



Control Number: 38477



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DOCKET NO. 38477

APPLICATION OF TELIX, LLC FOR DESIGNATION AS AN ELIGIBLE TELECOMMUNICATIONS CARRIER PURSUANT TO 47 U.S.C. §214(e) AND P.U.C. SUBSTANTIVE RULE 26.418	§ § § § §	PUBLIC UTILITY COMMISSION OF TEXAS
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COMMISSION STAFF'S RESPONSE TO ORDER NO. 1

COMES NOW the Staff of the Public Utility Commission of Texas (Staff), representing the public interest, and files this Response to Order No. 1 in the above-referenced proceeding and would submit the following:

On July 21, 2010, Telix, LLC (Telix) filed an Application for designation as an eligible telecommunications carrier (Application), under 47 U.S.C. §214(e) and pursuant to P.U.C. SUBST. R. 26.418, in portions of the State of Texas served by Southwestern Bell Telephone Co. d/b/a AT&T Texas, which are non-rural incumbent local exchange carriers.

On July 22, 2010, Order No. 1 was issued, requiring Staff to file comment on notice and the sufficiency of Telix's Application by July 30, 2010.


As set forth in the attached memorandum of Liz Kayser, Staff Market Analyst, Competitive Markets-Wholesale, Staff finds Telix's Application is not sufficient for review.

DATE: July 30, 2010

Respectfully Submitted,

Thomas S. Hunter
Division Director
Legal Division

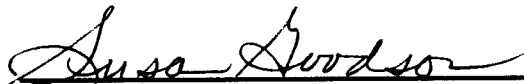
Keith Rogas
Deputy Division Director
Legal Division



Susan E. Goodson
Attorney – Legal Division
State Bar No. 24045960
(512) 936-7292
(512) 936-7268 (facsimile)
Public Utility Commission of Texas
1701 N. Congress Avenue
P.O. Box 13326
Austin, Texas 78711-3326

CERTIFICATE OF SERVICE

I certify that a copy of this document will be served on all parties of record on this the 30th day of July 2010 in accordance with P.U.C. Procedural Rule 22.74.



Susan E. Goodson

PUBLIC UTILITY COMMISSION OF TEXAS

Memorandum

TO: Susan Goodson – Attorney
Legal Division

FROM: Liz Kayser – Market Economist
Competitive Markets- Wholesale

DATE: July 30, 2010

RE: Docket No. 38477 – *Application of Telix LLC for Designation as an Eligible Telecommunications Carrier (ETC) Pursuant to 47 U.S.C. §214(e) and P.U.C. Substantive Rule 26.418*

RECOMMENDATION Regarding Sufficiency of Application

On July 21, 2010, Telix, LLC (Telix or the Company) filed an application for designation as an eligible telecommunications carrier (ETC) under 47 U.S.C. 214(e) and P.U.C. SUBST. R. 26.418. The Commission designates qualified carriers as ETCs pursuant to 47 U.S.C. 214(e) and PURA § 56.023. The Company requests ETC designation in order to be eligible to receive support from the federal universal service funds to assist it in providing universal service in Texas.

Telix is a common carrier as defined in 47 U.S.C. §153(10). Telix holds Service Provider Certificate of Operating Authority No. 27357.

Telix seeks ETC designation throughout service area of the non-rural carrier AT&T Texas. Telix will provide service either using its own facilities or a combination of its own facilities and resale of another carrier's services.¹ Specifically, Telix states that it will provide service by using unbundled network elements (UNEs) and resale from AT&T Texas.

On July 22, 2010, Order No. 1, *Requesting Recommendation on Sufficiency and Setting Procedural Schedule*, was issued. Order No. 1 established an effective date of

¹ *Application of Telix, LLC. for Designation as an Eligible Telecommunications Carrier Pursuant to 47 U.S.C. §214(e) and P.U.C. Substantive. R. 26 41, Docket No. 38477, (pending)*

September 5, 2010, and advised that the Commission would provide *Texas Register* notice on August 6, 2010. Order No. 1 also established August 26, 2010, as the deadline for comments or intervention to be filed by interested parties.

I have reviewed Telix's application for ETC designation and find that it is *deficient for review*.

1. Telix failed to meet the requirements P.U.C. SUBST. R. 26.418(b)(1) – ETC designation for the non-rural ILEC service area is based on wire centers not exchanges as Telix has stated in its application.² Telix must submit a list of all AT&T Texas wire centers that it will provide service in not AT&T Texas exchanges as provided in Exhibit C of the company's application.
2. Telix failed to meet the requirements of P.U.C. SUBST. R. 26.418(g)(1)(B)(iii). Telix states in its application that it attached as Exhibit D, a copy of all marketing materials that are made available to customers in Texas. Telix goes on to say that it will begin to advertise the availability of and charges for the services it provides within 60 days after it is designated as an ETC. P.U.C. customer protection rules require that Telix currently be publishing the services it provides and the charges for these services. The marketing sheet that Telix attached to its application does not meet the requirements of customer protection rules or of P.U.C. SUBST. R. 26.418(g)(1)(B)(iii). Also, the marketing sheet identified as Exhibit D is the advertisement for some other company not Telix.
3. Telix states that it will provide Lifeline service pursuant to 47 C.F.R. Part 54, Subpart E and will participate in the automatic enrollment system consistent with P.U.C. SUBST. 26.412. As a certificated telecommunications provider in Texas, Telix is required to adhere to all the requirements contained in P.U.C. SUBST. 26.412, not just the automatic enrollment requirement. Telix's application must state such.

² *Id* at 2 (No. 4).

4. Telix failed to meet the requirements of P.U.C. SUBST. R. 26.418(g)(1)(C)(ii) because its Lifeline and Link Up tariffs are not in compliance with 47 C.F.R. Part 54, Subpart E and P.U.C. SUBST. R. 26.412.
5. Telix failed to meet the requirements of P.U.C. SUBST. R. 26.418(g)(1)(C)(iii). Telix states that it offers "Toll Denial" to its Lifeline customers. P.U.C. SUBST. R. 26.412 and 47 C.F.R. 54 Subpart E requires toll limitation service. There is no such service as toll denial service and is not a legitimate offering.