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TENNESSEE REGULATORY AUTHORITY

**460 James Robertson Parkway
Nashville, Tennessee 37243-0505**

MEMORANDUM

To: *Application of USA Digital Communications, Inc. for Authority to Resell
Telecommunications Services in Tennessee, Docket No. 00-00115
Company ID 128529*

From: Lisa Foust, Utilities Division *LF*
Rebecca Montgomery, Legal Division *RM*

Date: November 10, 2010

A Notice to Appear has been issued requiring USA Digital Communications, Inc. ("USA Digital" or the "Company") to appear before the Tennessee Regulatory Authority ("TRA" or "Authority") during the Authority Conference scheduled for Monday, November 22, 2010 at 1:00 p.m. and show cause why the Authority should not proceed to convene a proceeding to impose civil penalties and sanctions, including but not limited to, revocation of USA Digital's Certificate of Public Convenience and Necessity ("CCN") for operating without a bond or irrevocable letter of credit in violation of Tenn. Code Ann. § 65-4-125(j).

On October 27, 2009 the Authority received a Notice of Cancellation from CNA Surety ("CNA") regarding bond number 190786604, issued on behalf of USA Digital with an effective cancellation date of thirty (30) days from the date of the Authority receiving the letter. On October 27, 2009, Staff phoned the company at 888-872-3787 and asked for David Williamson, the contact person listed on the application. Staff was told that he was no longer employed with the company and was transferred to Michael Sturdinson. Staff left Mr. Sturdinson a voice mail about the bond requirement. No one returned the phone call. On April 9, 2010, Staff sent the company a certified letter indicating non-compliance with Tenn. Code Ann. § 65-4-125(j). The certified letter was received by the company on April 14, 2010 and signed for by Shawna Bruce.

As of the date of this memo, no Surety Bond or Letter of Credit has been received by the TRA. As a result, USA Digital has been in violation of Tenn. Code Ann. § 65-4-125(j) for three months.

As evidenced herein, numerous attempts have been made by Staff to see that USA Digital complies with Tenn. Code Ann. § 65-4-125(j). Nevertheless, these attempts have not resulted in USA Digital securing and providing the TRA a Bond or Letter of Credit in compliance with Tenn. Code Ann. § 65-4-125(j). This matter is before the Authority to hear from a representative of USA Digital during the Authority Conference on November 22, 2010 and to be provided an explanation as to why a docket should not be opened for the purpose of conducting a contested case proceeding to determine whether the TRA should impose sanctions against USA Digital in the form of civil penalties and/or revocation of its CCN.

c: Celeste Eckoart, USA Digital Communications, Inc..