

Marguerite McLean

From: McKee, James A. [JMckee@foley.com]
Sent: Monday, June 29, 2009 8:30 PM
To: Filings@psc.state.fl.us
Cc: William C. Garner; ateitzman@psc.state.fl.us; Hosay, Robert H.; Kise, Christopher M.
Subject: Swiftel Request for Deferral
Attachments: Swiftel Deferral.pdf

Please see attached.

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**BEFORE THE
FLORIDA PUBLIC SERVICE COMMISSION**

In re: Petition of Swiftel LLC for)	Docket No. 070348-TX
Designation as Eligible)	
Telecommunications Carrier (ETC) and)	Filed: June 13, 2009
Request for Expedited Resolution)	
)	

SWIFTEL LLC'S EMERGENCY REQUEST FOR DEFERMENT

Swiftel LLC ("Swiftel"), by and through their undersigned attorneys, hereby respectfully request deferral of this matter and states as follows:

1. Swiftel's Amended Petition for designation as an eligible telecommunications carrier has been pending since November 19, 2008. Staff issued its revised recommendation on June 4, 2009.
2. On June 29, 2009 at 3:30PM, Staff filed a memorandum which purported to be an update to the above agenda item. This "update" did not merely provide supplemental information regarding existing issues, but instead raised several new significant allegations which had never previously been raised by Staff. Further, these new allegations are based on either incomplete or inaccurate facts and may mislead the Commissioners.
3. The vetting of ETC applicants should be conducted via a genuine fair and open process. Requiring Swiftel to respond to surprise allegations raised less than two working hours before the currently scheduled Agenda Conference is contrary to such a genuine fair and open process and will violate Swiftel's due process rights.
4. Forcing Swiftel to respond to the new allegations tomorrow morning without an adequate chance to conduct due diligence and prepare a response will result in clear prejudice. Conversely, deferral of the Agenda Item to provide Swiftel a reasonable chance to prepare a

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response to staff's allegations will not result in any prejudice as there are no procedural nor statutory deadlines at issue nor any critical dates associated with this docket.

5. The public interest will not be served and this Commission's resources will be wasted if Swiftel is forced to respond for the first time to these issues in a formal challenge to agency action.

WHEREFORE, based on the foregoing, Swiftel respectfully requests this matter be deferred.

Respectfully submitted,

SWIFTEL LLC

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CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing has been served via Electronic Mail to the persons listed below this 29th day of June, 2009:

Agency Clerk
Florida Public Service Commission,
Division of Regulatory Compliance
2540 Shumard Oak Blvd.
Tallahassee, FL 32399-0850

By: /s/ James A. McKee
James A. McKee