

BEFORE THE TENNESSEE REGULATORY AUTHORITY

NASHVILLE, TENNESSEE

January 17, 2012

IN RE:

**SHOW CAUSE PROCEEDING AGAINST
USA DIGITAL COMMUNICATIONS, INC.
FOR ALLEGED VIOLATIONS OF TENN.
CODE ANN. § 65-4-125(j)**

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**DOCKET NO.
11-00006**

**ORDER OPENING DOCKET TO INITIATE SHOW CAUSE PROCEEDING
AGAINST USA DIGITAL COMMUNICATIONS, INC.**

This matter came before Chairman Mary W. Freeman, Director Kenneth C. Hill, and Director Sara Kyle of the Tennessee Regulatory Authority ("Authority" or "TRA") on its own motion at a regularly scheduled Authority Conference held on November 22, 2010 for consideration of whether to open a docket for the purpose of investigating USA Digital Communications, Inc. ("USA Digital" or the "Company") and initiating a show cause proceeding for alleged violation of Tenn. Code Ann. § 65-4-125(j).

Tenn. Code Ann. § 65-4-125(j), subject to specific exceptions, requires that telecommunication service providers file a \$20,000 corporate surety bond or irrevocable letter of credit to secure the payment of any monetary sanction imposed in any enforcement proceeding, brought under Tenn. Code Ann. Title 65 or the Consumer Telemarketing Protection Act of 1990, Tenn. Code Ann. § 47-18-1501, *et seq.*, by or on behalf of the Authority.¹ In addition, Tenn. Code Ann §§ 65-4-125(e) and 65-2-106 empower and authorize the Authority to enforce its statutes and rules against any telecommunications service provider, or any person acting on behalf of any telecommunications service provider, by issuing orders on its own motion citing

¹ Tenn. Code Ann. § 65-4-125(j).

persons under its jurisdiction to appear before it and show cause why the Authority should not take such action as appears justified by a preliminary investigation made by the Authority.²

On October 27, 2009, the Authority received a Notice of Cancellation from CNA Surety ("CNA") dated October 22, 2009 concerning bond number 190786604, issued on behalf of USA Digital, with an effective cancellation date of thirty days from the date of the Authority's receipt of the notice. On October 27, 2009, TRA Staff phoned the Company at 888-872-3787 and asked for David Williamson, the contact person listed on the application. TRA Staff was informed that Mr. Williamson was no longer employed with USA Digital and was instead referred to Michael Sturdinson. As Mr. Sturdinson was unavailable, TRA Staff left a voice mail message notifying the Company of the Authority's receipt of CNA's Notice of Cancellation and USA Digital's obligation to comply with Tenn. Code Ann. § 65-4-125(j). USA Digital has been in violation of Tenn. Code Ann. § 65-4-125(j) since November 26, 2009.

On April 9, 2010, TRA Staff sent a certified letter to the address for USA Digital headquarters on file with the Authority informing the Company that it was not in compliance with Tenn. Code Ann. § 65-4-125(j). On April 14, 2010, Shawna Bruce signed the certificate and took delivery of the certified letter on behalf of the Company. Despite the TRA Staff's efforts to resolve this matter, USA Digital has failed to submit a surety bond or irrevocable letter of credit as required under Tenn. Code Ann. § 65-4-125(j).

On November 12, 2010, in the absence of response from the Company and not having received a surety bond or letter of credit, the TRA issued a Notice to Appear in Docket No. 00-00115. The Notice required that USA Digital appear before the TRA during the regularly

² Tenn. Code Ann §§ 65-4-125(e) and 65-2-106.

scheduled Authority Conference on Monday, November 22, 2010 and show cause why the Authority should not proceed to convene a proceeding to impose civil penalties and sanctions, including possible revocation of USA Digital's Certificate of Public Convenience and Necessity ("CCN"), for failure to file a surety bond or irrevocable letter of credit with the Authority as required under Tenn. Code. Ann. § 65-4-125(j).

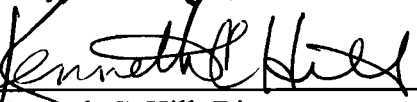
AUTHORITY CONFERENCE

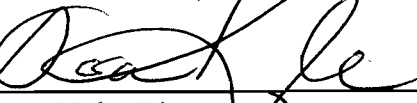
During a regularly schedule Authority Conference held on November 22, 2010, this matter came before the voting panel for consideration. Despite the notice informing USA Digital of the seriousness of the proceeding and possible consequences that may result, no one appeared on behalf of USA Digital, either personally or by telephone, during the November 22, 2010 Authority Conference. Therefore, the voting panel, acting in accordance with Tenn. Code Ann. §§ 65-2-106 and 65-4-125(e), voted unanimously to open a docket for further investigation and the initiation of a show cause proceeding against USA Digital for its failure to comply with Tenn. Code Ann. § 65-4-125(j).

IT IS THEREFORE ORDERED THAT:

A docket shall be opened for the purpose of further action, including the initiation of a show cause proceeding pursuant to Tenn. Code Ann. § 65-2-106, against USA Digital Communications, Inc.


Mary W. Freeman, Chairman


Kenneth C. Hill, Director


Sara Kyle, Director