

BEFORE THE TENNESSEE REGULATORY AUTHORITY

NASHVILLE, TENNESSEE

October 22, 2008

IN RE:

PETITION OF SWIFTEL, LLC FOR A CCN TO PROVIDE  
COMPETING LOCAL EXCHANGE TELECOMMUNICATIONS  
SERVICES IN TENNESSEE

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DOCKET NO.  
08-00141

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INITIAL ORDER GRANTING CERTIFICATE OF  
PUBLIC CONVENIENCE AND NECESSITY

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This matter came before the Hearing Officer of the Tennessee Regulatory Authority (the "Authority" or "TRA") at a Hearing held on October 9, 2008 to consider the *Application for Authority to Provide Competing Local Exchange Service* (the "*Application*") filed by Swiftel, LLC ("Swiftel" or "Applicant") on July 31, 2008. In its *Application*, Swiftel seeks a Certificate of Public Convenience and Necessity ("CCN") for authority to provide competing local exchange telecommunications services, including exchange access telecommunications services, within the State of Tennessee.

**Legal Standard for Granting Certificate of Public Convenience and Necessity**

Swiftel's *Application* was made pursuant to and considered in light of the criteria for granting a CCN as set forth in Tenn. Code Ann. § 65-4-201 (Supp. 2006), which provides, in pertinent part:

(a) No public utility shall establish or begin the construction of, or operate any line, plant, or system, or route in or into a municipality or other territory already receiving a like service from another public utility, or establish service therein, without first having obtained from the authority, after written application and hearing, a certificate that the present or future public convenience and necessity require or will require such construction, establishment, and operation, and no person or corporation not at the time a public utility shall commence the construction of any plant, line, system or route to be operated as a public utility, or the operation of

which would constitute the same, or the owner or operator thereof, a public utility as defined by law, without having first obtained, in like manner, a similar certificate . . .

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(c) After notice to the incumbent local exchange telephone company and other interested parties and following a hearing, the authority shall grant a certificate of convenience and necessity to a competing telecommunications service provider if after examining the evidence presented, the authority finds:

(1) The applicant has demonstrated that it will adhere to all applicable commission policies, rules and orders; and

(2) The applicant possesses sufficient managerial, financial, and technical abilities to provide the applied for services.

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Furthermore, pursuant to Tenn. Code Ann. § 65-5-112 (2004), a competing telecommunications provider is required to file with the Authority (1) a plan containing the provider's plan for purchasing goods and services from small and minority-owned telecommunications businesses; and (2) information on programs that might provide technical assistance to such businesses.

#### **The October 9, 2008 Hearing**

Pursuant to Tenn. Code Ann. § 65-4-204 (2004), public notice of the Hearing in this matter was issued by the Hearing Officer on September 22, 2008. No persons sought intervention prior to or during the Hearing. On September 30, 2008, Swiftel filed a *Motion to Appear and Participate Telephonically at Hearing* requesting to participate in the Hearing by telephone. On October 1, 2008, the Hearing officer granted Swiftel's request as to company representatives and witnesses in an *Order Granting Electronic Participation in Hearing*.

During the Hearing held on October 9, 2008, Mr. Leonard I. Solt, Vice-President of Swiftel, participated in the Hearing telephonically, adopted the pre-filed testimony of Ms. Angie M. Watson, President of Swiftel, and was subject to examination by the Hearing Officer. In accordance with the

*Order Granting Electronic Participation in Hearing*, Mr. William R. Stentz, a licensed Notary Public in good standing in the state of Florida, administered the testimonial oath to Mr. Solt and remained physically present with him throughout his examination and testimony. In addition, the Authority received a properly executed *Witness Certification and Affidavit* for Mr. Solt on October 15, 2008.

Mr. Solt stated that Swiftel plans to operate as a reseller in Tennessee. Mr. Solt also indicated that Swiftel's goal is to acquire ETC status, which will allow the company to offer certain rates via a lifeline discount to individuals who appropriately qualify for such assistance. Additionally, Swiftel expects to advertise its services through television, radio and print, and will not engage in telephone solicitations. Mr. Solt affirmed that Swiftel will comply with all of Tennessee's public interest obligations and responsibilities as mandated in TRA Rule 1220-4-8-.04(3)(b) and (c). Upon conclusion of the presentation of its proof, the Hearing Officer granted Swiftel's *Application* based upon the following findings of fact and conclusions of law:

**I. Swiftel's Qualifications**

1. Swiftel is a limited liability company organized under the laws of the State of Florida and is licensed to transact business in Tennessee by the Secretary of State as of May 29, 2008.

2. The complete street address of the registered agent for Swiftel, TSC Corporate Services, Inc., is 1900 Church Street, Suite 400, Nashville TN 37203. The complete street address of the corporate office of Swiftel is 811 West Garden Street, Pensacola, Florida 32501. The telephone number is (813) 915-6201.

3. The *Application* and supporting information existing in the record indicate that Swiftel has the requisite technical and managerial ability to provide the applied for telecommunications services within the State of Tennessee. Specifically, Swiftel's senior management team possesses sufficient business, technical, and operational experience.

4. Swiftel has the necessary capital and financial ability to provide the services it proposes to offer.

5. Swiftel has represented that it will adhere to all applicable statutes, policies, rules and orders of the Authority.

## **II. Proposed Services**

Swiftel intends to offer local exchange service to residential customers located in non-rural areas throughout the state. Initially, Swiftel will resell services using unbundled network elements obtained through commercial and interconnection agreements, utilizing the facilities of the existing LECs or other competitive carriers that currently serve Tennessee. The company does not plan to install facilities in the State of Tennessee. Swiftel provided the Authority with documentation which reflects that it served notice of its application to provide competing local telecommunications services to all eighteen Incumbent Local Exchange Carriers in Tennessee on July 31, 2008.

## **III. Permitting Competition to Serve the Public Convenience and Necessity**


Upon a review of the *Application* and the record in this matter, the Hearing Officer finds that approval of Swiftel's *Application* would inure to the benefit of the present and future public convenience by permitting competition in the telecommunications services markets in the State and fostering the development of an efficient, technologically advanced statewide system of telecommunications services.

## **IV. Small and Minority-Owned Telecommunications Business Participation Plan and Business Assistance Program**

Swiftel has filed a satisfactory small and minority-owned telecommunications business participation plan, pursuant to Tenn. Code Ann. § 65-5-112 (2004) and the Authority's Rules.

**IT IS THEREFORE ORDERED THAT:**

1. The *Application for Certificate to Provide Competing Local Exchange Service* filed by Swiftel, LLC is approved.
2. Any party aggrieved by the Hearing Officer's decision in this matter may file a petition for reconsideration within fifteen days from the date of this Order.
3. This Initial Order shall become a Final Order of the Tennessee Regulatory Authority, if no petition for reconsideration or appeal of this Order is filed prior to the expiration of the fifteen-day appeal period.

  
Kelly Cashman-Grams, Hearing Officer