

SECRETARY'S RECORD, NEBRASKA PUBLIC SERVICE COMMISSION

BEFORE THE NEBRASKA PUBLIC SERVICE COMMISSION

In the Matter of the Application ) Application No. C-1715  
of Delaware Teligent, Inc., Vienna, )  
Virginia, seeking authority to operate) GRANTED  
as a local exchange carrier of tele- )  
communications services within the )  
State of Nebraska. ) Entered: April 14, 1998

APPEARANCES:

For the Applicant:  
Paul Dietsch  
500 Energy Plaza  
409 South 17th Street  
Omaha, NE 68102

For the Commission Staff:  
John Doyle  
300 The Atrium, 1200 N Street  
Lincoln, NE 68508

For Arapahoe, Benkelman,  
Cozad, Diller, Hemingford,  
Henderson, and Wauneta  
Telephone companies:  
Mark Fahleson  
1201 Lincoln Mall, Suite 102  
Lincoln, NE 68508

For the Nebraska Telephone  
Association:  
Jack Shultz  
P.O. Box 82028  
Lincoln, NE 68501-2028

BY THE COMMISSION:

On December 22, 1997, Delaware Teligent ("Teligent" or "Applicant") of Vienna, Virginia, filed an application with the Commission requesting a certificate of public convenience and necessity to provide local exchange telecommunications services in Nebraska. Notice of the application was published in The Daily Record, Omaha, Nebraska, on December 24, 1997. The following parties filed petitions for formal intervention: Aliant Communications, Arapahoe Telephone, Benkelman Telephone, Cambridge Telephone, Clarks Telephone, Consolidated Telephone, Consolidated Telco, Cozad Telephone, Diller Telephone, Great Plains Communications, Hemingford Cooperative Telephone, Henderson Cooperative Telephone, HunTel Systems, Nebraska Independent Telephone Association, Nebraska Telephone Association (NTA), Southeast Telephone, and Wauneta Telephone. Notice of a hearing on the matter was sent by first class mail to all interested parties on February 20, 1998. A hearing was held on March 24, 1998, in the Commission Hearing Room, Lincoln, Nebraska. The parties were represented as shown above.

E V I D E N C E

Applicant presented a certificate of authority to transact business in Nebraska issued by the Nebraska Secretary of State. Such certificate was granted to "Teligent, Inc."

There were no objections to the certificate, and it was admitted into evidence as Exhibit 3.

Applicant offered the written testimony of Mr. Stuart Kupinsky as Exhibit 4. The intervenors had not had an opportunity to review the testimony prior to its being offered. Therefore, the Commission afforded an opportunity to counsel to examine the document. After review, there were no objections, and the written testimony was admitted into evidence as Exhibit 4.

Applicant also offered a stipulation signed by it and each of the intervenors. The stipulation states that the applicant is only seeking to provide service in those areas served by US West Communications, Inc., GTE Midwest, and United Telephone of the West. There were no objections to the stipulation, and it was entered into evidence as Exhibit 5.

Applicant produced one witness, Stuart Kupinsky, who testified as follows:

He has been senior counsel for Teligent since October of 1997. As senior counsel, he is responsible for a variety of state and federal regulatory matters.

In reference to Exhibit 3, he pointed out that the certificate of authority issued by the Secretary of State was granted to "Teligent, Inc." and not Delaware Teligent. Mr. Kupinsky explained that when the applicant first filed for authority with the Commission, it was undergoing a name change. The Nebraska Secretary of State issued the certificate in the name of "Delaware Teligent" for the interim until the name change was complete. As reflected by Exhibit 3, the applicant now holds authority under the name of "Teligent, Inc." and requests that this Commission grant authority under that name.

Teligent currently has authority to provide resold interexchange service in Nebraska. Further, it may provide local exchange service in 15 states and the District of Columbia. Teligent has applications for local authority pending in 20 states and has never been denied authority in any state.

Since initially filing its application, Teligent has raised an additional \$250,000,000, raising its overall resources to \$1.6 billion. Given applicant's level of funding, Mr. Kupinsky feels that they are relatively insulated from market variances and will be able to start offering service in Omaha by early 1999. Under questioning from Steve Stovall, staff accountant for the Commission, Mr. Kupinsky explained that Teligent's nine month net loss ending in September 1997 is the result of Teligent's buildup toward a nation-wide roll out in 1998. These buildup costs include creating the necessary infrastructure in Nebraska for their operations. The company plans are to reverse that trend within five years.

Teligent's senior management have worked in the telecommunications industry with a range of other companies including AT&T, GTE, and MCI. Teligent plans to provide service as a fixed wireless carrier. It plans to market its services to mainly medium-sized business customers. Teligent does not currently have any employees in Nebraska but intends to have roughly ten employees in Omaha by early 1999.

The applicant has never requested that the rural exemption be lifted, and they have not yet begun negotiations on interconnection agreements.

Teligent will market its services with its own employees using direct marketing. Occasionally, it may employ outside agents. They have a strict no-slamming policy and require written verification before a customer's carrier will be switched.

No other parties introduced testimony or evidence.

#### O P I N I O N   A N D   F I N D I N G S

In accordance with the stipulation reached by the parties and entered into evidence as Exhibit 5, the Commission limits the scope of its review in this application to whether the applicant meets the criteria necessary to provide local exchange service in Nebraska in those territories presently served by US West Communications, Inc., GTE Midwest, and United Telephone of the West. The Commission also notes that the applicants name is "Teligent, Inc." and that any authority granted to it should be in that name. After examining the record, the Commission finds that Teligent has demonstrated that it meets the standards of financial, technical, and managerial competence and all other criteria necessary to provide local exchange service in those areas stipulated to. Therefore, the application to provide such service should be granted.

#### O R D E R

IT IS THEREFORE ORDERED by the Nebraska Public Service Commission that Application No. C-1715 be, and it is hereby, granted.

IT IS FURTHER ORDERED that the intrastate interexchange authority granted to Delaware Teligent, Inc. in Application C-1714 should be modified to the extent that it reflects the applicant's legal name of "Teligent, Inc."

IT IS FURTHER ORDERED that upon final approval of the interconnection agreement and tariff, Teligent, Inc. is granted authority to provide local exchange service within Nebraska in

those territories presently served by US West Communications, Inc., GTE Midwest, and United Telephone of the West. Teligent, Inc. must make further application to this Commission for authority to provide local exchange service outside these areas.

IT IS FURTHER ORDERED that Teligent, Inc. shall abide by the same laws, rules and regulations, both federal and state (including any laws, rules or regulations regarding universal service, restrictions on joint marketing and quality of service), applicable to other local exchange carriers except obligations imposed on incumbent local exchange carriers pursuant to Section 251(c) of the Federal Telecommunications Act.

IT IS FURTHER ORDERED that the applicant shall file, in accordance with the applicable statutes on or before April 30th of each year, an annual report with this Commission consisting of (a) a copy of any report filed with the Federal Communications Commission, (b) a copy of any annual report to stockholders, (c) a copy of the latest Form 10-K filed with the Securities and Exchange Commission, (d) a balance sheet and income statement for the previous year of operation, and (e) for the state of Nebraska on a combined interstate-intrastate basis, the investment in telephone plant and equipment located within the state, accumulated depreciation thereon, operating revenues, operating expenses, and taxes.

IT IS FINALLY ORDERED that this order be, and it is hereby made, the Commission's official certificate of public convenience and necessity to the applicant to provide local exchange service within the territory described herein in Nebraska.

MADE AND ENTERED at Lincoln, Nebraska, this 14th day of April, 1998.

COMMISSIONERS CONCURRING:



//s//Lowell C. Johnson  
//s//Rod Johnson  
//s//Frank E. Landis  
//s//Daniel G. Urwiller

NEBRASKA PUBLIC SERVICE COMMISSION

  
Chairman

ATTEST:

  
Executive Director