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Teligent, Inc.
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Vienna, Virginia 22182
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June 18, 2001

Blanca S. Bayo, Director of Records and Reporting
Florida Public Service Commission
2540 Shumard Oak Blvd.
Tallahassee, FL 32399

RE: Notice Pursuant to Section 63.71 of the Rules of the
Federal Communications Commission (47 C.F.R. § 63.71)

Dear Ms. Bayo:

Pursuant to Section 63.71 of the rules of the Federal Communications Commission (47 C.F.R. § 63.71), please find enclosed a copy of Teligent's Section 63.71 Application. In accordance with Section 63.71, a copy has also been sent to your Governor's office.

Please do not hesitate to call Terri Natoli ((703) 762-5183), Victoria Schlesinger ((703) 762-5510) or me ((703) 288-5715) if you have any questions.

Sincerely,

Edward B. Krachmer
Associate General Counsel
(703) 288-5715

Enclosure

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FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

Teligent, Inc.
8065 Leesburg Pike, Suite 400
Vienna, Virginia 22182
voice: 703 762.5183
fax: 703 762 5584

Terri B. Natoli
Vice President
Regulatory Affairs and Public Policy

June 15, 2001

Ms. Magalie Roman Salas, Secretary
Federal Communications Commission
445 Twelfth Street, S.W.
Room TW-A325
Washington, D.C. 20554

Re: Section 63.71 Application of Teligent, Inc. and its Domestic Subsidiaries
Holding Domestic Section 214 Authority (CCB/NSD File No. ___)

Dear Ms. Salas:

Enclosed, please find an original and six (6) copies of the Section 63.71 Application of Teligent, Inc. and its Domestic Subsidiaries Holding Domestic Section 214 Authority.

As discussed in the Application, file-stamped copies will be served on the appropriate parties.

Please do not hesitate to contact me if you have any questions.

Sincerely, .

A handwritten signature in cursive script that reads "Terri B. Natoli".

Terri B. Natoli
Vice President
Regulatory Affairs and Public Policy

cc: Marty Schwimmer, Jon Minkoff, ITS

Enclosures

DOCUMENT NUMBER-DATE

07700 JUN 21 01

FPCO-RECORDS/REPORTING

**Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, DC 20554**

In the Matter of the)
)
Section 63.71 Application of)
) CCB/NSD File No. _____
Teligent, Inc. and its Domestic)
Subsidiaries Holding Domestic)
Section 214 Authority)
)

Section 63.71 Application

Teligent, Inc. and its domestic subsidiaries holding Section 214 Authority¹ (collectively “Teligent”) hereby request authority pursuant to Section 214(a) of the Communications Act of 1934, as amended (the “Act”),² and Section 63.71 of the Commission’s Rules³ for authority (to the extent it needs to use such authority) to discontinue the provision of certain domestic telecommunications services to some locations in some of its markets nationwide. In support of this request, Teligent states as follows:

I. Background

Teligent, unfortunately, has not been immune to the problems affecting the competitive local exchange carrier (“CLEC”) industry over the last year, which include a drastic reduction in access to capital resources, economy-driven financial market changes in expectations and underlying assumptions regarding CLEC business models, and a severe decline in stock value.

¹ Teligent Services, Inc., File No. ITC-97-783 (New File No. ITC-214-19971210-00775); Association Communications, Inc. (d/b/a Network ACI), File No. ITC-98-372 (New File No. ITC-214-19980514-00323), transfer of control to Teligent authorized under File No. File No. ITC-T/C-19990719-00438; Easton Telecom Services, Inc., File No. ITC-95-585, transfer of control to Teligent authorized under File No. ITC-T/C-19991220-00812; and American Long Lines, Inc., File No. ITC-96-466 (New File No. ITC-214-19960823-00397), transfer of control to Teligent authorized under File No. ITC-T/C-20000522-00406.

² 47 U.S.C. § 214(a)

³ 47 C.F.R. § 63.71

Over the past several months, Teligent has reacted to these rapidly changing circumstances by consolidating business operations to focus on its core fixed wireless-based service offerings in those markets that will provide Teligent with the best opportunity to regain financial strength and to compete effectively in the long-term. Beyond just changes in Teligent's marketing efforts and product development, this has involved restructuring Teligent's operations in certain markets and significant reductions in Teligent's workforce. Recently, it became clear that these efforts alone are not sufficient to enable Teligent to sustain itself given its current capital structure.

On May 21, 2001, Teligent filed for protection under Chapter 11 of the U.S. Bankruptcy Code in the U.S. Bankruptcy Court for the Southern District of New York.⁴ Chapter 11 status is enabling Teligent to reorganize its debt and capital structure under court supervision so that it can continue to offer and provide high quality broadband services. Teligent expects to continue its day-to-day operations while it uses the reorganization process to regain the financial strength it requires to compete effectively in the marketplace and to bring the benefits of competition to consumers. To this end, Teligent's goal is to emerge from this process as a stronger company with a viable and focused business plan going forward.

While Teligent believes that the Chapter 11 reorganization process will result in a financially stronger company that will serve as an increasingly-stronger competitor in the local exchange, long distance, and broadband data markets, certain services at some Teligent-served locations will be affected in the short term.⁵

⁴ See Case No. 01-12974 (SMB) (Bankr. S.D.N.Y.)

⁵ Teligent currently provides service in 43 markets nationwide

Specifically, as a result of its financial situation over the past few months, Teligent no longer has the ability to maintain facilities in certain customer buildings.⁶ The customers in those buildings will no longer be able to receive Teligent's facilities-based local and enhanced services, some as early as June 25, 2001.⁷ At least 30 days notice has been provided to each of these customers as described more fully in Section III below. In addition, over the next several months during its reorganization process, Teligent may find it necessary to discontinue certain services at other locations as a result of further restructuring of its operations necessary to emerge from Chapter 11 as a financially strong and viable competitive service provider, once again able to expand its operations.

The Teligent locations that are currently affected and for which certain of its customers have already received notice, as well as any locations to be identified in the future, are and will be geographically dispersed. This discontinuance of service at particular customer locations is

⁶ When Teligent initially began providing local service approximately three years ago, it recognized the need for landlord acquiescence, among other things, for its continued ability to place facilities on/in buildings. Teligent therefore included a provision in each of its state and federal tariffs indicating that its provision of service is subject to the availability of necessary facilities, including the consent of the building owner (among other things). Teligent also includes this language in each of its Customer Service Agreements that all Teligent Customers sign prior to ordering any services, even those pursuant to tariff. *See, e.g.,* Teligent Services, Inc. Tariff F.C.C. No. 2, Page 14, Section 3.2.1; Teligent Services, Inc. Florida Price List No. 1, Sheet 14, Section 2.3.1.

⁷ Such customers' interstate interexchange services are not affected by this "[non]availability of facilities" because their Teligent long distance services are currently provided on a purely resold basis at these locations. Because only services offered over local facilities located wholly within single states were to be affected, Teligent considered its situation to be unique as compared to that of other CLECs that have filed Section 63.71 applications in the past several months. Teligent therefore did not consider the types of its upcoming "discontinuances" to be subject to Section 214(a) of the Act or Section 63.71 of the Commission's rules. This belief was further strengthened by the fact that none of Teligent's central office switches, which house interexchange carrier ("IXC") Carrier Identification Codes ("CIC") pursuant to Access Service Requests submitted by these IXCs for the purpose of providing originating access, were affected. However, in recent discussions regarding this matter with Commission staff, Teligent became aware that because these local facilities are also used to provide terminating access to certain IXC's for whom Teligent may not have received a request for service pursuant to an Access Service Request, bringing such services into the scope of Section 214(a), thus necessitating the need to seek Section 63.71 authority

not expected to result in the discontinuance of every service in any market going forward.⁸

Teligent is hereby submitting this application for authority to discontinue service to those locations currently affected and for which it has already provided customer notice as well as any additional locations, if it becomes necessary under its reorganization plan to do so.

II. SECTION 63.71(a) INFORMATION

Pursuant to Section 63.71(a) of the Commission's rules, Teligent provides the following:

1. Name and address of carrier:

Teligent, Inc. and its Subsidiaries
8065 Leesburg Pike
Suite 400
Vienna, Virginia 22182

2. Date of planned service discontinuance, reduction or impairment:

Commencing on or about June 25, 2001 and any subsequently identified date thereafter, provided notice pursuant to the requirements of Section 63.71(a) has been given to each affected customer.

3. Points of geographic areas effected:

Teligent is certified to provide local exchange service in 39 states and the District of Columbia and long distance service in 49 states – the specific buildings to be affected could be located in any one of these states.

⁸ Teligent is aware that various press reports have equated Teligent's decision to reduce field expenses by consolidating field offices and operations and closing certain smaller sales offices with Teligent "closing down markets." Despite Teligent's efforts to provide accurate information about its actions to the press, *i.e.*, that only certain services in specific locations are affected, these misleading press reports continue. Indeed, Teligent is somewhat reluctant to file this instant application due to the almost certain adverse press reports and misinformation that will result when this application is misused by Teligent's competitors (as its current Chapter 11 status is already being misused) to scare customers into thinking Teligent will simply cease to provide services to customers.

4. Brief description of type of service affected:

Local and data services are currently affected. In the near future, local, long distance, and data services could be affected. The particular services to be affected at particular locations will depend on how the service is currently being offered, *i.e.*, over Teligent's fixed-wireless facilities, leased wireline facilities, or resale, and the reason that facilities are no longer available to provide the service.

III. NOTIFICATION REQUIREMENTS

Teligent has provided its currently affected customers with four separate notification letters as described below: On May 21, 2001, when Teligent filed its voluntary Chapter 11 Petition, Teligent sent a letter to every one of its customers notifying them of the Chapter 11 filing and advising them that if any services that Teligent currently provided to them were to be subsequently affected, they would receive at least 30 days notice to find another service provider. (Teligent sent similar letters to the public utility commission in each state where it is certified, *i.e.*, 49 states and the District of Columbia).⁹

Teligent also attached a detailed list of customer questions and answers to each letter explaining what the Chapter 11 filing might mean to them and providing a toll-free number customers could call if they had follow-up questions. Finally, Teligent directed its customers to its web site¹⁰ where additional information regarding the Chapter 11 status was provided. In short, Teligent used every reasonable method to communicate its Chapter 11 status and related matters to all of its customers and to provide them information about its current financial situation. Recognizing that such communication could, in fact, result in many customers

⁹ Teligent also sent letters to each of the FCC Commissioners, their Wireless and Common Carrier Advisors, and the Wireless Telecommunications and the Common Carrier Bureaus.

¹⁰ <[http //www teligent com](http://www.teligent.com)>

deciding to switch to different carriers, Teligent took this approach in response to the numerous concerns raised of late by many state commissions in conjunction with the recent NorthPoint Bankruptcy where many former NorthPoint customers were caught unaware and subsequently left without service. While Teligent does not consider its own situation to be similar to that of NorthPoint, it is aware of the heightened sense of concern throughout the industry that customers will be left stranded without alternative service due to insufficient notice in the event a carrier ceases providing service.¹¹ Unlike NorthPoint, Teligent notified its customers immediately upon the filing of its Chapter 11 Petition and assured them that they would be provided sufficient time to find an alternative provider if necessary.¹²

On or about May 23, 2001, a second letter was sent, via Federal Express, to all Teligent customers whose facility locations were initially affected by the reorganization resulting in Teligent's loss of ability to provision service at those locations. This notice letter again referenced Teligent's Chapter 11 status, and, citing Teligent's governing tariff regarding the need to discontinue service pending the unavailability of facilities, provided the information required by Section 63.71(a)(1)-(4) of the Commission's Rules.¹³ A follow-up letter was mailed by Teligent on June 7, 2001 to these same Teligent customers again containing the information set forth in the May 23, 2001 letter and urging them to make arrangements for an alternative

¹¹ The Commission's release of the NorthPoint Public Notice on May 22, 2001, DA 01-1257, NSD File No. W-P-D-488, just one day after Teligent's Chapter 11 filing and related notice to all customers, the FCC, and state commissions, confirmed the prudence of Teligent's decision to send such notices.

¹² Teligent submits that in every instance in which customers will no longer be able to receive Teligent local service, Teligent has provided a minimum 30 days notice period, more than sufficient time for a customer to order and have received basic local lines from the incumbent, which would enable the customer to have dial tone, 911 capability and dial up internet access even in the event its higher capacity facility needs could not be provisioned by its alternative carrier in that time.

¹³ 47 C.F.R. § 63.71(a)(1)-(4) Teligent did not, however, provide the statement required of a non-dominant carrier pursuant to Subsection (a)(5)(i) of § 63.71 at that time because, as noted above, Teligent did not consider that its actions, pursuant to the provisions of its applicable state tariffs, required Section 214(a) approval by the Commission

provider to avoid interruption of service. Finally, on June 13, 2001, a fourth and final reminder notice was sent, via first class mail, to each affected customer reminding them that their local service would no longer be available on the date specified in the prior letters possibly as early as June 25, 2001 for certain customers.

In view of the foregoing, Teligent submits that it has provided all of its existing customers whom it is currently aware will be affected by its pending lack of facilities at certain locations in the very near future with sufficient notice and follow-up reminders such that these customers had ample time to make other service arrangements. Teligent also notes that it has confirmed with various incumbent local exchange carriers (“ILECs”) that these customers, at a minimum, would have been able to order and receive dial tone from the ILEC, even if higher capacity facilities from the ILEC or another competitor provider would have taken a longer time to provision.

Because Teligent did not realize until yesterday that the Commission viewed these local service discontinuances as subject to Section 63.71 and, consequently, did not include the subsection (a)(5)(i) non-dominant carrier statement in its prior notice letters, Teligent seeks a limited waiver of the “written” aspect of this single notice condition pursuant to that portion of Section 63.71(a) which provides that: “Notice shall be in writing to each affected customer unless the Commission authorizes, in advance, for good cause shown, another form of notice,” (*emphasis added*). Teligent submits that at the time its customers initially subscribed to Teligent’s services, each of its customers received either actual or constructive notice through Teligent’s state and federal tariff terms. These terms state explicitly that facilities may not always be available to provide services, thereby requiring customers to select an alternative service provider. In addition, because Teligent’s tariffs have been approved by the state commissions and, with respect to the FCC tariffs, are presumed lawful unless challenged, the

FCC has, in effect, “authorize(d) in advance . . . another form of notice” by allowing this provision to be included in Teligent’s effective tariffs.¹⁴ Moreover, because it would be extremely difficult, if not impossible, to delay the discontinuances that are already scheduled to occur, and because sending a separate Section 63.71(a)(5)(i) statement to those affected customers at this time is likely to result in confusion to the customers and result in a greater danger of those customers being unable to transition their service to an alternative provider, Teligent believes good cause has been shown that an additional written statement to these particular customers is not required. This notwithstanding, Teligent assures the Commission that any future service discontinuance notices to customers relating to the non-availability of facilities (should such non-availability occur at additional locations) will fully comply with all provisions of Section 63.71 of the rules, including the Section 63.71(a)(5)(i) statement.

Teligent certifies that it will provide a date-stamped copy of this Application to all public utility commissions where it is certified and to the governors of those states as well as to the Secretary of Defense as required by Section 63.71(a) of the Commission’s Rules,¹⁵ as soon as the date-stamped copy is available.

IV. REGULATORY STATUS

Teligent is considered a non-dominant carrier with respect to each domestic telecommunications service for which it seeks Section 63.71 authority pursuant to this Application.

¹⁴ To date, Teligent’s state and federal tariffs have never been challenged with respect to this or any related provision

¹⁵ 47 C F R § 63.71(a)

V. **CONCLUSION**

For the foregoing reasons, Teligent respectfully requests, pursuant to Section 241(a) of the Act,¹⁶ and Section 63.71 of the Commission's Rules¹⁷ that the Commission approve this Section 63.71 Application.

Respectfully submitted,
Teligent, Inc. and its Subsidiaries

By: *Terri B Natoli*
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Dated: June 15, 2001

¹⁶ 47 U.S.C. § 214(a)

¹⁷ 47 C.F.R. § 63.71.