

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

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| 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) |) | |

**RESPONSE OF APPLICANT TO COMMISSION ORDER CONCERNING
CONFIDENTIALITY OF INFORMATION**

Comes now Applicant Easy Telephone Service Company (“Applicant” or “Easy”), by its undersigned counsel, and in response to the Commission’s Order of March 22, 2011 (“the Order”), states the following:

1. Since February 28, 2011, the parties (the Applicant and Staff) have exchanged pleadings in which the identity of a whistle blower to USAC and certain identifying information revealed by that whistle blower have been the subject of redacted pleadings and documents filed on a confidential basis. As the Commission observed in the Order, the principle purpose of those redactions and confidential filings has been to preserve the anonymity of the whistle blower. The Staff Response of March 11 indicates that relevant federal rules (the USAC Whistleblower Alert system) mandate that anonymity.

2. The Commission has also correctly noted that the filing of redacted pleadings and exhibits has deprived the Commission of access to full and complete information. In the Order, the Commission asks Staff and the Applicant to express their positions with respect to the continued confidentiality of that information.

3. The Commission’s rule on preservation of confidential information, 4 CSR 240-3.135, does not appear to contemplate the situation before the Commission. The rule contemplates contested cases involving rates, interconnection agreements, or the like, but not the

identity of third person, extra-judicial statements made that materially impact an application for designation as an Eligible Telecommunications Carrier (for that matter, the extra-judicial statements at issue here were made to a person at USAC who then summarized those statements in the email that Staff filed in a redacted fashion). Nor does the rule contemplate the possible impact of disclosure of information which could give rise to a tort claim for the person whose identity is disclosed.

4. In light of the need for the Commission and its Staff to have access to the information which to date has been filed in confidence, the Applicant suggests that the information (including the unredacted USAC email) be available to members of the Commission and the Staff involved in the case, but that for public consumption the information be maintained in confidence.

5. The Commission must understand that the Applicant is also concerned that public disclosure of the identifying information, including information which identifies the source of information demonstrating that the information in the USAC email is inaccurate, could give rise to claims of defamation by persons whose identities are disclosed. The Applicant does not believe that disclosure of such identifying information to the Commission and the participating members of its Staff will give rise to a claim, as those persons have a legal interest (in other words, a need to know) in learning that information. On the other hand, the public does not have such a legal interest, and as such disclosure of the information to the public could give rise to a defamation claim.

Wherefore, the Applicant suggests that in its discretion the Commission should order Staff to file an unredacted version of the USAC email under seal, and that the Commission and the Staff members participating in the case have access to the USAC email and unredacted versions of the reply and supporting exhibits filed by the Applicant on March 11. As the

Applicant has already filed unredacted versions of its pleadings and supporting documents, the Commission and Staff need only refer to those versions to obtain the necessary information.

Respectfully submitted,

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CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing was served electronically on this 25th day of March, 2011, on the following:

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/s/ Mark Johnson
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