

**REQUEST FOR CHANGE TO AGENDA CONFERENCE
HAND DELIVER**

Date of Request: 6/13/2009 Date of Agenda Conference: 6/30/2009 Item No. 5

Docket No.: 070348-TX Brief Title: Petition for Designation as ETC by Swiftel, LLC

Requested by: Staff Other Foley & Lardner, Counsel for Swiftel
(Name)

Please attach a copy of the written documentation filed (IF OTHER)

STAFF's Recommendation to Executive Suite (IF OTHER) Approve Request Deny Request

ACTION REQUESTED [see APM 2.11]

- Defer Item to Agenda Scheduled Date: 8/18/2009
- Change Order of Item or Take Up at Time Certain
- Withdraw Item (not expected to return to Agenda)
- Late Filed Recommendation (must be filed no later than 3:00 p.m. on the date approved for late filing) A copy of the front page of the recommendation must be provided to the Commission Clerk by 12 noon on the regular filing date for use as a place-holder during agenda preparation.
- Add Item to Published Agenda [see Section 120.525(2), F.S.] – Issue an ADDENDUM and give Legal NOTICE
- Add Emergency Item to Published Agenda [see Section 120.525 (3), F.S.] – Issue an ADDENDUM and Give Fair NOTICE

Concise explanation, justification or comments (attach additional sheet if necessary):

Counsel for Swiftel is requesting additional time to prepare a response to staff's June 29, 2009 update memo filed in this docket.

RECEIVED-FPSC
09 JUN 30 AM 9:33
COMMISSION
CLERK

Signature (Technical Staff): *James A. Bell*

Initials (Division Director or Designee): JB

Signature (Legal Staff): *Ching*

Initials (General Counsel or Designee): BT

EXECUTIVE DIRECTOR:

Recommendation to the Chairman's Office
Initials: MAB
Comments:

Approve Request Deny Request
Date: 6/30/09

CHAIRMAN's OFFICE:

Initials: WCG

Approve Request Deny Request
Date: 6/30/09

Executive Suite will send the original to the Office of Commission Clerk and return copy to the requesting staff after the Chairman's Office takes action on this request. Requesting staff should distribute copies to the Division Directors (OPR & OCR) and Attorney assigned to the docket.

**CLK AGENDA
STAFF COPIED**

DOCUMENT NUMBER-DATE
06530 JUN 30 8
FPSC-COMMISSION CLERK

**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

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

By: s/ James A. McKee
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Attorneys for Swiftel LLC

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