



TENNESSEE REGULATORY AUTHORITY

460 James Robertson Parkway
Nashville, Tennessee 37243-0505

MEMORANDUM

To: *Application of Express Connection, LLC for Authority to Resell
Telecommunications Services in Tennessee, Docket No. 04-00406
Company ID 128924*

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

Date: September 22, 2010

A Notice to Appear has been issued requiring Express Connection, LLC ("Express Connection" or the "Company") to appear before the Tennessee Regulatory Authority ("TRA" or "Authority") during the Authority Conference scheduled for Monday, September 27, 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 Express Connection's Certificate of Public Convenience and Necessity for operating without a bond or irrevocable letter of credit in violation of Tenn. Code. Ann. § 65-4-125(j).

On May 19, 2010, the Authority received a Notice of Cancellation from Old Republic Surety Company ("Old Republic") regarding bond number LLI2092321, issued on behalf of Express Connection with an effective cancellation date of thirty (30) days from the date of the Authority receiving the letter. Staff members called the President of the company, Roberta Swager, on May 19, 2010 and June 4, 2010 leaving telephone messages explaining that Ms. Swager needed to call Staff concerning the cancellation of Express Connection's bond. The bond subsequently expired on June 19, 2010, pursuant to the notice from Old Republic.

On June 21, 2010, Ms. Swager returned Staff's calls and stated that she would be replacing the bond with a Letter of Credit, which would be retroactively effective to the date of cancellation of the Old Republic bond. As August 3, 2010, no replacement instrument had been received by the TRA and a certified letter was sent to Roberta Swager advising that a new surety bond or letter of credit should be submitted immediately in order to avoid the company being placed on the August 23, 2010 Authority Conference for cancellation. A copy of the letter is attached to this memorandum. The Company received the letter, which was delivered to and signed as received by Arlander Rice at Express Connection, LLC, 3403

Nolensville Road, Nashville, Tennessee 37211. On August 19, 2010, Ms. Swager called to say that she has a banking relationship with Regions Bank and it was her intention to get a Letter of Credit to replace the bond. As of the date of this memo, no Surety Bond or Letter of Credit has been received by the TRA. As a result, Express Connection 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 Express Connection complies with Tenn. Code Ann. § 65-4-125(j). Nevertheless, these attempts have not resulted in Express Connection securing and providing to 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 Ms. Swager or another representative of Express Connection during the Authority Conference on September 27, 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 Express Connection in the form of civil penalties and/or revocation of its CCN.

c: Roberta Swager, Express Connection, LLC

TENNESSEE REGULATORY AUTHORITY



460 James Robertson Parkway
Nashville, Tennessee 37243-0505

August 3, 2010

Ms. Roberta Swager
Express Connection, LLC
3403 Nolensville Pike
Nashville, Tennessee 37211

RE: Surety Bond or Irrevocable Letter of Credit Mandated by Tenn. Code Ann. § 65-4-125(j)
Express Connection, LLC Company ID 128924

VIA CERTIFIED MAIL, RETURN RECEIPT REQUESTED

Dear Ms. Swager,

Tenn. Code Annotated § 65-4-125(j) requires telecommunications service providers such as Express Connection, LLC to file with the Tennessee Regulatory Authority ("Authority") a corporate surety bond or irrevocable letter of credit in the amount of twenty thousand dollars (\$20,000) to secure the payment of any monetary sanction imposed in any enforcement proceeding brought by or on behalf of the Authority under Title 65 or the Consumer Telemarketing Protection Act, Tenn. Code Ann. § 47-18-1501 *et seq.*¹

On May 17, 2010, the Authority received a cancellation notice from Old Republic Surety Company indicating the bond (no. LLI2092321) for Express Connection, LLC would be canceled on June 19, 2010. As of that date, Express Connection, LLC has become non-compliant with Tenn. Code Ann. § 65-4-125(j). Telecommunications service providers that fail to comply with the requirements of Tenn. Code Ann. § 65-4-125(j) are subject to sanction, including the revocation of their certificate of convenience and necessity authorizing them to transact business in Tennessee.² To avoid sanction, a valid and compliant bond or letter of credit must be submitted to the Authority immediately. Otherwise, this matter will be presented to the Directors of the Tennessee Regulatory Authority for action at the authority conference scheduled for August 23, 2010.

If you have questions, please contact Lisa Foust at (615) 741-2904, extension 220.

Sincerely,

David Foster
Utilities Division Chief

¹ Tenn. Code Ann. § 65-4-125(j) applies to all telecommunications service providers subject to the control and jurisdiction of the Authority, except those owners or operators of public telephone service who pay annual inspection and supervision fees pursuant to Tenn. Code Ann. § 65-4-301(b) and providers that own or operate equipment facilities in Tennessee with a value greater than five million dollars (\$5,000,000).

² See Tenn. Code Ann. § 65-4-201.

SENDER: COMPLETE THIS SECTION

- Complete items 1, 2, and 3. Also complete item 4 if Restricted Delivery is desired.
- Print your name and address on the reverse so that we can return the card to you.
- Attach this card to the back of the mailpiece, or on the front if space permits.

1. Article Addressed to:

Express Connection, LLC
Attn: Roberta Swager
3403 Nolansville Road Pike
Nashville, TN 37211

2. Article Number
(Transfer from service label)

7004 2510 0006 3766 7066

7004 2510 0006 3766 7066

PS Form 3811, February 2004

Domestic Return Receipt

102595-02-M-15

COMPLETE THIS SECTION ON DELIVERY

A. Signature

x *Wilander Rice*

☐ Agent

☐ Addressee

B. Received by (Printed Name)

C. Date of Delivery

D. Is delivery address different from item 1? ☐ Yes

If YES, enter delivery address below: ☐ No

3. Service Type

☒ Certified Mail ☐ Express Mail

☐ Registered ☐ Return Receipt for Merchandise

☐ Insured Mail ☐ C.O.D.

4. Restricted Delivery? (Extra Fee)

☐ Yes

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- Sender: Please print your name, address, and ZIP+4 in this box •

Tennessee Regulatory Authority
Attn: Lisa Foust
460 James Robertson Pkwy
Nashville, TN 37243

RECEIVED
AUG 12 2010
TN REGULATORY AUTHORITY
UTILITIES DIVISION