



Public Service Commission

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COMMISSION
CLERK

DATE: June 29, 2009

TO: Matthew M. Carter II, Chairman
Katrina J. McMurrian, Commissioner
Lisa Polak Edgar, Commissioner
Nancy Argenziano, Commissioner
Nathan A. Skop, Commissioner

FROM: Robert J. Casey, Public Utilities Supervisor, Division of Regulatory Compliance
James S. Polk, Regulatory Analyst II, Division of Regulatory Compliance

RE: Item No. 5 on June 30 agenda, Amended Petition for Designation as Eligible
Telecommunications Carrier by Swiftel LLC, Docket No. 070348-TX

Staff is providing the following updates regarding the above item which will be considered by Commissioners at the June 30 agenda:

1) Swiftel in danger of having service from AT&T suspended - During the six-month period from October 2008 through March 2009, Swiftel received billing from AT&T for services provided in Alabama and Florida in the amount of \$3,445,273. During the same period, Swiftel made payments of only \$14,565 to AT&T. Also during this same period from October 2008 through March 2009, Swiftel received almost \$1.4 million in Lifeline and Link-Up monies from the federal universal service fund, which staff believes was a violation of FCC rules as described in staff's recommendation.

On March 25, 2009, AT&T informed Swiftel that AT&T would suspend service unless Swiftel provided an additional security deposit of \$1.158 million. That amount is calculated based on two months of Swiftel's gross billings, as allowed in their interconnection agreement. On April 15, 2009, AT&T sent a second notice to Swiftel to post a deposit of \$1.158 million or AT&T would suspend service. On May 4, 2009, Swiftel filed a petition with the Alabama PSC asking that AT&T be prohibited from suspending service to Swiftel. As of June 26, 2009, the Alabama PSC has not set a date for consideration of Swiftel's petition. Although Swiftel LLC has a nine-state interconnection agreement with AT&T, staff has been unable to confirm if service to Florida consumers would also be suspended.

Swiftel petition to Alabama PSC to prevent suspension of service -

<https://www.pscpublicaccess.alabama.gov/pscpublicaccess/ViewFile.aspx?Id=25e3106d-e3d9-48d2-9daa-2db9f4544f0d>

AT&T response to petition -

<https://www.pscpublicaccess.alabama.gov/pscpublicaccess/ViewFile.aspx?Id=27197c48-1758-46df-9d0d-c814c9241f30>

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2) Swiftel Name Change – On April 2, 2009, Swiftel, LLC officially changed its name to LifeConnex Telecom, LLC (LifeConnex) with the Florida Department of State, Division of Corporations. On June 18, 2009, Swiftel filed a petition with the Kentucky Public Service Commission to change its name to LifeConnex, and on June 22, 2009, Swiftel filed a petition with the Tennessee Regulatory Authority to change its name to LifeConnex.

http://psc.ky.gov/telecomm_informational_letters/Swiftel_LLC-061909.pdf

<http://www.state.tn.us/tra/orders/2009/0900087.pdf>

Although being advised by the Florida PSC Clerk's office on May 13, 2009, that Swiftel needed to file a petition for a name change to LifeConnex on its CLEC certificate, Swiftel has yet to file a request. Swiftel is no longer an official corporate name in Florida, and LifeConnex, although an official corporate name in Florida, is not a certificated CLEC with the Florida PSC.

3) Swiftel LLC name still being used – On June 11, 2009, Angie Watson filed the annual Lifeline verification of continued eligibility letter (dated May 11, 2009) with the Alabama PSC on Swiftel letterhead and signed as President of Swiftel. Swiftel's name changed to LifeConnex on April 2, 2009. Swiftel's CLEC status in Alabama was granted on the basis it was a Florida corporation;

<https://www.pscpublicaccess.alabama.gov/pscpublicaccess/ViewFile.aspx?Id=f8f0ccbb-542e-43d2-ad47-c2b74b1ea323>

4) Texas Public Utility Commission (PUC) staff Motion for Sanctions against True Wireless, LLC for providing for false information in its application and prefiled testimony

- As mentioned on page nine of staff's recommendation, Swiftel failed to disclose through staff's data requests that Leonard Solt, 50 percent owner of Swiftel, is also an owner of TRUE Wireless LLC, a company seeking ETC status in the State of Texas. Staff of the Texas PUC has filed a Motion for Sanctions requesting that True Wireless' application be dismissed with prejudice. Texas PUC staff contend that True Wireless has provided false information in its application and prefiled testimony, which should result in dismissal with prejudice of the True Wireless application.

http://interchange.puc.state.tx.us/WebApp/Interchange/Documents/36164_68_616275.PDF

5) Swiftel has now received over \$2.5 Million in universal service low-income funds in Alabama and Kentucky – As stated on page ten of staff's recommendation, Swiftel is not using its own facilities or a combination of its own facilities and resale of another carrier's services to provide at least one of the required ETC services to Lifeline customers in Alabama or Kentucky in violation of federal rules. Swiftel has collected an additional \$288,788 in June 2009, from the Federal universal service fund (USF), bringing total disbursements from the universal service low-income fund to over \$2.5 Million for Swiftel since becoming an ETC in Alabama and Kentucky. Since Florida consumers contribute an estimated 6.82%¹ of all monies

¹ 2008 Universal Service Monitoring Report, Prepared by the Federal and State Staff for the Federal-State Joint Board on Universal Service in CC Docket No. 96-45.

to the USF low-income fund, it can be reasonably assumed that Florida consumers paid over \$175,000 of the monies received by Swiftel in Alabama and Kentucky.

6) Price Right Communications, LLC – Staff has received a complaint from an existing Florida ETC that PriceRight Communications, LLC, which was incorporated in Florida in December 2008, is offering telecommunications services and Lifeline and Link-Up services at various Department of Children and Families offices across the state without a Florida PSC certificate. The complainant provided a photo of a PriceRight Communications representative who set up a table outside a DCF office to offer Lifeline and Link-Up service to eligible DCF recipients. DCF staff have also notified PSC staff of PriceRight's actions.

Staff has notified PriceRight that a PSC certificate is needed to provide telecommunications services in the State of Florida. PriceRight's advertising material states that it is "an authorized distributor for Swiftel, LLC."

cc: Mary Andrews Bane, Executive Director
Charles H. Hill, Deputy Executive Director
Patrick L. "Booter" Imhof, General Counsel
William C. Garner, Assistant to Chairman Carter
Lawrence D. Harris, Assistant to Commissioner Argenziano
Roberta S. Bass, Assistant to Commissioner Edgar
Lorena A. Holley, Assistant to Commissioner McMurrian
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Docket No. 070348-TX