

**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 )  
WIRELESS FOR DESIGNATION AS AN )  
ELIGIBLE TELECOMMUNICATIONS )  
CARRIER ON A WIRELESS BASIS )  
(LOW INCOME ONLY) )**

**Case No. TA-2011-0164**

**RESPONSE OF APPLICANT TO STAFF REPORT AND WITHDRAWAL OF STAFF  
RECOMMENDATION**

Comes now Applicant Easy Telephone Service Company (“Applicant” or “Easy”), by its undersigned counsel, and in response to Staff’s Report and Withdrawal of Staff Recommendation (“the Report”), states the following:

1. The Applicant filed its Application for designation as an Eligible Telecommunications Carrier (“ETC”) on a wireless basis for low-income federal universal service fund benefits on December 7, 2010. Staff filed a favorable recommendation on February 4, 2011, but withdrew that recommendation on February 28, 2011, when it filed the Report to which the Applicant now responds. Staff also recommended in its February 28 pleading that this proceeding be closed without action.

2. When Staff filed its February 28 Report, the Commission was in all likelihood shortly to consider a final order in this proceeding. By all indications, the Commission’s action on the Application was to be favorable, granting ETC status. However, Staff’s Report has derailed consideration of the Application, to the Applicant’s demonstrable prejudice.

3. The Applicant has previously indicated to the Commission that it needs an unredacted copy of the document on which Staff based its decision to withdraw the favorable

recommendation. However, given the damage the Applicant has suffered, and will continue to suffer, as a direct consequence of the delay in granting ETC status, the Applicant proceeded with preparation of substantial documentation to respond to the Report. It has been able to do so because it believes it knows the identity of the person who lodged a complaint with USAC. The Applicant believes that the Commission will eventually order that the unredacted document be produced, but while waiting for that event, the Applicant continues to suffer damage. Thus, the Application has decided to file this Response, cautiously confident that its belief as to the identity of its accuser is accurate, as well as its understanding of the events leading to the accuser's contacts with USAC.

4. By this Response, the Applicant intends to accomplish the following:
  - (a) demonstrate that the "evidence" on which Staff based its Report is flawed and infected with improper motive, rendering it wholly unreliable; and
  - (b) persuade the Commission to place the Application back on its docket for final decision in the near future.

**The Evidence on which Staff Based its Report.**

5. Attached to Staff's Report is a document which the Applicant believes is an email from USAC concerning information received from \*\*\*\*\*, the owner of \*\*\*\*\*, an entity which a company called Telecom Service Bureau, Inc., used for the distribution of promotional materials and equipment relating to efforts to obtain customers for low-income wireless providers. The owner of Telecom Service Bureau ("TSB") also owns a majority interest in the Applicant, although the two companies neither support nor combine resources with each other.

6. The email is a second-hand summary account of some information provided to USAC by \*\*\*\*\* intended to demonstrate that TSB had acted fraudulently with respect to the marketing of wireless service to low-income customers in Louisiana in December 2010, and

January, 2011. However, as Staff failed to point out, there is not a single shred of direct, first person evidence in the email. There is no sworn information provided (unlike, as the Commission will find attached to this Response, a sworn affidavit from \*\*\*\*\*' principle assistant, refuting many of the allegations in the USAC email). In short, the USAC email (even in its unredacted form) does not constitute admissible evidence, and should surely not be used to support Staff's request that Easy be denied ETC designation, which is the practical effect of Staff's request that the proceeding be close without action.

**The Applicant's Evidence to Support its Response**

7. Attached to this Response are nearly one hundred pages of documents, including a detailed response from TSB's owner (also the owner of a 51% interest in the Applicant) to the email's accusations, an affidavit, a detailed timeline of relevant events, and copies of contemporaneous email traffic. The cumulative effect of this evidence, all of which would be admissible in a hearing before the Commission, is that the "evidence" on which Staff relies (the use of parentheses is intentional, as the email would not be admissible for any purpose, because it is gross hearsay and a summary description of events, without any underlying original documentation).

8. The Commission will find attached to this Response the following documents, all of which are filed under seal:

- (a) a letter from Joseph Fernandez, owner of TSB, responding to the allegations in the USAC email and providing information reflecting on the improper motivation of \*\*\*\*\* (Exhibit A);
- (b) an affidavit of \*\*\*\*\*, an employee of \*\*\*\*\* and \*\*\*\*\*, demonstrating that many of the allegations of fraudulent conduct in the USAC email are without basis in fact;

(c) a timeline of events of relevance to the relationship between TSB and \*\*\*\*\*; and

(d) a series of emails, most of which are correspondence between \*\*\*\*\* and representatives of TSB, concerning the relationship between \*\*\*\*\* and TSB.

9. The gist of the emails is that \*\*\*\*\* attempted to renegotiate \*\*\* agreement with TSB after the parties had reached an agreement, and that to exert leverage over the Applicant, \*\*\*\*\* threatened to lodge a complaint with the FCC. In effect, \*\*\* was attempting to compel TSB to agree to \*\*\* negotiating demands by threatening to whistle blow to the FCC. Absent payment of a substantial settlement and a new contract with TSB, \*\*\*\*\* was going to report TSB's "conduct" to USAC. TSB refused \*\*\* demands for a new contract. As a consequence, \*\*\*\*\* made good on \*\*\* threats and went to USAC. \*\*\* actions are a reflection of \*\*\* motivations, and given the extent of the email traffic attached hereto, the Commission need not wonder about \*\*\*\*\* motivations -- they are clear as day. \*\*\* wanted more money, which TSB refused.

Wherefore, having responded to the Staff's Report, the Applicant requests that the Commission reject Staff's recommendation that the proceeding be closed and proceed to a final order granting the Applicant's request for ETC designation.

Respectfully submitted,

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Attorneys for Easy  
Telephone Service Company

**CERTIFICATE OF SERVICE**

I hereby certify that a true and correct copy of the foregoing was served electronically on this 9th day of March, 2011, on the following:

General Counsel  
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Office of Public Counsel  
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/s/ Mark Johnson  
Mark Johnson, Esq.

**EXHIBIT A**

**LETTER OF JOE FERNANDEZ**

**Filed under Seal**

EXHIBIT B

AFFIDAVIT OF \*\*\*\*\*

Filed under Seal

EXHIBIT C

TIMELINE OF EVENTS

Filed under Seal



**EXHIBIT D**

**RELEVANT EMAIL EXCHANGES**

**Filed under Seal**