the substantial benefits of the low income portion of the FUSF have been alarmingly slow to take advantage of the program, resulting in a widely acknowledged failure to implement the salutary public policy behind the program. On the other hand, the high-cost portion of the FUSF has resulted in skyrocketing benefits, largely due to the benefits received by already prosperous rural ILECs and large incumbent RBOCs and ILECs. In spite of these facts, Staff has moved the Commission to indefinitely halt the designation of wireless ETCs, such as Applicants, that seek access to the low-income subsidies.

2. The statements made by Staff in paragraphs 1 and 3 of its Motion, with respect to the procedural nature of the ETC applications by each of the Applicants on whose behalf this Response is filed, are accurate.

3. Staff's Motion paints with far too broad a brush. Staff would have reputable carriers, such as Applicants, tarred by the alleged shortcomings of other carriers that are seeking ETC designation from the Commission. This request flies in the face of American notions of due process and fundamental justice, not to mention this Commission's obligation to give timely consideration to applications for Commission authority. Granting Staff's Motion would eliminate a growing competitive element from the Missouri telecommunications market, to the detriment of customers seeking the best deal for their telecommunications dollars.

4. Staff's Motion sets forth no evidence that any of the Applicants is among those carriers implicated by the "ever-increasing volume of material concerning assertions of fraud and other illegal activities by some wireless and some wireless ETCs." (Staff Motion, ¶ 5). Although a company (Telecom Service Bureau) which shares common ownership with Easy Telephone was the subject of claims asserted by a self-described whistleblower related to Staff in an email from a USAC representative, Easy Telephone has provided a response to those

allegations with a substantial record of emails and other documents, an affidavit from Easy Telephone's CEO, and a face-to-face meeting with Staff representatives and counsel.¹ By all indications, Staff was sufficiently satisfied with Easy Telephone's voluntary provision of substantial evidence, and is waiting for information from the Louisiana Commission before providing its final recommendation on Easy Telephone's application. Easy Telephone incorporates by reference the filings it made in response to Staff's investigation of the USAC email. The evidence demonstrates that the alleged whistleblower has a commercial dispute with Telecom Service Bureau, not Easy Telephone, arising out of the lack of a fully-negotiated contract concerning the distribution of handsets in Louisiana, a state which allows customers to self-certify their eligibility for USF benefits. There is no allegation or evidence that Easy Telephone violated any federal, state, or USAC law or rules in the situation giving rise to the USAC email.² In fact, the USAC email does not even make any allegations against Easy Telephone.

5. The other two Applicants, Surety and Stand Up, have responded to all Staff data requests and have filed supplements to their applications to provide additional information at Staff's request. There is absolutely no evidence that either of those companies was the subject of the USAC email. They have no connection to Easy Telephone (other than sharing the same counsel for their applications) or to Telecom Service Bureau; if Staff were to request documentation to demonstrate the veracity of that statement, the companies would be pleased to provide it.

¹ That meeting was part of an investigation that members of the Commission ordered Staff to undertake when Easy Telephone's application was presented to the Commission at an agenda meeting.

² At the agenda meeting in which the Commission discussed Easy Telephone's application, more than one Commissioner indicated that the alleged whistleblower's credibility was buttressed by the fact that she made a personal visit to USAC in Washington. However, as Easy Telephone informed Staff during the investigation, the alleged whistleblower was already in Washington on other business, and did not make a special trip for the USAC meeting.

6. The Attachments to Staff's Motion also raise no concerns about the Applicants. The letter from the New Jersey Board of Public Utilities reflects a policy decision not to process ETC applications because of the FCC's NPRM. There is nothing in its content concerning alleged fraud or, as the Staff transmittal email indicates, any "investigations." (Staff Motion, Attachment I). The South Carolina Staff motion to dismiss the ETC application of LifeConnex Telecom in no way implicates the practices of any of the Applicants. As the South Carolina motion indicates, LifeConnex is associated with Associated Telecommunications Management Services ("ATMS"), the entity which by all indications has spawned the investigations into wireless ETC practices. The motion sets forth a litany of ETC-related areas in which the application, testimony, and data request responses of LifeConnex are in conflict, a fact that quite properly put the South Carolina staff on notice that LifeConnex might not merit ETC designation. The motion notes in its prayer for relief that Staff requests dismissal of the LifeConnex application "for all the reasons set forth above." The South Carolina Staff's motion and recommendation are fact-based, not based on a policy recommendation that all ETC applications should be denied or put on hold. (Staff Motion, Attachment 2). The Florida Public Service Commission has also been investigating ATMS. The result of that investigation is addressed in Attachments 3 and 4 to Staff's Motion. It is significant that none of the Applicants is listed among the ATMS companies. (Staff Motion, Attachment 4, page 4). The ATMS companies may have engaged in fraudulent practices. There is no evidence that any of the Applicants has done so.

7. Staff proposes that all pending ETC applications be placed on indefinite hold, while Staff is formulating a proposal for a rule to govern ETC application investigations. Staff provides no schedule for making such a proposal, and of course the proposal would then have to follow the statutory rulemaking requirements. To predict when a rule would be in place is well

nigh impossible. In the meantime companies against which no statutory or regulatory violations have been alleged are left to twist, slowly, in the wind. Justice this is not. Responsible regulation this is not.

8. The Applicants propose, alternatively, that their applications be processed and considered by the Commission. They are ready and able to respond, promptly and comprehensively, to any question Staff might raise. They are ready and able to come to Jefferson City at Staff's invitation for face-to-face meetings at which Staff may ask any question. The Applicants have no agenda save one: to obtain authorization from this Commission to take part in a federal program whose requirements they meet and which will allow them to provide competitive and subsidized services to less-fortunate Missourians.

9. All of the information mentioned by Staff in paragraph 9 of its Motion (disclosure of affiliates and contractors, listing of complaints to other Commissions, and penalty actions commenced by any other state), may be obtained by data request. There is simply no need for a complex and time-consuming rulemaking proceeding that will yield nothing more than what the Commission can already obtain by simply asking questions of applicants.

10. The Applicants acknowledge the correctness of Staff's legal arguments in paragraph 10 of its Motion, concerning the naming of new ETC designees and the time the Commission may take in reviewing ETC applications. But simply because the Commission does not have to do something, does that mean that it still shouldn't do it? If the Commission were to stop at designating only two ETCs in the AT&T service area (one of which is, of course, AT&T), would those ETCs feel any competitive pressure to energetically market their services? Duopolies are not the desired result of the ETC designation process. Similarly, simply because the Commission can take years to process an ETC application, should the Commission take that

long? Missouri customers deserve competitive choice -- the Commission has said that many times -- and timely consideration of ETC applications will give them that choice.

Wherefore, for the reasons stated above, the Applicants respectfully request that the Commission deny Staff's Motion for Indefinite Continuance.

Respectfully submitted,

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CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing has been mailed, hand-delivered, transmitted by facsimile, or electronically mailed to all counsel of record this 8th day of June, 2011.

/s/ Mark P. Johnson
Mark P. Johnson